**Commission on Teacher Credentialing**
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*Office of the Executive Director*

April 5, 2012

Elaine M. Howle, CPA
California State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Ms. Howle:

This is the one year report by the Commission on Teacher Credentialing (Commission) on the work done to implement the recommendations outlined in the report issued on April 7, 2011 by the California State Auditor titled: *"Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes that will Safeguard Against Future Backlog."*

Since the audit findings were released one year ago, the Commission has addressed implementation of all the recommendations made by the State Auditor. The Commission appreciates the thoroughness of the audit and the opportunity to strengthen our business practices. For clarity in this response, the Commission is using the numbering system used in California State Auditor Report 2012-406 that your office issued in March 2012. The Commission's one-year response is as follows:

***Recommendation 1.1:*** *To comply with the law and reduce unnecessary workload, the division should continue to notify Justice of individuals for whom the division is no longer interested in receiving RAP sheets.*

While the California State Auditor Report 2012-406, issued in March 2012, identifies this item as fully implemented, the Commission saw the need to implement a more robust system of notifying the Department of Justice (DOJ) when the Commission no longer needs arrest information. A review of the 1.1 million records at the Commission indicated that the Commission was no longer interested in approximately 340,000 individuals. The Commission developed a system to automatically return reports of arrest and prosecution (RAPS) to the DOJ. The Commission began the automated process of returning RAP sheets to DOJ on March 5, 2012 at the rate of 1,000 per day. This number increased to the 10,000 records per-day limit set by DOJ on March 28, 2012. The DOJ has been very helpful in evaluating the quality of data being returned, and continues to assist the Commission in reviewing the automated upload to assure our agencies are sending and receiving accurate data.

As noted in our October 7, 2011 report, DOJ provided a list of persons of interest to the Commission who appear in DOJ's digitized database. Those records are returned automatically, as described above. All others must be submitted to DOJ manually, pursuant to DOJ's direction. In order to streamline the return of RAPS, the manual format was semi-automated to allow the Commission to return the data in the format required by DOJ. The database now runs a report

that gathers the RAPS for manual return and compiles them into a report format required by DOJ. This report began being faxed to DOJ on March 5, 2012 at the rate of 500 persons per week, consistent with DOJ requirements.

In addition, the Commission promulgated a regulation governing the expiration of fingerprints. The rulemaking file was opened and a public hearing was held at the January 2012 meeting of the Commission. Commission staff submitted the final rulemaking file to the Office of Administrative Law (OAL) on March 16, 2012. OAL has 30 days to review the final rulemaking file. As a person's fingerprints expire under the proposed regulation, the credentialing system database (CASE/Seibel) used by the Commission will automatically notify DOJ that the Commission should no longer receive RAPS for that person. Materials supporting the Commission's activities, including the complete rulemaking file, are included under Tab 1.1.

***Recommendation 2.1:*** *The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee in overcoming those challenges, and the goals and actions necessary to accomplish its mission.*

The Commission adopted a strategic plan for the Division of Professional Practices at its March 2012 meeting. At its March 2012 meeting the Commission also held a one-day retreat for strategic planning to consider commission-wide issues and challenges. This developing, overall strategic plan for the Commission may result in additional augmentation of the Strategic Plan for the Division of Professional Practices. Materials supporting the Commission's actions are included under Tab 2.1.

***Recommendation 2.2:*** *To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload.*

The CASE/Seibel system now captures every case assignment to staff, every common activity completed by staff, and each change in staff assignment as a case moves through the review process. The Commission staff standardized and implemented changes to its work processes, reorganized the staff of the division, restructured the management team to narrow the span of control and increase accountability and submitted numerous policies regarding cases to the Commission for its decision.

Because of serious budget constraints caused by the Commission's decrease in revenue, any increase in staffing levels must be achieved through the redirection of existing resources within the Commission or increasing the efficiencies within the division. The Executive Director redirected additional positions to the division and a high speed scanner is being moved from the Certification Assignment and Waivers Division to the Division of Professional Practices. The data collected in DPP will support a workload study. However, any other changes in staffing levels will be addressed through the budget process or through redirection of existing resources. Documents concerning the Commission's activities are included under Tab 2.2

***Recommendation 2.3:*** *The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the*

*discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice.*

On May 2, 2011 the Commission requested an opinion from the Office of the Attorney General. The Commission has taken steps outlined in the California State Auditor Report 2012-406. Informal discussions with the Office of the Attorney General indicate that the request is still pending and not likely to be released soon. Documents are located behind Tab 2.3.

***Recommendation 2.4:*** *Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month.*

Once the Commission receives the Attorney General's opinion, it will consider all available options to increase the efficiency of the DPP and the Committee of Credentials (Committee). But the Commission is not waiting for the Attorney General's opinion to begin increasing the number of cases being presented to the Committee As noted in the 2011 BSA report (page 49) the Committee was reviewing approximately 50-60 cases at the initial review stage each month. For the April and May 2012 Committee meetings, there are approximately 75 cases set to be heard at the initial review stage in April, and 100 cases in May. The plan is to continue to set cases for informal review at the approximate rate of 100 a month to determine if that workload is possible for the Committee.

The Commission held two stakeholder meetings to discuss ideas for increasing the numbers of cases being presented to the Committee. As described in the agenda item presented to the Commission in January 2012, the consensus suggestions of the stakeholder group and survey seem to fall within three major topics: 1) Work to reduce the number of cases that are opened: educate employers, educate the public, specify criteria for district reporting, clarify the personal fitness questions; 2) Committee of Credentials: Reduce the barriers to getting members, use an alternative process for drunk driving, investigate having more than one COC, investigate the COC working five days instead of three each month; and 3) Clarify when staff has the ability to close a case (wait for the Attorney General's opinion on delegating authority to staff).

The only item of stakeholder consensus that would require legislation was the concept of having more than one Committee. While seeking legislation might be feasible, because of the severe constraints in the Commission's budget, the possibility is not currently financially feasible. In addition to the costs of the Committee itself, more staff would also need to be added to the division to support the work of the additional Committee. Any such plan for legislation would necessitate a long term fiscal plan to identify resources to pay for the cost, and should only be considered if all other possible alternatives have been attempted first. Documents are located under Tab 2.4

***Recommendation 2.5:*** *The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct.*

Materials submitted with the Commission's six-month report to the State Auditor were sufficient for the State Auditor to determine the Commission fully implemented the recommendation. (See California State Auditor Report 2012-406.)

***Recommendation 2.6:*** *The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in its database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information.*

Extensive training of staff was completed, as contained in the Commission's October 2011 report to the State Auditor. In addition, various smaller trainings were done for updates to procedures.

The entire management and supervisory team in the division were replaced, with the exception of the Supervising Investigator. A new Chief Counsel and Assistant Chief Counsel were hired. As part of the reorganization of the division, a new management team is in the process of being recruited. This will bring management positions to a level consistent with state standards for span of control. Management duties will include routine or scheduled review of data. Materials supporting the Commission's activities are included under Tab 2.6.

***Recommendation 2.7:*** *The commission should continue to implement its new procedures related to deleting cases from its database to ensure that all such proposed deletions are reviewed by management for propriety before they are deleted and a record is kept of the individuals to which each such deleted case record pertains. Further, the Commission should develop and implement policies and procedures related to managing changes and deletions in the database.*

The Commission implemented a deletion management process. Policy and procedures related to managing changes and deletions in CASE data in the CASE/Seibel database were created. The policy encompasses managing changes and deletions. A key element of the policy requires the Chief Counsel to audit data on an annual basis. The identification of key data elements to include in this audit, as well as completion of the audit, will take place after the new management team is in place. Documents for that process are located behind Tab 2.7.

***Recommendation 2.8:*** *To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self disclosures of misconduct, the division should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability.*

Materials submitted with the Commission's six-month report to the State Auditor were sufficient for the State Auditor to determine the Commission fully implemented the recommendation. (See California State Auditor Report 2012-406.)

***Recommendation 2.9.a:*** *To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit management's reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate*

*information to facilitate reduction of the time elapsed to perform critical steps in the review process.*

The Commission has developed a variety of case aging reports designed to show the age of cases and additional information to provide management with the information necessary to oversee and monitor the investigation of all reports of misconduct. Case aging information is also presented to the Commission at every meeting. Documents reflecting the Commission's actions are located behind Tab 2.9.a.

***Recommendation 2.9.b:*** *The division should adequately track the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.*

The Commission developed reports to track and monitor the progress of cases involving mandatory offenses. These reports provide the tools needed by management to monitor the workload involving mandatory offenses. These documents are located behind Tab 2.9.b.

***Recommendation 2.9.c:*** *The division should ensure that its reports and practices provide prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.*

At the January 2012 meeting of the Commission, the Commission reviewed a "dashboard measurement" tool for setting performance measures for critical stages of DPP's business processes. Staff also presented proposed targets to perform vital tasks and a sample report on performance measures, with targets, cycle time, and volume measures. As noted in the agenda item, this dashboard requires revisions to the database and will not be completed until the summer of 2012.

The division also reviewed, analyzed and updated its various processes used to request information concerning reports of misconduct. This includes the processing of cases involving mandatory revocation offenses (see Recommendation 2.9.b.); various updates to the database (see Recommendation 2.9.d. and 2.9.f.); as well as enhancing and /or creating new reports described in Recommendation 2.9.a. Documentation is found under Tab 2.9.c.

***Recommendation 2.9.d:*** *The division should ensure that its reports and practices provide adequate understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases.*

The Commission modified the CASE/Seibel database to include a "Cause for Delay" activity. This activity will be incorporated in the "Potential Mandatory," "Potential LOI," and "Potential Consent Calendar" reports. This allows management to determine whether a case is delayed, and if the delay is caused by an external agency, and the reason for delay. Supporting documents are located behind Tab 2.9.d.

***Recommendation 2.9.e:*** *The division should provide clear evidence of management review of reports intended to track the division's progress in its investigations of misconduct.*

A weekly management meeting is held with every supervisor (and acting supervisor). This began in October 2011, and includes the Chief Counsel, Assistant Chief Counsel, Supervising Special Investigator, and the acting Staff Services Manager. (As we complete recruitment for the new managers, they will be added to the meeting.) The weekly meeting focuses the management team on issues facing the division, including staffing issues, case work issues and case delays.

***Recommendation 2.9.f:*** *Clear tracking of the dates at which the commission will lose its jurisdiction over the case as a result of the expiration of statute -based time frames for investigating the misconduct.*

The Commission modified the CASE/Seibel database to include statute of limitations (SL) dates to show when the Commission will lose jurisdiction to investigate a case. In addition, for cases involving reports from school districts, attorneys now review the reports during the intake process to determine the correct date for the statute of limitations. This change in practice was needed to ensure that a date based on an often complex fact pattern is accurately ascertained.

The Commission designed a monthly SL report which is designed to alert management about any cases that are within six months of the SL date. The SL dates will be noted in the staff's individual "COC Assigned and Pending Cases" report to help staff prioritize cases assigned to them. Review of these reports will be the responsibility of first line supervisors. Documentation is located behind Tab 2.9.f.

***Recommendation 2.10:*** *The division should develop and implement procedures to track cases after they have been assigned to the investigative process.*

The Commission developed procedures, modified the CASE/Seibel database, developed and implemented the "COC Assigned and Pending Cases" report to track cases after assignment to investigation. These reports are monitored by the first-line supervisor. Documents relating to this recommendation are located behind Tab 2.10.

***Recommendation 3.1.a:*** *To better ensure that its hiring decisions are fair and that employment opportunities are equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should prepare and/or formally adopt a comprehensive hiring manual that clearly indicates hiring procedures and identifies the parties responsible for carrying out various steps in the hiring process.*

Materials submitted with the Commission's six-month report to the State Auditor were sufficient for the State Auditor to determine the Commission fully implemented the recommendation. (See California State Auditor Report 2012-406.)

***Recommendation 3.1.b:*** *To better ensure that its hiring decisions are fair and that employment opportunities are equally afforded to all eligible candidates, and to minimize employees'*

*perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.*

Materials submitted with the Commission's six-month report to the State Auditor were sufficient for the State Auditor to determine the Commission fully implemented the recommendation. (See California State Auditor Report 2012-406.)

***Recommendation 3.1.c:*** *To better ensure that its hiring decisions are fair and that employment opportunities are equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should ensure hiring managers provide to the commission's office of human resources documentation supporting their appointment decisions, and the office of human resources should maintain this documentation so that it can demonstrate that the hiring process was based on merit and the candidate's fitness for the job.*

Materials submitted with the Commission's six-month report to the State Auditor were sufficient for the State Auditor to determine the Commission fully implemented the recommendation. (See California State Auditor Report 2012-406.)

***Recommendation 3.2.a:*** *To ensure that employees understand their right to file either an Equal Employment Opportunity (EEO) complaint or a grievance, and to reduce any associated fear of retaliation, the commission should include in its EEO policy a statement informing staff members that they may make complaints without fear of retaliation.*

Materials submitted with the Commission's six-month report to the State Auditor were sufficient for the State Auditor to determine the Commission fully implemented the recommendation. (See California State Auditor Report 2012-406.)

***Recommendation 3.2.b:*** *The commission should actively notify employees annually of its EEO complaint and grievance processes, including the protection from retaliation included in both.*

Materials submitted with the Commission's six-month report to the State Auditor were sufficient for the State Auditor to determine the Commission fully implemented the recommendation. (See California State Auditor Report 2012-406.)

***Recommendation 3.2.c:*** *The commission should conduct training on its EEO complaint process on a periodic basis.*

Materials submitted with the Commission's six-month report to the State Auditor were sufficient for the State Auditor to determine the Commission fully implemented the recommendation. (See California State Auditor Report 2012-406.)

The Commission takes seriously its responsibility to California's six million school children and their parents and has moved forward to implement, not only the recommendations for the State Audit Report, but additional measures that will further strengthen the efficiency, transparency, and accountability its operations.

The Commission invites representatives from the Bureau of State Audits to meet with Commission staff for any additional information or questions you may have. Please contact Mary Sandy, Executive Director, at (916) 322-6253 to arrange a meeting.

Sincerely,

Charles L. Gahagan

Charles Gahagan, Chair
Commission on Teacher Credentialing

cc: Senator Darrell Steinberg, President pro Tem
Joint Legislative Audit Committee
Education Policy Committee
Education Budget Committee
Members of the Commission on Teacher Credentialing
The Governor's Office
Office of the Lieutenant Governor
Department of Finance
Attorney General
Legislative Analyst Office
Senate Office of Research
California Research Bureau

***Recommendation 1.1:*** *To comply with the law and reduce unnecessary workload, the division should continue to notify Justice of individuals for whom the division is no longer interested in receiving RAP sheets.*

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# 1I

## Action

*Public Hearing*

## Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions

**Executive Summary:** Proposed amendments to Title 5 of the California Code of Regulations pertaining to fingerprint submissions as recommended by the Bureau of State Audits are presented for public hearing.

**Recommended Action:** Staff recommends that the Commission adopt the proposed amendments to the regulations pertaining to fingerprint submissions.

**Presenter:** Tammy A. Duggan, Consultant, Certification, Assignment and Waivers Division

Strategic Plan Goal: 1

Promote educational excellence through the preparation and certification of professional educators

- Grant credentials, certificates and permits as set out in regulation and statue

# Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions

**Introduction**
The proposed amendments to Title 5 of the California Code of Regulations are to update the language pertaining to the submission of fingerprints and to establish parameters for the situations in which an individual must resubmit fingerprints.

**Background**
The Joint Legislative Audit Committee requested that the Bureau of State Audits within the California State Auditor's office conduct an audit of the Commission's educator discipline process. The audit report, completed in April 2011, included a recommendation that the Commission notify the Department of Justice (DOJ) when it no longer needs reports of arrest and prosecution (RAP) sheets on an individual for misconduct perpetrated in California. The audit report determined that the Commission spends between one week and five weeks of staff time each year needlessly reviewing RAP sheets for individuals who do not hold valid documents. The proposed amendments are designed to reduce the number of RAP sheets reviewed by Commission staff each year by invalidating the fingerprint information for individuals who have not held valid documents for more than eighteen months. Penal Code §11105.2(d) states that "Any agency which submits the fingerprints of applicants for licensing, employment, certification, ... shall immediately notify the department ... when the applicant's license or certificate is revoked, [or] when the applicant may no longer renew or reinstate the license or certificate..." Notifying the DOJ that fingerprint information is not needed will allow the DOJ to discontinue the notification of subsequent arrest reports process for the affected individuals.

The Commission solicited input regarding the invalidation of fingerprints from California school districts, county offices, and institutions of higher education. Through this contact, it was decided that fingerprints should be invalidated for individuals who have not held valid documents for more than eighteen months. Invalidating fingerprints for individuals with documents that have lapsed for less than eighteen months could potentially create additional work for Commission staff, stakeholders, and credential applicants as individuals often take leaves of absence for a year or less due to illness, difficulty finding teaching positions, or to further their education. As stated above, the Commission only receives subsequent RAP sheets for misconduct that occurs in California. Therefore, waiting more than eighteen months after an individual's documents have lapsed before invalidating their fingerprints increases the odds that he/she will leave the state and commit a crime for which the Commission will not receive notification. The proposed regulations will require individuals to resubmit their fingerprints if they have not held a valid document for more than eighteen months.

The Commission also routinely receives fingerprint information from individuals prior to the submission of an application for a credential, certificate, permit, waiver, or document. The proposed amendments add language stating that the fingerprints for these individuals will be

valid for eighteen months. If an application for a credential, certificate, permit, waiver, or document is not received within eighteen months from the date the DOJ provides the Commission with the fingerprint information, the individual's fingerprints will be invalidated and the resubmission of fingerprints will be required with his/her next application. This will allow the Commission to notify the DOJ that subsequent RAP sheets are not required for individuals who submit their fingerprints more than eighteen months prior to submitting an application for a credential, certificate, permit, waiver, or document.

The Federal Bureau of Investigation (FBI) does not provide subsequent RAP sheets to the Commission; arrest information from the FBI is only provided at the time an individual's fingerprints are submitted through the DOJ for clearance. Requiring individuals to resubmit fingerprints when they have not held a valid document in California for more than eighteen months will allow the Commission to receive updated arrest information from the FBI for misconduct that may have occurred in other states. This is especially important because individuals with expired documents may have resided outside California during the lapse of their certification.

**Proposed Amendments to Regulations**

***§80028***

**Note:** Updates the subdivision referenced for EC §44320 from (b) to (d). Amendments to Education Code (EC) §44320 as a result of Senate Bill (SB) 1422 (Chap. 1245, Stats. 1992) moved the subdivision that includes the Certificate of Clearance requirement from (b) to (d). Adds Education Code §44350 as a Reference. EC §44350 states that all Commission documents must be issued with expiration dates.

***§80301***

**Title:** Deletes "Application for" from the title of this section. A separate form was previously required with applications that included fingerprint information. However, the separate form was discontinued several years ago when the character and identification clearance information was added to the Application for Credential Authorizing Public School Service form.

**(b):** Updates the name of the application form required for all types of documents issued by the Commission along with reference to the Title 5 section that defines the application form. Also adds the Activity Supervisor Clearance Certificate (EC §49024) to the list of documents requiring character and identification clearance.

**(c):** Updates the name of the application form required for all types of documents issued by the Commission along with reference to the Title 5 section that defines the application form.

**Note:** Adds EC §49024 pertaining to the Activity Supervisor Clearance Certificate as a Reference.

***§80442***

**Title:** Changes the title from "Personal Identification Cards" to the more generic term of "Fingerprints." Penal Code §11077.1 as amended by SB 970 (Chap. 470, Stats. 2003) requires submission of fingerprints via livescan unless a livescan station is not available. This Title 5

section requires submission of fingerprints via livescan and allows for the submission of personal identification (fingerprint) cards only if an individual resides outside California.

**(a):** Clarifies that the requirement in EC §44340 to include fingerprints when filing an application is met with the submission of fingerprints via livescan (electronic process) as required by the DOJ. Penal Code §11077.1 as amended by Senate Bill 970 (Chap. 470, Stats. 2003) requires submission of fingerprints via livescan unless a livescan station is not available. Adds language allowing the submission of personal identification (fingerprint) cards by individuals applying for certification while residing outside California.

**(c):** Amends the language pertaining to "personal identification cards" and the subsequent filing of "cards" to "fingerprints." Subdivision (a) defines who must submit livescan and who are allowed to submit fingerprint cards; therefore, the generic term of "fingerprints" is more appropriate in this subdivision. Adds new language requiring the submission of fingerprints by applicants who have not held a valid document issued by the Commission for more than eighteen months. The Commission continues to receive subsequent arrest information for individuals who do not hold valid credentials, certificates, permits, waivers, or documents which unduly increases the workload of the Commission's Division of Professional Practices. The proposed language will allow the Commission to notify the DOJ that it is no longer interested in receiving subsequent arrest information for individuals who have allowed their California certification to lapse for more than eighteen months.

**(d):** The Commission routinely receives fingerprint information from the DOJ for individuals who submitted their fingerprints via livescan (electronically) but who do not subsequently submit an application for any type of credential, permit, certificate, waiver, or document. The Commission continues to receive subsequent arrest information for these individuals which unduly increases the workload of the Division of Professional Practices. The proposed language will allow the Commission to notify the DOJ that it is no longer interested in receiving subsequent arrest information for individuals who submit their fingerprints electronically but who do not apply for a credential, permit, certificate, waiver, or document within eighteen months from the date the fingerprint information is received from the DOJ. Individuals who do not apply for certification within eighteen months from the date the fingerprint information is received from DOJ will be required to resubmit fingerprints with their next application.

Personal identification cards (fingerprint cards) are not accepted separate from an application form and processing fee.

**Documents Incorporated by Reference:** None.

**Documents Relied Upon in Preparing Regulations:** California State Auditor April 2011 Report 2010-119 available on the Bureau of State Audits website at http://bsa.ca.gov/pdfs/reports/2010-119.pdf.

**Disclosures Regarding the Proposed Actions**
The Commission has made the following initial determinations:

*Mandate to local agencies or school districts:* None.

*Other non-discretionary costs or savings imposed upon local agencies:* None.

*Cost or savings to any state agency:* None.

*Cost or savings in federal funding to the state:* None.

*Significant effect on housing costs:* None.

*Significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states:* None.

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

*Cost impacts on a representative private person or business:* The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

*Assessment regarding the creation or elimination of jobs in California [Govt. Code §11346.3(b)]:* The Commission has made an assessment that the proposed amendments to the regulations will not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

*Effect on small businesses:* The proposed regulations will not have a significant adverse economic impact upon business since they apply only to the submission of fingerprint information from individuals seeking documents that authorize service in California's public schools.

**Notice of Proposed Rulemaking Mailing List and Responses**

Mailing List

- Members of the Commission on Teacher Credentialing
- California County Superintendents of Schools
- Credential Analysts at the California County Superintendents of Schools Offices
- Superintendents of Selected California School Districts
- Deans and Directors at the California Institutions of Higher Education with Commission-approved programs
- Credential Analysts at the California Institutions of Higher Education with Commission-approved programs
- Presidents of Selected Professional Educational Associations

Also placed on the Internet at http://www.ctc.ca.gov.

**Tally of Responses**
As of Wednesday, January 11, 2012, the Commission had received the following written responses to the public announcement:

| *Support* | *Opposition* |
|---|---|
| 1 organizational opinion | 0 organizational opinions |
| 2 personal opinions | 0 personal opinions |

**Total Responses: 3**

***Responses Representing Organizations in Support***

1. Jeanne Nava, Assistant Superintendent, Human Resources, Tulare County Office of Education

***Responses Representing Individuals in Support***

1. Susana Fernandez, Support Services Manager, Orange County Department of Education
2. Enid Brinkman, Credentials & Retirement Supervisor, Tulare County Office of Education

**Staff Recommendation**
Staff recommends that the Commission adopt the proposed amendments to Title 5 of the California Code of Regulations pertaining to fingerprint submissions.

## CALIFORNIA CODE OF REGULATIONS
## TITLE 5. EDUCATION
## DIVISION 8. COMMISSION ON TEACHER CREDENTIALING

**§ 80028. Certificate of Clearance.**
A Certificate of Clearance is a document, issued by the Commission, which verifies that the holder meets personal qualifications necessary to obtain a regular California teaching or services credential. Each candidate for an initial credential shall, prior to admission to student teaching under any professional preparation program approved by the Commission, obtain a Certificate of Clearance. No less than 60 working days prior to admission to student teaching, the candidate shall submit the following materials to the Commission:

(a) A completed application via the online application system.

(b) One-half of the credential issuance/reissuance or renewal fee specified in Section 80487(a)(1) unless otherwise established by law. The fee shall apply toward the initial credential.

(c) Verification of completion of livescan.

The Certificate of Clearance shall be issued for a period of five years when the Commission has verified that the candidate meets personal qualifications necessary to obtain a regular California teaching or services credential.

Note: Authority cited: Section 44225(b), Education Code. Reference: Section 44320(~~b~~d) and 44350, Education Code.

**§ 80301. Notice to Applicants for Issuance or Renewal of Credentials; ~~Application for~~ Character and Identification Clearance.**

(a) An applicant for issuance or renewal of a credential shall not be required to disclose, and the Committee of Credentials shall not inquire into or consider, any acts or omissions not related to his or her fitness or competence to perform the duties authorized by his or her credential.

(b) Each applicant for initial issuance of a credential shall submit a completed Application for ~~Character and Identification Clearance on~~ Credential Authorizing Public School Service form ~~adopted by the Commission~~ as specified in §80001 on which he or she will set forth evidence of identification and good moral character which shall be used for the sole purpose of determining the applicant's eligibility for a credential, ~~or~~ Certificate of Clearance, or Activity Supervisor Clearance Certificate.

(c) The Application for ~~Character and Identification Clearance~~ Credential Authorizing Public School Service as specified in §80001 shall include, but not be limited to, the following information for applicants:

(1) that the Commission is prohibited from issuing to or renewing the credential of any person convicted of any sex offense listed under Education Code Section 44010; or any narcotics offense listed under Education Code Section 44011; or who has been determined to be a mentally disordered sex offender; or that if a person holds a credential and has been convicted of any offense listed in Education Code Section 44424, such credential must be revoked.

Note: Authority cited: Section 44225(q), Education Code. Reference: Sections 44339, 44346, ~~and,~~ 44425 and 49024, Education Code.

**§ 80442. ~~Personal Identification Cards~~ Fingerprints.**

(a) Except as provided in subsection (c), each applicant for a credential shall submit with the application verification of livescan. Individuals who reside outside California may submit duplicate personal identification cards provided by the Commission or obtained from the Bureau of Identification of the Department of Justice. Such identification cards shall be completed in the manner required by the instructions on the card.

(b) The fingerprints of the applicant shall be taken by a qualified officer or employee of the state, or of any political subdivision thereof, or by a person designated by the Commission.

(c) Where an applicant is seeking an additional credential and has filed ~~personal identification cards~~ fingerprints in connection with a previous credential, or renewal thereof, said applicant need not ~~file~~ subsequently submit fingerprints ~~cards~~ except upon express request by the Commission or when a valid credential, certificate, permit, waiver, or other document has not been held for more than eighteen months.

(d) Fingerprints submitted to the Commission electronically via livescan prior to the filing of an application form by the individual will be valid for eighteen months. If an application form is subsequently filed after the eighteen month validity period, the individual will be required to resubmit fingerprints.

Note: Authority cited: Section 44225, Education Code. Reference: Section 44340, Education Code.

# DIVISION VIII OF TITLE 5 CALIFORNIA CODE OF REGULATIONS

## Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions

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## DECLARATION

THE FOREGOING TABLE OF CONTENTS constitutes the Commission's rulemaking file for the subject regulations. The rulemaking file and this copy are now closed as of March 15, 2012 and are complete. I declare under penalty of perjury that the foregoing is true and correct and that this declaration is made in Sacramento, CA on March 15, 2012.

Tammy A. Duggan, Consultant
Commission on Teacher Credentialing

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

# NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

| OAL FILE NUMBERS | NOTICE FILE NUMBER | REGULATORY ACTION NUMBER | EMERGENCY NUMBER |
|---|---|---|---|
| | Z-2011-1129-08 | 2012-0316-05S | |

For use by Office of Administrative Law (OAL) only

2012 MAR 16 PM 3:14

RECEIVED FOR FILING PUBLICATION DATE

NOV 29 '11 — DEC 09 '11

Office of Administrative Law

NOTICE

OFFICE OF ADMINISTRATIVE LAW

REGULATIONS

AGENCY FILE NUMBER (If any)

AGENCY WITH RULEMAKING AUTHORITY
COMMISSION ON TEACHER CREDENTIALING

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

| 1. SUBJECT OF NOTICE | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
|---|---|---|---|
| Fingerprint Submissions | 5 | 80028 | December 9, 2011 |

| 3. NOTICE TYPE | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional) |
|---|---|---|---|
| [X] Notice re Proposed Regulatory Action [ ] Other | Tammy A. Duggan | (916) 323-5354 | (916) 322-0048 |

| OAL USE ONLY | ACTION ON PROPOSED NOTICE | NOTICE REGISTER NUMBER | PUBLICATION DATE |
|---|---|---|---|
| | [ ] Approved as Submitted [ ] Approved as Modified [ ] Disapproved/Withdrawn | | |

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)
Fingerprint Submissions

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT

AMEND
80028, 80301, and 80442

REPEAL

TITLE(S)
5

3. TYPE OF FILING

[X] Regular Rulemaking (Gov. Code §11346)
[ ] Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
[ ] Emergency (Gov. Code, §11346.1(b))
[ ] Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
[ ] Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
[ ] Emergency Readopt (Gov. Code, §11346.1(h))
[ ] File & Print
[ ] Other (Specify)
[ ] Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
[ ] Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
[X] Effective 30th day after filing with Secretary of State
[ ] Effective on filing with Secretary of State
[ ] §100 Changes Without Regulatory Effect
[ ] Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
[ ] Department of Finance (Form STD. 399) (SAM §6660)
[ ] Fair Political Practices Commission
[ ] State Fire Marshal
[ ] Other (Specify)

| 7. CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional) |
|---|---|---|---|
| Tammy A. Duggan | (916) 323-5354 | (916) 322-0048 | tduggan@ctc.ca.gov |

For use by Office of Administrative Law (OAL) only

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE 3/12/12

# INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

## ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

## NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

## REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

## RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

## EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code §11346.1 for other requirements.)

## NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

## CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

## EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number (s)" (box 1b. of Part B).

## CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

## ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

# DIVISION VIII OF TITLE 5
# CALIFORNIA CODE OF REGULATIONS

## Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions

## CERTIFICATION OF MAILING

I certify that the Commission on Teacher Credentialing complied with the provisions of Government Code Section 11346.4(a)(1) through (4) regarding the mailing of the notice of the proposed action at least 45 days prior to the public hearing and close of the public comment period, and that the notice was mailed December 7, 2011 (Coded Correspondence 11-17). The close of the written public comment period was 5:00 p.m. on January 23, 2012 and the public hearing, at which public comments were accepted, was held January 27, 2012.

Tammy A. Duggan, Consultant
Commission on Teacher Credentialing

# Division VIII of Title 5 of the California Code of Regulations

## Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions

## Notice of Proposed Rulemaking

The Commission on Teacher Credentialing proposes to amend the regulatory action described below after considering all comments, objections and recommendations regarding the proposed action.

**Public Hearing**
A public hearing on the proposed actions will be held:

**January 27, 2012**
**9:00 a.m.**
**Commission on Teacher Credentialing**
**1900 Capitol Avenue**
**Sacramento, California 95811**

**Written Comment Period**
Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail on the proposed action. The written comment period closes at 5:00 p.m. on January 23, 2012. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322-0048; write to the Commission on Teacher Credentialing, attn. Tammy A. Duggan, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email at tduggan@ctc.ca.gov.

Any written comments received 15 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

**Authority and Reference**
Pursuant to the authority vested by Section 44225 of the Education Code, and to implement, interpret or make specific Sections 44339 and 44340 of the Education Code, the Commission on Teacher Credentialing is proposing the amendments to §§80028, 80301, and 80442 of Title 5 of the California Code of Regulations.

**Informative Digest/Policy Statement Overview**
Summary of Existing Laws and Regulations
The Joint Legislative Audit Committee requested that the Bureau of State Audits within the California State Auditor's office conduct an audit of the Commission's educator discipline process. The audit report, completed in April 2011, included a recommendation that the Commission notify the Department of Justice (DOJ) when it no longer needs reports of arrest and prosecution (RAP) sheets on an individual for misconduct perpetrated in California. The audit report determined that the Commission spends between one week and five weeks of staff time each year needlessly reviewing RAP sheets for individuals who do not hold valid

documents. The proposed amendments are designed to reduce the number of RAP sheets reviewed by Commission staff each year by invalidating the fingerprint information for individuals who have not held valid documents for more than eighteen months.

Penal Code §11105.2(d) states that "Any agency which submits the fingerprints of applicants for licensing, employment, certification, ... shall immediately notify the department ... when the applicant's license or certificate is revoked, [or] when the applicant may no longer renew or reinstate the license or certificate..." Notifying the DOJ that fingerprint information is not needed will allow the DOJ to discontinue the notification of subsequent arrest reports process for the affected individuals.

The Commission solicited input regarding the invalidation of fingerprints from California school districts, county offices, and institutions of higher education. Through this contact, it was decided that fingerprints should be invalidated for individuals who have not held valid documents for more than eighteen months. Invalidating fingerprints for individuals with documents that have lapsed for less than eighteen months could potentially create additional work for Commission staff, stakeholders, and credential applicants as individuals often take leaves of absence for a year or less due to illness, difficulty finding teaching positions, or to further their education. As stated above, the Commission only receives subsequent RAP sheets for misconduct that occurs in California. Therefore, waiting more than eighteen months after an individual's documents have lapsed before invalidating their fingerprints increases the odds that he/she will leave the state and commit a crime for which the Commission will not receive notification. The proposed regulations will require individuals to resubmit their fingerprints if they have not held a valid document for more than eighteen months.

The Commission also routinely receives fingerprint information from individuals prior to the submission of an application for a credential, certificate, permit, waiver, or document. The proposed amendments add language stating that the fingerprints for these individuals will be valid for eighteen months. If an application for a credential, certificate, permit, waiver, or document is not received within eighteen months from the date the DOJ provides the Commission with the fingerprint information, the individual's fingerprints will be invalidated and the resubmission of fingerprints will be required with his/her next application. This will allow the Commission to notify the DOJ that subsequent RAP sheets are not required for individuals who submit their fingerprints more than eighteen months prior to submitting an application for a credential, certificate, permit, waiver, or document.

The Federal Bureau of Investigation (FBI) does not provide subsequent RAP sheets to the Commission; arrest information from the FBI is only provided at the time an individual's fingerprints are submitted through the DOJ for clearance. Requiring individuals to resubmit fingerprints when they have not held a valid document in California for more than eighteen months will allow the Commission to receive updated arrest information from other states. This is especially important because individuals with expired documents may have resided outside California during the lapse in their certification.

**Documents Incorporated by Reference:** None.

**Documents Relied Upon in Preparing Regulations:** California State Auditor April 2011 Report 2010-119 available on the Bureau of State Audits website at http://bsa.ca.gov/pdfs/reports/2010-119.pdf.

**Disclosures Regarding the Proposed Actions**
The Commission has made the following initial determinations:

*Mandate to local agencies or school districts:* None.

*Other non-discretionary costs or savings imposed upon local agencies:* None.

*Cost or savings to any state agency:* None.

*Cost or savings in federal funding to the state:* None.

*Significant effect on housing costs:* None.

*Significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states:* None.

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

*Cost impacts on a representative private person or business:* The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

*Assessment regarding the creation or elimination of jobs in California [Govt. Code §11346.3(b)]:* The Commission has made an assessment that the proposed amendments to the regulations will not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

*Effect on small businesses:* The proposed regulations will not have a significant adverse economic impact upon business since they apply only to the submission of fingerprint information from individuals seeking documents that authorize service in California's public schools.

**Consideration of Alternatives**
The Commission must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency will be more effective in carrying out the purpose for which the action is proposed or will be as effective as and less burdensome to affected private persons than the proposed actions.

**Contact Person/Further Information**
General or substantive inquires concerning the proposed action may be directed to Tammy A. Duggan by telephone at (916) 323-5354 or Tammy A. Duggan, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed to Hai Jue Theriault at (916) 322-6253 or at the address mentioned in the

previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's website at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

**Availability of Statement of Reasons and Text of Proposed Regulations**
The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of regulations, and the initial statement of reasons.

**Modification of Proposed Action**
If the Commission proposes to modify the actions hereby proposed, the modifications (other than non-substantive or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

**Availability of Final Statement of Reasons**
The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package after the public hearing. When available, it will be placed on the Commission's website at www.ctc.ca.gov or you may obtain a copy by contacting Tammy A. Duggan at (916) 323-5354.

**Availability of Documents on the Internet**
Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout may be accessed through the Commission's website at www.ctc.ca.gov.

# Division VIII of Title 5 of the California Code of Regulations

## Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions

## Initial Statement of Reasons

**Rationale for Proposed Regulations**

The Joint Legislative Audit Committee requested that the Bureau of State Audits within the California State Auditor's office conduct an audit of the Commission's educator discipline process. The audit report, completed in April 2011, included a recommendation that the Commission notify the Department of Justice (DOJ) when it no longer needs reports of arrest and prosecution (RAP) sheets on an individual for misconduct perpetrated in California. The audit report determined that the Commission spends between one week and five weeks of staff time each year needlessly reviewing RAP sheets for individuals who do not hold valid documents. The proposed amendments are designed to reduce the number of RAP sheets reviewed by Commission staff each year by invalidating the fingerprint information for individuals who have not held valid documents for more than eighteen months.

Penal Code §11105.2(d) states that "Any agency which submits the fingerprints of applicants for licensing, employment, certification, ... shall immediately notify the department ... when the applicant's license or certificate is revoked, [or] when the applicant may no longer renew or reinstate the license or certificate..." Notifying the DOJ that fingerprint information is not needed will allow the DOJ to discontinue the notification of subsequent arrest reports process for the affected individuals.

The Commission solicited input regarding the invalidation of fingerprints from California school districts, county offices, and institutions of higher education. Through this contact, it was decided that fingerprints should be invalidated for individuals who have not held valid documents for more than eighteen months. Invalidating fingerprints for individuals with documents that have lapsed for less than eighteen months could potentially create additional work for Commission staff, stakeholders, and credential applicants as individuals often take leaves of absence for a year or less due to illness, difficulty finding teaching positions, or to further their education. As stated above, the Commission only receives subsequent RAP sheets for misconduct that occurs in California. Therefore, waiting more than eighteen months after an individual's documents have lapsed before invalidating their fingerprints increases the odds that he/she will leave the state and commit a crime for which the Commission will not receive notification. The proposed regulations will require individuals to resubmit their fingerprints if they have not held a valid document for more than eighteen months.

The Commission also routinely receives fingerprint information from individuals prior to the submission of an application for a credential, certificate, permit, waiver, or document. The proposed amendments add language stating that the fingerprints for these individuals will be valid for eighteen months. If an application for a credential, certificate, permit, waiver, or document is not received within eighteen months from the date the DOJ provides the

Commission with the fingerprint information, the individual's fingerprints will be invalidated and the resubmission of fingerprints will be required with his/her next application. This will allow the Commission to notify the DOJ that subsequent RAP sheets are not required for individuals who submit their fingerprints more than eighteen months prior to submitting an application for a credential, certificate, permit, waiver, or document.

The Federal Bureau of Investigation (FBI) does not provide subsequent RAP sheets to the Commission; arrest information from the FBI is only provided at the time an individual's fingerprints are submitted through the DOJ for clearance. Requiring individuals to resubmit fingerprints when they have not held a valid document in California for more than eighteen months will allow the Commission to receive updated arrest information from other states. This is especially important because individuals with expired documents may have resided outside California during the lapse in their certification.

**Proposed Amendments to Regulations**

***§80028***

**Note:** Updates the subdivision referenced for EC §44320 from (b) to (d). Amendments to Education Code (EC) §44320 as a result of Senate Bill (SB) 1422 (Chap. 1245, Stats. 1992) moved the subdivision that includes the Certificate of Clearance requirement from (b) to (d). Adds Education Code §44350 as a Reference. EC §44350 states that all Commission documents must be issued with expiration dates.

***§80301***

**Title:** Deletes "Application for" from the title of this section. A separate form was previously required with applications that included fingerprint information. However, the separate form was discontinued several years ago when the character and identification clearance information was added to the Application for Credential Authorizing Public School Service form.

**(b):** Updates the name of the application form required for all types of documents issued by the Commission along with reference to the Title 5 section that defines the application form. Also adds the Activity Supervisor Clearance Certificate (EC §49024) to the list of documents requiring character and identification clearance.

**(c):** Updates the name of the application form required for all types of documents issued by the Commission along with reference to the Title 5 section that defines the application form.

**Note:** Adds EC §49024 pertaining to the Activity Supervisor Clearance Certificate as a Reference.

***§80442***

**Title:** Changes the title from "Personal Identification Cards" to the more generic term of "Fingerprints." Penal Code §11077.1 as amended by SB 970 (Chap. 470, Stats. 2003) requires submission of fingerprints via livescan unless a livescan station is not available. This Title 5 section requires submission of fingerprints via livescan and allows for the submission of personal identification (fingerprint) cards only if an individual resides outside California.

**(a):** Clarifies that the requirement in EC §44340 to include fingerprints when filing an application is met with the submission of fingerprints via livescan (electronic process) as required by the DOJ. Penal Code §11077.1 as amended by Senate Bill 970 (Chap. 470, Stats. 2003) requires submission of fingerprints via livescan unless a livescan station is not available. Adds language allowing the submission of personal identification (fingerprint) cards by individuals applying for certification while residing outside California.

**(c):** Amends the language pertaining to "personal identification cards" and the subsequent filing of "cards" to "fingerprints." Subdivision (a) defines who must submit livescan and who are allowed to submit fingerprint cards; therefore, the generic term of "fingerprints" is more appropriate in this subdivision. Adds new language requiring the submission of fingerprints by applicants who have not held a valid document issued by the Commission for more than eighteen months. The Commission continues to receive subsequent arrest information for individuals who do not hold valid credentials, certificates, permits, waivers, or documents which unduly increases the workload of the Commission's Division of Professional Practices. The proposed language will allow the Commission to notify the DOJ that it is no longer interested in receiving subsequent arrest information for individuals who have allowed their California certification to lapse for more than eighteen months.

**(d):** The Commission routinely receives fingerprint information from the DOJ for individuals who submitted their fingerprints via livescan (electronically) but who do not subsequently submit an application for any type of credential, permit, certificate, waiver, or document. The Commission continues to receive subsequent arrest information for these individuals which unduly increases the workload of the Division of Professional Practices. The proposed language will allow the Commission to notify the DOJ that it is no longer interested in receiving subsequent arrest information for individuals who submit their fingerprints electronically but who do not apply for a credential, permit, certificate, waiver, or document within eighteen months from the date the fingerprint information is received from the DOJ. Individuals who do not apply for certification within eighteen months from the date the fingerprint information is received from DOJ will be required to resubmit fingerprints with their next application.

Personal identification cards (fingerprint cards) are not accepted separate from an application form and processing fee.

**Documents Relied Upon in Preparing Regulations:** California State Auditor April 2011 Report 2010-119 available on the Bureau of State Audits website at http://bsa.ca.gov/pdfs/reports/2010-119.pdf.

**Consideration of Alternatives**

The Commission must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency will be more effective in carrying out the purpose for which the action is proposed or will be as effective as and less burdensome to affected private persons than the proposed actions. These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with §17500) of the Government Code.

**Evidence Relied Upon to Support the Initial Determination That the Regulation Will Not Have a Significant Adverse Economic Impact on Business:** The proposed regulations will not have a significant adverse economic impact upon business since they apply only to the submission of fingerprint information from individuals seeking documents that authorize service in California's public schools.

CALIFORNIA CODE OF REGULATIONS
TITLE 5. EDUCATION
DIVISION 8. COMMISSION ON TEACHER CREDENTIALING

**§ 80028. Certificate of Clearance.**
A Certificate of Clearance is a document, issued by the Commission, which verifies that the holder meets personal qualifications necessary to obtain a regular California teaching or services credential. Each candidate for an initial credential shall, prior to admission to student teaching under any professional preparation program approved by the Commission, obtain a Certificate of Clearance. No less than 60 working days prior to admission to student teaching, the candidate shall submit the following materials to the Commission:

(a) A completed application via the online application system.

(b) One-half of the credential issuance/reissuance or renewal fee specified in Section 80487(a)(1) unless otherwise established by law. The fee shall apply toward the initial credential.

(c) Verification of completion of livescan.

The Certificate of Clearance shall be issued for a period of five years when the Commission has verified that the candidate meets personal qualifications necessary to obtain a regular California teaching or services credential.

Note: Authority cited: Section 44225(b), Education Code. Reference: Section 44320(~~b~~d) and 44350, Education Code.

**§ 80301. Notice to Applicants for Issuance or Renewal of Credentials; ~~Application for~~ Character and Identification Clearance.**
(a) An applicant for issuance or renewal of a credential shall not be required to disclose, and the Committee of Credentials shall not inquire into or consider, any acts or omissions not related to his or her fitness or competence to perform the duties authorized by his or her credential.

(b) Each applicant for initial issuance of a credential shall submit a completed Application for ~~Character and Identification Clearance on~~ Credential Authorizing Public School Service form ~~adopted by the Commission~~ as specified in §80001 on which he or she will set forth evidence of identification and good moral character which shall be used for the sole purpose of determining the applicant's eligibility for a credential, ~~or~~ Certificate of Clearance, or Activity Supervisor Clearance Certificate.

(c) The Application for ~~Character and Identification Clearance~~ Credential Authorizing Public School Service as specified in §80001 shall include, but not be limited to, the following information for applicants:

(1) that the Commission is prohibited from issuing to or renewing the credential of any person convicted of any sex offense listed under Education Code Section 44010; or any

narcotics offense listed under Education Code Section 44011; or who has been determined to be a mentally disordered sex offender; or that if a person holds a credential and has been convicted of any offense listed in Education Code Section 44424, such credential must be revoked.

Note: Authority cited: Section 44225(q), Education Code. Reference: Sections 44339, 44346, ~~and,~~ 44425 and 49024, Education Code.

**§ 80442. ~~Personal Identification Cards~~ Fingerprints.**

(a) Except as provided in subsection (c), each applicant for a credential shall submit with the application verification of livescan. Individuals who reside outside California may submit duplicate personal identification cards provided by the Commission or obtained from the Bureau of Identification of the Department of Justice. Such identification cards shall be completed in the manner required by the instructions on the card.

(b) The fingerprints of the applicant shall be taken by a qualified officer or employee of the state, or of any political subdivision thereof, or by a person designated by the Commission.

(c) Where an applicant is seeking an additional credential and has filed ~~personal identification cards~~ fingerprints in connection with a previous credential, or renewal thereof, said applicant need not ~~file~~ subsequently submit fingerprints ~~cards~~ except upon express request by the Commission or when a valid credential, certificate, permit, waiver, or other document has not been held for more than eighteen months.

(d) Fingerprints submitted to the Commission electronically via livescan prior to the filing of an application form by the individual will be valid for eighteen months. If an application form is subsequently filed after the eighteen month validity period, the individual will be required to resubmit fingerprints.

Note: Authority cited: Section 44225, Education Code. Reference: Section 44340, Education Code.

DIVISION VIII OF TITLE 5
CALIFORNIA CODE OF REGULATIONS

## Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions

## Updated Informative Digest

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws described in the Notice of Proposed Regulatory Action.

### Purpose of Proposed Action

There have been no changes from the original purpose of the proposed action in the Initial Statement of Reasons.

### Rationale for Proposed Regulations

There have been no changes from the original rationale for the proposed regulations in the Initial Statement of Reasons.

### Consideration of Alternatives

The Commission has determined that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed actions.

## Division VIII of Title 5 of the California Code of Regulations

## Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions

## Final Statement of Reasons

**Public Problem**
There is no change to the public problem information since the original submission of the Initial Statement of Reasons.

**Purpose of Proposed Action**
There is no change from the original purpose of the proposed action in the Initial Statement of Reasons.

**Consideration of Alternatives**
The Commission has determined that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed actions.

**Mandated Costs**
These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

**Updated Tally of Responses**
The Commission received the following written responses to the public announcement:

| *Support* | *Opposition* |
|---|---|
| 1 organizational opinion | 0 organizational opinions |
| 2 personal opinions | 0 personal opinions |

**Total Written Responses: 3**

*Responses Representing Organizations in Support*

1. Jeanne Nava, Assistant Superintendent, Human Resources, Tulare County Office of Education

*Responses Representing Individuals in Support*

1. Susana Fernandez, Support Services Manager, Orange County Department of Education
2. Enid Brinkman, Credentials & Retirement Supervisor, Tulare County Office of Education

*Responses Representing Organizations in Opposition:* None

*Oral Comments Received During the Public Hearing:* None

**Grand Total of Responses: 3**

CALIFORNIA CODE OF REGULATIONS
TITLE 5. EDUCATION
DIVISION 8. COMMISSION ON TEACHER CREDENTIALING

**§ 80028. Certificate of Clearance.**
A Certificate of Clearance is a document, issued by the Commission, which verifies that the holder meets personal qualifications necessary to obtain a regular California teaching or services credential. Each candidate for an initial credential shall, prior to admission to student teaching under any professional preparation program approved by the Commission, obtain a Certificate of Clearance. No less than 60 working days prior to admission to student teaching, the candidate shall submit the following materials to the Commission:

(a) A completed application via the online application system.

(b) One-half of the credential issuance/reissuance or renewal fee specified in Section 80487(a)(1) unless otherwise established by law. The fee shall apply toward the initial credential.

(c) Verification of completion of livescan.

The Certificate of Clearance shall be issued for a period of five years when the Commission has verified that the candidate meets personal qualifications necessary to obtain a regular California teaching or services credential.

Note: Authority cited: Section 44225(b), Education Code. Reference: Section 44320(~~b~~d) and 44350, Education Code.

**§ 80301. Notice to Applicants for Issuance or Renewal of Credentials; ~~Application for~~ Character and Identification Clearance.**
(a) An applicant for issuance or renewal of a credential shall not be required to disclose, and the Committee of Credentials shall not inquire into or consider, any acts or omissions not related to his or her fitness or competence to perform the duties authorized by his or her credential.

(b) Each applicant for initial issuance of a credential shall submit a completed Application for ~~Character and Identification Clearance on~~ Credential Authorizing Public School Service form ~~adopted by the Commission~~ as specified in §80001 on which he or she will set forth evidence of identification and good moral character which shall be used for the sole purpose of determining the applicant's eligibility for a credential, ~~or~~ Certificate of Clearance, or Activity Supervisor Clearance Certificate.

(c) The Application for ~~Character and Identification Clearance~~ Credential Authorizing Public School Service as specified in §80001 shall include, but not be limited to, the following information for applicants:

(1) that the Commission is prohibited from issuing to or renewing the credential of any person convicted of any sex offense listed under Education Code Section 44010; or any

narcotics offense listed under Education Code Section 44011; or who has been determined to be a mentally disordered sex offender; or that if a person holds a credential and has been convicted of any offense listed in Education Code Section 44424, such credential must be revoked.

Note: Authority cited: Section 44225(q), Education Code. Reference: Sections 44339, 44346, ~~and,~~ 44425 and 49024, Education Code.

**§ 80442. ~~Personal Identification Cards~~ Fingerprints.**

(a) Except as provided in subsection (c), each applicant for a credential shall submit with the application verification of livescan. Individuals who reside outside California may submit duplicate personal identification cards provided by the Commission or obtained from the Bureau of Identification of the Department of Justice. Such identification cards shall be completed in the manner required by the instructions on the card.

(b) The fingerprints of the applicant shall be taken by a qualified officer or employee of the state, or of any political subdivision thereof, or by a person designated by the Commission.

(c) Where an applicant is seeking an additional credential and has filed ~~personal identification cards~~ fingerprints in connection with a previous credential, or renewal thereof, said applicant need not ~~file~~ subsequently submit fingerprints ~~cards~~ except upon express request by the Commission or when a valid credential, certificate, permit, waiver, or other document has not been held for more than eighteen months.

(d) Fingerprints submitted to the Commission electronically via livescan prior to the filing of an application form by the individual will be valid for eighteen months. If an application form is subsequently filed after the eighteen month validity period, the individual will be required to resubmit fingerprints.

Note: Authority cited: Section 44225, Education Code. Reference: Section 44340, Education Code.

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

# ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

*See SAM Section 6601 - 6616 for Instructions and Code Citations*

| DEPARTMENT NAME | CONTACT PERSON | TELEPHONE NUMBER |
|---|---|---|
| Commission on Teacher Credentialing | Tammy A. Duggan | (916) 323-5354 |
| DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 | | NOTICE FILE NUMBER |
| Fingerprint Submissions | | Z |

## ECONOMIC IMPACT STATEMENT

### A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- ☐ a. Impacts businesses and/or employees
- ☐ b. Impacts small businesses
- ☐ c. Impacts jobs or occupations
- ☐ d. Impacts California competitiveness
- ☐ e. Imposes reporting requirements
- ☐ f. Imposes prescriptive instead of performance
- ☐ g. Impacts individuals
- ☑ h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) Regulations clarify applicant fingerprint submissions (ref. EC sections 44339 and 44340)

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: _____ Describe the types of businesses (Include nonprofits.): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

3. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional (List areas.): _____

5. Enter the number of jobs created: _____ or eliminated: _____ Describe the types of jobs or occupations impacted: _____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ Yes ☐ No If yes, explain briefly: _____

### B. ESTIMATED COSTS (Include calculations and assumptions in the rulemaking record.)

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? $ _____

a. Initial costs for a small business: $ _____ Annual ongoing costs: $ _____ Years: _____

b. Initial costs for a typical business: $ _____ Annual ongoing costs: $ _____ Years: _____

c. Initial costs for an individual: $ _____ Annual ongoing costs: $ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): $ _____

4. Will this regulation directly impact housing costs? ☐ Yes ☐ No If yes, enter the annual dollar cost per housing unit: _____ and the number of units: _____

5. Are there comparable Federal regulations? ☐ Yes ☐ No Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $ _____

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: _____

2. Are the benefits the result of : ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? $ _____

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

| | | |
|---|---|---|
| Regulation: | Benefit: $ _____ | Cost: $ _____ |
| Alternative 1: | Benefit: $ _____ | Cost: $ _____ |
| Alternative 2: | Benefit: $ _____ | Cost: $ _____ |

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☐ No

Explain: _____

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.) Cal/EPA boards, offices, and departments are subject to the following additional requirements per Health and Safety Code section 57005.

## ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million ? ☐ Yes ☐ No (If No, skip the rest of this section.)

2. Briefly describe each equally as an effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

   Alternative 1: _____

   Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

| | | |
|---|---|---|
| Regulation: | $ _____ | Cost-effectiveness ratio: $ _____ |
| Alternative 1: | $ _____ | Cost-effectiveness ratio: $ _____ |
| Alternative 2: | $ _____ | Cost-effectiveness ratio: $ _____ |

## FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

☐ a. is provided in _____, Budget Act of _____ or Chapter _____, Statutes of _____

☐ b. will be requested in the _____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____

☐ 2. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

☐ a. implements the Federal mandate contained in _____

☐ b. implements the court mandate set forth by the _____

court in the case of _____ vs. _____

☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____ (DATE) election;

☐ d. is issued only in response to a specific request from the _____

_____, which is/are the only local entity(s) affected;

☐ e. will be fully financed from the _____ (FEES, REVENUE, ETC.) authorized by Section

_____ of the _____ Code;

☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 3. Savings of approximately $ _____ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

☑ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

☐ 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year. It is anticipated that State agencies will:

☐ a. be able to absorb these additional costs within their existing budgets and resources.

☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.

☐ 2. Savings of approximately $ _____ in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☐ 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year.

☐ 2. Savings of of approximately $ _____ in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☐ 4. Other.

| | | |
|---|---|---|
| FISCAL OFFICER SIGNATURE | | DATE 11-29-11 |
| AGENCY SECRETARY[1] APPROVAL/CONCURRENCE | | DATE |
| DEPARTMENT OF FINANCE[2] APPROVAL/CONCURRENCE | PROGRAM BUDGET MANAGER | DATE |

1. *The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.*

COMMISSION ON
TEACHER CREDENTIALING
*Ensuring Educator Excellence*

# CODED CORRESPONDENCE

| | |
|---|---|
| **DATE:**<br>December 7, 2011 | **NUMBER:**<br>11-17 |
| **TO:**<br>All Individuals and Groups Interested in the Activities of the Commission on Teacher Credentialing | **FROM:**<br>Mary Vixie Sandy<br>Executive Director<br>Commission on Teacher Credentialing |

**SUBJECT: Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions**

**Notice of Public Hearing is Hereby Given**
The Commission on Teacher Credentialing (Commission) proposes to amend the regulatory action described below after considering all comments, objections and recommendations regarding the proposed action. A copy of the proposed regulations is attached with the added text underlined and the deleted text lined out.

A public hearing on the proposed actions will be held:

**January 27, 2012**
**9:00 a.m.**
**Commission on Teacher Credentialing**
**1900 Capitol Avenue**
**Sacramento, California 95811**

**Written Comment Period**
Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail on the proposed action. The written comment period closes at 5:00 p.m. on January 23, 2012. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322-0048; write to the Commission on Teacher Credentialing, attn. Tammy A. Duggan, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email at tduggan@ctc.ca.gov.

Any written comments received 15 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

**Authority and Reference**

Pursuant to the authority vested by Section 44225 of the Education Code, and to implement, interpret or make specific Sections 44339 and 44340 of the Education Code, the Commission on Teacher Credentialing is proposing the amendments to §§80028, 80301, and 80442 of Title 5 of the California Code of Regulations.

**Informative Digest/Policy Statement Overview**

Summary of Existing Laws and Regulations

The Joint Legislative Audit Committee requested that the Bureau of State Audits within the California State Auditor's office conduct an audit of the Commission's educator discipline process. The audit report, completed in April 2011, included a recommendation that the Commission notify the Department of Justice (DOJ) when it no longer needs reports of arrest and prosecution (RAP) sheets on an individual for misconduct perpetrated in California. The audit report determined that the Commission spends between one week and five weeks of staff time each year needlessly reviewing RAP sheets for individuals who do not hold valid documents. The proposed amendments are designed to reduce the number of RAP sheets reviewed by Commission staff each year by invalidating the fingerprint information for individuals who have not held valid documents for more than eighteen months.

Penal Code §11105.2(d) states that "Any agency which submits the fingerprints of applicants for licensing, employment, certification, ... shall immediately notify the department ... when the applicant's license or certificate is revoked, [or] when the applicant may no longer renew or reinstate the license or certificate..." Notifying the DOJ that fingerprint information is not needed will allow the DOJ to discontinue the notification of subsequent arrest reports process for the affected individuals.

The Commission solicited input regarding the invalidation of fingerprints from California school districts, county offices, and institutions of higher education. Through this contact, it was decided that fingerprints should be invalidated for individuals who have not held valid documents for more than eighteen months. Invalidating fingerprints for individuals with documents that have lapsed for less than eighteen months could potentially create additional work for Commission staff, stakeholders, and credential applicants as individuals often take leaves of absence for a year or less due to illness, difficulty finding teaching positions, or to further their education. As stated above, the Commission only receives subsequent RAP sheets for misconduct that occurs in California. Therefore, waiting more than eighteen months after an individual's documents have lapsed before invalidating their fingerprints increases the odds that he/she will leave the state and commit a crime for which the Commission will not receive notification. The proposed regulations will require individuals to resubmit their fingerprints if they have not held a valid document for more than eighteen months.

The Commission also routinely receives fingerprint information from individuals prior to the submission of an application for a credential, certificate, permit, waiver, or document. The proposed amendments add language stating that the fingerprints for these individuals will be valid for eighteen months. If an application for a credential, certificate, permit, waiver, or document is not received within eighteen months from the date the DOJ provides the Commission with the fingerprint information, the individual's fingerprints will be invalidated and the resubmission of fingerprints will be required with his/her next application. This will allow the Commission to notify the DOJ that subsequent RAP sheets are not required for individuals who submit their fingerprints more than eighteen months prior to submitting an application for a credential, certificate, permit, waiver, or document.

The Federal Bureau of Investigation (FBI) does not provide subsequent RAP sheets to the Commission; arrest information from the FBI is only provided at the time an individual's fingerprints are submitted through the DOJ for clearance. Requiring individuals to resubmit fingerprints when they have not held a valid document in California for more than eighteen months will allow the Commission to receive updated arrest information from other states. This is especially important because individuals with expired documents may have resided outside California during the lapse in their certification.

***Proposed Amendments to Title 5 Regulations***

***§80028***

**Note:** Updates the subdivision referenced for EC §44320 from (b) to (d). Amendments to Education Code (EC) §44320 as a result of Senate Bill (SB) 1422 (Chap. 1245, Stats. 1992) moved the subdivision that includes the Certificate of Clearance requirement from (b) to (d). Adds Education Code §44350 as a Reference. EC §44350 states that all Commission documents must be issued with expiration dates.

***§80301***

**Title:** Deletes "Application for" from the title of this section. A separate form was previously required with applications that included fingerprint information. However, the separate form was discontinued several years ago when the character and identification clearance information was added to the Application for Credential Authorizing Public School Service form.

**(b):** Updates the name of the application form required for all types of documents issued by the Commission along with reference to the Title 5 section that defines the application form. Also adds the Activity Supervisor Clearance Certificate (EC §49024) to the list of documents requiring character and identification clearance.

**(c):** Updates the name of the application form required for all types of documents issued by the Commission along with reference to the Title 5 section that defines the application form.

**Note:** Adds EC §49024 pertaining to the Activity Supervisor Clearance Certificate as a Reference.

*§80442*

**Title:** Changes the title from "Personal Identification Cards" to the more generic term of "Fingerprints." Penal Code §11077.1 as amended by SB 970 (Chap. 470, Stats. 2003) requires submission of fingerprints via livescan unless a livescan station is not available. This Title 5 section requires submission of fingerprints via livescan and allows for the submission of personal identification (fingerprint) cards only if an individual resides outside California.

**(a):** Clarifies that the requirement in EC §44340 to include fingerprints when filing an application is met with the submission of fingerprints via livescan (electronic process) as required by the DOJ. Penal Code §11077.1 as amended by Senate Bill 970 (Chap. 470, Stats. 2003) requires submission of fingerprints via livescan unless a livescan station is not available. Adds language allowing the submission of personal identification (fingerprint) cards by individuals applying for certification while residing outside California.

**(c):** Amends the language pertaining to "personal identification cards" and the subsequent filing of "cards" to "fingerprints." Subdivision (a) defines who must submit livescan and who are allowed to submit fingerprint cards; therefore, the generic term of "fingerprints" is more appropriate in this subdivision. Adds new language requiring the submission of fingerprints by applicants who have not held a valid document issued by the Commission for more than eighteen months. The Commission continues to receive subsequent arrest information for individuals who do not hold valid credentials, certificates, permits, waivers, or documents which unduly increases the workload of the Commission's Division of Professional Practices. The proposed language will allow the Commission to notify the DOJ that it is no longer interested in receiving subsequent arrest information for individuals who have allowed their California certification to lapse for more than eighteen months.

**(d):** The Commission routinely receives fingerprint information from the DOJ for individuals who submitted their fingerprints via livescan (electronically) but who do not subsequently submit an application for any type of credential, permit, certificate, waiver, or document. The Commission continues to receive subsequent arrest information for these individuals which unduly increases the workload of the Division of Professional Practices. The proposed language will allow the Commission to notify the DOJ that it is no longer interested in receiving subsequent arrest information for individuals who submit their fingerprints electronically but who do not apply for a credential, permit, certificate, waiver, or document within eighteen months from the date the fingerprint information is received from the DOJ. Individuals who do not apply for certification within eighteen months from the date the fingerprint information is received from DOJ will be required to resubmit fingerprints with their next application.

Personal identification cards (fingerprint cards) are not accepted separate from an application form and processing fee.

**Documents Incorporated by Reference:** None.

**Documents Relied Upon in Preparing Regulations:** California State Auditor April 2011 Report 2010-119 available on the Bureau of State Audits website at http://bsa.ca.gov/pdfs/reports/2010-119.pdf.

**Disclosures Regarding the Proposed Actions**
The Commission has made the following initial determinations:

*Mandate to local agencies or school districts:* None.

*Other non-discretionary costs or savings imposed upon local agencies:* None.

*Cost or savings to any state agency:* None.

*Cost or savings in federal funding to the state:* None.

*Significant effect on housing costs:* None.

*Significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states:* None.

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

*Cost impacts on a representative private person or business:* The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

*Assessment regarding the creation or elimination of jobs in California [Govt. Code §11346.3(b)]:* The Commission has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

*Effect on small businesses:* The proposed regulations will not have a significant adverse economic impact upon business since they apply only to the submission of fingerprint information from individuals seeking documents that authorize service in California's public schools.

**Consideration of Alternatives**
The Commission must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency will be more effective in carrying out the purpose for which the action is proposed or will be as effective as and less burdensome to affected private persons than the proposed actions. These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with §17500) of the Government Code.

**Contact Person/Further Information**
General or substantive inquires concerning the proposed action may be directed to Tammy A. Duggan by telephone at (916) 323-5354 or Tammy A. Duggan, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed to Janet Bankovich at (916) 323-7140 or at the address mentioned in the previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's website at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

**Availability of Statement of Reasons and Text of Proposed Regulations**
The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice of Register, the rulemaking file consists of this notice, the proposed text of regulations, and the initial statement of reasons.

**Modification of Proposed Action**
If the Commission proposes to modify the actions hereby proposed, the modifications (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

**Availability of Final Statement of Reasons**
The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. When it is available, it will be placed on the Commission's website at www.ctc.ca.gov or you may obtain a copy by contacting Tammy A. Duggan at (916) 323-5354.

**Availability of Documents on the Internet**
Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through the Commission's website at www.ctc.ca.gov.

# CALIFORNIA CODE OF REGULATIONS
# TITLE 5. EDUCATION
# DIVISION 8. COMMISSION ON TEACHER CREDENTIALING

**§ 80028. Certificate of Clearance.**

A Certificate of Clearance is a document, issued by the Commission, which verifies that the holder meets personal qualifications necessary to obtain a regular California teaching or services credential. Each candidate for an initial credential shall, prior to admission to student teaching under any professional preparation program approved by the Commission, obtain a Certificate of Clearance. No less than 60 working days prior to admission to student teaching, the candidate shall submit the following materials to the Commission:

(a) A completed application via the online application system.

(b) One-half of the credential issuance/reissuance or renewal fee specified in Section 80487(a)(1) unless otherwise established by law. The fee shall apply toward the initial credential.

(c) Verification of completion of livescan.

The Certificate of Clearance shall be issued for a period of five years when the Commission has verified that the candidate meets personal qualifications necessary to obtain a regular California teaching or services credential.

Note: Authority cited: Section 44225(b), Education Code. Reference: Section 44320(~~b~~d) and 44350, Education Code.

**§ 80301. Notice to Applicants for Issuance or Renewal of Credentials; ~~Application for~~ Character and Identification Clearance.**

(a) An applicant for issuance or renewal of a credential shall not be required to disclose, and the Committee of Credentials shall not inquire into or consider, any acts or omissions not related to his or her fitness or competence to perform the duties authorized by his or her credential.

(b) Each applicant for initial issuance of a credential shall submit a completed Application for ~~Character and Identification Clearance on~~ Credential Authorizing Public School Service form ~~adopted by the Commission~~ as specified in §80001 on which he or she will set forth evidence of identification and good moral character which shall be used for the sole purpose of determining the applicant's eligibility for a credential, ~~or~~ Certificate of Clearance, or Activity Supervisor Clearance Certificate.

(c) The Application for ~~Character and Identification Clearance~~ Credential Authorizing Public School Service as specified in §80001 shall include, but not be limited to, the following information for applicants:

(1) that the Commission is prohibited from issuing to or renewing the credential of any person convicted of any sex offense listed under Education Code Section 44010; or any narcotics offense listed under Education Code Section 44011; or who has been determined to be a mentally disordered sex offender; or that if a person holds a credential and has been convicted of any offense listed in Education Code Section 44424, such credential must be revoked.

Note: Authority cited: Section 44225(q), Education Code. Reference: Sections 44339, 44346, ~~and,~~ 44425 and 49024, Education Code.

**§ 80442. ~~Personal Identification Cards~~ Fingerprints.**

(a) Except as provided in subsection (c), each applicant for a credential shall submit with the application verification of livescan. Individuals who reside outside California may submit duplicate personal identification cards provided by the Commission or obtained from the Bureau of Identification of the Department of Justice. Such identification cards shall be completed in the manner required by the instructions on the card.

(b) The fingerprints of the applicant shall be taken by a qualified officer or employee of the state, or of any political subdivision thereof, or by a person designated by the Commission.

(c) Where an applicant is seeking an additional credential and has filed ~~personal identification cards~~ fingerprints in connection with a previous credential, or renewal thereof, said applicant need not ~~file~~ subsequently submit fingerprints ~~cards~~ except upon express request by the Commission or when a valid credential, certificate, permit, waiver, or other document has not been held for more than eighteen months.

(d) Fingerprints submitted to the Commission electronically via livescan prior to the filing of an application form by the individual will be valid for eighteen months. If an application form is subsequently filed after the eighteen month validity period, the individual will be required to resubmit fingerprints.

Note: Authority cited: Section 44225, Education Code. Reference: Section 44340, Education Code.

**Commission on Teacher Credentialing**

1900 Capitol Avenue Sacramento, CA 95811 (888) 921-2682 Fax (916) 327-3166 www.ctc.ca.gov

**Attn:** Tammy A. Duggan, CAW Division

**Title:** Fingerprint Submissions

**Section:** Proposed Amendments to §§ 80028, 80301, and 80442

**Response to the Attached Title 5 Regulations**

To allow the Commission on Teacher Credentialing to more clearly estimate the general field response to the attached regulations, please return this response form to the Commission office, attention Tammy A. Duggan, at the above address or fax to her attention at (916) 322-0048. The response must arrive at the Commission by 5:00 pm January 11, 2012 for the material to be presented at the January 27, 2012 public hearing.

1. ☐ **Yes**, I agree with the proposed Title 5 Regulations. Please count me in favor of these regulations.
2. ☐ **No**, I do not agree with the proposed regulations for the following reasons:
   **PLEASE LIST THE SPECIFIC SECTION (80028, 80301, and/or 80442)**. If additional space is needed, use the reverse of this sheet or additional page.

3. ☐ Personal opinion of the undersigned and/or
   ☐ Organizational opinion representing: (Circle One) School District, County Schools, College/University, Professional Organization, Other_____
4. ☐ I shall be at the public hearing. Place my name on the list for making a presentation to the Commission.
   ☐ No, I will not make a presentation to the Commission at the public hearing.

Signature: _____ Date: _____

Printed Name: _____

Title: _____ Phone: _____

Employer/Organization: _____

Mailing Address: _____

***Route to tad***

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Signature: Jeanne Nava Date: 12/8/11

Printed Name: Jeanne Nava

Title: Assistant Superintendent, Human Resources Phone: (559) 733-6306

Employer/Organization: Tulare County Office of Education

Mailing Address: 2637 W. Burrel
P.O. Box 5091
Visalia, CA 93278-5091

*Route to tad*

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1900 Capitol Avenue Sacramento, CA 95811 (888) 921-2682 Fax (916) 327-3166 www.ctc.ca.gov

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   ☐ No, I will not make a presentation to the Commission at the public hearing.

Signature: Susana Fernandez Date: 12/14/11

Printed Name: Susana Fernandez

Title: Support Services Manager Phone: 714 966-4457

Employer/Organization: Orange County Department of Education

Mailing Address: 200 Kalmus Drive, Costa Mesa, CA 92628

*Route to tad*

Commission on Teacher Credentialing

1900 Capitol Avenue Sacramento, CA 95811 (888) 921-2682 Fax (916) 327-3166 www.ctc.ca.gov

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4. ☐ I shall be at the public hearing. Place my name on the list for making a presentation to the Commission.
   ☒ No, I will not make a presentation to the Commission at the public hearing.

Signature: Enid Brinkman Date: 12/14/11

Printed Name: Enid Brinkman

Title: Credentials & Retirement Supervisor Phone: (559) 733-6327

Employer/Organization: Tulare County Office of Education

Mailing Address: P. O. Box 5091, Visalia CA 93278-5091

*Route to tad*

# 1A

## Action

*General Session*

## Approval of the January 2012 Minutes

**Executive Summary:** The Executive Director recommends that the Commission approve the minutes of the January 2012 meeting of the Commission.

**Recommended Action:** Approve the minutes of the January 2012 meeting.

**Presenter:** None

**Strategic Plan Goal: 2**

**Support policy development related to educator preparation, conduct and professional growth**

# Commission on Teacher Credentialing
# Minutes of the January 26-27, 2012 Meeting

**Commission Members Attending**
Charles Gahagan, Teacher Representative, Chair
Constance Blackburn, Teacher Representative
Erick Casallas, Teacher Representative
C. Michael Cooney, Public Representative
Eddie Cuevas, Teacher Representative
Marlon Evans, Public Representative (1/27 only)
Kathleen Harris, Teacher Representative
Shane Martin, Ex-Officio, Association of Independent California Colleges and Universities
Nancy Ramirez, Public Representative
Tine Sloan, Ex-Officio, University of California
Louise Stymeist, Non-Administrative Services Credential Representative
Alicia Williamson, Teacher Representative
Beverly Young, Ex-Officio, California State University (1/26 only)
Richard Zeiger, Designee, Superintendent of Public Instruction (1/27 only)
Michelle Zumot, Designee, Superintendent of Public Instruction (1/26 only)

**Commission Members Absent**
Linda Darling-Hammond, Faculty Member, Vice Chair
Carolyn McInerney, School Board Member

**General Session**
Chair Charles Gahagan convened the General Session of the Commission on Teacher Credentialing at 9:07 a.m. Roll call was taken and the Pledge of Allegiance was recited.

Chair Gahagan announced the following new appointments for the Executive Committee for 2012:

- Constance Blackburn, Professional Services Committee
- Kathleen Harris, Professional Practices Committee
- Eddie Cuevas, Fiscal Policy and Planning Committee
- Linda Darling-Hammond, Legislative Committee
- Shane Martin, Credentialing and Certificated Assignments Committee

Chair Gahagan also appointed Commissioner Nancy Ramirez to serve as Commission liaison to the Committee of Credentials.

**1A: Approval of the December 2011 Minutes**
Commissioner Cooney moved approval of the December 2011 Minutes. Commissioner Blackburn seconded the motion. The motion carried without dissent.

**1B: Approval of the January 2012 Agenda**
Commissioner Blackburn moved approval of the January 2012 Agenda with agenda inserts for items 3B and 3D. Commissioner Casallas seconded the motion. The motion carried without dissent.

**1C: Approval of the January 2012 Consent Calendar**
Commissioner Harris moved approval of the Consent Calendar. Commissioner Williamson seconded the motion. The motion carried without dissent.

**1D: Chair's Report**
Chair Gahagan reported that he attended the Teacher Quality in California Policy and Research Briefing of the Stanford Center for Opportunity Policy in Education on January 20, 2012.

**1E: Executive Director's Report**
Executive Director Mary Sandy congratulated Joe Gee on his new position as Chief of Acquisitions and Procurement at the California State Board of Equalization.

Director Sandy also congratulated Laura Lunetta and Marilyn Errett on their retirement and introduced Michael Barth, the new Assistant Chief Counsel in the Division of Professional Practices.

Director Sandy congratulated Dr. Mel Hunt, a member of the Credential Counselors and Analysts of California, on his recent promotion as an assistant dean for the School of Education at St. Mary's College.

Director Sandy also provided an update on the Credentialing Web Interface Project (CWIP) and reported on her recent meetings with members of the Legislature.

**1G: Liaison Reports**
Commissioner Ramirez reported that she attended the recent meeting of the Committee of Credentials.

Ilene Straus, State Board of Education Liaison, provided an update on the application process for the Instructional Quality Commission.

Liaison Straus reported that she attended the meeting of the Next Generation Science Standards Commission. She also reported that Special Education Local Plan Area (SELPA) directors requested a meeting with Director Sandy and herself on credentialing requirements for special education teachers.

**1H: Strategic Plan Discussion**
Mary Sandy, Executive Director, presented this item which provided an update on the Strategic Plan progress to date, including recently developed divisional action plans.

**Fiscal Policy and Planning Committee**
Committee Chair Eddie Cuevas convened the Fiscal Policy and Planning Committee.

**2A: Update on the Proposed 2012-13 Governor's Budget**
Crista Hill, Division Director, Administrative Services Division - Fiscal and Business Services Section, presented this item which provided the specific details regarding proposed adjustments to the Commission's budget from the proposed FY 2012-13 Governor's Budget.

**Harold Acord, California Teachers Association,** asked for clarification regarding the following language: "identify ways to streamline the teacher preparation and credentialing processes."

**Professional Services Committee**
Committee Chair Constance Blackburn convened the Professional Services Committee.

**3A: Adoption of Subject Matter Requirements (SMRs) for the CSET: World Language: English Language Development (ELD) Examination and World Language: English Language Development Subject Matter Program Standards**
Phyllis Jacobson, Consultant, Professional Services Division, provided the draft Subject Matter Requirements (SMRs) for the new CSET: World Language: English Language Development examination and also the draft World Language: English Language Development Subject Matter Program Standards for Commission consideration.

Commissioner Casallas moved to adopt the Subject Matter Requirements for the CSET: World Language: English Language Development Examination and World Language: English Language Development Subject Matter Program Standards. Commissioner Cuevas seconded the motion. The motion carried without dissent.

**3B: Report on Passing Rates of Commission-Approved Examinations from 2006-2007 to 2010-2011**
Michael Taylor and Phyllis Jacobson, Consultants, Professional Services Division, presented this item which provided the passing rates for Commission-approved examinations over the past five years including the purpose of each examination, the structure, the scoring process, the volume, and the first-time and cumulative passing rates.

**Liz Guillen, Public Advocates,** pointed out the gaps in passage rates by ethnicity and requested the Commission explore other assessment models for addressing these gaps.

**3C: Report on the Stakeholder Meeting Regarding Approving Non-Regionally Accredited Coursework for the Child Development Permit**
Geri Mohler, Consultant, and Teri Clark, Administrator, Professional Services Division, presented this item which provided an update on the outcomes of a stakeholder meeting focused on the possibility of approving coursework offered by non-regionally accredited entities for the Child Development Permit and raised a number of issues for the Commission's consideration.

**Krista Wilson, representing herself,** submitted a written letter urging the Commission to recognize the coursework from Montessori Accreditation Council for Teacher Education (MACTE) programs.

**Harold Acord, California Teachers Association,** requested clarification on how the stakeholders were selected to participate in the meeting and requested CTA be included in future discussions on this issue.

**Laurie Perry, Los Rios District,** raised concerns regarding accepting coursework from a non-regionally accredited entity.

**Cindy Acker, Montessori Council of California,** provided background information on the Montessori programs and requested partnership with the colleges and universities regarding the acceptance of the coursework for partial fulfillment of the coursework requirement for the Child Development Permit. She also addressed some of the concerns that were raised regarding the Montessori education programs.

**Judi Bauerlein, American Montessori Society,** spoke in support of recognizing early childhood course components taken at MACTE-accredited teacher education programs towards the coursework requirements for the Commission's Child Development Permit.

**Tabitha Torres, Montessori School of Modesto,** voiced support of accepting Montessori coursework from MACTE-accredited programs for partial fulfillment for the Child Development Permit so teachers in Montessori training programs do not have to pay extra fees to get the same coursework accepted towards a Bachelor degree in Early Childhood Education by a regionally-accredited postsecondary institution.

**Norman Lorenz, Montessori Education and Sacramento City College,** suggested the Commission consider the Montessori program as a viable alternative option for completing the requirements for the Child Development Permit. He stressed that Montessori and community colleges can be co-partners in providing education to young children and also adults. He also clarified that MACTE is an accredited organization under the umbrella of the Commission on International and Trans-Regional Accreditation (CITA), which is charged with the duty of accrediting regional bodies within the United States.

**Pamela Zell Rigg, Montessori Council of California,** explained some of the coursework and core curriculum required for the Montessori Child Development Credential.

**Meher VanGroenou, Montessori School-Five Canyons,** pointed out the importance of the cultural awareness coursework that is required in the Montessori education program.

**Ann Rose Gavey, Rising Star Montessori School,** voiced concerns regarding the financial burdens on Montessori teachers when they have to pay additional fees to get recognition for their early childhood units.

**Diana O'Valle, Rockridge Montessori School,** urged the Commission to recognize the coursework from MACTE-accredited teacher education programs toward partial fulfillment of the requirements for the Child Development Permit.

**Kathy McIntosh, Montessori School of Tracy,** encouraged the Commission to recognize the Montessori coursework so all of Montessori teachers could receive the Child Development Permit without having to pay additional fees.

**Janet Davis, California Federation of Teachers,** raised concerns regarding the acceptance of coursework from non-regionally accredited entities at the school district level.

**Susana Fernandez, Orange County Department of Education,** voiced concerns regarding the difficulties in making a determination of equivalency between teaching experience and coursework when evaluating for different levels of the Child Development Permit.

The Commission directed staff to incorporate this topic in the Commission's Strategic Planning initiative.

**3D: Discussion of the Design and Characteristics of Potential Future Induction Programs for School Administrators**

Gay Roby and Lawrence Birch, Consultants, Professional Services Division, presented this item which began the discussion on one of the Administrative Services Advisory Panel's recommendations, namely, to require induction as the sole pathway to earn the Clear Administrative Services credential.

**Rebecca Cheung, University of California Berkeley,** provided an overview of the UC Berkeley Leadership Support Program. She asked for the Commission's help to elevate the importance of leadership induction to the same level as teacher induction.

**Louise Adler, California State University Fullerton,** shared information on the institution's Tier II Administrator Induction Program.

**Carol Leighty, Point Loma Nazarene University,** spoke briefly about their induction program. She stated her belief that coaching needs to be the emphasis for the induction program for administrators.

**Michael Bossi, Association of California School Administrators,** talked about ACSA's Alternative Clear Credential Administrator Induction Program. He also suggested the Commission set a clear definition of induction before establishing the program standards for a new Tier II pathway.

**Louis Wildman, California State University Bakersfield,** submitted a written letter objecting to requiring induction through coaching as the sole pathway to earn the Clear Administrative Services credential.

**Sharon Robison, Association of California School Administrators,** voiced support for the concept of coaching and induction as the basis for the Clear Administrative Services Credential and urged the Commission to implement this process quickly.

**David Simmons, Ventura County Office of Education,** voiced support for moving to induction as the pathway to earn the Clear Administrative Services Credential forward. He suggested the Commission keep the determination of candidates' competence as part of the induction program.

**Harold Acord, California Teachers Association,** asked the Commission to delineate clearly the role of the administrator in supporting teachers who are working with English language learners and special education students.

**1F: Commission Member Report**
Commissioner Young provided a brief report on the process of the Negotiated Rulemaking Committee of the Federal Department of Education.

**Recess**
Chair Gahagan recessed the meeting to go into Closed Session at 3:00 p.m. pursuant to California Government Code sections 11126(e), to consider pending litigation (*Carroll v Commission on Teacher Credentialing* (SPB 11-0739)) and to also consider adverse actions, petitions for reinstatement and requests for reconsideration in discipline cases pursuant to California Education Code sections 44245 and 44248.

*Friday, January 27, 2012*

**General Session**
Chair Gahagan reconvened the General Session of the Commission at 9:04 a.m. and roll call was taken.

Chair Gahagan opened the public hearing.

**1I: Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions**
Tammy Duggan, Consultant, Certification, Assignment and Waivers Division, presented this item which provided proposed amendments to Title 5 of the California Code of Regulations pertaining to fingerprint submissions as recommended by the Bureau of State Audits.

Chair Gahagan solicited input from the Commissioners and the public.

There was no public input.

Commissioner Blackburn moved to adopt the proposed amendments to the regulations pertaining to fingerprint submissions. Commissioner Williamson seconded the motion. The motion carried without dissent.

**Professional Practices Committee**
Committee Chair Kathleen Harris convened the Professional Practices Committee.

**4A: Committee of Credentials Vacancies for 2012-13**
Ani Kindall, Senior Staff Counsel, Division of Professional Practices, presented this item which provided information concerning the vacancy, application and selection processes of the Committee of Credentials (COC).

**Jenny Teresi, Human Recourses Administrators for Riverside and San Bernardino Counties,** requested the Commission maintain the requirement of COC applicants submitting a letter from their current employer verifying the employer's granting time off each month for Committee work.

**Sharon Robison, Association of California School Administrators,** suggested the Commission include the recent retirees as potential applicants for the teacher and administrator positions. She also supported the requirement of a letter from the employer.

**Danette Brown, California Teachers Association,** urged the Commission to discontinue requiring the letter from the employer.

**Janet Davis, California Federation of Teachers,** voiced concerns for allowing retirees to serve on the COC. She also voiced concerns regarding the discontinuation of the requirement for a letter from the employer.

Commissioner Ramirez moved to adopt the following staff's recommendations: 1) reappoint Ms. Soliz to a second term as a public member, effective July 1, 2012; 2) declare the public member position held by Mr. Dolata, the elementary teacher member position held by Mr. Law, and the school board member position held by Ms Kilponen vacant effective July 1, 2012; and 3) if Ms. Kilponen remains eligible to serve, rescind the vacancy declared for the school board member position and reappoint Ms. Kilponen without further action by the Commission. Commissioner Cooney seconded the motion. The motioned carried without dissent.

Commissioner Williamson moved to temporarily remove the requirement of a letter from the employer for this pool of candidates. Commissioner Evans seconded the motion. The motion carried without dissent.

**4B: Workload Report Regarding the BSA Audit Recommendations**
Nanette Rufo, Director, Division of Professional Practices, presented this item which provided an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices, the Commission's response to the Audit, and an update on staff progress in addressing the recommendations.

**4C: Report on the Stakeholder Meetings Addressing the Discretionary Review Process**
Nanette Rufo, Director, Division of Professional Practices and Teri Clark, Director, Professional Services Division, presented this item which provided an update to the Commission on the two stakeholder meetings that were held to discuss the Commission's Educator Discipline process.

**Danette Brown, California Teachers Association,** asked staff to clarify issues facing the Commission related to educator discipline.

**Janet Davis, California Federation of Teachers,** thanked staff for providing the educator discipline information to the public and supported the idea of earlier settlements if all the facts are discovered and presented. She also voiced support for having a signed affidavit at the beginning when making an accusation.

**4D: Policies on Division of Professional Practices Cases**
Nanette Rufo, Director, Division of Professional Practices, presented this item which provided a series of policy issues for the Commission's consideration.

**Sharon Robison, Association of California School Administrators**, spoke in support of staff's recommendations regarding the handling of a single alcohol offense. She also supported the concept of early settlement and suggested the Commission be clear that the early settlement applies only to the credential, not other employment issues.

**Danette Brown, California Teachers Association,** requested the Commission postpone action on this item so the public could have time to review these complex issues.

Commissioner Cooney moved to approve the following recommendations: 1) authorize staff to discuss with interested stakeholder groups possible revisions to Title 5, California Code of Regulations, section 80320; and 2) adopt the following policy for miscellaneous documents in the DPP: DPP staff may scan miscellaneous documents and attach them to the appropriate person's file in the database. Once the information is scanned and after a three month retention period for accountability and monitoring, the paper documents shall be disposed of by confidential destruction. Commissioner Stymeist seconded the motion. The motion carried without dissent.

The Commission also directed staff to bring the policy issues regarding handling a single alcohol offense and sending Failure to Disclose letters back at the next Commission meeting.

**4E: Division of Professional Practices Strategic Plan**
Nanette Rufo, Director, Division of Professional Practices, presented this item which provided recommendations for a Division of Professional Practices Strategic Plan for the Commission's consideration.

**Janet Davis, California Federation of Teachers,** suggested including "Increase educators' awareness of the consequences of unprofessional conduct" in the induction process. She also asked staff to define the "other" group.

The Commission postponed taking action on a Division on Professional Practices Strategic Plan.

**4F: Plan for a Division of Professional Practices Dashboard Measurement System**
Nanette Rufo, Director, Division of Professional Practices, presented this item which provided information on setting performance measures for critical stages of DPP's business processes, proposed targets to perform vital tasks, and a proposed report on performance measures, with targets, cycle time, and volume.

**Reconvene General Session**
Chair Gahagan reconvened the General Session.
**1J: Report of Closed Session Items**
Chair Gahagan reported that the Commission considered one pending litigation item, *Carroll v. Commission on Teacher Credentialing,* and no reportable action was taken.

The Commission rescinded its prior action and granted the following applications:

- Christine Messner
- Melanie Winter

The Commission rejected the Proposed Decision in the matter of Eugene Mackey and called for the transcript.

**1J: New Business**
The Quarterly Agenda was presented.

Commissioner Zeiger spoke about the Superintendent's Taskforce on Educator Excellence, a joint project with the CTC.

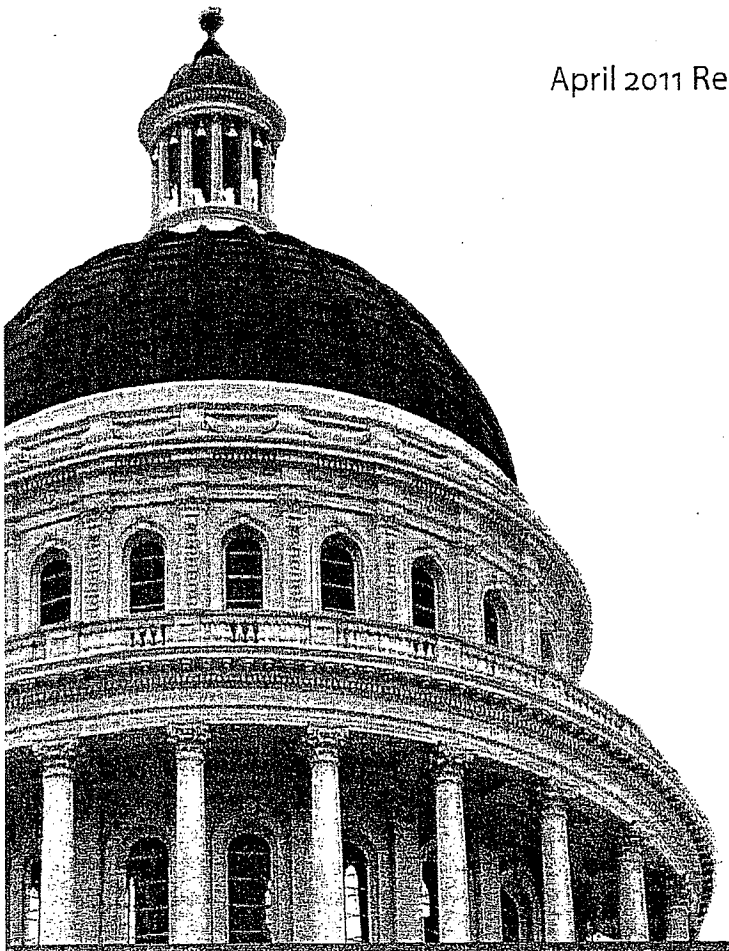
**Adjournment**
There being no further business, Chair Gahagan adjourned the meeting at 11:15 a.m.

CALIFORNIA STATE AUDITOR

# Commission on Teacher Credentialing

## Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices Has Not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs

April 2011 Report 2010-119



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Elaine M. Howle
State Auditor
Doug Cordiner
Chief Deputy

# CALIFORNIA STATE AUDITOR
## Bureau of State Audits

555 Capitol Mall, Suite 300 Sacramento, CA 95814 916.445.0255 916.327.0019 fax www.bsa.ca.gov

April 7, 2011

2010-119

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the California State Auditor presents this audit report concerning the Commission on Teacher Credentialing (commission) educator discipline process with a general focus on the timelines of its review of allegations of misconduct against credential holders.

This report concludes that, according to commission management, as of the summer of 2009 the Division of Professional Practices (division) had accumulated a backlog of about 12,600 unprocessed reports of arrest and prosecution, resulting from an insufficient number of trained staff, ineffective and inefficient processes, and a lack of an automated system for tracking the division's workload. These conditions appear to have resulted in delayed processing of alleged misconduct and potentially allowed educators of questionable character to retain a credential. Some of the more extreme cases involved allegations that credential holders distributed obscene material to a student, demonstrated recurring misconduct such as prostitution and petty theft, kissed a student, and made inappropriate sexual comments to female students.

The division needs further improvement in its processing of reports of misconduct. For example, the division and the Committee of Credentials (committee) have not addressed some of the important challenges to promptly reviewing reports of misconduct and making recommendations to the commission regarding discipline for the credential holders. Specifically, the division receives more reports each month than the committee can review. To streamline the committee's workload, the division will close or decide not to open cases if it believes the committee would not choose to recommend disciplinary action against the credential holder; however, we question the division's legal authority to do so.

Additionally, the division lacks written procedures for processing reported misconduct, adequate performance data regarding the time needed to review reports, accurate and complete data regarding its caseload, and adequate management reports to facilitate tracking of its caseload.

Finally, 40 percent of the commission employees who responded to our survey indicated that familial relationships or employee favoritism compromised the commission's hiring and promotion practices. In addition, the commission does not have a complete set of approved hiring procedures that it uses consistently, nor do its managers and staff consistently document their steps in the hiring process or their justification for selecting candidates. Consequently, the commission is vulnerable to allegations that its hiring decisions are unfair and that employment opportunities are not afforded equally to all candidates.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
State Auditor

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# Summary

## Results in Brief

The Commission on Teacher Credentialing (commission) was created in 1970 with the responsibility to ensure excellence in education by establishing high standards for the preparation and credentialing of public school educators. In addition to issuing teaching credentials, the commission issues credentials, certificates, and permits for positions such as school administrators, activity supervisors, and educators working in specialized teaching areas. The law requires the commission to appoint the Committee of Credentials (committee), a seven-member body, to review allegations of misconduct on credential holders and applicants and make recommendations of adverse actions to the commissioners. The Division of Professional Practices (division) investigates charges of misconduct or unprofessional conduct against credential holders and applicants on behalf of the committee and commissioners. Such investigations are intended to reveal whether the misconduct renders an individual unfit for the duties authorized by the credential.

We expected to find that the division uses management practices that enable it to efficiently and effectively resolve cases involving holders of or applicants for teaching credentials. To manage its caseload and prevent backlogs, we expected that the division would employ control systems and procedures that include a management information system that allows it to track the status of cases requiring mandatory adverse action against a credentialed teacher. This system would need to accurately and completely track all cases received, including the type of case, the length of time a case has spent in each stage of review, and the person responsible for the case. We also expected to find that the commission expeditiously addresses cases in which criminal conduct is alleged or for which it has received a notification of criminal activity from the California Department of Justice (Justice). Importantly, we expected that these control systems and procedures would prevent backlogs, which create delays in the reviewing and processing of reported misconduct and increase the risk that management's policies and procedures will not be followed.

However, the commission's executive director acknowledged that, as of the summer of 2009, the division had accumulated a backlog of about 12,600 unprocessed reports of arrest and prosecution (RAPs, commonly known as RAP sheets), which it receives from Justice. According to the manager of the division's Support Section (manager), the division has had 3,000 to 4,000 allegations in process (about a 10-month workload) since he began working there in 2005. The division evaluates the RAP sheets to determine

*Audit Highlights . . .*

*Our review of the Commission on Teacher Credentialing (commission) revealed the following:*

*As of the summer of 2009, according to the commission's management, the commission's Division of Professional Practices (division) had accumulated a backlog of 12,600 unprocessed reports of arrest and prosecution (RAP sheets)—almost three times a typical annual workload.*

*These conditions appear to have significantly delayed processing of alleged misconduct and potentially allowed educators of questionable character to retain a credential. Our case review revealed the following concerning the division:*

- *For nearly 40 percent of the cases we reviewed, it took more than 80 days to open a case after receiving a report of misconduct and nearly two years in one case and three years in another case.*
- *It did not effectively track the status of cases that, if the credential holder is convicted of the crime charged, require mandatory revocation of the credential—it took one and a half months and six months, respectively, in two cases to revoke the credential after receiving court documents.*
- *It relied on the prosecution of criminal charges and delayed in seeking additional information from school districts, witnesses, and alleged victims, thus jeopardizing its ability to obtain information needed to investigate the misconduct.*

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*To streamline the Committee of Credentials' (committee) processing of pending cases, the division uses its discretion to close cases or not open cases for which it believes the committee would choose not to recommend disciplinary action against the credential holder. However, we do not believe the committee can lawfully delegate this discretion to the division.*

*The commission's database that tracks cases the division reviews and investigates does not always contain complete and accurate information regarding cases of reported misconduct.*

- *We found discrepancies between the information in the database and paper files.*
- *The commission does not have procedures to account for all reports of educator misconduct it receives.*
- *Recently implemented reports lack the information necessary to make them efficient case-tracking and management tools.*

*Because the commission does not have a complete set of approved hiring procedures and did not consistently document justification for hiring a particular candidate, it is vulnerable to allegations that its hiring decisions are unfair and that employment opportunities are not afforded equally to all candidates.*

whether the reported criminal activity could potentially affect the credential holder's or applicant's fitness for the duties authorized by the credential. The 2009 number represents nearly three times the number of RAP sheets and other reports of educator misconduct the division typically processes each year.

According to the manager, the backlog of unprocessed RAP sheets grew as a result of several factors, including vacancies due to employee turnover, the time needed to train replacement workers, furlough days for workers due to the State's budget deficits, ineffective and inefficient processes, and the lack of an information system capable of effectively tracking the division's workload. According to the manager, the division launched the "RAP project" in August 2009 to process the backlog of RAP sheets, which is still in progress.

We noted several conditions that appear to have been connected to the poor practices that led to the workload backlog. Specifically, we found that in some instances significant periods of time elapsed between critical steps in the division's process of reviewing reported misconduct. For example, for 11 of the 29 cases we randomly selected for review, the division took more than 80 days to open a case after receiving a report of misconduct, with one taking nearly two years and another taking nearly three years. The manager cited the large number of reports of misconduct, small number of staff, and a need to prioritize the cases as the cause of the delayed processing.

The division's delays in investigating reported misconduct potentially allowed educators of questionable character to retain a credential. Some of the more extreme cases involved allegations that credential holders distributed obscene material to a student, demonstrated recurring misconduct such as prostitution and petty theft, kissed a student, and made inappropriate sexual comments to female students.

In addition, the division has not always effectively tracked the status of cases that, if the credential holder is convicted of the crime charged, require mandatory revocation of the credential. Specifically, for six of the 23 cases we randomly selected for review that involved possible mandatory revocation, the commission's Credentialing Automation System Enterprise (database) did not contain a record of the current activities on the case. For three other cases involving potential mandatory revocation, the division took one and a half and six months, respectively, to revoke the individual's credential after receiving court documents in two instances and did not seek critical information regarding the conviction of a third individual for five months after receiving notification of the conviction.

Further, the division has not always pursued all available sources of information regarding its cases, relying instead on the prosecution of criminal charges. These delays in seeking additional information from school districts, witnesses, or alleged victims can jeopardize the division's ability to obtain the information needed to investigate the misconduct if the prosecution of criminal charges does not result in a conviction because students who are victims of misconduct graduate to other schools and teachers and administrators change jobs or retire.

The division has also not always effectively processed the RAP sheets it receives from Justice. For example, we could not locate 18 of 30 randomly selected RAP sheets we reviewed in the commission's database because it did not record an adequate level of detail regarding the offense reported to allow for a positive match. In addition, the division has not always notified Justice of individuals in whom it is no longer interested, causing unnecessary work to review further RAP sheets for these individuals. The analyst who processes the RAP sheets stated that the division was seeking a method to return the RAP sheets to Justice electronically; however, in March 2011 it began mailing the RAP sheets back to Justice.

Although the division has taken steps to improve its processing of reports involving educator misconduct, more improvement is needed. For example, the commission's strategic planning does not address important challenges the division faces in meeting its responsibilities. One of these challenges is that, according to the assistant general counsel, the division receives more reports of misconduct than the committee can review each month. In addition, the division has not collected the workload data needed to assist in determining the required level of staff to meet the workload.

In its efforts to eliminate current and future workload backlogs, the division implemented some measures to streamline the actions the committee takes to determine whether probable cause exists for adverse action against credential holders accused of misconduct. Specifically, the division will close cases, or will decide not to open cases, if it believes the committee would choose not to recommend disciplinary action against the credential holder. However, we question whether the division has the authority under the law to make these decisions.

Moreover, the division has not developed comprehensive written procedures for reviewing reported misconduct. Such procedures are necessary to inform division staff of management's policies and procedures, serve as reference material, and provide a training tool for new employees. Importantly, the database the division uses to track the cases it reviews and investigates does not always

contain complete and accurate information regarding cases of reported misconduct. Specifically, as part of our assessment of the reliability of the commission's database, we conducted accuracy testing. We determined that the database is not sufficiently reliable to be used to identify the number of some reports of misconduct, the actions taken by the committee, the recommendations for adverse action, and the number of days between the date that division staff opened and closed a case for cases the committee did not review that were opened during the period of January 2007 through June 2010. In addition to our accuracy testing, we found in other samples we tested that there were discrepancies between the information in the database and the associated paper files. We identified five case files where there were no documents in the paper file to support an entry in the database, such as the division's request for additional information about a case; another case where the division issued document request letters, but the requests were not noted in the database; 18 dates recorded in the database that were one month or more after the division actually received the paper document; and the division could not locate paper files for two cases we reviewed. Further, the division has not developed and implemented procedures to account for all reports of educator misconduct it receives.

Although the division recently implemented reports and processes intended to better manage its workload and to track cases and reports of misconduct, the reports lack the information necessary to make them efficient case-tracking and management tools. As such, they do not always address the problems we identified during our review. For example, its reports do not include the reasons for case delays, and thus effective oversight of the cases listed in the reports requires time-consuming research of paper case files to identify their status.

Familial relationships among commission employees appear to have a negative impact on many employees' perceptions of their workplace. For example, more than 40 percent of the employees who responded to our survey indicated that familial relationships or employee favoritism compromised the commission's hiring and promotion practices. When we reviewed the commission's hiring procedures, we found that it does not have a complete set of approved hiring procedures that it uses consistently, but instead uses several state hiring policies, guidelines, and procedures in addition to its own hiring procedures, which have been in draft form since 2007. In addition, managers and human resources staff did not consistently document each of the steps in the hiring process or their justification for selecting a particular candidate. Consequently, the commission is vulnerable to allegations that its hiring decisions are unfair and that employment opportunities are not afforded equally to all candidates.

The commission's processes for filing Equal Employment Opportunity (EEO) complaints and grievances are designed to mitigate the threat of retaliation by allowing employees to file EEO complaints or grievances with designated personnel and outside agencies instead of their direct supervisors. However, 43 percent of the commission employees responding to our survey indicated that they would fear retaliation if they were to file an EEO complaint or grievance. Moreover, about 21 percent of the employees who responded to our survey were not aware of the EEO complaint process, and 33 percent were not aware of the grievance process. Thus, we believe the commission could do a better job of informing employees of these processes and explaining the protections they provide.

## Recommendations

To comply with the law and reduce unnecessary workload, the division should continue to notify Justice of individuals for whom it is no longer interested in receiving RAP sheets.

The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee, and to determine the goals and actions necessary to accomplish its mission.

To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload.

The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice.

Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month.

The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct.

The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in the commission's database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information.

To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self-disclosures of misconduct, it should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability.

To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:

- Reduction of the time elapsed to perform critical steps in the review process.
- Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.
- Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.
- An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases.

To better ensure that its hiring decisions are fair and that employment opportunity is equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should do the following:

- Prepare and/or formally adopt a comprehensive hiring manual that clearly indicates hiring procedures and identifies parties responsible for carrying out various steps in the hiring process.

- Maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.

- Hiring managers should provide to the commission's office of human resources documentation supporting the appointment decisions, and the office of human resources should maintain this documentation so that it can demonstrate that the hiring process was based on merit and the candidate's fitness for the job.

To ensure that employees understand their right to file either an EEO complaint or grievance, and to reduce any associated fear of retaliation, the commission should do the following:

- Include in its EEO policy a statement informing staff members that they may make complaints without fear of retaliation.

- Actively notify employees annually of its EEO complaint and grievance processes, including the protection from retaliation included in both.

- Conduct training on its EEO complaint process on a periodic basis.

## Agency Comments

The commission agrees with most of our recommendations and emphasizes that it takes its role of enforcing professional discipline very seriously while balancing the safety of California school children and the due process rights of educators.

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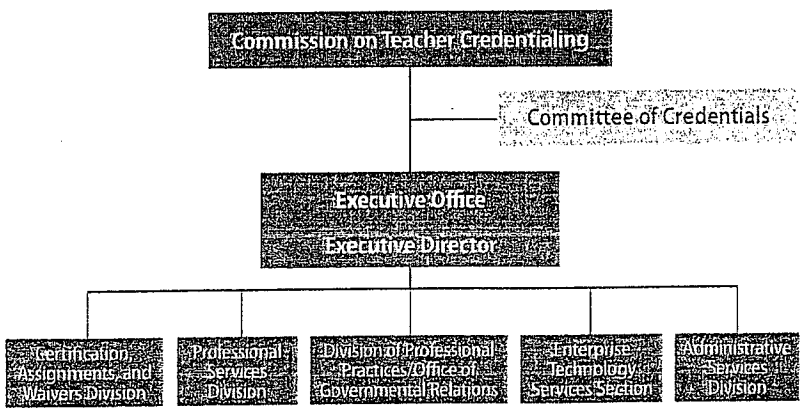
# Introduction

## Background

The Commission on Teacher Credentialing (commission) was created in 1970 with the responsibility to ensure excellence in education by establishing high standards for the preparation and licensing of public school educators. Previously, the California Department of Education issued licenses, known as credentials, to teachers, but the Legislature believed that the public would be better served by having a separate state entity issue teaching credentials. In addition to teaching credentials, the commission issues credentials, certificates, and permits for positions such as school administrators, activity supervisors, and educators working in specialized teaching areas.

The commission consists of 19 individuals, 15 of whom are voting members. The governor, with the advice and consent of the State Senate, appoints 14 of the voting members; the superintendent of public instruction or a designee is the remaining voting member. The Regents of the University of California, the Trustees of the California State University, the California Postsecondary Education Commission, and an association representing independent colleges and universities each provide one of the nonvoting members. State law requires the commissioners to meet as often as the commission chair and the executive committee determines to be appropriate and necessary to accomplish the commission's duties, but at least once per quarter. During 2010 the commissioners met eight times. The commissioners also appoint an executive director who is responsible for the commission's daily operations. According to the commission's records, as of August 2010, it had 188 positions. Figure 1 shows the organization of the commission.

**Figure 1**
Organization of the Commission on Teacher Credentialing




Sources: State law and the Commission on Teacher Credentialing.

As shown in the figure, the commission consists of four main divisions and one section. Among these, the Professional Services Division develops licensure standards, develops and implements credential examinations, and administers teacher development programs designed to help prospective teachers. The Certification, Assignments, and Waivers Division (certification) evaluates and processes applications for credentials, permits, certificates, and waivers to determine whether it should authorize educators to serve in public schools. Certification is responsible for processing over 250,000 applications annually and reviews applicants for criminal records and self-disclosed incidents of misconduct. When it discovers these types of incidents, it refers the applications to the Division of Professional Practices (division) for review and investigation.

**Members of the Committee of Credentials (Text Box No. 1)**

- Full-time certified classroom teacher in the public elementary schools with not less than five years of classroom experience (one member).
- Full-time certified classroom teacher in the public secondary schools with not less than five years of classroom experience (one member).
- Certified administrative employee in the public schools (one member).
- Member of the governing board of any school district (one member).
- Representatives of the public (three members).

Source: California Education Code, Section 44240.

**Factors Involved in the Committee of Credentials' Consideration During Investigation (Text Box No. 2)**

- The likelihood that the conduct may have adversely affected students, teachers, or the educational community, and the degree to which they may have been affected.
- The proximity or remoteness in time of the conduct.
- The type of credential held or applied for.
- Any extenuating or aggravating circumstances surrounding the conduct.
- The praiseworthiness or blameworthiness of the motives resulting in the conduct.
- The likelihood of the recurrence of the questioned conduct.
- The extent to which disciplinary action may inflict an adverse impact or chilling effect on the constitutional rights of the people involved or other certified individuals.
- The publicity or notoriety given to the conduct.

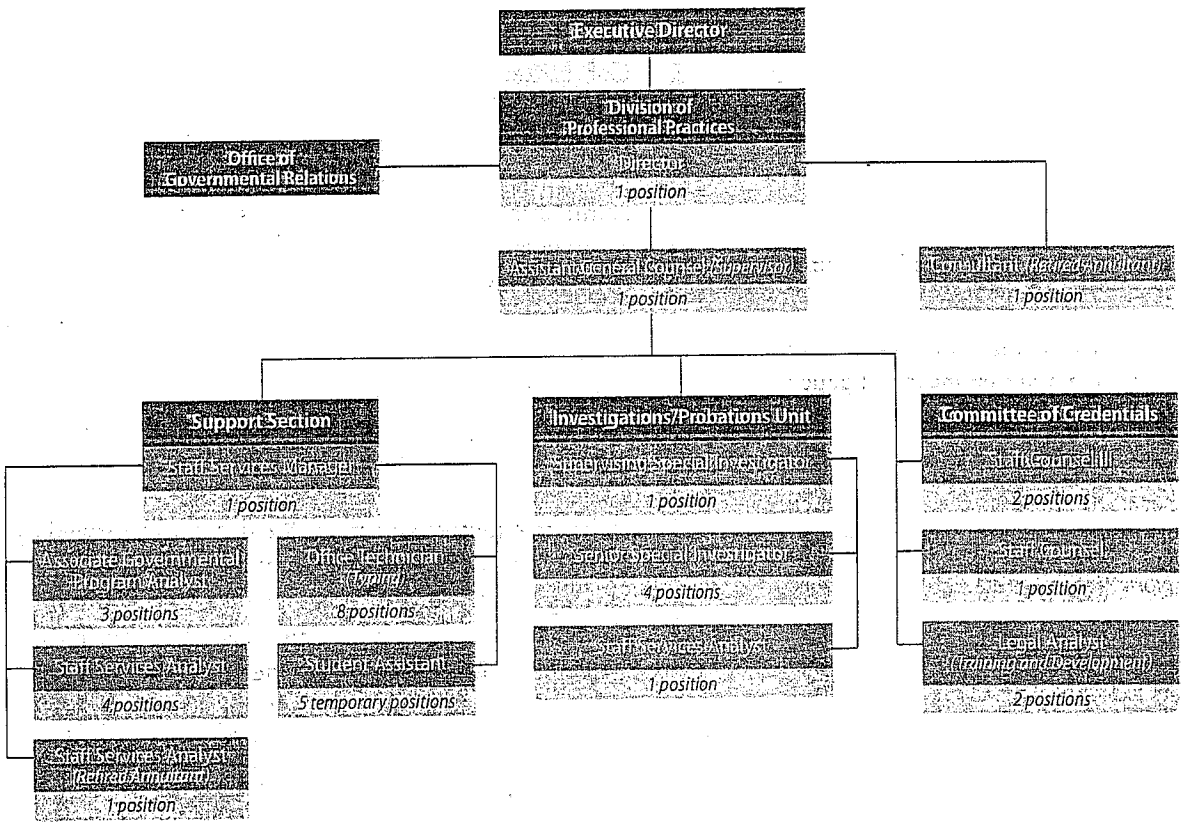
Source: Title 5, California Code of Regulations, Section 80302, commonly referred to as the Morrison factors.

## The Committee of Credentials and the Division

The commission appoints the members of the Committee of Credentials (committee)—a seven-member body. The commission sets the terms of the appointments, not to exceed two years. The committee works under the supervision of the commission and comprises representatives from the education community and the general public, as shown in text box no. 1. According to the commission's policy manual, the committee shall meet in Sacramento at such times as it considers necessary to perform its duties. The committee currently meets once a month to review allegations of misconduct and to determine the relationship between the alleged misconduct and the credential holder's fitness, competence, or ability to effectively perform the duties authorized by the credential. The factors the committee is to use in making these determinations include those shown in text box no 2. During its meetings, the committee is charged with determining whether the reported misconduct affects an applicant's or credential holder's fitness or competence to effectively perform the duties authorized by the credential, and determines whether there is probable cause for an adverse action on the credential. The committee then reports its findings of probable cause and recommendations for appropriate adverse actions to the commissioners. Adverse actions range from private admonishment to revocation or denial of a teacher credential. The commission may adopt the committee's recommendations without further action unless the applicant or credential holder exercises his or her right to appeal. According to the division's management, the committee can review 50 to 60 cases per month.

The division conducts the investigations of misconduct on behalf of the committee and the commission. Upon receiving reports or allegations of misconduct, the division gathers the documents and testimony necessary to determine probable cause for discipline and a recommendation for an adverse action on the credential, prepares the necessary reports for review, and provides support for any proceedings, such as appeals of committee and commission findings and recommendations. In addition to providing legal assistance on investigations, the division's attorneys provide legal counsel to the committee. As shown in Figure 2, the division is staffed by 36 positions, including analysts, investigators, student assistants, retired annuitants, and legal counsel.

**Figure 2**
Organization Chart for the Division of Professional Practices




Source: Commission on Teacher Credentialing.

## The Educator Discipline Process

The California Education Code (Education Code) and the commission's regulations govern the process and standards for investigation of reports of misconduct and for making

**Types of Reports of Misconduct the Commission on Teacher Credentialing Receives Giving the Committee of Credentials Jurisdiction to Begin an Initial Review**

- Self-disclosure: An affirmative response on an application submitted to the Commission on Teacher Credentialing (commission) regarding any conviction, adverse action on or denial of a license, or any pending investigation into a criminal allegation or pending investigation of a noncriminal allegation of misconduct by a governmental licensing entity, or the failure to disclose any of these items.
- Criminal misconduct reports: An official record of the California Department of Justice (reports of arrest and prosecution, commonly known as RAP sheets), a law enforcement agency, a state or federal court, or any other law enforcement agency of this state or another state.
- Affidavit: An affidavit or declaration signed by an individual or individuals with personal knowledge of the acts alleged to constitute misconduct.
- Employer statement: A statement from an employer notifying the commission that, as a result of or while an allegation of misconduct is pending, a credential holder has been dismissed, has not been reelected, has been suspended for more than 10 days, has been placed on unpaid administrative leave for more than 10 days pursuant to a final adverse employment action, or has resigned or otherwise left employment.
- Employer notification: A notice from an employer that a complaint was filed with the school district alleging sexual misconduct by a credential holder, based on evidence presented to the Committee of Credentials in the form of a written or oral declaration under penalty of perjury that confirms the personal knowledge of the declarant regarding the acts alleged to constitute misconduct.
- Other reports: A report from a school district, employer, public agency, or testing administrator of a failure without good cause, to fulfill an employment contract or leaving the service of the district without appropriate consent, the misuse of pupil data, false reporting of expenditure data relative to the conduct of any educational program, or subverting or attempting to subvert any licensing examination or the administration of an examination.

Source: California Education Code.

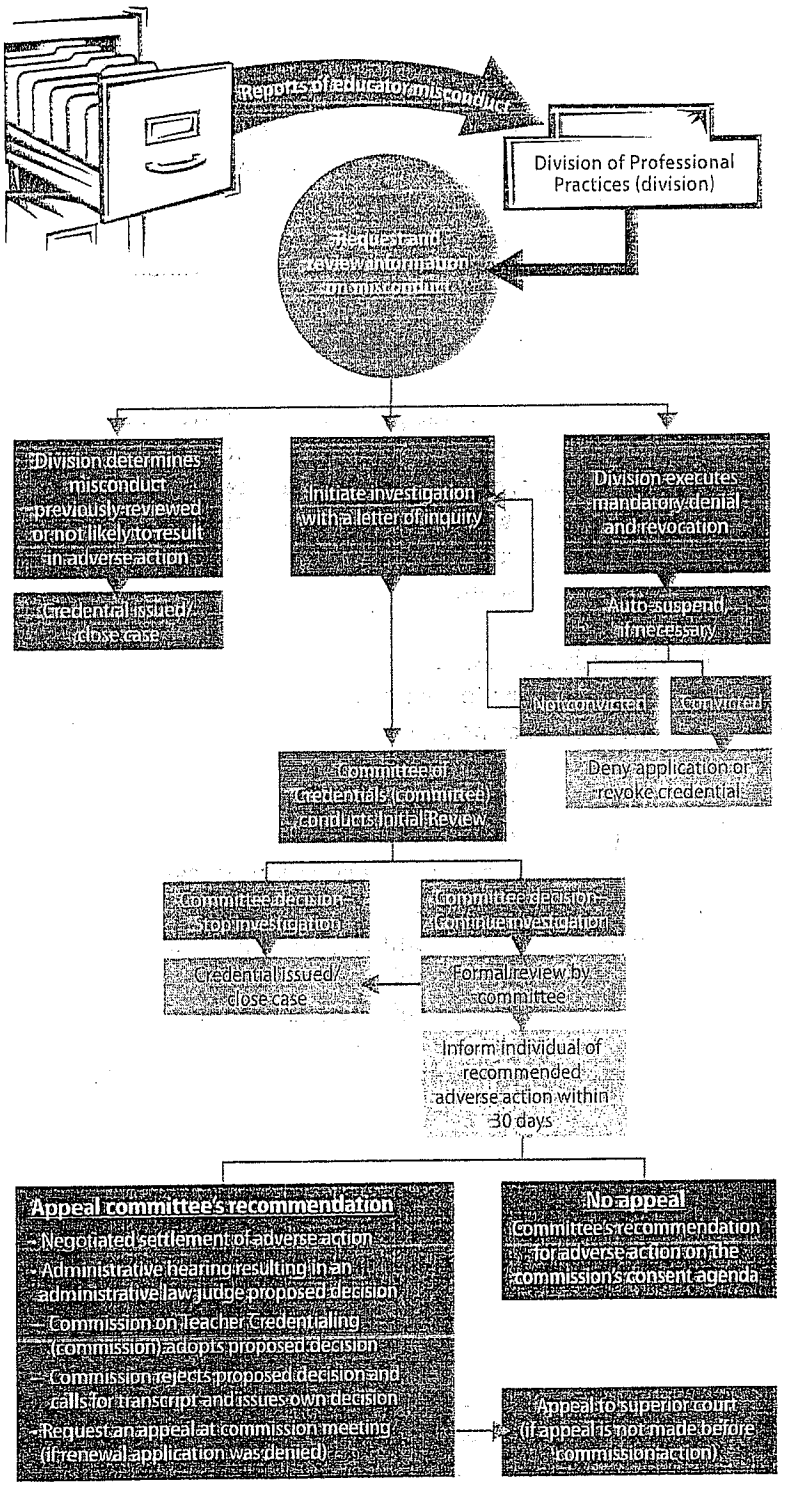
determinations regarding the holder's or applicant's fitness or competence to hold a credential. Generally, an educator may be denied a credential if he or she lacks the qualifications to teach or is otherwise unfit because he or she has, for example, exhibited conduct such as being addicted to intoxicating beverages or controlled substances, moral turpitude, deception or fraud in his or her application for a credential, conviction for a sex or controlled substance offense, or is sufficiently physically or mentally impaired so as to render the individual unfit to perform the duties authorized by the credential, or had a credential revoked in the past or in another state due to such behavior. Figure 3 illustrates the discipline process.

The Education Code gives the committee jurisdiction, or the right to initiate an investigation of reported misconduct, after it receives reports of misconduct as shown in the text box. The commission's regulations contain standards for investigations of reported misconduct.

The Education Code requires that each allegation of misconduct for which a credential holder or applicant may be subject to adverse action shall be presented to the committee. However, according to the committee's meeting minutes from 2002, it delegated to the division the authority to grant credentials and close investigations in cases that the division staff determine are not under the jurisdiction of the committee. Additionally, according to the division's discipline workload report for fiscal year 2009–10, the staff, the chair of the committee, and the executive director discussed strategies to streamline the processing of cases pending review by the committee and decided to give the division the authority to grant applications and close cases for allegations that are under the committee's jurisdiction but that the division determines do not meet the legal criteria for adverse action by the commission.

According to the Education Code and commission regulations, except for certain sexual misconduct, an allegation of an act or omission by a credential holder shall be presented to the committee within four years from the date of the alleged act or omission, or within one year from the date the act or omission should reasonably have been discovered by the commission.

**Figure 3**
Commission on Teacher Credentialing's Process for Reviewing and Disciplining Educator Misconduct




Source: Division of Professional Practices.

The division's manager and supervising investigator are responsible for ensuring that division staff handle cases properly, either closing them and granting credentials or preparing them for committee review. Specifically, the division manager oversees the technicians who open cases for educators with official criminal reports and process applications of those with a history of criminal misconduct. He also oversees analysts who prepare letters of inquiry (letters informing a credential holder or applicant that he or she is under investigation) and the confidential investigative reports, which is the report the division prepares for the committee's review of the case. The supervising investigator oversees the division's investigations of incoming school and district notifications, affidavits, and criminal complaints, from receipt to committee review or staff closure. He is also responsible for assigning cases to the analysts who work under the manager.

## Scope and Methodology

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits to perform an audit of the commission's educator discipline process, with a general focus on the timelines of the commission's review of allegations of misconduct against credential holders. Specifically, the audit committee asked us to do the following:

- Review and evaluate the commission's policies, procedures, and practices for processing allegations or reports and investigating alleged misconduct by applicants. Determine whether the commission's practices ensure that these allegations or reports are thoroughly addressed in a timely manner.

- Assess the accuracy and completeness of the commission's database as it relates to information on the disciplinary process, focusing on the accuracy of recorded receipt dates on reports and documents. Determine whether changes or adjustments made to the records in the database are adequately supported.

- Determine the number and types of reports, such as reports of criminal convictions from law enforcement agencies or courts, reports from school districts, personal affidavits, self-reports, or licensing actions that were received and processed by the commission.

- Determine whether the commission had any backlog of reports alleging teacher misconduct. If such a backlog exists, identify and evaluate the causes, any relevant trends, and the commission's efforts to address the backlog.

- For allegations reviewed by the committee, determine and analyze the amount of time that elapsed between key steps in the process. Examples of potential key steps include the commission's initial receipt of a report, the division's initial receipt, the initial follow-up with school districts, and any action taken by the commission.

- Determine and evaluate the amount of time that elapsed before the division sought documentation after receiving multiple reports on a single credential holder. Evaluate the division's efforts to investigate school district reports while a criminal matter on the same credential holder was awaiting review.

- Review and assess the following information related to criminal reports received by commission staff:

  - The amount of time that elapsed between the commission's receipt of information from the California Department of Justice (Justice) and Federal Bureau of Investigation and its final action in cases in which the commission must automatically revoke credentials.

  - The amount of time that elapsed between the commission's receipt of information regarding criminal convictions and its requests for further documentation.

  - The consistency with which the commission requested and obtained relevant law enforcement reports. If the commission did not obtain these reports, determine the reason why.

  - The number of allegations involving criminal convictions that were closed without review by the committee and the reasons for the closures.

- Determine the number of recommendations of adverse action made by the committee. In those cases where the committee recommended adverse action, determine how many credential holders and applicants requested an administrative hearing before the commission acted on that recommendation.

- Identify the number of reports and allegations that were not pursued because time-based statutes prevented their further pursuit.

- Determine the number and age of reports and allegations not reviewed by the committee, the reason the reports and allegations were not reviewed by the committee, and whether it followed established policy in reaching these determinations.

- Determine the commission's current policies and practices as they relate to the hiring of family members. Survey commission staff regarding any familial relationships, nepotism, and employee favoritism, and their impact on the commission's hiring practices and the staff's ability to work without fear of reprisal for filing a complaint.

To gain an understanding of the commission's role in educator discipline, we reviewed and evaluated the laws, rules, and regulations significant to the audit objectives. We spoke with staff at the division that support the disciplinary work of the seven-member committee to gain an understanding of its policies, procedures, and practices for processing allegations or reports and investigating alleged misconduct by credential applicants and holders.

As specifically requested by the audit committee and as required by the U.S. Government Accountability Office whose standards we follow, we assessed the sufficiency and appropriateness of computer-processed information. Therefore, we assessed the reliability of the commission's Credentialing Automation System Enterprise (database) data, and found significant errors that prevent us from making conclusions based solely on the data. Specifically, we performed data-set verification procedures and electronic testing of key data elements, and assessed the accuracy of the commission's database. Because the commission's database records data on various types of reports of misconduct, which are stored in disparate tables within the database, we expanded our accuracy testing to pull several samples each focusing on a specific type of misconduct report. We did not perform completeness testing because reports of misconduct are sent in from various employers, public agencies, testing administrators, and school districts throughout the State making such testing impractical.

We assessed the commission's database for the purposes of selecting samples of cases used in our analysis and to identify the number of reports of misconduct such as RAP sheets, National Association of State Directors of Teacher Education and Certification (NASDTEC) notifications, school reports, affidavits, and testing agency misconduct reports; actions taken by the committee; recommendations for adverse action; and the number of days between the date that division staff opened and closed a case for cases the committee did not review that were opened during the period January 2007 through June 2010. We identified no issues

when performing data-set verification procedures and our electronic testing of key data elements found that the data contains logical information in the key fields needed for our analysis. However, we identified several accuracy errors. For accuracy testing, we randomly selected a sample of 28 records of case activities, 29 RAP sheets sent by the Justice and recorded by the commission for current credential holders, 13 RAP sheets sent by Justice and recorded by the commission for credential applicants, and 34 reports sent by the NASDTEC and recorded by the commission. We traced key data elements from these samples to the source documentation in either the commission's case files or electronic NASDTEC reports. We found no errors in our testing of 29 RAP sheets for current credential holders or in our testing of 13 RAP sheets for credential applicants. We also found no accuracy errors in the key fields related to NASDTEC reports, but found several errors in the key fields related to case activities. Specifically, in our sample of 28 case activities, we found three errors in the data field that tracks the date an activity begins and the field that describes which activity is being performed, such as a request for court documents or Department of Motor Vehicles' records, and two errors in the field that describes the action that needs to be taken, such as opening a case.

Because we were not able to test the completeness of the commission's database, we determined that the commission's database is of undetermined reliability for the purposes of selecting samples of cases used in our analysis, and to identify the number of reports of misconduct from RAP sheets and NASDTEC reports. Additionally, due to the errors noted in our testing for accuracy, we found the commission's database is not sufficiently reliable to identify the number of affidavits, school reports, testing agency misconduct reports, actions taken by the committee, recommendations for adverse action, and the number of days between the date that division staff opened and closed a case for cases the committee did not review that were opened during the period of January 2007 through June 2010.

To determine whether changes or adjustments made to the records in the database are adequately supported, we conducted a review of the controls over such data changes. We had intended to test a sample of changes and adjustments to the data, but the database only recorded the changes made to key fields for the last 48 days of the audit period. Because of this limitation, we instead performed a review of the controls over data changes by interviewing program and technical staff, attempting to obtain the division's change control policies and procedures, testing a judgmental sample of access rights for selected employees, and by reviewing the deletions to the database. As discussed further in Chapter 2, we identified significant weaknesses in the commission's controls for deleting records from its database. In addition, to ensure that the access

controls are working as intended, we tested a judgmental sample of five employees' access to 30 data elements and found that the access controls appropriately limited the users' access to view or alter data.

Using the commission's database, we attempted to determine the number and types of reports the commission received and processed for cases opened during the period from January 2007 through June 2010, the number of allegations involving criminal convictions that were closed without review by the committee, the number of reports and allegations not reviewed by the committee, and the number of recommendations of adverse action made by the committee. We provide this information in Appendix A as well as an explanation as to the reasons we were unable to provide all of the information the audit committee requested.

To determine whether the commission had any backlog of reports and the reasons such a backlog existed, we interviewed the division's management. We also reviewed internal reports generated by the commission.

To identify and analyze the amount of time that elapsed between key steps in the process from the initial receipt of a report to any actions taken by the commission, including requesting documentation from entities such as school districts and courts, we attempted to use the commission's database. However, we could not rely on the data included in the database because of errors in the date and activities field we described earlier. In addition, the commission does not always record in the database the reports of misconduct it receives. As an alternative, we selected random samples of the division's cases from its database and, using information contained in the database and the paper files, we determined the amount of time that had elapsed between certain steps. We also reviewed additional information contained in the commission's database and the paper files, and interviewed the division's management and staff to obtain an understanding of the reasons for long time lapses or any irregularities we identified during our testing. As part of this review, we also determined whether the commission requested and obtained relevant law enforcement reports and, if it did not obtain these reports, the reasons why by reviewing the case files and interviewing division staff.

To identify the number of reports and allegations that were not pursued because time-based statutes prevented their further pursuit, we attempted to use information from the commission's database. However, the database did not include any characteristics that would identify time limitations on the commission's jurisdiction over the cases. As a result, we could not identify the number of reports and allegations not pursued because of time-based statutes, as requested. Instead, we focused on the division's procedures to ensure that cases are processed within the time limitations of the statutes.

To determine and analyze the reasons that reports and allegations were not reviewed by the committee, and whether the division followed established policy in reaching these determinations, we obtained its spreadsheet that identified misconduct reports not reviewed by the committee and generally closed by division staff during the period September 1, 2010, through October 31, 2010. These cases include some the division opened for review and investigation from 2007 through mid-2010.

Finally, to determine the commission's current policies and practices as they relate to the hiring of family members, we reviewed various state laws and guidelines and practices as well as the commission's own hiring guidelines and its nepotism policy. We also discussed the commission's hiring process with the director of the administrative services division and the manager of the office of human resources. To determine the prevalence of familial relationships, nepotism, and employee favoritism and their impact on the commission's hiring practices and the staff's ability to work without fear of reprisal for filing complaints, we surveyed 188 commission employees working as of August 31, 2010. Appendix B lists the survey questions and aggregates certain responses. We received 136 responses, or a response rate of 72 percent. Further, commission employees responding to our survey named 24 commission employees who they believed were related to other commission employees or who they perceived had received special treatment by the commission. We selected a sample of 10 of these employees to determine whether the commission appropriately appointed, promoted, or transferred them by reviewing the commission's personnel records. Because employees responding to our survey expressed concerns regarding the commission's administration of exams, we also selected a sample of three eligibility exams the commission administered to establish an eligibility list. To determine whether the commission properly administered the exams, we reviewed state laws and regulations pertaining to the state civil service exam process and reviewed the commission's testing materials, interview notes, and other personnel documents relating to the exams.

To assess whether the commission's grievance and Equal Employee Opportunity (EEO) complaint processes are designed to reduce the fear of retaliation, we reviewed the commission's policies and procedures. To understand the quantity and nature of grievances and EEO complaints, we also obtained the commission's summary of grievances and EEO complaints filed over roughly the last two years.

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# Chapter 1

## THE DIVISION OF PROFESSIONAL PRACTICES' PROCEDURES FOR INVESTIGATING REPORTED MISCONDUCT HAVE RESULTED IN WORKLOAD BACKLOGS AND DELAYED OR QUESTIONABLE PROCESSING

### Chapter Summary

In order for the Division of Professional Practices (division) of the Commission on Teacher Credentialing (commission) to meet its responsibilities, we expected to find that it uses management practices that enable it to efficiently and effectively review reported misconduct by holders of or applicants for teaching credentials. We also expected to find that the division reviews reported misconduct promptly, thus keeping backlogs to a minimum. Backlogs can create delays in processing reports of serious misconduct and increase the risk that the cases would not be processed in accordance with management's policies and directives. To help ensure that backlogs do not develop or are quickly identified and mitigated, we expected the division to have a management information system that allows it to track the status of cases requiring mandatory adverse action against a credentialed teacher. This system would need to accurately and completely track all cases received, including the type of case, the length of time a case has spent in each stage of review, and the person responsible for the case. We also expected to find that the commission expeditiously addresses cases in which criminal conduct is alleged or for which it has received a notification of criminal activity from the California Department of Justice (Justice).

However, the commission's executive director acknowledged that the division had accumulated a significant backlog of 12,600 unprocessed reports of arrest and prosecution (RAPs, commonly known as RAP sheets) as of the summer of 2009. This number represents nearly three times the number of RAP sheets and other reports of educator misconduct the division typically processes each year. According to the manager of the division's Support Section (manager), the backlog grew as a result of several factors related to staffing, the review process for reports of misconduct, and the division's case-tracking capabilities. According to the manager, the division launched the "RAP project" in August 2009 to process the backlog of RAP sheets, which is still in progress.

We noted several conditions that appear to have been connected to the poor practices that created the backlog. Specifically, we found that in some instances significant periods of time elapsed between critical steps in the division's process of reviewing reported

misconduct. In fact, we found delays in reviewing and investigating reported misconduct which potentially allowed educators of questionable character to retain a credential. In addition, the division has not always effectively tracked the status of cases that, if the credential holder is convicted of the crimes charged, require mandatory revocation of the credential.

Moreover, the division has not always pursued all available sources of information regarding its cases, relying instead on the prosecution of criminal charges. These delays in seeking additional information from school districts, witnesses, or alleged victims can jeopardize the division's ability to investigate the misconduct if the prosecution of the criminal charge does not result in a conviction. Further, the division has not always effectively processed the RAP sheets it receives from Justice. For example, we could not locate some RAP sheets in the commission's Credentialing Automation System Enterprise (database) because the division did not record an adequate level of detail regarding the offense reported.

In its efforts to eliminate this workload backlog and to streamline the process of the Committee of Credentials (committee) to review cases and avoid future backlogs, the division began making discretionary decisions to close reviews of misconduct without presenting the cases to the committee for review. However, we question whether the division has the legal authority to do so.

## The Division Has Experienced Significant Workload Backlogs

Significant workload backlogs have delayed and impeded the division's progress in reviewing reported misconduct for possible disciplinary action. Backlogs create delays in processing reports of misconduct and increase the risk that the cases will not be processed in accordance with management's policies and directives. In addition, large backlogs increase the risk that inconsistent and questionable judgments will be made to reduce the backlog.

*The division had accumulated a significant backlog in the summer of 2009 amounting to 12,600 unprocessed reports of arrest and prosecution.*

The manager asserted that the division has continually had 3,000 to 4,000 allegations in process (about a 10-month workload) since he came to work at the division in 2005. However, the workload grew substantially, and the commission's executive director acknowledged the division had accumulated a significant backlog in the summer of 2009 that he characterized as amounting to 12,600 unprocessed RAP sheets. This represents nearly three times the number of RAP sheets and other reports of educator misconduct the division typically processes each year. The commission's executive director reported to the commission that, as of January 20, 2010, this backlog had been reduced to 4,629 documents.

The manager also asserted that the division had reviewed the RAP sheets when received and processed those for which the offenders may have presented a high risk to students. However, as described later in this chapter, we noted instances of delayed processing for reports of misconduct regarding more serious misconduct that originate from sources other than RAP sheets.

*According to the division's manager, the process the division previously used to receive and investigate reports of educator misconduct was inefficient and ineffective.*

According to the manager, one of the factors contributing to the backlog is that the process the division previously used to receive and investigate reports of educator misconduct was inefficient and ineffective. The manager indicated that intake of the reports was channeled through one analyst, who reviewed them and identified the type of processing each report required. However, the analyst was also responsible for many other tasks, including training and coaching other workers. According to the manager, these combined tasks were more than one person could perform effectively.

In addition, the manager indicated that the division's strategy for gathering the information needed to process the reports of misconduct was inefficient and lacked accountability. For example, the division's technicians were responsible for performing certain tasks for case files rather than being assigned responsibility for processing the entire case. Case files were placed in centralized areas, and technicians performed only the tasks for which they were responsible. He indicated that under this system division management had difficulty tracking the progress of investigations and holding individuals accountable for their work.

According to the manager, during the period of growth in the workload backlog, employee turnover in the division was significant. The division employs office technicians to gather documentation that analysts, management, and legal counsel use to determine the status of reported misconduct. The manager stated that for 2008 the turnover rate for seven office technicians was three out of seven, or 42 percent, and for 2009 the rate was four out of seven, or 57 percent. He also told us that training replacement workers was a factor in reducing productivity during that time. Specifically, he stated that only three of the division's seven office technicians were fully trained during 2008 and 2009. In addition, he stated that more recently worker furloughs had reduced the number of hours the division's staff could devote to processing cases and the capacity of the committee to review cases because the committee's monthly meetings were reduced from three days to two days to accommodate the furlough days. According to the manager, limitations in the committee's capacity to review cases also limit the division's ability to promptly eliminate and prevent workload backlogs because the cases that fall under the committee's jurisdiction can only be finalized as quickly as the committee can conduct reviews of them.

The manager further stated that the division also lacked a management information system for tracking, monitoring, and managing the workload. He stated that the division had requested such a system for a number of years, but the division's computer system needed an upgrade to handle the normal volume of applications processed by the commission. As a result, the division has had difficulty monitoring the progress of the cases being investigated and, more importantly, tracking sensitive cases to ensure that they were reviewed based on their priority. According to the division, it has now implemented case tracking capabilities in its automated system; however, we believe more improvement is needed, which we discuss further in Chapter 2.

According to the manager, the division launched the RAP project in August 2009 to process the backlog of 12,600 RAP sheets. The manager stated that the RAP sheets involved in this project had previously been screened for serious offenses and consisted only of reports of arrests, minor offenses, and misconduct committed by individuals who no longer hold credentials. The manager indicated that these RAP sheets had not yet been opened as cases, and stated that the vast majority never became cases for investigation.

*The division employed student assistants to sort 12,600 RAP sheets into those that could be closed without review by the committee and those that may require consideration by the committee.*

For the RAP project, the division employed student assistants to sort the 12,600 RAP sheets into those that could be closed without review by the committee and those that required additional information and possible consideration by the committee for a recommendation of adverse action. These decisions are based on informal guidance agreed upon by the division and the committee chair. The manager stated that the division's senior staff counsel was responsible for approving the RAP sheets that were closed. According to the manager, the student assistants prepared a review form for each RAP sheet, and the senior staff counsel reviewed and either approved the RAP sheets for closure or requested additional information, in which case the information was obtained and the form resubmitted to the senior staff counsel. The senior staff counsel then decided whether the reported offenses should be closed or opened as cases and distributed to staff for investigation. The manager indicted that only the RAP sheets that were investigated as cases were counted as part of the workload, which was a small percentage of the total RAP sheets reviewed.

According to the manager, the RAP project is still in process. He indicated that the categories of processing are (1) closed by division staff for reasons such as the arrest did not result in a conviction or the individual did not hold a credential, (2) closed by management or legal counsel as not reaching the threshold of probable cause for adverse action by the committee, (3) waiting for documents from public agencies with knowledge of the reported misconduct, (4) waiting to be scheduled for committee review,

(5) scheduled for committee review, or (6) closed by the committee. However, the manager stated that because the division had no business need to know how many of the backlogged RAP sheets were processed and closed by division staff, management, legal counsel, or the committee, it did not track the backlogged reports of misconduct separately from the cases in the normal workflow. The manager indicated that he plans to estimate the numbers for each category as best he can after the backlog of RAP sheets has been processed. He also stated that the division's workload statistics do not reflect all of the RAP sheets processed to eliminate the backlog because the commission does not open a case in its database when a RAP sheet is processed and then closed by division staff. Thus, these types of reports of misconduct do not appear in the commission's database and are not counted as part of the division's workload.

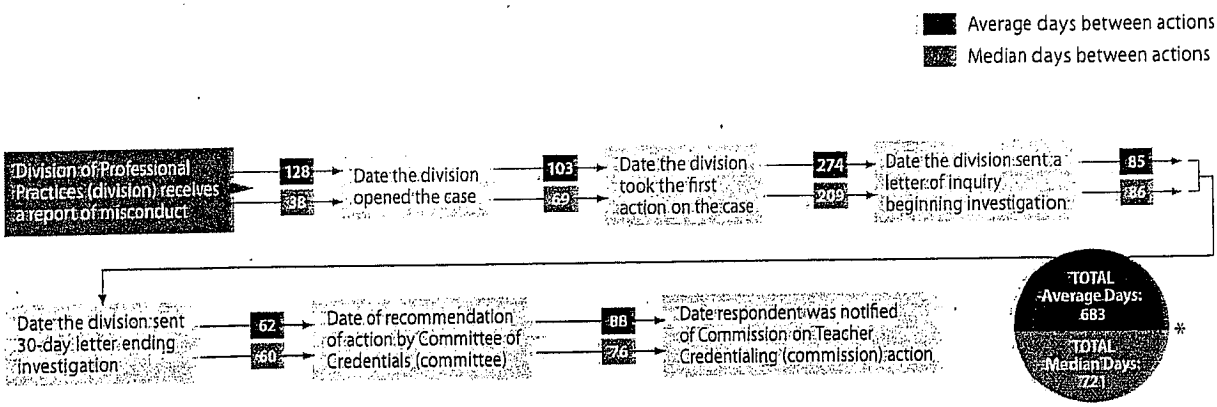
### Backlogs Have Been Associated With Delayed Processing of Reports of Educator Misconduct

We reviewed a random sample of 29 cases closed by the division or reviewed by the committee between July 2009 and October 2010 to determine and analyze the amount of time that elapsed between key steps in the division's processes. Our tests revealed that some of the division's actions were not timely. Specifically, we identified critical steps in the division's investigative process and evaluated 29 of the division's reviews of educator misconduct to measure the time elapsed to conduct those steps. The average and median time periods for each of these steps are presented in the time line in Figure 4 on the following page.

The average number of days for all 29 cases as shown in the time line reflect the fact that the commission sometimes took significant periods of time to accomplish certain critical steps. Some individual cases took extreme amounts of time for certain critical steps. For example, we found that for 11 of the 29 cases we reviewed, the division took more than 80 days to open a case after receiving a report of misconduct, with one case taking almost two years and another almost three years. For nine of the cases, the division took 130 days or more to begin its investigation into the misconduct. For all 29 cases, it took an average of 85 days once it started its investigation to complete the investigative process. These cases included reports of misconduct that the division and the committee consider minor, such as driving under the influence of alcohol and other misdemeanor crimes, as well as reports of more serious criminal activity, such as felony grand theft embezzlement, resisting an officer, and one teacher who resigned after making inappropriate sexual comments to students.

*The commission sometimes took significant periods of time to accomplish certain critical steps—for 11 of the 29 cases we reviewed, the division took more than 80 days to open the case with one case taking almost three years.*

**Figure 4**
Time Elapsed Between Steps in the Division of Professional Practices' Process for 29 Sampled Cases




Source: Analysis by Bureau of State Audits of a sample of the division's files.

* The number of days for the steps in the timeline do not add up to equal the total days shown because, of the 29 cases in our sample, the committee granted the credentials for nine and the division closed two with no adverse action taken. Thus, only 18 progressed through the entire process and appeared before the commission for adoption of the adverse action recommended by the committee.

We asked the manager for the reasons of the time lapses, and he provided some very general explanations. For example, he stated that although some cases took a large number of days to open, the division did not lose jurisdiction. He also stated that while the division would like to open and process cases in a more timely manner, it is unable to do so due to the large number of reports of misconduct, the small number of staff, and the need to prioritize cases. He indicated that the division reviews reports of misconduct and responds to the ones that are more serious first, responding to the less serious reports of misconduct as time and resources allow. This strategy may have contributed to some of the larger lapses of time between the division's receipt of a report of misconduct and the opening of a case.

As we discuss in Chapter 2, the division has not developed performance standards to identify how long each of the critical steps we reviewed should take to complete because it has not accumulated the performance data to determine those standards. It does, however, use time guidelines and dates entered into the database by staff to warn management when steps are taking excessive amounts of time. For example, the guidelines allow for 14 days to open a case, 21 days to prepare a request for an arrest report, and 56 days to prepare a letter to a credential holder to begin an investigation. According to the manager, these time guidelines are suggestions as to when staff should take action rather than actual standards the division should follow.

Further, we reviewed 168 cases that the division reviewed and closed without a review by the committee and found that for 18 of these cases the division took one to two years to process reports of misconduct, with three others taking more than two years. According to the manager, prior to April 2010 the commission did not have an effective method for the Certification, Assignments, and Waivers Division to communicate with the division about those applications for credentials that required review by the division because of evidence of misconduct by the applicants. As a result, the division did not identify some applications as needing review. We asked its manager for an explanation for 40 of the cases we reviewed. He provided an explanation for two cases, cited the communication issue for the cause of the delayed processing for 24 of the cases and the cases' low priority for five others, but provided no explanation for the remaining nine cases.

*We found that the division took one to two years to process reports of misconduct for 10 percent of 168 cases we selected that the division reviewed and closed without a review by the committee.*

### Time Lapses in Investigating Reported Misconduct Potentially Allowed Educators Who May Not Be Fit to Teach to Remain in the Classroom

In addition to the cases we reviewed as a result of our random samples to meet our audit objectives, we judgmentally selected and reviewed 30 cases that appeared to have excessive processing times and particularly serious allegations of misconduct. Similar to our earlier findings based on a random sample of cases, we found that the division experienced delays in critical steps in reviewing reported misconduct for all of these 30 additional cases. Almost all of the teachers involved ended up having their credentials revoked or suspended for various offenses but held their credentials during the delays in case processing and therefore had the potential to remain in the classroom.

A summary of the processing delays for the 30 additional cases we selected is as follows:

- On average, the time between when the division was first notified of the alleged misconduct and when it opened a case was over two months.
- After opening a case, the division averaged almost three months to make its first information request of the courts, the police, or the schools.
- After making its first information request, more than 18 months passed, on average, before the division sent the teacher a letter of inquiry. The letter of inquiry officially begins the investigation of the misconduct.

- Finally, after the letter of inquiry was sent, the committee took an average of more than four months to issue its decision of adverse action.

*In our review of the 30 additional cases, we found that the division did not promptly pursue all sources of information, particularly from school districts, in its review of reported misconduct.*

As these statistics and some specific examples cited later indicate, significant delays occurred in the division's process of requesting information from courts, police, and school districts and in its process of assessing the information gathered from these sources. In our review of the 30 additional cases, we found that the division did not promptly pursue all sources of information, particularly from school districts, in its review of reported misconduct. In at least one instance, this course of action allowed a credential holder who resigned his employment after school administrators recommended that he be terminated to take a position with another school while the division conducted a significantly delayed investigation.

We asked the manager about the delays in investigating the cases we reviewed and, in addition to more specific responses regarding particular cases, he provided the following explanations:

- All the files were completed within the legally mandated time frames of one and four years, depending on how the commission becomes aware, over which it has jurisdiction over the reported misconduct.

- The files were completed in the time frames we observed because of workload issues, employee turnover, and worker furlough days.

- The committee can review only about 60 cases per monthly meeting. As a result, some cases have to be delayed while they wait for committee review.

The following cases exemplify the need for the division to work to overcome the problems identified by its manager:

- One credential holder was arrested for distributing obscene material to a minor student. In addition, the individual allegedly had ongoing e-mail correspondence with this student in which the messages focused on antigovernment and paramilitary issues such as weapons training, targets for antigovernment believers, militia groups, and white supremacy. The e-mails came to the attention of authorities when the student was caught using a computer to attempt to buy a weapon over the Internet. The division first received a RAP sheet related to this case in May 2008, indicating that the credential holder had been arrested on a felony charge that would require mandatory revocation of the individual's credential if it were to result in a conviction. Three months later, in August 2008, the division requested records from the courts and police, and it later learned

that no criminal charges were filed in this case. Although the teacher resigned in May 2008 after school administrators recommended that he be terminated, statements in the case file indicate that he secured a job teaching at another school. Because the division did not contact the school district for information regarding this credential holder until March 2010, it did not promptly discover all of the circumstances surrounding the arrest. This delay allowed the teacher to retain his credential and remain eligible to teach. The committee eventually recommended revocation of the teacher's credential in July 2010, more than two years after receiving the RAP sheet.[1]

The manager stated that the division was waiting to see if the teacher would be convicted and that it cannot contact the school until it sends the credential holder a letter detailing the investigation and requesting information (letter of inquiry). However, upon receiving the RAP sheet for this case, the division had jurisdiction to open an initial review and contact any public agency for information regarding the reported misconduct. The division did not send the credential holder a letter of inquiry until more than 22 months after it received the initial RAP sheet. Waiting this long to send out the letter and then contact the school district for information highlights a problem with the division's current investigatory process.

- In November 2007 the division received a RAP sheet that a credential holder was arrested for kidnapping—a charge that, if convicted, requires a mandatory revocation of a credential. Shortly thereafter, a school district notified the division that this teacher resigned in November 2007 and that he was the subject of an investigation of inappropriate conduct that included aggressive comments directed towards students and allegations that he had raped a student.[2] The division opened a case for these allegations in November 2007. The school district notified the division that it had turned over information to the police and that an arrest was made, but the district attorney did not file a rape charge because the alleged incident had taken place several weeks before the student came forward, and no physical evidence was available. In January 2008 the division requested information from the court on the kidnapping charge and received a response in that same month that the court had no record of this individual as a defendant in a case. In

[1] In August 2010 the teacher requested an administrative hearing to challenge the committee's recommendation. Three months later, the commission's general counsel referred the case to the Office of the Attorney General. Until a decision is made, the teacher's credential is still valid, and commission staff indicated that as of February 2011, they did not know whether the credential holder is teaching.

[2] Based on the police reports available in division files, the two particularly serious allegations—kidnapping and rape—were separate incidents occurring at different times but both in the fall of 2007.

February 2008 the police notified the division that this teacher had been arrested on charges of rape by force and unlawful sex with a minor (same incident as referred to in the school district report) and, two days later, the division requested information from the courts and police related to these charges. That same month the court again responded that it had no record of this individual as a defendant in a case.

In March 2008 the division received a RAP sheet indicating that this same individual had been arrested for criminal threats and disobeying a court order. File notes indicate that around this time division staff placed this file on the "Document Request" shelf; no further action on this case occurred until December 2009 when the division requested documents related to the criminal threats charge. Other than requesting information from the court in May 2010 and later finding out that prosecution on the kidnapping charge had been declined for lack of evidence, the division conducted no further investigation of the original kidnapping and rape allegations. Instead, the division combined its original case from November 2007 with one opened in March 2010 related to the criminal threats charge. In June 2010 the division obtained information from the court demonstrating that the defendant pleaded guilty to criminal threats. Although this guilty plea occurred in April 2008, it was not until September 2010 that the division revoked this former teacher's credential. The manager indicated that the delay in this case was due to ineffective work processes.

- Another credential holder generated four different RAP sheets in 2007 for offenses ranging from prostitution to petty theft. The division opened a case in September 2007 and received information from the court on December 10, 2007, that the credential holder had pled guilty to a misdemeanor prostitution charge in March 2007. Although it was not evident from the case files whether the individual was teaching at the time of the offenses, he had held a teaching credential since 2002 and filed an application for renewal on December 29, 2007. The individual did not disclose any of his arrests or convictions in the application. Despite learning of the conviction and beginning an investigation in December 2007, in January 2008 the commission granted him a credential valid through 2012. Ultimately, the commission revoked his credential in April 2010. The division did not provide a reasonable explanation for the delay in revoking this individual's credential.

*Despite learning of a conviction and beginning an investigation in December 2007, in January 2008 the commission granted an individual a credential, but ultimately revoked his credential in April 2010.*

- In January 2007 a school district notified the division that a teacher was observed kissing a student. Although the credential holder resigned immediately after this incident was reported, he still held a valid teaching credential. The division did not

contact the school for more information about the incident until December 2009, even though the January 2007 report the school district provided gave the division jurisdiction to begin an initial review. Instead, the division contacted the local police and courts, which informed it that as of June 2007 no charges had been filed against the credential holder. Rather than contacting the school district at this point, the division sent another information request to the police and courts in October 2009, again learning that the police were not aware of this incident.

Although the committee initially recommended in April 2010 that the teacher's credential be revoked, the respondent requested an administrative hearing, and the resulting consent determination reduced the penalty to a 30-day suspension with three years of probation and 10 hours of counseling on the boundaries between teachers and students. The only explanation the manager provided for the delay of more than three years before the committee reviewed the case was that the file was processed within the time frame during which the commission retains its jurisdiction over the misconduct, and that workload issues and staff turnover and training were causes for the delayed processing.

- Another credential holder was dismissed in March 2008 from a charter school for allegations that he made inappropriate sexual comments to female students. A few months after his dismissal, his single-subject credential expired.[3] When the individual applied for a reissuance of the credential in September 2008, he disclosed that he had been released from employment for alleged misconduct. Inexplicably, the division waited until April 2009 to contact the teacher, asking him to provide more information about his dismissal. The division then contacted the school district in August 2009, receiving information in October 2009. The division issued the applicant a letter of inquiry in March 2010, beginning the initial review. Nine days later, the division issued a notice of delay letter that instructed local agencies to cancel any temporary teaching certificates they may have been issued to the individual named in the notice. Until the time that this notice went out, statements in the case file indicate that this individual had been teaching classes at other schools since January 2009. Although the end result of the division's investigation was only a seven-day suspension, the fact that this review took so long while the individual continued teaching at other institutions highlights the potential harm of the division's investigatory delays. Regarding this case, the manager

*When an individual applied for a reissuance of the credential in September 2008, he disclosed that he had been released from employment for alleged misconduct. Inexplicably, the division waited until April 2009 to contact the teacher, asking him to provide more information about his dismissal.*

[3] The individual also held a teaching certificate that was issued in January 2008.

*Nearly one and a half years after it first learned that an educator was charged for exposing middle school students to pornography, the division finally requested documents from the police.*

attributed the cause of the delayed processing to several issues including workload, furloughs, and the limited number of cases the committee can review.

- Finally, in another case an educator was charged for exposing middle school students to pornography in May 2007. The division first learned of the charge in October 2008, when it received a RAP sheet informing the division that the charges were dismissed. The division did not request documents from the police until March 2010 and received the police report in May 2010. According to the investigator's notes in the case file, when the division's investigators attempted to contact the parties involved in the incident in the summer of 2010, they learned that the students had progressed to high school and the vice principal who reported the incident had retired. The school principal had no information because the district had handled the incident. One student who was involved said the incident was so long ago that she did not remember the details. The father of another student was very upset that the investigation took so long. The notes show that the investigator was not able to establish contact with other individuals who had been involved. Meanwhile, this teacher went on to teach at another school district. In September 2010 the committee closed the case with no recommendation for adverse action. The manager did not offer any explanations as to why the division did not investigate this case sooner.

### The Division Does Not Always Effectively Track the Status of Cases With the Potential for Mandatory Adverse Action Against a Credential Holder

The law requires the commission to revoke or suspend the credentials of educators who are convicted or charged with certain crimes, such as a serious or violent felony, certain drug violations, or sexual misconduct with a minor child. In certain situations the division is notified of arrests for these offenses but must wait until a conviction is reached before it takes mandatory action against the credential holder. However, the division may review and investigate the reported criminal act and the committee may recommend the commission take adverse action on the credential holder or applicant even if he or she is not convicted of the crime. The division's progress in reaching a determination of whether mandatory action is required for such cases can be delayed by various factors, including the division's lack of activity in pursuing the information or delays by law enforcement agencies or the courts in finalizing these types of criminal cases.

We reviewed 23 cases involving potential mandatory action selected from a random sample of 30 RAP sheets dated between November 2009 and July 2010 to determine the time elapsed from the issue date of the RAP sheet to the division's final action. We did not review seven of the 30 because we determined the crime listed was not one that might require mandatory suspension or revocation of the individual's credential. We found that 11 of the cases were still open as of the end of December 2010. For the remaining 12 cases, we found that the division acted appropriately by actively gathering information on the criminal misconduct and taking final action on the case within 81 days (time elapsed is from the date of the RAP sheet to the final action, which is dependent on the final court action). Of the 11 open cases, we identified six for which the database did not reflect any recent staff actions had taken place. The following is a brief summary of these six cases, which had not received any activity since at least August 2010, possibly resulting in individuals keeping their credentials longer than the law allows, and thereby allowing the individuals continued access to schools and students.

*Of 11 open cases, we found six for which the database did not reflect any activity since at least August 2010, possibly resulting in individuals keeping their credentials longer than the law allows.*

- A credential holder was initially arrested for the use of or for being under the influence of a controlled substance. That charge was dismissed, but the credential holder was convicted of driving under the influence and causing bodily injury. The commission's database shows that it has not acted on the case since June 9, 2010, and the supervising investigator could not provide an explanation for the delay.

- A case was opened in March 2010 based on a reported arrest of a credential holder for child cruelty with possible injury or death. The individual ultimately was not prosecuted because of insufficient evidence. The office technician who opened the case in the database as potentially requiring mandatory action, with a reminder for further action by April 2010, stated that she did not follow up on the case because of the high volume of cases she had, along with the furlough days.

- The division received a RAP sheet regarding an arrest of a credential holder for possession of a controlled substance and entered the information into the database in April 2010. As of the end of December 2010, the office technician had not performed any activities on the case, although there was a note in the database that mail had been received in August 2010 regarding the case but not reviewed. The office technician acknowledged that she had not reviewed the August mail noted in the case file.

- The division received a RAP sheet on a credential holder for possession of a controlled substance in February 2010, and the last activity for this case was a request for court documents in August 2010. The analyst had made an additional court request on

October 4, 2010, and after we pointed out that she had not entered the request into the database, she did so in January 2011. Failing to include the additional activity in the database, which affects management reports, provides an incomplete portrayal of the analyst's progress in reviewing the case.

*The database did not reflect the actions an analyst told us she had taken to gain information from a school district employer regarding the district's investigation and dismissal of a teacher for annoying or molesting a child.*

- The database did not reflect the actions the analyst told us she had taken to gain information from a school district employer regarding the district's investigation and dismissal of a teacher for annoying or molesting a child. Because no charges were filed, the division was pursuing the misconduct as a result of the school district report. Although information in the database showed no activity on this case since August 2010, the analyst told us she had made several follow-up calls to the school district but had kept no records of the calls in the database or paper files. With no record of her activities, management had no way of effectively tracking her progress in reviewing the reported misconduct.

- The database did not contain updated information regarding a credential holder who was arrested for using or being under the influence of a controlled substance, willful cruelty to a child, and possession of a controlled substance. The case file in the database showed that the credential holder had a scheduled September 2010 court appearance that might have removed the offense from the credential holder's record. However, as of the end of December 2010, the database did not contain the outcome of that court appearance. After reviewing her paper files at our request, the analyst found a document showing a status update on the case dated December 21, 2010, and she entered this information on January 4, 2011.

## The Division Often Delayed Seeking Information Needed to Review Reports of Misconduct

In further testing related to the timing of the division's processing of reports of misconduct, we reviewed cases to identify the amount of time that elapsed between the first report of misconduct received by the division and its first attempt to obtain additional information related to the misconduct. Because the manager told us that the division began reengineering its procedures for processing reports of misconduct in February 2010, we divided the sample of cases we reviewed between those cases closed during the time preceding February 2010 and those closed after February 1, 2010. For the 15 cases in our sample that the division closed prior to February 2010, we found that an average of 188 days elapsed between the division's receipt of a report of misconduct and when it first requested additional information. Only two of these 15 cases had relatively short processing times, with the division sending out

record requests within three weeks of receiving a misconduct report. However, for eight of the 15 cases, the division took more than 180 days to send its first records request, and for three of those eight the division took 317, 337, and 517 days, respectively.

For 12 of the 14 cases we reviewed that were closed after February 1, 2010, an average of 319 days elapsed before the division requested additional information. The division sent record requests for two of these 12 cases very promptly. However, for six cases the division took more than 150 days to send the requests and sent requests regarding four cases after 439, 442, 646, and 1,029 days, respectively, had elapsed. For the remaining two cases, the division could not find the file for one and did not have a records request on file for another.

These 29 cases included reports of misconduct the division and the committee consider minor, such as driving under the influence of alcohol, as well as reports of more serious criminal activity, such as disorderly conduct, spousal abuse, burglary, and sexual intercourse with a middle school student. According to the manager, the delays in requesting additional information about the reported misconduct occurred for reasons including furloughs, high staff turnover, and the resulting staff inexperience.

## The Division Does Not Always Investigate School Reports of Misconduct While Criminal Investigations Are Unresolved

The law requires that employers of credentialed educators must report to the commission certain occurrences regarding allegations of misconduct. Further, state law also identifies conditions under which the commission must take action upon receiving an allegation of misconduct. These conditions include the ones shown in the text box. The receipt of these and other reports of misconduct provides the commission the legal authority to commence an investigation into whether probable cause exists for adverse action against the credential holder. In many instances, the division will receive RAP sheets and reports from employers for the same allegations of misconduct against credential holders. However, where the committee believes that the alleged misconduct reflects a lack of fitness, ability, or competence

### Conditions Under Which Employers of Credential Holders Must Notify the Commission on Teacher Credentialing

- As a result of an allegation of misconduct, or while an allegation is pending, the credential holder is dismissed, is not reelected, resigns, is suspended or placed on unpaid administrative leave for more than 10 days as a final adverse employment action, retires, or is otherwise terminated as a result of a decision not to employ or reemploy the individual.
- A credential holder employed by a school district refuses without good cause to fulfill a valid contract of employment with the district or leaves without the consent of the superintendent.
- A credential holder is charged by complaint, information, or indictment with a specified sex offense or certain drug offenses involving a minor.

### Conditions Under Which the Commission on Teacher Credentialing Must Take Action if It Receives a School District Report

- A credential holder knowingly and willfully uses school records of pupil data in connection with or in an implicit or explicit attempt to recruit a pupil to be a customer for a business that the credential holder owns or in which the credential holder is an employee.
- A credential holder knowingly and willingly reports false fiscal expenditure information relative to the conduct of any educational program.
- A credential holder subverts or attempts to subvert any licensing examination.

Source: California Education Code and California Code of Regulations.

to teach, it may recommend that the commission take adverse action against a credential holder even though the credential holder has not been convicted of a crime, based on the outcome of the division's investigations. We reviewed a random sample of cases to determine whether the division requested information from school employers while waiting for a criminal matter to be finalized. We again divided our sample between the periods before and after February 2010, the time the division told us that it began efforts to improve its processes for investigating reports of misconduct. For the 15 cases closed before February 2010, we found that the division sought information for only two of the cases, 320 and 342 days, respectively, after it received the initial school report.

For the 15 cases either closed after February 2010 or still open, the division requested more information from the school for seven. In these seven cases, the average amount of time that elapsed between the division receiving the school report and its request for additional information was 82 days. In one instance, the division mailed the request for information on the same day that it received the school report, and in another it took 316 days. For the other five cases, the division took between 27 and 85 days to request information from the school.

Of the 30 credential holders in these cases, 19 were reported to have committed crimes for which the law mandates automatic suspension or revocation of their credential. The division requested additional information for only two of the 19 cases from the school employers. According to the supervising investigator, for school district cases that involve criminal action, the division typically allows the criminal matters to be completed before it begins its own investigation. He also indicated that these types of cases normally involve a notification from the district that it placed a credential holder on paid or unpaid leave of absence as the result of an arrest or criminal complaint. This type of notification, according to the supervising investigator, does not give the committee jurisdiction to investigate the reported misconduct. However, the California Education Code provides the committee with jurisdiction to commence an initial review of a credential holder if it receives one of several types of reports of misconduct, including certain school district reports or a RAP sheet. In fact, the criminal charges in these cases may be dropped or plea-bargained to lesser charges that do not require mandatory action by the commission. When this occurs, the committee can still investigate and, where appropriate, recommend that the commission use its discretionary authority to take adverse action, up to and including revocation of a credential, without a criminal conviction. By waiting to follow up on these cases, the division risks losing its ability to obtain accurate statements from witnesses and victims. Because criminal cases can take months or years to finalize, witnesses

*By waiting to follow up on cases, the division risks losing its ability to obtain accurate statements from witnesses and victims.*

and victims may have moved on to other schools or jobs, or their memories of the alleged incidents may become unclear, making an effective investigation and decisions regarding adverse action without a criminal conviction difficult.

## The Division Has Not Always Effectively Processed RAP Sheets Provided by Justice

Prior to the changes the division made to its procedures for processing RAP sheets to address the workload backlog, it lacked effective controls to ensure that RAP sheets were accurately and promptly reviewed and entered into its database. As a result, some RAP sheets processed prior to the changes are difficult to find, impeding the division's efforts to use its database to track and manage its workload.

### *Some RAP Sheets Are Difficult to Locate in the Database Because of the Division's Prior Practices*

We compared the RAP sheets submitted to the division by Justice for the period January 2007 through July 2010 to the RAP sheets contained in the database. We found that the database did not appear to contain many of the RAP sheets submitted during this period. Thus, we randomly selected 60 RAP sheets containing criminal activity that potentially required the commission to take adverse action on the holders' credential to determine whether the division was aware of the RAP sheets and had taken appropriate action. As in our other samples, half of the RAP sheets we selected were submitted by Justice before February 1, 2010, and half were submitted after that date. For the 30 RAP sheets in our sample that were submitted by Justice before February 2010, we found 13 that were not included in the database, and we were unable to determine whether the database contained five others. The primary reason that we could not conclude whether these five RAP sheets were in the database was that the database notes did not have information identifying what a RAP sheet was for, such as an arrest, conviction, or dismissal of charges, or the type of criminal activity involved. Thus, we reviewed the hard-copy file to determine whether the division had, in fact, received the RAP sheet.

*For the 30 RAP sheets in our sample, we found 13 that were not included in the database, and we were unable to determine whether the database contained five others.*

Moreover, two RAP sheets that were submitted to the division for individuals who requested that Justice send the commission their fingerprint clearance results, but at the time did not hold a credential, were mishandled. The division's procedures require that a file be created in the database for individuals with a reported criminal history, but who do not apply for a credential. However, in these two instances the division failed to do so. We found a

*The changes the division made to its process in February 2010 appear to be addressing the difficulties we had in finding RAP sheets in the database prior to the change.*

similar situation related to three RAP sheets submitted by Justice before February 2010 during a review of RAP sheets involving offenses that require mandatory revocation. If these five individuals subsequently applied for a credential, the commission might not be aware of the previously received RAP sheets for these individuals because the RAP sheets were not recorded in the database. Thus, the application would likely be granted without the division's review of these individuals. All five of these RAP sheets were received before February 2010, when the division changed its process. We found no such problems after the process was changed. Thus, the changes the division made to its process in February 2010 appear to be addressing the difficulties we had in finding RAP sheets in the database prior to the change.

### *The Division Does Not Notify Justice of Individuals for Whom It No Longer Needs RAP Sheets*

Of the 60 RAP sheets we described in the prior subsection, nine related to individuals who did not submit an application after submitting fingerprints to Justice. In addition, we noted 23 individuals with expired credentials who had RAP sheets that Justice sent subsequent to the expiration date of the credentials stored in the database, and two individuals who had RAP sheets even though their credentials had previously been revoked.

When the division receives RAP sheets for individuals who have submitted their fingerprints to Justice but have not submitted an application or for individuals whose credentials have expired, the division makes a specific notation in the database. This notation identifies that the division received a RAP sheet for the individual so that it can evaluate further if it receives an application in the future. In such cases the division should also inform Justice that it no longer needs RAP sheets for these individuals, but until recently it has not done so. The analyst who processes the RAP sheets stated that the division's information technology team is currently trying to develop a way to automatically send back the RAP sheets as a means of notifying Justice that they are not needed. However, in March 2011 the division began mailing the unneeded RAP sheets to Justice.

The law requires that for any agency that receives a RAP sheet for an individual who is no longer employed, licensed, or certified by the agency, to return the RAP sheet to Justice and inform Justice that the agency is no longer interested in the applicant. Although the division has not, until recently, returned the RAP sheets to Justice, if the fingerprints are more than one year old and the individual has not applied for a credential, the division flags the database file. This flag indicates to staff that, should the

individual apply in the future, the person will have to resubmit new fingerprints, thereby generating a new RAP sheet. As a result, the division will be alerted to review the new RAP sheet with the person's complete criminal history.

Because prior to March 2011 the division had not informed Justice of RAP sheets it no longer needed, the division has spent unnecessary time handling these RAP sheets. According to the manager, the division did notify Justice of the individuals whose credentials have been revoked or denied, so that their fingerprints were invalidated. However, subsequent RAP sheets for these individuals were continuously received by the division. From March 1, 2010, through February 13, 2011, the division received 2,326 such reports. Using the time estimates for the analyst who handles these RAP sheets, we calculated that the division annually spent between one week and five weeks of staff time needlessly handling these unnecessary RAP sheets. For each of these RAP sheets, the division adds a note to the individual's file in the database and saves a hard copy.

*From March 1, 2010, through February 13, 2011, the division received 2,326 RAP sheets it no longer needed and we calculated the division annually spent between one week and five weeks of staff time needlessly handling them.*

### *The Division Did Not Always Immediately Suspend or Revoke Credentials*

We also randomly selected a sample of 30 RAP sheets dated between July 2007 and July 2010 and calculated the time elapsed between the division's receipt of a RAP sheet and its final action on the case to determine whether the division appropriately suspended or revoked credentials. These RAP sheets involved criminal activities that potentially required the division to suspend or revoke the holder's credential. Under most circumstances, a credential holder must be convicted of a qualifying crime in order for the division to mandatorily suspend or revoke the credential. We divided the sample between the period prior to and after February 2010, the point in time at which the division changed its practices.

Of the 30 RAP sheets we tested, we found that the division has four open cases related to RAP sheets dated between August 2009 and June 2010 for which it has not yet taken adverse action because the RAP sheets relate to arrests, not convictions. The division is also actively tracking and acting on three other cases, one with a conviction that is being appealed and two with individuals who are engaged in a drug diversion program. As such, the legal process has not been finalized, and mandatory revocation cannot yet occur. For five of the RAP sheets, the division had revoked the holder's credential within a time period that appeared to be reasonable, based on the circumstance of the case, and 15 RAP sheets related

to individuals who never were issued credentials, whose credentials have expired, or who were not convicted of a crime requiring mandatory revocation.

However, we found that for three credentials that had been revoked, the division failed to act promptly. Specifically, two of the three cases required the commission to immediately suspend or revoke the individual's credential after receiving court documents. The first case involved an individual convicted of grand theft. The division received the final court documents on April 13, 2010, but did not revoke the credential until May 27, 2010, one and a half months later. Without the revocation, this individual would have had valid credentials through 2012. The second case involved a substitute teacher who urinated in the classroom while students were present. The court prohibited the individual from being in the presence of children without adult supervision, and the individual was not allowed to work as a teacher for one year. The division received the court documents in May 2010 and should have revoked the credential at that time, but it did not revoke the individual's credential until January 2011, six months later. Therefore, these two individuals had access to classrooms longer than they should have.

Finally, the third case involved an instance where the commission may have had to immediately revoke or suspend the individual's credential, depending on the circumstances. The division had a RAP sheet showing that the individual was convicted for contributing to the delinquency of a minor in December 2007. If the crime had included lewd and lascivious conduct, the commission would have had to immediately suspend or revoke the individual's credential. The crime did not include this conduct, but the division did not know this until it opened a case and reviewed it further, which it did not do until May 2008, five months later.

### *The Division Experienced Some Delays in Requesting Additional Information Regarding Criminal Convictions*

We reviewed a random sample of 30 RAP sheets related to both applicants for and holders of credentials to determine the amount of time that elapsed between the division's receipt of information on criminal convictions and its requests for further documentation. For one of the 30 RAP sheets, the name did not match the name for the same Social Security number in the database; therefore, we were unable to test this sample item. The division determined that only four of the reported convictions warranted review and therefore requested additional information for them. For two of the RAP sheets, the division took nine days and 36 days, respectively, after receiving criminal conviction information to request more

information. For the other two RAP sheets, the division did not have evidence that it had requested more information, but its case files contained additional information that was date-stamped 165 days and 10 days, respectively, after receiving criminal conviction information.

For the remaining 25 RAP sheets, the division did not request or receive additional documentation because it determined the reported criminal conviction did not warrant review. For one of these RAP sheets, the division did not obtain additional documentation because the individual ultimately did not apply for a credential; for five of the RAP sheets, the individuals' credentials had expired; and the remaining 19 involved reported violations that the division did not consider severe enough to review. These violations included driving under the influence of alcohol, driving without a license or with a suspended license, reckless driving, traffic violations, theft, infraction of a municipal code, disturbing the peace, and criminal mischief.

### *The Division Did Not Always Promptly Request Additional Information From Law Enforcement Agencies*

We reviewed a random sample of 30 RAP sheets to determine whether the division requested additional information regarding the individuals and the criminal activities included on the RAP sheets and, for those cases for which the division did not request additional information, whether its reasons for not doing so were appropriate. Our review found that the division did not request additional information for 13 of the RAP sheets because the individuals ultimately either did not apply for credentials or did not have current credentials. Further, the division did not request additional information for another 11 RAP sheets because it believed the criminal activities reported were not severe enough to warrant further review. Examples of these RAP sheets included a conviction for driving under the influence of alcohol, a burglary offense as a juvenile, public intoxication, reckless driving, and battery on a spouse.

Finally, for the remaining six RAP sheets, the division requested additional information. Four of these RAP sheets related to individuals who were applying for teaching credentials. When we compared the date the division received these cases to the date the division requested additional law enforcement reports, it took the division 11, 63, 93, and 150 days, respectively, to request law enforcement reports after the individuals actually submitted their applications for credentialing. For one of these cases, although the manager indicated that the division granted the credential for the individual within two days of receiving the case, he was unable to provide an explanation as to the reasons the division granted the

*From the date the division received certain cases to the date it requested additional law enforcement reports, the division took between 11 and 150 days to request law enforcement reports.*

credential before reviewing the records related to the self-disclosed misconduct—a driving-under-the-influence arrest—which the division received approximately 63 days later. The division manager also indicated that staff did not request information about an applicant's public intoxication conviction for 93 days because the case was considered low priority. Finally, he stated that the division took 150 days to request information for an applicant who had been convicted of a misdemeanor for impersonating a police officer because the staff who initially reviewed the case did not believe it warranted a records request. The remaining two RAP sheets were related to individuals who have current teaching credentials. The division requested law enforcement reports immediately in one case and took 204 days in the second case.

### The Division Uses Its Discretion to Close Certain Cases Involving Misconduct Without Presenting the Cases to the Committee for Review

According to the division's discipline workload report for fiscal year 2009–10, the staff, chair of the committee, and executive director discussed strategies to streamline the processing of cases pending review by the committee and decided to give the division the authority to grant applications and close cases for allegations that are under the committee's jurisdiction but that the division determines the committee would not be interested in recommending adverse action. According to the division's assistant general counsel, the division's staff rely on informal guidelines developed by management and legal counsel as part of an evolving process that is based upon the historical actions of the committee when presented with similar cases, conversations with various committee members, and knowledge gleaned from litigation during the administrative hearing process. Division management has relayed these guidelines, which are summarized in the text box, to division staff through informal memoranda, e-mails, and handouts. However, not included in the informal guidance materials the manager provided are detailed conditions and exceptions that are attached to some of the guidelines. For example, the committee holds credential holders to a higher standard than applicants. The manager told us that, as a result, the committee reviews a credential holder's conviction of petty theft for possible discipline, but does not review an

**Guidelines the Division of Professional Practices Uses to Determine the Types of Misconduct That It Does Not Move Forward for Committee of Credentials' Review**

- Alcohol-related offenses not complicated by excessive blood alcohol content, children in the car, injury, or property damage, or do not involve driving to or from school or school property.
- Petty theft.
- Certain misdemeanors.
- Spousal abuse.
- Arrest or conviction cannot be for an offense that requires the Commission on Teacher Credentialing (commission) to deny an application for, or revoke, a credential.
- Arrest or conviction does not imply that a child or school was involved.
- Convictions are not for trespassing or disorderly conduct.
- Misconduct occurred more than five years prior to an application for a credential or no more than one offense involving any of the above within the last five years.

Source: Commission's Division of Professional Practices.

applicant with the same conviction. He also stated that credential holders or applicants with convictions for spousal abuse may or may not be reviewed by the committee depending on the severity of the abuse. Finally, convictions for trespassing or disorderly conduct may be a reduction from more serious criminal charges. According to the manager, the more serious criminal charges are reviewed by the committee, but the less serious charges are not necessarily reviewed by the committee, depending on the underlying activity. However, the guidelines provided by the manager do not include any explanation as how to assess the severity of the criminal charges to determine whether they warrant review by the committee. According to the manager, he is responsible for approving the recommendations of division staff to close these cases, and when the decision is not clear, he seeks the approval of the division's legal counsel.

We reviewed a sample of 168 cases that division staff closed without any committee review or approval between August 1, 2010, and October 31, 2010, and found that the cases involved a variety of types of misconduct. For example, our review found that the division closed 21 cases because the individual had only one conviction for driving under the influence in a five-year period, and closed the remainder of the 168 cases for various other reasons.

### *The Division Exercised Even More Discretion Than Is Detailed in the Guidelines When Closing Cases*

We also found that the division closed some cases that demonstrate the division has exercised even more discretion than is detailed in the guidelines. The following cases highlight the extent of the discretion the division used. One involved a teacher with a history of misconduct involving students, and in another a teacher was originally charged with willful cruelty to a child before being convicted of a lesser offense of loud and unreasonable noise.

The first case involved a 2008 incident in which a teacher required students to sign a statement acknowledging that they would allow the teacher to restrain them if they were disruptive in class. The teacher actually did restrain one student from speaking and tried to restrain her in her chair. The case file included court documents with statements from the students involved describing the events leading up to the teacher's behavior and statements by witnesses of the incident. However, according to case file notes, the case was dismissed and the teacher was reinstated to the classroom. The case file notes state that based on the reinstatement of the teacher, the division's legal counsel recommended that the case be closed without review by the committee, although the committee had reviewed this teacher in 2006 for charges of actions causing injury

to a student. Although the school eventually reinstated the teacher, the committee still had jurisdiction to review the misconduct and reconsider the teacher's fitness to hold a credential. The teacher currently holds a credential and continues to have a license to teach in the classroom.

The second case involved an applicant for a certificate of clearance (required for student teachers) who had been convicted in May of 2001 of loud and unreasonable noise, though the original arrest was for willfully and unlawfully causing a child to be endangered. Division legal counsel determined that the conviction was too old to pursue. Consequently, the credential was issued, allowing the applicant to become a student teacher without being reviewed by the committee.

In two other instances the division closed the cases because division management did not believe the committee would be interested in hearing the cases. One dealt with a conviction for vehicular manslaughter without gross negligence—a misdemeanor—and was closed because the offense did not involve children or aggravating circumstances. The second case dealt with 2007 convictions of inflicting corporal injury and battery on a spouse. The division closed this case in September 2010 because the convictions were old and the division could not prove drug use. In both cases, it was the legal counsel's opinion that the committee would not want to evaluate these cases.

Moreover, we found cases where applicants, when answering professional fitness questions on the applications, disclosed that they had convictions or had not been rehired by their employers, but the division relied on the statements of the applicants regarding those circumstances and did not perform follow-up to ensure the accuracy of the applicants' statements. According to the manager, when an applicant discloses misconduct that may be of concern regarding his or her professional fitness and the explanation is unclear, division staff contact the applicant to obtain a written statement, and either approve the application to be granted due to a lack of disqualifying misconduct or open a case and process the misconduct further. However, he also stated that if division staff determine the explanation indicates there was no misconduct, then the division does not do more research. In addition, he told us that school districts are required by law to disclose allegations of misconduct in specified circumstances. Nonetheless, we found two examples where school districts failed to notify the commission of allegations of misconduct.

*The manager told us that school districts are required by law to disclose allegations of misconduct in specified circumstances. Nonetheless, we found two examples where school districts failed to notify the commission of allegations of misconduct.*

Finally, we found 49 cases where the division granted a credential or allowed the holder to retain the credential without committee review because the convictions were more than five years old. An example of one of these cases involved an individual who failed to disclose in his application five convictions from 1993 to 2001, one for battery of a police officer, three for driving under the influence of alcohol, and one for driving without a license. Despite these circumstances, on the same day that it prepared a final notice of incomplete application requesting that the applicant provide a detailed letter explaining his convictions, the division granted his credential without committee review. In another case, a holder who applied for an additional credential was arrested for spousal battery, but charges were never filed. According to the manager, if the spousal abuse is serious, the division will send the case to the committee, and the committee could recommend an adverse action. However, to decide the seriousness of the spousal abuse, division staff would have to exercise discretion to weigh the misconduct against the standards for investigation in the commission's regulations and the law. As we discuss in Chapter 2, we do not believe the division may lawfully exercise such discretion.

*We found 49 cases where the division granted a credential or allowed the holder to retain the credential without committee review because the convictions were more than five years old.*

### *The Division Approved Applications When Applicants Failed to Disclose Convictions*

The division approved and granted credentials for 59 applicants without committee review despite the applicants' failure to disclose some type of misconduct. Under the law, failure to disclose information on an application, where the applicant intentionally attempted to deceive or mislead, is cause to deny the application for a credential, and the committee has jurisdiction to investigate applicants who fail to disclose convictions, adverse actions or a denial of license, or pending criminal or licensure investigations on their applications. According to the manager, nondisclosure of all misconduct, including convictions, is a concern and a crime. Applicants perjure themselves when they do not disclose misconduct because they sign the application under penalty of perjury. Further, he stated that failing to disclose misconduct is cause for concern when the commission reviews misconduct. However, we found that the 59 applicants had not disclosed as many as four convictions. Examples of the convictions applicants failed to disclose included unemployment fraud, driving without a license, shoplifting, battery, and drug-related offenses. In addition, the division manager stated that the division depends on its other reporting systems to bring the undisclosed misconduct to its attention. However, in a different test we identified a case where the applicant self-disclosed a conviction the division had no record of

receiving, although Justice had sent the RAP sheet in 2008. If the conviction was not self-disclosed, the credential would have been granted without any division review.

The division sends letters to those applicants who do not disclose required information, such as criminal activity, misconduct, pending investigations, revoked or denied licenses, or charges or convictions. The letter also informs the applicant that failure to disclose is considered falsification of an application and grounds for denial of an application, and any future failure to disclose this information on subsequent applications may result in adverse action against the applicant's credential. The database did not show that a letter was issued to 22 of the 59 applicants we identified as failing to disclose.

Moreover, the division uses a form to document approval by division management and legal counsel for closing a case without committee review. If an applicant fails to disclose any required information on the application, the office technician or analyst is to note this on the form. However, for 12 of the 59 applications in which the applicants failed to make a required disclosure, division staff did not mention the nondisclosure on the form. Therefore, division management and legal counsel may have authorized case closures without knowing that the applicants had failed to disclose information on the applications.

### Recommendation

To comply with the law and reduce unnecessary workload, the division should continue to notify Justice of RAP sheets for individuals in whom the division is no longer interested, so Justice will no longer notify the division of criminal activity for these individuals.

# Chapter 2

## THE DIVISION OF PROFESSIONAL PRACTICES NEEDS FURTHER IMPROVEMENT IN ITS PROCESSING OF EDUCATOR MISCONDUCT

### Chapter Summary

Although the Division of Professional Practices (division) has taken steps to improve its processing of reported educator misconduct, more improvement is needed. We expected to find that the division conducted strategic planning that addressed the internal and external challenges it faces in accomplishing its mission. The plan would also need to address the issue of whether the Committee of Credentials (committee) can reasonably address all 5,000 annual misconduct cases itself, as the law states, or whether it needs to develop a legally defensible method of delegating certain cases to staff based on explicit written direction for resolving certain types of misconduct cases. We also expected this explicit written direction to result in comprehensive written procedures that would ensure consistency in how misconduct reviews are performed and decided.

In order for the division to effectively manage its workload, we expected to find accurate and complete workload information that informed management of the number of cases, types of cases, length of time a case spends in each stage of resolution, and the person responsible for the case, as well as reports on the extent to which it was meeting performance benchmarks contained in its strategic plan. Integral to this is a system to ensure that all reports of misconduct received are identified with a unique identifier so that the status and resolution of each can be tracked. Without these types of effective management practices in place, the public is at risk because the Commission on Teacher Credentialing (commission) may be slow, or may fail, to revoke a teacher's credential, even though the teacher may be unfit to perform the duties authorized by the credential. Although we expected to find the types of controls previously discussed, we did not.

For example, the commission's strategic plan does not address the important challenges the division faces in accomplishing its functions. According to the assistant general counsel, the committee can review only about 50 to 60 cases each month. However, the division's fiscal year 2009–10 workload statistics report shows the division opened between 4,288 and 5,662 cases annually during fiscal years 2005–06 through 2009–10. As such, staying current with its workload has prompted the division to exercise discretionary decision making regarding the closure of

certain types of cases of reported misconduct—discretion that is lawfully reserved for the committee. In addition, the division has not collected the workload data needed to assist in determining the required level of staff to meet the workload.

Moreover, the division has not developed comprehensive written procedures for reviewing reported misconduct. Such procedures are necessary to inform division staff of management's policies and procedures, serve as reference material, and provide a training tool for new employees. Importantly, the commission's Credentialing Automation System Enterprise (database) that the division uses to track the cases it reviews and investigates does not always contain complete and accurate information. The database currently provides a number of reports that the division believes assist management and staff in processing cases more quickly. However, based on the inaccuracies we found in the database, we question how useful the reports will be to the division in assisting it to monitor its workload. Also, the division has not developed and implemented procedures to account for all reports of educator misconduct it receives.

Although the division recently implemented reports and processes intended to better manage its workload and to track cases and complaints of criminal notifications, the reports lack the information necessary to make them efficient case-tracking and management tools, and they do not always address the problems we identified during our review. For example, its reports do not include reasons for case delays, meaning that effective oversight of the cases listed in the reports requires time-consuming additional research to identify case status.

### The Division's Strategic Plan Does Not Address Important Challenges to Promptly Process Reports of Educator Misconduct

Despite the workload backlogs, the division's strategic planning does not fully address the challenges it faces or the staffing levels necessary for accomplishing its mission. The commission has defined its mission, in part, as to ensure integrity and high quality in the preparation, conduct, and professional growth of the educators who serve California's public schools.

The strategic planning materials the division provided include many of the elements suggested for effective strategic planning. For example, the document labeled as the strategic plan includes the commission's vision, mission, and goals as adopted by it in 2007. The division's action plans for achieving those goals include task descriptions, performance measures, timelines to complete the tasks, and notes relating to the tasks and their completion.

However, the materials the division provided do not include an assessment of the external opportunities, threats, and strategic issues facing the division. A detailed evaluation of trends, conditions, opportunities, and obstacles should direct the development of the strategic plan and serve as the basis for justifying the commission's decisions regarding its goals, objectives, strategies, and performance measures. However, the division faces a number of obstacles to performing its duties that are not addressed in its strategic planning.

Specifically, the materials the division provided do not include an assessment of the strategic issues facing the division, such as the limited capacity of the committee (whose members volunteer time) to process the necessary workload and the staffing levels for the division. The strategic planning documents indicated the commission surveyed external stakeholders. However, the responses primarily discussed the division's performance and cited two themes from the survey: be more timely in informing stakeholders on legal actions and continue to safeguard children through background checks and disciplinary actions. The strategic planning documents did not indicate the results of an assessment of internal factors, such as surveys of employees. According to the division's Support Section manager (manager), the commission's strategic planning consultant conducted confidential surveys in small group sessions to encourage open dialogue, but the commission did not have any additional information regarding the outcome of those sessions.

### *The Division Has Not Addressed the Committee's Limitations on the Number of Misconduct Cases It Can Review Each Month*

The limited capacity of the committee to review reported misconduct restricts the division's ability to promptly process cases. According to the assistant general counsel and the division's manager, the committee can review only about 50 to 60 cases each month, whereas the division's fiscal year 2009–10 workload statistics report shows the division opened between 4,288 and 5,662 cases annually during fiscal years 2005–06 through 2009–10. Members of the education community, including teachers, administrators, and board members, as well as representatives of the public, make up the committee. Committee members are expected to work three to four days each month to fulfill the duties of the committee. As a result, in its current configuration it is doubtful that the committee members, who typically also have full-time jobs, could spend more time on committee activities, thereby increasing the number of cases the committee reviews. While the law might permit division staff to review and close some reported cases of misconduct under the limited circumstances discussed on page 51, only the committee may weigh

*The committee can review only about 50 to 60 cases each month, whereas the division's fiscal year 2009–10 workload statistics report shows the division opened between 4,288 and 5,662 cases annually.*

the impact of misconduct on students and exercise discretion to determine whether to recommend that the commission discipline the credential holder or end an investigation without a recommendation for discipline.

### *The Division Has Not Collected the Workload Data Needed to Identify Its Staffing Needs*

Further, division management has not collected the workload data needed to identify the staffing levels necessary to accommodate the division's workload. According to the manager, the division prepares a monthly workload statistics summary report that displays the number of major tasks staff completed. He stated that the summary reports are a basic management tool, but the reports could provide some of the data needed to identify staffing levels. He provided the monthly summary reports for July 2010 through January 2011. However, he added that he did not have any plans to use the reports to identify necessary staffing levels at this time.

The division has established timelines for performing some activities connected to processing cases. The timelines include an anticipated number of days and a lesser number of days for each activity listed. However, in a March 2008 letter to the Service Employees International Union, the commission characterized the timelines as part of a tracking system to ensure that cases are processed within the statutory-based timelines that, if exceeded, would cause the commission to lose its authority to discipline a teacher who is convicted of a crime and should not be with children. According to the letter, the tracking system will notify staff and management when tasks are not completed within a specified time. The commission stressed that the timelines will not be used to discipline staff.

*Until the division develops guidance on the amount of time required to perform case processing, it cannot determine the staffing levels it needs to ensure that it can effectively process its workload.*

To develop some guidance on the amount of time required to perform case processing and thereby determine the number of staff required to perform the various tasks, the division will need to collect specific data. For example, the division will need data regarding the time required to process a variety of case types, ranging from minor offenses for which the division takes no action, to cases that require the gathering of information surrounding the offense so that management and legal counsel can know the severity of the misconduct, to cases that require an investigation by the division and a hearing by the committee. Until it does so, the division cannot determine the staffing levels it needs to ensure that it can effectively process its workload.

## The Division Has Expanded Its Role in the Discipline Process to Address Its Backlog

In an effort to expedite the processing of cases, the division has expanded its role in determining which cases of reported misconduct should be presented to the committee for review and which cases can be closed by division staff without review by the committee. Our review of some of the division's cases, as presented in Chapter 1, revealed that at times the division's staff closed cases where the committee had jurisdiction, but without presenting the cases to the committee for its consideration, review or approval of the division's actions to close them. In closing these cases, the division is required to apply the standards for investigation from the commission's regulations, also known as the Morrison factors and shown in text box no. 2 in the Introduction on page 10, and exercise discretion and judgment to analyze whether a relationship exists between alleged misconduct and the applicant or credential holder's fitness, competence, or ability to teach. According to the assistant general counsel, lower-level staff review the misconduct reports and recommend case closures, which are approved by division management and, sometimes, division legal counsel. In making these decisions, the division's staff rely on informal guidelines developed by management and legal counsel as part of an evolving process that is based upon the historical actions of the committee when presented with similar cases, conversations with various committee members, and knowledge gleaned from litigation during the administrative hearing process. According to the assistant general counsel, the commission interprets the California Education Code (Education Code) as giving division staff the legal authority to exercise discretion to close cases without committee consideration, review, or approval. However, because the guidelines lack sufficient specificity and have not been formally approved or adopted by a quorum of the committee, our legal counsel has advised that by permitting the division's staff to exercise judgment in closing cases that are not presented to the committee for consideration, review, or approval, the committee is unlawfully delegating its discretion.

*Because guidelines lack sufficient specificity and have not been formally approved or adopted by the committee, permitting division staff to exercise judgment in closing cases that are not presented to the committee is unlawful.*

## The Division Lacks Comprehensive Procedures to Ensure the Consistency of Its Misconduct Reviews

The division does not have comprehensive written procedures to ensure the consistency of its reviews of reported misconduct, in accordance with management's policies. Moreover, in the Financial Integrity and State Manager's Accountability Act of 1983 (act), the Legislature declared that state policy requires each state agency to, among other things, maintain effective systems of internal accounting and administrative control as an integral part of its management practices. The act defines internal controls, in part, as methods

to promote operational efficiency and encourage adherence to prescribed managerial policies, and states that these controls must include an established system of practices to be followed in the performance of duties and functions in state entities.

Sound management practices, in order to be consistently followed and unequivocally understood, require that each state entity develop a comprehensive procedures manual for its internal business and financial processes. Such written procedures serve a variety of functions. For example, they provide written notice to all employees of the entity's expectations and practices, provide direction in the correct way of processing transactions, serve as reference material, and provide a training tool for new employees. Without clearly written current procedures, an internal control structure is weaker because practices, controls, guidelines, and processes may not be applied consistently, correctly, and uniformly throughout the entity.

However, according to its manager, the division does not have a comprehensive procedures manual. When we asked for the division's procedures, we were given a collection of discrete documents that included a publication produced by the commission in 2009 titled *California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel*, court decisions, flowcharts, e-mails, a PowerPoint presentation of the discipline process, a user's manual for case activities that describes how to enter data into the commission's database, a data dictionary that describes terms used in the database, and procedures for processing and entering reports of arrest and prosecution (RAP sheets) into the database.

*We found that the division has not updated the user's manual to reflect the addition of and changes to codes it uses to track reports of misconduct.*

We found that the materials the division provided as its procedures are not all consistently used, are not all current, nor are they all kept in a central location for staff to access when processing their cases. For example, the *DPP User's Manual for Case Activities* (user's manual) that the division uses when entering information into its database is not current and is not always followed by staff. Specifically, we found that the division has not updated the user's manual to reflect the addition of and changes to codes it uses to track reports of misconduct. For example, the division created a new code in the database in 2010 as a pilot project to use when entering certain types of misconduct into the database. The division manager communicated the use of this new code to staff through an e-mail. However, although the e-mail indicates that the new codes should be used to record misconduct, such as recording a first-time arrest for driving under the influence, it did not identify the other types of offenses that would be applicable to the new code. Further, although using the code has become standard practice, the procedures the commission provided us did

not include communication to staff that the use of the code was no longer considered a pilot project and that the division had adopted the procedure. According to the manager, the procedures may not all be current because the division is small, implements changes quickly, and had competing priorities. He also stated that because the division is in a phase of constant change, keeping the manual up to date would involve constantly changing the procedures manual. Nevertheless, maintaining current procedures and ensuring staff follow them is essential for consistent and efficient reviews of misconduct.

In addition, our testing identified that staff used the case activity codes inconsistently and did not always enter information in the database's case notes tab as the user's manual directs. For example, the user's manual requires the division to record the RAP sheets it no longer needs within the case activities section of the database, but we observed instances in which the division entered RAP sheets in a section other than the one indicated in the user's manual.

Moreover, although the division manager indicated that staff can access many of the division's procedures on a shared drive, we question whether these procedures contain the most up-to-date information. For example, the division has communicated through e-mails but has yet to formalize guidance that it provides for processing those cases it determines the committee does not need to review. During our fieldwork, the division manager confirmed the informality of these guidelines by handwriting the effective dates on the e-mails he provided, in addition to making handwritten edits. The fact that handwritten notes were made to these documents indicates that staff may not have access to the appropriate versions of these procedures. Further, the division continues to modify its guidelines through e-mails to staff. Consequently, the lack of up-to-date, formalized procedures does not provide staff with clear direction for performing their duties.

*The lack of up-to-date, formalized procedures does not provide staff with clear direction for performing their duties.*

Finally, we also found that the division does not have written procedures established for the staff that perform specialized tasks. During the audit we identified staff with unique specialized duties, which means that in their absence, the ability of the division to perform its work is limited. Three important areas include processing the school district misconduct letters received, determining the priority of cases for committee review, and preprocessing applications for all staff. The division's manager and supervising investigator pointed to the division's reliance on the experience and knowledge of the staff and the confidence they have in these staff to accurately perform their duties as the justification for the specialization of duties. However, reliance on one person to handle a specific task without written procedures for others to

follow in their absence leaves the division vulnerable to inconsistent practices in the processing of incoming misconduct reports, which may affect the outcome of the discipline process.

### The Database the Division Uses to Manage Its Workload Does Not Always Provide Accurate or Complete Information

*The database contained many errors and did not always contain complete information on criminal reports of misconduct that Justice provides to the commission.*

The database the division uses to track the cases it reviews and investigates does not always provide accurate and complete information. According to the division, it is working toward refining its database so that it can be used to identify and track documents, applications, and cases as the division processes them. The manager stated the division ensures that the data entered into the database is accurate, and he indicated that the division provides staff on-the-job training and a case activities manual. He also stated that through the day-to-day operations of the division, supervisors and attorneys review files for completeness and accuracy. However, when we compared the data contained in the database to the division's paper files, we found that the database contained many errors and did not always contain complete information on the criminal reports of misconduct that the California Department of Justice (Justice) provides to the commission. Moreover, the database currently provides a number of reports that the division believes assist management and staff in processing cases more quickly, but as we discuss in greater detail in a later section, based on the inaccuracies we found in the database, we question how useful the reports will be to the division in assisting it in monitoring its workload.

As discussed in the Scope and Methodology, we assessed the reliability of the commission's database. As part of our assessment, we conducted accuracy testing on three samples: one of case activities, one of RAP sheets sent by Justice, and one of reports from the National Association of State Directors of Teacher Education and Certification (NASDTEC), and traced key data elements to the source documentation in the commission's case files or electronic NASDTEC reports. We found no accuracy errors in the key fields related to RAP sheets and NASDTEC reports, but found several errors in the key fields related to case activities. Specifically, in our sample of 28 case activities, we found three errors in the data field that tracks the date an activity begins and in the field that describes which activity is being performed, such as a request for court documents or Department of Motor Vehicles records and two errors in the field that describes the action that needs to be taken, such as opening a case.

Accordingly, we determined that the commission's database is not sufficiently reliable to identify the number of various types of reports of misconduct, the actions taken by the committee, the recommendations for adverse action, and the number of days between the date that division staff opened and closed a case for cases the committee did not review that were opened during the period of January 2007 through June 2010.

In addition to our accuracy testing, we found in other samples we tested that there were discrepancies between the information in the database and the associated paper files. We identified five case files where there were no documents in the paper file to support an entry in the database, such as the division's request for additional information about a case; another case where the division issued document request letters, but the requests were not noted in the database; and 18 dates recorded in the database that were one month or more after the division actually received the paper document. In addition, the division could not locate paper files for two cases we reviewed.

Moreover, we found a number of problems with the division's tracking of RAP sheets within its database, which we discussed in Chapter 1 on page 37. Again, we question how useful the improvements to the database will be in processing reported misconduct and monitoring the division's workload if the existing database contains inaccurate and incomplete information.

Finally, we also reviewed the database in order to determine whether changes or adjustments made to the records in the database are adequately supported. We found that the database contains an audit log for selected changes its staff make to data stored in the database. However, the commission began tracking changes to the data field containing the date an activity began in May 2010. Therefore, this would only allow us to test data related to the last 48 days of our audit period. Because this significantly limited our ability to test a sample of changes made to the system, we instead performed a review of the controls over data changes and reviewed the controls that limit users' access.

In conducting this review, we identified a significant weakness in the commission's controls over whether records are appropriately deleted from its database. We met with commission staff to obtain the policies and procedures related to managing data changes. We found that the commission lacks policies and procedures for managing changes and deletions to its database. Additionally, we found that the division did not require supervisorial review and approval of records to be deleted from the database. In fact, division management was unaware that staff could delete vital information, such as cases related to misconduct or activities related to cases. We also determined that the database contains no link between a

*The commission lacks policies and procedures for managing changes and deletions to its database and did not require supervisorial review and approval before records are deleted from the database.*

deleted record and the individual to which that record pertains. Therefore, we were unable to determine if deletions the division's staff made were appropriate. In response to our inquiries, in February 2011 the division manager directed staff not to delete cases, modified the database to remove the "delete case" function, and developed case deletion procedures.

### The Division Needs to Further Improve Its Controls Over the Receipt of Reports of Misconduct

Although in some instances the division has been successful in improving its procedures to ensure that all reports of misconduct it receives are accounted for and processed, we found that more improvement is needed. Reports of misconduct may come from various sources, as discussed in the Introduction on page 12. In the past, the division did not always track all of the reports of misconduct it received; thus, the division could not ensure that it had processed all of the reports. Recently, however, the division developed a series of management reports intended to account for the reports of misconduct it receives. Although these new management reports assist the division in tracking some types of reports of misconduct, they are not accounting for all of them. Additionally, we identified some problems with the lack of information contained in the new management reports the commission is generating.

*We identified some problems with the lack of information contained in the new management reports the commission is generating.*

For example, the Certification, Assignments, and Waivers Division (certification) within the commission is responsible for evaluating and processing applications from individuals who are applying to obtain their credential. In the past, the commission did not have an effective method for informing the division of those applications that contain self-disclosures of misconduct or those applications connected to some types of criminal behavior. Specifically, certification did not adequately inform the division of which applications were ready for review. At times, this caused the division to delay the processing of some of these cases. However, according to the division manager, in either February or March 2010, the commission began using two reports to track applications from certification, which the division manager believes has corrected the previous difficulties the division had in accounting for these applications. These two reports—the Daily Application Report and the Application Aging Report—are generated from the database. According to the division manager, his division uses these reports to ensure that it is aware of the applications that are ready for processing. However, the Application Aging Report we reviewed did not always reflect accurate information. Specifically, we reviewed 12 applications included in the Application Aging Report. The report indicated that the

division had yet to open a case for six of these applications. However, when we reviewed the six applications, we found that the division had, in fact, opened cases for two of them. Thus, we question the usefulness of this report. In another example, in the past, when certification received the RAP sheets from Justice, it would provide hard copies to the division. At the time, the division did not have a process to track the RAP sheets until its staff reviewed the hard copies of the RAP sheets and opened cases, when necessary. Thus, the division had no way to ensure that all RAP sheets it received were appropriately processed. However, the division indicated that in February 2010 it began to implement a process to more closely track the RAP sheets. Specifically, certification now simply forwards the electronic file it receives from Justice to an employee within the division, who is responsible for making an initial determination as to the category of the criminal misconduct identified in the RAP sheet, as shown in the text box, and enters the RAP sheet and the category into the commission's database. On a daily basis, the division prints out a report that summarizes the RAP sheets it has received as well as a weekly summary report. According to the division manager, these reports allow his division to track the RAP sheets before they become a case or are closed by division staff, and they assist staff in prioritizing their work.

Although we agree that this new process of tracking reports of criminal misconduct is an improvement over the old one, we found that the division lacks a control process to ensure that all the RAP sheets are entered into the database, and also to ensure that staff enter RAP sheets accurately. For example, the analyst responsible for receiving and reviewing the RAP sheets stated that she compares the incoming record counts from Justice with the number of criminal misconduct reports she processed, but she does not maintain a record documenting her verification. Additionally, the division manager stated that he does not perform any type of reconciliation to ensure that the total number of RAP sheets entered into the database during a given period agrees with the total sent by Justice during that same period or that the information his staff enter into the database accurately reflects the information in

**Categories the Division of Professional Practices Uses to Process Reports of Arrest and Prosecution**

**Reports of arrest and prosecution (RAP sheets) that require additional processing:**

- **New:** The level of misconduct likely will not require review by the Committee of Credentials (committee), nor does the misconduct require mandatory action by the committee.
- **Potential letter of inquiry:** The level of misconduct will potentially require the committee's review.
- **Potential mandatory:** The level of misconduct potentially requires a mandatory action by the Commission on Teacher Credentialing (commission). These RAP sheets are a priority and require immediate processing.
- **Open-case update:** The Division of Professional Practices (division) had previously opened a case for the individual and is still processing the prior misconduct.

**RAP sheets that do not require additional processing:**

- **Duplicate:** The individual was fingerprinted on multiple occasions, and thus the RAP sheet appears to be a duplicate and contains the same arrest or conviction information.
- **Red flag return to the California Department of Justice:** The individual is no longer a credential holder or does not have a current application on file. Further, the date of the misconduct was not during the time the person's credential was in effect, if applicable.
- **Already reviewed:** RAP sheets for misconduct that the division has already reviewed.
- **Traffic:** RAP sheets involving minor traffic violations, such as speeding.
- **Infraction:** RAP sheets involving violations of local ordinances or charges that have been reduced from a minor misdemeanor to an infraction.
- **First offense driving under the influence (DUI):** RAP sheets that involve only one DUI offense.
- **No action needed:** RAP sheets involving situations in which there may have been an arrest but no formal charges were filed.

Source: Division's "RAP process."

the RAP sheets. In fact, our review of one weekly report revealed that staff entered an offense code incorrectly, and in a second report staff did not categorize a RAP sheet correctly. Furthermore, in some instances division staff may classify incoming RAP sheets having the same offenses under different levels of severity. If management does not perform any type of review over how staff classifies RAP sheets, the division risks classifying them incorrectly. Improper identification of the severity of the reported misconduct can lead the division to improperly assess the potential harmful effects of the misconduct on students and schools and to inappropriately dispose of allegations of misconduct.

*The division manager stated that he does not perform any type of quality control review to ensure that his staff are performing appropriate queries or making notes within the database.*

Additionally, approximately once a month, the division receives notifications from NASDTEC that include information listing educational personnel who have received disciplinary action in other states. Division staff query the commission's database for the names contained in the NASDTEC report. If they find a match, they open a case and request additional documentation regarding the misconduct noted in the NASDTEC report. According to the office technician responsible for receiving and processing the NASDTEC reports, she indicates on a spreadsheet for each individual whether there was a match and provides the number of matched individuals to a staff services analyst for reporting purposes. However, the division manager stated that he does not perform any type of quality control review to ensure that his staff are performing appropriate queries or making notes within the database for all of the educational personnel listed within the NASDTEC report.

Finally, the division also lacks a systemic process to ensure that it effectively accounts for and processes all other types of reports of misconduct that it receives through the mail. According to the division's supervising investigator, he is responsible for the processing of reports of misconduct other than RAP sheets, such as school and school district reports, affidavits, and testing reports. The supervising investigator provided documentation demonstrating that he tracked incoming affidavits on a spreadsheet, but he did not have in place a process to do the same for schools, school districts, and other reports. Additionally, more than one staff member is responsible for receiving and tracking these reports. For example, the office technician responsible for opening the mail stated that he forwards incoming school district reports related to already-open cases to the analyst or investigator assigned to the case, but when there is not an open case in the database, he gives them to a designated staff member. The supervising investigator stated that he also receives the incoming school district reports directly from the mail in those situations in which an open case does not yet exist in the database. In addition, the office technician who opens the mail told us that he does not prepare a listing of

the school district reports the division receives. As a result, the division does not independently prepare records of the reports it receives to facilitate accountability. Because these reports are received by multiple staff members, and because the division does not document the initial receipt of the reports from the time of mail delivery, the division cannot be certain it tracks reports in a way that ensures all reports it receives are accounted for and that staff appropriately process them.

### The Division's Case-Monitoring Efforts Continue to Need Refinement

Although the division recently implemented reporting tools intended to enable it to better manage its workload and track cases and notifications of misconduct, the reports lack the information necessary to make them efficient case-tracking and management tools. In a December 2010 report, the division stated that it had finished its case-tracking system, which identifies and tracks documents, applications, and cases as they are processed through the division; provides weekly reports to staff and management to ensure that cases are processed in a timely way; and identifies high-priority cases and notifies management when activities related to these cases are not completed. However, we found that the new case-tracking reports do not address all of the problems we identified during our review of the division's investigation of reports of educator misconduct as described in Chapter 1. For example, its reports do not include the reasons for case delays, and thus effective oversight of the cases listed in the reports requires time-consuming research of paper case files to identify case status. In addition, the reports that the database produces are populated with information that, as we described in an earlier section, is inaccurate and incomplete. This brings into question how useful these reports can be.

*The new case-tracking reports do not address all of the problems we identified during our review of the division's investigations of reports of educator misconduct.*

According to its manager, the division created its first overall workload report—a Monthly Executive Summary—in January 2011. The division populates this report using information contained in the database. The report captures information such as the number of cases waiting to be opened, based on applications and RAP sheets; the number of cases opened and closed during the month; the number of cases pending assignment to an analyst; and the number of cases pending assignment to an investigator. Our cursory review of this first report noted that it does not contain workload information related to other documents, such as school district reports or other notifications that can result in the division opening and investigating a case. However, because the division only started using this report in January 2011, we were unable to assess how useful it will be to the division in the future.

### Division of Professional Practices' Reports

Daily Application Summary and Application Aging Report: Accounts for and tracks incoming applications from the Certification, Assignments, and Waivers Division and informs the Division of Professional Practices' (division) manager of the division's application workload of unopened cases for the purpose of determining staff workload priority.

Daily Incoming RAP Sheet/Attachment Report and Weekly RAP Sheet Status/Summary Report: Tracks incoming reports of arrest and prosecution (RAP sheets) from the California Department of Justice and helps division staff determine which cases to open based on priority.

First-Time DUI Person Notes Report: Documents the incoming RAP sheets for which division staff do not pursue a case because the offense was a first-time charge of driving under the influence (DUI) and helps the division ensure it does not overlook a recurring pattern of minor misconduct.

Potential Letter of Inquiry/Mandatory Aging Report: Tracks the most recent staff activity on the division's high-priority cases and helps the division manager follow up with staff and ensure they are making progress on these cases.

My Team–Advanced Notification of Activity Deadline Report and My Team–Manager Notification of Activities Exceeding Deadlines Report: Summarizes and displays activities that are overdue or will become overdue by an indicated number of days.

Case Investigations Pending Letter of Inquiry Report: Tracks the division's most serious cases likely to be reviewed by the Committee of Credentials and helps the supervising investigator assign these cases based on age and severity.

Source: Commission on Teacher Credentialing.

In addition to the Monthly Executive Summary workload report, the division recently developed other reports that the division's manager believes provide many benefits, as shown in the text box. However, we found that the division could still improve the contents and use of the reports in several areas. For example, many of the division's new reporting tools lack information pertaining to case status that would allow the division's management to understand the reasons for delays in case processing time and to determine whether delays are due to staff mismanagement of the cases or related to reasons outside of the division's control. The division's manager informed us that division staff may spend more time on some cases than others. For example, according to the manager, the division may take longer to process some cases because it is waiting for an applicant's or credential holder's conviction or waiting for the court or arresting agency to send documents, or because it forwarded the case to the Attorney General's Office for processing.

However, we found that the division's reports do not always contain reasons to explain why cases included in these reports still appear to need the division's action. For example, we found cases that appeared to be waiting for the division's action for as long as 441 days included on the Application Aging Report, the report that, according to the manager, the division uses to determine the priority of the applications for a credential that require the division to perform additional investigations. In fact, this report shows that in December 2010, 17 percent of the applications that the division needed to investigate further were more than 180 days old, with one application listed as being 1,025 days old. In another example, although the supervising investigator indicated that he uses the Case Investigations Pending Letter of Inquiry Report to assign cases to his staff, we found that he had not yet assigned one case that, according to the report dated December 15, 2010, was opened in September 2007. When we questioned division management as to the reasons older cases are included on these reports and appear to still be open or pending division action, division management stated that they would have to review the paper case files in order to understand the details of the cases and to respond to our inquiry. If

these reports do not contain information regarding the reasons staff have not recently worked on the older cases the reports contain, we question their usefulness.

*The division does not have a system or report to track its cases once it commences the investigation process.*

Further, the division does not have a system or report to track its cases once it commences the investigation process. Specifically, the supervising investigator, who is responsible for assigning investigations, does not track specific cases through to committee review. Instead, he stated it is the responsibility of the staff assigned to the case to indicate in the database the committee review date for the case and to ensure the case is fully prepared by the date it goes to the committee. These cases are listed in agendas that a staff member prepares for committee meetings, but the supervising investigator does not perform any reconciliation to ensure the specific cases he assigned are reviewed by the committee. Additionally, according to the supervising investigator, staff have the ability to close a case within the database without scheduling it for the committee's review. Therefore, for these types of cases, the division is unable to ensure that staff have not erroneously closed a case before the committee reviews it. However, according to the supervising investigator, he is in the process of testing a report that will track these cases and expects to formalize the process in the next two to three months.

Additionally, the manager and supervising investigator stated that they use various reports as a tool to review employees' work. For example, they both indicated that they use the My Team–Advanced Notification of Activity Deadline Report (My Team report) to monitor staff's overdue activities and to identify whether staff require additional assistance with their workload, and the Potential Letter of Inquiry/Mandatory Aging Report to monitor staff progress on the most important cases. Although management stated that they discuss with staff concerns they note during their reviews of the reports, they do not document their reviews. The manager was able to provide examples of e-mails he sends to staff indicating what their priorities should be based on the information within the reports, and he stated that "staff noncompliance will continue to show on the My Team report as an overdue activity." However, because division management does not review completed activities performed by staff, they cannot know whether the My Team report provides an accurate reflection of overdue activities.

Furthermore, the report the manager stated he uses to determine workload and potential inventory issues, the My Team–Manager Notification of Activities Exceeding Deadlines Report, simply identifies the number of activities for which a staff member has exceeded the time frames established by division management. As we discussed earlier in this report, the manager indicated that these time frames are not performance standards but merely an

index of processing times designed to provide an early warning of delays in processing cases. Our review of the report dated December 20, 2010, shows that division staff had 813 overdue activities related to cases. When we asked the manager whether this was an indication that the division was behind in its workload, the manager informed us that it was not. Instead, he stated that this report was not developed to determine whether the division was behind in its workload, but was, in part, meant to allow the division to reallocate workload among the staff.

*Although the division's reports include the date the case was opened and the overall age of a case, we found that it does not include the significant dates identified in the law.*

Finally, the division does not include in its reports information necessary to ensure that it does not lose jurisdiction due to time-based statutes. According to the Education Code, any allegation of an act or omission by the holder of a credential except for an allegation of sexual misconduct with a minor or recurring conduct resulting in a pattern of misconduct must be presented to the committee for initial review within four years from the date of the alleged act or omission, or within one year from the date that the act or omission should reasonably have been discovered, with the initial review commencing on the date that the division mails the written notice to the applicant or credential holder informing the individual that his or her fitness to hold a credential is under review. Although the division maintains reports that include the date the case was opened and the overall age of a case, we found that it does not include in any of its reports the significant dates identified in the law. Having these dates available in a report would allow the commission to ensure that it does not lose jurisdiction over a case because it has exceeded the one- or four-year requirement. In fact, our review of the case files found one instance, although not for a serious crime, for which the commission did lose jurisdiction. According to the commission, it interprets the law to mean that the commission has one or four years from the time of conviction to begin an initial investigation. However, in response to an appeal of a recommendation for adverse action, an administrative law judge disagreed with the commission's interpretation, citing the plain language of the law. Nonetheless, the manager indicated that he was more concerned with the date since the last activity on a case rather than the overall age of the case because the overall age is not a good indication of whether a case is moving forward and is on track. Finally, the law also states that, without an extension from the commission chair, the committee shall conduct its formal review within six months of beginning its initial investigation. According to the division's Case Investigations Pending Letter of Inquiry Report procedures, division staff should enter the six-month date into the database when assigning a case to investigation. However, the supervising investigator informed us that the division does not use a report to specifically track this date.

## Recommendations

The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee, and determine the goals and actions necessary to accomplish its mission.

To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload.

The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice.

Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month.

The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct.

The division should provide the training and oversight, and should take any other steps needed, to ensure that the case information in its database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information.

The commission should continue to implement its new procedures related to deleting cases from its database to ensure that all such proposed deletions are reviewed by management for propriety before they are deleted and a record is kept of the individuals to which each such deleted case record pertains. Further, the commission should develop and implement policies and procedures related to managing changes and deletions to its database.

To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self-disclosures of misconduct, it should develop and implement procedures to create a record of the receipt of all these reports that it can use to account for them. In addition, the process should include

oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability.

To adequately address the weaknesses we discuss in its processing of reports of misconduct, the division should revisit management's reports and processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:

- Reduction of the time elapsed to perform critical steps in the review process.
- Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.
- Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.
- An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases.
- Clear evidence of management review of reports intended to track the division's progress in its investigations of misconduct.
- Clear tracking of the dates at which the commission will lose its jurisdiction over the case as a result of the expiration of statute-based time frames for investigating the misconduct.

In addition, the division should develop and implement procedures to track cases after they have been assigned to the investigative process.

# Chapter 3

## FAMILIAL RELATIONSHIPS CONTRIBUTE TO EMPLOYEES' PERCEPTIONS THAT THE COMMISSION ON TEACHER CREDENTIALING'S HIRING AND PROMOTION PRACTICES ARE COMPROMISED

### Chapter Summary

Familial relationships among the employees of the Commission on Teacher Credentialing (commission) appear to have a negative impact on many employees' perception of their workplace. We administered a survey to 188 commission employees, of whom 136 (72 percent) responded. The survey asked questions regarding familial relationships, nepotism, and employee favoritism at the commission, and their impact on the commission's hiring practices and the staff's ability to file a complaint without fear of reprisal. Of the employees who responded to our survey, 40 percent felt that familial relationships or employee favoritism compromised the commission's hiring and promotion practices. In fact, employees responding to our survey provided the names of 24 previous or current employees at the commission that they perceived as having familial relationships with one another. When we reviewed the commission's hiring procedures and processes and its nepotism policy, we identified some flaws that may have given rise to these perceptions. For example, we found that the commission did not have a complete and current set of approved hiring procedures and, in some cases, was unable to provide documentation supporting its justification for appointments. Consequently, the commission is vulnerable to allegations that its hiring decisions are unfair and that employment opportunities are not afforded equally to all qualified candidates.

The commission's processes for filing Equal Employment Opportunity (EEO) complaints and grievances are intended to mitigate the fear of retaliation by allowing employees to file EEO complaints or grievances with designated personnel and outside agencies instead of with their direct supervisors. However, when asked whether they had filed a grievance or EEO complaint with the commission, 7 percent of the survey respondents indicated that they had filed a grievance and 3 percent reported filing an EEO complaint. Although it would appear that some of its employees are aware of the commission's policies regarding complaints and grievances and have taken advantage of the process, some may be unaware of the complaint processes and others may have refrained from taking such actions because of their fear of retaliation. In fact, 43 percent of those employees who responded to our survey indicated that they would have some fear of retaliation if they

were to file either a grievance or an EEO complaint. Additionally, 21 percent of the employees responded that they were not aware of the EEO complaint process, and 33 percent indicated that they were not aware of the grievance process. Thus, we believe the commission could do a better job of informing employees of these processes and explaining the protections they provide.

## Recent Exam and Appointment Decisions May Have Contributed to Employees' Negative Perception of the Commission's Employment and Promotion Practices

In general, the survey responses indicated that a large percentage of commission employees have a negative perception of the commission's employment and promotion practices. Specifically, 40 percent of the employees who responded to our survey indicated that they felt the commission's hiring and promotion practices were compromised by familial relationships or employee favoritism, and nearly half of these employees responded that this was often a problem. A survey that the commission itself conducted in 2010 had similar results. Specifically, 31 percent of the respondents to the commission's survey disagreed with the statement: *Eligible employees in my division are promoted based on merit.* Furthermore, 26 percent of the employees who responded to our survey believed that familial relationships among commission employees negatively affect supervision, security, or morale and/or create a conflict of interest.

To better understand the survey respondents' perceptions, we asked them to provide additional comments related to some of the questions. The text box provides examples of commission employees' comments related to familial relationships and employee favoritism at the commission. We also asked respondents to voluntarily identify known relationships among commission employees to ascertain the extent of familial relationships within the commission. Respondents provided the names of 24 current and previous employees who they perceived are or were at one time related to one another. Employees responding to our survey also included in their comments the names of some commission employees who they perceived as being favorites or personal friends of those in management positions.

**Examples of Comments Made by Commission on Teacher Credentialing Employees Responding to Our Survey Regarding Familial Relationships and Favoritism at the Commission**

- When we took an OT (office technician) exam, one sister was on the panel while the other was one of the competitors.
- When the Commission on Teacher Credentialing (commission) employed student assistants, three of the student assistants were related to staff.
- In terms of familial relationships, relatives are hired and promoted over equally or better qualified employees.
- We currently have managers that have hire[d] six friends from their previous departments.
- When going through the hiring process they ignore the requirements and just hire whomever they want. The person they hire is usually a friend of the hiring manager.
- Many individuals are hired because they are friends with a manager or supervisor. Many individuals are given promotions because they are favored by the manager. Management will put someone in a classification that they do not have to clear through DPA (Department of Personnel Administration) or SPB (State Personnel Board) in order to give that person a promotion.

Source: Comments included in commission employee responses to the Bureau of State Audits' September 2010 survey.

We reviewed the commission's nepotism policy and hiring and promotion practices to determine whether it had controls in place to mitigate the negative impacts that familial relationships appear to have on the perspective of commission employees. The commission updated its nepotism policy during our fieldwork in October 2010. In its previous nepotism policy, the commission indicated its intent to ensure that its civil service system was free of favoritism resulting from personal relationships in the areas of hiring, evaluations, and promotions. The new policy is designed to reinforce management's commitment to fair and impartial employee selection, supervision, and evaluation and to create a fair and merit-based employment environment. According to the new policy, supervisory and management staff within a given department or division are responsible for implementing and conforming to the policy, and supervisors and managers should be aware of potentially sensitive situations involving personal relationships within their areas of responsibility.

As part of our review of the controls it has in place over its hiring and promotion decisions, we asked the commission to identify the specific policies and procedures it uses when making these types of decisions. However, we found that the commission's staff struggled to identify the specific policies and procedures the commission uses. More specifically, when we first asked staff in the commission's office of human resources for any policies and procedures regarding hiring and promotions, they pointed to various manuals, guides, and handbooks developed by the State Personnel Board (board), the Department of Personnel Administration, and the Department of General Services. Although we agree that it is appropriate for the commission to refer to the guidance provided by these agencies when making staffing decisions, we continued to inquire about hiring guidelines developed specifically for the commission. Accordingly, we were surprised when, after our repeated requests and more than two months into our review of its hiring and promotions practices, the human resources manager told us that the commission also relies on a draft hiring guide dating back to 2007 that has not been finalized. Although the human resources manager indicated that the commission relies on this draft hiring guide, she cautioned us that the guide is outdated and underutilized by commission staff, and that the commission is in the process of implementing a new set of hiring requirements. Further, the human resources manager indicated that the commission hired an employee in February 2010 whose function was to update all of the commission's policies and procedures; however, this employee was redirected to work on other commission priorities and has not updated the hiring guide. By not clearly identifying for its human resources staff and hiring managers the standards they should be following when making

*The commission relies on a 2007 draft hiring guide that is outdated and underutilized by commission staff, and the commission is in the process of implementing a new set of hiring requirements.*

hiring and promotion decisions, the commission risks making unfair or illegal decisions regarding exams and appointments and may be more susceptible to accusations of unfair hiring practices.

To ensure that the commission was following appropriate guidelines when making decisions involving hiring and promotions, we selected three exams that the commission conducted between January and September 2010 and used to establish eligibility lists. One of these exams had been mentioned by survey respondents as an example of an employee or candidate receiving special treatment because of a familial relationship. We also selected a sample of 10 appointments to review from among the names of staff identified in the survey responses as having familial relationships with one another, or as having a personal relationship with other commission employees. We limited our sample to those appointments that occurred between November 2008 and November 2010 because we wanted to focus on the commission's most recent employment decisions. Our sample included the appointment of three student assistants, three promotions, three transfers from another agency, and one training and development appointment. Our review identified several concerns that may have given rise to some of the employees' negative perceptions of nepotism within the commission.

*We found that the commission's office of human resources allowed the eligibility exam to take place even though the human resources manager became aware that one of the candidates was related to a member of the exam panel.*

Although the commission appears to have followed appropriate guidelines when it administered the exams to establish two of the three eligibility lists we reviewed, it did not do so for the third exam. Specifically, we found that the commission's office of human resources allowed the eligibility exam to take place even though the human resources manager became aware that one of the candidates was related to a member of the exam panel. According to the California Code of Regulations, if a candidate taking an oral exam is related to a member of the exam panel, the interviewer is required to disqualify himself or herself from the interview and any discussion about the interview and the rating of the candidate. The commission's human resources manager, who was also a member of the exam panel, allowed the examination to continue even though she became aware of the familial relationship. Subsequent to the exam, the commission's office of human resources informed the candidates of the exam results. However, according to the human resources manager, after some of the commission's managers complained about the exam, the office of human resources decided to cancel the original exam and the eligibility list that resulted from it. The human resources manager indicated, however, that when she contacted the board to cancel the eligibility list, she was told that no list existed. She later learned that it did not exist because staff within the office of human resources had not entered the exam results into the board's system correctly. Ultimately, the commission held a second exam to establish an eligibility list for

the same position. This second exam was also part of our sample. In response to an appeal related to these two exams, the board ruled that the commission had applied a correct remedy by invalidating the original exam. The situation just described was mentioned by several employees who responded to our survey as an example of the type of favoritism they believe has occurred at the commission.

In addition, several survey respondents expressed concerns about the number of student assistants the commission employed who have familial relationships with others at the commission or who have personal relationships with those in hiring positions. In fact, one of the organizational charts we reviewed shows that at one time five of the student assistants who survey respondents identified as being related to others at the commission worked in one of the commission's divisions, although not in the same division as their family members. We chose a sample of three appointments of student assistants from among those who the respondents identified and found that, although the commission followed appropriate guidelines when it hired two of the student assistants in our sample, it did not do so when it hired the third student assistant. Specifically, we found that one student assistant the commission hired, who survey respondents noted was related to another employee at the commission, submitted her application for employment 49 days after the final filing deadline, yet the commission accepted the application. Furthermore, the division hiring manager who hired this student did not interview her for the position, as was done with the other student assistants in our sample, because, according to the hiring manager, she had previously worked for him and he knew she had the experience he was looking for in his unit. Additionally, the human resources manager informed us that the office of human resources does not always maintain proper documentation to support the hiring of student assistants.

*One student assistant the commission hired, who survey respondents noted was related to another employee at the commission, submitted her application for employment 49 days after the final filing deadline, yet the commission accepted the application.*

Finally, our review of seven other appointments found that the office of human resources did not always maintain documentation to support the commission's hiring decisions. Specifically, the commission's draft hiring procedures state that the hiring supervisor must have predetermined, job-related rating criteria for interview questions and screening. In addition, the draft procedures state that at the conclusion of the hire, the hiring supervisor must send all the applications and interview materials for the recruitment to the human resources analyst for filing and retention. These documents must include all screening criteria, rating sheets, interview questions, interview rating sheets, reference check sheets, and any other material used in the selection process. However, we found that the commission did not retain hiring documentation or appointment justifications for four of the seven appointments we reviewed. Additionally, the commission's

*By not following its hiring practices and procedures for all appointments, including student assistants, the commission may not be able to deflect accusations and perceptions of favoritism when it hires applicants who are related to commission employees or are friends of those in management positions.*

draft hiring procedures require that the human resources analyst mark candidates' eligibility on their applications before sending the applications to the hiring supervisor. We were unable to determine the eligibility for one appointment due to a lack of documentation. While the remaining six appointments we tested were eligible candidates, the office of human resources did not indicate candidate eligibility on four of these six applications. By not following its hiring practices and procedures for all appointments, including student assistants, the commission may not be able to deflect accusations and perceptions of favoritism when it hires applicants who are related to commission employees or are friends of those in management positions. Consequently, the commission is vulnerable to allegations that its hiring decisions are unfair and that employment opportunities are not afforded equally to all qualified candidates.

### Many Surveyed Employees Reported That They Were Not Aware of the Commission's Grievance Process or EEO Policy

Responses to the survey we conducted of the commission's employees found that 33 percent of the 136 employees who responded were unaware of the commission's grievance process and 20 percent were unaware of the commission's EEO policy. Furthermore, 43 percent of the survey respondents stated that they have some level of fear of retaliation if they were to file a grievance or EEO complaint, with 12 percent expressing a high level of fear. A survey that the commission administers annually reflected similar employee beliefs and, while the two most recent surveys showed a declining trend in the percentage of respondents indicating that they feel they cannot speak up about issues without facing retaliation, responses to our survey indicate the need for continued improvement.

The commission's employees can file complaints, including ones alleging violations of EEO laws that prohibit employment discrimination and ones alleging violations of their terms of employment. The commission's EEO policy encourages employees to discuss their complaint issues with supervisors or other commission management on an informal basis first, but also informs commission employees that they have the opportunity to initiate formal complaints through the commission's director of human resources or through an outside organization, such as the California Department of Fair Employment and Housing or the federal EEO Commission. Employees can file EEO complaints alleging sexual harassment or discrimination based on race, religious affiliation, gender, or other protected characteristics. California and federal laws provide protections to employees

making complaints of discrimination under those laws. For example, California law states that employers may not discharge, expel, or otherwise discriminate against a person who opposed an unlawful employment practice or filed a complaint, testified, or assisted in a proceeding regarding discriminatory employment practices based on characteristics such as race, age, or sexual orientation. While the commission's EEO complaint process is designed to resolve issues on an informal basis, it ultimately allows employees to file EEO complaints with designated personnel and outside agencies instead of their direct supervisors, and thus mitigates the threat of retaliation for filing a complaint.

With respect to grievances, bargaining unit agreements and rules established by the Department of Personnel Administration define separate processes for employees represented by bargaining units and those that are not represented. According to the director of the administrative services division, although the commission's administrative manual contains a section on grievance procedures, those procedures are superseded by the procedures included within the commission employees' bargaining unit contracts. She also stated that managers and supervisors consider informal grievances, which typically are not reported to the office of human resources. Finally, according to its manager, the office of human resources takes a "hands-off" approach to grievances and directs employees to the Department of Personnel Administration's Web site for more information.

To ensure that its employees are aware of its EEO policy, the commission posts the policy on its employee intranet for all commission employees to view. When we asked whether the commission provides training to its employees on its EEO and grievance processes, the director of the administrative services division, who is also the EEO officer, informed us that employees are directed to review the various policies posted on the employee intranet for EEO issues, and that the commission does not provide training on the grievance process. She also indicated that new employees meet with their supervisor or manager to discuss items outlined in the orientation checklist that employees sign during the new employee orientation. However, when we reviewed the checklist that the commission provided, we found that it did not include an item specific to the commission's EEO policy until after the commission revised its policy in January 2011. Additionally, the director of the administrative services division told us that the commission does not provide any ongoing periodic training to its employees on any of these policies or procedures. Although the commission believes it has made its employees aware of these policies, 33 percent of the employees

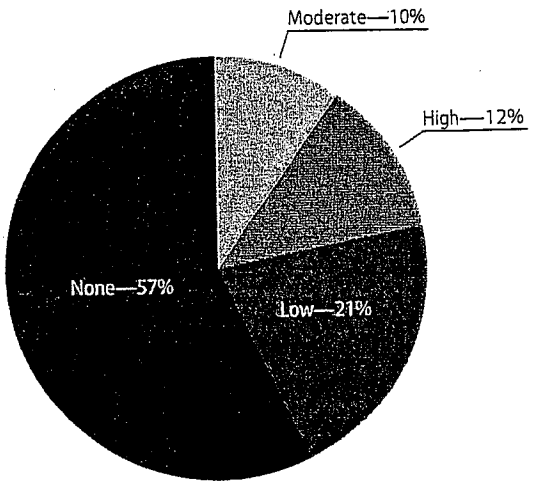
*The commission did not include an item specific to the commission's EEO policy as part of its new employee orientation until after the commission revised its policy in January 2011.*

who responded to our survey indicated they were unaware of the process for filing a grievance and 21 percent indicated they were not aware of the commission's EEO policy.

When we asked the employees surveyed whether they had ever filed a grievance or EEO complaint with the commission, 7 percent of the respondents indicated that they had filed a grievance and 3 percent reported that they had filed an EEO complaint. When we asked the commission to provide a list of complaints and grievances filed within the last two years, the commission reported that employees had filed a total of two grievances and two EEO complaints during that period. Thus, it would appear that some of its employees are aware of these policies and have taken advantage of the grievance and complaint process. However, others may be unaware of the complaint processes, or they may have refrained from taking these actions because of a fear of retaliation.

Indeed, as previously stated and as shown in Figure 5, roughly 43 percent of the employees who responded to our survey indicated that they have some fear of retaliation if they were to file either a grievance or an EEO complaint.

**Figure 5**
**Level of Fear of Retaliation Among Survey Respondents if They Were to File a Grievance or Equal Employment Opportunity Complaint (by Percentage of Respondents)**




Source: Commission on Teacher Credentialing employee responses to the Bureau of State Audits' September 2010 survey.

The commission's most recent annual survey showed a similar level of fear among commission employees. In 2008 the commission administered an agencywide employee survey, and more than 30 percent of the respondents either disagreed or strongly disagreed with the statement: *People at CTC* (Commission on Teacher Credentialing) *can speak up without fear of retribution*. In 2009 this value changed to 32 percent disagreeing or strongly disagreeing, and in 2010, 21 percent of survey respondents stated that they either disagreed or strongly disagreed with the statement.[4] While the commission's surveys reflect a declining trend over the past two years in the percentage of respondents indicating that they cannot speak up about issues without fear of retaliation, the responses to our survey reflect the need for continued improvement. Consequently, we believe opportunities exist for the commission to mitigate its employees' fear of retaliation for filing complaints by thoroughly explaining the EEO complaint and grievance processes, and by having management express its commitment to following these processes diligently and protecting employees from any retaliation.

## Recommendations

To better ensure that its hiring decisions are fair and that employment opportunities are equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should do the following:

- Prepare and/or formally adopt a comprehensive hiring manual that clearly indicates hiring procedures and identifies the parties responsible for carrying out various steps in the hiring process.

- Maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.

- Hiring managers should provide to the commission's office of human resources documentation supporting their appointment decisions, and the office of human resources should maintain this documentation so that it can demonstrate that the hiring process was based on merit and the candidate's fitness for the job.

[4] In 2010 the statement read, *I can speak to management about issues without fear of adverse consequences.*

To ensure that employees understand their right to file either an EEO complaint or a grievance, and to reduce any associated fear of retaliation, the commission should do the following:

- Include in its EEO policy a statement informing staff members that they may make complaints without fear of retaliation.
- Actively notify employees annually of its EEO complaint and grievance processes, including the protection from retaliation included in both.
- Conduct training on its EEO complaint process on a periodic basis.

We conducted this audit under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the scope section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,

Elaine M. Howle

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State Auditor

Date: April 7, 2011

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# Appendix A

## ADDITIONAL INFORMATION IN THE AUDIT REQUEST

Tables A.1 and A.2 on the following page present information obtained from the Credentialing Automation System Enterprise (database) of the Commission on Teacher Credentialing (commission) that identifies information as requested by the Joint Legislative Audit Committee (audit committee). As noted in the Scope and Methodology section of this report, the information presented in tables A.1 and A.2 is based on data we determined was not sufficiently reliable. Nevertheless, we reported the results of our analysis of these data, because it is the only source of the information available. Specifically, Table A.1 shows, by calendar year, the number and type of reports of misconduct the commission processed, the number of cases that staff closed without review by the Committee of Credentials (committee), the number of committee recommendations for adverse action, and the number of respondents who requested an administrative hearing regarding those adverse actions. Table A.2 shows the amount of time the Division of Professional Practices (division) took to process those cases that it did not send to the committee.

In October 2010 the commission provided us with an extract of its database for all cases it opened from January 2007 through June 2010. The audit committee asked us to identify the number and type of reports the commission received and processed. However, because the commission does not always record in the database the number of reports of misconduct it receives, we could not provide all this information. Nevertheless, in Table A.1 we do present the number of reports of misconduct the commission processed that we could identify. Further, we were asked to identify the number of self-disclosures of misconduct. However, we could only provide the self-disclosures on application forms submitted electronically because the commission's database does not contain the self-disclosures submitted by hard copy. Since only 17 percent of the applications were submitted electronically and presenting only this segment could be misleading, we do not present the number of self-disclosures of misconduct. Additionally, we were asked to identify the number of allegations involving reports of criminal convictions closed without committee review. However, we were unable to identify this information because the California Department of Justice sent more than 291,000 reports of arrest and prosecution for both credential holders and credential applicants during the period of January 2007 through June 2010 which contain both arrests and convictions, so we could not electronically differentiate between arrest reports and conviction reports. Finally, the audit committee asked us to identify the number of reports of misconduct and allegations that the commission did not pursue because of time-based statutes, but again we were unable to provide this information because the commission does not track time-based statutes in its database.

**Table A.1**
Additional Information Specified in the Audit Request

| AUDIT REQUEST | 2007 | 2008 | 2009 | 2010* | TOTALS |
|---|---|---|---|---|---|
| **Number and type of reports the Commission on Teacher Credentialing (Commission) processed** | | | | | |
| Affidavits | 42 | 17 | 20 | 13 | 92 |
| School reports | 259 | 250 | 246 | 74 | 829 |
| National Association of State Directors of Teacher Education and Certification (NASDTEC) notifications† | 179 | 76 | 14 | 14 | 283 |
| Testing agency misconduct reports | 6 | 0 | 12 | 0 | 18 |
| Reports of arrest and prosecution (RAP sheets)‡ | 2,694 | 3,219 | 2,887 | 2,863 | 11,663 |
| **Number of cases staff closed that the Committee of Credentials (committee) did not review** | | | | | |
| Cases closed without committee review§ | 2,922 | 2,629 | 4,188 | 2,504 | 12,243 |
| **Number of committee recommendations for adverse action and respective requests for appeal** | | | | | |
| Committee recommendations for adverse action | 48 | 394 | 441 | 320 | 1,203 |
| For the adverse actions recommended, the number of respondents requesting an administrative hearing‖ | 0 | 70 | 139 | 129 | 338 |

Source: Bureau of State Audits' analysis of the Commission's Credentialing Automation System Enterprise (database).

* Data current through October 18, 2010.

† Includes the number of NASDTEC reports in the database, not the number of NASDTEC reports that the association sent.

‡ Includes the number of RAP sheets in the database, not the number of RAP sheets that the California Department of Justice sent.

§ Cases for which commission staff were responsible for closing (credential holders) or granting a credential (credential applicants).

‖ By calendar year of adverse action recommendation.

**Table A.2**
The Number of Days the Division of Professional Practices Took Between Opening and Closing a Case for Cases the Committee of Credentials Did Not Review That Were Opened From January 2007 through June 2010

| DAYS | NUMBER OF CASES | PERCENTAGE OF CASES |
|---|---|---|
| 0 to 29 | 5,674 | 48.6% |
| 30 to 59 | 1,280 | 11.0 |
| 60 to 89 | 768 | 6.6 |
| More than 90 days | 3,947 | 33.8 |
| Totals | 11,669* | 100.0% |

Source: Bureau of State Audits' analysis of the Commission on Teacher Credentialing's Credentialing Automation System Enterprise.

* This total does not include cases closed in fewer than zero days that appear to be errors in the data, and therefore will not match the total in Table A.1

# Appendix B

## SURVEY RESPONSES FROM EMPLOYEES AT THE COMMISSION ON TEACHER CREDENTIALING

Table B presents certain responses to a survey we distributed to employees working at the Commission on Teacher Credentialing (commission) as of August 31, 2010. The survey asked questions regarding the processes for filing Equal Employment Opportunity (EEO) complaints and grievances, as well as employees' perceptions of familial relationships among commission staff. To distribute the survey, the commission provided a listing of all employees' e-mail addresses.

Of the 188 employees surveyed, we received 137 responses, but we excluded one as it was from an e-mail address to which we did not distribute the survey. We reviewed the remaining 136 responses, which represented a response rate of 72 percent. We compiled and analyzed the results, which are presented here. As part of our survey, we provided employees with the option of providing additional information about the division in which they work, their employee classification, and the length of time they have been employed by the commission. The table indicates the number of employees providing this optional information but does not give the actual comments they provided.

**Table B**
Survey Results Related to Grievances, Equal Employment Opportunity Complaints, and Familial Relationships

| QUESTION | PERCENTAGE OF YES RESPONSES | PERCENTAGE OF NO RESPONSES |
|---|---|---|
| Are you aware of the commission's process for employees to file a grievance? | 67% | 33% |
| Are you aware of the commission's Equal Employment Opportunity (EEO) policy? | 79 | 21 |

| QUESTION | NUMBER OF RESPONDENTS | PERCENTAGE OF RESPONDENTS |
|---|---|---|
| Have you ever filed a grievance or EEO complaint with the commission? | | |
| Grievance | 8 | 6% |
| EEO complaint | 2 | 2 |
| Both | 2 | 2 |
| Neither | 124 | 90 |

continued on next page...

| QUESTION | NUMBER OF RESPONDENTS | PERCENTAGE OF RESPONDENTS |
|---|---|---|
| Are you satisfied with the grievance or EEO complaint processes at the commission?* | | |
| Grievance | | |
| Not satisfied | 5 | 50% |
| Somewhat satisfied | 4 | 40 |
| Completely satisfied | 1 | 10 |
| EEO Complaint | | |
| Not satisfied | 3 | 75% |
| Somewhat satisfied | 1 | 25 |
| Completely satisfied | 0 | 0 |
| Do you fear retaliation from your supervisor or upper management if you file a grievance or EEO complaint? | | |
| None | 78 | 57% |
| Low | 28 | 21 |
| Moderate | 14 | 10 |
| High | 16 | 12 |

| QUESTION | PERCENTAGE OF YES RESPONSES | PERCENTAGE OF NO RESPONSES |
|---|---|---|
| Are you related to anyone else who works for the commission? | 7% | 93% |
| Is your immediate supervisor or manager related to another person who works at the commission? | 9 | 91 |

| QUESTION | NUMBER OF RESPONDENTS | PERCENTAGE OF RESPONDENTS |
|---|---|---|
| If you are a supervisor or manager, are any of your employees related to another person who works at the commission? | | |
| Yes | 9 | 7% |
| No | 16 | 12 |
| Not applicable—I am not a supervisor/manager | 111 | 81 |

| QUESTION | PERCENTAGE OF YES RESPONSES | PERCENTAGE OF NO RESPONSES |
|---|---|---|
| Are familial relationships adversely impacting your ability to work professionally? | 8% | 92% |
| For the above question, we asked respondents to provide any comments or explanation they felt appropriate and explained that these comments could appear in our final report attributed to a commission employee. | 15 Responded | 111 Responded |

| QUESTION | PERCENTAGE OF YES RESPONSES | PERCENTAGE OF NO RESPONSES |
|---|---|---|
| Has the presence of familial relationships prevented you from filing a grievance or EEO complaint because you feared negative repurcussions? | 8% | 92% |
| For the above question, we asked respondents to provide any comments or explanation they felt appropriate and explained that these comments could appear in our final report attributed to a commission employee. | 8 Responded | 6 Responded |

| QUESTION | NUMBER OF RESPONDENTS | PERCENTAGE OF RESPONDENTS |
|---|---|---|
| If you are a supervisor or manager, have you ever been reluctant to take disciplinary action against an employee because of his or her familial relationship to another employee of the commission? | | |
| Yes | 1 | 1% |
| No | 23 | 18 |
| Not applicable—I am not a supervisor/manager | 107 | 81 |

| QUESTION | NUMBER OF RESPONDENTS | PERCENTAGE OF RESPONDENTS |
|---|---|---|
| Do familial relationships among current commission employees create either of the following? | | |
| Adverse impact on supervision, security, or morale | 5 | 4% |
| Potential conflict of interest | 12 | 9 |
| Both | 17 | 13 |
| Neither | 97 | 74 |
| Are the commission's hiring and promotion practices compromised by familial relationships or employee favoritism? | | |
| Never | 78 | 60% |
| Sometimes | 28 | 21 |
| Often | 25 | 19 |
| For the above question, we asked respondents to provide any comments or explanation they felt appropriate and explained that these comments could appear in our final report attributed to a commission employee. | 45 | 33 |
| We also asked respondents to identify up to 10 known relationships between commission employees related by blood, marriage, domestic partnership, or adoption and to only identify relationships that have the potential to create an adverse impact on supervision, security, or morale, or involve a potential conflict of interest. | 43† | 32 |
| How long have you worked for the commission?‡ | | |
| Less than five years | 47 | 35% |
| 5–10 years | 21 | 15 |
| 10–15 years | 32 | 24 |
| 15–20 years | 7 | 5 |
| More than 20 years | 18 | 13 |
| Did not answer | 11 | 8 |

| QUESTION | NUMBER OF RESPONDENTS | PERCENTAGE OF RESPONDENTS |
|---|---|---|
| In which division do you work? ‡ | | |
| Administrative Services Division | 7 | 5% |
| Certifications, Assignments, and Waivers Division | 50 | 37 |
| Division of Professional Practices | 31 | 23 |
| Enterprise Technology Services Section | 12 | 9 |
| Professional Services Division | 22 | 16 |
| Did not answer | 14 | 10 |
| Please select your role: ‡ | | |
| Analyst | 58 | 43% |
| Legal | 6 | 4 |
| Manager or career executive assignments | 19 | 14 |
| Supervisor | 4 | 3 |
| Support staff (nonsupervisory) | 32 | 24 |
| Did not answer | 17 | 12 |

Source: Commission employees' responses to the Bureau of State Audits' September 2010 survey distributed to 188 commission employees.

* Additional question for respondents who answered the question *Have you ever filed a grievance or EEO complaint with the commission?*

† Identified one or more relationships.

‡ Optional survey questions.

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*(Agency comments provided as text only.)*

Commission on Teacher Credentialing
1900 Capitol Avenue
Sacramento, CA 95811

March 24, 2011

Ms. Elaine M. Howle, CPA*
State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

The Commission on Teacher Credentialing staff has reviewed the draft audit findings entitled "Commission on Teacher Credentialing: Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices Has Not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs" received March 28, 2011. As a state agency we appreciate the review of our policies and practices, we believe that there is always room for improvement. First and foremost the Commission takes it role of enforcing professional discipline very seriously balancing the safety of the California school children and the due process rights of educators. It is important to note the Commission did not miss any deadlines established in the Education Code in any of the cases cited in the report did nor were there any reported cases of children being harmed. However, as the report demonstrates in some instances the Division of Professional Practices (DPP) could have processed some of the cases more efficiently. It should be noted that other cases listed in the report were delayed due to statutory timelines and court document delays, both of which are outside the control of the Commission. Specific examples are noted in our response to the Summary and Chapter 1. (1)

As noted in the report, DPP has been in the process of moving from a paper based process to a computer based process. Many of the database omissions noted in the report stem from the fact that the data was in the paper files. This transition from a paper based system to a computer based system occurred during the same time frame as the data chosen for reviewed by the Bureau of State Audits. Consequently one would expect the data in the computer to be incomplete, however when the auditors reviewed the paper files they did not find errors. (2)

The report also notes that there was a backlog of reports of arrest and prosecution (RAP sheets). However the report fails to emphasis that the backlog was identified nine months prior to this audit and once identified by management, additional resources were added to DPP to process the backlog. As noted in the report, these RAP sheets had been prioritized and the RAP sheets in the backlog consisted of reports of arrests and minor offenses. The report does not note that all RAP sheets are processed on a daily basis and currently there is no backlog and there hasn't been a backlog since June 2010. (3)



* California State Auditor's comments begin on page 103.

Attached you will find the Commission's response to the individual recommendations made in the report as well as our response to the Summary, Chapter 1, Chapter 2 and Chapter 3. As you will see in our response to the recommendations, we concur with almost all of the recommendations

Sincerely,

*(Signed by: Dale A. Janssen)*

Dale A. Janssen
Executive Director

Attachment

## Responses from the Commission on Teacher Credentialing regarding the Recommendations from the Bureau of State Audits

| BSA Recommendations | Commission Responses |
|---|---|
| Recommendation One:<br>The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee in overcoming those challenges, and the goals and actions necessary to accomplish its mission. | Response:<br>The Commission will consider the recommendations of the audit report when it next revises its strategic plan. (4) |
| Recommendation Two:<br>To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload. | Response:<br>The Commission concurs with the recommendation and will start to collect data to identify needed staffing levels. |
| Recommendation Three:<br>The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct. After the commission receives the attorney general's legal advice regarding the division's authority to close investigations without committee review, the commission should take all necessary steps to comply with the attorney general's advice. | Response:<br>The Commission will consider whether or not it is necessary to request an opinion from the Attorney General. (4) |
| Recommendation Four:<br>Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month. | Response:<br>Whether or not an opinion from the Attorney General is sought, any decision regarding changes to the current Committee structure should only be considered following a study by the Commission, stakeholders, and policy makers. (4) |
| Recommendation Five:<br>The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct. | Response:<br>The Commission concurs with the recommendation and will assign staff to develop comprehensive written procedures. |

| | |
|---|---|
| Recommendation Six:<br>The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in its database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information. | Response:<br>The Commission concurs with the recommendation and will begin training and oversight to ensure the database has accurate data. |
| Recommendation Seven:<br>To comply with the law and reduce unnecessary workload, the division should continue to notify Justice of individuals for whom the division is no longer interested in receiving RAP sheets. | Response:<br>The Commission concurs with this recommendation and implementation was initiated in March 2011. |
| Recommendation Eight:<br>(5) To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self disclosures of misconduct, the division should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability. | Response:<br>The Commission concurs with the recommendation and implementation has already been initiated through the use of the CASE tracking system. |
| Recommendation Nine:<br>(5) To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit management's reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:<br>• Reducing the time elapsed to perform critical steps in the review process.<br>• Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.<br>• Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.<br>• An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases. | Response:<br>The Commission concurs with the recommendation and implementation has already been initiated through the use of the CASE tracking system. |

| | |
|---|---|
| Recommendation Ten:<br>To better ensure that its hiring decisions are fair and that employment opportunity is equally afforded to all eligible candidates, and to minimize employees perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should do the following:<br>• Prepare and/or formally adopt a comprehensive hiring manual that clearly indicates hiring procedures and identifies parties responsible for carrying out various steps in the hiring process.<br>• Maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.<br>• Hiring managers should provide to the commission's Office of Human Resources documentation supporting the appointment decision and the Office of Human Resources should maintain this documentation so that it can demonstrate that the hiring process was based on merit and the candidate's fitness for the job. | Response:<br>The Commission concurs with the recommendations and will assign staff to develop a comprehensive hiring manual. |
| Recommendation Eleven:<br>To ensure that employees understand their right to file either an EEO complaint or grievance, and to reduce any associated fear of retaliation, the commission should do the following:<br>• Include in its EEO policy a statement informing staff members that they may make complaints without fear of retaliation.<br>• Actively notify employees annually of its EEO complaint process and grievance process, including the protections from retaliation included in both.<br>• Conduct training on its EEO complaint process on a periodic basis. | Response:<br>The Commission concurs with this recommendation and will assign staff to develop a revised EEO policy. However, the Commission does not agree with the recommendation to notify employees about the grievance process, as this is the role of the specific unions represented by Commission employees. (6) |

Commission on Teacher Credentialing Response to:
"Commission on Teacher Credentialing: Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices Has Not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs"

Response to Summary

(7) As the report states the Division of Professional Practices (Division) did experience a backlog in the processing of rap sheets that grew to unacceptable levels. We are pleased that the report recognizes the Commission's efforts to eliminate this backlog and its successful efforts in doing so. In addition the report acknowledges that the Division has instituted new procedures, and better use of technology to prevent unnecessary delays, to identify workload problems and provide assistance in preventing future backlogs. We welcome the recommendations provided in the report to make the case tracking system more robust and provide improved data for future planning as well as accountability. Because the audit came shortly after the Division's transition to the implementation of a new case tracking system that implementation is still ongoing and we are confident that when fully implemented as well as with the addition of the recommendations in this report future delays will be eliminated. Most significantly as a result of the implementation of new rap processing procedures in February 2010 electronic raps are now entered into the system the same day they are received, sorted by priority and tracked. In addition, paper raps are now scanned and entered into the system as part of the electronic file. While this does not eliminate the workload that results if a case is opened, it does eliminate the number of raps waiting to be processed.

(1) Despite the workload issues noted in the report during the period under review, the report notes that it has no evidence that any case was time barred by the statute of limitations and at all times the Commission met its statutory timelines for review. In addition, at no time did a delay cause a case to be closed because of the (8) statute of limitations. The report notes that during this same time period the Division closed 48% of its cases within 30 days and 67% in less than 90 days. Finally, and most importantly the Commission has never had a complaint or a report that a delay in processing has caused harm to a student.

(9) The cases cited in the report are troublesome when viewed in hindsight and without context. No one would disagree that if the allegations are proven to be true, the credential holder should no longer be allowed to continue to hold a credential. However, each case must be viewed in context and within the laws and rules that govern the discipline process.

(10) There is a constitutional guarantee of a presumption of innocence until proven guilty. An arrest without more does not give rise to jurisdiction for the Committee to conduct an investigation of a credential holder. The Division receives many notices of arrests and tracks the arrests to determine if charges are filed and whether there is a conviction and sentencing.

In addition to its own enabling statute and regulation, the Division is required to follow the rule of law as determined by the constitution, case law and other statutes impacting or limiting its actions.

Except in certain cases involving serious felonies, credential holders by law maintain their credentials and have a right to have an existing credential renewed during the entire review process. This is a result of a basic constitutional right termed "due process" which provides that a person cannot generally be deprived of a property right without notice and the opportunity to be heard. The statutory scheme approved by the legislature is premised upon such due process principles.

As a result of improvements implemented since February 2010, upon receipt of a rap sheet a case is identified as a potential mandatory and special tracking procedures are followed. The case, if it continues to be a mandatory, is followed throughout the criminal justice process from charges being filed, court appearances and continuances and finally a conviction, acquittal or hung jury and then sentencing. The practice of the Division is to track such cases and then following sentencing if there is a conviction, revoke the credential. The audit report criticizes the Division's handling of the mandatory offenses in two respects: failing to identify potential mandatories and undue delay in finalizing a mandatory. The first criticism underscores the difficulties in this area: Of the six cases identified, one case was never a potential mandatory; in two others, the only raps received were notifications that charges had been dropped and finally a case correctly identified by staff as a potential mandatory became a drug diversion case and was no longer a potential mandatory. (11) (12)

The criminal justice system does not always operate quickly. If a case is fully adjudicated it can take years to conclude. In addition there are actions taken which preclude the Division from acting on such cases where the credential holder is allowed to enter drug diversion, or when a court stays sentencing for a period of time and there is no final action. It was not uncommon prior to 2009 for a credential holder charged with a mandatory revocation offense to enter into a plea bargain that allowed a plea to an offense that was not a mandatory offense but with conditions of probation that limit contact with minors. Until legislation sponsored by the Commission which was effective January 2009 under such circumstances the credential holder maintained the credential until the discretionary review was completed (Education Code §44423.6, added by Stats. 2008, c.578).

The summary does cite several conditions that it concludes were poor practices that in turn led to a workload backlog. It also lists average times it took to process a case. It states there were unreasonable delays and cites examples where the data in the case tracking system is incomplete. In doing so several important facts are overlooked.

1. Many of the delays are a result of external factors beyond the Commission's control such as timely responses to requests for information from police agencies and courts as well as school districts as well as the varied length of time it can take to conduct a police investigation or prosecute a case in court. As a result it is impossible to state that any case is average. The important factor to consider is that statutory deadlines were met. (13)

2. In both the summary and throughout the report there are numerous examples provided where an activity was not completed based on the erroneous conclusion that if a record of that activity was not found in the Division's newly implemented case tracking system, the activity or task either wasn't done or was not done in a timely fashion. As stated above, during the period in question the Commission implemented the new case tracking system, however it continues to be primarily

(14) a paper based system and will be for several years to come. As such, cases which were not listed in the audit report as not being "worked" because the information could not be found electronically were in fact processed and information sought without delay particularly with respect to potential mandatory revocation offenses and there is evidence in the paper based file that such activity occurred. Other information could not always be found electronically because some of the cases reviewed were prior to implementation of the system and others were while staff was in process of transitioning and being trained on how to correctly use the new system. We do acknowledge that this timeliness cannot always be demonstrated with respect to cases prior to the case tracking system which was precisely why the system was implemented. The case tracking system will give the manager immediate visibility of the technicians workload and ensure cases are processed timely.

3. Setting an average time does not take into account the type of misconduct involved or the need to prioritize certain cases. We acknowledge that some cases took longer to open, process and request documents. Whenever possible these cases involved lower level misconduct such as a misdemeanor shoplifting case or a report of contract abandonment, neither of which would result (14) in a revocation of a credential. However in some of the cases noted that were prior to the case tracking system, there were unreasonable time delays which again reiterates the need for the case tracking system.

(15) The finding on page 33 that in 11 of 29 cases sampled it took more than 80 days to open a case is reflective of the prior process. Of those cases one ended in a revocation, six were suspensions and the remainder grants, closes and public reprovals. The sample used did not include any rap sheets or applications received (14) subsequent to the implementation of the new case tracking system and none of the cases listed were opened after implementation of the new system.

(16) The audit report also concludes that the Division should not await the conclusion of a criminal prosecution but should begin a dual investigation. This issue was discussed with several members of staff and cogent and lengthy reasons were provided to the BSA regarding the potential problems that could occur. The audit report does not give any merit to experienced legal staff who have considerable knowledge regarding the criminal justice system and its difficulties, it does not mention the considerable resources needed if the dual investigation suggestion were to be implemented. Nor, is there any credence given to the very real danger that rushing a case to review before a criminal prosecution is completed could result in a finding of no probable cause and the case could not be reopened if other information or evidence was obtained. Waiting for the conclusion of local investigations and prosecutions is not always efficient but it is effective in that a criminal conviction for a mandatory crime results in immediate revocation of the credential. Such results cannot always be guaranteed under a discretionary system. Some of the examples cited as cases where the Division should have taken this approach were cases that did not end in a successful prosecution and in some instances did not result in charges being filed after lengthy investigation following arrests for serious offenses. There is no reliable way to predict when this will occur. It is for these reasons that we don't believe a dual investigation is a prudent use of existing resources and could have unintended detrimental outcomes and risks that outweigh the delays noted.

The summary states that the delays in investigating cases potentially allowed educators to retain a credential. It is true that any delay in a case involving credential holders potentially allows credential holders to retain a credential however not all misconduct reviews result in a finding of misconduct and as stated above external factors can cause lengthy delays. Finally, every attempt is made to prioritize misconduct, however when the Division receives notice of a non-priority misdemeanor and prioritizes accordingly there is no reliable method to predict that in a short period of time there will be multiple arrests for the same offenses although the priority does and should change at that point as facts change The examples used in the report to support this claim described in the summary as "some of the extreme cases involved allegations that credential holders distributed obscene material to a student, demonstrated recurring misconduct such as prostitution and petty theft, kissed a student and made inappropriate sexual comments to female students."

The Commission does take very seriously it responsibility to avoid delays whenever possible particularly with respect to serious cases and the fact that in many cases there is a potential for harm. As noted previously several types of external factors such as a lengthy criminal investigation, failure of school districts to notify the Division of a change in employment status or to provide necessary documents can cause delays.

The audit report questions the Commission's ability to delegate closing cases. It dismisses the plain language of Education Code § 44220 which clearly provides that any power, duty, purpose, function, or jurisdiction that the Commission may lawfully delegate is delegated to the Executive Director. While the Commission agrees that it could not delegate the imposition of discipline to staff via the Executive Director, closing a case that does not meet legal requirements for the imposition of discipline is not barred. The underlying standards for investigation are clearly set out in Regulation 80302 which is based on the Morrison (Morrison v State Board of Education 1Cal3d214 (1969)). factors listed on page 14 in the report. Morrison is the seminal case that is looked to in both educator employment and licensing decisions. The Committee has utilized these factors to provide direction and delegation to staff that such cases should be closed. In addition there are statutory provisions and case law that govern closing cases, some of which are listed in the report. For example, the Committee is barred by law from reviewing juvenile records, infractions, successful drug diversions, arrests with no charges filed, school district misconduct if the Commission on Professional Competence has dismissed the case. (17)

The contemporaneous administrative interpretation of a statute by an administrative agency is, of course, entitled to great weight and will not be departed from unless clearly erroneous (Select Base Materials v Board of Equalization, 51 Cal. 2d 640) Unless contrary to the plain language of the statute the agency should be considered to have correctly interpreted and implemented its statute. Legal counsel from the Division and BSA discussed this issue extensively. The BSA legal counsel did not present any statutory or case law to support the opinion that the Commission did not correctly interpret the statute. The Division legal counsel provided the BSA with a Superior Court ruling (Barrera v Commission on Teacher Credentialing, SF Superior Court CPF10510855) in which the Commission and the opposing party were asked to brief and respond to the question: "Does Education Code section 44242.5 allow discretion concerning which matters are referred to the Committee of Credentials?" In its order the court found that Education Code section 44242.5 cannot be read to impose a mandatory duty on (the Commission) to present plaintiff's allegations to the Committee The Commission was represented in this action by the Office of the

Attorney General. The BSA legal counsel did not find the Superior Court decision relevant or controlling because it was not an appellate decision. We disagree.

We agree with the audit report's recommendation to implement a program to timely return unnecessary rap information to the Department of Justice (DOJ) and have already begun this process.

Since the new rap process in Feb 2010, The Division has been better equipped to track the number of RFRDOJs, and gained a clear understanding of the additional work load created by having to process these raps on individuals without credentials. Effective March 8, 2011, raps marked RFRDOJ are entered into a dated spreadsheet, and the package of raps, along with a copy of the list of names, and a brief cover letter is returned to DOJ every Monday. On March 8, 14 and 21, the Division returned packages to DOJ with about 209 raps.

Response to Chapter 1

*The Division has experienced Significant Workload Backlogs*

As stated previously the Division acknowledges the rap backlog. It bears repeating that the rap backlog consisted of low level criminal misconduct arrests that were reviewed and sorted while higher priority cases were processed. All of the raps associated with this backlog have been processed. Additionally, with the implementation of the electronic rap receipt new raps are now processed in one day so there is no longer any backlog of raps. The Division completed the processing phase by the end of 2010 and all raps are either pending a letter of inquiry or in the Committee review process.

*Backlogs Have Been Associated with Delayed Processing of Reports of Educator Misconduct*

The rap backlog did not lead to delayed processing of all reports of Educator Misconduct, however there were delays in processing cases that were not part of the rap backlog. The lack of a case tracking system contributed to an inability to properly monitor the delays. We disagree, however that the averages in Figure 4 are meaningful or can accurately reflect the processing time because an average does not consider the severity of misconduct or external factors beyond the Division's control as well as required statutory timelines. (14) (18)

The finding on page 33 that in 11 of 29 cases sampled it took more than 80 days to open a case is reflective of the prior process. Of those cases one ended in a revocation, six were supesnsions and the remainder grants, closes and public reprovals. The sample used did not include any rap sheets or applications received subsequent to the implementation of the new case tracking system and none of the cases listed were opened after implementation of the new system (19)

The cases cited on page 34 were an aberration as a result of a now identified problem with processing of electronic applications in which the system dropped names and applications. The dropped applications were identified and have been processed although the system error did cause a delay.

*Time Lapses in Investigating Reported Misconduct Potentially Allowed Educators Who May Not be Fit to Remain in the Classroom*

It is important to note that the 30 cases cited in this section and then again in some cases in other sections were according to the audit report "judgmentally selected" therefore delays were found in every instance. The reason for the delays cited in the report are found on page 35. In the first three bullets an average time was cited with no distinction between types of cases. The third bullet also detailed the average time which passed before a teacher was sent a letter of inquiry. It is critical that the fact that once a case is at the Letter of Inquiry stage the cases are managed to conform to the statutory timeline for review afforded to applicants and credential holders pursuant to Education Code section 44244 impacts the scheduling of cases. If this caseload management is not done correctly the Committee could lose jurisdiction on a case before it is reviewed. The final bullet is the minimum length of time in which the Committee can conduct its review. (20)

(21) On page 35 the audit report cites a case where the Division did not promptly pursue all sources of information. In this case the credential holder, employed by a private school, was arrested in 2006. Although the credential holder resigned the employer was a private school and there was no duty to report the change in employment status. No arrest information was received by the CTC from either law enforcement or the employer until December 2007 when a rap was sent informing the Division that the person was convicted of a misdemeanor non-mandatory offense of contributing to the delinquency of a minor. Upon receipt of the rap sheet in December 2007 documents were gathered and the case was scheduled for review by the Committee. If the original arrest had generated a rap notification the credential could have been automatically suspended but that suspension is required to be lifted and the credential returned upon notification that the credential holder has been convicted and sentenced to a non-mandatory offense.

On page 36 the statement that the committee can review only 60 cases is correct in that this is the maximum number of cases that can be review at the formal review stage. The Committee also reviews up to 60 cases at the initial review stage.

(22) The case on the bottom of page 36 used in the report as an example of a delay involves an arrest for distribution of obscene matter. A credential holder was arrested and charged with a violation of Penal Code 311.2(D). A timely rap sheet was received showing the arrest however there was no notification from the employing school district. Because there was an ongoing criminal investigation only the arrest information without investigation materials were provided to the Division in response to the Division's request to the arresting agency. The response to follow-up requests for information indicated that the investigation was still being conducted and that charges had not been filed. Early on in the investigation, the credential holder resigned from the school district however the district failed to notify the Division. The lengthy investigation was due, in part, to the need by the police to conduct a forensic analysis. During all this time the investigative reports indicating the victim's name, and the circumstances surrounding the investigation were not disclosed to the Division. Once the Division determined that the District Attorney had declined to file charges, the reasons for which were not given, the Division began the process to initiate the investigation. In order to comply with the jurisdictional requirements of Education Code §44242.5 before the school district could be contacted a letter of inquiry was required to be sent to the credential holder. It was only at this point that the Division was informed by the school district that the credential holder had resigned and the case proceeded to Committee Review. The audit report suggests that the Division should have immediately initiated an investigation. However, this admonition does not take into consideration the practical realities of conducting such a dual investigation without adequate evidence and information. Initiating such an investigation prematurely could ultimately result in the credential holder retaining the credential, instead of, as here a recommendation that the credential should be revoked. It bears repeating that that the delay was in large part due to external factors beyond the control of the Division: a lengthy police investigation culminating in the decision by the District Attorney not to charge or prosecute the credential holder and a failure on the part of the school district to notify the Division when the credential holder resigned.

(14) The case that appears on page 38 is used as an example of a delay why the case tracking system was requested and implemented. This November 2007 case involving a kidnapping and rape arrest, and a conviction for criminal threats was not processed in a timely manner. Although the holder's credential expired and was not renewed in 2008, the delay exemplies the need for case tracking system both as an aid to managers and to employees to ensure that work is completed in a timely matter.

The case detailed on page 39 involved, a prostitution conviction and two shoplifting convictions which all occurred during a one year period. There was a nine month delay in making the first document request. The only reason for the delay was the case would not be a priority at that point since it was one low level misdemeanor that did not occur at school. As additional rap sheets were received, police reports and conviction information was requested and received from three jurisdictions from November 2007 through 2008. The Committee reviewed the case in September 2009 and recommended a revocation. The Commission adopted the recommendation at its December 2009 meeting; reconsideration was requested and denied at the Commission's March 2010 meeting. The revocation became effective on April 10, 2010. The delay from May 8, 2009 to April 10, 2010 is directly attributable to required statutory time frames. The audit report is critical of the fact that the Respondent's credential was renewed while the investigation was ongoing. Pursuant to Education Code section 44251(3) all clear credentials are valid for the life of the credential holder provided an application and renewal fee is received every five years. Although the section also includes a proviso that it is subject to meeting all professional practices requirements because of due process concerns this proviso has been interpreted to mean only that the credential can be revoked following appropriate review. (23)

The case cited on page 40 involved the credential holder kissing a student. It began as a criminal case because the school district notified the Division of the kissing incident and that the police department was investigating. The delay noted in the audit report is correct that documents were not requested for sixteen months and then further delays occurred before the decision was made to treat the case as a non-criminal investigation. This delay is unacceptable and highlights the need for the now implemented case tracking system as well as personnel and assignment changes that were implemented in August 2009 which resulted in a dedicated staff person to handle school district report and requests for information. (14)

The case on page 41 involving a credential holder accused of making inappropriate sexual comments was opened on October 1, 2008 as a result of two "yes" answers on applications for a Certificate of Clearance and a Clear Single Subject Credential indicating respondent had been dismissed from employment but that the dismissal was in arbitration. The Division's files indicated that respondent had been previously reviewed and the previous file was ordered from the State records center. Obtaining that information, reviewing and combining the file resulted in a two month delay. Respondent's credential expired on July 1, 2008. There was another delay until April 28, 2009 when requests for additional information were sent to respondent and his charter school employer. From April, 2009 through July 1, 2010 multiple requests were sent to the school requesting further information. There were multiple delays because of the investigation/possible arbitration and there had not been a final employment action. The case was reviewed by the Committee and the recommendation was a 7-day suspension of his expired credential after which his applications would be granted. We emphasize again that the delay in this case was for the most part the result of the delay in the school taking a final employment action, an external factor. The credential holder in this case did not hold a document issued by the Commission since the applications were for a certificate of clearance and a preliminary teaching credentials although for a portion of time it appears that he had a county issued Temporary Teaching Certificate. The statement that appears in the footnote identifying a teaching certificate was a CLAD certificate that does not stand alone as a document allowing the holder to teach without an underlying document.

In the case listed on page 41 involving a charge of exposing students to pornography on the internet the first notification was a rap sheet showing the case dismissed and charges dropped in October 2008. There was no school district notification when the arrest occurred in 2007. We agree with the audit report's conclusion that given the potentially serious nature of the charge, directly involving students the matter should have been put in the priority list. This case highlights the need for the now implemented case tracking system. We do note that the fact that the children could or could not be located as highlighted by the audit report did not result in the case being closed. The case was closed because the forensic investigation analysis of the computer did not sustain the student's claims. (14)

*The Division does not always effectively track the status of cases with the Potential for Mandatory Adverse Action against a credential holder*

The summary states that there were six cases that involved possible mandatory revocation in which the commission's database did not contain a record of the current activities in the case. Although it is important to track all case activities in the commission's database, it should be noted that none of the six identified cases has, to date, resulted in convictions requiring mandatory revocation. Four of the cases are no longer potential mandatory revocations because the person either pled to a lesser offense or no charges were filed after the arrest. In one case the person is currently on drug diversion and in the other there is still no conviction.

(24) (14) Beginning on page 43 of the report these same six cases were identified as cases in which the database did not reflect any activity on the case for an extended period of time. With regard to the first case, at the point in time when the rap was received, the potential mandatory charge had been dismissed and this person was convicted of a driving under the influence causing injury charge. Although the division seeks to bring all cases to review as quickly as possible, cases which are no longer mandatory revocation cases and which are not identified as posing a significant risk to children can only be handled at the speed that current staffing levels and the committee's ability to review cases allow. The timeframe under which this case is being reviewed is within the time authorized by law and necessitated by the available resources. With regard to the second case, no charges have been filed and committee action is unlikely due to lack of jurisdiction and lack of evidence of misconduct. Since at the time this file was opened, it only reflected an arrest, the failure of the office technician to seek additional information given the high volume of cases she is required to handle during a reduced work schedule due to furlough dates cannot be considered a serious omission given that the division is already doing more than is strictly required when it opened the case prior to notice of a conviction. With regard to the third case, which is still a potential mandatory, the criminal matter is ongoing and the commission lacks jurisdiction to proceed at this time. With regard to the fourth case, no charges have been filed and committee action is unlikely due to lack of jurisdiction and lack of evidence of misconduct. Here the analyst had made an additional request for court records which was not reflected in the database. While it would have been better if that activity had been input into the electronic database, the information was available in the file itself and the case was being activity monitored. With regard to the fifth case, the committee is moving forward under jurisdiction obtained by the person's dismissal from employment. Although the actions of the analyst were not reflected in the database, the division was attempting to obtain the information it needed to proceed with this case in the absence of a conviction. The six and final case is one in which the person is on drug diversion and therefore the commission has no jurisdiction. Although the activities database did not contain the information, the file

itself contained the court update showing that his person was still successfully on diversion. Although it is important to ensure that such information is imputed into the database, the more important task of obtaining the necessary information had been accomplished.

*The Division Often Delayed Seeking Information Needed to Review Reports of Educator Misconduct*

As previously discussed the use of averages for processing times does not address the priority given to cases and/and or the external factors that affect the processing times. However, where such factors are not in evidence the findings regarding delays highlight the need for the case tracking system that has been implemented. (14)

*The Division Does Not Always Investigate School Reports of Misconduct While Criminal Investigations are Unresolved*

As the supervising investigator explained to the BSA, School District reports fall into two categories. Reports sent pursuant to Education Code section 44940 are for the purpose of notifying the Division of a criminal charge (not an arrest) that could result in an automatic suspension of the credential. Sometimes school districts notify the Division of an arrest but the notice is not made pursuant to either section 44940 or section 44242.5 which is a notice that an employment action such as dismissal, nonreelection, suspension, placement on unpaid leave or resignation has taken place while allegations of misconduct are pending. If the credential holder is placed on paid leave even though correspondence has been sent from the school district, there is notice that gives jurisdiction to investigate. The issues surrounding whether or not a given report from a school district has given the Division jurisdiction to investigate is closely examined in each school district case and is frequently the source of procedural objections. A matter cannot be investigated until jurisdiction has been correctly established. As a result the Division is very cautious in its determinations regarding whether or not there is jurisdiction to pursue an investigation. In addition an investigation cannot commence prior the date a Letter of Inquiry (LOI) is sent and if an LOI letter is sent out the jurisdictional clock for Committee review starts to run. As a result documents were not requested immediately. Prior to August 31, 2009, technicians opened district cases along with criminal cases. District files had the same priority as criminal files at that time. Files were typically opened and forwarded to the Investigation unit as they were received. On occasion, an analyst would call a district or send letters to obtain additional documents, but it was an additional duty assigned to that analyst that was not done on a scheduled basis and not tracked. Because of the jurisdiction and commencing an investigation issues discussed above, investigators also did not request district documents until the Letter of Inquiry was sent to avoid being accused of "investigating" prior to LOI. In order to correct this deficiency, an analyst was assigned to the Investigation unit with handling school district notices as a primary assignment and marked improvement has already been seen. (25)

Even if a school district notifies the Division pursuant to section 80303 of the California Code of Regulations of a change in employment status, when the only underlying misconduct is a pending criminal matter, and the Division technically has jurisdiction to open an investigation, the underlying misconduct isn't adjudicated at that point. Frequently in such cases, the district is relying on law enforcement to conduct the investigation so in most situations, the school district hasn't conducted an independent investigation.

The most common scenario is that the individual resigns his or her position while allegations are pending so the school district has no need to pursue the matter. If CTC opens an investigation, it would have to also rely on law enforcement to provide the information to support the allegations of misconduct or attempt to conduct an independent parallel investigation. Law enforcement often doesn't cooperate with outside agencies when investigations are underway. If our investigators attempt to interview and gather evidence during this investigation and prior to prosecution, this can be viewed as interference by law enforcement. This could create conflicting witness statements, discovery issues, and problems for all concerned. Additionally, the credential holder has a constitutional right to remain silent while under criminal charges so it is highly unlikely that he or she would cooperate in the CTC investigation. CTC is not equipped or staffed to independently conduct statewide criminal investigations and adjudicate those cases. That is essentially what CTC would have to undertake in these situations. If there is a criminal conviction, that gives CTC an adjudicated matter to base discipline on if appropriate. If there is no conviction, CTC then has access to police reports and witnesses and can make a decision as to the appropriate course of action.

The example set forth on page 48 reflects the most common fact pattern. The case presented in the audit report was hampered by the length of the criminal investigation and the failure on the part of the school district to timely notify the Division when the credential holder resigned. Each case is reviewed on its merits and CTC occasionally will attempt to pursue a case prior to the criminal matter being resolved, if there is a reasonable probability of being successful. This is a judgment call that CTC attorneys and investigators make based on our experience in these matters.

The most common scenario for pursuing a case based on a school district report where there is pending criminal conduct would be when the school district has independent evidence of the behavior and/or other non-criminal misconduct is part of the underlying charges. Then it may make sense to initiate the investigation prior to the adjudication of the criminal matter. Once CTC initiates an investigation, the case must go to formal review within six months. Jurisdiction isn't evidence and the worst possible situation is to present the Committee with allegations of misconduct, but no evidence upon which to make a reasoned judgment. This could lead to the Committee closing a case because it lacked the requisite evidence to make a probable cause determination that the misconduct had taken place. The closed case would preclude the Committee from taking action once the criminal matter had concluded and the information necessary to conduct a full investigation was made available. No doubt if this occurred the Division would be criticized for initiating its investigation prematurely without sufficient information. Each of these investigations is handled on a case-by-case basis using the information available at the time.

*The Division has not always effectively processed rap sheets provided by the Department of Justice*

As the report states the Division of Professional Practices (Division) did experience a backlog in the processing of RAP sheets that grew to unacceptable levels. We are pleased that the report recognizes the Commission's efforts to eliminate this backlog and its successful efforts in doing so. In addition the report acknowledges that the Division has instituted new procedures, and better use of technology to prevent unnecessary delays, to identify workload problems and provide assistance in preventing future backlogs. We welcome the recommendations provided in the report to make the case tracking system more robust and provide improved data for future planning as well as accountability. Because the audit came shortly after the Division's transition to the implementation of a new case tracking system that implementation is still ongoing and we are confident that when fully implemented as well as with the addition of the recommendations in this report future delays will be eliminated. Most significantly as a result of the implementation of new RAP processing procedures in February, 2010 electronic RAPs are now entered into the system the same day they are received, sorted by priority and tracked. In addition, paper raps are now scanned and entered into the system as part of the electronic file. While this does not eliminate the workload that results if a case is opened, it does eliminate the number of raps waiting to be processed. (7)

Despite the workload issues noted in the report during the period under review, the report notes that it has no evidence that any case was time barred by the statute of limitations and at all times the Commission met its statutory timelines for review. In addition, at no time did a delay cause a case to be closed because of the statute of limitations. The report notes that during this same time period the Division closed 48% of its cases within 30 days and 67% in less than 90 days. Finally, and most importantly the Commission has never had a complaint or a report that a delay in processing has caused harm to a student. (1) (8)

*Some Cases Are Difficult to Locate in the Commission's Database because of its Prior Practices*

Prior to the electronic receipt and processing of rap sheets that began in February 2010 the rap sheets were part of the paper based file system. Some applicant raps prior to that date were electronic and are in the system. In addition even after February 2010 some raps were still paper based. These raps are now scanned and added to the system.

*The Division Does not Notify Justice of Individuals for Whom it is no Longer needs RAP sheets, resulting in Unnecessary Work to Process Them*

We agree with the audit report's recommendation to implement a program to timely return unnecessary rap information to the Department of Justice (DOJ) and have already begun this process. The term RFRDOJs used in the report is the return of raps in which DPP is "No longer interested" (NLI). Until March 8, 2011, DPP had not officially, physically returned these raps to DOJ. We did not return these raps because Penal Code section 11105.2 states we must notify DOJ when the is applicant is revoked, when the applicant may no longer renew or reinstate. The paragraph on the rap sheet is summarized differently. That paragraph states when the applicant is no longer employed, licensed or certified we must return the rap with NLI written on it. The Division (28)

had discussed with DOJ a process to use technology to communicate the information, but the Commission's computer system did not hold all the necessary information.

Since the new rap process in Feb 2010, The Division has been better equipped to track the number of RFRDOJs, and gained a clear understanding of the additional work load created by having to process these raps on individuals without credentials. Effective March 8, 2011, raps marked RFRDOJ are entered into a dated spreadsheet, and the package of raps, along with a copy of the list of names, and a brief cover letter is returned to DOJ every Monday. On March 8, 14 and 21, the Division returned packages to DOJ with about 209 raps.

*The Division does not always immediately suspend or revoke credentials*

We are pleased that the audit report found that a majority of the cases reviewed were handled appropriately and in a "reasonable manner." The three cases that are listed on page 53 as examples of when the division either failed to promptly impose a mandatory revocation or failed to seek critical information regarding a potential mandatory revocation in a timely manner the first two were directly attributable to human error by non attorney staff, which was later identified by legal staff. With regard to the first case, which was
(29) a felony violation of Penal Code section 487i (defrauding a public housing authority), the conviction in question was not initially recognized as a potential mandatory revocation by staff. Penal Code section 487i, which was added to the Penal Code during the 2008 legislative session, effective January 1, 2009. As such it was not listed in the table used by staff to identify a possible mandatory. When the case was reviewed by the legal staff the conviction was identified as one requiring mandatory revocation. Once the conviction was identified as a mandatory revocation offense, the mandatory revocation was implemented. With regard to the second case, the offense in question, Penal Code section 370 (public nuisance), is not a mandatory revocation offense. The delay in imposing the mandatory revocation was not identified by a technician or an auditor because it was highly unusual. The matter was further delayed by the need to conduct a thoughtful analysis to determine whether the conditions imposed on the credential holder by the court, with the potential of the case being dismissed after one year if there was no further misconduct, were
(30) legally sufficient to warrant a mandatory revocation pursuant to 44423.6. Once that determination was made to the satisfaction of the commission's legal staff, the mandatory revocation was imposed. The audit faults the division for taking five months to obtain records that established with certainty that a conviction for contributing to the delinquency of a minor was in fact not a mandatory revocation offense. Contributing to the delinquency of a minor is only a mandatory revocation offense if an allegation of lewd or lascivious conduct is pled and proved. Based on the Division's past experience, this is rarely the case because in most instances a teacher will only plead to contributing to the delinquency of a minor if it does not include the additional lewd or lascivious allegation. So at the point in time that the division became aware of the conviction, it was apparent based on past experience that this conviction was not going to result in a mandatory revocation and consequently it was not regarded as a possible mandatory revocation case and was not given the additional attention mandatory revocation cases warrant but which cannot realistically be given to all cases.

*The Division Experienced Some Delays in Requesting Additional Information Regarding Criminal Convictions*

The different time frames and treatment of the rap sheets reflects the fact that rap sheets are processed according to the severity of the misconduct alleged. It should be noted that applicants are responsible for providing documents relating to criminal misconduct and not the Division. The Division will assist applicants who demonstrate that they have been unsuccessful in obtaining the information. This is reflected in the long delay for some applicants noted on page 56 of the audit report.

*The Division Exercises Even More Discretion than is Detailed in the Guidelines when Closing Cases*

The audit report questions the Commission's ability to delegate closing cases. It dismisses the plain language of Education Code § 44220 which clearly provides that any power, duty, purpose, function, or jurisdiction that the Commission may lawfully delegate is delegated to the Executive Director. While the Commission agrees that it could not delegate the imposition of discipline to staff via the Executive Director, closing a case that does not meet legal requirements for the imposition of discipline is not barred. The underlying standards for investigation are clearly set out in Regulation 80302 which is based on the Morrison (Morrison v State Board of Education 1Cal3d214 (1969)). factors listed on page 14 in the report. Morrison is the seminal case that is looked to in both educator employment and licensing decisions. The Committee has utilized these factors to provide direction and delegation to staff that such cases should be closed. In addition there are statutory provisions and case law that govern closing cases, some of which are listed in the report. For example, the Committee is barred by law from reviewing juvenile records, infractions, successful drug diversions, arrests with no charges filed, school district misconduct if the Commission on Professional Competence has dismissed the case. (17)

The chart displayed on page 57 titled "Guidelines the Division Uses to Determine the Types of Misconduct that It Does Not Move Forward for Committee Review" does not accurately reflect the Division's actions. The Committee routinely reviews misdemeanor convictions, petty thefts, and spousal abuse cases yet the title used could lead to misunderstanding or confusion because it leads to the conclusion that the Committee does not review misdemeanors. According to the audit staff, they used information provided by the Division that listed factors that are considered in determining whether or not a case rises to the level of review by the Committee. While all of these factors are correct, the presence of a factor does not preclude review by the Committee. (31)

Of the cases noted on page 58 in the audit report questioning the Division's closing of cases, one case involved a dismissal by the Commission on Professional Competence of the employment charges with prejudice, one case involved a first time applicant with 2001 misdemeanor conviction for making an unreasonable noise and 1998 misdemeanor conviction for driving with a suspended license. The 2001 conviction had included a misdemeanor child endangerment charge which was dismissed in the interest of justice, two cases involved arrests only, one case involved a neighborhood dispute which resulted in a ten year old disturbing the peace conviction and one involved a misdemeanor conviction for vehicular manslaughter without gross negligence. The Committee has specifically directed staff that it considers such convictions accidents since the conviction includes the finding that there was no gross negligence. (32)

The contemporaneous administrative interpretation of a statute by an administrative agency is, of course, entitled to great weight and will not be departed from unless clearly erroneous (Select Base Materials v Board of Equalization, 51 Cal. 2d 640) Unless contrary to the plain language of the statute the agency should be considered to have correctly interpreted and implemented its statute. Legal counsel from the Division and BSA discussed this issue extensively. The BSA legal counsel did not present any statutory or case law to support the opinion that the Commission did not correctly interpret the statute. The Division legal counsel provided the BSA with a Superior Court ruling (Barrera v Commission on Teacher Credentialing, SF Superior Court CPF10510855) in which the Commission and the opposing party were asked to brief and respond to the question: "Does Education Code section 44242.5 allow discretion concerning which matters are referred to the Committee of Credentials?" In its order the court found that Education Code section 44242.5 cannot be read to impose a mandatory duty on (the Commission) to present plaintiff's allegations to the Committee. The Commission was represented in this action by the Office of the Attorney General. The BSA legal counsel did not find the Superior Court decision relevant or controlling because it was not an appellate decision. We disagree.

(17)

*The Division Approved Applications When Applicants failed to disclose convictions*

When an applicant fails to disclose complete and accurate information, or any information at all on pending application, a failure to disclose (FTD) is identified. An applicant's FTD is viewed as an aggravating circumstance when the underlying misconduct is review by the Committee of Credentials. The Division sends an FTD letter when any of the above criteria is met. If a FTD letter is sent, it is noted and attached in Siebel and the letter is kept in the file and should be noted on the NU. In most cases Respondents are sent a FTD letter even if the case is closed prior to Committee. However, in the following instances the Division does not send a FTD letter:

- When an applicant has previously disclosed the information on other applications, and is aware that the Commission has previously reviewed the misconduct, the FTD is not sent because the FTD does not involve NEW misconduct.

(33)

- If the misconduct does not require us to disclose, i.e., infraction, no misconduct.
- Applicants admonished regarding their FTD when the Division requests additional information and/or an explanation.
- Respondent calls DPP and is verbally told they did not disclose.

On page 60, BSA states "The division approved and granted credentials for 59 applicants without committee review despite the applicant's failure to disclose some type of misconduct". However, our review of the BSA provided spreadsheet entitled, "Fail to Disclose Convictions Section", shows the number should be no more than 20 because either the applicant disclosed or a letter was sent.

(33)

Response to Chapter 2

The issues raised in Chapter 2 have already been addressed with the exception of the audit report finding that the newly implemented case tracking system "isn't working". As stated previously, the Division initiated many improvements in early 2010 including case tracking. The only case tracking refinement remaining is an exception report, to report on those items that the system does not report or aberrations. The Division did not prepare the exception report earlier because it needed experience with the system. The audit report mentions some of those items in their report. In addition, tracking cases does not mean cases will automatically be more processed faster since the process will continue to be subject to external factors beyond the Division's control. The system was established to prioritize the work and prevent unnecessary delays by providing more visibility to management and clarity in delineating potential mandatory and discretionary cases. (34) (14)

The report could lead the reader to incorrectly believe the case tracking system does not work. Specifically, in the first paragraph of page 46, the report states that for 12 of 14 cases closed after February 1, 2010, an average of 319 days elapsed before DPP requested additional information. This statement is misleading at best. According to the BSA-provided spreadsheet entitled, "Backlogs have been associated with delayed processing of reports of educator misconduct", all the dates in the "First action supported by paper files (i.e.: records request)" were all dated before February 1, 2010. The case tracking system was not implemented then. In fact, of those cases, the investigation phase was initiated prior to case tracking even being implemented. An appropriate sample would have been cases opened after March 2010 or later. (14) (35)

Response to Chapter 3

The BSA was charged with determining if the Commission's current policies and practices were impacted with hiring family members. In addition, the BSA was charged with surveying staff to determine if familial relationships, nepotism and employee favoritism, and their impact on the Commission's hiring practices and the staff's ability to work without fear of reprisal for filing a complaint.

36 The Commission is pleased to find that the BSA audit did not find any evidence in its review of nepotism, or employee favoritism impacting the hiring practices. Based on the BSA survey on page 107 and 108, the majority of the Commission employees [136 employees (72% of those surveyed)] that took the survey were
37 aware of the Equal Employment Opportunity Policy (79%) and the process to file a grievance (67%) that are available either in the Commission's intranet or outlined in the specific bargaining unit contract, respectively. Finally, according to the survey, 92% of staff do not believe familial relationships adversely impacting their ability to work professionally.

# Comments

## CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE COMMISSION ON TEACHER CREDENTIALING

To provide clarity and perspective, we are commenting on the response to our audit report from the Commission on Teacher Credentialing (commission). The numbers below correspond to the numbers we placed in the margin of the commission's response.

The commission is incorrect in asserting that it did not miss any deadlines established in the Education Code. On page 62 we report that the Division of Professional Practices (division) does not currently include in its reports information necessary to ensure it does not lose jurisdiction due to time-based statutes and the commission did, in fact, lose jurisdiction over one case we reviewed because the statutory time limit had elapsed. (1)

Our findings of inaccurate and incomplete information in the database resulted from our tests of activities the division conducted up to the end of 2010, well after the time the division asserted it began reengineering its process including its new case tracking system. In addition, the commission incorrectly portrays our findings when it says our review of its paper files did not find errors. On pages 34 and 35 we discuss instances where the division had not included evidence of investigative activities in the paper files or could not locate a paper file for our review. (2)

The commission incorrectly characterizes our discussion of its workload backlog. We merely present management's assertions regarding the division's identification and disposition of the backlog. Nonetheless, on page 24 we state management asserted it began to process the backlog in August 2009. Moreover, the commission's statement that there has been no backlog since June 2010 conflicts with statements made to us by division management. In January 2011, the manager told us that the "RAP project" to eliminate the backlog was still in process. On page 25 we present his assertion that the division has not tracked the cases from the backlog separately from the division's normal workflow. Thus, we do not understand how the division can conclude it currently has no workload backlog. (3)

We anticipate that when the commission provides us with its 60-day, six-month, and one-year updates on the implementation status of our recommendations that it will describe how it is addressing all aspects of each recommendation. (4)

(5) As we point out on pages 54 to 56, the database the division uses to manage its workload does not always provide accurate or complete information.

(6) We see no reason why the commission cannot inform employees periodically of the existence of a grievance process.

(7) The commission misrepresents our statements regarding its workload backlog. We make no conclusions regarding the extent or success of the division's efforts to eliminate the backlog. On pages 22 through 25, we merely present managements' assertions regarding the status of the workload.

(8) The commission appears to base its statement regarding the time elapsed between opening and closing cases on Table A.2 in Appendix A. However, the information in the tables in Appendix A is based on data we determined was not sufficiently reliable, as we describe in the Scope and Methodology section of the report. Nonetheless, we included the information in Appendix A because it was based on the only data available to answer certain audit objectives. In addition, Table A.2 includes time lines between the opening and closing of cases. Because for some cases significant amounts of time have elapsed between the division's receipt of reports of misconduct and the opening of a case, the information in Table A.2 is not necessarily an accurate representation of the time the division takes to process the reports and investigate cases. In fact, Figure 4 on page 26 shows that for a random sample of 29 cases the division took an average of 128 days to open a case after receiving reports of misconduct.

(9) These cases are troublesome even when reviewed in context. We reviewed them in accordance with the laws and rules that govern the discipline process and in consultation with the manager and supervising investigator who are responsible for the processing of the cases.

(10) According to the law, the Committee of Credentials (committee) gains jurisdiction to perform an initial investigation and formal review through six different types of reports of misconduct, which we describe in the text box on page 12, only one of which is related to a reported arrest or conviction of a crime. Further, except in instances where the law requires the commission to take mandatory action on a credential, the threshold for discipline is a determination of the fitness of the educator to perform the duties authorized by the credential, not their guilt in the commission of a crime.

As we discuss on pages 33 and 34, during a period well beyond February 2010, the division did not adequately track 6 of 29 cases that potentially required mandatory action to ensure such actions are prompt. (11)

The commission discounts the potential impact of the conditions we report in this finding in the manner in which it presents the ultimate outcome of these six cases. Our point is that if the division does not carefully track the status of these potential mandatory cases, individuals may keep their credentials longer than the law allows. We agree that these types of cases present challenges for the division to identify when it must take mandatory action and what the appropriate final action should be. However, if the division does not ensure its staff adequately track these cases it cannot be certain that it will promptly take the appropriate actions to identify risks to children that result from the presence in the classroom of credential holders who are unfit for their duties. (12)

The commission's statement that the important factor to consider is that statutory deadlines were met ignores the primary purpose of the committee—to use its discretion to review reported misconduct and recommend disciplinary action. (13)

The commission's statement is confusing, if not erroneous. The division told us during our fieldwork that its implementation of a case tracking system that uses information from the commission's database is one of its critical actions to effectively monitor its workload and prevent further workload backlogs. Moreover, in December 2010 the division reported to the commission that it had finalized the implementation of its case tracking system. However, here the commission states its case tracking system is primarily paper based and will be for several years to come. Finally, the case tracking reports the division shared with us and stated it used to monitor its caseload are developed from the database. Therefore, the division's statements are not clear as to how its case tracking system offers any improvement in its ability to monitor its workload any more effectively than it has in the past. (14)

While preparing our draft report for publication, there were slight text changes and page numbers shifted. Therefore, the page numbers that the commission cites in its response do not necessarily correspond to the page numbers in our final report. (15)

The commission misses our point. Disciplinary action can occur through two mechanisms: through mandatory disciplinary action taken by the division when credential holders are convicted of certain crimes, and through discretionary decisions made by the committee and the commission. When the division only acts after awaiting the outcome of criminal proceedings and the proceedings (16)

do not result in a conviction, enough time can elapse so as to reduce the division's ability to conduct a successful investigation under one of the other sources of jurisdiction available under the law. When this occurs, the division deprives the committee of its primary duty—to review reported misconduct and recommend discipline when appropriate.

(17) We performed a thorough legal analysis of the improper delegation issue, which included reviewing well-established principles of statutory construction, numerous appellate court and California Supreme Court decisions, several Attorney General opinions, and all of the evidence the commission provided to us relating to the guidance provided to staff to assist them in closing cases without committee review, including the informal guidelines, prior meeting agendas and minutes, reports provided to the commission, applicable regulations, and attestations from the division manager and assistant general counsel. Applying all of the evidence provided to the controlling case law and applicable opinions from the Attorney General, we concluded that the committee is unlawfully delegating its discretion. Accordingly, we recommend that the commission retain independent legal counsel to perform a complete legal analysis of this issue, something that the commission's assistant general counsel admitted to us he has never done, and take all steps necessary to ensure that its practices and procedures comply with that advice.

As the commission explained in its response, unless clearly erroneous, an agency's interpretation of a statute is entitled to great weight. We believe, however, that the commission is clearly erroneous in its interpretation of the statutes applicable to the delegation issue, and we repeatedly attempted to explain our position to the commission's legal counsel. Specifically, the plain language of the Education Code delegates to the Executive Director any power, duty, purpose, function or jurisdiction that the commission "may lawfully delegate" and requires that "[e]ach allegation of an act or omission by an applicant for, or holder of, a credential for which he or she may be subject to an adverse action shall be presented to the [committee]." Additionally, numerous statutes and regulations expressly require the committee to act, though in some instances not applicable here, they require staff to act. Recognizing that the Legislature is presumed to know the law and harmonizing the provisions of the Education Code as we are required to do, we think the limits of the delegation contained in the Education Code are those established by the California Supreme Court: "when the Legislature has made clear its intent that one public body or official is to exercise a specified discretionary power, the power is in the nature of a public trust and may not be exercised by others in the absence of statutory authorization"

(see *Bagley* v. *City of Manhattan Beach* (1976) 18 Cal.3d 22, 24-25). Although the Legislature did delegate to the Executive Director, it only delegated that which may lawfully be delegated. California courts have repeatedly held that although administrative or ministerial functions can be delegated, discretionary powers cannot (*Sacramento Chamber of Commerce* v. *Stephens* (1931) 212 Cal. 607, 610; *California School Employees Association* v. *Personnel Commission of Pajaro Valley* (1970) 3 Cal.3d 139, 144; *American Federation of Teachers* v. *Board of Education* (1980) 107 Cal.App.3d 829, 834; *Hicks* v. *Board of Supervisors* (1977) 69 Cal.App.3d 228, 235). Moreover, the California Supreme Court has held that when the Legislature assigns to a body a specific duty, the body has no authority to enact rules or regulations that alter or enlarge the terms of the legislative enactment (*California School Employees Association* v. *Personnel Commission of the Pajaro Valley Unified School District of Santa Cruz County*, supra, 3 Cal.3d 139, 144).

In analyzing the authority of a board to delegate, the Attorney General has written:

> As noted above, the Legislature has in many instances specifically provided for a broad delegation of powers from a board or commission to its executive officer. These statutes may also establish a presumption that any authority held by a board that may lawfully be delegated has been delegated to its executive officer.
>
> The extent to which a public agency's authority may lawfully be delegated to an executive officer depends not only upon the agency's enabling statute, but also upon whether and to what degree the agency has first provided clear guidelines within which subordinates may apply, administer, or enforce the authority granted. That is to say, if a board or commission has exercised its judgment in defining standards and establishing protocols for the treatment of a matter within its jurisdiction, it may then delegate the application or enforcement of those defined standards in specified situations.
>
> Examples of permissible delegations include most personnel decisions, supervision of the agency's staff, and general day-to-day administration of the agency's operations. In contrast, matters that call for an exercise of the board's or commission's special discretion or judgment may not lawfully be delegated to an executive officer or other body because such authority is exclusively reserved, as a public trust, for the public agency to which that authority has been conferred by law. If this were not so, the board or commission would itself have little purpose (90 Ops. Cal. Atty. Gen 89 (Opinion number 07-103)).

Applying the rationale of the Attorney General, where the committee has exercised its judgment to define standards and establish protocols for the treatment of a matter within the committee's jurisdiction, it may then delegate the application of those defined standards in specified situations. Because we were provided no evidence that a quorum of the committee had acted to define standards for staff that do not require staff to exercise their substituted judgment on behalf of the committee,[5] we believe the committee is exceeding the lawful limits of the delegation made by the Legislature and improperly delegating its discretionary authority.

Additionally, we considered the *Barrera* decision that the commission cites in its response in reaching our conclusion. However, because the Barrera decision involved specific facts presented to the trial court on a writ petition, contained absolutely no legal analysis or discussion,[6] and is applicable only to the parties or to situations identical to that presented by the parties, we find it neither controlling nor persuasive justification for the committee's noncompliance with the plain language of the Education Code. Finally, we find the committee's reliance on a 2010 trial court decision as the sole judicial rationale justifying staff closures of cases in 2007, 2008, and 2009 both curious and misplaced. For all of the foregoing reasons, we stand by our legal analysis and conclusion that, in the absence of explicit guidelines provided by a quorum of the committee, where the allegation of misconduct is one that gives the committee initial jurisdiction and may subject a credential holder or applicant to adverse action, staff must present it to the committee.

(18) The commission's statement that it disagrees that the average times to process critical steps presented in Figure 4 on page 26 are meaningful or can accurately reflect the processing time is puzzling. As we discuss on page 50, the division has not collected the workload data necessary to determine how long it should take to process a case. Thus, it cannot know whether the average times shown in Figure 4 are meaningful.

---

5 The assistant general counsel admitted that many of the *Morrison* factors contained in 2 C.C.R. 80302 are "subjective." We agree that applying them requires the exercise of discretion and we believe that discretion is statutorily vested in the committee.

6 The sum total of the court's written discussion of the issue was "the court finds that Section 44242.5 cannot be read to impose a mandatory duty on the respondent to present plaintiff's allegations to the committee." This holding is distinct from one excusing staff from the duty to present to the committee each allegation that may subject a holder or applicant to adverse action, as the plain language of the law requires. Although we could not obtain and commission staff never provided any pleadings containing the underlying facts in the case, from what we could glean from our research, the plaintiff in *Barrera* appears to have alleged misconduct that did not give the committee initial jurisdiction to act. We agree that, where the committee clearly does not have jurisdiction, the allegation should not be presented to the committee and staff may close the case.

As we state on page 25, the random sample of reports of misconduct we used to develop this finding consisted of those closed by the division or reviewed by the committee between July 2009 and October 2010. The purpose of our testing was to determine the amount of time that elapsed between key steps in the division's process from the opening of a case to the closing of a case, thus our sample focused on closed cases. As we point out on pages 25 and 26, the division took significant amounts of time to accomplish certain critical steps, including averaging 683 days to close cases. This may explain why our sample did not contain any cases that the division opened and closed during the seven-month period between February 2010 and October 2010. (19)

The commission incorrectly portrays our methodology for selecting the cases we reviewed. The 30 cases the commission refers to we selected from a population of 87 cases that came to our attention during the audit because of long processing times and allegations of serious crimes, as we state on page 27 of the report. For the other tests we performed, we used samples of reported misconduct randomly selected from populations of reports that we extracted from the commission's database based on attributes from the audit objectives approved by the Joint Legislative Audit Committee. (20)

We could not locate this case on the page cited by the commission in the draft version of our report; however, we believe the circumstances the commission discusses are similar to a case we discuss on page 40. If so, see our comments under note 30. (21)

The commission distorts the facts of its investigation by omitting the timeline regarding these events. As we state on page 28, the division first learned of the misconduct in May 2008. In August 2008 it received a police report that, contrary to the commission's response, identified the victim's name. In February 2009 the division learned that the district attorney had declined to press charges against the credential holder. However, the division did not request additional information for its investigation until March 2010. Ultimately, in July 2010 the committee recommended revoking the holder's credential based, not on a conviction, but on the results of the division's investigation. (22)

Had the division promptly investigated the initial conviction for prostitution and taken action at that time, the remaining facts, including whether to renew the holder's credential, would be moot. Further, the division does not identify the criteria it used to determine a prostitution conviction is not a priority and we have no evidence that a quorum of the committee agrees with this determination. (23)

(24) The commission misses our point. Our finding relates to a lack of activity on cases that, based on information contained in the RAP sheets, included alleged criminal activity that the division characterized as potentially resulting in mandatory revocation of a credential. If the division does not adequately track the progression of these cases, it cannot take prompt mandatory action when required. In its response the commission merely presents an update on the status of these cases.

(25) The law allows the committee six months from the start of the initial review to complete its formal review. Moreover, the law also allows the chair of the commission to extend the six month period when the committee demonstrates that additional time is necessary to complete the investigation.

(26) While it may be true that law enforcement agencies do not want the committee to perform its own investigation, we were given no evidence that a quorum of the committee voted as a policy matter to refrain from exercising its statutory jurisdiction until the conclusion of an investigation by local law enforcement entities. Moreover, neither the division's policy manual nor informal guidelines reflect a decision by the committee or anyone else to require the division to refrain from investigating cases when they are under investigation by a local law enforcement agency. According to the Education Code, the committee has jurisdiction to commence an initial review upon receipt of documents such as official records of the Department of Justice, of a law enforcement agency, of a state or federal court, or of any other agency of this state or another state.

(27) As we discuss on page 32, by not promptly initiating an investigation, the division risks losing the ability to conduct an effective investigation because witnesses and victims move or their memories of the facts surrounding the incidents fade.

(28) The commission is mistaken. We do not use the term "RFRDOJ" in the report. Instead, as we indicate on page 38, we identify these as RAP sheets that the division no longer needs.

(29) The commission's statement reinforces the need for our recommendation on page 63 that the division would benefit from comprehensive written procedures to promote consistency in, and conformity with, management's policies and directions for reviews of reported misconduct.

(30) Again the commission misses our point. As we state on page 40 of the report, this credential holder was convicted of a violation of a section of law that requires mandatory revocation of his or her credential if lewd or lascivious conduct was involved. Our point

is that the division took five months after its receipt of the RAP sheet reporting the conviction to open a case and five additional months to request the court documents to learn if such conduct occurred. In fact, this case ultimately resulted in an agreement between the credential holder and the commission that required the holder to surrender his credential and agree to not apply for another California credential or seek reinstatement of the surrendered credential.

We agree the language is confusing. Nonetheless, it is the language the division provides to staff to make such determinations. (31)

We repeatedly asked division management for any evidence of the committee's delegation but were told the delegation was informal, as we discuss on page 51. (32)

We believe the commission's statement that the division would be aware of previously disclosed misconduct that was previously reviewed by the commission may be somewhat optimistic, based on the fact it uses a paper-based case tracking system receiving the volume of reported misconduct the division receives each year. In addition, because the commission did not provide any information on how it reached its conclusion that the number of applicants who did not disclose or to whom the division did not send a letter should be no more than 20, we cannot evaluate the validity of its claim. We present our conclusions on pages 45 and 46. (33)

The commission appears to be quoting us with its statement that we found that the newly-implemented case tracking system "isn't working." However, we make no such statement. Nonetheless, we do state on page 54 that the database the division uses to track the cases it reviews does not always provide accurate and complete information. (34)

The commission incorrectly describes our sample. For 2 of the 14 cases we reviewed that were closed after February 1, 2010, the date of the division's first action was March 10, 2010, and June 16, 2010, respectively. Moreover, the commission states that cases opened after March 2010 or later would be an appropriate sample. Three of the cases we reviewed were opened March 4, 2010, June 3, 2010, and June 16, 2010. Finally, we disagree that the date the division opened the cases is the best criteria for selecting sample cases to evaluate the division's timelines for processing reported misconduct. For the three cases we reviewed that the division opened during March 2010 or later, it took 177, 62, 1029 days, respectively, to open the cases after receiving the reports of misconduct. (35)

(36) We were unable to conclusively determine whether nepotism or employee favoritism affected the commission's hiring practices, because, as we point out on page 69, the office of human resources does not always maintain proper documentation to support its hiring decisions.

(37) Although it is true that, as the commission points out, 79 percent and 67 percent of the employees responding to the survey indicated they were aware of the Equal Employment Opportunity (EEO) policy and the grievance process, we believe that the desired level of awareness about these policies for any state organization should be 100 percent, which the commission has not yet achieved.

# 1A

## Action

*General Session*

## Approval of the January 2012 Minutes

**Executive Summary:** The Executive Director recommends that the Commission approve the minutes of the January 2012 meeting of the Commission.

**Recommended Action:** Approve the minutes of the January 2012 meeting.

**Presenter:** None

**Strategic Plan Goal: 2**

**Support policy development related to educator preparation, conduct and professional growth**

March 2012

**1F: Commission Member Report**
Commissioner Young provided a brief report on the process of the Negotiated Rulemaking Committee of the Federal Department of Education.

**Recess**
Chair Gahagan recessed the meeting to go into Closed Session at 3:00 p.m. pursuant to California Government Code sections 11126(e), to consider pending litigation (*Carroll v Commission on Teacher Credentialing* (SPB 11-0739)) and to also consider adverse actions, petitions for reinstatement and requests for reconsideration in discipline cases pursuant to California Education Code sections 44245 and 44248.

***Friday, January 27, 2012***

**General Session**
Chair Gahagan reconvened the General Session of the Commission at 9:04 a.m. and roll call was taken.

Chair Gahagan opened the public hearing.

**1I: Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions**
Tammy Duggan, Consultant, Certification, Assignment and Waivers Division, presented this item which provided proposed amendments to Title 5 of the California Code of Regulations pertaining to fingerprint submissions as recommended by the Bureau of State Audits.

Chair Gahagan solicited input from the Commissioners and the public.

There was no public input.

Commissioner Blackburn moved to adopt the proposed amendments to the regulations pertaining to fingerprint submissions. Commissioner Williamson seconded the motion. The motion carried without dissent.

**Professional Practices Committee**
Committee Chair Kathleen Harris convened the Professional Practices Committee.

**4A: Committee of Credentials Vacancies for 2012-13**
Ani Kindall, Senior Staff Counsel, Division of Professional Practices, presented this item which provided information concerning the vacancy, application and selection processes of the Committee of Credentials (COC).

**Jenny Teresi, Human Recourses Administrators for Riverside and San Bernardino Counties,** requested the Commission maintain the requirement of COC applicants submitting a letter from their current employer verifying the employer's granting time off each month for Committee work.

# No Longer Interested (NLI) Process

**Intro:**
When a Respondent's credential expires, their application is rejected, or they have simply failed to apply in a timely manner, their Department of Justice/Federal Bureau of Investigation (DOJ/FBI) statuses (fingerprints) are invalidated. If a credential expires, a Respondent currently has 3 years to re-apply prior to their prints being invalidated.

**NLI Process:**

DPP Manual Process: The manual process means that a DPP staff member has created the following Person Note: TYPE//DOJ/NLI. The Description field will contain any information on why the Commission is invalidating the fingerprints on this person.

- Place DOJ/NLI note type
- Place information in Description field of DOJ/NLI note
- Change DOJ/FBI statuses to N
  - N = Needs: this will force Respondent to re-fingerprint
- If NLI is processed by DPP staff
  - Change DPP status to F
    - F = Flagged: this forces any new application to DPP for review

It is possible that a Respondent in Siebel has the status of N/N in the DOJ/FBI fields and a NLI note is not present. These statuses may be set at any time to assist the entire Commission in recognizing that Respondent needs fingerprints.

NLI REPORT: The NLI Report will run daily, and captures all DOJ/NLI notes placed in Person Notes, and based on any other listed criteria (expiration, etc.). This report will create a list that will be submitted to DOJ each day for processing. This list will batch individuals pursuant to DOJ requirements. When the batch list is processed, the DOJ/NLI note in person will change to DOJ/NLI SENT and the DOJ/FBI statuses will change to N. This will tell staff that the NLI request was processed and Respondent must be re-fingerprinted. If Siebel determines that not all criteria are met to send the NLI to DOJ, the information is recorded on an exception report, and the DOJ/NLI Note is changed to DOJ/NLI VOIDED. The exception reports are sent to the Manager of the Intake Unit for review and further processing.

Siebel Automation Process: The automation of NLI means that Siebel will do a full sweep of Respondents in the database, and will NLI any person whose credentials have expired over 3 years from the date of expiration, have no pending applications, and have no open cases in DPP. This information is transmitted to DOJ electronically for immediate processing (within 24 hours).

The process of invalidating (NLI) a person's fingerprints is to assure that the Commission has the most accurate information relative to criminal history available. The (FBI) does not currently have a subsequent rap notification program, so CTC does not receive additional out of state criminal history notifications without a re-print. Although the DOJ does have a subsequent rap notification program for California violations, the purpose of the NLI is two-fold. The CTC does not wish to receive sub rap notifications on persons who no longer hold a valid credential as the rap notification process is time intensive, and the NLI process will help reduce the number of unnecessary raps received monthly.

**Exception Reports:**

- DOJ/FBI statuses are incorrect (DOJ/NLI note voided)
    - Check that the DOJ/FBI statuses have been changed to N correctly and Respondent does not have a pending application or hold a valid document.
- FP Response Received near an NLI event (No Action Taken)
    - Check the Response RO tab under Person to verify the date of Response and confirm fingerprint status.
- App pending/NLI set manually (DOJ/NLI note voided)
    - Check APP status. If Respondent has a valid application pending, forward info to staff member who placed NLI note for correction.
- Valid documents/NLI set manually (DOJ/NLI note voided)
    - If Respondent has a valid document, forward info to staff member who placed NLI note for correction.
- Case Open (DOJ/NLI note voided)
    - If all other factors are present that would allow an NLI to process, but DPP has an open case.

The above sections are listed on an exception report which requires review by Staff. The DOJ/NLI note will move to voided until correction, and will reflect on the exception report until corrected.

# DOJ NLI Batch Summary Report

**Batch Number: 201203_00003 - 03/05/2012 (SUCCEEDED)**
**Batch Type: AUTO_UPLOAD**
**Record Type: Manual flag (Note)**

| CTC SSN | DOJ SSN | Name | DOB | Data Source |
|---|---|---|---|---|
| [redacted] | [redacted] | [redacted] | [redacted] | [redacted] |

**Fax to (916) 227-4722**
**DOJ: Please Process MANUALLY**

California Commission On Teacher Credentialing - **ORI # A0821**



(CTC internal batch number: 201203_00016)

| Name | Sex | DOB | AppType | SSN | NLI Date |
|---|---|---|---|---|---|
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |

# TRANSACTION REPORT

MAR/20/2012/TUE 01:12 PM

FAX(TX)

| # | DATE | START T. | RECEIVER | COM.TIME | PAGE | TYPE/NOTE | | FILE |
|---|---|---|---|---|---|---|---|---|
| 001 | MAR/20 | 01:10PM | 2274722 | 0:01:11 | 8 | OK | SG3 | 0506 |

**Commission on Teacher Credentialing**
1900 Capitol Avenue Sacramento, CA 95811 (888) 921-2682 www.ctc.ca.gov
*Division of Professional Practices*

March 20, 2012

Department of Justice
Bureau of Criminal Investigation and Analysis
P.O. Box 903417
Sacramento, CA 94203-4170

Please process the enclosed batch of 100 persons in whom we are no longer interested. We wish to stop receiving RAP information related to the indicated application types for these persons. **Our ORI number is A0821.** Please contact Rachel Grizzaffi at (916) 323-4996 with any questions or concerns.

Sincerely,

R. Grizzaffi

for Gary Chapman

Custodian of Records
California Commission on Teacher Credentialing

# NLI Batch Run Exception Report



## Exceptions for batch number 201203_00016 processed on 03/22/2012

**Exception Description:**
**DOJ/FBI Status Codes Incorrect**

**Action Taken:**
**Response NLI flag(s) set to N; Person Note Type (if any) set to DOJ/NLI Void.**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | MANUAL |

Total DOJ/FBI Status Codes Incorrect: 1

**Exception Description:**
**FP Response received near NLI Event**

**Action Taken:**
**No action taken. (Verify the person's status with DOJ.)**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | AUTO_UPLOAD |

Total FP Response received near NLI Event: 1

**Exception Description:**
**App pending for manually flagged NLI**

**Action Taken:**
**Response NLI flag(s) set to N; Person Note Type (if any) set to DOJ/NLI Void.**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | AUTO_UPLOAD |

Total App pending for manually flagged NLI: 1

**Exception Description:**
**Open Case - Ongoing**

**Action Taken:**
**Response NLI flag(s) set to N; Person Note Type (if any) set to DOJ/NLI Void.**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | MANUAL |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | MANUAL |
| | | AUTO_UPLOAD |

Total Open Case - Ongoing: 5

**Exception Description:**
**Open Case - Exception**

**Action Taken:**
**Response NLI flag(s) set to N; Person Note Type (if any) set to DOJ/NLI Void.**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | MANUAL |
| | | MANUAL |

# NLI Batch Run Exception Report



## Exceptions for batch number 201203_00016 processed on 03/22/2012

**Exception Description:**
**Open Case - Exception (Continued)**

**Action Taken:**
**Response NLI flag(s) set to N; Person Note Type (if any) set to DOJ/NLI Void.**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
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| | | MANUAL |
| | | MANUAL |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |

Total Open Case - Exception: 42

# NLI Data returned to DOJ

| Batch/Date | AUTO_UPLOAD | MANUAL | Grand Total |
|---|---|---|---|
| 201203_00003 - 03/05/2012 | 1,000 | 100 | 1,100 |
| 201203_00004 - 03/06/2012 | 998 | 100 | 1,098 |
| 201203_00005 - 03/07/2012 | 0 | 100 | 100 |
| 201203_00006 - 03/08/2012 | 0 | 100 | 100 |
| 201203_00007 - 03/09/2012 | 0 | 100 | 100 |
| 201203_00008 - 03/12/2012 | 0 | 100 | 100 |
| 201203_00009 - 03/13/2012 | 0 | 100 | 100 |
| 201203_00010 - 03/14/2012 | 0 | 100 | 100 |
| 201203_00011 - 03/15/2012 | 1,000 | 100 | 1,100 |
| 201203_00012 - 03/16/2012 | 1,000 | 100 | 1,100 |
| 201203_00013 - 03/19/2012 | 0 | 100 | 100 |
| 201203_00014 - 03/20/2012 | 0 | 100 | 100 |
| 201203_00015 - 03/21/2012 | 0 | 100 | 100 |
| 201203_00016 - 03/22/2012 | 0 | 100 | 100 |
| 201203_00017 - 03/22/2012 | 9,998 | 100 | 10,098 |
| 201203_00019 - 03/28/2012 | 9,999 | 100 | 10,099 |
| 201203_00020 - 03/29/2012 | 9,998 | 100 | 10,098 |
| 201203_00021 - 03/30/2012 | 9,998 | 100 | 10,098 |
| Grand Total | 43,991 | 1,800 | 45,791 |

Full implementation delays were due DOJ data validation between uploads.
The upload validation led to a several improvements in the data export.

# BSA Recommendation 2.1

***Recommendation 2.1:*** *The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee in overcoming those challenges, and the goals and actions necessary to accomplish its mission.*

<u>Index:</u>

- **March 2012 Agenda Action Item 4A**
  - Strategic Plan for the Division of Profession Practices.

# 4A

## Action

*Professional Practices Committee*

## Division of Professional Practices Strategic Plan

**Executive Summary:** This agenda item provides recommendations for a Division of Professional Practices Strategic Plan for the Commission's consideration.

**Recommended Action:** In response to the recommendations of the Bureau of State Audits, staff recommends that the Commission amend its current (2007) Strategic Plan by adding a 7th goal that lays out specific strategic priorities for the Division of Professional Practices.

**Presenter:** Nanette Rufo, Director, Division of Professional Practices

Strategic Plan Goal: 1

Promote educational excellence through the preparation and certification of professional educators

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

# Division of Professional Practices Strategic Plan

**Background**
A recommendation from the Bureau of State Audits (BSA) was that the Commission revise its Strategic Plan for the Division of Professional Practices (DPP). Specifically, the recommendation stated:

> The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee [of Credentials], and determine the goals and actions necessary to accomplish its mission.

Many of the organizational challenges faced by DPP were identified in the extensive analysis and comments in the BSA report. In addition, information and discussion from the stakeholder meetings held in October and November 2011 served to inform the proposed DPP Strategic Plan.

Staff presented this item in January as a proposal for incorporation into the Commission's new Strategic Plan, which is under development. Commissioners were concerned about developing a new Strategic Plan in a piecemeal fashion and requested that staff incorporate these ideas as the new plan was developed. With the consent of the Commission Chair, and given the timing of the Commission's response to the BSA (due in April 2012), staff is bringing this item for action by the Commission as a proposed amendment to the 2007 Strategic Plan.

**Timing of Activities**
The list of activities to be accomplished in the proposed amendments to the Strategic Plan is ambitious. As with any ambitious plan, it is difficult to plan a schedule for a variety of reasons. Many of the needed improvements require modification of the Commission's database. Such modifications require a significant allocation of the Commission's scarce information technology (IT) resources. To the extent that IT staff are redirected to the Commission's other critical IT issues, the project will be delayed. In addition, other special projects arise which absorb the Commission's limited resources.

The current draft includes one major goal and five objectives. In terms of priority of the various activities, the highest priority is remediation of the systemic weaknesses identified by the BSA. While much work has been done on these issues, significant additional work must still be accomplished. Remediation of issues identified by the BSA is the focus of Objectives 1 and 2. The focus will be on needed changes to the database, documenting those procedures, and training staff. The goal will be to accomplish those activities so that an independent consultant could be brought in to assess DPP's data oversight and control measures during summer 2012.

Some measures in Objectives 1 and 2 will be started later, like establishing a Best Practices Committee, as resources can be taken off the database issue and moved to other issues. Activities for Objective 3, Introduce Policy, Legislation and Update Regulations, would be undertaken in late 2012. Resource issues addressed in Objective 4 would be done in the fall of 2012.

**Recommendation**
Staff recommends that the Commission review and adopt the proposed amendment to its 2007 Strategic Plan. The Commission retains the ability to make changes to the plan as part of its strategic planning activities in 2012.

## Proposed Amendment to 2007 Strategic Plan

***Goal 7: Effectively, efficiently, and fairly monitor the fitness of all applicants and credential holders to work with California students.***

*Objective 1*
Establish and maintain an effective program for professional discipline.

Major Activities for Objective 1:

- Establish and track monthly discipline case monitoring and oversight reports.
- Evaluate the process for discipline; identify process improvements and identify and eliminate redundancies and bottlenecks in the process.
- Institute a Best Practices Committee to research and identify internal and external best discipline practices.
- Implement efficient DPP procedures for: intake, assignment, investigation, probable cause determinations, formal discipline, and probation.
- Review and revise internal business practices to create a more streamlined and efficient system.
- Establish a discipline case audit program.
- Reduce DPP investigation case cycle time.
- Ensure that all DPP staff have current procedures available. Update all procedures and provide training as new processes developed.

*Objective 2*
Update and optimize discipline related data systems, equipment, and software.

Major Activities for Objective 2:

- Implement Discipline Activity and Monitoring Reports.
- Establish performance expectations and manage discipline case activities for achievement of expectations.

- Redesign the Commission's data system to adequately track intake, assignment, investigation, probable cause determinations, formal discipline, and probation.

- Enhance the Commission's data system to adequately control, document and ensure separation of duties.

- Retain consultant for an independent evaluation of the data oversight and control plan and strengthen system as needed.

- Test and implement an automated return of notices of arrest to the Department of Justice. Continue manual processing to return arrest notices to DOJ.

- Integrate case records with the data system by implementing a front-end scanning procedure that would allow attachment (PDF scanned copy) of any document received into the electronic case record.

*Objective 3*
Introduce new policies, any needed legislation, and update regulations to more effectively conduct discipline activities.

Major Activities for Objective 3:

- Present policy options to the Commission to guide the work of DPP staff.

- Convene a stakeholders meeting to discuss revisions to the regulation requiring reports from school districts (Title 5, CCR section 80303).

- Develop new legislation if needed for more effective discipline capabilities.

- Develop regulations to implement new legislation and update existing regulations.

*Objective 4*
Identify and obtain the resources needed to implement objectives 1- 3.

Major Activities for Objective 4:

- Conduct workload study to determine staffing levels necessary to handle the discipline workload.

- Generate a Budget Change Proposal, as needed, for additional staff, additional training for existing staff, and additional funding for field investigations.

- If additional DPP staff are needed, authorized, and funded, hire and train staff.

- Identify financial resources needed (cost of overtime, temporary help, investigative travel, etc).

- Obtain Department of Finance approval to utilize needed resources.

*Objective 5*
Engage in outreach to inform educators and the public about educator discipline.

Major activities for Objective 5:

- Expand field work by investigators.

- Increase educators' awareness of the consequences of unprofessional conduct.

- Educate administrators about reportable event responsibilities.

***BSA Recommendation 2.2**: To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload.*

**Index:**

- **DPP Monthly Activity Report**
  - February 2012 Activity Report
  - February 2012 DPP Raps received
  - February 2012 Cases Close
- **Sample Open Case Report**
  - Open Cases Aged by Case Status as of February 29, 2012.
  - Open Cases Aged by Credential Status as of February 29, 2012.
- **Sample Consent Calendar Query**
  - Reflects cases assigned to January 2012 Consent Calendar.
- **Sample My Team Report**
  - Reflects open activities for any case assigned to a DPP staff member.

# DPP Monthly Activity Summary

## Activity During February 2012

### Pre COC

**Work Received in DPP**

| | Items Rec'd | Cases Opened |
|---|---|---|
| RAPs | 869 | 286 |
| Apps | 999 | 235 |
| SD Reports * | 118 | 4 |
| Misc * | 5 | 10 |
| **Total** | **1,991** | **535** |

* Work related to cases opened may have been received in a prior period

**Document Requests**

| | |
|---|---|
| Arrest | 185 |
| Court | 403 |

### COC Inventory

| | |
|---|---|
| Initial Review | 61 |
| Formal Review | 49 |
| Consent Review | 124 |

### COC Work Completed (February 2012)

**Cases to COC**

| | |
|---|---|
| Intitial Review | 65 |
| Formal Review | 42 |
| Reconsideration | 3 |
| Consent Review | 279 |

**Cases Completed**

| | |
|---|---|
| Closed | 104 |
| Granted | 182 |
| Adverse Actions | 39 |

### Post COC

| | |
|---|---|
| Settlement | 1 |
| AG | 4 |
| CTC | 50 |

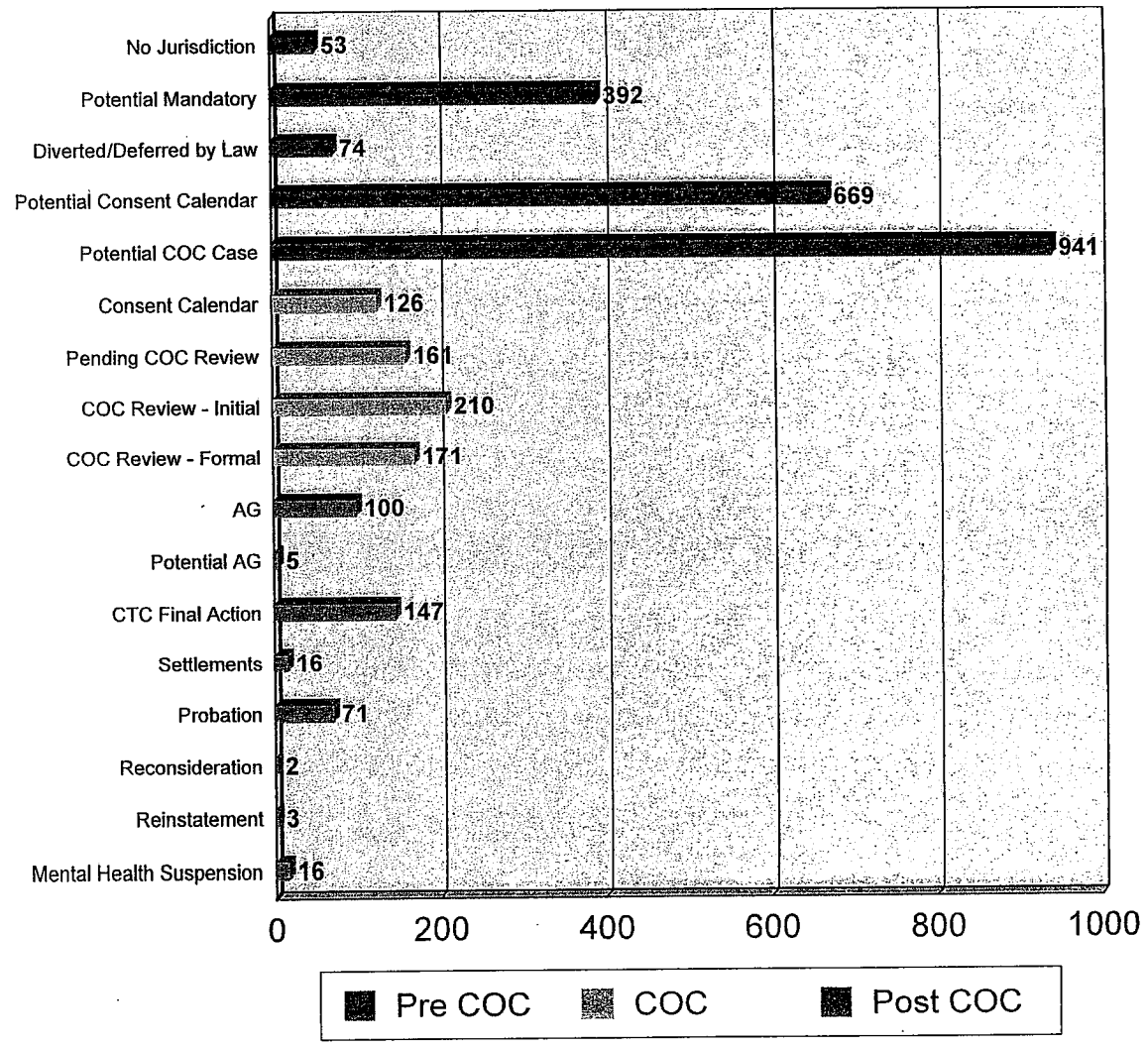
### Mandatory Actions

| | |
|---|---|
| Revocations | 14 |
| Denials | 3 |
| Automatic Suspensions | 19 |

### Inventory for February 2012

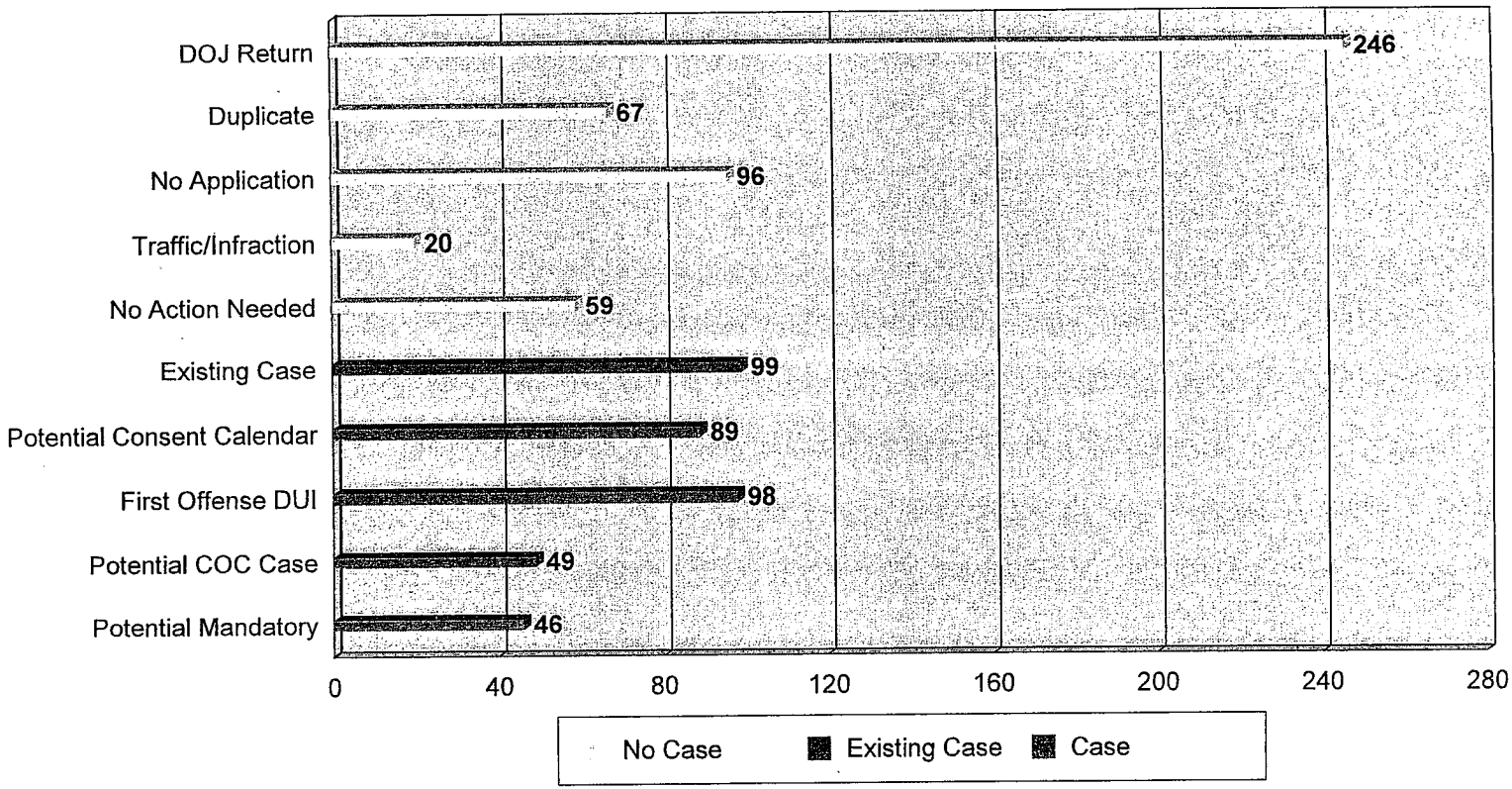
| | |
|---|---|
| Starting Case Load | 3,049 |
| Cases Opened | 535 |
| Cases Closed | 427 |
| Ending Case Load | 3,157 |

## Open Cases by Status and Type as of February 29, 2012



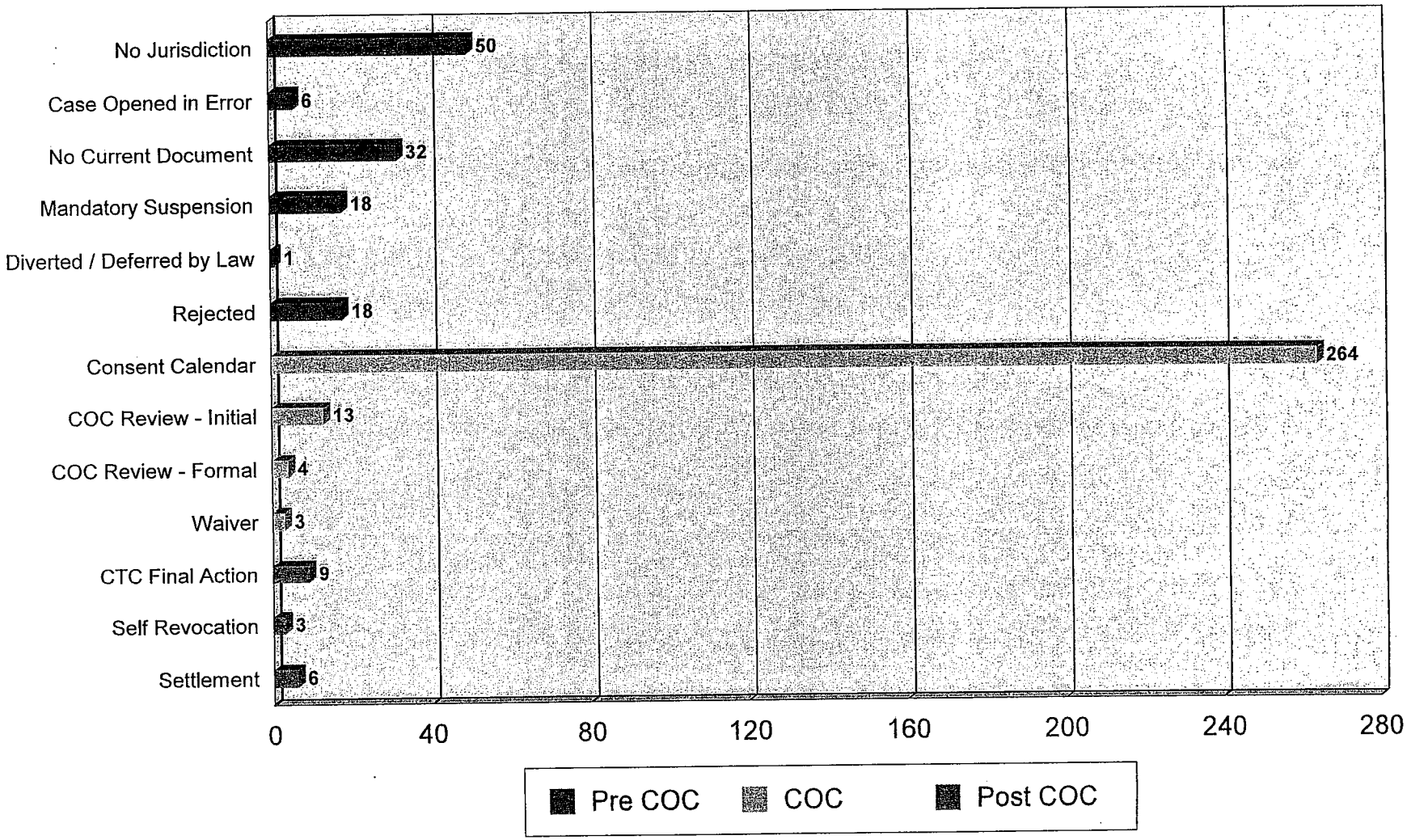

| | |
|---|---|
| **Pre COC** | **2,129** |
| **COC** | **668** |
| **Post COC** | **360** |
| **Total Open Cases** | **3,157** |

## DPP RAPs Received and Processed February 2012




| | |
|---|---|
| **No Case** | **488** |
| **Existing Case** | **99** |
| **Case** | **282** |
| **Total RAPs** | **869** |

## Cases Closed by Type During February 2012




| | |
|---|---|
| **Pre COC** | **125** |
| **COC** | **284** |
| **Post COC** | **18** |
| **Total Cases Closed** | **427** |

# Open Cases Aged by Case Status, Case Type, and Offense as of February 29, 2012

| Status | Case Type | Offense Code | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 450 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | No Jurisdiction | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 1 | 1 | 0 | 2 | 1 | 0 | 5 |
| | | Adult - Sexual | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| | | Drugs | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | | Serious Crimes/Felonies | 0 | 2 | 4 | 2 | 2 | 2 | 12 |
| | | Alcohol | 2 | 0 | 2 | 1 | 1 | 1 | 7 |
| | | Other Crimes/Misdemeanors | 3 | 8 | 5 | 6 | 2 | 2 | 26 |
| | | **Total** | **7** | **11** | **12** | **11** | **6** | **6** | **53** |
| | Potential Mandatory | Child Crime - Sexual | 34 | 13 | 14 | 9 | 6 | 28 | 104 |
| | | Child Crime - Non-sexual | 21 | 13 | 2 | 8 | 2 | 5 | 51 |
| | | Adult - Sexual | 9 | 6 | 2 | 3 | 0 | 4 | 24 |
| | | Drugs | 16 | 17 | 12 | 5 | 4 | 11 | 65 |
| | | Serious Crimes/Felonies | 35 | 26 | 27 | 11 | 13 | 21 | 133 |
| | | Alcohol | 4 | 3 | 5 | 0 | 0 | 0 | 12 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 0 | 1 | 1 | 3 |
| | | **Total** | **120** | **78** | **62** | **36** | **26** | **70** | **392** |
| | Diverted / Deferred by Law | Child Crime - Non-sexual | 0 | 0 | 1 | 1 | 0 | 4 | 6 |
| | | Drugs | 2 | 3 | 6 | 7 | 9 | 20 | 47 |
| | | Serious Crimes/Felonies | 0 | 1 | 2 | 3 | 1 | 6 | 13 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 2 | 2 | 2 | 0 | 6 |
| | | **Total** | **2** | **4** | **11** | **13** | **12** | **32** | **74** |
| | Potential Consent Calendar | Child Crime - Sexual | 1 | 0 | 1 | 0 | 0 | 0 | 2 |
| | | Child Crime - Non-sexual | 4 | 4 | 0 | 1 | 0 | 0 | 9 |
| | | Adult - Sexual | 1 | 2 | 1 | 1 | 1 | 0 | 6 |
| | | Drugs | 6 | 3 | 1 | 0 | 0 | 1 | 11 |
| | | Serious Crimes/Felonies | 42 | 20 | 8 | 6 | 2 | 1 | 79 |
| | | Alcohol | 256 | 62 | 42 | 16 | 2 | 10 | 388 |
| | | Other Crimes/Misdemeanors | 85 | 34 | 28 | 21 | 2 | 4 | 174 |
| | | **Total** | **395** | **125** | **81** | **45** | **7** | **16** | **669** |
| | Potential COC Case | Child Crime - Sexual | 1 | 3 | 0 | 1 | 0 | 3 | 8 |
| | | Child Crime - Non-sexual | 25 | 22 | 7 | 12 | 0 | 4 | 70 |
| | | Adult - Sexual | 4 | 4 | 3 | 3 | 0 | 3 | 17 |
| | | Drugs | 11 | 14 | 7 | 6 | 1 | 5 | 44 |
| | | Serious Crimes/Felonies | 99 | 64 | 55 | 28 | 19 | 25 | 290 |
| | | Alcohol | 60 | 57 | 54 | 42 | 18 | 32 | 263 |
| | | Other Crimes/Misdemeanors | 43 | 88 | 53 | 38 | 14 | 13 | 249 |
| | | **Total** | **243** | **252** | **179** | **130** | **52** | **85** | **941** |
| | **Total** | | **767** | **470** | **345** | **235** | **103** | **209** | **2,129** |
| COC | All Case Types | All Offense Types | 103 | 38 | 67 | 108 | 80 | 272 | 668 |
| | | **Total** | **103** | **38** | **67** | **108** | **80** | **272** | **668** |
| | **Total** | | **103** | **38** | **67** | **108** | **80** | **272** | **668** |
| Post COC | All Case Types | All Offense Types | 8 | 2 | 2 | 5 | 14 | 329 | 360 |
| | | **Total** | **8** | **2** | **2** | **5** | **14** | **329** | **360** |
| | **Total** | | **8** | **2** | **2** | **5** | **14** | **329** | **360** |

| | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 450 + Days | Total |
|---|---|---|---|---|---|---|---|
| Total | 878 | 510 | 414 | 348 | 197 | 810 | 3,157 |

# Open Cases Aged by Case Status, Credential Status, and Offense - as of February 29, 2012

| Case Status | Credential Status | Offense | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | Authorized | Child Crime - Sexual | 13 | 4 | 3 | 1 | 0 | 3 | 24 |
| | | Child Crime - Non-sexual | 38 | 32 | 8 | 19 | 2 | 10 | 109 |
| | | Adult - Sexual | 9 | 9 | 5 | 7 | 1 | 3 | 34 |
| | | Drugs | 28 | 28 | 24 | 17 | 12 | 34 | 143 |
| | | Serious Crimes/Felonies | 121 | 86 | 74 | 43 | 30 | 49 | 403 |
| | | Alcohol | 248 | 104 | 96 | 54 | 19 | 40 | 561 |
| | | Other Crimes/Misdemeanors | 90 | 118 | 78 | 60 | 18 | 18 | 382 |
| | | **Total** | **547** | **381** | **288** | **201** | **82** | **157** | **1,656** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 18 | 11 | 10 | 8 | 6 | 27 | 80 |
| | | Child Crime - Non-sexual | 1 | 1 | 0 | 0 | 0 | 1 | 3 |
| | | Adult - Sexual | 3 | 1 | 1 | 0 | 0 | 2 | 7 |
| | | Serious Crimes/Felonies | 0 | 0 | 1 | 0 | 0 | 1 | 2 |
| | | Alcohol | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| | | **Total** | **22** | **13** | **12** | **8** | **7** | **31** | **93** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 1 | 0 | 0 | 1 | 0 | 1 | 3 |
| | | Child Crime - Non-sexual | 5 | 3 | 1 | 2 | 0 | 1 | 12 |
| | | Adult - Sexual | 2 | 1 | 1 | 0 | 0 | 2 | 6 |
| | | Drugs | 8 | 8 | 2 | 1 | 2 | 3 | 24 |
| | | Serious Crimes/Felonies | 55 | 24 | 19 | 7 | 6 | 4 | 115 |
| | | Alcohol | 70 | 15 | 6 | 2 | 0 | 2 | 95 |
| | | Other Crimes/Misdemeanors | 42 | 12 | 9 | 6 | 3 | 2 | 74 |
| | | **Total** | **183** | **63** | **38** | **19** | **11** | **15** | **329** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 4 | 1 | 2 | 0 | 0 | 1 | 8 |
| | | Child Crime - Non-sexual | 7 | 4 | 1 | 3 | 1 | 1 | 17 |
| | | Adult - Sexual | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| | | Drugs | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| | | Serious Crimes/Felonies | 0 | 3 | 2 | 0 | 1 | 1 | 7 |
| | | Alcohol | 4 | 3 | 1 | 3 | 1 | 3 | 15 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 1 | 1 | 0 | 0 | 2 |
| | | **Total** | **15** | **13** | **7** | **7** | **3** | **6** | **51** |
| | **Total** | | **767** | **470** | **345** | **235** | **103** | **209** | **2,129** |
| COC | Authorized | Child Crime - Sexual | 1 | 3 | 0 | 4 | 0 | 5 | 13 |
| | | Child Crime - Non-sexual | 2 | 6 | 10 | 20 | 16 | 30 | 84 |
| | | Adult - Sexual | 0 | 1 | 1 | 4 | 1 | 1 | 8 |
| | | Drugs | 0 | 0 | 1 | 1 | 1 | 15 | 18 |
| | | Serious Crimes/Felonies | 1 | 1 | 10 | 16 | 13 | 49 | 90 |
| | | Alcohol | 26 | 10 | 18 | 19 | 15 | 80 | 168 |
| | | Other Crimes/Misdemeanors | 6 | 5 | 13 | 31 | 23 | 62 | 140 |
| | | **Total** | **36** | **26** | **53** | **95** | **69** | **242** | **521** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| | | Child Crime - Non-sexual | 0 | 0 | 1 | 2 | 2 | 1 | 6 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 0 | 1 | 0 | 2 |

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| COC | Not Authorized - Docs Suspende | **Total** | **1** | **1** | **1** | **2** | **3** | **3** | **11** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Child Crime - Non-sexual | 3 | 0 | 1 | 1 | 1 | 2 | 8 |
| | | Adult - Sexual | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | | Drugs | 2 | 0 | 0 | 0 | 0 | 1 | 3 |
| | | Serious Crimes/Felonies | 8 | 4 | 1 | 2 | 5 | 6 | 26 |
| | | Alcohol | 40 | 2 | 5 | 2 | 1 | 4 | 54 |
| | | Other Crimes/Misdemeanors | 11 | 4 | 3 | 2 | 1 | 0 | 21 |
| | | **Total** | **65** | **10** | **10** | **7** | **8** | **15** | **115** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 0 | 0 | 1 | 0 | 0 | 4 | 5 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Serious Crimes/Felonies | 0 | 0 | 1 | 0 | 0 | 3 | 4 |
| | | Alcohol | 1 | 1 | 1 | 1 | 0 | 2 | 6 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 3 | 0 | 1 | 4 |
| | | **Total** | **1** | **1** | **3** | **4** | **0** | **12** | **21** |
| | **Total** | | **103** | **38** | **67** | **108** | **80** | **272** | **668** |
| Post COC | Authorized | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 18 | 18 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 1 | 2 | 30 | 33 |
| | | Adult - Sexual | 0 | 0 | 0 | 1 | 1 | 8 | 10 |
| | | Drugs | 0 | 0 | 0 | 0 | 1 | 7 | 8 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 1 | 0 | 33 | 34 |
| | | Alcohol | 0 | 0 | 1 | 0 | 1 | 51 | 53 |
| | | Other Crimes/Misdemeanors | 5 | 0 | 1 | 0 | 2 | 75 | 83 |
| | | **Total** | **5** | **0** | **2** | **3** | **7** | **222** | **239** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 1 | 0 | 4 | 5 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 7 | 7 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 11 | 11 |
| | | **Total** | **0** | **0** | **0** | **1** | **0** | **28** | **29** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 6 | 6 |
| | | Child Crime - Non-sexual | 0 | 1 | 0 | 0 | 2 | 4 | 7 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 1 | 1 | 2 |
| | | Drugs | 1 | 0 | 0 | 0 | 0 | 3 | 4 |
| | | Serious Crimes/Felonies | 0 | 1 | 0 | 0 | 1 | 12 | 14 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 5 | 5 |
| | | Other Crimes/Misdemeanors | 2 | 0 | 0 | 1 | 3 | 6 | 12 |
| | | **Total** | **3** | **2** | **0** | **1** | **7** | **37** | **50** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 4 | 4 |

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Post COC | Not Authorized - No App(s) Pending | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 12 | 12 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 6 | 6 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 14 | 14 |
| | | **Total** | **0** | **0** | **0** | **0** | **0** | **42** | **42** |
| | **Total** | | **8** | **2** | **2** | **5** | **14** | **329** | **360** |
| **Total** | | | **878** | **510** | **414** | **348** | **197** | **810** | **3,157** |

Consent Calendar
January 18-20, 2012
Final

| Case # | Last Name | First Name | Activity Group | Activity Type | Effective Date | Owner |
|---|---|---|---|---|---|---|
| [redacted] | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | PVASSAR |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | LNG |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | LHERNANDEZ |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | PVASSAR |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | PVASSAR |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | MCROFT |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | MCROFT |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | MCROFT |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | PVASSAR |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | AMOSTAFANEJAD |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | PVASSAR |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | JNAKAMURA |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | LNG |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | | | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | LNG |

| | | | | |
|---|---|---|---|---|
| [redacted] | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | LNG |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | JNAKAMURA |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | PVASSAR |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | MCROFT |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | JNAKAMURA |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | MCROFT |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | MCROFT |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | MCROFT |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | MCROFT |
| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | IWALLS |
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| | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | PVASSAR |
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| [redacted] | ASSIGNED TO | COC CONSENT CALENDAR | 1/18/2012 0:00 | AMOSTAFANEJAD |
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Division of Professional Practices
My Team - Advance Notification of Activity Deadline

Printed 4/2/2012 6:00:50AM


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Manager Alerts

ASSIGNED TO

LETTER OF INQUIRY

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 02/01/2012 | [redacted] | [redacted] | [redacted] | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | APP/HOLD | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |

PENDING ARRIVAL

APP/PAK

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 01/20/2012 | [redacted] | [redacted] | [redacted] | FIRST APP | 73 | 0 | 38 | 3 |

ARREST REPORT

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 05/02/2011 | [redacted] | [redacted] | [redacted] | HOLDER | 336 | 0 | 308 | 294 |
| 06/27/2011 | | | | HOLDER | 280 | 0 | 252 | 238 |
| 08/15/2011 | | | | HOLDER | 231 | 0 | 203 | 189 |
| 10/31/2011 | | | | APP/HOLD | 154 | 0 | 126 | 112 |
| 01/12/2012 | | | | HOLDER | 81 | 0 | 53 | 39 |
| 01/25/2012 | | | | HOLDER | 68 | 0 | 40 | 26 |
| 01/30/2012 | | | | HOLDER | 63 | 0 | 35 | 21 |

COURT DOCUMENTS

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 01/17/2012 | [redacted] | [redacted] | [redacted] | HOLDER | 76 | 0 | 48 | 34 |
| 01/19/2012 | | | | HOLDER | 74 | 0 | 46 | 32 |
| 01/20/2012 | | | | HOLDER | 73 | 0 | 45 | 31 |
| 02/13/2012 | | | | HOLDER | 49 | 0 | 21 | 7 |
| 02/14/2012 | | | | HOLDER | 48 | 0 | 20 | 6 |

COURT DOCUMENTS UPDATE

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 01/10/2012 | [redacted] | [redacted] | [redacted] | HOLDER | 83 | 0 | 55 | 41 |
| 01/17/2012 | | | | HOLDER | 76 | 0 | 48 | 34 |
| 01/19/2012 | | | | HOLDER | 74 | 0 | 46 | 32 |
| 01/25/2012 | | | | HOLDER | 68 | 0 | 40 | 26 |
| 02/08/2012 | | | | HOLDER | 54 | 0 | 26 | 12 |
| 02/09/2012 | | | | HOLDER | 53 | 0 | 25 | 11 |
| 02/13/2012 | | | | HOLDER | 49 | 0 | 21 | 7 |
| 02/15/2012 | | | | HOLDER | 47 | 0 | 19 | 5 |

Division of Professional Practices
My Team - Advance Notification of Activity Deadline

Printed 4/2/2012 6:00:50AM


[redacted]

**Manager Alerts**

**ASSIGNED TO**

LETTER OF INQUIRY

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 02/01/2012 | [redacted] | [redacted] | [redacted] | APP/HOLD | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |

# BSA Recommendation 2.3

***Recommendation 2.3:*** *The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice.*

<u>Index:</u>

- **Acknowledgment of Request for Attorney General's Opinion**
- **Request for Opinion**
  - Formal request for the Attorney General's Opinion
- **January 2012 Agenda Information Item 4C**
  - Report on the Stakeholder Meetings Addressing the Discretionary Review Process.

*KAMALA D. HARRIS*
*Attorney General*

*State of California*
*DEPARTMENT OF JUSTICE*

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SAN FRANCISCO, CA 94102-7004

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Telephone: (415) 703-5876
Facsimile: (415) 703-5480
E-Mail: Susan.Lee@doj.ca.gov

July 1, 2011

Dale A. Janssen, Executive Director
Commission On Teacher Credentialing
1900 Capitol Avenue
Sacramento, CA 95811

RE: Opinion No. 11-606

Dear Mr. Janssen:

By letter dated May 2, 2011, you requested an opinion of the Attorney General on the following question:

> May the Commission on Teacher Credentialing delegate to its Executive Director, and through him or her to subordinate staff, the authority to review and determine which cases are required to be presented to the Committee of Credentials? (*See* Educ. Code §§ 44220(b)m 4424,5(a); *see also* California State Auditor's Report No. 2010-119.)

Your request has been assigned to Deputy Attorney General Diane Eisenberg, in the Opinion Unit. We will solicit the views of all interested parties. Please let us know of those you wish to have contacted for their views. Your request and our opinion will be treated as public records subject to disclosure under the Public Records Act.

Sincerely,

SUSAN DUNCAN LEE
Supervising Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

SDL:em

cc: David Chaney; Dane Gillette; Matt Rodriquez; Jonathan Renner, Secretary for Legal Affairs, Governor's Office; Jennifer Kim, Senior Assistant Attorney General, Health, Education and Welfare; Leslie McElroy, Deputy Attorney General, Health, Education and Welfare; Diane Eisenberg

SF2011101693; 20480426.doc

**Commission on Teacher Credentialing**
1900 Capitol Avenue Sacramento, CA 95811 (916) 322-6253 Fax (916) 445-0800
www.ctc.ca.gov

*Office of the Executive Director*

May 2, 2011

Susan Lee, Supervising Deputy Attorney General
Opinion Unit
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102

**Request for Opinion**

Dear Ms. Lee:

The Commission on Teacher Credentialing (Commission) requests an opinion interpreting the statute delegating authority to the Executive Director as it relates to the discretionary disciplinary process of the Commission and the Committee of Credentials (Committee.) Specifically:

May the Commission pursuant to subdivision (b) of section 44220 of the Education Code delegate to the Executive Director and through him his subordinate staff, the authority to review and determine which cases are required to be presented to the Committee in accordance with subdivision (a) of section 44242.5 of the Education Code?

**Background and Statutory Framework**

The Commission is an agency in the Executive Branch of California State Government. It was created in 1970 by the Ryan Act (Teacher Preparation and Licensing Act of 1970, Education Code Sections 44200 *et. seq*)., and is the oldest of the autonomous state standards boards in the nation. The major purpose of the agency is to serve as a state standards board for educator preparation for the public schools of California, the licensing and credentialing of professional educators in the State, the enforcement of professional practices of educators, and the discipline of credential holders in the State of California.

Section 44220 of the Education Code[1] gives a broad delegation of authority to the Executive Director. Subdivision (b) of section 44220 reads as follows:

> Any power, duty, purpose, function, or jurisdiction that the commission may lawfully delegate is delegated to the executive director, unless the commission specifically has reserved the same for its own action.

The powers and duties provision of the Commission contained in section 44225 sets forth an extensive list of tasks that the Commission is required to perform, but it contains no specific reference to discipline. The Commission has not specifically reserved any functions that relate

[1] All statutory references are to the Education Code unless otherwise noted.

to the discretionary disciplinary review process in regulations promulgated by the Commission (Title 5 of the California Code of Regulations (commencing with section 80000)) nor in the Commission's Policy Manual (Commission on Teacher Credentialing Policy Manual, updated December 2007.) Section 600 of the Policy Manual reiterates and explains the statutory delegation to the Executive Director as follows:

> (b) Any power, duty purpose, function, or jurisdiction which the Commission may lawfully delegate shall be conclusively presumed to have been delegated to the Executive Director unless it is shown that the Commission has specifically reserved the same for its own action.
>
> *****
>
> (e) The Executive Director may authorize such assisting staff to perform in the name of the Executive Director, any of the authorized duties of the Executive Director.

The statutory provisions governing the discretionary[2] review process of disciplinary matters concerning credential holders and applicants for credentials is set forth in the sections 44240 through 44246. Section 44240 requires the Commission to appoint the Committee members in designated categories. The Education Code does not set forth a powers and duties provision for the Committee and there is no Legislative intent language in the statutes relating to the Committee. Section 44241 applies various administrative provisions to the Committee, including the delegation authority to the Executive Director found in section 44220. Section 44242 states that the Committee is under the direct supervision of the Commission and section 44243 states that the Commission may assign administrative duties to the Committee and shall supervise the work of the Committee and provide statements of policy and procedure as it deems appropriate. The Commission addresses its relationship with the Committee in sections 500 through 512 of the Policy Manual.

In order to perform its statutory duties, the members of the Committee meet once a month in Sacramento for three days to review the cases prepared by Commission staff. In order to investigate acts of misconduct, jurisdiction for an initial review must be established under the provisions of subdivision (b) of section 44242.5. At the initial review, the Committee determines whether to close the investigation or to proceed to a formal review pursuant to section 44244. A separate jurisdictional basis is required under subdivision (d) of 44242.5 to proceed to the formal review[3]. Respondents have a right to make a personal appearance at the formal review. The appearances limit the number of formal reviews the Committee can conduct during each meeting. After the formal review, the Committee may close the investigation or recommend an adverse action. The respondent may accept the recommendation of the Committee which is presented to the Commission on a

---

[2] The Education Code contains provisions requiring the denial of an application or revocation of a credential by operation of law based on a specified criminal conviction (sections 44346, 44346.1, 44423.6, 44424, 44425, 44425.5, and 44426.) The Commission's involvement in these cases is purely ministerial (*DiGenova v. State Board of Education*, 45 Cal. 2d 255, 260.)

[3] For example, a police report or court document reflecting an individual has been arrested or charged with a crime would provide jurisdiction to conduct an initial review under section 44242.5(b)(1), but a conviction would be required to proceed to formal review under section 44242.5(d)(1). A sworn statement or an employment action provides jurisdiction for both initial and formal review under sections 44242.5(b)(2) and (b)(3) and 44242.5 (d)(2) and (d)(3).

Consent Calendar for adoption pursuant to section 44244.1. The respondent may appeal the recommendation of the Committee pursuant to section 44246 and the matter is adjudicated under the Administrative Procedures Act. The Commission is represented during these proceedings by the Office of the Attorney General.

The Division of Professional Practices (DPP) is the division charged with the responsibility of supporting the work of the Committee. DPP is also the legal department for the Commission and the Director of DPP serves as the General Counsel for the Commission. The Director/General Counsel oversees a staff of attorneys, investigators, analysts, and technicians. In support of the work of the Committee, Commission staff reviews criminal justice summaries (RAP sheets) received from the Department of Justice, reports of misconduct from individuals, reports of changes in employment from school districts, and disclosures of potential misconduct from applicants. The Commission reviews thousands of allegations of misconduct a year; the majority of which involve criminal conduct.[4] Commission staff reviews the criminal conduct, gathers the necessary documents to evaluate the conduct, performs a legal review as to jurisdiction and defensibility, and initiates the discretionary investigation on behalf of the Committee. Additionally, Commission legal staff works with the members of the Committee to identify behaviors that the Committee has determined do not warrant a recommendation of an adverse credentialing action[5].

**Analysis**

The Commission has historically interpreted the intent of the statutes governing the Committee as providing statutory due process prior to any discipline being imposed on a credential holder. The Committee on Education of the Assembly issued a report that addressed perceived deficiencies with the predecessor to the Committee of Credentials when it was under the auspices of the Department of Education (*The Restoration of Teaching: A Report of the Subcommittee of Personnel and Teacher Qualifications*, January 1967, pp. 21-35) which led to the Ryan Act that established the present day Commission and Committee. The recommendations of the subcommittee focused on providing greater due process and fairness to the Committee review process.

The language of subdivision (a) of section 44242.5 reads as follows:

> Each allegation of an act or omission by an applicant for, or holder of, a credential for which he or she may be subject to an adverse action shall be presented to the Committee of Credentials.

In a recent audit report on the Commission, the State Auditor issued a *de facto* legal opinion in which she interpreted the above-referenced language to require "...where the allegation of misconduct is one that gives the committee initial jurisdiction and may subject a credential holder or applicant to adverse action, staff must present it to the committee" (California State Auditor Report 2010-119, p. 108.) Under this interpretation of the statute, every credential

---

[4] See Division of Professional Practices Discipline Workload Report FY 2009-2010, Item 2A, December 9-10 Commission meeting.

[5] Although a delegation of authority from the Committee was not viewed as applicable, Commission staff worked closely with the Committee to insure that its members were fully informed of staff's actions and were in agreement. Accordingly, Commission staff presented the Committee with information about the type of cases that cannot support discipline and the process of staff closing these cases was approved unanimously by a quorum of the Committee.

holder or applicant who was arrested for a crime, but not yet convicted would have to be presented to Committee for initial review, regardless of the nature of the crime or the status of the criminal case. The commencement of an initial review requires that the case be presented to the Committee for formal review within six months (section 44244(b)(1)) with a possibility of a six months extension from the chair of the Commission (section 44244(c)). If the individual is not convicted of the crime within this timeframe, the Committee would not have jurisdiction to proceed to the formal review absent Commission staff obtaining sworn statements from witnesses in multiple ongoing criminal investigations scattered throughout the state of California. The Commission has never taken the view that criminal charges that do not result in a conviction should routinely[6] be pursued given the statutory relationship between initial review jurisdiction under 44242.5(b)(1) [official documents from court or law enforcement agency] and formal review jurisdiction under 44242.5(d)(1) [documents supporting a conviction].

The State Auditor's opinion is also based on the assumption that the Committee has delegation authority rather than the Commission. Based on the statutory structure outlined above, the Commission has taken the position that the Committee performs an invaluable function, but has no authority to delegate. All delegations of authority flow from the Commission (sections 44220, 44241, 44242, 44243, Policy Manual sections 500-512, and 600). Recognizing that a legal opinion of the State Auditor has no binding effect, the Audit recommended that the Commission seek a legal opinion from the Attorney General to provide guidance on this issue.

Historically, the "shall" language of this passive-voiced sentence in section 44242.5 has been interpreted by the Commission to mean that no discipline may be imposed on an applicant or credential holder unless the allegations are reviewed by the Committee. Commission staff, on behalf of the Commission, presents allegations of misconduct that have been reviewed for jurisdictional and legal sufficiency.

The Education Code does not contain a definition of "misconduct" and provides no specific guidance as to what criminal behavior has a sufficient nexus to holding a credential to warrant a discretionary review and a possible adverse action. Section 44421 provides a general statement for the grounds for imposing an adverse action:

> The Commission on Teacher Credentialing shall privately admonish, publicly reprove, revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

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[6] On relatively rare occasions, the Commission will obtain initial review jurisdiction pursuant to a police report or court document and attempt to obtain formal review jurisdiction by obtaining a sworn statement from an individual with firsthand knowledge of the alleged misconduct. These cases usually involve an allegation of sexual misconduct with a minor where the Commission has determined that if a sworn statement can be obtained the Commission has a reasonable probability of prevailing in the matter because of its lower burden of proof and the fact that the behavior does not have to be criminal to be unprofessional or immoral for licensing purposes. Current staff and resources do not allow such action in every case.

Grounds for denying an application are found in section 44345:

> The commission may deny any application for the issuance of a credential or for the renewal of a credential made by any applicant who falls under any of the following categories:
>
> (a) Lacks the qualifications which are prescribed by law or regulations adopted by the commission pursuant thereto.
>
> (b) Is physically or mentally so disabled as to be rendered unfit to perform the duties authorized by the credential for which he or she applies. However, the mere fact that an applicant has sought or received psychiatric treatment shall not be considered as preliminary evidence of mental disability and shall not provoke special scrutiny of such applicant's qualifications for a credential.
>
> (c) Is addicted to the use of intoxicating beverages to excess.
>
> (d) Is addicted to the use of controlled substances.
>
> (e) Has committed any act involving moral turpitude.
>
> (f) Has had a certification document revoked.
>
> (g) Has intentionally practiced or attempted to practice any material deception or fraud in his or her application.
>
> (h) Fails or refuses to furnish reasonable evidence of identification or good moral character.
>
> (i) Has been convicted of any offense defined in subdivision 1 of Section 314 of the Penal Code prior to September 7, 1955.
>
> Any denial pursuant to subdivisions (a) to (e), inclusive, shall be based upon reasons related to the applicant's fitness to teach or fitness to perform other duties for which that applicant is certificated, or competence to perform the duties which the credential would authorize the applicant to perform.

Based on this statutory guidance, it is not always clear which criminal behavior can sustain an adverse action. Section 44421 lists "unprofessional conduct" and "evident unfitness for service," but does not define either term. Section 44345 lists moral turpitude as grounds for denying an application, but both alcohol and drug use appear to be limited to cases involving addiction. The seminal case that is now applied to almost all misconduct involving licensing is *Morrison v. State Board of Education*, 1 Cal. 3d 214 (1969), which list the so called *Morrison* factors, as follows:

> We therefore conclude that the Board of Education cannot abstractly characterize the conduct in this case as 'immoral,' 'unprofessional,' or 'involving moral turpitude' within the meaning of section 13202 of the Education Code unless that conduct indicates that the petitioner is unfit to teach. In determining whether the teacher's conduct thus indicates unfitness to teach the board may consider such matters as the likelihood that the conduct may have adversely affected students or fellow teachers, the degree of such adversity anticipated, the proximity or remoteness in time of the conduct, the type of teaching certificate held by the party involved, the extenuating or aggravating circumstances, if any, surrounding the conduct, the praiseworthiness or blameworthiness of the motives resulting in the conduct, the likelihood of the recurrence of the questioned conduct, and the extent to which disciplinary action may inflict

> an adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers. These factors are relevant to the extent that they assist the board in determining a teacher's fitness to teach, i.e., in determining whether the teacher's future classroom performance and overall impact on his students are likely to meet the board's standards *id.*, at pp. 229-230.

Even though *Morrison* involved non criminal conduct, it is now routinely applied to criminal behavior. In a case recently litigated by the Commission, an Administrative Law Judge (ALJ) issued a Proposed Decision dismissing an accusation imposing a 60 day suspension on a credential holder who had been convicted of three instances of driving under the influence of alcohol over a lengthy period of time. The credential holder introduced evidence that she was not addicted to alcohol and persuaded the ALJ that the conduct could not be found to be unprofessional under the Education Code and applicable law. The Commission rejected the Proposed Decision, called for the transcript, and issued its own decision finding that the behavior was unprofessional. The respondent sought judicial review and ultimately, the Court of Appeals for the Third Appellate District, using the Morrison factors, held that the three convictions supported an adverse action under applicable law. (*Broney v. California Commission on Teacher Credentialing* (2010) 184 Cal.App.4th 462.) Applying the *Morrison* factors, the legal staff on behalf of the Commission determines that a significant portion of the criminal misconduct involving credential holders or applicants for a credential cannot legally support an adverse action and those convictions have not been presented to the Committee. This is a case-by-case review and cases involving minor crimes with aggravating circumstances that may support discipline are presented to the Committee.

The contemporaneous administrative construction of an enactment by those charged with its enforcement is entitled to great weight, and courts generally will not depart from that construction unless it is clearly erroneous or unauthorized (*People ex rel. Lungren v. Superior Court* (1996) 14 Cal.4th 294, 309). The Commission is charged with interpreting its governing statutes in a manner that is true to the Legislative intent that allows the agency to effectively carry out its statutory functions. Statutes must be construed so as to give a reasonable and commonsense construction that is consistent with the apparent purpose and intention of the lawmakers, that is practical rather than technical, and that leads to wise policy rather than mischief or absurdity (*People v. Turner* (1993) 15 Cal.App.4th 1690, 1696). Interpreting subdivision (a) of section 44242.5[7] to require a body that sits three days a month and has a very full agenda to review every arrest or even every conviction involving a credential holder or applicant for a credential holder that takes place throughout the state of California could result in such an absurdity.

---

[7]Although an attempt might be made to argue that section 80308 of Title 5 of The California Code of Regulations provides authority for a review other than that found in section 44242.5, the Commission was unsuccessful in defending a Writ of Mandate, *Hewitt v. CTC*, Sacramento County Superior Court No. 98CS01418 (1999) and did not file an appeal and is therefore binding on the agency. The decision limits the Commission's authority to investigate to the process set forth in section 44242.5 and specifically states that section 80308 of Title 5 of the California Code of Regulations does not provide a separate investigative authority. This case could be construed to mean that all cases presented to the Committee pursuant to section 44242.5 must go through the formal process set forth in subdivision (b) through (f) of the statute.

Unfortunately, subdivision (a) of section 44242.5 has not been the subject of litigation that resulted in a reported case that can be cited as precedent. An individual did file a Petition for a Writ of Mandate asserting that subdivision (a) of section 44242.5 required that his complaint against a credential holder be presented to the Committee for review (*Barrera v. Commission on Teacher Credentialing*, SF Superior Court CPF 10510855 (2010)). The Deputy Attorney General representing the Commission made a number of arguments in opposition of the writ, but after the case was briefed by both sides, the Court did not issue a tentative decision and posed the following question to be argued at the hearing on the matter:

> On calendar for Thursday, December 16, 2010, Line 11, PETITIONER ARTURO BARRERA, IN HIS OFFICIAL CAPACITY AS GLENN COUNTY SUPERINTENDENT OF SCHOOLS' Motion For Issuance Of Peremptory Writ Of Mandate, A HEARING IS REQUIRED. DOES SECTION 44242.5 (A) ALLOW DISCRETION CONCERNING WHICH MATTERS ARE REFERRED TO THE COMMITTEE OF CREDENTIALS?

After hearing argument, the Court issued the following ruling:

> LAW AND MOTION 301, RULING - A R G U E D; PETITIONER ARTURO BARRERA, IN HIS OFFICIAL CAPACITY AS GLENN COUNTY SUPERINTENDENT OF SCHOOLS' MOTION FOR ISSUANCE OF PEREMPTORY WRIT OF MANDATE IS DENIED. THE COURT FINDS THAT SECTION 44242.5 CANNOT BE READ TO IMPOSE A MANDATORY DUTY ON RESPONDENT TO PRESENT PLAINTIFF'S ALLEGATIONS TO THE COMMITTEE.

The Commission is aware such a case cannot serve as true precedent; however, it does serve as evidence that at least in this instance, subdivision (a) of section 44242.5 was not found to require an allegation of misconduct to be presented to the Committee.

## Conclusion

In construing statutory language, a court must consider the language in the context of the entire statute and the statutory scheme of which it is a part. The court is required to give effect to statutes according to the usual, ordinary import of the language employed in framing them. If possible, significance should be given to every word, phrase, sentence, and part of an act in pursuance of the legislative purpose. When used in a statute, words must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear. Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole (*Dubois v. Workers' Comp. Appeals Bd.* (1993) 5 Cal.4th 382, 388).

The Commission is of the opinion that the statutory scheme governing the discretionary review process of the Committee when viewed in context with the statutes addressing the relationship of the Committee to the Commission and the delegation of authority to the Executive Director and his staff supports the following conclusion:

Only those allegations of misconduct that legal staff, acting on behalf of the Commission through its delegation of authority to the Executive Director, determine can support an adverse action are required to be presented to the Committee under subdivision (a) of section 44242.5.

If you have any questions please contact Mary Armstrong, General Counsel, at marmstrong@ctc.ca.gov.

Respectively submitted,

Dale A. Janssen
Executive Director

Attachments

1965–1967

Volume 10 Number 23

# THE RESTORATION OF TEACHING

A REPORT OF THE

## SUBCOMMITTEE ON SCHOOL PERSONNEL AND TEACHER QUALIFICATIONS

Assembly Interim Committee on Education

*Members of the Subcommittee*

LEO J. RYAN, *Chairman*

E. RICHARD BARNES
WILLIE L. BROWN, JR.
EDWARD E. ELLIOTT
CHARLES B. GARRIGUS
GEORGE W. MILIAS
GORDON H. WINTON, JR.
JAMES E. WHETMORE

January 1967

Michael A. Manley, *Consultant*
Gilbert M. Oster, *Staff Analyst*
Cristine B. Trask, *Secretary*
Walter G. Howald, *Legislative Intern* (September 1965–June 1966)
Bruce W. Robeck, *Legislative Intern* (September 1966–January 1967)

*Published by the*

ASSEMBLY
OF THE STATE OF CALIFORNIA

JESSE M. UNRUH
*Speaker*

CARLOS BEE
*Speaker pro Tempore*

GEORGE ZENOVICH
*Majority Floor Leader*

ROBERT T. MONAGAN
*Minority Floor Leader*

JAMES D. DRISCOLL
*Chief Clerk*

Tab 4-12

## LETTER OF TRANSMITTAL

California Legislature
Assembly Committee on Education
January 1, 1967

HON. JESSE M. UNRUH
*Speaker of the Assembly*, and
Members of the Assembly
Assembly Chamber, Sacramento

Gentlemen:

Pursuant to House Resolution 710, of the 1965 General Session of the Legislature and subsequent directives of the Assembly Committee on Rules, the Assembly Interim Committee on Education submits herewith the final report of its Subcommittee on School Personnel and Teacher Qualifications.

This report was considered and adopted by the subcommittee listed below and appears in subcommittee report form.

I respectfully commend these recommendations to you for your consideration.

CHARLES B. GARRIGUS, *Chairman*
*Assembly Interim Committee on Education*

LEO J. RYAN, *Chairman*
*Subcommittee on School Personnel and Teacher Qualifications*

Subcommittee on School Personnel and Teacher Qualifications

RYAN, *Chairman*
BARNES
BROWN
ELLIOTT
GARRIGUS
MILIAS
WHETMORE
WINTON



FINAL REPORT OF THE

# SUBCOMMITTEE ON SCHOOL PERSONNEL AND TEACHER QUALIFICATIONS

of the

ASSEMBLY INTERIM COMMITTEE ON EDUCATION

MEMBERS OF THE SUBCOMMITTEE

Leo J. Ryan, Chairman

E. Richard Barnes
Willie L. Brown, Jr.
Edward E. Elliott *
James E. Whetmore
Charles B. Garrigus
George W. Milias
Gordon H. Winton, Jr. **

January 1967

* Assemblyman Elliott concurs in all but Part III of the report, dealing with methods of upgrading the teaching profession. He dissents from that portion of the report.
** Assemblyman Winton concurs generally in the report, but wishes to abstain on specific proposals.

# TEACHER LICENSING IN CALIFORNIA

## FINDINGS

*I. With respect to the Fisher Act, we find that*

1. All major organizations of educators support the basic credentialing law, known as the Licensing of Certificated Personnel Law of 1961, and regard substantive change as undesirable and unnecessary.
2. The implementation of the 1961 reforms has been poorly handled by the responsible persons in the Department of Education and various public college and university campuses.
3. The wording of credential rules and regulations implementing the law is unnecessarily complicated, and that this serves only to confuse legitimate applicants for credentials.
4. The Department of Education has provided only the most limited information to applicants and inquirers from within and without the state, and does not attempt to simplify the credentialing procedures.
5. The California credential law is very typical of those which now exist in other major states, in terms of its emphasis on broad training in the liberal arts and sciences for all future teachers and administrators.

*II. With respect to the alleged teacher shortage; we find that:*

1. There is no shortage of credentialed teachers in California. There are at least 100,000 fully credentialed persons not employed in school districts, and yet some individual districts experience a lack of applications for open positions.
2. Any relative shortage of teacher applicants is proportional to the salary schedule, professional conditions, and living conditions offered by individual school districts.
3. Surpluses of teacher applicants are found in many more favored areas and districts in California, and a major problem in recruiting school personnel is one of dislocation, rather than shortage.
4. Out-of-state private teacher placement agencies are not used for teacher recruitment in California, and they are largely unaware of the 1961 credential changes emphasizing basic academic preparation of teachers.
5. Many school districts rely too heavily on recent graduates—primarily female—from out of state, and since teacher turnover in this group is extremely high, this requires repeated duplication of effort in recruitment.
6. The issue of an adequate supply of public school teachers is a national problem, and not one peculiar to California alone.
7. *The Department of Education issued 60,000 initial teaching credentials in 1964–65—the same year when the same department's official projections indicated a new supply of less than 7,000 new teachers.*

8. The increasing rate of enrollment in higher education, combined with a decreasing rate of growth in elementary school enrollment, should result in a more adequate supply of teachers in terms of quantity and quality in future years.

*III. With respect to the characteristics of school districts experiencing teacher recruitment difficulties, we find that:*

1. Salaries for teachers in districts requesting provisionally credentialed teachers in 1966 are substantially lower than in adequately staffed districts, but this is not necessarily caused by a lack of local ability to finance adequate salaries.

2. District effort to provide adequate educational programs and teachers varies widely, but the greatest shortage of applicants is found in districts where school tax rates are significantly below the statewide average tax rates.

3. Unified school districts, with single districtwide salary schedules, are far better able to attract elementary teachers than are separate elementary districts.

*IV. With respect to implementation of the Fisher Act by the colleges and universities, we find that:*

1. Several schools or departments of education in the California State Colleges and the University of California have adopted restrictive rules requiring prospective teachers to enroll in excessive courses in education and educational methodology, in unreasonable excess of state requirements.

2. Serious confusion exists, as between the definitions of a "major" for state credentialing purposes and the definition for degree-granting purposes.

3. Serious misunderstanding exists on the minimum requirements for elementary teachers, and many persons do not understand that an elementary teacher may receive a valid credential after four years of college preparation, with the fifth year to be earned within the next seven years.

4. Numerous prospective teachers are avoiding schools of education within colleges and universities in an effort to satisfy minimum state credentialing requirements without being forced to enroll in excessive education courses.

## RECOMMENDATIONS

*We recommend that:*

1. The Legislature make no substantive changes in the philosphy of the Licensing of Certificated Personnel Law of 1961, and the basic reforms of that law—fully operative only on September 15, 1966—be continued.

2. Either:

A. The State Board of Education be directed by legislative resolution to declare a one-year moratorium on all changes and amendments to the rules and regulations implementing the credential law, with a view toward stabilizing public understanding of the law, and to provide sufficient time for simplification and rewriting of the credential administrative regulations; or alternatively

B. The Legislative amend the law to make substantive simplifications in the technical terms used therein (see the text of our report), so that ease of understanding will be permitted by both prospective teachers and their college advisers. If this alternative is adopted, only the mechanical terms used by the law should be changed, not the broad state policy contained therein. Additionally, if this alternative is adopted, an amendment should be included which will direct the State Board of Education to make as few regulation changes as possible in the future.

3. In order to assure an adequate supply of teachers in all districts—and contingent on substantial increases in state aid to impoverished districts—that a minimum statewide salary schedule for teachers be enacted to provide not less than $9,000 per year for fully prepared, experienced and successful teachers with at least 10 years of teaching experience and an M.A. degree.

4. The trustees of the state colleges and the regents of the university be requested to review their teacher credential policies carefully and critically to determine whether campus rules and regulations comply with the spirit, as well as the letter, of the law.

5. The trustees and the regents be strongly urged by legislative resolution to provide a basic curriculum whereby an undergraduate may obtain a teaching credential without taking unnecessary courses which are not required by state law.

6. If various state college and university campuses persist in requiring excessive units of credit in education courses, that legislation be adopted requiring the State Board of Education to withdraw recognition of such campuses where it finds violations for teacher preparation purposes.

7. To simplify the procedures for obtaining a state teaching or administrative credential, each campus recognized by the State Board of Education for teacher preparation purposes be required by law to issue, in the name of the Department of Education and the college, an appropriate credential, subject to a postaudit by the Board of Education.

8. Contingent upon the transfer of duties to the individual college campuses, the excess credential personnel in the Department of Education be proportionately reduced, or assigned to other functions if necessary.

9. The Legislature direct a comprehensive study be made during the next biennium to survey the quantity and quality of teachers, supervisors and administrators who may be expected to serve the public school system during the next decade, as well as the broad question of teacher supply and demand.

NOTE: In the interests of brevity, documentation for the statistics used in this portion of the report do not appear here. They are available to the general public upon request in the Sacramento offices of the Assembly Committee on Education.



## Teacher Licensing in California

# THE RED TAPE JUNGLE

*Part I—The Fisher Act*

During the past two years, the Assembly Education Subcommittee on School Personnel and Teacher Qualifications has held extensive hearings on the subject of the quality and quantity of teachers now being prepared by our colleges and universities.

Our study is a direct response to various legislative proposals during 1965 that would have, had they been enacted, effectively repealed the Licensing of Certificated Personnel Law of 1961 (the "Fisher Act").

Particularly during 1965, numerous statements were made that California was facing a severe shortage of teachers, and that the credential law was to blame. From our study, we have found that there is no evidence whatsoever to substantiate such claims, and we believe that proponents of the "shortage theory" are essentially in conflict with the basic spirit of the law itself, rather than primarily concerned with its practical effects.

The 1961 credential law, Senate Bill 57, was a direct legislative response to the recommendations of the noted Citizens Advisory Commission on the Public Education System which was established by the 1959 Legislature. This broad-based group heard voluminous testimony during the 1959–61 interim period.

We are aware that there has been substantial public criticism of teacher education in the last decade, primarily directed at the "methods" courses within the schools of education of our colleges. Conversely, there has been great public consternation at the fact that California teachers have not been required to study in college those things that they will teach to their students.

Prior to 1961, for example, it was possible for a teacher to earn a credential without ever having studied English, history, mathematics, foreign language, science or the fine arts—except for a mandatory two-unit course in the Federal and State Constitutions.

The essence of the present credential law is that every future teacher will have spent at least 40 percent of his college years studying the liberal arts and sciences, and that if a person aspires to school administration, he shall have an advanced degree in one of the subjects that are mandatory for all school children, e.g., English, mathematics, etc.

However, the credential law is a flexible rule which permits those persons who wish to teach in vocational fields to take major course work in these fields, while at the same time becoming educated in broad cultural fields.

Senate Bill 57 also affected the quantity, as well as the quality, of teacher education. It raised the required years of college from four to five, although a five-year leeway period was specifically added to allow elementary teachers to begin work after only four years of college. The 1965 Legislature amended this leeway to seven years.

We would be remiss if we did not fully acknowledge the fact that the 1961 law was an extremely controversial issue, although the controversy was largely outside, rather than within the Legislature. Senate Bill 57 was passed by the Assembly on a 66-to-11 vote and concurred in by the Senate 26 to 2. Heavy majorities of both parties supported it.

Major opposition to the legislation was expressed by the State Department of Education, teacher preparation institutions and several major statewide organizations of educators. At issue was, and still is occasionally, the dichotomy of views as to whether the proper preparation of teachers is one of broad education or narrow vocational training.

The report of the Citizens Advisory Commission is clearly on the side of broad liberal education, with leeway for vocational preparation for vocational teachers, and it was largely through the nonprofessional public demand that SB 57 was enacted and signed by the Governor.

Our study has shown that California is far from unique in this regard. Since 1960, all major states that we studied have enacted very similar credential requirements, some of them requiring more academic preparation than we do.

Academic college courses have been defined by the Education Code to include those subjects traditionally associated with true scholarship and research. We believe the people of California would ratify the list which includes the humanities, the social sciences, mathematics, the natural sciences, foreign languages and the fine arts.

We also note that in accordance with legislative authority, the State Board of Education has placed such confidence in the scholarly quality of several other college majors that it has awarded three campuses of the University of California the right to confer academic status on physical education (UCLA and UC, Berkeley) and agriculture and home economics (UC, Davis).

We understand that the courses in physical education, so recognized, are close to being premedical courses, as far as intellectuality is concerned, and we would concur that college majors of this quality ought to be granted the academic status they deserve. We would be equally chagrined if such status were granted to courses consisting primarily of how-to-win games or football strategy.

Possibly because of the flexibility provided by the law and the rules of the state board, we were gratified to hear from many major school organizations that they now support the California credential law.[1] Most of our witnesses admitted that there were some serious problems of initiation and administration, but their criticism was directed almost exclusively at two targets: the immense complexity and instability of the official regulations, and the degree to which teacher preparation institutions moved to implement the law effectively.

On the basis of the testimony, we have found that if there is a problem of educating future teachers, the fault lies not with the law, but with those who are responsible for this task on a day-to-day basis.

We found, for example, that it is extremely difficult for an individual teacher to get reliable information from the credentials office of the State Department of Education. The departmental officials explained that there was a staff shortage and that the Department of Finance had urged minimum efforts, but we are inclined to think that it is unnecessary administrative complexity that causes much of the problem.

[1] See Appendix A for statements of support for the law.



As an example, we are including in this report, in the Appendix, a form for the standard elementary credential.[2] This is an actual case, and the reader will note that the form carries a nearly hidden line at the bottom by which an applicant *might* be informed that he was eligible for the credential on a partial-fulfillment basis. However, it is clear to us that an applicant might take one look at a top-line rejection and never bother with the fine print at the bottom.

In this particular case, the applicant, an experienced female teacher from Alabama, contacted the committee staff for aid and was told that the problem derived simply from the fact that she had not forwarded written affidavits of her past experience. The reader will note, however, that the form she received from the department did not state this explicitly.

The woman in question is clearly eligible for an elementary credential on a partial-fullfillment basis, but the 1966–67 school year began while she was still in the process of trying to get through the redtape jungle.

The other major problem with the implementation of SB 57 has been forced upon prospective teachers by some of the schools of education within our public colleges and universities. The law requires that future teachers either enroll in a practice-teaching course or enter teaching through an internship process. It was clearly the intent of the Legislature that elementary teachers should be allowed to begin teaching after four years of college training. Yet, several schools of education have renumbered the course in practice teaching so that it falls in the graduate year administratively, and thus a teacher is forced to remain in college for the fifth straight year, legislative intent notwithstanding.

In addition, our studies indicate that while no college requires future teachers to take academic coursework above the state minimum, they do require several extra educational methods courses as prerequisites to enrollment in the required courses. The practical effect on the student, of course, is to force him into the traditional, vocationally oriented program the 1961 reforms were intended to reduce.

As a result of this behavior by college authorities, the committee was informed that many students have now developed a decoy maneuver in which they remain anonymous as potential teachers in order to avoid being "Advised" into unnecessary education courses. They are, in their words, "working for the state minimum."

Seldom in the history of California has a public mandate of such a proportion, heavily supported by both parties, been subjected to so much bureaucratic frustration. We think it is incumbent on the State Department of Education and the persons responsible for teacher education to accept the public demand and do their duty.

As we have said, other major states have adopted teacher credential laws very similar to California's. New York, for example, now requires some 66 semester units of academic courses as we define them. Previously, New York required only 36 units of education courses, which has

[2] See Appendix B.

since been reduced to 30. Connecticut raised its academic requirements from 30 to 75 units; and North Carolina jumped from 40 to 78.

The committee believes, in the context of the continuing world crisis facing the United States, that any attempts to dilute the academic preparation of future teachers is highly inappropriate. The law now says, in effect, that the chief purveyors of our nation's culture and heritage, our teachers, will have spent at least 40 percent of their college years studying the heritage they will have to transmit to the next generation of schoolchildren. We do not think this is asking too much.

And we are especially concerned that the future school administrators who will make the operating decisions should be equally or better versed in this heritage. We note, for example, that almost all of the elementary school curriculum and a great deal of the secondary curriculum is composed of basic academic subjects. Such subjects as reading, English and history are required of all students, and it is clear to us that the fundamental problems of curriculum development in local districts cannot be solved as well by those not versed in the subjects taught.

Our basic recommendation, therefore, is that the 1967 Legislature make no substantial changes in the Licensing of Certificated Personnel Law of 1961.

We agree that the administration of the law leaves much to be desired, and therefore we recommend two possible courses of action. It was noted by many of our witnesses that the rules and regulations of the State Board of Education (Title 5 of the California Administrative Code) have changed with a seemingly unceasing rapidity. Basically, the changes are ratifications of suggestions or proposals made by the Department of Education. These rules now cover nearly 100 pages of Title 5, and it is difficult at best to understand them even if a month does go by during which time they are not changed (which rarely happens).

Thus, we would recommend, on the one hand, that the State Board of Education be directed by resolution to deny all proposals for rule changes, except in obvious cases of emergency. Upon such action, we would suggest that the board distribute an up-to-date copy of the regulations to each teacher-preparation institution, county superintendent of schools and school district in a form that could be easily reproduced by the recipient. Every prospective teacher should have a copy of the official rules and regulations so that he may plan his course of study with as much confidence as possible.

On the other hand, the Legislature may decide that the present rules and regulations are so cumbersome that a moratorium on rules changes now would only add to the frustration of students and officials. As an alternative, therefore, we would recommend that the law be amended to permit a much more simplified rewriting of the rules.

It has come to our attention that many of the regulations are written in words that may be very inappropriate. For example, Title 5 uses such technical phrases as "major," "minor," "upper division courses" and "lower division." Some of these concepts do not exist in out-of-state colleges. They exist in California largely because of the existence of a widespread junior college system.



Again, the rules speak of a "major" or "minor" required for a credential. Colleges and universities also require "majors" and "minors" for degree purposes, and the two majors are not necessarily synonymous.

We were told, for instance, that one state college requires an unbelievable 90 units of credit (equivalent to three years in college) but the state board requires only 24 "upper division" units for its major. The student can easily become confused and come to believe that the credential requires more than he thought it did.

The rules speak of three units in certain methods courses, while some universities offer courses with two or four units of credit. It seems to us that rather than tying state rules to specific college terms, our credential law might be rewritten to speak of general concepts like percentages.

The State Board of Education could be directed to recognize various departments within colleges and universities as suitable for the designation of "academic." At this point, any student could calculate whether his proposed course of study will ultimately satisfy the minimum percentages established by law.

We think such simplification has much to recommend it, and if simplicity is achieved, we think it might be well to authorize each recognized college or university in California to issue state teaching or administrative credentials in the name of the State Department of Education, subject to random postaudits by the department.

Such a transfer of duties should relieve the pressure on the department and possibly permit budget reductions. The department would then be giving most of its attention to out-of-state applicants.

It is important, however, that the substantive principles established by SB 57 be reinforced in any technical changes. In *Suffer Little Children*, Dr. Max Rafferty, now the State Superintendent of Public Instruction, wrote:

> "They [teacher preparation professors] actually believed this stuff, you know. WHAT was taught was far less important than HOW it was taught. Trigonometry might be trivial, basket weaving basic . . .
>
> ". . . He'll [a curriculum consultant] agree, now, with those of us who have been saying for quite a spell that America's survival depends upon the students of chemistry and calculus and languages rather than upon the worthy patrons of upholstering and badminton and second-year table-setting. He'll admit—now—that in the hierarchy of subject matter, there are giants and there are dwarfs."

Dr. Rafferty speaks quite as strongly on the subject of the education of school administrators when he says:

> "Administration is—or should be—infinitely more than a collection of skills . . .
>
> ". . . Our forebears in this business were, whether we like the idea or not, men of pith and substance . . .
>
> "What has brought about the transformation? Is it not—more than anything else—the hard-to-face truth that the trail blazers

in our profession were learned men, and that we, whatever else we may be, are certainly not that?"

Consider this:

"THEY KNEW LITTLE OF TOPOLOGICAL AND VECTOR PSYCHOLOGY—BUT THEY COULD WRITE PERFECT ENGLISH.

"THEY WERE NAIVE IN THEIR IDEAS OF PUBLIC RELATIONS—BUT THEY COULD READ THE *ILIAD* IN GREEK AND THE *AENEID* IN LATIN.

"THEY WERE BABES WHEN IT CAME TO EQUALIZATION FORMULAS—BUT THEY WERE FLUENT IN ART, IN MUSIC, IN HISTORY, IN PHILOSOPHY. [Emphasis original.]

"Here, I believe is the nub of the whole matter. People admired and respected and looked up to our predecessors as the cultural leaders of their communities. They represented education magnificently because they WERE educated.

". . . Unless we can somehow find the upward trail we left a generation ago, we are doomed to wander endlessly from pillar to post, from job to dwindling job."

We think Dr. Rafferty, as well as others we might have quoted, has admirably expressed the fundamental concept inherent in California's 1961 credential law. For all practical purposes, these beliefs expressed in *Suffer Little Children* in 1962 were enacted by 1961 Legislature because of general public demand and the specific recommendation of the Citizens Advisory Committee.

We believe a general lack of public confidence in local school officials has recently come to the surface, as measured by the large number of defeated school tax and bond proposals during the past few years. Many school systems have suffered because of this, and public respect will not be restored until school administrators, as well as teachers, are again the broadly and liberally educated people of past generations.

*Part II—Teacher Supply and Demand*

Inasmuch as the present credential structure has been cited as a cause for a teacher "shortage," we have also made a serious study of this question.

Basically, we have found that there is no shortage of teachers in California, that in fact there is a substantial surplus of people who hold credentials, but that there is a dislocation of teachers according to the desirability of a geographic area.

Secondly, even in areas of dislocation, the credential structure has little if anything to do with the lack of applicants an individual school district may experience.

The representative of the Department of Education estimated that there were at least 100,000 nonteaching teachers living in California, and the most recent annual report of the credentials office informed the State Board of Education that nearly 60,000 new teaching credentials were issued in the 1964–65 year alone.



New annual openings for teachers have been estimated at from 8,000 to 12,000 a year, and it is abundantly clear that qualified people exist to fill the posts. The real problem is enticing qualified people to go to work—to practice their profession.

Our study of midsummer teaching vacancies clearly points up the fact that the more desirable areas have surpluses of applicants, and less desirable areas experience great difficulty in attracting and keeping fully-credentialed teachers.

Some persons seem to think that teachers do not react to life in the way that other people do. As individuals, the hypothetical teacher is frequently characterized as "dedicated," and this appellation may then be used to illustrate why teachers will and should work for less than the average family income in California.

However, the recent employment statistics indicate that the problems of teacher recruitment are very similar to those experienced by any type of employer—that the public schools must live within the laws of economics whether they like it or not.

In the midsummer of 1966, the Department of Education reported 925 elementary teaching positions open throughout California. This figure is up from approximately 300 in 1965, but is still less than 2 percent of the total force.

The striking finding in our study was that the reported openings are not evenly spread around the state. They are concentrated in specific areas which have many features in common.

The committee received a report which ranked 56 counties in their need for teachers. (Los Angeles and Sacramento did not report numerically.) Beginning with Trinity County, which reported a need for 8.33 teachers per 1,000 ADA, down to 11, mostly larger, counties which reported none, an average ranking by area presents a pattern of teacher supply.

With the lowest index number indicating the greatest need, the areas are:

21—Mountain counties
22—San Joaquin Valley
24—Sacramento Valley (excluding Sacramento County)
34—Central Coast
45—San Francisco Bay area
47—Los Angeles metropolitan area

With the finding that the unfilled need for teachers is variable, the committee has learned that school districts and areas facing a shortage of applicants have certain features in common.

Separate elementary districts find it more difficult than unified districts operating elementary schools. The average salary schedule in a separate elementary district is more than $1,000 less than in unified districts. The rate of teacher turnover is 25 to 50 percent greater.

However, there are some elementary districts which have surplus applicants. We find that areas of shortage are usually associated with very low property tax rates, indicating a low level of public interest in their schools. The elementary districts in the most needy county, for example, had an average operating rate of $1.04, whereas metropolitan districts averaged around $2.00.

The same principle applies to rural and metropolitan unified districts. In a county of shortage, the unified districts averaged $2.36 as the total operating rate, while a county of surplus averaged $3.99 for unified districts. It can also be said that, generally, the low tax rate counties are also low assessment counties, so that the low rate cannot be explained as an offset to high assessments.

The committee is appalled by the fact that some school districts, reporting "shortages," have a teacher's salary schedule which never goes above $6,000 or $6,500. Our study shows that those districts which requested permission to hire provisionally credentialed teachers have substantially lower salary schedules than average.

Thus, we are recommending that the Legislature provide a first step toward remedying the situation. We propose that all school districts be required to have schedules rising to at least $9,000 after 10 years' service and the possession of a master's degree by the teacher.

This figure is still far below the salaries offered by all or almost all large districts. It would, in practical effect, bring about a change only in those areas which have reported the greatest shortages, and in the light of very low local school taxes, we do not believe that this minimal step requires any subvention by the state.

If it can be shown that a particular school district is so impoverished in local tax base that it is unable to afford this modest schedule without an above-average tax rate, we would recommend an exception to the no-subvention recommendation, but we seriously doubt whether such a case exists.

While the committee has not specifically studied the topic of teacher tenure laws, we note that the smallest districts (under 250 ADA) are not required to extend job protection status to their teachers, and this may well be another circumstance contributing to the very high turnover rate in these districts.

There are certainly other aspects of the teacher's work which affect supply and demand. Chief among these are the general living conditions in an area and the professional working conditions.

Many areas of high reported shortage are isolated. The ordinary perquisites of modern life are frequently unavailable—such mundane aspects as television reception or a low-cost supermarket. In these circumstances, private employers normally offer substantial benefits to compensate for the lack of normal conditions. Far from this, our relatively small and isolated school districts usually offer far less money than those districts in areas which afford the cultural amenities that are attractive to highly educated teachers.

The teacher's professional duties may also be more difficult. In smaller districts, the teacher must handle two, three or even four grade levels during a single day. Even though the number of children may be smaller, multiple preparations call for extensive planning far exceeding that required of the single grade or single subject teacher.

The committee believes that the relative shortage of teacher applicants depends almost exclusively on the specific problems of employment—not on the state credential structure.

Compounding the problems are the de facto district policies which affect the type of out-of-state person attracted to California. The committee understands that district recruiters rely heavily on recent female graduates, and the San Diego district testified that two out of three of these teachers leave the district within three years.



A survey by our staff indicated that recruitment through private placement agencies—supplying experienced teachers for the most part—is minimal. One agency wrote that it received only 17 replies from California districts out of 350 contacted by the agency.

A further development which should not go unnoticed is the increase in the number of alternative vocations attractive to potential teachers. The most outstanding is probably the Peace Corps, which seems to have no trouble at all recruiting for these relatively low paid and often hazardous positions, and we are led to wonder whether the success of the Peace Corps is not due to the high degree of professional responsibility *and authority* which Peace Corpsmen receive.

The practice of assigning both responsibility and authority to corpsmen differs markedly from the traditional personnel practices of school districts. As noted elsewhere in this subcommittee's report, California teachers have only two professional rights directly connected with the actual teaching situation—the newly enacted (1965 session) rights to assign final grades and to suspend unruly students temporarily.

At that, the committee was appalled to read in the local press on the final day of our last hearing that one district had completely misinterpreted legislative intent, and a local teacher was forced to go to court for a proper interpretation. The court is reported to have opinioned that "the law is clear and unambiguous . . . ."

If school districts wish to compete effectively with these recent quasi-educational developments, e.g. educational research center, it would appear that they will have to offer future teachers the personal dignity which derives from delegated authority. Again, this has nothing whatever to do with state credential matters; it is a local matter between the local board, the school administration and the teachers.

On the encouraging side of the problem of teacher supply and demand, the committee notes that immediate prospects seem to be very bright. The state college and university systems are growing at a rapid rate—approaching 10 percent annually. A quite different trend is found in elementary enrollment, due to declining birth rates since the late '50's. Kindergarten enrollment was up only 2.7 percent this year.

It is clear that these disparate trends will increase the number of California-produced teachers available, relative to the need. Whether the prospective teachers can be enticed to start a teaching career, however, is another matter.

Some light may be shed on this in the very near future. At the request of the committee, one of the state colleges is administering a questionnaire designed by our staff. It seeks to determine, from both prospective teachers and prospective nonteachers, who will and won't enter education, and why.

The committee hopes to provide the Legislature with a report on this survey midway in the 1967 session, and we would strongly caution

against any major activity before it becomes available. To our knowledge, this is the first attempt to assess the whys and wherefores of teacher recruitment at the source—the undergraduate level.

Our work for the past two years has led us to a greater confidence in the acts undertaken by the Legislature in 1961. The alleged "shortage" of teachers exists only because of their unwillingness to work for what is offered. The "crisis" will be eliminated as quickly as the so-called "engineering shortage" during the Korean War.

The committee has recognized the practical problems engendered by the ineffective administration of the credentialing program, and we have proposed two alternative courses of action.

We believe the trustees of the state colleges and the regents of the University of California must take extraordinary steps to impress upon their respective institutions the need for active and positive cooperation with the spirit, as well as the letter, of the law—even though the committee notes that our emphasis on sound academic preparation for teachers is still offensive to some in the ranks of professional education schools.

We recommend strongly to local school boards and administrators that they review their fundamental assumptions as they pertain to teacher recruitment. We are not living in an era of high unemployment, such as the depression, when teacher applicants were bountiful. Futhermore, the quality of person we need for our schools is increasingly being enticed by newly emerging professions to ignore teaching as a career.

Local boards must ask themselves what personal benefits they offer teachers—aside from the traditional method of promoting them out of the classroom into administration. The declining rate of growth in the public schools will gradually diminish this avenue of "advancement," and if there is not true dignity and authority attached to classroom instruction, recruiting problems will be compounded again.

Local districts must reassess their principles and practices in the light of modern economic conditions and modern business practices. As a motto, we recommend the traditional adage of an effective, competitive society—"You get what you pay for."

# PROCEDURES OF THE COMMITTEE OF CREDENTIALS

## FINDINGS

1. The committee finds that the Committee of Credentials within the Department of Education, although it acts in an investigatory, "grand jury" capacity and does not possess formal capacity to revoke or deny teaching credentials finally, has a substantial ability to influence the actions of teachers—both in and out of the classroom—through its use of the instruments of public censure and economic sanction. We further find that this ability is unwarranted, and was not intended by the Legislature when it enacted the statute authorizing the committee.

2. We find that this committee does not judge teachers on objective standards of conduct, nor does it apply the so-called standards which it does use equally to persons accused of the same or similar offenses. Neither does the committee keep any formal records or minutes of proceedings, nor are transcripts made, and thus it becomes impossible for teachers under investigation and their legal counsels to determine the committee's probable action on each case. We find this situation to be contrary to the conduct of most quasi-legal proceedings conducted in this state, and completely counter to the typical American concept of fair play and the constitutional protection that one under investigation is presumed innocent until *proven* guilty.

3. We find that the Committee of Credentials is poorly organized, in that it has a rotating membership comprised of anyone in the Department of Education who happens to be free on a particular day on which the committee is meeting. This irregular membership assures that most committee members are uninformed as to the cases which come before them. We further find that so long as the Committee of Credentials remains imbedded within the administrative structure of the Department of Education, this will continue to be the case, since any departmental employee is likely to regard his assignment on the committee as a secondary, and rather tiresome, task.

4. The committee finds that teaching is the only profession requiring a college degree plus substantial graduate study and experience which does not police itself for malpractice and offenses repugnant to continuance in the profession. Self-policing by the bar and the medical profession have long been recognized and have, by and large, worked well in California. We see no reason why teachers and other certificated employees should not be permitted to govern the conduct within, and admittance to or denial from, their profession. We are convinced that self-policing by teachers would result in a high degree of self-discipline

and professional conduct, but with a greatly improved measure of fairness and orderly procedure than is presently available under the Committee of Credentials, none of whose members are practicing teachers.

5. We also find, however, that because teaching represents one of the most sensitive areas of endeavor—to which the public must remain close—any self-policing panel of certificated employees should also include lay members to provide representation from the general public.

6. We find that the State Board of Education has failed in its responsibility to police the functioning of its Committee of Credentials adequately, and to supply that committee with guidelines and policy statements by which to govern its reactions to various categories of cases. The board's failure in this respect provides additional reasons for the transference of the Committee of Credentials out of the Department of Education.

7. After intensive study and observation of the Committee of Credentials at work, we have concluded that the committee's use of open, public meetings for the discussion of extremely delicate personnel matters is not only inappropriate and embarrassing to the teacher, but also provides those members of the committee who desire it with a platform of publicity with which they may foist their views of morality upon the public through the media. In several specific cases which were widely publicized, we found that the committee condoned a circus atmosphere, rather than a calm, deliberate and impartial investigation and interrogation.

We further find that the very presence of the publicity media at Committee of Credentials hearings, in large number, appears to encourage inquisitorial techniques on the part of some Committee of Credentials members. Specifically, we find that questions relating to unimaginable hypothetical situations directed at teachers under investigation are peculiarly irrelevant to the committee's investigation of what a teacher is alleged to have done at some time in the past. We believe that the committee's investigative techniques require substantial improvement in this regard.

8. We find that the Committee of Credentials is guided by no statement of legislative intent as to its purpose for existence. Thus, it is not surprising that the committee has appeared in the past to be confused over what constitutes its chief function.

9. The Committee finds that in the past, many teachers have been called to Sacramento for a hearing before the Committee of Credentials before no more than a cursory field investigation had been made relating to the charges lodged against the teacher. In fact, we have found numerous cases where the Committee of Credentials has asked teachers to appear before it in Sacramento, *even though the committee knows that even if all the charges against the teachers are true, there is no foundation in law which permits revocation or denial of a teaching credential.* Again, we do not believe that the Legislature intended such conduct by the committee when it established it in law.

10. We have found that many times teachers under investigation and their lawyers are refused permission to see copies of the written charges filed against them or their client, and other necessary file



records and documents, prior to the teacher's hearing before the committee. This we believe to be contrary to good rules of procedure and elemental American concepts of justice, which provide that an accused is entitled to know of the nature of the charges made against him, and also counter to legislative intent.

11. We find that investigations of teachers by the Committee of Credentials often stretch on for long periods of time, without any final resolution—or notice of such resolution—of the case. One case brought to the committee's attention has gone on for four years and has still not been resolved. We believe that such delay is unfair to both the investigated teacher and to the school district employing him, which is entitled to know whether or not the teacher is guilty of the charge which has been made.

12. We find that the Committee of Credentials is extremely cavalier about its relations with local school districts, and neither informs a district as a matter of course when one of the district's teachers is being investigated, nor takes into consideration (unless it desires to) any investigations which the local school board may have made into the teacher's fitness. We find this to be a rather strange disregard of the principle of "local control."

13. In summary, we have concluded that the Committee of Credentials exists without policy guidelines from either the Legislature or the State Board of Education, and tends to ignore the typical American rules of fair play and legal rules of evidence. The result is often intimidation of school teachers into silence or their acceptance of the committee's own views of proper conduct.

## RECOMMENDATIONS

*The Subcommittee recommends the following:*

1. Legislation should be adopted by the 1967 Legislature which sets forth, in specific terms, the legislative intent relative to the duties and functions of the Committee of Credentials. The lack of such intent in the present law has led, we believe, to serious misinterpretation of the Legislature's purpose in establishing the committee. Such a statement, which we discuss and specifically propose later in this report, should recognize the legitimate right of the committee to act in a grand jury role in the investigation of complaints lodged against teachers, but should make clear the Legislature's desire that the committee perform its functions consistent with the rules of due process of law and fair play for the accused teacher.

2. All Committee of Credentials' meetings should be conducted "in camera," in much the same way as other public bodies now conduct personnel-type sessions under the Brown Act. We suggest that only committee members, the accused teacher and his legal counsel, committee staff members, and any necessary witnesses be allowed to attend such sessions, and we further recommend legislation which will make unauthorized release of information received at a committee meeting—or in the course of an investigation of a teacher—by a member of the committee, a staff person in the Department of Education, or the teacher, a misdemeanor.

We note that grand jury proceedings in California and in many other states are presently conducted as closed sessions, and we believe that this policy ought to apply here in the case of the Committee of Credentials, which performs an analogous task.

3. We recommend the enactment of legislation which will provide one full-time executive secretary and one clerical position to the Committee of Credentials, with a further provision that all committee meetings be recorded by the committee staff, with the recording to be made available to the accused teacher and his attorney upon request. We do not suggest that the committee go to the expense of preparing a formal transcript of each meeting, but the availability of a recording of a meeting to an accused teacher will enable him to have a transcript made at his own expense if he desires one. We believe that in addition to providing full and accurate records of all meetings—which is not now done by the committee—the presence of recording equipment should mitigate against some of the absurdly unfair questioning practices by the committee which have become obvious to us in our study.

In addition, we recommend that the committee secretary prepare accurate minutes of all actions of the committee at each meeting, and that a copy of these minutes pertaining to his case be sent to each teacher who appears before the committee no later than one month after the teacher's appearance.

4. We recommend that the present law relative to the selection and composition of the Committee of Credentials be amended to provide:



A. The State Board of Education shall biennially appoint seven members to the Committee of Credentials, composed as follows:

Four shall be full-time teachers in the public schools of California, two elementary teachers and two high school teachers;

One shall be a person engaged in supervisory or administrative work in the public schools of California at any level;

One shall be a past or present member of a local school district governing board at any level;

One shall be a staff member of the State Department of Education.

B. The Superintendent of Public Instruction shall personally serve as ex officio member of the committee and shall have the right to vote.

C. The committee's executive secretary shall serve as ex officio member of the committee, but shall have the right to vote only in the event of a tie.

We further recommend that this legislation include provisions providing for the necessary number of days off for teacher and administrator members of the committee. The legislation should prohibit the nine-member committee from operating without a quorum of five members, and no alternates for appointed or designated members should be permitted.

We believe that these proposals will provide for objective, fair-minded, self-policing of the teaching profession. They should also put an end to the rotating membership situation which we have found in the present committee.

5. We recommend legislation which grants certain rights to teachers under investigation by the Committee of Credentials, set forth below:

A. The right to be notified of the specific allegations of misconduct which have been made against him, when the letter requesting the teacher's presence at a Committee of Credentials' hearing is sent;

B. The right to see those portions of the investigator's file which constitute the charges which have been made against him;

C. The right to be notified by the Committee of Credentials when and if the committee's investigation has uncovered additional evidence, such that new charges may be filed against him;

D. The right to be notified, within one month after appearing before the committee, of its final disposition of the teacher's case, together with specific information relative to the teacher's right to an administrative hearing;

E. The right to have an investigation dropped within twelve months of initial notification by the committee to the teacher, if sufficient evidence has not been found to proceed further.

6. We propose legislation which will require the Committee of Credentials to state, in its letter to the teacher informing him that an investigation is being conducted into his right to hold credentials, that *if* the allegations which have been made are true, that legal grounds

exist to revoke or deny granting the credential. We make this recommendation because we have received testimony indicating that the Committee of Credentials, in the past, has asked teachers to appear in Sacramento when it knows full well that grounds do not exist for revocation even if all charges and allegations are true. We believe that our proposal should end such harassment.

7. We strongly suggest to the State Board of Education that it provide its Committee of Credentials with policy guidelines to assist the committee in handling troublesome types of cases. We also urge the board to police more closely the operations of the committee, in an effort to insure that its (the board's) and the Legislature's mandates are being followed.



## PROCEDURES OF THE COMMITTEE OF CREDENTIALS

Much of the work of this subcommittee in the period 1965–67 was devoted to a study of the methods and procedures used by the Committee of Credentials within the State Department of Education. This body, chaired and appointed by the Superintendent of Public Instruction, is responsible for reviewing all complaints about a teacher's or teacher applicant's misconduct, together with possible prior criminal records of such persons, in an effort to determine their fitness to hold California teaching credentials. Thus, in a legal sense at least, the five-member committee serves as a screening agency, with final action to be taken by the State Board of Education and with the possibility of appeal above that level through the courts. We shall see, however, that this committee has extralegal powers far in excess of those expressed or implied by the Legislature when by statute it authorized the committee's existence.

The subcommittee chairman, in his opening statement to the subcommittee at its hearing on October 24, 1966, in San Francisco, amply described both the legal and the extralegal powers of this committee when he said:

> "The duties of the Committee of Credentials are very simply enumerated by the Education Code and by the rules and regulations of the state board. The committee exercises the power of the state board to review charges made against public school teachers, to investigate these charges and to determine whether a formal hearing ought to be instituted against that teacher's credentials or application for credentials before a state hearing officer.
>
> "Thus, in a real sense, the Committee of Credentials fulfills a duty similar to that of the grand jury in a criminal proceeding. If the Committee of Credentials finds there is probable cause to proceed with the charge, to use a legalistic term, it files . . . [such] a charge which is then heard in a quasi-judicial proceeding by a state hearing officer. Following the hearing officer's ruling, if the teacher wishes to appeal, he may take the matter to the State Board of Education which may overrule the hearing officer's decision.
>
> "Then, of course, there is ultimate redress in the courts. Thus, although the Committee of Credentials does not actually have power *itself* to deny or revoke a teacher's credentials, it has very substantial powers of moral suasion. *If the personnel of the committee wishes to utilize this power, it is possible to intimidate a teacher . . .*
>
> "The reason why we are concerned about the power of the Committee of Credentials is because in theory a teacher's rights may be upheld before the state board and the courts . . . *but in practical fact the damage occurs long before that in the sense that there is an economic sanction implied when any teacher is called before the Committee of Credentials . . .*
>
> "Any teacher who is called or who is served with a letter from the Committee of Credentials automatically loses some ability and

movement and flexibility as a teacher because a teacher's reputation is about all he has to go on. He deals in no particular specific product; he deals in intangible results; and as a consequence, all he has to go on is his reputation. If the reputation is damaged even to the extent of receiving a letter, it may very substantially involve his loss of capacity to obtain any other job in education." (Emphasis ours.)

Clearly, the Committee of Credentials does possess powers which range far beyond those given it by the law. If that power is judiciously and objectively used—and if in the exercise of it, proper procedures are followed—it should present no lasting harm to a teacher falsely accused before the committee. However, we have concluded that neither of these conditions have been obtained in recent years on the committee, and we will document our findings in the following pages.

Before proceeding we should point out that over the past 12 months this subcommittee has instructed its staff investigators to sit in on hearings and proceedings of the Committee of Credentials and to file written memoranda of all observations. Literally hundreds of cases have been processed by the Committee of Credentials within this time period, and our staff has noted the peculiarities of the committee's proceedings and these observations have been reported to us. The subcommittee wishes to make it very clear that its study and investigation are *not* based on the sensational press reports of one case, but rather they represent recommendations drawn from a long and arduous staff and legislative study. Examples of staff memoranda and evidence obtained by this subcommittee during its study appear in the appendix of this report.[3]

Initially, we have found that because of the use by the Committee of Credentials of the instrument of public hearings by which popular shame, censure and publicity can be brought to bear on any individual credentials case, it is literally impossible for a given teacher, against whom a sensational allegation has been made, to receive a fair hearing by the committee. We have noted that in criminal cases in this state, hearings are held by grand juries in secret, in order to determine whether indictments shall be returned. There are obvious reasons for this procedure, which are deeply rooted in our Anglo-American legal procedures. One is the requirement of fairness to one wrongly accused by the prosecutor. Clearly, if such an individual has been wrongly accused he should not be subjected to public censure or "tried in the press." Another requirement deals with the necessity for a grand jury to get to the bottom of a charge, without the distracting glare of klieg lights which tends to invite public performances by those more interested in their own "public image" than in justice.

This subcommittee is cognitive of the fact that hearings and investigations of fitness to hold teaching credentials do not constitute criminal proceedings. Yet, we apply these grand jury standards because we believe that the Committee of Credentials' functions closely parallel those of a grand jury, and because the teacher requires an extra measure of fairness due to his inability to defend himself from public passions of the moment. As the chairman noted at our hearing, the

[3] Appendix C.



teacher has nothing to sell but his ability to teach (which is difficult to measure) *and his reputation*. Once the latter has been destroyed or seriously damaged in a public hearing, regardless of the truth of the allegations, the teacher's livelihood may be destroyed.

For these reasons the legal and medical professions, in hearing initial allegations of professional malpractice, do so in secret proceedings. Likewise, the Brown Act in California, which requires public bodies to hold all business meetings open to the public, makes an exception for personnel matters. Only the Committee of Credentials—with its great power to judge teacher morality and conduct on its own subjective scale—has escaped this requirement. This is a loophole in the law which should, we believe, be closed.

Although this subcommittee's study of the Committee of Credentials has been directed at a large number of cases investigated by that body in the last twelve months, the most sensational and newsworthy of these was the Committee of Credentials' investigations of a San Diego teacher who was accused of writing a play which some people considered "blasphemous." We have made no determination relative to the quality of that teacher's play, nor do we intend to do so. We merely raise that case at this point because it is an excellent illustration of the circus atmosphere which the Committee of Credentials has encouraged by its open-door procedures. This subcommittee dispatched investigators to attend that particular hearing in Sacramento. They reported that the hearing room was literally packed with members of the various media who entered *prior* to the entry of the teacher. After all the members of the media were present, the accused teacher entered and was asked by the chairman of the committee whether she wished to have her hearing in secret. Obviously, in such a charged climate where, had she refused a public hearing, her refusal would have been taken as an *ipso facto* admission of guilt, the teacher opted for a public hearing. Our appendix contains copies of the committee chairman's amazing and totally irrelevant statements regarding this case given to the press at this hearing in an obvious and blatant attempt to try this case in the press.[4]

This practice must be stopped, and consequently we have recommended that all hearings of the Committee of Credentials in the future be conducted "in camera," with only the accused teacher and he attorney, members of the committee and its staff, and any materia witnesses allowed to be present.

We have also been surprised to learn that the Committee of Credentials evidently exists without any legislative statement of policy inten at all. The sole reference to the committee in statutory law is a follows:

> 13102. There shall be within the Department of Education Committee of Credentials, consisting of the Superintendent c Public Instruction and four persons appointed by the Super intendent of Public Instruction.
>
> 13103. The State Board of Education may assign to the Con mittee of Credentials within the Department of Education suc

[4] Appendix C.

administrative duties as it may see fit relating to the granting, issuance, suspension and revocation of credentials and life diplomas. (All references are to the Education Code.)

Further, the State Board of Education has failed utterly in its responsibilities implicit in Section 13103, above, to provide its Committee of Credentials with policy guidelines relative to the treatment of various types of cases. Thus, we have found on examination and observation of the committee at work that it often treats identical offenses differently on the most whimsical bases. On one occasion which was observed by our staff, the committee engaged in the most irrelevant questioning of a teacher who was accused of resisting an arrest—the charge had been dropped by the local law enforcement authorities—by asking the individual if he "believed in our democratic institutions," implying that on the basis of the unproven allegation made against him, that he did not. While this particular teacher satisfied the committee that he was "safe" for classroom duty, another teacher accused of an identical offense, which took place at the same time and place, was denied his credential. It is noteworthy that the hearing officer later reversed this ruling.

The point, however, is clear. In the absence of State Board of Education directives relative to the treatment to be accorded to certain similar types of cases, the Committee of Credentials has developed its own criteria, and these vary not with the circumstances but with the impression which the accused individual makes upon the committee. Such a situation makes it impossible for teachers and their attorneys to have any reasonable idea as to how the committee will react in a specific instance.

To overcome this lack, we suggest that the Legislature clearly state its legislative intent as to the functions to be assumed by the Committee of Credentials. We recommend that language be added to Education Code Section 13103 cited earlier, so that the new section reads as follows:

13103. The State Board of Education may assign to the Committee of Credentials within the Department of Education such administrative duties as it may see fit relative to the granting, issuance, suspension and revocation of credentials and life diplomas, *and it shall supervise the work of the committee and shall provide statements of policy relative to committee operation and procedures as it deems appropriate to do so.*

*It is the intent and purpose of the Legislature in establishing the Committee of Credentials that the committee conduct its affairs with the highest degree of propriety and objectivity, giving due regard for the rights of teachers who appear before it who are not yet proven guilty of the offense with which they may be charged. The Legislature intends that the Committee of Credentials shall serve only as a screening agency, and shall not make policy relative to the issuance, revocation or denial of credentials or life diplomas other than the policy the committee is required to implement by order of the State Board of Education or by directive from the Legislature.*



One of the major reasons for the committee's shifting standards by which teacher conduct is adjudged is that body's lack of formal record-keeping, save only the most sketchy kind of minutes. The committee has no permanent staff, using as its secretary a credentials technician from the certifications office. Minutes consist of jottings in pencil in the margin of the committee's mimeographed agendas. No recordings or transcripts of committee proceedings are ever kept. Since this is the case, it is obviously impossible for an attorney representing a teacher to attempt to defend that teacher on grounds that in a similar case the committee ruled in favor of the accused. He simply has no way of knowing what the committee's prior action was.

By the same token, the teacher cannot use as a part of his defense in his administrative or State Board of Education hearing—or in a later appeal to the courts—any claim that he was treated unfairly by the Committee of Credentials since he is unable to prove his allegation by using a formal transcript. This practice encourages, as well, some of the most astonishing, inquisitorial questioning techniques this subcommittee has ever encountered. Obviously, since there is no formal recording of proceedings, those committee members, more interested in enforcing their own narrow ideas of the public morality on teachers than in bringing justice to all the parties, are given every opportunity to do so. To illustrate, we have included in the appendix a staff memorandum received by us following a staff member's observation of one such hearing.[6] We have removed the staff member's editorial comment from one case, since the questioning used is so astonishing that we think it stands by itself.

To overcome these weaknesses, we have developed a series of substantive recommendations to the Legislature for insuring fairness and objectivity. These include a suggestion that a full-time executive secretary and clerical position be provided for the Committee of Credentials to give it some staff expertise (which it obviously lacks at present) and to provide a contact point in Sacramento for accused teachers and their attorneys. The addition of these persons will formalize the committee's procedures, and this should assist in guiding the body into proper areas of endeavor.

We also recommend that the Legislature require the committee to prepare and maintain formal minutes of all proceedings, and that a tape be made of all hearings at which teachers are present. The tape should then be made available to the teacher or his legal counsel, upon request, if that person wishes to have a formal transcript made at his personal expense. Such a proposal will not involve a large state expense such as state preparation of transcripts would require, but will allow the accused to have one developed if he wishes it. It should also be noted that we suspect that the presence of recording equipment and the consequent knowledge on the part of committee members that their questions are being recorded should help to insure that members' questions are objective and to the point.

The minutes that are prepared pursuant to our recommendation above should be transmitted to the accused teacher within a reasonable time after his appearance, preferably within one month.

[6] See Appendix D.

Probably the major fault with the five-member Committee of Credentials is that it is no permanent body at all. During the 12 months in which we observed the body in operation, at least 20 different individuals served on it. Its membership constantly shifts, for the statutory section cited earlier (Ed. Code Sec. 13102) merely requires that there be four persons plus the Superintendent of Public Instruction on the committee, not that they be the *same* four each time the committee meets. Consequently, staff members of the Department of Education serve on the Committee of Credentials only if they cannot avoid it; the duty is considered onerous, and most department staffers seek to avoid it.

The chief deputy superintendent admitted to this subcommittee at its San Diego hearing that new letters of appointment to the Committee of Credentials are signed by the Director of Education prior to almost every committee meeting. Indeed, at all the committee meetings which we attended, the Superintendent of Public Instruction was never personally present, but was represented by his deputy. The fact that committee members are rarely the same means that old cases must be reexplained time and time again, that rules of precedent are impossible to follow and that persons serve who are not necessarily even remotely interested in what thay are doing. Further, if the committee followed generally accepted rules of fair play, proper procedure and objective questioning (which it does not), it would be impossible for a shifting membership to live up to these ideals, since thay would be unfamiliar with the group's operations.

The problem of shifting membership is a serious one, but additional difficulties grow from the fact that although perhaps 90 percent of the personnel cases handled by the committee consist of charges against classroom teachers, *not one of the committee members is an active classroom teacher.* This is intolerable, since much of the substance of the allegations of misconduct which arise at these hearings deal with teacher classroom conduct.

Further, we note that it is significant that teaching seems to be the only non-self-policing profession in our society. Our recommendations will not place the profession in a position where it may police itself, since in the absence of agreement among teachers themselves this subcommittee would not attempt such a great step. But our proposal will at least give classroom teachers a voice in these proceedings, a voice which is completely absent now.

Our recommendation also solves a major difficulty by removing departmental employees, with one exception, from the committee. We have noted that the Superintendent's appointees on the committee are largely division chiefs and assistant division chiefs. These are among the busiest men in the Department of Education, and their workload is a major reason why there is a rotating membership on the committee. By drawing the committee members from outside the department—but continuing to give the department some representation—we believe that a more permanent body will result.

Our proposal is that the present Committee of Credentials be abolished in favor of a committee drawn from the following elements of the education profession:





A. Two full-time elementary classroom teachers with tenure, presently employed in teaching in a California school district, and selected every two years by the State Board of Education.
B. Two full-time secondary classroom teachers with tenure, presently employed in teaching in a California school district, and selected every two years by the State Board of Education.
C. One certificated person working full-time in an administrative or supervisory role in a California school district, selected every two years by the State Board of Education.
D. One past or present member of a local school district governing board in California, selected every two years by the State Board of Education.
E. One staff member of the Department of Education, selected every two years by the State Board of Education.
F. The Superintendent of Public Instruction.

We propose that the committee's executive secretary be an *ex officio* member of the new committee, with the right to vote only in the event of a tie among the eight members.

We think that such a body as we propose is clearly representative of all the interests involved in education, and its composition represents an improvement over the present committee's organization on several fronts. For the first time under our recommendation the Committee of Credentials will include:

1. A representative of the public, in the school board trustee;
2. Representatives of the teaching profession;
3. A representative of certificated nonteaching professionals in education.

We include one final comment in our recommendation concerning committee composition. This subcommittee was shocked to hear in testimony under oath from a Department of Education staff member that the Committee of Credentials often operates without a quorum. In fact, according to this testimony, decisions relative to which teachers should be asked to come to Sacramento to appear before the committee—and hence fully investigated—are made by a "subcommittee of one," consisting of the committee chairman and a staff investigator. This illegal and immoral practice must stop, and we consequently propose legislation which will prohibit the Committee of Credentials from operating without a quorum at any time. We recognize the immense workload facing the committee and the Department of Education in general, but even such work pressures cannot and must not be used to explain one-man rule on this committee.

Our final series of recommendations relative to the operation of the Committee of Credentials covers a broad area of teacher rights relative to the committee's dealing with them. The misconducts, not of teachers but of the committee itself, in this area are numerous. We shall state a few of them. Investigations are conducted by the committee for an indefinite time period, and teachers under investigation in prior years—even if that investigation has in fact been closed and the teacher cleared of the charges—are rarely informed of this action. In one case of which we were informed, a teacher's attorney state

that he was still representing a teacher in a case which had been initiated more than four years previously. The department, he contended, refused to tell him definitely whether the investigation was or was not still in progress.

Often the committee refuses to allow a teacher or his attorney to see the nature of the written allegations made against the teacher. This has been substantiated by oral and written communications by attorneys directed to the subcommittee. It would appear that this very small intrusion of the right of discovery into Committee of Credentials' files might be well justified.

Far more serious, however, we understand that the committee occasionally refuses to notify the teacher as to the nature of the charges against him. Certainly, the form letter which the committee sends to teachers accused of some offense, inviting them to come to Sacramento, is not at all clear in this regard. One of the most fundamental rules of fair play in such a proceeding as this is notification to an accused of the charge. It makes no sense at all to virtually require a teacher to come to Sacramento for a hearing "just to see what he is like." This is the "whole man" theory run wild. Teachers are entitled to know why they are being investigated by an agent of the state.

Lastly, we have noted that unhappily and for reasons which are known best to certain members of the Committee of Credentials, this body has made it a practice in recent years to "invite" teachers accused of sensational-type offenses to a Sacramento hearing, *even though if all the allegations against the teacher are true there are no legal grounds to revoke the teacher's credential.* Although this fact was denied by witnesses from the Department of Education at our hearings, it is clear and indisputable from the facts of the cases.

It is indeed unfortunate when an administrative department of state government feels it must take upon itself the obligation of spanking the hands of professional people under its aegis who, in the opinion of the department or members of the department, engage in perfectly legal but "undesirable" conduct. The portents of Orwell's *1984* seem very real when pressure from a few confused people in a local community can "convince" such an agency of government that it ought to conduct a public kangaroo court—not to make findings of fact and to apply the appropriate punishment, if it is warranted—but to put on a show for the misguided persons who originally brought the complaints. We can agree that it is too easy to persecute school teachers; we cannot agree that such persecution is right in either a legal or a moral sense.

To overcome this gross misuse of Committee of Credentials' power, we include in our final list of recommendations a proposal which should foreclose these possibilities to future committees. Our proposals follow:

1. Teachers shall have the right to be notified of the specific charges made against them, at the time a letter is sent to them requesting their appearance before the Committee of Credentials.

2. Teachers shall have the right to see, or to have their attorney see, copies of any written charges which have been made against them. This right should not, however, extend to other items in the investigator's file.



3. Teachers shall have the right to be notified by the committee if and when that body's investigations have uncovered additional evidence which lead to the filing of new and possibly more serious charges against them.

4. Teachers shall be notified of the final disposition of their cases by the Committee of Credentials within one month following their appearance before the committee, and they shall also be informed of their appeal rights if an adverse decision is returned.

5. Investigations of public school personnel shall be dropped within 12 months of their initiation and of initial notification of investigation by the committee to the teacher. This recommendation will act as a statute of limitations on Committee of Credentials' proceedings, but the time limit will not start to run until the teacher is told he is under investigation and at least a partial field investigation has been conducted.

6. The Committee of Credentials shall be required to state, in its letter to the teacher telling him he is being investigated, that if the charges that have been made against him are true, that legal grounds exist to revoke his teaching license. This requirement will negate the useless type of committee proceeding which we alluded to above and will further protect the teacher's legitimate rights.

This subcommittee has attempted to deal with the Committee of Credentials with a substantial measure of restraint. It would have been far easier simply to recommend complete abolition of the agency. Such a course might have been more attractive to teachers, and this subcommittee itself might have attracted more notoriety, but this would not have served the public school system of California. There *is* a genuine need for an agency such as the Committee of Credentials to screen allegations of offenses by teachers, in order to weed out those very few teachers who are unfit. As legislators, we support the legitimate and proper functions of the committee.

But we just as strongly reject misuse of that committee's power by anyone who seeks to make a name for himself, or is too weak to stand up to small groups of people who exist in any community and seek to impose their thought processes upon the majority of members of the community. The Committee of Credentials—which by its very definition must find and hold to that fine line which protects equally the rights of society and the rights of individual teachers—must not be allowed again to become a forum for those persons within its membership who wish to gain a wider audience for their own peculiar views of the American scene in general and education in particular. We believe that our recommendations preserve this committee's proper functions; indeed, they should strengthen them. We earnestly commend these recommendations to the 1967 Legislature.

# A STUDY OF METHODS OF UPGRADING AND IMPROVING THE TEACHING PROFESSION[1]

## FINDINGS

*The Subcommittee finds that*

1. Education does not have the teaching quality it has had in the past in California. This is true largely because of the well-documented and ever-increasing flight of the excellent teachers into nonteaching positions in education.

2. As public school costs have climbed, the quality of classroom instruction has decreased, as documented by the increasing proliferation of special educational programs for various categories of underachieving children.

3. This proliferation of such special programs (compensatory education, remedial help, etc.) leads to one of two possible conclusions, or a combination of both of them. Either (1) education is simply too costly for the public to continue to bear in a relative sense, or (2) education, and its administrative and special services, are growing out of control.

In economic terms, the benefits bought by such special programs should nearly equal their cost to the taxpayer if economic justification for them is to be achieved. The subcommittee has seen no compelling evidence that this is the case.

4. The trend toward more and more proliferation of special programs and nonclassroom personnel in education has reached the fiscal ceiling and must be reversed, not to the point where the basic principles of public education are harmed, but so that needless "fat" may be cut out of the school program. The subcommittee has heard no contention that this cannot be done without fatally harming the education program.

5. The flight of excellent teachers into nonteaching occupations is caused largely by the low salary level available for this highly talented professional minority that remains in the classroom longer than 10 years. Traditional step-by-step teacher salary schedules—wherein the best teachers are paid the same as the worst—are a major reason for the frustration which leads the excellent ones to leave teaching.

6. Little evidence is available to show that local school districts (or the education profession itself) are interested in, or capable of, slowing the exodus of excellent teachers from the profession.

[1] Assemblyman Elliott dissents from this portion of the report. He states: "I disagree with [this portion of the report] in two respects: (1) the criticism of those currently teaching appears to me to be unduly severe; (2) I disagree with the premium pay proposal because it appears to me to be another form of the discredited merit pay proposal."





7. All proposals for pay based on the excellence of the individual teacher, rather than mere lock-step advancement along a "time-in-grade" schedule, are opposed by teachers' organizations, who fear favoritism and/or nepotism if such pay is determined by school administrators. Some methods of "premium pay" have been suggested to overcome these serious objections. Some system must be adopted so that the geometric increase of nonteaching personnel will be slowed and the present huge teacher-pupil ratios can be reduced.

8. There is a movement designed to cast the teacher in the mold of a performer in the center of a three-ring educational circus in which the classroom is caught in a magnificent juggling act. The brochure announcing the NEA's "Year of the Nonconference," wherein statements are made to the effect that the teacher's job is "unmanageable" without a myriad of specialists, consultants, coordinators, supervisors, and other supernumeraries with Gilbert-and-Sullivan-sounding titles, presents amazing but frightening testimony to this statement.

## RECOMMENDATIONS

1. Teaching pay must be made attractive, so that the truly competent are drawn into the profession, and drawn in to stay—not to be recruited into nonteaching educational positions. The subcommittee again endorses the concept of a minimum statewide salary schedule—which will require substantial increases in state aid to the schools—which will provide more than the present minimum base salary presently in the law. A fully qualified teacher with 10 years of experience and the training represented by a master's degree should be guaranteed an annual income of at least $9,000.

2. All honestly done and statistically valid studies have shown that reductions in class size have an enormous impact on the quality of education available to children in California. The subcommittee endorses future state-funded reductions in the too-high sizes of California classes, possibly through the use of the class size reduction formula presently in the law for grades one, two and three.

3. The committee pointedly notes that there is a great difference between "merit pay" for teachers—which is administered *within* the educational system, by administrators, and is hence open to favoritism, and which leads to district patronage in the worst sense—and "premium pay" for excellent teaching skill. The committee opposes "merit pay" because of its obvious weaknesses, but we endorse the concept of "premium pay"—governed by a commission of teachers and thus administered from *without* the system, without the dangers of favoritism.

4. The subcommittee stops short of endorsing a specific bill to provide state-supplied "premium pay" for the teaching profession, but we *demand* that the proliferation of nonteachers and the supposed "services" which they allegedly provide come to an end! We recommend that to overcome this glaring weakness in this state's educational system, the 1967 Legislature consider enactment of a premium pay program for the excellent school teachers of California which will—we believe—serve to protect the taxpayers of this state from further encroachment on their economic solvency by the bureaucracy of the school system while insuring to their children an excellent education. This should occur because the child will again receive the individual instruction which is his right, the parent will regain lost confidence in the responsibility of the school system, and the taxpayer finally achieves what he has already paid for—the highest quality education in the nation. He is already paying the highest price.

5. Recognizing the difficulties which the Legislature will face in 1967 in developing specific legislation to enact a premium pay program, we recommend the adoption of a statute which declares the Legislature's intent to encourage such teacher remuneration plans, but which also establishes an advisory commission charged with the duty of formulating an acceptable premium pay plan for presentation to the 1968 Regular Session of the Legislature. The teaching profession, school administrators, school board members, the general public and members of the Legislature should be represented on this commission, whose work should be overseen by a joint legislative committee comprised of the standing Committees on Education of the Assembly and Senate.

# A STUDY OF METHODS OF UPGRADING AND IMPROVING THE TEACHING PROFESSION

This is now the fourth year that the personnel subcommittee of the Assembly Education Committee has devoted to studying the quality of a profession. In 1965, we recommended that the term "unprofessional conduct" be strictly defined to mean exactly what it implies—behavior directly related to the practice of one's employment, not a catch-all phrase covering any item of personal activity.

We are pleased that the Legislature saw fit in 1965 to reaffirm, through the passage of AB 2710 (Petris), the essence of an opinion of the Third District Court of Appeals (200 Cal. App. 2nd, 147) whereby a classroom teacher was upheld in his right to write a letter to the editor of his local newspaper. That such an act could ever be labeled "unprofessional" by anyone illustrates, we think, the heavy fog which surrounds the concept of teaching as a profession.

This committee has consistently supported excellence in the classroom with more than platitudes. We do not take the word "profession" lightly. We are striving to find an acceptable way to raise the public status of a career teacher to its proper position.

We should note that the 1965 Legislature—along with restricting the misuse of "unprofessional conduct"—enacted two measures which incidentally highlight the paucity of true professionalism in teaching.

We do not wish to be misconstrued—we support the authority of local school boards to administer their affairs within the framework of the Constitution and the Education Code—but we must point out that in a precise sense of the phrase, the professional rights of teachers number two.

Two serious and relatively recent developments were brought to our attention, and the Legislature acted to provide statutory relief, where heretofore, these matters were traditionally accepted.

Does the teacher have a professional right to suspend an unruly student from school? The previous version of the Education Code had contained a provision to that effect for years. Nonetheless, this section had been locally interpreted to mean that the teacher must obtain administrative permission, and where this was not granted, the provisions of the Education Code became meaningless. It is difficult to believe that some of those in authority would treat the law in such a cavalier manner.

As a result of legislative information, the code section was amended in 1965 to spell out clearly and unmistakably the fact that each individual credentialed teacher had an absolute professional right to suspend an unruly student, regardless of whether the nonclassroom administrators agreed or not (AB 2083, Winton).

Yet, this was not sufficient. A local school district immediately interpreted the word "school" to mean "class" and attempted to rein-

state the usual administrative procedures which had the practical effect of prohibiting suspension, making a mockery of the teacher in the eyes of the students, and generally undermining confidence in teachers as professionals, as well as dignified persons.

Fortunately, one brave teacher went to court, and, quite obviously, the court held that the law was "clear and unambiguous." The teacher *does* have a right to suspend, as most of us always thought. Yet now, this right must be codified and supported by judicial opinion.

Who took away the traditional right? Certainly not the general public, for the 1965 bill to enact the right would surely not have been passed had there been any substantial public opposition. No, the public expects the teacher to exercise a professional responsibility to the students who wish to learn, and we expect that the vast majority of parents were unaware that traditional teacher authority had been so eroded.

The right was taken away by those who speak loudly for education as a profession, but deny the exercise of the most fundamental professional rights to teachers. These are the administrators and supervisors and coordinators and directors, and a myriad of other titled personages, who have multiplied so vastly in the past generation.

The testimony before this subcommittee indicated that the non-teaching professionals have increased from 4 per 100 classroom teachers to more than 14 at latest count, and there is no end in sight (see Table I). This year of 1966–67 is supposed to be the "Year of the Nonconference" according to the National Education Association, and the purpose is to bring educators together around television sets to talk of further increasing the "services to teachers."

It would appear that the calendar may be off by some 17 years. Rather than 1967 for education, may it not be 1984 already? The NEA speaks of the "teacher's staff" which all of us would interpret to mean people who act under the supervision *and control* of the teacher. But it turns out that the teacher's "staff" is largely composed of non-classroom personnel, higher on the scholastic ladder, superordinate in authority, and paid much higher too. With this definition, all leaders may seek to resign and become staff members.

This committee adamantly rejects the implication that classroom teachers are inherently incapable of providing adequate, even excellent, education to children. The NEA says the teacher's job has become "unmanageable." We ask—who made it that way?

For one thing, the people who took the teacher's right to maintain discipline in his own classroom away from him by administrative fiat are responsible.

A tangible result of a teacher's work is the grade a student receives at the end of a course. For generations, teachers have considered the fundamental judgment about a student's relative success to be the province of their own determination. Whether it is "A" or "B," pass or fail, good teachers have always tried to be fair—to give the student a fair evaluation of what he has learned—and not to mask his ignorance in fraud.

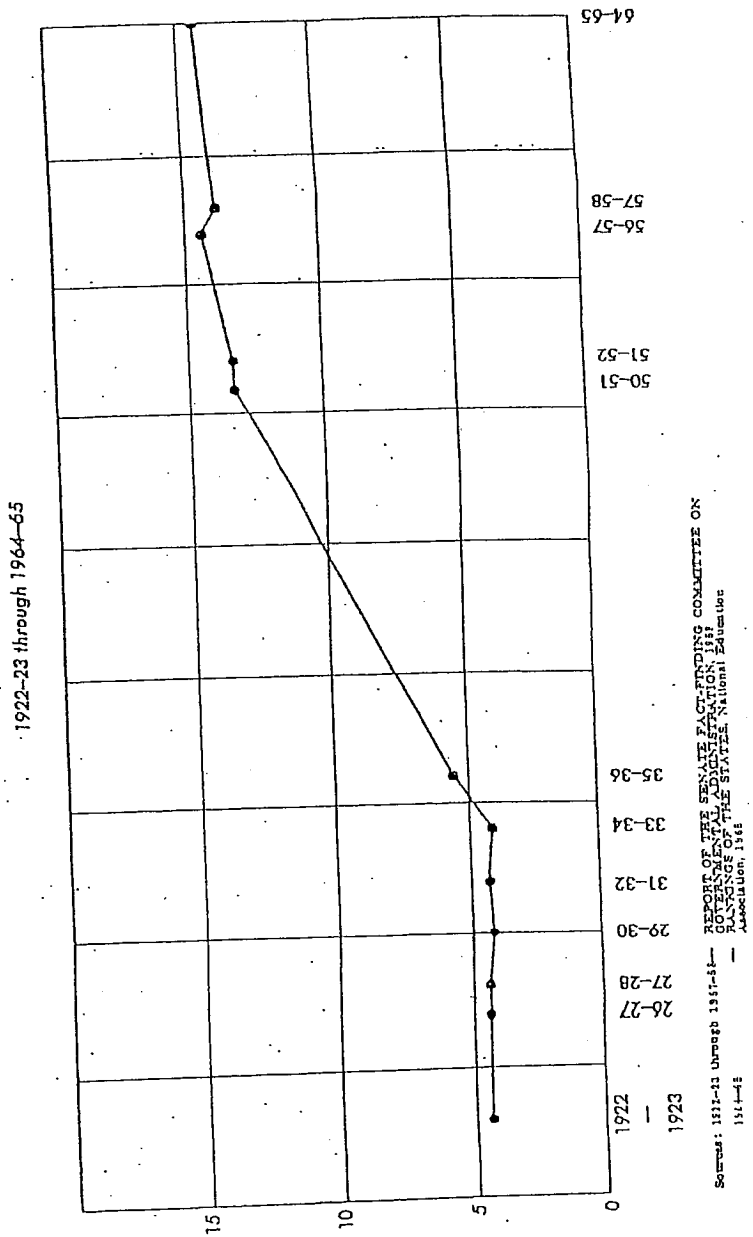
It does not profit a child to think unrealistically of himself as an "A" student, when life and society and the world of business will render a more accurate verdict, if that be the case. The true profes-



Table I

NUMBER OF CERTIFICATED NONTEACHERS PER 100 CLASSROOM TEACHERS

1922–23 through 1964–65




Sources: 1922–23 through 1964–65 — REPORT OF THE SENATE FACT-FINDING COMMITTEE ON GOVERNMENTAL ADMINISTRATION, 1967
1964–65 — RAYHOUSE, 1966 — THE STATES, National Education Association, 1966

sional teacher has always known that honesty in grading is in the student's best interest in the long run. But there are those whose grasp of time is very short—those attending the next PTA meeting, for example.

In 1965, the Legislature was forced again to take a step that seems Orwellian. With information that numerous school officials were altering the grades that teachers gave to students, the Legislature enacted the second right of teaching (AB 2074, Garrigus)—that in the absence of fraud, etc., the teacher's grades are final.

Did the public ever suspect that they were not final? We do not believe they did.

We ask how anyone can seriously pretend to upgrade the teaching profession when he declares the teacher to be effectively incompetent, takes away whatever traditional rights the teacher enjoyed, and proposes that our schools be saddled with ever more expensive nonteaching personnel.

In the past few years, the Legislature has had to prop up ineffective school programs with specific, program-oriented legislation. Most prominent are the Miller-Unruh Basic Reading Act, the McAteer Compensatory Education Act and the preschool program—all enacted in the 1965 session.

For decades, the Legislature has underwritten the excess costs of special educational programs for the physically handicapped, mentally retarded, and now, the educationally handicapped, the inexplicably underachieving student.

We ask ourselves why local school districts—supposedly close to, concerned with, and able to resolve local problems—require a plethora of special state aids in order to attack their problems. The disparity in local tax bases is far from the complete answer. There are many individual districts without adequate local revenues which seem able to cope with their problems. Other districts with virtually identical financial and human resources do not.

As local educators have moved toward total immersion of their operations under a proliferating tent of "education," the Legislature has seemingly moved to identify individual objectives more specifically. "Good education" is a meaningless concoction if specific successes in reading, or arithmetic, or vocational skills cannot be easily adduced.

Is public education actually too costly for the taxpayers to bear any more? This does not seem likely in view of the fact that Californians spend more on each child than any state except New York. (We doubt New York would spend as much if the private and parochial schools did not educate over a quarter of the state's students separately.)

Or rather, is the vast enterprise of public education getting out of hand? We know that teachers have become less and less important. While administrative ranks multiplied, class size remained virtually static until the Legislature financed and mandated a significant reduction in class size in the primary grades.

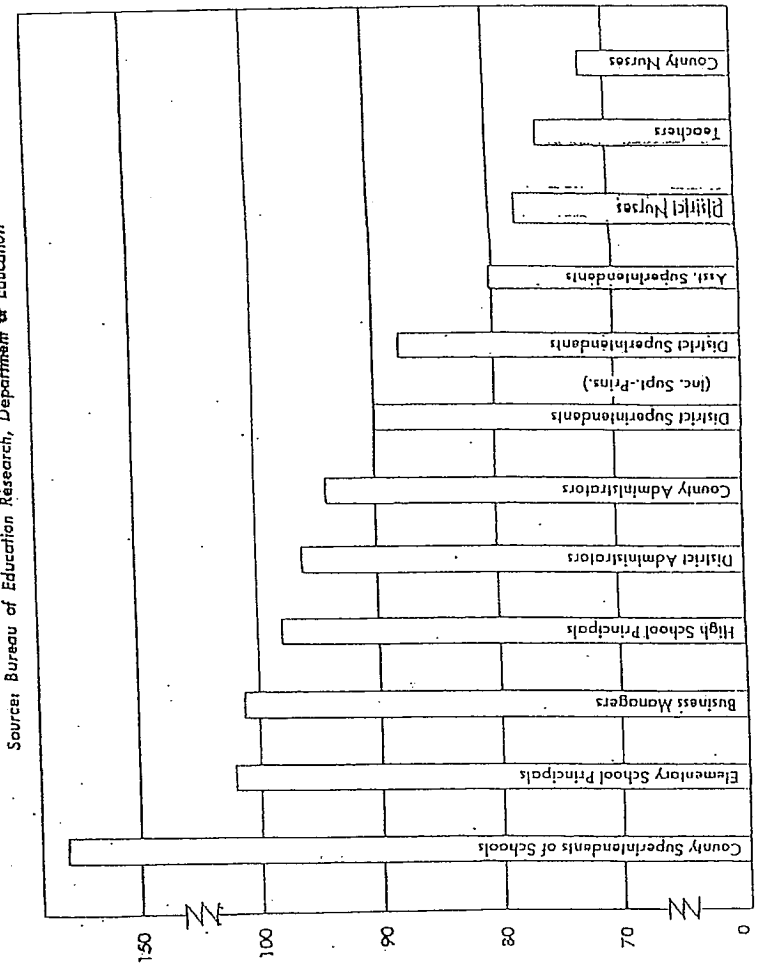
We *can* statistically demonstrate that smaller classes mean higher achievement, and thereby justify the added expense per child. We have the testimony of thousands of California teachers, as well as research evidence. But when class size reduction is requested locally, the cost is often termed prohibitive.



Table II

PERCENTAGE INCREASES IN SALARIES—1952–53 TO 1964–65

Source: Bureau of Education Research, Department of Education




The evidence presented to us shows that in the past 10 years, every other category of professional educator (except teachers) has received greater salary increases than those who actually work with children daily—teachers, and also school nurses (see Table II). In most school districts, higher officials are automatically geared to the teachers' schedule by a multiplier. Teachers often take the public censure for an increase in local taxes, while 20 percent and more of the raise goes to nonteachers.

In most districts, all teachers—good, bad and indifferent—are on the single schedule, and they progress in lock-step fashion through the years, while collecting miscellaneous college credits. The lack of local concern about valid professional advancement is evidenced by the fact that many districts do not require a valid master's degree for salary advancement. Any sort of credit will do.

It seems to us that if administrators and boards were serious about directing teachers toward increased professional stature, they would limit salary credits to courses that apply to a specific degree program, and one concerned with the subjects being taught.

Instead, the lure of promotion out of the classroom is offered. We cannot say that this lures only the best teachers away from the classroom, but many—particularly men with family responsibilities—certainly are removed from teaching in this manner.

In a few districts, a system of "merit pay" has been established ostensibly to reward superior teaching. However, the testimony before our committee from every teachers' group—especially those who represent only classroom teachers—is adamantly opposed to it. The committee finds that a deep and pervasive lack of trust exists between career classroom teachers and their local superiors who make the merit decisions.

Thus, we have proposed that a premium pay system, effectively free of local favoritism or nepotism, be established with state support. The committee has been most favorably impressed by the individual teachers—all of long experience and all, oddly enough, men—who testified in favor of this proposal.

It would be an understatement to say that all committee members present were deeply touched by the sincerity and obvious scholarship of these men. These were clearly "professionals" in the best sense of the word, and we are at a loss to explain why each of them recounted some experience with bureaucratic interference in their demonstrably successful teaching practices.

Yet, they are in a minority. The employment practices of school districts virtually ensure they will be outvoted by the transient individuals passing through the classroom on the way to the maternity ward or the district office.

By simple head count, women outnumber men, and the committee believes that there has been an even more significant change in the professional attitude of women. "Miss Dove" has been replaced in the classroom by "Betty Coed" and "Mrs. Alumna." In terms of professional attitude, "Miss Dove" was a "Pro." As the symbol of a past generation of teachers, she was a spinster whose only interest was her work.

We do not have many "Miss Doves" today, and to that extent, the professional caliber of teachers has been diminished. To some degree, the slowly increasing proportion of men in teaching is helping to fill the gap, but the total of career teachers, male and female, is outweighed by those with other interests.

Indeed, the committee is informed that at a recent meeting of the California School Boards Association, the (male) head of teacher education at one of the University of California campuses declared flatly that "teaching is a woman's profession." We suspect that the headmasters of our leading private schools, e.g. Exeter, Andover, San Rafael Military, would violently disagree with this statement.

We believe that the issue of professionalism in teaching is intimately bound up with the system of compensation for teachers. We acknowledge the fact that great disagreement exists on the mechanics of instituting some kind of system to recognize and reward superior teachers, *but we have heard no testimony against the concept.*



Hence, our major legislative recommendation is a proposal to establish a statewide commission with the express duty of formulating a workable plan.

We think that this commission of professionals and laymen should be a sounding board and should help to develop a permanent public attitude toward the largest public enterprise in California. For too long, we have been content with slogans, with platitudes, with meaningless phrases that disappear when school financing issues become involved. We urgently need a broad-based public commitment, and while we would not forecast the views such a commission might take, we must finally decide what our future course will be.

For our part, we concur with Henry Adams that "A teacher affects eternity . . . ." We believe that the long-range stability of the American republic, its democratic institutions and representative government, depends on a mature citizenry, educated by highly respected teachers.

Regardless of our acts, the teacher *will* affect eternity, one way or the other. The only question is, which way?

# APPENDICES

APPENDIX A

# STATEMENTS BY MAJOR EDUCATIONAL ORGANIZATIONS RELATIVE TO THE FISHER ACT

October 24, 1965—San Diego:

1. Dr. Paul Lawrence, Associate Superintendent of Public Instruction

   "Dr. Rafferty's position is that the bill passed by the Legislature in 1961 was a good bill, *is* a good bill.

   The position of the department, also, is the fact there is a shortage of teachers, but there is relatively little relationship between the two. In other words, you cannot attribute the teacher shortage, which will be for some time, to the passage and resultant action of the 1961 legislative act."

2. Dr. Carl Larson, Chief, Bureau of Teacher Education, State Department

   (In answer to a question by Assemblyman Alquist) "Well, I do not say there are changes needed in the law, per se. I say there are changes needed in certification requirements, but not in the law itself."

3. Dr. George Dotson, Director of Educational Services, California State College at Long Beach

   (In answer to a question by Assemblyman Alquist) "Yes I do [have some things to say]. I don't believe the problem is with the law at all. As a matter of fact, I think that it is time to let the law stand and give it a chance to work. I think the problem is in the implementation."

4. Dr. John W. Eckhard, California Association of School Administrators, Assistant Superintendent, Kern County High School District

   "This brings me to my second point—the implementation of the Licensing of Certificated Personnel Law of 1961. Our committee feels it is a substantial law and should be allowed to continue without change."

5. Mr. W. A. Hendrickson, President, Education Association of California, Superintendent, Oakley Union School District

   "The Education Association of California supported the Fisher bill and its intent to provide better qualified teachers for the schools of California."

6. Mr. Thomas Woods, Executive Secretary, California Elementary School Administrators Association

   (In answer to a request for clarification of the Association's position on the Licensing of Certificated Personnel Law of 1961.) "They recommend no revision in the law itself."

7. Dr. Ellis E. McCune, Dean of Academic Planning, California State Colleges

   "Our governing body, the Board of Trustees of the California State Colleges, has been wholeheartedly in support of the aims and objectives of the Licensing of Certificated Personnel Law of 1961, commonly known as the Fisher Act."

8. William D. Plosser, Executive Secretary, California Federation of Teachers
   "In line with this policy, we, of course, supported the Fisher bill in 1961. We opposed various efforts in the '63 session and in the '65 session to water down the requirements for academic preparation."
9. Mr. Glen Harrington, California School Boards Association
   "I think I can best serve your interests by simply stating that the School Boards Association supports the Fisher Act as it stands."
10. Mr. Lester G. Wahrenbrock, Director of Certificated Employment, San Diego City Unified School District
   "We would agree with the basic provisions of the Fisher bill. We have no major suggestion or revision to suggest."

*September 12, 1966—Garden Grove:*

1. Dr. Arthur Corey, Executive Secretary, California Teachers Association
   "I think in general our committees, both our committee and commission in the C.T.A., would say that the trouble with the Fisher bill was not that the standard was too high, but that it wasn't high enough."
2. Mr. Donald E. Fitzgerald, President, California Junior College Faculty Association
   "As our position paper, the following five pages, indicates, we support the Fisher bill."
3. Mr. Alvar Yelvington, California School Boards Association
   "The school boards of this state supported the Fisher bill when it was before the Legislature, and they still support the principles of the Fisher bill including the concept of the diversified major as modified by the Rodda Act."
4. Mrs. Sally R. Williams, California School Nurses Association
   "We agree with the Fisher bill, as it does spell out the preparation of the school nurse, and we think it is a fine piece of legislation."

Tab 4-36



## APPENDIX B

STATE OF CALIFORNIA
DEPARTMENT OF EDUCATION
721 CAPITOL MALL, SACRAMENTO 95814
In Replying Refer to FILE NO. ___DATE

REPORT OF EVALUATION FOR THE STANDARD TEACHING CREDENTIAL WITH A SPECIALIZATION IN ELEMENTARY TEACHING. Items checked below show requirements which must be completed:

___ 1. An acceptable bachelor's degree.
√ 2. Postgraduate course work: *21* additional semester hours in upper division or graduate level courses to complete a fifth year.
___ 3. General education: ___ additional semester hours including work in all areas checked in this section.
   ___ (a) course work in ___ areas selected from those checked: ☐ humanities ☐ social sciences ☐ natural sciences ☐ mathematics ☐ fine arts ☐ foreign language
   ___ (b) ___ additional semester(s) (___ quarter(s) of course work in English
   ___ (c) a course in English composition or the passing of a special examination in English composition administered by a college or university.
√ 4. A major in *social sciences* requires 2 additional semester hours on the upper division of graduate level.
   A diversified major requires ___
___ 5. A minor in ___ requires ___ additional semester hours including ___ on the upper division or graduate level.
   An interdepartmental minor in ___ requires ___ additional semester hours including ___ on the upper division or graduate level in ___, the subject to be named on your credential as the minor.
   ___ You will have completed a minor in the specialized area of ___ when requirements shown on the enclosed letter FZ ___ have been completed.
√ 6. Professional preparation:
   √ (a) student teaching: *90* additional clock hours (*4* semester hours) including *90* clock hours (*4* semester hours) in grades kindergarten through 8 or verification of *7* year(s) of full-time teaching experience in the public schools, or in private schools of equivalent status including *1* year(s) in grades kindergarten through 8. Experience needs to be verified by letters giving dates of service and grade level, signed by a principal or superintendent.
   √ (b) ___ additional semester hours of course work, or more if needed, to include all requirements checked below:
      ___ (1) sociological or historical or philosophical foundations of education
      ___ (2) psychological foundations of education or
         ☐ educational psychology and
         ☐ growth and development
      √ (3) √ elementary school curriculum
         ___ general elementary methods *OR* basic methods selected from any ___ of the following areas: arithmetic, science, reading, language arts, social sciences, and foreign languages.
√ 7. Three semester hours of course work in the theory of the structure, arithmetic, and algebra of the real number system or three semester hours of course work in calculus.
___ 8. Official verification of the completion of the requirement on the United States Constitution. It is necessary to verify the completion of two semester hours in course work, or an examination given by any approved institution, on the provisions and principles of the United States Constitution. This requirement must be completed before the credential will be issued.

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√ You are not at present eligible for a credential on partial fulfillment [(1) and (6) (a) above required].

___ You meet course requirements for issuance of this credential on a partial fulfillment of requirements. To apply for a credential on this basis, you must submit the following: ☐ a new application form, ☐ a $10.00 fee, ☐ fingerprint cards, ☐ health form dated within a year if not already on file, ☐ your statement of intent to complete all requirements for the life credential, ☐ a statement of employment for the service ☐ as a librarian *OR* ☐ as a teacher of exceptional children.

Sincerely,

Encl: ___ Forms ___

APPENDIX C

SAN DIEGO CITY SCHOOLS
EDUCATION CENTER
Park and El Cajon Boulevards

PERSONNEL DIVISION

January 28, 1966

The Honorable Leo J. Ryan, Chairman
Subcommittee on School Personnel
and Teacher Qualifications
California State Legislature
State Capitol Building, Room 5128
Sacramento, California 95814

Dear Assemblyman Ryan:

In compliance with your request of January 24, I am submitting the following statement with reference to the Geri Davis case, in lieu of my personal appearance at the hearing of February 1, 1966, directed in the subpoena served upon me on January 21, 1966.

For many years this school district has enjoyed a national reputation for seeking out, attracting, and motivating teachers of superior professional accomplishment and of equivalent moral character.

The Board of Education, the administration, and representative teacher organizations have worked well together to provide a professional environment, responsive to community interests and needs, which will enhance the welfare of teachers and students alike.

This includes the continuing review and insistence upon standards of personal conduct traditionally required and practiced within the teaching profession. This school system has concerned itself as vitally with the performance and character of its employees following their placement on the job as it has with their original selection.

Preserving the right of the teacher to lead his life as a private citizen, and requiring that he conduct himself in a manner that is consistent with his professional obligation to the public, presumes a delicate balance between the teacher's privileges and his responsibilities. We fully appreciate the obligation of the school district to assist in maintaining this balance.

We believe that the local professional leadership of a large, well-organized school district such as our own, responsible to the elected representatives of the community, is in the best position to interpret and carry out the legal and professional requirements applicable to its employee group. We believe that this was exemplified by the recommendation of the administration in the recent Geri Davis incident.

APPENDIX C—Continued

*The recommendation made by the superintendent that no action be taken to discharge Mrs. Davis was based upon thorough and complete review of official records of the professional performance and personal conduct of Mrs. Davis related to her assigned duties as a member of the teaching staff. This recommendation was made upon the advice and counsel of our district legal adviser. The Board of Education accepted the recommendation of the superintendent.*

The Personnel Division of our school district has worked cooperatively with the Division of Credentials of the State Department of Education for many years. On numerous occasions it has sought out the investigative services of the State Department in determining the fitness of certain individuals to continue in their teaching posts, based upon issues that were clearly related to the legal and professional responsibilities of the assigned task.

Within the limits of its small and overburdened staff, the investigative staff of the State Department of Education has been of significant help to this district.

*It seems unfortunate to us that a situation which evidenced no greater factual basis for review than did the Geri Davis case received what appears to us to be an undue amount of attention and notoriety, possibly depriving the investigators of the State Department of needed time to review other and perhaps more deserving cases.*

Enlightened and forward-looking school districts exercise continuing vigilance in monitoring the personal and professional qualifications of their staffs. They welcome and solicit help from competent official and legal resources, both at the local and state levels. They depend upon a close working relationship with these agencies built upon mutual trust and constructive results.

These results should enhance rather than detract from the image of education. *I can only feel that the apparently unilateral pursuit of the Geri Davis case has served to damage the image of this school district nationally, at a time when we are embarking upon a local and national recruitment program to obtain several hundred employees needed during the next school year.*

The personnel and operational practices of this school district are continually open to public review, and qualified constructive help is always welcome from any source. If it is desirable to highlight certain incidents in education to demonstrate certain issues, these incidents should portray principles and practices of broad dimension. Certainly, they should be based upon truth and relevant fact.

The Personnel Division at this time has no evidence that the Geri Davis case qualifies in this regard.



APPENDIX C—Continued

We are, however, looking forward to continuing our work with the State Department of Education on matters that have meaning and significance not only for the San Diego Unified School District, but for California and for the teachers of the nation at large. We would like very much to get back to this job.

In further compliance with your request, I am asking that Mr. Fred Foster, director of employer-employee relations for the Personnel Division, be present on February 1, 1966, to present this statement.

Thank you for your cooperation in making allowances for this arrangement.

Sincerely yours,

HOWARD CROFTS
*Assistant Superintendent*

HC:sr

NOTE! *Emphasis ours.*

(Transcribed copy of closing statement of Dr. Everett Calvert for the Committee of Credentials at a hearing on Mrs. Davis' case January 18, 1966, Sacramento, California.)

Mrs. Davis, the Credentials Committee has reached a unanimous decision and would like me to preface the decision with a statement of its feelings on two or three issues. It has been impressed with the testimony on both sides. It is not a one-sided case by any means, but we have also been very impressed with the testimony of your students and the teachers that know you best, as well as the administrators who know you.

From an educational standpoint, we deplore the use of the cheap and vulgar language, and firmly believe that this tends to perpetuate the negative aspects of racial relations, and recommend a more positive approach to them.

It is the feeling of the committee that such language tends to stir up racial tensions and not alleviate and quiet such tensions, and that another type of approach would be better.

We do not condone the play and our action we do not want interpreted as condoning it in any way. There are many people who have even more sordid lives than the characters in the play which you wrote which you might also justify on the same grounds, such as some of the types of cases which we have in this committee from time to time, as sex perverts and prostitutes, and so on, or the mad ravings of the insane, you might equally justify in the same manner.

*We are convinced, however, that there is no adequate legal grounds in the testimony involved for any punitive action as far as you or your credential is concerned, and we are also convinced that if you did need to learn a lesson and that you have legitimate regrets for any reflection that has resulted on the profession and others involved in the case.*

As a result we have voted unanimously *to close the case with this admonition to you please, we hope, avoid such an event in the future.* Thank you very much. (Emphasis ours.)

APPENDIX C—Continued

(Transcribed copy of interview between reporter and Dr. Everett Calvert immediately after the Committee of Credentials hearing on Mrs. Davis' case January 18, 1966, Sacramento, California.)

*Reporter:* Dr. Calvert, could your give me a comment on your reaction to the committee's final decision?

*Calvert:* The Committee of Credentials, as usual, has performed in a completely professional and objective manner as it always does and it was totally uninfluenced by any political influences or attacks regardless of their source. There has been no pressure either for or against Mrs. Davis on the Committee within the Department of Education. I think it is just typical of the very fine work that the committee does and the reason that the committee of the State Board of Education a couple of years ago commended the very fine work and the caliber of the people involved.

*Reporter:* You have a great number of cases each month, as you indicated during the meeting, and this one no doubt from the basic facts and points that you were considering, was small in comparison to the legal points in these other ones. Do you feel that the publicity and furor that was raised over this was justified?

*Calvert:* No, I don't. I think that the furor over Mrs. Davis' case was very much to be regretted. I think that the people who attacked the committee and tried to bring pressure on the committee to come to any given decision (and this occurred on both sides) was completely unjustified and to be regretted.

*Reporter:* Do you feel that in the committee's decision that you are still maintaining that a teacher can have an avocation as well as a vocation of teaching?

*Calvert:* By all means. There is no question about that at all. There is certainly no intention or effort on the part of the Credentials Committee to in any way curb those activities as long as they are on a professional and moral basis.

*Reporter:* Do you think basically that Mrs. Davis does have the professional qualifications and the items, of course, in the play was not the issue really, but a lot of people wanted to make it.

*Calvert:* Well, as I said in the closing statement that the committee asked me to make, they very much deplore and regret the wording in this play and the impact that it has had on the San Diego City schools, and the community. We feel that this is not something that is conducive to good racial relations. It is the kind of play and the language that tends to increase racial tensions rather than decrease them. We do not feel that when students see the kind of language used in this play by their own teacher that this is a good influence on them.

*Reporter:* Are you aware that educational television itself, just within the last few days, had a play which did not have the racial overtones but had the tremendously severe moral overtones to it called *The Iceman Cometh?*

*Calvert:* I don't know about the overtones, but I wonder if they used as severe language. I doubt very much if you can put over the air some of the language that was used in this play.





APPENDIX C—Continued

*Reporter:* They used "bastard" and they talked about "he got a case of the ____" and the whole thing right on . . . it was a soliloquy.

*Calvert:* Do you think that the wording in there about "tying a 20-pound weight to a _____ cat's ____ and throwing it in the river" you could put over television?

*Reporter:* It was put over television.

*Calvert:* That was?

*Reporter:* ____ and damn and bastard and ____, and these were.

*Calvert:* Well, I would say, if that is true, it is very much to be regretted and it is about time the people woke up to the fact that there should be a higher moral standard for the people of this country.

*Reporter:* This was educational television—Channel 6 in Sacramento.

*Calvert:* Regardless of what channel it was and regardless of whether it was so-called education or not, I think it is very much to be regretted. It is not in good taste.

*Reporter:* Thank you, Doctor.

STATE OF CALIFORNIA

DEPARTMENT OF EDUCATION

721 CAPITOL MALL, SACRAMENTO 95814

December 14, 1965

Mrs. F. Geraldine Davis
3284 Bayside Walk
San Diego, California 92109

Our File No. 2099-64

Dear Mrs. Davis:

The Committee of Credentials, acting for the State Board of Education, has reviewed your play entitled *A Cat Called Jesus,* which raises serious question as to your qualifications to continue as a member of the teaching profession. At its meeting on November 24, 1965, the Committee concluded that these circumstances may warrant the initiation of proceedings to revoke your California teaching credential.

Several possible courses of action which you may wish to consider are described on the attached sheet.

If a reply is not received within 30 days of the date of this letter, it will be necessary to commence the proceedings referred to in paragraph (2) of the attachment.

For the Committee of Credentials
Eli Obradovich, *Secretary*

EO
io
Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

CALIFORNIA COMMITTEE OF CREDENTIALS
721 Capitol Mall
SACRAMENTO, CALIFORNIA

*Possible Courses Of Action Relative To Your Credential*

(1) If you believe that the Committee of Credentials has been misinformed or inadequately informed, you may request its Secretary for an opportunity to appear before the Committee. At such an informal appearance, you will be invited to give any pertinent information. Members may ask questions. As the Committee is not composed of attorneys it cannot entertain legal arguments and relies on the advice of its counsel on questions of law. However, there is no objection to your being accompanied by an attorney or by friends or associates who wish to speak in your behalf. Because of the great number of cases which must be considered you will be asked to limit your presentation to a reasonable time.

(2) If you do not avail yourself of the opportunity to appear before the Committee, or, if after your appearance the Committee determines that proceedings against your credential are to be initiated, our legal staff will prepare, file, and serve upon you a "pleading" called an Accusation. If you request a hearing, a formal hearing will be scheduled pursuant to the California Administrative Procedure Act (Government Code Sections 11500 et seq.). You will be notified of the time and place of the hearing. At the hearing, you may appear either with or without an attorney. Hearings are conducted before an independent hearing officer appointed by the Office of Administrative Procedure. Witnesses are under oath and are subject to cross-examination. Rules of evidence are enforced. Upon conclusion of the hearing, a proposed decision is submitted by the hearing officer to the State Board of Education. The State Board may adopt the proposed decision of the hearing officer or call for the record and argument and make its own decision. A person dissatisfied with the action of the State Board may petition the courts for a writ of mandate.

(3) Should you wish neither to appear before the Committee of Credentials nor to contest an action under the Administrative Procedure Act to revoke your credentials, you may avail yourself of Education Code Section 13205 which provides that the holder of a teaching credential may request the State Board of Education, in writing, to revoke his credentials. If you decide on this course of action, you may complete and return the enclosed form.

If this form is used, please return to:

Eli Obradovich, Secretary
Committee of Credentials
721 Capitol Mall
Sacramento, California 95814

_____
Name (print or type)

_____
Street Address

_____
City and State

_____
Date



THE SECRETARY
State Board of Education
721 Capitol Mall
Sacramento, California

Attention: Eli Obradovich, Committee of Credentials

I hereby request that each life diploma or other teacher's credential or document heretofore issued to me by the State Board of Education be revoked, as of the date hereof, in accordance with the provisions of Education Code Section 13205, which provides as follows:

"Whenever the holder of any life diploma or other teacher's credential or document issued by the State Board of Education requests in writing that the diploma, credential or document held by him be revoked, the State Board of Education shall revoke such credential."

_____
*Signature*

_____
_____
*Witness*

## APPENDIX D

## MEMORANDUM

To: Assemblyman Leo J. Ryan; Mike Manley

From: Walt Howald

Re: Committee of Credentials hearings, Wednesday, February 16 (9:30–11 a.m.), and Thursday, February 17 (10–12 noon), 1966, Room 517, Department of Education.

*February 16:*

Dr. Frank Doyle was chairman of the committee with Kitch, Klotz, and Church in attendance. Except for Assemblyman Leo Ryan and myself, no other persons were present in the audience. The committee recognized Mr. Ryan's presence and were, perhaps, overzealous in their attempts to "welcome" him. Chairman Doyle explained to Mr. Ryan he had not sat on this committee for over three years and, consequently, was not particularly aware of its current operations—in my opinion Dr. Doyle understated his position as it was quite apparent he had little knowledge of the committee's operations or of the cases before him.

Case 1 involved a Mr. ____'s application for a standard teaching credential specializing at the J.C. level; the question was whether his college credits and master's degree satisfied Education Code Section 6211(a). This matter was not specifically decided by the committee, though Mr. ____ has had correspondence with and appearances before the committee on several previous occasions.

Comment: This case, involving a rather technical point, needed a yes or no decision but the committee could, or would, not make this decision. The members and staff of the committee appeared unwilling and unable to reach a conclusion, thus leaving Mr. ____ in a tenuous dilemma. To act efficiently and meet its responsibilities, each member must be familiar with such a case and the questions it raises *before* an informal hearing is scheduled or such a hearing is fruitless. This hearing cast the committee as an inefficient, indecisive, incompetent group of people unwilling to take the responsibility of a decision.

Case 2 involved a Mr. ____, holder of a general elementary credential, who was applying for an exceptional child credential but who was accused by the school district on 10 allegations of unprofessional conduct concerning certain actions toward some of his fifth grade (?) girls. The committee deferred any action on the case until receipt of certain depositions and transcripts from a pending court action against Mr. ____. On March 23, 1966, after receipt of the above transcripts, the committee decided to take action to deny Mr. ____'s application and to revoke his general elementary credential. Mr. ____ did not appear at this March 23 meeting—it is the policy of the committee to allow only one appearance before the committee in order to keep down the number of informal hearings.



Comment: Mr. ____ was the only one to appear; thus the committee did not hear from his accusers other than by a letter from the district stating the 10 allegations. Mr. ____ was asked to simply confess, deny or explain each allegation. This process places the committee in a position of either deciding Mr. ____ was a fine teacher—as he said he was—or that he was perverted and without discretion as the district said he was. In addition, it's noteworthy that this case appeared as a question of whether to deny ____'s application; however, the committee later decided (at its March 23 meeting) to revoke his general credential. I am not sure Mr. ____ was aware that his general credential was being questioned at his February 17 appearance—his only appearance. In conclusion, this case illustrates a total lack of preparation before the informal hearing, an absence of organization as to what specifically will be considered and what possible action will be taken and, in general, an avoidance of the basic responsibility of determining whether this teacher should be in the classroom. I do not see the value of dragging a teacher before the committee when there is a pending court action if the committee is going to delay its decision until the court has rendered its opinion.

*February 17:*

Case 1 involved a Mr. ____'s application for a standard designated subjects (Spanish) credential. Dr. Kitch was chairman with Dr. Church, Dr. Klotz and Harry Skelly in attendance, though I had seen Dr. Lawrence downstairs in the hall and Dr. Calvert was in his office. A staff attorney and O'Bradovich and Shipp were also in attendance. Mr. ____ was arrested for resisting arrest and disturbing the peace in conjunction with the "student riots" at the HUAC hearings in San Francisco on May 17, 1960. The court dismissed all charges on May 27, 1960, and the federal immigration authorities subsequently approved Mr. ____'s application for citizenship. Dr. Kitch read the charges before the members (not in front of Mr. ____) and the members discussed the charges and some of the above facts. Then Mr. ____ was brought before the committee (he appeared without counsel) and Dr. Kitch told him "This is your opportunity to say anything you have to say." Mr. ____ proceeded with much hesitation as to what the committee was interested in hearing. After a few questions, Mr. ____ did point out he had been arrested and was present at the HUAC hearings but not for the purpose of demonstrating—he was in the building to see immigration authorities but got "involved" when he saw police using water and hitting a number of students in the hallway. Dr. Calvert then entered, stopped to say hello to me and stated in a clear voice "I'm glad to see you guys (the Assembly committee staff) taking a personal interest rather than just a publicity interest." Upon taking a seat on the committee, Calvert then pointed out to Mr. ____ that the issue in this case was that "teachers should be on the side of police." When Mr. ____ would try to talk, Calvert would interrupt and force the question back to whether ____ felt he had "supported the police by his action." ____ was then allowed to speak of his background in Italy where his parents has been in German concentration camps and where he had had a number of conflicts with Communist movements—during all of this Calvert was talking with Dr. Kitch. Then Calvert asked Mr.

____ ". . . if the police were on one side and another group was in some conflict with them, would you take up the side of the people against the police?" ____ asked what group and what kind of conflict? Calvert said that did not make any difference— ____ replied he doubted very much he would go against the police. Calvert asked "What do you mean, you doubt it very much?" Calvert then stated "to agree with law and order, you have to support our democratic institutions, especially the police." Dr. Kitch stated "I think we've asked all the questions we want." Dr. Klotz read the loyalty oath and asked "Would you in good conscience be willing to sign this oath?" ____ answered yes. Calvert then stated "To agree with law and order you have to support our democratic institutions. Breaking the law is obviously not supporting these institutions, etc." Mr. ____ was then excused, motion to grant the credential was made and received unanimous support from the committee.

**Comment:** (Omitted.)

**Case 2:** Mr. Manley arrived—he and I were the only persons in the audience. Dr. Kitch moved from the chairman's chair giving way to Dr. Calvert who humorously commented, "Of course we don't have to have an election do we?" No reply. This case involved a Mrs. ____'s application for an elementary credential. Mrs. ____ was arrested in Illinois in early 1963 and convicted of conspiracy to commit burglary in conjunction with the arrest of her husband for burglary. Dr. Calvert read a probation report which itemized various things such as a 1962 arrest for vagrancy, living with a man in Georgia, running away with a patient from an Illinois state hospital, etc. This report indicated Mrs. ____ (now about 25) had been taken off her five-year probation and appeared rehabilitated from her former life since moving to California in late 1963. Calvert read this material to the committee, since none of the members had previously read it. Mrs. ____ was invited in, took her seat, and Dr. Calvert stated: "We have four primary responsibilities—to the welfare of children, the citizens of California, the teaching profession, and fairness to you—the teacher concerned." Calvert then explained the appeal procedures up to the State Board of Education, noted that he had read her probation officer's report and then stated, "Now, if there's anything you care to explain, etc., this is your opportunity." Mrs. ____ naturally said, "I don't know where to begin," and the committee started asking her questions. During the ensuing conversation it became obvious Mrs. ____ regretted her former activities, felt she had been very confused, believed she was now on the right road—during these statements Mrs. ____ broke into tears several times. Dr. Calvert then said "Thank you for coming. You didn't have to come, but we like to give you a chance to tell your story." After Mrs. ____ left the room, the committee voted to grant the application.

**Comment:** Though most of us believe in "rehabilitation," I wonder if, in this case, the committee goes too far in its reliance on the probation officer's report. I would not question, on the basis of this report, Mrs. ____'s ability to assimilate into the society, but is this the same as saying she'll be fine in the classroom? Mrs. ____ has not taught for



some time, she also indicated a tendency to "break down" (tears, etc.). Wouldn't the committee have been doing a greater service to all by recommending a conditional type of teaching experience for Mrs. ____, rather than placing her in a strenuous teaching position before she has had a full opportunity to gain confidence and emotional stability? I also disagree with the committee's "tell your story" policy—this unnecessarily places the person concerned in an awkward position. Surely the committee did not call this person to Sacramento for fun. Doesn't the committee have specific questions and areas of inquiry or are the members so uninformed that these hearings are really opportunities for the committee to read the facts for the first time?

**Filed with this report:** Copies of the minutes of previous meetings of the Committee of Credentials.

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# 2A

## Information

*Professional Practices Committee*

## Division of Professional Practices Discipline Workload Report FY 2009-2010

**Executive Summary:** This agenda item is a status report on the discipline workload of the Division of Professional Practices for FY 2009-2010.

**Recommended Action:** For information only

**Presenter:** Mary Armstrong, Director, Division of Professional Practices

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

# Division of Professional Practices Discipline Workload Report FY 2009-2010

**Introduction**
This agenda item is a status report on the discipline workload of the Division of Professional Practices (DPP) for FY 2009-2010.

**Background**
In addition to administering the laws and rules governing the issuance of credentials and approving educator preparation programs, the Commission on Teacher Credentialing (Commission) enforces professional conduct standards. In order to ensure a high level of public confidence in California teachers and other credentialed public school employees, DPP through the statutorily created Committee of Credentials (Committee), monitors the moral fitness and professional conduct of credential applicants and holders. The Commission has the authority to discipline an applicant or holder for fitness-related misconduct.

Applications and credentials may be adversely affected based on the applicant's or holder's immoral or unprofessional conduct, evident unfitness for service, refusal to obey laws regulating certified duties, unjustified refusal to perform under an employment contract, addiction to intoxicating beverages or controlled substances, commission of any act of moral turpitude, or intentional fraud or deceit in an application.

The Commission appoints the seven members of the Committee to review all alleged misconduct. The Committee includes three credential holders employed in public schools (one elementary teacher, one secondary teacher, and one administrator), one school board member, and three public members. The Committee meets once each month at the Commission's office in Sacramento and has the authority to close an investigation where the evidence does not support the allegations or to recommend discipline where the evidence supports the allegations. All discipline recommendations made by the Committee are subject to challenge and appeal by the credential applicant or holder and final approval by the full Commission.

The discipline investigation process is confidential, and only the discipline recommendation of the Committee and the Commission's final adoption of a disciplinary action are public information.

## DPP Discipline Workload FY 2009-2010

**Reports of Misconduct**
DPP obtains jurisdiction to initiate an investigation of misconduct and/or moral fitness when it receives a report of an employment action taken as a result of misconduct by an employing school district; a complaint, under penalty of perjury, of alleged misconduct made from someone with firsthand knowledge; and as a result of reports of criminal convictions made by the Department of Justice (DOJ) and/or as a result of self-disclosure on an application. During FY 2009-10, the following reports of misconduct, by type, were reviewed:

**Reports of Misconduct**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| School District Reports | 139 | 238 | 211 | 231 | 241 |
| Complaints under penalty of perjury | 139 | 47 | 223 | 135 | 130 |
| All others (includes DOJ reports and self Disclosures) | 4846 | 4490 | 3376 | 3777 | 5352 |
| **Total** | 5124 | 4775 | 3810 | 4143 | 5723 |

**Caseload**

Once jurisdiction is established, the reports of misconduct are reviewed by staff. A determination is made whether this alleged misconduct comes within the Commission's statutory authority. If yes, then a case is opened. The FY 2009-10 caseload is as follows:

**New Cases Opened**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Applicants | 851 | 423 | 348 | 409 | 360 |
| Applicants/Holders | 453 | 737 | 672 | 561 | 558 |
| First time applicants | 2069 | 2665 | 2364 | 2404 | 2074 |
| Holders | 1271 | 1357 | 1283 | 820 | 2624 |
| Waivers | 81 | 74 | 84 | 94 | 46 |
| **Total** | 4725 | 5256 | 4751 | 4288 | 5662 |

**Cases Opened Per Fiscal Year by Type**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Application | 1677 | 2010 | 1537 | 1748 | 1221 |
| Application & RAP | 1654 | 1676 | 1549 | 1728 | 1913 |
| Rap Sheet | 1408 | 672 | 303 | 256 | 2115 |
| School District/County Office of Education | 139 | 238 | 211 | 221 | 241 |
| Other | 69 | 115 | 153 | 49 | 126 |
| Arresting Agency | 4 | 5 | 26 | 17 | 9 |
| Affidavit/Complaint | 139 | 47 | 21 | 15 | 27 |
| Breach of Contract | 8 | 4 | 3 | 8 | 21 |
| State Test Misconduct | 0 | 8 | 3 | 2 | 10 |
| Waiver | 18 | 1 | 11 | 95 | 46 |
| **Total** | 5116 | 4776 | 3817 | 4139 | 5729 |

**Committee Review**

After a case is opened, the matter is prepared for initial review by the Committee. The review is governed by statute and at any point the Committee can close the case on jurisdictional or evidentiary grounds. Following its final review, the Committee makes a recommendation regarding whether or not to take adverse action. The Committee's recommendation is placed on the Commission's Consent Calendar for final action.

Cases Completed

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Staff Action | 5171 | 4224 | 3133 | 3087 | 4630 |
| COC Grant/Close | 562 | 585 | 574 | 538 | 150* |
| Commission | 553 | 685 | 695 | 595 | 712 |
| **Total** | 6286 | 5494 | 4402 | 4220 | 5492 |

*Reflects change in procedure initiated in July 2009 which shifted portion of COC workload to staff action category resulting in increased number of staff actions.

**Final Actions**

Final actions fall into two categories. Mandatory actions are imposed by statute. The mandatory actions are delegated by the Commission to the Executive Director and are noticed on the Consent Calendar at the next scheduled Commission meeting. Discretionary actions are delegated by statute to the Committee for review and then the Committee's recommendation is sent to the Commission for final action. The Committee's recommendation can alternatively be appealed before a final action is taken and result in administrative adjudication (see next page).

**Commission Final Actions FY 05/06 through 09/10**

**Mandatory Actions**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Revocations | 114 | 114 | 103 | 90 | 202 |
| Denials | 38 | 36 | 42 | 29 | 64 |

**Discretionary Actions**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Revocation | 245 | 197 | 166 | 131 | 104 |
| Denials | 107 | 82 | 65 | 44 | 49 |
| Suspension | 172 | 267 | 279 | 194 | 207 |
| Public Reproval | 56 | 78 | 82 | 66 | 55 |
| Private Admonition | 16 | 16 | 24 | 20 | 19 |
| **Total Mandatory and Discretionary Actions** | 748 | 790 | 761 | 574 | 700 |

**Administrative Adjudication**

After its administrative review, the Committee may close its investigation or make a recommendation of adverse action. Respondents are provided notice of the recommendation and have the right to request an administrative appeal. The Commission is represented by the Attorney General and the matter is heard by an Administrative Law Judge who issues a proposed decision to the Commission. The Commission can adopt the proposed decision or reject it and call for the transcript. After review of the transcript, the Commission can adopt the Proposed Decision or issue its own decision.

**Administrative Adjudication Workload FY 05/06 through 09/10**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Appeals Requested | N/A | N/A | 103 | 161 | 159 |
| Settlements (Commission) | N/A | N/A | 68 | 62 | 46 |
| Settlements (Attorney General) | N/A | N/A | 15 | 10 | 24 |
| Proposed Decisions Adopted by CTC | N/A | N/A | 7 | 10 | 12 |
| Decisions Issued by CTC | N/A | N/A | 8 | 5 | 3 |
| Judicial Actions (Writs) | N/A | N/A | 2 | 2 | 6 |

**Commission Disciplinary Workload**

The Commission hears petitions for reinstatement, as provided by the Administrative Procedures Act, in closed session to determine whether petitioners whose credentials were revoked are fit to again hold a credential.

**Petitions for Reinstatement FY 05/06 through 09/10**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Granted | 3 | 7 | 5 | 9 | 9 |
| Denied | 7 | 8 | 10 | 15 | 15 |
| **Total Petitions** | 10 | 15 | 15 | 24 | 24 |

**Other DPP Discipline Activities**

In addition to the workload described above DPP provides telephonic and electronic mail responses to stakeholders and the public. A new telephone system was also fully implemented in 2009 to forward discipline related calls from the Commission's toll-free number to DPP. The number of telephone calls for does not reflect calls made directly to DPP.

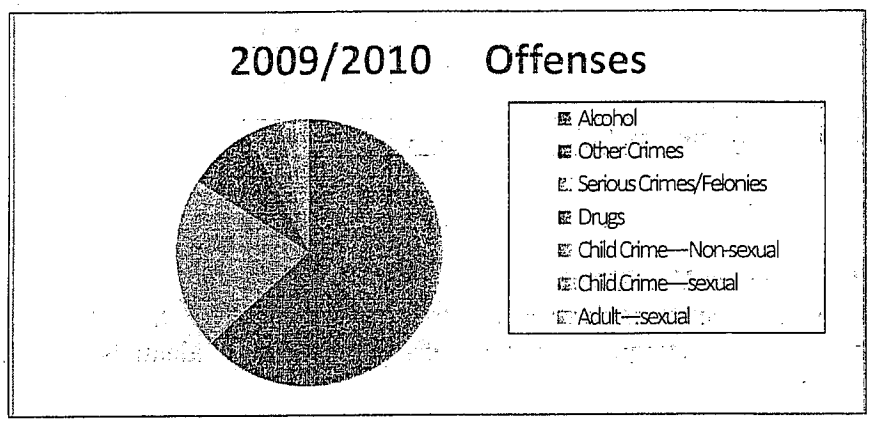
| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| E-mails Sent to DPP Info | N/A | N/A | 592 | 4,588 | 5,630 |
| Phone Calls | N/A | N/A | 37,448 | 9,801 | 8,088 |

**Analysis of Types of Criminal Misconduct**

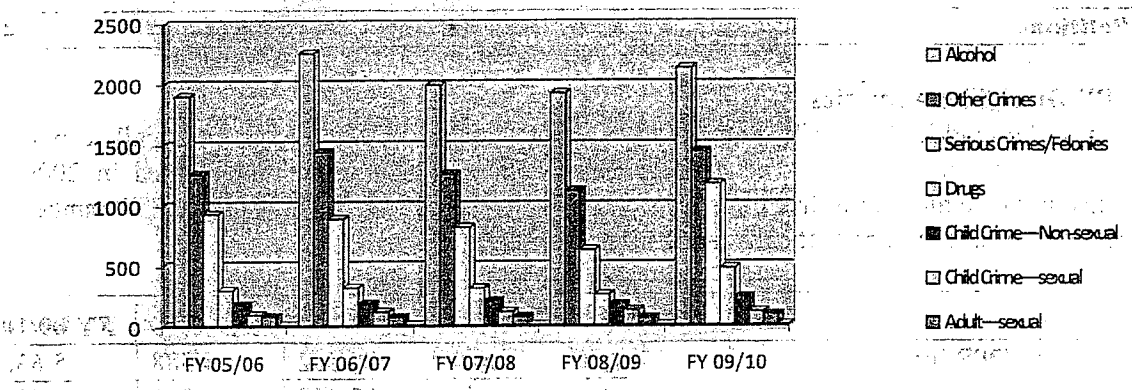
Of the total number of allegations of criminal misconduct reviewed during FY 2009-10, one-third of the offenses were alcohol related. This trend is consistent with the criminal misconduct over the previous four years.

**Cases Opened by Offense Code FY 06 through 09-10**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Alcohol | 1901 | 2258 | 1990 | 1927 | 2136 |
| Other Crimes | 1259 | 1438 | 1258 | 1118 | 1446 |
| Serious Crimes/Felonies | 930 | 887 | 813 | 626 | 1174 |
| Drugs | 295 | 315 | 308 | 257 | 473 |
| Child Crime—Non-sexual | 175 | 179 | 201 | 173 | 234 |
| Child Crime—Sexual | 89 | 112 | 110 | 126 | 112 |
| Adult—Sexual | 76 | 67 | 71 | 61 | 87 |
| **Total** | 4725 | 5256 | 4751 | 4288 | 5662 |




**Criminal Misconduct Cases by Type FY 05/06 through 09/10**




**Improvements Initiated During FY 2009-2010**

DPP continues to review its processes and procedures to determine both efficiencies and streamlining of its work. The goal is to balance its mission of protection of California's public school children with the due process rights of credential holders and applicants. In the last half of FY 2008-2009 and throughout 2009-2010, DPP and the Attorney General's Office faced additional challenges with the imposition of furloughs for DPP and budget cuts at the Attorney General's Office. To that end DPP initiated the following improvements and changes during FY 2009-10.

- **Case Tracking System**
  Final implementation of a computer based tracking system to identify and track documents, applications and cases as they are processed through DPP. This system provides weekly reports to staff members and management to ensure that cases are processed in a timely manner. In addition the system also identifies high priority cases and notifies management when activities are not completed and establishes a weekly report to track applications as soon as the application is assigned to DPP.

- **Improvements in Management of Criminal History Information Reports**
  As a result of staff turnover, training issues and furloughs DPP faced a backlog in processing lower level criminal history information reports (raps) sent from the Department of Justice to the Commission. Unlike applicant information which is for the most part processed electronically, these reports were in a paper format sent to CAW and then to DPP. Many of the raps received in this manner do not result in a case being opened or considered by the COC. It was, however, necessary to sort and process the reports, enter relevant information as necessary into the system, track arrests to determine if the arrest led to a conviction, and, in some cases, obtain necessary police reports and court documents. In order to streamline the procedure, in early 2010 DPP moved to a paperless receipt and sort of raps. Raps are now sent electronically to DPP, entered in the system, sorted by priority and tracked, all on a same day basis. While this does not eliminate the workload that results if a case is opened, it does eliminate the number of raps waiting to be processed.

- **Streamline Processing of Pending COC Cases**
  In early July 2009, as a result of both the limited amount of time the volunteer COC members have each month to meet and consider cases and the imposition of furloughs cancelling several meeting dates, staff and the Chair of the COC met with the Executive Director to discuss strategies to streamline the processing of pending COC cases. It was decided that matters which were unlikely to rise to the level of an Education Code §44242.5(b) informal review by the COC which previously had been presented to the COC on a consent agenda would be delegated to staff to grant or close. (These matters consist of a review of misconduct that was not the type which results in a COC recommendation for discipline because of various factors such as the length of time since the misconduct occurred, lack of recurring misconduct or evidence of rehabilitation provided with an application.) The new procedure has resulted in processing these matters one to seven weeks faster than the previous practice. The biggest benefit is to applicants who are awaiting a review and school districts that are not forced to remove an applicant from the classroom unnecessarily.

- **Consultation with Attorney General's Staff**
  Periodic meetings are held with the staff at the Attorney General's Office to discuss the administrative workload process. Staff from both offices are developing and refining a case priority system to resolve cases at the administrative level in a timely manner. In June 2010, DPP and the Attorney General's office put in place a new process to handle high priority cases which involves direct assignment to a Deputy Attorney General who drafts the accusation rather than assignment to legal analysts. It is anticipated that this process will result in reducing the time it takes to bring a case to administrative hearing by a minimum of 12 months.

**Next Steps**

In FY 2010-2011, the Commission will complete the Credential Web Interface Project (CWIP) which will upgrade the Commission's existing computer system. DPP plans as part of the CWIP improvement project to achieve increased automation of its records, improve electronic monitoring of workload, improve DPP's continued use of technology to achieve greater efficiency and improve

and provide real time notification to school districts and the public regarding disciplinary actions. This will allow increased effectiveness in protecting California's public school children while at the same time providing credential holders and applicants with both due process and a faster processing time.

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Attorneys for Petitioners/Plaintiffs

ENDORSED
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Frank S. Furtek, Supervising Deputy Attorney General
Roy S. Liebman, Deputy Attorney General, State Bar No. 55848
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Attorney for Respondents/Defendants

COPY

SUPERIOR AND MUNICIPAL COURTS OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

GENEVA HEWITT and CALIFORNIA TEACHERS' ASSOCIATION,

Petitioners/Plaintiffs

v.

COMMISSION ON TEACHER CREDENTIALING, COMMITTEE OF CREDENTIALS OF THE COMMISSION ON TEACHER CREDENTIALING, DIVISION OF PROFESSIONAL PRACTICES OF THE COMMISSION ON TEACHER CREDENTIALING, and DOES 1-20, inclusive,

Respondents/Defendants

Case No: 98CS01418

~~[Proposed]~~ JUDGMENT AND ORDER

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PROFESSIONAL PRACTICES

This matter came on regularly before the court on January 8, 1999, for hearing on both the Petition and Complaint for Declaratory Relief, in Department 41 of the above-entitled court, the Honorable Ronald Robie, Judge, presiding. Margaret Geddes and Stacy Boulware appeared as co-counsel for Petitioners/Plaintiffs (hereinafter referred to as "Petitioners") Geneva Hewitt

and the California Teachers Association. Bill Lockyer, Attorney General, by Roy S. Liebman, Deputy Attorney, appeared as counsel for Respondents/Defendants (referred to hereinafter as "Respondents") Commission on Teacher Credentialing, Committee of Credentials of the Commission on Teacher Credentialing, and the Division of Professional Practices of the Commission on Teacher Credentialing.

On January 5, 1999, Petitioners requested permission to introduce oral evidence at trial pursuant to California Rule of Court 323(a). On January 7, the court denied Petitioners' request and issued its tentative ruling. At hearing on January 8, the court, having considered the legal briefs, evidence and arguments of counsel, and being fully advised, issued a stay order in regard to any action taken or pending before Respondents as to petitioner Hewitt pending final ruling in this matter and otherwise found and determined as follows:

Initially, the Petition raises the scope of the authority of Respondents to obtain information, records, reports and other data from public agencies in carrying out their duties. (Educ. Code § 44341.) The court has been provided extensive legislative history of section 44341 but concludes that (although not artfully drafted) its meaning is clear. Respondents may obtain the information to ascertain the moral character of a person who is the "holder" of a credential during the time the credential is in effect (such as that of a lifetime credential), or subsequent to application by an "initial applicant" for a credential or an "applicant" for renewal of a credential. (Id., § 44341(a).)

The consent to obtain such information from public agencies is implied from the application for an initial credential or renewal of a credential. (Educ. Code § 44341(a).) Sufficient notice of implied consent is provided individuals by the statutory scheme and Respondents' credential application forms. The consent implied by section 44341(a) does not violate due process since the governmental purpose of ensuring that persons of sufficient moral character serve as credentialed teachers justifies an inquiry under these circumstances.

The principal issues raised by the prayer of the Petition/Complaint involve: (1) advance notice to the person whose records are being requested (page 13:16-18); (2) that the notice requesting information include specific items (page 14:7-12); and (3) a request to command

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Respondents to properly carry out their duties (page 13:25-27). In addition, petitioner Hewitt requests specific relief (page 13:19-24).

(1) Advance notice: Section 44341(a) specifies that it is "for the sole purpose" of ascertaining the moral character and true identity of a credential holder or applicant that Respondents can obtain information about such individuals from public agencies. When jurisdiction is established pursuant to section 44242.5, Respondents may seek such disclosure. When the scope of Respondents' inquiry to a public agency is narrow, and there is a formal written request, a copy of which is simultaneously provided to the individual, prior notification to the affected individual is not required. The court concludes notification at the time the request is made is all that is required by the statute, Constitution or administrative regulations.

(2) The notice requesting information: Section 44341 recognizes that individual privacy interests are implicated when Respondents seek information or documents about individuals from public agencies. Respondents may require the production of such information only if sought in a formal manner, limited in scope, with a copy sent simultaneously to the credential holder. The request and notification have to be made in writing and in no other manner.

The document attached as Exhibit C to the "Declaration of Stacy Boulware" is the current request form used by Respondents to employers for information regarding a credential holder for whom Respondents may have jurisdiction to investigate. The Exhibit C request letter is transmitted to the credential holder at the time it is sent to the employer. The letter identifies the following checklist items: Notice of Intent to Dismiss; Statement of Charges; Request for Hearing; Final Decision; Resignation; Retirement; Board Acceptance; Settlement Agreement; Copy of Signed Contract; and Other. The court finds that this itemized list meets the requirements of *Hill v. National Collegiate Athletic Association* (1994) 7 Cal.4th 1. The implied consent of section 44341, subdivision (b), is not unlimited. However, the list of items illustrated by the Exhibit C request letter is sufficiently narrow to justify any invasion of privacy interests, when balanced against the governmental interest discussed above.

In regard to the item listed as "Other" in Exhibit C, in order to come within the permissible parameters for such request, "Other" must be specified, narrowly tailored to the subject

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matter of the main request, and identify a reasonable timeframe for responsive documents or information. Respondents are not foreclosed from developing and using other written requests for information to public agencies, but any such requests must recognize similar parameters.

(3) Respondents' duties and investigatory authority: Jurisdiction to conduct an investigation is established when the Respondents receive certain relevant information from specified sources (including notification from an employer). (Educ. Code § 44242.5.) Unless Respondents receive such information, they may not proceed to the investigation stage (including the preliminary investigation as discussed below) which may involve a request to the employer for information.

Respondents have one investigative authority. The investigation can be done in steps. The court recognizes that it is beneficial to both Petitioners and Respondents that the system be as fair and simple as possible. Hence, the "Preliminary Review" procedure (Title 5, California Code of Regulations, § 80308) is provided. If this procedure has any statutory basis, it must be from the investigative authority of the Respondents (Education Code § 44242.5). In other words, when they obtain information about a person, a preliminary review of the information may show the employment matters or other information are not significant enough to warrant an investigation. Thus, this administrative procedure can only be considered part and parcel of the total investigative authority of Respondents. It is limited by Section 44341. The administrative procedure provides for written notification to the "credential holder." (Title 5, Cal. Code Regs., § 80308(b).) Where jurisdiction has not been established as required by Education Code Section 44242.5, the law does not permit any investigation by Respondents, including the preliminary review under regulation section 80308. Respondents have no authority to carve out a separate authority for a preliminary investigation and no general authority to otherwise reach out and investigate. The court does not find any basis to differentiate between such requests in the preliminary review and investigation stages. In both, the issue is whether *advance* notice is required. The court concludes that the request for information as included in Exhibit C passes constitutional muster, with the safeguards noted hereinabove, and advance notice is not required.

A peremptory writ will issue incorporating the court's determinations in this matter.

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(4). Petitioner Hewitt: The request to her school district employer for information in her case was broader than that of the current request used (Exhibit C). Respondents' letter to Ms. Hewitt's employer requested ". . . copies of any and all complaints, letters of reprimand, and notices of misconduct which may have been filed against Ms. Hewitt or placed in her personnel file." Since such an overbroad request is not authorized, as discussed above, all information obtained about Ms. Hewitt which was not included within the items listed in Exhibit C is to be destroyed and not considered by Respondents in any proceeding involving petitioner Hewitt. In regard to Ms. Hewitt, a peremptory writ will issue incorporating this ruling. Respondents must re-evaluate her case consistent with the relief granted.

IT IS ORDERED that:

1. A Peremptory Writ of Mandate shall be issued commanding Respondents to:

a. Request disclosure from public agencies of information or documents about individuals only by means of written request to the public agency, limited in scope, with notification of the request simultaneously provided to the affected individual; and

b. Destroy all information received as a result of Respondents' request to petitioner Hewitt's public employer for any documents and information not included within the items listed in Respondent's current request letter (i.e., Notice of Intent to Dismiss, Statement of Charges, Request for Hearing, Final Decision, Resignation, Retirement, Board Acceptance, Settlement Agreement, Copy of Signed Contract, and Other, with "Other" required to be similarly specified); not consider that destroyed information in any investigation or proceeding involving petitioner Hewitt; and re-evaluate her case accordingly.

2. Judgment is granted as follows in regard to Petitioners/Plaintiffs' request herein for a declaration of Respondents/ Defendants' authority and obligations pursuant to Education Code §§ 44242.5 and 44341 and related regulations of Title 5 of the California Code of Regulations:

a. Respondents/Defendants may require the production of information and documents about individuals from public agencies only if sought in a formalized manner by written request, limited in scope and simultaneously copied to the affected individual. The itemized list incorporated in Respondents'/Defendants' current request letter (see listed items set

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forth in the peremptory writ Order numbered 1.b, above) passes Constitutional muster, and that list is incorporated by reference here as illustrative of the permissible scope and manner of such written requests. However, any request for "Other" materials must be clearly specified, reasonably related to the subject matter and timeframe of the main request, and

b. Respondents/Defendants have jurisdiction to conduct an investigation, including requests for information to public agencies, only upon receipt of relevant information as specified within and pursuant to Education Code Section 44242.5. Unless Respondents/Defendants receive such information as is specified by Section 44242.5, they may not proceed to investigate, including undertaking the preliminary review of regulation section 80308 of Title 5 of the California Code of Regulations.

3. Respondents shall file a return to the writ by May 24, 1999.

4. Costs of suit hereto may be awarded as appropriate if pursued. Petitioners/Plaintiffs' request for attorneys' fees will be separately decided subsequent to noticed motion if and when filed. All other relief prayed for the Petition/Complaint not specifically granted by the court shall be deemed to be denied.

Dated: March 24, 1999

The Honorable Ronald B. Robie
Judge, Sacramento County Superior Court

RONALD B. ROBIE

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Attorney for Respondents/Defendants

SUPERIOR AND MUNICIPAL COURTS OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

| | |
|---|---|
| GENEVA HEWITT and CALIFORNIA TEACHERS' ASSOCIATION,<br><br>Petitioners/Plaintiffs<br><br>v.<br><br>COMMISSION ON TEACHER CREDENTIALING, COMMITTEE OF CREDENTIALS OF THE COMMISSION ON TEACHER CREDENTIALING, DIVISION OF PROFESSIONAL PRACTICES OF THE COMMISSION ON TEACHER CREDENTIALING, and DOES 1-20, inclusive,<br><br>Respondents/Defendants | Case No: 98CS01418<br><br>**PEREMPTORY WRIT OF MANDATE**<br><br>[Code Civ. Proc. § 1087] |

TO: COMMISSION ON TEACHER CREDENTIALING, COMMITTEE OF CREDENTIALS OF THE COMMISSION ON TEACHER CREDENTIALING, DIVISION OF PROFESSIONAL PRACTICES OF THE COMMISSION ON TEACHER CREDENTIALING, Respondents:

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WHEREAS Petitioner served and filed herein her duly verified petition for a writ of mandate issued herein on May 27, 1998, and a hearing was held herein on January 8, 1999;

WHEREAS as March 24, 1999, the Judgment and Order herein was issued by this Court, including findings and determinations and ordering relief appropriate thereto;

THEREFORE, Respondents are hereby commanded, immediately upon receipt of this writ, to:

a. Request disclosure from public agencies of information or documents about individuals only by means of written request to the public agency, limited in scope, with notification of the request simultaneously provided to the affected individual; and

b. Destroy all information received as a result of Respondents' request to petitioner Hewitt's public employer for any documents and information not included within the items listed in Respondents' current request letter (i.e., Notice of Intent to Dismiss, Statement of Charges, Request for Hearing, Final Decision, Resignation, Retirement, Board Acceptance, Settlement Agreement, Copy of Signed Contract, and Other, with "Other" required to be similarly specified); not consider that destroyed information in any investigation or proceeding involving petitioner Hewitt; and re-evaluate her case accordingly.

Respondents shall file a return to the writ by May 24, 1999.

Witness the Honorable Ronald B. Robie, Judge of the Superior Court.

Attest my hand and seal of this court this 24 day of March, 1999.

MICHAEL M. RODDY
Clerk

By: M Franco
Deputy Clerk

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And/Or December 16 2010 Search

New Search HELP

Case No Court Date

Case Number: *CPF10510855*

Case Title: ARTURO BARRERA, IN HIS OFFICIAL CAPACITY AS GLENN VS. CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

Court Date: Dec-16-2010 09:30 AM

Calendar Matter: Notice Of Motion And Motion For Issuance Of Peremptory Writ Of Mandate

Rulings: On calendar for Thursday, December 16, 2010, Line 11, PETITIONER ARTURO BARRERA, IN HIS OFFICIAL CAPACITY AS GLENN COUNTY SUPERINTENDENT OF SCHOOLS' Motion For Issuance Of Peremptory Writ Of Mandate, A HEARING IS REQUIRED. DOES SECTION 44242.5 (A) ALLOW DISCRETION CONCERNING WHICH MATTERS ARE REFERRED TO THE COMMITTEE OF CREDENTIALS ?

Superior Court

County of San Francisco

| | |
|---|---|
| Case Number: | *CPF10510855* |
| Case Title: | ARTURO BARRERA, IN HIS OFFICIAL CAPACITY AS GLENN VS. CALIFORNIA COMMISSION ON TEACHER CREDENTIALING |
| Court Date: | Dec-16-2010 09:30 AM |
| Calendar Matter: | Notice Of Motion And Motion For Issuance Of Peremptory Writ Of Mandate |
| Rulings: | On calendar for Thursday, December 16, 2010, Line 11, PETITIONER ARTURO BARRERA, IN HIS OFFICIAL CAPACITY AS GLENN COUNTY SUPERINTENDENT OF SCHOOLS' Motion For Issuance Of Peremptory Writ Of Mandate, A HEARING IS REQUIRED. DOES SECTION 44242.5 (A) ALLOW DISCRETION CONCERNING WHICH MATTERS ARE REFERRED TO THE COMMITTEE OF CREDENTIALS? =301/PJB<br><br>LAW AND MOTION 301, RULINGG - A R G U E D; PETITIONER ARTURO BARRERA, IN HIS OFFICIAL CAPACITY AS GLENN COUNTY SUPERINTENDENT OF SCHOOLS' MOTION FOR ISSUANCE OF PEREMPTORY WRIT OF MANDATE IS DENIED. THE COURT FINDS THAT SECTION 44242.5 CANNOT BE READ TO IMPOSE A MANDATORY DUTY ON RESPONDENT TO PRESENT PLAINTIFF'S ALLEGATIONS TO THE COMMITTEE. ORDER SIGNED IN OPEN COURT. JUDGE: PETER J. BUSCH, REPORTER: JOANNE BRYCE, CSR # 3321 301/PJB |

2011 Committee on Credentials Agenda

| 2011 Year to Date Committee on Credentials Workload | | | | | |
|---|---|---|---|---|---|
| | Consent | Discuss | Initial Review | Formal Review | Total |
| January | 0 | 0 | 51 | 51 | 102 |
| February | 0 | 0 | 52 | 43 | 95 |
| March | 0 | 0 | 56 | 43 | 99 |
| April | 0 | 0 | 62 | 44 | 106 |
| May | 125 | 0 | 53 | 42 | 220 |
| June | 283 | 28 | 65 | 54 | 430 |
| July | 285 | 25 | 85 | 44 | 439 |
| August | 233 | 14 | 82 | 50 | 379 |
| September | 158 | 13 | 60 | 64 | 295 |

# 4C

## Information

*Professional Practices Committee*

## Report on the Stakeholder Meetings Addressing the Discretionary Review Process

**Executive Summary:** This agenda item provides an update to the Commission on the two stakeholder meetings that were held to discuss the Commission's Educator Discipline process.

**Recommended Action:** For information only

**Presenters:** Nanette Rufo, Director, Division of Professional Practices and Teri Clark, Director, Professional Services Division

Strategic Plan Goal: 1

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

# Report on the Stakeholder Meetings Addressing the Discretionary Review Process

**Introduction**

This agenda item provides an update to the Commission on the two stakeholder meetings that were held to discuss the Commission's Educator Discipline process. On April 7, 2011, the Bureau of State Audits (BSA) released the report entitled *Commission on Teacher Credentialing: Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Process that Will Safeguard against Future Backlogs* (http://www.ctc.ca.gov/audit/2010-119-BSAreport.pdf). In the August 2011, Commission agenda item (http://www.ctc.ca.gov/commission/agendas/2011-08/2011-08-2A.pdf) presented information on California's Educator Discipline process and a plan to work with stakeholders to identify potential procedural and statutory solutions to increase the number of cases that could be reviewed by the Committee of Credentials (COC). The Commission directed staff to move forward with the stakeholder meetings and to report to the Commission at its January 2012 meeting.

**Background**

Recommendation Five in the BSA report states:

> Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month.

The Commission is required to respond to each recommendation in the BSA report at 60 days, 6 months and 1 year. The 60 day response, submitted in June 2011, stated:

> The Commission concurs with this recommendation. Upon receipt of the opinion, the Commission will determine the necessary action to take. (Receipt of the opinion is expected in approximately 6-7 months.)
>
> Until the opinion is received, the Commission staff will work with policy makers, stakeholders, and other interested parties, to discuss potential procedural and statutory solutions to increase the number of cases reviewed by the COC.

A plan to work with stakeholders to identify possible procedural and statutory options to increase the number of cases reviewed by the COC was presented at the August 2011 Commission meeting. The Commission directed staff to move forward with the plan. Staff scheduled two meetings for stakeholders to provide information regarding California's educator discipline process.

A stakeholder planning group (Appendix A) was formed with five groups to assist in the planning process, the California Teachers Association (CTA), California Federation of Teachers (CFT), the California School Boards Association (CSBA), the California Association of School Administrators (ACSA) and the California County Superintendents Educational Services Association (CCSESA). A webpage (http://www.ctc.ca.gov/educator-discipline/stakeholder-meetings.html) for the Educator Discipline Stakeholder Meetings was developed. All materials prepared for the two meetings, notes from the meetings, and the product from the meetings are available on this web page. The meetings were held on October 28, 2011 and November 18, 2011 (see Appendix A for the list of attendees). It was decided to have an individual facilitate both of the stakeholder meetings. Cindy Gappa, a BTSA Cluster Region Director employed by Tehama County Office of Education, agreed to serve as the facilitator for both meetings. Both meetings were broadcast live and an archive of each meeting is posted on the webpage identified above.

In preparation for the stakeholder meetings and working with the planning group, a survey about the Commission's educator discipline process was developed to allow a wide range of individuals to provide information. The survey was available from September 20, 2011 through October 10, 2011. Over 180 responses to the survey were submitted. The survey requested that all individuals responding have a basic understanding of the discretionary review process for educators in California and provided a link to the Educator Discipline Workflow Graphic and the accompanying description.

The survey provided five opportunities for individuals to provide suggestions or other comments regarding the educator discipline process. The prompts for the opened responses are provided here along with the number of open ended responses collected in parentheses.

- Capacity of the COC: Suggestions about how the Committee's time could be more efficiently used (42 responses)
- Reducing the number of cases that go to the COC (39 responses)
- Priorities (1st, 2nd, and 3rd) for addressing the discretionary review process
- Final Thoughts (32 responses)
- Possible additions to the list of misconduct that result in mandatory suspension or revocation of a credential (40 responses)

All comments collected through the survey were provided at the first stakeholder meeting and are posted on the webpage developed for the Educator Discipline Stakeholder Meetings.

***October 28, 2011***

The first stakeholder meeting began with a discussion of the goal for the stakeholder meetings. The majority of the stakeholders were present in the Commission room although a few individuals attempted to participate through the web broadcast. Staff presented a short context piece that provided information on the backlog of reports of arrest and prosecution (RAPs) and the work of the COC. The group then discussed and refined the goal for the stakeholder meetings. The group reached consensus that the suggestions generated in the stakeholder meetings should support the goal presented below:

Goal: Protect the safety of students and the rights of applicants and licensees by the effective, efficient, and fair handling of cases in a timely manner.

Stakeholders reviewed and discussed the feedback from the survey described above. Then the stakeholders began a discussion to generate suggestions to streamline the educator discipline process. Thirteen suggestions were identified at the first meeting. In addition to identifying the thirteen suggestions, the stakeholders identified some strengths and concerns for most of the suggestions. The notes from the October 28 meeting (see Appendix B) have the suggestions and the identified strengths and concerns.

The meeting concluded with a review of the agreements and the decision that three of the suggestions would be put on hold and not brought back for further discussion at the second meeting. Staff typed the meeting notes and shared the document with the Planning Group. Minor edits were made to more accurately reflect the conversations held during the stakeholder meeting. The Meeting Notes were then posted on the Educator Discipline web page.

*November 18, 2011*

The second stakeholder meeting began with a short presentation on the data that had been requested during the first meeting. Staff presented the December 2010 DPP Workload report, the four monthly workload reports for June 2011-September 2011, and a document about adverse actions organized by the type of credential(s) the individual held. Staff also provided Section 44216 of the California Education Code that states, "Whenever an employee of any public school district, state college, or other public agency is appointed to membership on the commission, his employer shall grant him sufficient time away from his regular duties, without loss of income or other benefits to which he is entitled by reason of his employment, to attend meetings of the commission and to attend to the duties imposed upon him by reason of his membership on the commission." General Counsel Nanette Rufo clarified that this section of the Education Code applies to members of the COC.

The next activity was a presentation by Michael Rothschild, invited by the California Teachers Association, of four additional suggestions to meet the goal of the stakeholder meeting. Ken Burt provided a copy of a letter Mr. Rothschild wrote to him on November 15, 2011, which provided additional information on the four suggestions. The letter is provided in Appendix D of this agenda item and also is available on the Educator Discipline web page. The four suggestions were added to the wall charts of suggestions generated at the first stakeholder meeting.

The group reviewed all the suggestions and the identified strengths and concerns and edits were made on the wall charts by the facilitator. After discussing the suggestions, the facilitator took the group through each of the suggestions to identify those for which the group had consensus support and those where the group was not in agreement. The support was identified as for the general idea of the suggestion, not for each specific detail since those had not been identified. The meeting notes from the November 18 meeting (Appendix C) identify the suggestions for which the group reached a positive consensus with yellow highlights.

Staff shared the meeting notes with the Planning Group and minor edits were made to more accurately reflect the conversations held during the stakeholder meeting. The meeting notes were then posted on the Educator Discipline web page.

***Suggestions: Possible Impacts***

The two stakeholder meetings generated many suggestions related to California's educator discipline process. Once the Planning Group agreed that the meeting notes (Appendix C) accurately reflected the content of the meetings, staff began working to gather information on each suggestion for the Commission. The information staff provides below includes the possible impact on California's educator discipline process, impact on the work of the COC, and the predicted fiscal impact of the suggestion.

**Staff Analysis of Consensus Suggestions**

Staff reviewed the consensus suggestions and categorized the suggestions for ease of presentation to the Commission. The consensus suggestions seem to fall within three major topics (Appendix E):

- Work to reduce the number of cases that are opened: educate employers, educate the public, specify criteria for district reporting, clarify the personal fitness questions;
- Committee of Credentials: Reduce the barriers to getting members, use an alternative process for drunk driving, investigate having more than 1 COC, investigate the COC working 5 days instead of 3 each month; and
- Clarify when staff has the ability to close a case (wait for the Attorney General's opinion on delegating authority to staff).

The BSA Report pointed out that the Commission was receiving a number of reports of arrest and prosecution (RAPs) for individuals who no longer hold valid credentials. Efforts have been taken to notify the Department of Justice about the individuals for which the Commission is "no longer interested" in receiving subsequent reports of arrest and prosecution. In addition to RAPs, a number of reports of misconduct are received at the Commission and for a percentage of these reports, no misconduct that is under the Commission's jurisdiction has taken place. Reducing the submission of these types of reports would reduce the number of cases that are opened. Fewer cases opened would mean a decreased workload for staff and probably a lower caseload for the COC.

Within this category of suggestions--reducing the number of cases that are opened--there were five specific suggestions developed during the stakeholder meetings.

a. Better education about what should be coming to the Commission
b. Educate the Community about what is supposed to be submitted to CTC
c. Have different criteria for district reporting actions
d. Investigate only appropriate instances related to teacher dismissals, Employers agree that dismissals for 'unsatisfactory performance' should not be sent to CTC
e. Staff should look at the questions on the application—see if all Q's are necessary

The first two suggestions are quite similar and involve educating employers, educators, and the public about what types of information should be provided to the Commission. Ensuring that all stakeholders have a clear understanding of what types of conduct should be reported to the

Commission is a sound plan. The education efforts could be conducted through the Commission's webcast system and archived for future reference. This would have a minor, absorbable fiscal impact.

The suggestion of "having different criteria for district reporting actions" needs further clarification with stakeholders but part of this suggestion is linked to the fourth suggestion of *investigating only appropriate instances related to teacher dismissals and not investigating dismissals for 'unsatisfactory performance'.*

All groups present at the stakeholders meeting, teachers, administrators, and Commission staff agreed that the current regulation requiring district reports of adverse actions is casting too wide a net and unnecessarily increasing DPP workload. This is a relatively small part of DPP's workload, since during the 2010-11 fiscal year, the Commission opened only 210 district cases. The Commission may want to discuss whether a possible regulatory revision should be added to the DPP Strategic Plan. If the Commission would like this added to the DPP Strategic Plan, staff recommends such work begin in late 2012.

The last suggestion within this category is to review the professional fitness questions that are currently on the credential application. If there are questions that are not necessary, the question could be removed. If there are questions that confuse applicants, staff can reword the question or provide additional clarifying text. This suggestion requires limited staff time to complete the review and has a minor, absorbable fiscal impact.

Reviewing the questions asked of applicants is simple and may lead to a reduction in the number of applications being referred to the DPP. The timing of the review should be considered in tandem with another project. Staff is currently implementing a major information technology project, Credential Web Interface Implementation Project (CWIP), the Commission's new online application program. Since any changes in the application would result in changes in programming CWIP, staff proposes that the review of questions be done as part of the CWIP review process.

A second category of suggestions from the stakeholder meetings focuses on the ability of the COC to process an appropriate number of cases to reduce the current volume of cases and ensure that in the future cases move through the committee process efficiently and in a timely manner. The suggestions from the stakeholder meetings related to the COC range from ensuring that there are sufficient, qualified individuals available to serve on the committee, possibly having more than one seven member committee, allowing the committee to work more days each month, and a diversion process for preliminary alcohol convictions so that the case does not need to go to the committee. The five suggestions which had general consensus among the stakeholders are presented below:

a. Reduce barriers to serving on COC
b. Have more than One COC
c. If more than One COC, be sure experienced COC members are on each
d. Reconfigure the time COC members meet—maybe up to 5 days
e. Alternative process for alcohol convictions

The current seven member COC meets for three days each month with a fourth day that can be used to prepare for the three meeting days. Most committee members who are currently working in the schools express that this is the maximum amount of time it is possible to be out of the school each month. The stakeholders discussed having more members of the COC appointed and therefore only some of the members would need to attend each month's meeting. Among the barriers to serving on the Committee, stakeholders identified the Commission's practice that an employing district must consent to an employee serving on the Committee. Under the Education Code, a public employer is required to "grant him sufficient time away from his regular duties, without loss of income..." (See Education Code sections 44241 and 44216.) The Commission may wish to consider whether to change this practice as new Committee members are selected.

The suggestion with the greatest potential to allow speedier resolution of cases was a proposal that two Committees be established. However, legislation is needed to establish a second Committee. In addition, it is very likely that additional staff would be needed to properly support an additional Committee. Since the workload impact of the changes being made within DPP and policy decisions being made by the Commission are just being implemented, it may be premature to seek legislation. Staff recommends that the issue be revisited later in 2012 once a workload study is completed.

The third category of suggestion involves clarifying if and when Commission staff should close cases and if it is decided that staff should close selected cases, to clarify the criteria under which this would take place. It was agreed at the stakeholder meetings that this suggestion should be considered after the Attorney General's opinion has been provided to the Commission.

- Pursue the ability of staff to close cases and identify criteria for staff to close/settle cases.

**Next Steps**

The two stakeholder meetings provided valuable information and perspectives on issues facing the Commission related to educator discipline. Many of the ideas and comments were included within the proposed DPP Strategic Plan being considered by the Commission at this meeting. Other ideas, including the proposed change in policy regarding initial alcohol offenses, are being brought before the Commission for consideration and possible implementation. Once the Attorney General's opinion on the ability of the Commission to delegate authority to close cases to staff is received, the CWIP system is operational, and the impact of the Commission's initial modifications to the educator discipline procedures have been implemented and evaluated, additional agenda items may be developed for the Commission's consideration.

## Appendix A

## Planning Group and Stakeholder

### Planning Group

| Individual | Representing |
|---|---|
| Jane Robb | California Teachers Association (CTA) |
| Ken Burt | |
| Gary Ravani | California Federation of Teachers (CFT) |
| Janet Davis | |
| David Simmons | California County Superintendents Educational Services Association (CCSESA) |
| Kate Osborn | |
| Sharon Robison | Association of California School Administrators (ACSA) |
| Tanya Krause | |
| Brian Rivas | California School Boards Association (CSBA) |
| Cindy Gappa, Facilitator | Tehama County Department of Education |
| Teri Clark | Commission on Teacher Credentialing (CTC) |
| Nanette Rufo | |

### Stakeholder Meeting I

**October 28, 2011**

| Name | Affiliation |
|---|---|
| Ken Burt | CTA |
| Janet Davis* | CFT |
| Barbara Kilponen* | Current COC member |
| Tanya Krause* | ACSA |
| Martin Ledesma | Former COC member |
| Jane Robb | CTA |
| Harold Accord | CTA |
| Danette Brown | CTA |
| David Simmons | CCSESA |
| Janet Thornhill* | Chaffey Teachers Association |
| Angelo Williams | CSBA |
| Cindy Gappa, Facilitator | Tehama COE |
| Nanette Rufo | CTC |
| Teri Clark | CTC |
| Marilyn Errett | CTC |
| Patty Wohl | CTC |

**attended through the webinar*

## Stakeholder Meeting II
**November 18, 2011**

| Name | Affiliation |
|---|---|
| David Simmons | Ventura COE & CCSESA |
| Tanya Krause | HR Council President (ACSA) |
| Kate Osborn | CCSESA |
| Dan Stepenosky | Las Virgenes Unified School District (ACSA) |
| Norma Ortiz | CTA |
| Jane Robb | CTA |
| Alexandra Condon | CTA |
| Maggie Geddes | CTA/GLS |
| David Wright | Chancellor's Office, CSU |
| Michael Rothschild | CTA |
| Ken Burt | CTA |
| Theresa Montano | CTA |
| Janet Davis | CFT |
| Paul Thompson | Fagen Friedman (ACSA) |
| Rick Rogers | ACSA |
| Laura Preston | ACSA |
| Brian Rivas | CSBA |
| Cindy Gappa | Facilitator, Tehama COE |
| Nanette Rufo | CTC |
| Teri Clark | CTC |

# Appendix B

## Agendas and Meeting Notes from the First Stakeholder Meeting

## October 28, 2011

COMMISSION ON
TEACHER CREDENTIALING
Ensuring Educator Excellence

# Educator Discipline Stakeholder Meeting

**10:30-3:30**

***GOAL:*** *Protect the safety of students and the rights of applicants and licensees by increasing the speed of cases going through the discipline process and decreasing the time it takes to complete each case.*

Outcomes

1. Raise suggestions to streamline the Educator Disciplinary Review process
2. Discuss strengths and areas of concern for suggestions
3. Identify by consensus most viable options for further consideration

## Agenda

I. Welcome and Meeting Start Up

II. Current State of Educator Disciplinary Review process
   - The short story of how we got to this point

III. Framing the Future State
   - Share input from the field collected via online survey
   - Generate suggestions for streamlining the Educator Disciplinary Review process
   - Identify strengths/concerns for most viable suggestions

IV. Clarify Next Steps/Closure
   - Next meeting, Friday, November 18, 10:30 am – 3:30 pm

**Educator Discipline Stakeholder Meeting Notes**
**October 28, 2011**

**From the October 2011 stakeholder meeting**

Goal: **Protect the safety of students and the rights of applicants and licensees by the effective, efficient and fair handling of cases in a timely manner**

**Agreements**

1. Define terms when talking about numbers per reports received and cases opened and use these terms consistently. (Staff will provide data at the November meeting)
2. Teri will develop a webpage and put the group's work on the website
3. Draft Nov. 18 agenda will be on website
4. Expect to hear from Attorney General in Feb. 2012
5. Transparency in development of agenda item.
6. CTC assessing how many COC's would be needed to meet goal

Important Upcoming Dates

- January 2012: Commission meeting, an information item will be presented with information from the stakeholder meetings
- April 7: one year report due to BSA

Small Group Brainstorming took place. Thirteen suggestions were generated—see next page—and then discussions continued about the strengths and concerns about each of the suggestions. Suggestions 3, 11, and 13 were moved to a later discussion.

## Brainstormed Suggestions to Streamline the Disciplinary Review Process

| Suggestion | Strengths | Concerns |
|---|---|---|
| 1. More than 1 COC | • Would be able to process more cases<br>• Making it easier to serve by having mandatory release by district<br>• If more than one COC, The COCs could be specialized in duties<br>• If had a large pool of COC members could flex "convened" group (like a jury pool)<br>• Setup a varied schedule<br>• Consistent service as a COC member develops expertise | • About consistency of decisions<br>• Unless we change the way we do business (statutes/procedures) why have more than __1 ?_ staffing<br>• Concern about a COC member knowing consistency of service<br>• Be sure there are clear selection criteria<br>• "Serving" a burden on employer<br>• What is potential impact on any employer to have 1+ COC members?<br>• If more committees, need more CTC staff |
| 2. Reduce barriers to serving on COC | • COC member issue – "I can't choose my own sub."<br>• Consider regional COCs<br>• Make service more attractive<br>• What about using retired teachers?<br>• Those serving have a broader perspective if an active member of profession<br>• How may tech influence/facilitate participation?<br>• How about opening up COC membership to reflect all "held" to COC?<br>• Consider greater percentage of COC = teachers. | • Concern about a retiree who is no longer "active" serving on COC<br>• How to address long diversity to include all constituencies to serve on COC<br>• COC should reflect majority of the majority of cases before it |
| 3. Revise the list of mandatory offenses | On hold for future work. Might need additional meeting on this topic | |
| 4. Pursue legislation that would require COC members to be released for COC work | • Making it easier to serve by having mandatory release by employing district | • Need to work with legislature |
| 5. If more than 1 | • Assume balance of experienced and new COC in any COC | • Avoid "9th Circuit" type of issue |

| Suggestion | Strengths | Concerns |
|---|---|---|
| COC, be sure experienced COC members are on each | group.<br>• Provide a "mentor" COC member for a novice member.<br>• More COCs equal a broader range of perspectives used in review of cases<br>• Put in place annual or regular calibration for COC members | |
| 6. Pursue the ability of staff to close cases | • 1yr, 6mo, 4yr, Statute of limitations already in place, Do we need more? | • Need to wait for Attorney General ruling on this suggestion.<br>• Teachers should have the right to know COC has looked at case (How does this help streamline?) |
| 7. Pursue the ability of staff to enter into early settlements | • Assure appointed COC members hone their …<br>• Staff ought to be able to enter into the settlement negotiations subject to COC | • Not appropriate for state to enter into early settlements |
| 8. Examine the other inputs that bring cases to the COC, I.e. contract abandonment, alcohol… | Staff will provide data on this for the November 2011 meeting | |
| 9. Identify criteria for staff to close/settle cases | • Public could feel confident that staff were following criteria<br>• Staff would feel confident they would not be second guessed | • Not a good idea, legal conundrum |
| 10. Better education about what should be coming to the Commission | • Education about COC process is a good thing – General info on CTC website (reformat?)<br>• Outreach would clarify what should come to COC<br>• What should/shouldn't come to COC = less work.<br>• Clarify standards of what needs to be sent to COC | • Could increase work because of education about COC<br>• Cost for greater outreach |

| Suggestion | Strengths | Concerns |
|---|---|---|
| | • Clarify for credential holders, employers, public what is subject for COC review | |
| 11. Review district mandatory reports | | |
| 12. Examine the process to get full evidence earlier | • More transparency at an earlier stage equals earlier resolution | |
| 13. Should all credentials be treated the same | On hold at this time. Not a suggestion that would necessarily streamline the process…But it is possible that we should look at the number/percent of cases for individuals who hold a Child Development Permit and no teaching credential. Should these individuals go through the same COC process as other credential holders | |

Topics/Notes for the November 18 Meeting

- Discuss and Review the Morrison standards (provide T5 regulations).
- Review the suggestions from the October 2011 meeting, Entertain additional suggestions.
- Staff to provide data on the percent of DPP caseload by type of license the individual holds.
- Staff to provide data on the types of reports of misconduct: numbers in each: RAPs, school districts/employers (contract abandonment included), affidavits, self disclosure and the intake process for each.

# Appendix C

## Agendas and Meeting Notes from the Second Stakeholder Meeting

## November 18, 2011

COMMISSION ON
TEACHER CREDENTIALING
Ensuring Educator Excellence

# Educator Discipline Stakeholder Meeting II

## Friday, November 18, 2011

10:30-3:30

**GOAL:** *Protect the safety of students and the rights of applicants and licensees by the effective, efficient and fair handling of cases in a timely manner.*

Outcomes:

1. Raise suggestions to streamline the Educator Disciplinary Review process
2. Discuss strengths and areas of concern for suggestions
3. Identify most viable options

### Agenda

I. Welcome and Meeting Start Up

II. Review Data Requested at the October 28 Meeting

III. Presentation by Michael Rothschild, Attorney at Law
- Alternative Process for Alcohol or Drug Related Convictions
- Eliminate Breach of Contract Provisions
- Encourage Settlement at the Earliest Stage of Proceeding
- Re-Investigate Only Appropriate Allegations Within Local Teacher Dismissal

IV. Framing the Future State
- Review suggestions for streamlining the Educator Disciplinary Review process
- Raise additional suggestions
- Identify strengths/concerns for suggestions
- Identify the most viable options

V. Clarify Next Steps/Closure

## Educator Discipline Stakeholder Meeting II Notes
## November 18, 2011

Goal: **Protect the safety of students and the rights of applicants and licensees by the effective, efficient and fair handling of cases in a timely manner**

### Agreements

1. CTC will type up meeting notes and email to the group for review.
2. After review, will post meeting notes on the Educator Discipline Stakeholder Meetings web page (http://www.ctc.ca.gov/educator-discipline/stakeholder-meetings.html)
3. Information Item to be presented in January 2012 to the Commission
   a. CTC staff will work to accurately reflect stakeholder input.
   b. Will include Strengths and Concerns for each suggestion, organized by consensus first and then those on for which there is no consensus
   c. Staff will add fiscal impact information for suggestions
4. Ken Burt will provide staff with an electronic file of the information shared by Michael Rothschild

### Issues Bin

1. Why an increase in the personal fitness questions (PFQs)? Do the questions cover what needs to be known?
2. A concern about the clarity of the question(s) related to 'non re-elect' issue
3. How will any revision to the personal fitness questions (PFQs) be shared with stakeholders? Will there be public input?
4. Suggestion #12 needs additional conversation and clarity around the 'resignation under a cloud'

Important Upcoming Dates

- January 2012: Commission meeting, an information item will be presented with information from the stakeholder meetings
- February 2012: Expect opinion from Attorney General on legality of COC delegating authority to staff
- April 7, 2012: one year report due to BSA

**Suggestions to Streamline the Disciplinary Review Process**

*Items highlighted in yellow represent areas of consensus*

| Suggestion | Strengths | Concerns |
|---|---|---|
| 1. Have more than 1 COC | • Would be able to process more cases<br>• Making it easier to serve by having mandatory release by district<br>• If more than one COC, The COCs could be specialized in duties<br>• If have a large pool of COC members, could flex "convened" group(s) (like a jury pool)<br>• Setup a varied schedule<br>• Consistent service as a COC member develops expertise<br>• Could allow southern Californians easier access to serve on COC | • About consistency of decisions<br>• Unless we change the way we do business (statutes/procedures) why have more than __1 ?__ staffing<br>• Concern about a COC member knowing consistency of service<br>• Be sure there are clear selection criteria<br>• "Serving" a burden on employer<br>• What is potential impact on any employer to have 1+ COC members?<br>• If more committees, need more CTC staff to prepare the cases for the Committees<br>• Impact on CTC budget? |
| 2. Reduce barriers to serving on COC | • Consider regional COCs<br>• Make service more attractive<br>• What about using retired teachers?<br>• Those serving have a broader perspective if an active member of profession<br>• How may tech influence/facilitate participation?<br>• How about opening up COC membership to reflect all "held" to COC?<br>• Consider greater percentage of COC = teachers.<br>• Focus on recruitment | • Concern about a retiree who is no longer "active" serving on COC<br>• How to address more diversity and include all constituencies to serve on COC<br>• COC should reflect majority of the majority of cases before it<br>• COC member issue – "I can't choose my own sub." |
| 3. Pursue legislation that would require COC members to be released for COC work | • Making it easier to serve by having mandatory release by employing district<br>**Already in Education Code** | • Need to work with legislature |
| 4. If more than 1 COC, be sure experienced COC members are on each | • Assume balance of experienced and new COC in any COC group.<br>• Provide a "mentor" COC member for a novice member.<br>• More COCs equal a broader range of perspectives used in review of cases<br>• Put in place annual or regular calibration for COC members | • How to avoid inconsistent decisions across the committees |

| Suggestion | Strengths | Concerns |
|---|---|---|
| 5. Pursue the ability of staff to close cases<br>-Pursue the ability of staff to enter into early settlements<br>-Identify criteria for staff to close/settle cases | • 1 yr, 6 mo. 4 yr Statute of limitations already in place, do we need more? | • Need to wait for Attorney General ruling on this suggestion.<br>• Teachers should have the right to know COC has looked at case (How does this help streamline?) |
| | • Assure appointed COC members hone their …<br>• Staff ought to be able to enter into the settlement negotiations subject to COC | • Not appropriate for state to enter into early settlements |
| | • Public could feel confident that staff were following criteria<br>• Staff would feel confident they would not be second guessed | • Not a good idea, legal conundrum |
| 6. Better education about what should be coming to the Commission | • Education about COC process is a good thing – General info on CTC website (reformat?)<br>• Outreach would clarify what should come to COC<br>• What should/shouldn't come to COC = less work.<br>• Clarify standards of what needs to be sent to COC<br>• Clarify for credential holders, employers, public what is subject for COC review | • Could increase work because of education about COC<br>• Cost for greater outreach |
| ~~7. Review district mandatory reports~~ | | |
| 8. Examine the process to get full evidence earlier | • More transparency at an earlier stage equals earlier resolution | |
| 9. Alternative process for alcohol convictions | Suggestion, for conviction of drunk driving only<br>• 1/2nd conviction -no adverse action<br>• 3rd + conviction - Diversion | Could cause an increase in CTC staff workload due to tracking/monitoring<br>Is there a cap to the alternative process? |
| 10. Remove Contract | • Could streamline the number of reports coming to CTC<br>• If do not specifically require notification, a district could always | Might or might not be a significant number of cases<br>Contract issues are not the CTC's job |

| Suggestion | Strengths | Concerns |
|---|---|---|
| abandonment as a required notification to CTC | use the affidavit option. | |
| 11. Encourage broader discovery (settle at earliest stage) | • With full discovery, earlier settlements would be possible according to defense attorneys<br>• Discovery goes 'both ways' (this may be problematic) | Current process supports more cases going through the full process. |
| 12. Investigate only appropriate allegations—related to teacher dismissals | • Employers agree that dismissals for 'unsatisfactory performance' should not be sent to CTC<br>• Discover weaknesses on the front end/difficulties of proof become clear early on—signed affidavit at the beginning. | • Would not significantly streamline because this is not a large volume of cases.<br>• Concerns asking employees to sign an affidavit about another employee |
| 13. Educate the Community about what is supposed to be submitted to CTC | • Clear, accurate information on the web would be helpful | |
| 14. Staff should look at the questions on the application—see if all Q's are necessary | | |
| 15. Reconfigure the time COC members | • Suggested to meet on weekends and pay the members<br>• Support the COC to work for 5 days a month instead of 3 | Concerns about getting applicants if asking individuals to work on weekends. |

| Suggestion | Strengths | Concerns |
|---|---|---|
| meet—maybe up to 5 days | | |
| 16. Administrative law type hearing for less severe cases | • Help sort out major/minor offenses | Cumbersome, expensive |
| 17. Separate COCs—divided by topic of misconduct | • | Dividing by type of misconduct does not streamline the process.<br>Could create a potential bottleneck for specific type of misconduct<br>Division by topic does not help with geography |
| 18. Have different criteria for district reporting actions Connect to #13 and 6 | • Need language about the district responsibility to report<br>• Clear criteria would help. More clarity would help with over-reporting.<br>• Could 'untie' the district's hands<br>• Would need a change in regulations related to district reporting | Need clarity on levels of responsibility |

# Appendix D

## Letter from Mr. Michael Rothschild to Mr. Ken Burt

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November 15, 2011

VIA E-MAIL & U.S. MAIL
Ken Burt
CTA Governmental Relations
1118 10th Street
Sacramento, CA 95814

Re: November Stakeholders meeting

Dear Ken:

You have asked that I draft the enclosed memo proposing modification of the California Education Code and Title 5, section 8, of the California Code of Regulations with reference to the Committee of Credentials/Commission on Teacher Credentialing. It is provided to you in preparation for the November 18, 2011 "stakeholders" conference conducted by the Commission on Teacher Credentialing.

Basic to the concept presented is that the Committee of Credentials has, over the past several years, come to view itself as an entity to **penalize** teachers who have run afoul of law or regulations. Examples are set formulations of license suspension periods depending upon facts of an underlying criminal offense. Misguided proposals by Commission staff to impose "fines" are consistent with that. In contrast, the initial and true purpose for creation of the Committee of Credentials was to protect students within the classroom and, if possible, guide involved credential holders into rehabilitation or educational programs wherein they may continue quality service within the education community. Proposals made by the enclosed/attached memo are based upon the premise that the Committee of Credentials should move from its current self-image of "imposer of penalty" to one of "protecting students and encouraging quality educators." That philosophical shift will likely save the Commission millions of dollars while, at the same time, protecting students while recognizing due process rights of credential holders.

Very truly yours,

MICHAEL ROTHSCHILD

MR/bh

Enclosure

PROPOSALS FOR NOVEMBER 18, 2011 "STAKEHOLDERS" MEETING – COMMISSION ON TEACHER CREDENTIALING

## ISSUE ADDRESSED: ALTERNATIVE PROCESS FOR ALCOHOL OR DRUG RELATED CONVICTIONS

1. Perceived problem: CTC staff has indicated as follows:

"If a process could be established in statute to provide for voluntary non-disciplinary process coupled with mandatory probation monitoring for misdemeanor DUI/alcohol related convictions, the major area of the COC caseload could be reduced."

2. Proposed solution:

Create a simple, easily administered and low cost program within which first and second misdemeanor driving under the influence offenders where no bodily injury was involved may be diverted from the review process prior to consideration by the Committee of Credentials. Vehicle Code sections 23538(b) for first offenders and section 23542(b) for second offenders provide for court ordered drinking driver education/therapy programs as a condition of probation. Mandatory jail sentences and monetary fines are also contemplated by the Vehicle Code scheme. Duplicative review and penalty by the Commission on Teacher Credentialing is unwarranted. As such, upon a credential holder's enrollment in and participation in a court ordered drinking driver program as mandated by Vehicle Code section 23538(b) or 23542(b), investigation of the matter by the Committee of Credentials should be held in abeyance.

Similar considerations apply when the court orders participation in an alcohol or drug education program pursuant to Vehicle Code section 23103.5(3). The latter would apply where, for example, there is an exceptionally low blood alcohol level and a plea to reckless driving pursuant to Vehicle Code section 23103 results.

Upon satisfactory proof being received that the program has been completed, the Commission investigation may then be closed. Should the credential holder fail to enroll in and/or satisfactorily complete the court program, the matter may then be subject to discretionary review commencing with a Letter of Inquiry from the Committee of Credentials. The foregoing diversion program should not apply if underlying facts confirm that the credential holder's actions occurred upon or immediately adjacent to their place of employment or in any manner directly involved a student then enrolled at a facility where they were

employed. Misdemeanor reckless driving offenses would be included only if they were alcohol related, as recognized by Vehicle Code section 23103.5.

A more formal probationary program may be implemented with reference to credential holders who suffer a third or more driving under the influence conviction within a period of five years. They may be offered "diversionary probation" **prior** to review by the Committee of Credentials pursuant to a program upon terms and conditions similar to those currently utilized by the Commission **after** full review by the Committee of Credentials but with no suspension stayed. During the period of "diversionary probation" investigation by the Committee of Credentials could be held in abeyance. Upon successful completion of the "diversionary probation," the investigation would then be closed. Upon rejection or failure of the "diversionary probation", investigatory procedures before the Committee of Credentials commencing with a Letter of Inquiry may then be implemented.

Current review by the Committee of Credentials with reference to first and second driving under the influence offenders and alcohol related reckless driving offenses merely duplicates court procedures as mandated by the Vehicle Code. By allowing a choice for "diversionary probation" to third offender driving under the influence credential holders, successful participation in the formal, mandated probation would be encouraged as it would not impose either stayed license suspension or actual credential suspension thereby allowing the affected credential holder to maintain a "clean" record for purposes of future employability. That, of course, would not be the situation should they elect to decline the "diversionary probation", proceed through the Committee of Credentials review process and then likely receive a full suspension or stayed suspension of their credential. By "frontloading" the probation supervision currently offered by the Commission on Teacher Credentialing, unnecessary review by the Committee of Credentials would be avoided while, at the same time, the credential holder would be encouraged to accept the terms and conditions of that probation as license suspension or a stayed suspension could be avoided.

3. Proposed Specific Implementation:

Title 5, California Code of Regulations section 80309.1 pertains to "initial review" by the Committee of Credentials. That regulation may be renumbered as section 80309.2. A new section 80309.1 could then be crafted to implement the contemplated alternative process for alcohol related convictions. Suggested language may be as follows:

**Upon a conviction becoming final of having violated Vehicle Code section 23103 which results in punishment pursuant to Vehicle Code section**

23103.5, an initial violation of Vehicle Code section 23152 or a second such conviction becoming final within five years thereof, and except as provided in subdivision (c) below:

(a) Upon a credential holders enrollment in and participation in a court ordered drinking driver program as mandated by Vehicle Code section 23538(b) or 23542(b), or court ordered alcohol and drug education program pursuant to Vehicle Code section 23103.5(e), investigation of the matter shall be held in abeyance. Upon satisfactory proof received which confirms completion of the program the investigation shall be closed.

(b) Should the credential holder fail to enroll in and/or satisfactorily complete said program, the matter shall be subject to discretionary review by the Committee of Credentials.

(c) (a) and (b) shall not apply and investigation by the Committee of Credentials shall proceed whenever any conviction becomes final for having violated Vehicle Code section 23152 or Vehicle Code section 23103 if punishment is imposed pursuant to Vehicle Code section 231013.5 and the underlying facts confirm that the credential holders' actions occurred upon or immediately adjacent to their place of employment or in any manner directly involve a student then enrolled in a facility where the credential holder was employed.

Upon conviction becoming final of a credential holder's third or more conviction within a period of five years for having violated Vehicle Code section 23152, they shall be offered "diversionary probation" pursuant to a program upon terms and conditions as adopted by the Commission on Teacher Credentialing. During the period of "diversionary probation" investigation by the Committee of Credentials shall be held in abeyance. Upon successful completion of the "diversionary probation," the investigation shall be closed. Upon rejection of or failure of the "diversionary probation," investigatory procedures before the Committee of Credentials shall commence by Letter of Inquiry.

## ISSUE ADDRESSED: ELIMINATE BREACH OF CONTRACT PROVISIONS.

1. Perceived problem:

Under current law, the Committee of Credentials may suspend a credential for up to one year if a certificated employee refuses, without good cause, to fulfill a valid contract or leaves without the consent of the employing superintendent. This issue is an employment contract matter. Reports of breach of contract are not made on a uniform basis by school districts to the Committee of Credentials and districts are not required to make that report. Such breach of contract matters – even when it is indisputably clear that students have not been affected – unnecessarily consume Committee of Credentials resources.

2. Proposed solution:

Current law provides for a report by declaration under penalty of perjury based upon firsthand knowledge of malfeasance by a credential holder. Upon receipt of such verified allegations, the Committee of Credentials has the jurisdiction to commence an investigation. If a teacher abandons a contract, for example, and leaves students literally "hanging" without substitute or replacement personnel, they may be reported by the local school district to the Commission on Teacher Credentialing by verified affidavit. The requirement of a statement under "penalty of perjury" will likely serve to eliminate reports of claimed "breach of contract" where students were, as a practical matter, not affected and the report to the CTC would be driven by vindictive or political considerations.

3. Proposed Specific Implementation:

Repeal Education Code section 44420 and amend Education Code section 44242.5(b)(5) by deleting cross-reference to section 44420.

## ISSUE ADDRESSED: ENCOURAGE SETTLEMENT AT THE EARLIEST STAGE OF PROCEEDINGS

1. Perceived Problem:

Proceedings before the Committee of Credentials have increasingly shifted to later stages of the investigatory process. Increasing numbers of review matters have required personal appearance before the Committee of Credentials rather than settlement at the initial "Letter of Inquiry" stage. Consistent with that, increasing numbers of review matters have proceeded to administrative proceedings pursuant to the California Procedure Act. Impact both in caseload

and fees paid to the Department of Justice to defend administrative hearings have increased. This has occurred in large part due to mistrust of Division of Professional Practices staff. One significant concern is the failure to provide exonerating evidence in "disclosure" to a credential holder or their attorney or even, it is suspected, to the Committee of Credentials itself. Some matters proceed to an administrative hearing with concomitant increased expense to the Commission based upon the suspicion – often later confirmed as accurate – that significant evidence may be contained within the Commission file which has previously not been revealed. That would be later revealed by Department of Justice attorneys as required by law at that late stage of proceedings.

2. Proposed Solution:

Prior to the 2003 appellate decision in *California Teacher's Association v. California Commission on Teacher Credentialing* published at 111 Cal.App.4th 1001, then-California Code of Regulations section 80307 provided for broad discovery to credential holders and their attorneys of a Committee of Credential file to include:

> All writings as defined by California Evidence Code section 250 which are included in the applicant's or holder's file including writings which include the basis for the allegations, with the exception of privileged information, shall be subject to discovery by the applicant or holder following commencement of an investigation.

At the Commission's request, the Appellate Court in 2003 declared regulation 80307 to be void as it exceeded the narrow limitation of Education Code section 44244(a) that only "portions of the investigation of the original or supplemental allegations that constitute the basis for the allegations shall be opened to inspection of copying." At page 1012 of its opinion the Court of Appeal recognized arguments presented to it by the California Teacher's Association and commented with respect thereto as follows:

> **Part of this argument is that full discovery is necessary to permit a full investigation that will result in avoiding unnecessary administrative hearings. Only after conducting a full investigation will the teacher know whether to accept or challenge the recommendation of the Committee. This policy argument is best directed to the legislature, which sets the policy in this area.**

Stated simply, the Court of Appeal's offer should be accepted and appropriate provisions of the Education Code modified to conform to the regulatory procedure as it existed before 2003. Early settlement will thereby be encouraged and otherwise unnecessary requests for an administrative hearing – which would result in the same full discovery of an entire file being provided at that late date – thereby avoided.

3. Proposed Specific Implementation:

Subdivision (a) of Education Code section 44244 should be amended to delete language which indicates that "the portions of the investigation of the original or supplemental allegations that constitute the basis for the allegations shall be open to inspection or copying by the holder or applicant and his or her attorney." Instead, the following language should be substituted:

> All writings as defined by California Evidence Code section 250 which are included in the applicant's or holder's file including, but not limited to, writings which form the basis for the allegations, with the exception of privileged information, shall be subject to discovery by the applicant or holder following commencement of an investigation. The Commission shall provide to the Committee of Credentials as well as any applicant or holder any and all available exonerating evidence.

## ISSUE ADDRESSED: RE-INVESTIGATE ONLY APPROPRIATE ALLEGATIONS WITHIN LOCAL TEACHER DISMISSAL PROCEEDINGS

1. Perceived Problem:

The Committee of Credentials regularly reviews cases in which a credential holder left employment as a result of or while allegations of misconduct were pending. The Committee thereby reviews and relies on a Statement of Charges crafted by local counsel for school districts in their local dismissal actions. Experience has confirmed that multiple allegations of misconduct, many of which were never substantiated by any evidence whatever, let alone reliable evidence, are thereby presented to the Committee of Credentials. Rather than challenge spurious and unfounded charges, many teachers simply resign or "accept a golden handshake" in the face of tactically inflated allegations of misconduct. It is known that training sessions for local school district attorneys regularly encourage

throwing "the kitchen sink" at such a teacher in an effort to force resignation rather than litigation. All charges, no matter how spurious or factually unsupported, must under current law then be presented to the Committee of Credentials. Considerable resources are thereby expended both in prosecution and defense of matters never intended to be truly litigated at the school district level and, in many cases, allegations which ultimately had been abandoned or dismissed by a local school district.

2. Proposed Solution:

Eliminate local school district dismissal proceedings as a jurisdictional basis for a Committee of Credentials review. In truly egregious situations, a local school district would still be able to report by declaration under penalty of perjury based upon firsthand knowledge any untoward activities by a credential holder to the Committee of Credentials. Jurisdiction would, by that alternative means, be achieved.

3. Proposed Specific Implementation:

Amend Education Code section 44242.5 to delete subdivision (b)(3) and subdivision (d)(5).

## Appendix E

## Suggestions to Streamline the Disciplinary Review Process Organized by Staff into Three Categories

Attorney General's Opinion on the legality of the COC delegating authority to CTC Staff expected in 2012

## Suggestions to Streamline the Disciplinary Review Process Organized by Category

| 1) **Work to reduce the number of cases that are opened: educate employers, educate the public, specify criteria for district reporting, clarify the personal fitness questions** | | |
|---|---|---|
| **Suggestion** | **Strengths** | **Concerns** |
| a. Better education about what should be coming to the Commission<br>b. Educate the Community about what is supposed to be submitted to CTC | • Education about COC process is a good thing – General info on CTC website (reformat?)<br>• Outreach would clarify what should come to COC<br>• What should/shouldn't come to COC = less work.<br>• Clarify standards of what needs to be sent to COC<br>• Clarify for credential holders, employers, public what is subject for COC review<br>• Clear, accurate information on the web would be helpful | • Could increase CTC staff work because of education about COC<br>• Possible cost for greater outreach |
| c. Have different criteria for district reporting actions. | • Need language about the district responsibility to report<br>• Clear criteria would help. More clarity would help with over-reporting.<br>• Could 'untie' the district's hands<br>• Would need a change in regulations related to district reporting | • Need clarity on levels of responsibility<br>• Employers identified possible concerns |
| d. Investigate only appropriate instances related to teacher dismissals. Employers agree that dismissals for 'unsatisfactory performance' should not be sent to CTC | • Could decrease reports being submitted to the Commission<br>• Employers agree that dismissals for 'unsatisfactory performance' should not be sent to CTC | |
| e. Staff should look at the questions on the application—see if all Q's are necessary | • If clarify questions, could lead to reduced applications identified for disciplinary review | |

| 2) <u>Committee of Credentials:</u> **Reduce the barriers to getting members, use an alternative process for drunk driving, investigate having more than 1 COC, investigate the COC working 5 days instead of 3 each month** | | |
|---|---|---|
| **Suggestion** | **Strengths** | **Concerns** |
| a. Reduce barriers to serving on COC | • Consider regional COCs<br>• Make service more attractive<br>• What about using retired teachers?<br>• Those serving have a broader perspective if an active member of profession<br>• How may tech influence/facilitate participation?<br>• How about opening up COC membership to reflect all "held" to COC?<br>• Consider greater percentage of COC = teachers.<br>• Focus on recruitment | • CTA and CFT expressed concerns about a retiree who is no longer "active" serving on COC--<br>• How to address more diversity and include all constituencies to serve on COC<br>• COC should reflect majority of the majority of cases before it<br>• COC member issue – "I can't choose my own sub." |
| b. Have more than 1 COC | • Would be able to process more cases<br>• Making it easier to serve by having mandatory release by district<br>• If more than one COC, the COCs could be specialized in duties<br>• If have a large pool of COC members, could flex "convened" group(s) (like a jury pool)<br>• Setup a varied schedule<br>• Consistent service as a COC member develops expertise<br>• Could allow southern Californians easier access to serve on COC | • About consistency of decisions<br>• Unless we change the way we do business (statutes/procedures) why have more than 1 COC<br>• Concern about a COC member knowing consistency of service<br>• Be sure there are clear selection criteria<br>• "Serving" a burden on employer<br>• What is potential impact on any employer to have 1+ COC members?<br>• If more committees, need more CTC staff to prepare the cases for the Committees, Impact on CTC budget? |
| c. If more than 1 COC, be sure experienced COC members are on each | • Assume balance of experienced and new COC in any COC group.<br>• Provide a "mentor" COC member for a novice member.<br>• More COCs equal a broader range of perspectives used in review of cases<br>• Put in place annual or regular calibration for COC members | • How to avoid inconsistent decisions across the committees |
| d. Reconfigure the time COC members meet—maybe up to 5 days | • Suggested to meet on weekends and pay the members –this was amended to working for more days each month<br>• Support the COC to work for 5 days a month instead of 3 | Concerns about getting applicants if asking individuals to work on weekends. |
| e. Alternative process for alcohol convictions | Suggestion, for conviction of drunk driving only<br>• 1st and 2nd conviction -no adverse action<br>• 3rd + conviction - Diversion | Could cause an increase in workload for CTC staff due to tracking/monitoring<br>Is there a limit to the diversion option? |

| 3) **Clarify when staff has the ability to close a case** (Need to wait for the Attorney General's opinion on delegating of authority to Commission staff) | | |
|---|---|---|
| **Suggestion** | **Strengths** | **Concerns** |
| a. Pursue the ability of staff to close cases and Identify criteria for staff to close/settle cases | • 1 yr, 6 mo. 4 yr Statute of limitations already in place, do we need more?<br>• Public could feel confident that staff were following criteria<br>• Staff would feel confident they would not be second guessed | • Need to wait for Attorney General ruling on this suggestion.<br>• Teachers should have the right to know COC has looked at case (How does this help streamline?)<br>• Not a good idea, legal conundrum |

| Suggestions for which there was NOT consensus among the Stakeholders | | |
|---|---|---|
| **Suggestion** | **Strengths** | **Concerns** |
| i) Examine the process to get full evidence earlier | • More transparency at an earlier stage equals earlier resolution | |
| ii) Encourage broader discovery (settle at earliest stage) | • With full discovery, earlier settlements would be possible according to defense attorneys<br>• Discovery goes 'both ways' (this may be problematic) | Current process supports more cases going through the full process. |
| iii) Pursue the ability of staff to enter into early settlements | • Assure appointed COC members hone their ...<br>• Staff ought to be able to enter into the settlement negotiations subject to COC | Not appropriate for state to enter into early settlements |
| iv) Remove Contract abandonment as a required notification to CTC | • Could streamline the number of reports coming to CTC<br>• If do not specifically require notification, a district could always use the affidavit option. | Might or might not be a significant number of cases<br>Contract issues are not the CTC's job |
| v) Investigate only appropriate allegations—related to teacher dismissals | • Discover weaknesses on the front end/difficulties of proof become clear early on—signed affidavit at the beginning. | • Would not significantly streamline because this is not a large volume of cases.<br>• Concerns asking employees to sign an affidavit about another employee |
| vi) Administrative law type hearing for less severe cases | • Help sort out major/minor offenses | Cumbersome, expensive |
| vii) Separate COCs—divided by topic of misconduct | | Dividing by type of misconduct does not streamline the process.<br>Could create a potential bottleneck for specific type of misconduct<br>Division by topic does not help with geography |

# BSA Recommendation 2.4

***Recommendation 2.4:*** *Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month.*

**Index:**

- **Committee Review Totals**
  - January 2011 through March 2012
- **Initial Review Totals for April 2012**
  - Cases increased to 74
- **Initial Review Totals for May 2012**
  - Cases increased to 100

# Committee Review 2011-Present

| | Consent | Discuss | Initial | Formal App[1] | Formal Non App[2] | Total |
|---|---|---|---|---|---|---|
| January 2011 | | | 51 | 18 | 33 | 102 |
| February | | | 52 | 15 | 28 | 95 |
| March | | | 56 | 12 | 31 | 99 |
| April | | | 63 | 14 | 30 | 107 |
| May | 125 | 0 | 53 | 18 | 24 | 220 |
| June | 283 | 28 | 65 | 15 | 39 | 430 |
| July | 285 | 25 | 85 | 12 | 32 | 439 |
| August | 233 | 14 | 82 | 19 | 31 | 379 |
| September | 158 | 13 | 60 | 12 | 52 | 295 |
| October | 201 | 9 | 53 | 25 | 42 | 330 |
| November | 325 | 6 | 50 | 16 | 40 | 437 |
| December | 244 | 7 | 59 | 16 | 29 | 355 |
| January 2012 | 278 | 8 | 64 | 21 | 24 | 395 |
| February | 252 | 14 | 65 | 12 | 30 | 373 |
| March | 262 | 24 | 61 | 13 | 36 | 396 |

April 18-20, 2012 COC LOI Cases

| Case # | Case Type | Meeting Date | Designation | Last Name | First Name | Case Manager |
|---|---|---|---|---|---|---|
| [redacted] | LOI | 4/18-20/2012 | HOLDER | [redacted] | [redacted] | ADCHAVEZ |
| [redacted] | LOI | 4/18-20/2012 | HOLDER | [redacted] | [redacted] | ADCHAVEZ |
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April 18-20, 2012 COC LOI Cases

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|---|---|
| TOTAL for APRIL | 74 |

MAY 16-18, 2012 COC LOI Cases

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| [redacted] | LOI | 5/16-18/2012 | HOLDER | [redacted] | [redacted] | JYAMAMOTO |

MAY 16-18, 2012 COC LOI Cases

| | | | | | |
|---|---|---|---|---|---|
| | LOI | 5/16-18/2012 | HOLDER | | JYAMAMOTO |
| | LOI | 5/16-18/2012 | HOLDER | | JYAMAMOTO |
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MAY 16-18, 2012 COC LOI Cases

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| TOTAL for MAY | 100 |

# BSA Recommendation 2.5

***Recommendation 2.5:*** *The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct.*

**Index:**

- **December 2011 Agenda Action Item 4C**
  - Policy on Expired Credentials
- **January 2012 Agenda Action Item 1A**
  - Commission Approval of December 2011 meeting including Agenda Action Item 4C.
- **March 2012 Agenda Action Item 4B**
  - Policies on Division of Professional Practices Cases
    - Single Offense Alcohol Process
    - Policy on Failure to Disclose
- **DPP Single Offense Alcohol Procedures**
  - Updated procedures regarding a single alcohol offense and the recommended level of review by the Committee of Credentials.
  - Sample DPP Single Offense Alcohol Report
- **Committee Consent Calendar Procedures**
  - Updated procedures for processing Consent Calendar cases including Discuss cases.
- **No Longer Interested (NLI) Process**
  - Procedures which reflect both the automated and manual NLI Process.
- **DPP Phone Queue Voicemails**
  - Procedures for how Intake staff logs into and retrieves DPP voicemail messages.
- **Rap Process**
  - Updated RAP procedures which reflect the removal of "Arrest Only" category, as this category is no longer used.
- **Statute of Limitations Procedures**
  - Procedures for entering statute of limitations data into the case database.
- **Monitoring of Cases: Investigation Procedures**
  - Procedures regarding the monitoring of case files once they have been assigned to the investigative process.
- **Monitoring of Cases: Probation Procedures**
  - Procedures regarding the monitoring of case files once they have been assigned to the probation process.

# 4C

## Action

*Professional Practices Committee*

## Proposed Policy on Expired Credentials

**Executive Summary:** This agenda item provides a proposed policy recommendation for the Commission's consideration pertaining to individuals with expired credentials and no pending applications.

**Recommended Action:** Staff recommends that the Commission adopt the proposed policy recommendation.

**Presenter:** Nanette Rufo, Director, Division of Professional Practices

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

# Proposed Policy on Expired Credentials

**Introduction**
This agenda item provides a proposed policy recommendation for the Commission's consideration pertaining to individuals with expired credentials and no pending applications.

**Background**
In November 2011, the Commission on Teacher Credentialing (Commission) reviewed an agenda item "Progress on Addressing the Recommendations from the April 7, 2011 Audit Report." Page 9 stated:

> After looking at this information staff questions the fourth group of cases in each section of Chart 4b. The individuals do not hold a current license as an educator in California and have no applications pending. Additional research needs to be completed as to why these cases are in the Commission's discretionary discipline process and what the impact would be if cases were not opened for individuals who do not hold current, valid licenses and have no applications pending with the Commission.

As of October 31, 2011, 187 cases fell into the expired credential and no application pending category. (See chart 4b on page 11 of the BSA Workload Report.) Current practice is if the alleged misconduct occurred during the time the individual held a valid credential, the individual is subject to discretionary review even if the credential has since expired and no application is pending. If the allegation involves sexual misconduct, the individual is subject to discretionary review even if the individual did not hold a credential at the time of the alleged misconduct.

The Commission directly supervises the work of the Committee of Credentials (Committee). (Education Code section 44242.) Policy statements about the matters to be considered by the Committee are a method of exercising supervision. The Commission has discretionary authority under Education Code section 44440 to take adverse action against an *expired* credential. To date, the Commission has not adopted a policy about how this authority is to be exercised.

**Proposed Policy**
The purpose of professional discipline is to protect the public and maintain appropriate standards of professional conduct. At its November 2011 meeting, the Committee of Credentials considered the issue of expired credentials.

Given the current workload of the Committee and the Division of Professional Practices (DPP), the Committee considered whether pursuing individuals with expired credentials and no application pending is the most productive use of limited resources. The Committee recommends the following policy for the Commission's consideration:

*If all credentials are expired and no applications are pending, staff should flag the name in the database and notify DOJ that the CTC is no longer interested in receiving criminal information. If a new application is received, new fingerprints would be required and all arrest and court documents would be gathered by the applicant for submission to CTC as required with the application.*

*There are three exceptions to this proposed policy: allegations of sexual misconduct, crimes against children, reports filed by school districts, and actions taken by other licensing agencies. For these matters, the case should be pursued for possible action against the expired credential.*

**Analysis**

This policy would reduce the workload for both the Committee and DPP staff. However, it should not pose a risk to children, schools or the educational system since a person without a valid credential cannot be legally employed as an educator in a public school.

Currently, if the person held a credential at the time of a criminal offense, staff requests information from the arresting agency and from the courts. Each request takes 10-15 minutes to prepare and typically multiple requests must be made before documents are received in DPP. Once the documents are received, staff prepares the file for submission to the Committee. Such work includes notifying the person that his or her credential is under review (Letter of Inquiry) and preparing a Confidential Investigative Report. Each case involves many hours of staff time.

In addition, the Committee has a finite amount of time to consider cases every month. For each matter involving only expired credentials, would the Committee's time be better spent by reviewing persons who may pose a greater threat to school children or the standards of professional conduct?

The exceptions to the proposed policy are for areas where the behavior is especially high risk. Persons against whom there are allegations of sexual misconduct or persons charged with a crime against a child or allegations of misconduct involving children pose a serious risk to children. These types of allegations are not a large part of DPP's workload. Pursuing these cases helps to protect the public by ensuring that a person charged with such crimes cannot go to another state and obtain a credential, or obtain a document issued by a California county or district. Given the serious nature of the allegations and the risk of harm to children, these cases should be pursued.

If the Commission adopts the proposed policy, of the 187 cases listed in this category as of October 31, 2011, 164 would be closed and 23 would be pursued. In addition, in the future, the policy would reduce workload for both the Committee and DPP staff without increasing the risk to children in a school setting.

**Staff Recommendation**

Staff recommends that the Commission adopt the proposed policy recommendation.

# 1A

## Action

*General Session*

## Approval of the December 2011 Minutes

**Executive Summary:** The Executive Director recommends that the Commission approve the minutes of the December 2011 meeting of the Commission.

**Recommended Action:** Approve the minutes of the December 2011 meeting.

**Presenter:** None

**Strategic Plan Goal: 2**

**Support policy development related to educator preparation, conduct and professional growth**

**4C: Proposed Policy on Expired Credentials**
Nanette Rufo, Director, Division of Professional Practices, presented this item which provided a proposed policy recommendation for the Commission's consideration pertaining to individuals with expired credentials and no pending applications.

**Ken Burt, California Teachers Association,** voiced support of the proposed policy.

Commissioner Sun moved to adopt the policy outlined on page PPC 4C-2. Commissioner Cooney seconded the motion. The motion carried without dissent.

**Professional Services Committee**
Committee Chair Constance Blackburn convened the Professional Services Committee.

**5A: Review of Two Recommendations from the Administrative Services Credential Advisory Panel**
Gay Roby and Lawrence Birch, Consultants, Professional Services Division, presented two recommendations of the Administrative Services Credential Advisory Panel for consideration and possible adoption by the Commission.

**Richard Bray and Patrick Godwin, Administrative Services Credential Advisory Panel Members,** assisted staff in presenting this item.

**David Gordon, Sacramento County Superintendent of Schools,** submitted a written letter in support of maintaining the current three years of experience requirement and the exam option.

**Helio Brasil, Merced River School District,** submitted a written letter in support of the continued use of the exam option. He also supported an increase of service years with a mechanism for an approved waiver process to grant a credential for less than five years of service.

**Stephen Davis, representing himself,** suggested CPACE be a required assessment at the culmination of an accredited program in school administration, not as a test only option in lieu of rigorous academic program.

**Christopher Thomas, University of San Francisco,** suggested preparation to be included in the leadership framework.

**David Simmons, Ventura County Office of Education,** voiced support for a waiver option if the Commission decides to expand the three years experience to five years. He also voiced support of the exam option due to unique cases.

**Magaly Lavadenz, California Association for Bilingual Education and Californians Together,** suggested the Commission incorporate the content knowledge base specifications for the preparation of administrators in the multiple pathways and the learning to teach continuum.

**Viki Montera, representing herself,** voiced concerns regarding a test only option to obtain a preliminary administrative services credential and suggested a well-developed study on the viability of the exam to ensure all pathways are held to the same standards.

# 4B

## Action

*Professional Practices Committee*

## Policies on Division of Professional Practices Cases

**Executive Summary:** This agenda item provides proposed policy recommendations for the Commission's consideration on discipline relating to single alcohol offenses and failure to disclose information on an application.

**Recommended Action:** Staff recommends that the Commission adopt the proposed policy recommendations.

**Presenter:** Nanette Rufo, Director, Division of Professional Practices

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

March 2012

# Policies on Division of Professional Practices Cases

**Introduction**
This agenda item presents two issues for the Commission's consideration: a proposed policy about the handling of a single alcohol offense, and second a proposed policy about failure to disclose required information on a credential application. Given the Commission's stated desire for greater transparency and accountability, these items are being presented to the Commission for review. Also included in this item is a copy of Mr. Rothschild's most recent correspondence for the Commission's consideration (Appendix A).

**Policy for Single Misdemeanor Alcohol Offense**
At the December 2010 meeting of the Commission on Teacher Credentialing (Commission), the Commission looked at data showing five-year trends. That data clearly showed that the largest single case type was criminal alcohol offenses. Data collected from February 2010 to the end of November 2011, shows that "Reports of Arrest and Prosecution" (RAP) sheets for a first-time alcohol offense constitutes 28.61% of the RAP sheets received in the Division of Professional Practices (DPP). A misdemeanor "alcohol offense" as described in this policy proposal includes driving under the influence (DUI), drunk in public and wet (or alcohol involved) reckless driving.

Under Education Code section 44421, the Commission "shall privately admonish, publicly reprove, revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service." Education Code section 44345(c) allows the Commission to deny an application if the person "is addicted to the use of intoxicating beverages to excess."

In addition to looking at the criminal conviction, the Commission must also review the particular facts surrounding a conviction before making a decision to take a disciplinary action. Under case law and regulation, the Commission must look at the facts and determine whether the misconduct has a relationship to the person's ability or fitness to perform the duties authorized by a credential.

The typical DUI offense is where a police officer pulls over a car because of irregularities in driving. The officer does roadside testing and blood alcohol testing. If the driver fails the testing, the driver may be arrested, booked and released. If the person is convicted of a criminal offense, the Commission has jurisdiction to take an adverse action. However, the adverse action may only be taken if the misconduct has a relationship to the fitness to perform the duties authorized by the credential. Under Title 5, California Code of Regulations, section 80302, the following factors (also called Morrison factors) are to be weighed:

1. The likelihood that the conduct may have adversely affected students, fellow teachers, or the educational community, and the degree of such adversity

anticipated;

2. The proximity or remoteness in time of the conduct;

3. The type of credential held or applied for by the person involved;

4. The extenuating or aggravating circumstances surrounding the conduct;

5. The praiseworthiness or blameworthiness of the motives resulting in the conduct;

6. The likelihood of the recurrence of the questioned conduct;

7. The extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the person involved, or other certified persons; and

8. The publicity or notoriety given to the conduct.

In the typical first-time misdemeanor DUI, it is difficult to make the connection between the criminal conduct and the ability to perform the duties authorized by the credential. However, such a connection is occasionally present. For example, a district administrator could be arrested for a DUI while driving a district vehicle, or perhaps circumstances of a particular DUI offense could result in extensive local publicity, adversely impacting the local educational community.

The issue of how to effectively handle alcohol offenses was also raised at the stakeholder meeting held in November. A proposal was made by Michael Rothschild, attorney representing the California Teachers Association, for a policy applicable to all drunk driving offenses. A copy of Mr. Rothschild's most recent correspondence is attached for the Commission's consideration as Appendix A.

Current practice by DPP, and informally approved by the Committee, is that a *single* alcohol-related offense that is not aggravated by a high blood alcohol level, property damage, involvement of a child, on school property or while driving to or from school employment, is presented to the Committee on the Consent Calendar. Before putting the matter on the Consent Calendar, DPP staff checks with Department of Motor Vehicles records to determine if the person was convicted of other alcohol offenses and checks to determine if online court documents are available. The Committee routinely votes to close these cases.

**Proposed Policy on One Alcohol Offense**

At the December 2011 meeting of the Committee, the Committee decided to recommend to the Commission the following policy for a single alcohol related offense:

> *An applicant or holder who is convicted of one misdemeanor alcohol related offense shall not be submitted to the Committee of Credentials for review. Staff shall close the matter and note the offense in the DPP database.*
>
> *If an applicant or holder has other acts of misconduct, staff shall include the DUI*

*offense when presenting the case to the Committee of Credentials.*

*The exception to this policy is where staff is aware of the involvement of a child, a school or school property in the alcohol offense, or where adverse publicity impacts the local community. These exceptions shall be presented to the Committee of Credentials.*

This recommendation utilizes staff time in the most effective manner possible. Preparing the Consent Calendar takes staff time. For matters that are being routinely closed, expending any additional time to prepare a Consent Calendar is not an efficient use of scarce resources. In addition, this proposal allows a large number of cases to be handled in a rapid manner. If the Commission adopts the proposed policy, cases can be opened and closed in just a few days. If cases wait for a Committee meeting, each case will be open for up to an additional 30-45 days.

From a legal perspective, it is unusual that a single alcohol related offense will give rise to a sufficient nexus to take an adverse action. Absent publicity, involvement of children or school property, it is difficult to determine how a single offense would impact a person's ability to perform the duties authorized by the credential.

It is important to note that alcohol related misconduct does not go unpunished. Court ordered criminal sanctions for a first offense DUI typically include: informal probation for three to five years; a fine of between $1400 and $1800; a restricted license enables the person to drive during the course of employment, to and from work or school; and a California licensed DUI program. There is also a mandatory 48 hours of jail time with a DUI first offense, though this requirement is often converted to work service. Issuing such punishments for criminal actions is the role of the courts. The Commission's role is to take action to protect the public only when such misconduct impacts the classroom or the educational community.

An additional factor for the Commission to consider in weighing the Committee's recommendation is that the employing school district also receives subsequent arrest notices. The employer, not the Commission, is in a position to know if the alcohol related crime is related to conduct in the classroom. For example, a district may have received comments about an educator smelling of alcohol. The district would be in a position to connect the arrest notice for the DUI with such reports. The district, not the CTC, is in the best position to deal with the concerns since the district has more knowledge of any performance issues. The policy recommended by staff would let a single alcohol offense without aggravating factors be handled as a local issue.

**Policy on Failure to Disclose Information**

Applicants are required to disclose certain information on their applications. The information is requested in a section called "Professional Fitness Questions" (PFQs). This section includes questions about arrests, convictions, and leaving employment under adverse circumstances. The application, including the PFQ section, is signed by the applicant, verifying the facts under penalty of perjury.

When an applicant omits required PFQ information on the application, it is considered a "failure to disclose." The report of the Bureau of State Audits noted that inconsistent practices were used in the DPP in determining whether to: 1) take no action on a failure to disclose; or 2) send a letter informing the applicant that failure to disclose is considered falsification of an application and

grounds for denial; or 3) opening an investigation and presenting the matter to the Committee. To assist the Commission in setting policy in this area, at its December 2011 meeting the Committee of Credentials considered and recommended to the Commission some policies when an applicant fails to disclose information.

The policies recommended by the Committee weigh the "materiality" of the information that was not disclosed. Here the concept of materiality is boiled down to the question, "if the Committee knew this information would it possibly result in a different outcome of the matter?" Thus, if the applicant failed to disclose a conviction that the Committee previously investigated, no action should be taken. However, if a serious offense was not disclosed, then the failure to disclose should be added as an allegation of misconduct. Based on those concepts the Committee recommends the following policies to the Commission regarding failure to disclose:

1. *If an applicant fails to disclose information that the Committee of Credentials and/or Commission has previously reviewed, investigated or taken action on, no action should be taken.*

2. *If an applicant fails to disclose information that is presented to the Committee of Credentials on a Consent Calendar, the failure to disclose will be added to the information on the Consent Calendar.*

   a. *If the Committee of Credentials closes the case, then a letter should be sent to the applicant concerning the duty to fully and truthfully respond to questions on the application.*

   b. *If the Committee of Credentials determines to open an investigation, then the failure to disclose should be included in the allegations.*

3 *If an applicant fails to disclose information of such a nature that the Committee of Credentials commences an investigation into the alleged misconduct, then the failure to disclose should be included as an allegation.*

4. *The Commission delegates authority to the Commission's attorney staff to make exceptions to these failures to disclose policies based on the facts of a particular case. Any exception shall be documented in the file with the name of the attorney staff making the decision.*

**Recommendations**

Staff recommends that the Commission adopt the following policy for handling a single alcohol offense:

a. *An applicant or holder who is convicted of one misdemeanor alcohol related offense shall not be submitted to the Committee of Credentials for review. Staff shall close the matter and note the offense in the DPP database.*

b. *If an applicant or holder has other acts of misconduct, staff shall include the DUI offense when presenting the case to the Committee of Credentials.*

c. *The exception to this policy is where staff is aware of the involvement of a child, a school or school property in the alcohol offense, or where adverse publicity impacts the local community. These exceptions shall be presented to the Committee of Credentials.*

Staff recommends that the Commission adopt the following policy for sending Failure to Disclose letters:

a. *If an applicant fails to disclose information that the Committee of Credentials and/or Commission has previously reviewed, investigated or taken action on, no action should be taken.*

b. *If an applicant fails to disclose information that is presented to the Committee of Credentials on a Consent Calendar, the failure to disclose will be added to the information on the Consent Calendar.*

   1) *If the Committee of Credentials closes the case, then a letter should be sent to the applicant concerning the duty to fully and truthfully respond to questions on the application.*

   2) *If the Committee of Credentials determines to open an investigation, then the failure to disclose should be included in the allegations.*

c. *If an applicant fails to disclose information of such a nature that the Committee of Credentials commences an investigation into the alleged misconduct, then the failure to disclose should be included as an allegation.*

d. *The Commission delegates authority to the Commission's attorney staff to make exceptions to these failures to disclose policies based on the facts of a particular case. Any exception shall be documented in the file with the name of the attorney staff making the decision.*

CALIFORNIA TEACHERS ASSOCIATION

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February 10, 2012

Ms. Mary Sandy, Executive Director
California Commission on Teacher Credentialing
1900 Capitol Avenue
Sacramento, CA 95811-4213

Dear Executive Director Sandy:

Please consider this a formal request to deliver the attached document dated February 1, 2012 from Michael Rothschild to the Commission members as soon as possible.

This is also a formal request for their respective e- mail addresses.

Thank you for your attention to these requests.

Sincerely,

Ken Burt

Ken Burt, Liaison Program Coordinator
California Teachers Association

Kb:db

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February 1, 2012

**VIA E-MAIL & U.S. MAIL**
Ken Burt
CTA Governmental Relations
1118 10th Street
Sacramento, CA 95814

Re: BSA Audit Recommendations and Resulting Stakeholder Meetings – Streamlining Procedures Before the Committee of Credentials

Dear Mr. Burt:

Nanette Ruffo, Director, Division of Professional Practices, has issued a set of five "agenda items" for the Commission on Teacher Credentialing following stakeholder meetings which addressed streamlining procedures before and narrowing the scope of review by the Committee of Credentials. At the request of the California Teachers Association, I prepared specific proposals for and thereafter attended the November 18, 2011 "stakeholder's meeting". Having reviewed Ms. Ruffo's "information items 4B and 4C" and "action items for 4D and 4E" based upon that proceeding, I believe that the comments which follow are essential to effective implementation of creative suggestions produced by the "stakeholder meetings". The agreed goal of all concerned was to protect the rights of applicants and licensees by the effective, efficient and fair handling of cases in a timely manner. Ms. Ruffo's report does not fully reflect what occurred and, stated simply, does not go far enough in supporting that goal.

(1) **Proposed Early Settlement Policy:**

At page PPC-4D-4 of Action Item 4D entitled "Policies on Division of Professional Practices Cases," Ms. Ruffo proposes amendment of Title V Regulation 80320 to allow settlement of Committee of Credentials matters at any time after an investigation has commenced. Although not specifically so-attributed, this proposal appears to implement suggestion number 5 which resulted from the November 18, 2011 stakeholder meeting (reference page PPC-4C-19 of Information Item 4C) that staff be able to enter into early settlements and thereby close cases without first exhausting all administrative steps before the Committee of Credentials.

Two significant problems are presented by this proposal. The first relates to the potential for unfair dealing to be perceived by affected teachers and their attorneys. That would undermine, as a practical matter, any true attempts at early settlement. The second relates to discovery by staff counsel of all materials within a teacher's file at the earliest stage of proceedings as no competent attorney will allow any settlement without first knowing what cards, so to speak, the Committee of Credentials is holding.

As currently framed, Title 5, California Code of Regulations section 80320, provides that the Committee may consider a settlement only after an administrative hearing is requested. The clear purpose for allowing settlement negotiations to occur only after all proceedings before the Committee of Credentials have concluded is to preclude any suspicions by a credential holder that if settlement negotiations at an early stage fail, members of the Committee may hold it against them when they appear, for example, at a formal review personal appearance. If the regulation is to be amended as suggested by staff counsel, language should therefore be added which precludes consideration by the Committee of the fact of or content of any settlement negotiations when evaluating a credential holder prior to an administrative hearing request. To have credibility in the process, there also should be an outright ban on the Committee's knowledge of any such negotiations until they have been concluded with staff counsel and the credential holder then provides written consent that the resulting proposed agreement be presented to the Committee of Credentials is appropriate.

"Early settlement" will not be possible unless and until the current policy of only **selective** discovery of materials held by Commission staff with reference to any investigation is changed to provide full disclosure from inception of the investigation. Stated simply, such full disclosure is now available only after a credential holder exhausts all procedural steps before the Committee of Credentials and then requests an administrative hearing pursuant to the Administrative Procedure Act. If the request by staff counsel is to shift their ability to negotiate a settlement from the administrative hearing stage to the earliest possible stage of proceedings before the Committee of Credentials, similar considerations apply to making full disclosure to the affected teacher and their attorney. Otherwise, the latter would be "flying blind" or could constitute legal malpractice by the teacher's attorney. As summarized at suggestion number 11 resulting from the stakeholder meetings (page PPC-4C-21 of Information Item 4C), the "current process supports more cases going through the full process...[and] with full discovery, earlier settlements would be possible according to defense attorneys."

CTC staff counsel has recommended amendment of Title V, California Code of Regulations section 80320 in furtherance of its early settlement proposal. For that to be of realistic practical effect, Education Code section 44244(a) must be amended as indicated at pages 4-6 of our proposals before the "stakeholder's meeting" of November 18, 2011 which provided:

1. <u>Perceived Problem</u>:

Proceedings before the Committee of Credentials have increasingly shifted to later stages of the investigatory process. Increasing numbers of review matters have required personal appearance before the Committee of Credentials rather than settlement at the initial "Letter of Inquiry" stage. Consistent with that, increasing numbers of review matters have proceeded to administrative proceedings pursuant to the California Procedure Act. Impact both in caseload and fees paid to the Department of Justice to defend administrative hearings have increased. This has occurred in large part due to mistrust of Division of Professional Practices staff. One significant concern is the failure to provide exonerating evidence in "disclosure" to a credential holder or their attorney or even, it is suspected, to the Committee of Credentials itself. Some matters proceed to an administrative hearing with concomitant increased expense to the Commission based upon the suspicion – often later confirmed as accurate – that significant evidence may be contained within the Commission file which has previously not been revealed. That would be later revealed by Department of Justice attorneys as required by law at that late stage of proceedings.

2. Proposed Solution:

Prior to the 2003 appellate decision in *California Teacher's Association v. California Commission on Teacher Credentialing* published at 111 Cal.App.4th 1001, then-California Code of Regulations section 80307 provided for broad discovery to credential holders and their attorneys of a Committee of Credential file to include:

> All writings as defined by California Evidence Code section 250 which are included in the applicant's or holder's file including writings which include the basis for the allegations, with the exception of privileged information, shall be subject to discovery by the applicant or holder following commencement of an investigation.

At the Commission's request, the Appellate Court in 2003 declared regulation 80307 to be void as it exceeded the narrow limitation of Education Code section 44244(a) that only "portions of the investigation of the original or supplemental allegations that constitute the basis for the allegations shall be opened to inspection of copying." At page 1012 of its opinion the Court of Appeal recognized arguments presented to it by the California Teacher's Association and commented with respect thereto as follows:

> Part of this argument is that full discovery is necessary to permit a full investigation that will result in avoiding unnecessary administrative hearings. Only after conducting a full investigation will the teacher know whether to accept or challenge the recommendation of the Committee. This policy argument is best directed to the legislature, which sets the policy in this area.

Stated simply, the Court of Appeal's offer should be accepted and appropriate provisions of the Education Code modified to conform to the regulatory procedure as it existed before 2003. Early settlement will thereby be encouraged and otherwise unnecessary requests for an administrative hearing – which would result in the same full discovery of an entire file being provided at that late date – thereby avoided.

3. Proposed Specific Implementation:

Subdivision (a) of Education Code section 44244 should be amended to delete language which indicates that "the portions of the investigation of the original or supplemental allegations that constitute the basis for the allegations shall be open to inspection or copying by the holder or applicant and his or her attorney." Instead, the following language should be substituted:

> All writings as defined by California Evidence Code section 250 which are included in the applicant's or holder's file including, but not limited to, writings which form the basis for the allegations, with the exception of privileged information, shall be subject to discovery by the applicant or holder following commencement of an investigation. The Commission shall provide to the Committee of Credentials as well as any applicant or holder any and all available exonerating evidence.

(2) **Proposed Policy on Alcohol Offenses:**

At pages PPC-4D-2 and et seq., (Action Item 4D) Ms. Ruffo acknowledges, apparently with approval, the "easily administered and low cost program" proposed by myself with reference to alcohol related driving offenses. As proposed by staff counsel, their policy fails to acknowledge – and to that extent seriously misstates – the "easily administered and low cost program" which was presented on behalf of the CTA to the stakeholder meeting in November, 2011. It similarly fails to acknowledge the strengths of that alternative process for alcohol convictions as summarized at section 9 of the stakeholder's "suggestions to streamline the disciplinary review process" which provided (page PPC-4D-20 of Information Item 4C):

Suggestion, for conviction of drunk driving only

- 1/2 in the conviction – no adverse action
- 3rd plus conviction – diversion

There was no discussion of any proposed delay of implementing the proposal. If anything, all participants appeared to feel that it was a positive course to pursue without further meetings.

Staff counsel limits its proposal for leaving drunk driving offenses to the courts without overt action by the Committee of Credentials to first offenders only. The CTA proposal is far more comprehensive – it applies to all drunk driving and reckless driving matters.

The foregoing consensus recommendation was in response to the following specific recommendation then-presented on behalf of the CTA:

1. Perceived problem: CTC staff has indicated as follows:

"If a process could be established in statute to provide for voluntary non-disciplinary process coupled with mandatory probation monitoring for misdemeanor DUI/alcohol related convictions, the major area of the COC caseload could be reduced."

2. Proposed solution:

Create a simple, easily administered and low cost program within which first and second misdemeanor driving under the influence offenders where no bodily injury was involved may be diverted from the review process prior to consideration by the Committee of Credentials. Vehicle Code sections 23538(b) for first offenders and section 23542(b) for second offenders provide for court ordered drinking driver education/therapy programs as a condition of probation. Mandatory jail sentences and monetary fines are also contemplated by the Vehicle Code scheme. Duplicative review and penalty by the Commission on Teacher Credentialing is unwarranted. As such, upon a credential holder's enrollment in and participation in a court ordered drinking driver program as mandated by Vehicle Code section 23538(b) or 23542(b), investigation of the matter by the Committee of Credentials should be held in abeyance.

Similar considerations apply when the court orders participation in an alcohol or drug education program pursuant to Vehicle Code section 23103.5(3). The latter would apply where, for

example, there is an exceptionally low blood alcohol level and a plea to reckless driving pursuant to Vehicle Code section 23103 results.

Upon satisfactory proof being received that the program has been completed, the Commission investigation may then be closed. Should the credential holder fail to enroll in and/or satisfactorily complete the court program, the matter may then be subject to discretionary review commencing with a Letter of Inquiry from the Committee of Credentials. The foregoing diversion program should not apply if underlying facts confirm that the credential holder's actions occurred upon or immediately adjacent to their place of employment or in any manner directly involved a student then enrolled at a facility where they were employed. Misdemeanor reckless driving offenses would be included only if they were alcohol related, as recognized by Vehicle Code section 23103.5.

A more formal probationary program may be implemented with reference to credential holders who suffer a third or more driving under the influence conviction within a period of five years. They may be offered "diversionary probation" **prior** to review by the Committee of Credentials pursuant to a program upon terms and conditions currently utilized by the Commission **after** full review by the Committee of Credentials. During the period of "diversionary probation" investigation by the Committee of Credentials could be held in abeyance. Upon successful completion of the "diversionary probation," the investigation would then be closed. Upon rejection or failure of the "diversionary probation", investigatory procedures before the Committee of Credentials commencing with a Letter of Inquiry may then be implemented.

Current review by the Committee of Credentials with reference to first and second driving under the influence offenders and alcohol related reckless driving offenses merely duplicates court procedures as mandated by the Vehicle Code. By allowing a choice for "diversionary probation" to third offender driving under the influence credential holders, successful participation in the formal, mandated probation would be encouraged as it would not impose either stayed license suspension or actual credential suspension thereby allowing the affected credential holder to maintain a "clean" record for purposes of future employability. That, of course, would not be the situation should they elect to decline the "diversionary probation", proceed through the Committee of Credentials review process and then likely receive a full suspension or stayed suspension of their credential. By "frontloading" the probation supervision currently offered by the Commission on Teacher Credentialing, unnecessary review by the Committee of Credentials would be avoided while, at the same time, the credential holder would be encouraged to accept the terms and conditions of that probation as license suspension or a stayed suspension could be avoided.

3. <u>Proposed Specific Implementation:</u>

Title 5, California Code of Regulations section 80309.1 pertains to "initial review" by the Committee of Credentials. That regulation may be renumbered as section 80309.2. A new section 80309.1 could then be crafted to implement the contemplated alternative process for alcohol related convictions. Suggested language may be as follows:

Upon a conviction becoming final of having violated Vehicle Code section 23103 which results in punishment pursuant to Vehicle Code section 23103.5, an initial violation of Vehicle Code section 23152 or a second such conviction becoming final within five years thereof, and except as provided in subdivision (c) below:

(a) Upon a credential holders enrollment in and participation in a court ordered drinking driver program as mandated by Vehicle Code section 23538(b) or 23542(b), or court ordered alcohol and drug education program pursuant to Vehicle Code section 23103.5(e), investigation of the matter shall be held in abeyance. Upon satisfactory proof received which confirms completion of the program the investigation shall be closed.

(b) Should the credential holder fail to enroll in and/or satisfactorily complete said program, the matter shall be subject to discretionary review by the Committee of Credentials.

(c) (a) and (b) shall not apply and investigation by the Committee of Credentials shall proceed whenever any conviction becomes final for having violated Vehicle Code section 23152 or Vehicle Code section 23103 if punishment is imposed pursuant to Vehicle Code section 231013.5 and the underlying facts confirm that the credential holders' actions occurred upon or immediately adjacent to their place of employment or in any manner directly involve a student then enrolled in a facility where the credential holder was employed.

Upon conviction becoming final of a credential holder's third or more conviction within a period of five years for having violated Vehicle Code section 23152, they shall be offered "diversionary probation" pursuant to a program upon terms and conditions as adopted by the Commission on Teacher Credentialing. During the period of "diversionary probation" investigation by the Committee of Credentials shall be held in abeyance. Upon successful completion of the "diversionary probation," the investigation shall be closed. Upon rejection of or failure of the "diversionary probation," investigatory procedures before the Committee of Credentials shall commence by Letter of Inquiry.

**(3) <u>Narrow Scope of Local District Mandatory Reports</u>:**

Within "Objective 3" of the proposed Division of Professional Practices Strategic Plan it is proposed that the Commission: (PPC-4E-4 of Action Item 4E):

> Convene a stakeholders meeting to discuss revisions to the regulation requiring reports from school districts (Title V, CCR section 80303).

The issue presented was discussed in full at the November stakeholder's meeting. It clearly appeared to be the consensus of participants that local school districts need not report to the Committee of Credentials a local dismissal action based solely upon incompetence. This was based upon the problem perceived for the November stakeholder meeting at page PPC-4C-30 of Information Item 4C by the California Teachers Association as follows:

The Committee of Credentials regularly reviews cases in which a credential holder left employment as a result of or while allegations of misconduct were pending. The Committee thereby reviews and relies on a Statement of Charges crafted by local counsel for school districts in their local dismissal actions. Experience has confirmed that multiple allegations of misconduct, many of which were never substantiated by any evidence whatever, let alone reliable evidence, are thereby presented to the Committee of Credentials. Rather than challenge spurious and unfounded charges, many teachers simply resign or "accept a golden handshake" in the face of tactically inflated allegations of misconduct. It is known that training sessions for local school district attorneys regularly encourage throwing "the kitchen sink" at such a teacher in an effort to force resignation rather than litigation. All charges, no matter how spurious or factually unsupported, must under current law then be presented to the Committee of Credentials. Considerable resources are thereby expended both in prosecution and defense of matters never intended to be truly litigated at the school district level and, in many cases, allegations which ultimately had been abandoned or dismissed by a local school district.

The foregoing is acknowledged at paragraph 12 of the "Suggestions to Streamline the Disciplinary Review Process" which resulted from the November stakeholder meeting (PPC-4C-21 of Information Item 4C):

> Investigate only appropriate allegations – related to teacher dismissals:
>
> - Employers agree that dismissals for "unsatisfactory performance" should not be sent to CTC.
> - Discovery weaknesses on the front end/difficulties of proof become clear early on – signed affidavit at the beginning.

The foregoing may be achieved by an appropriate amendment so-limiting Education Code section 44242.5 subdivisions (b)(3) and (d)(5).

Although within its Action Item 4E staff counsel suggests that a stakeholders meeting be "convened" to discuss the foregoing, that is not necessary. The issue was discussed at length at the stakeholder's meeting in November, 2011. Similar considerations apply to the suggested changes with reference to DUI and related offenses previously discussed.

As I indicated on behalf of the CTA in November, 2011, the foregoing proposals are based upon the premise that the Committee of Credentials should move philosophically from its current self-image of "imposer of penalty" to one of "protecting students and encouraging quality educators". Particularly where a court has already imposed significant punishment. That shift will better meet the stakeholders's goal of protecting the safety of students and the rights of applicants and licensees by the effective, efficient and fair handling of cases in a timely manner. More efficient use of resources will clearly result. I sincerely hope that this letter and my prior communication dated November 15, 2011 will be of assistance in achieving the foregoing.

Very truly yours,

MICHAEL ROTHSCHILD

MR:sas

# DPP Single Offense Alcohol Procedures

**Intro**

At its March 7-8, 2012 meeting, the Commission on Teacher Credentialing adopted Agenda item 4B, relating to the Policy for a Single Misdemeanor Alcohol Offense. The policy states the following:

> *An applicant or holder who is convicted of one misdemeanor alcohol related offense shall not be submitted to the Committee of Credentials for review. Staff shall close the matter and note the offense in the DPP database.*
>
> *If an applicant or holder has other acts of misconduct, staff shall include the DUI offense when presenting the case to the Committee of Credentials.*
>
> *The exception to this policy is where staff is aware of the involvement of a child, a school or school property in the alcohol offense, or where adverse publicity impacts the local community. These exceptions shall be presented to the Committee of Credentials.*

With the Policy approval by Commission, DPP will process the following Single offense alcohol related misconduct.

- Single offense DUI: VC 23152(a) or (b) or (a)(b).
- Single offense Wet Reckless: VC 23103 or VC 23103.5
- Single offense Public Intoxication: PC 647(f)

**RAPS**

IF a RAP is received and reveals a Single alcohol related offense as described above, a DMV record search will be conducted, notes will be added to the Person record and the rap will be attached in Person/Attachments. The notes and rap attachment will be notated in the following manner:

***Single Offense DUIs/Wet Reckless***

- Person
  - Add DPP NOTE:
    - See RAP # 1234 // PEND DMV
      - Run DMV
  - Add DPP MISCONDUCT NOTE
    - See RAP # 1234: Single Offense DUI or WR // DMV verified and reflects no other misd violations
  - Attach RAP
    - Add Category: First Offense DUI
    - Add Comments: VC 23152(a)(b) or VC 23103

***Single Offense Public Intoxication***

- Person
  - Add DPP NOTE:
    - See RAP # 1234 // PEND DMV
      - Run DMV
  - Add DPP MISCONDUCT NOTE
    - See RAP # 1234: Single Offense PI // DMV verified and reflects no other misd violations
  - Attach RAP
    - Add Category: No Action Needed
    - Add Comments: Single Offense PC 647(f)

**APPLICATIONS**

If an APPLICATION is received and the Respondent discloses a Single alcohol related offense as described above, a DMV record search will be conducted and notes will be added to the Person record.

***Single OFFENSE DUIs/Wet Reckless***

- Person
  - Add DPP NOTE: APP # 5678 // PEND DMV
  - Add DPP MISCONDUCT NOTE : APP # 5678 // Single Offense DUI or WR: Arrest or Conviction info including the (Date, Location and offense type)
    - Example: APP # 1234 // Single Offense DUI: Arrest on 5/10/2011 in Pasadena, CA for VC 23152(b). DMV verified and reflects no other misd violations

***Single Offense Public Intoxication***

- Add DPP NOTE: APP # 5678 // PEND DMV
- Add DPP MISCONDUCT NOTE: APP #5678 // Single Offense PI: Arrest or Conviction info including the (Date, Location and offense type)
  - Example: APP # 5678 // Single Offense PI: Arrest on 5/10/2011 in Pasadena, CA for PC 647(f).

**CURRENT OPEN CASE**

If a case was previously opened, and the misconduct reflects a Single alcohol offense, the case may be completed in the following manner:

- Person:
  - Add DPP Misconduct Note // Case # 12345678 // Ok to Close Per new Alcohol Policy // See case charges

- Case Charges:
  - Add all relevant information into Case Charges
    - Date
    - Location
    - Offense Type/Level
    - Explanation

- Grant:
  - Add Activity Group// Staff Action
  - Add Activity Type// Grant
  - Add Activity Note // Per New Alcohol Policy
  - Grant the Application
    - Add Activity Group// Staff Action
    - Add Activity Type//File Permed
    - Place folder on Perm Shelf

- Close:
  - Add Activity Group// Staff Action
  - Add Activity Type// Close
  - Add Activity Note // Per New Alcohol Policy
    - Add Activity Group// Staff Action
    - Add Activity Type//File Permed

        - Place folder on Perm Shelf
- Grant/Close:
    - Add Activity Group// Staff Action
    - Add Activity Type//Close/Grant
    - Add Activity Note // Per New Alcohol Policy
    - Grant the Application
        - Add Activity Group// Staff Action
        - Add Activity Group//File Permed
        - Place File on Perm Shelf

**Department of Motor Vehicles (DMV)**

DMV verification will be used when any Single Offense Alcohol related misconduct is reviewed. If additional violations are noted on the DMV record, only an additional misdemeanor will require the misconduct to be reviewed on the Consent Calendar. If you have any questions as to the level of a violation on the DMV, please see your supervisor. DMVs will be scanned and attached in the following format: (see Scan, Attach and Shred)

- Example: SMITH_JOHN_DMV_MMDDYYYY

**Online Court Records**

If online court documents are available, and verify any of the received information, the documents will be converted to .pdf format (Adobe Acrobat) and attached. (See Scan, Attach and Shred)

- Example: Orange County Sup Court_SMITH_DUI
- Example: Riverside County Sup Court_ADAMS_WR
- Example: Sacramento County Sup Court_JOHNSON_PI

**Additional Violations**

If additional reviewable violations are noted by any source; DMV, online documentation, received documentation or by Respondent's disclosure, the misconduct no longer qualifies as a Single offense, and all misconduct will be reviewed by Committee.

**Documentation**

Additional documentation will not be required/requested, however if documentation is received from Respondent or other source, DPP staff will review those documents for any aggravating circumstances as related in the *Exception* portion of the Policy. If any aggravating circumstances are noted, the misconduct no longer qualifies as a Single offense, and the misconduct will be reviewed by Committee.

**Scan, Attach and Shred**

Because we may not always have a physical file for a Single Offense Alcohol Misconduct review, scanning and attaching the documents allows any DPP staff to revisit the information when needed. Scanning and attaching the documentation lets the information be available immediately and without State Record Center delay, and allows the Division to limit its physical storage capacity by placing all scanned and attached documents into the Confidential Shred bins.

*Who?*

- Any DPP staff member.

*What?*

- Any documentation scanned and attached may be placed in the Confidential Shred bin.

- Any documentation contained already within Siebel (online applications and Response RO records) may also be placed in the Confidential Shred bin.

*When?*

- At the completion of review.

*Why?*

- Allows staff to use technology available, which in the future will assist in the total efficiency of the Division.

*Where?*

- If there is a case; attach to CASE Attachments.
- If there is no case and the documents were entered into Intake; attach to INTAKE attachments.
- If there is no case and the documents were not entered into Intake (Online court/DMV); attach to PERSON attachments.

**With the exception of RAPS, which are stored in PERSON Attachments.*

## DPP Single Offense Alcohol Report

A DPP Misconduct Report will run daily and be reviewed by management.

### *Sample Report*

Division of Professional Practices
DPP Single Offense Alcohol Misconduct Report
For Notes Entered 03/21/2012

3/22/2012 6:01:27AM
Page 1 of 1

Manager Initials:

| Date | SSN | Name | Note | DPP Status | Date of Most Recent Case |
|---|---|---|---|---|---|
| 03/21/2012 | [redacted] | [redacted] | App # 7180. Single DUI. 2007/04/27 CASCCOMPTON<br>001:COM6CP0801401<br>23152(B) VC-DUI ALCOHOL/0.08 PERCENT<br>DISPO:CONVICTED-PROB/JAIL<br>CONV STATUS:MISDEMEANOR<br>SEN: 036 MONTHS PROBATION, 001 DAYS JAIL, FINE, RESTN.<br>IMP SEN SS | C | None |
| 03/21/2012 | [redacted] | [redacted] | App # 7241. Self-disclosed Single DUI, 1991. DMV and fingerprints clear. | C | None |
| 03/21/2012 | [redacted] | [redacted] | App # 7073. Single DUI.2005/03/15 CASCPLACER<br>001:62 50051<br>23152(A) VC-DUI ALCOHOL/DRUGS<br>DISPO:CONVICTED-PROB/JAIL<br>CONV STATUS:MISDEMEANOR | C | None |
| 03/21/2012 | [redacted] | [redacted] | app # 7130. Single DUI.2001/08/21 CASCSANTA CRUZ CRIM TRAFF<br>001:71393PR<br>23152(A) VC-DUI ALCOHOL/DRUGS<br>DISPO:CONVICTED-PROB/JAIL<br>CONV STATUS:MISDEMEANOR<br>SEN: 060 MONTHS PROBATION, JAIL, FINE | C | None |

| Date | SSN | Name | Note | DPP Status | Date of Most Recent Case |
|---|---|---|---|---|---|
| 03/21/2012 | [redacted] | [redacted] | APP # 7173 / RAP DATED 01-21-12 // SINGLE OFENSE DUI // ARREST 06/2000.<br>Conviction 08-09-00 VC 23152(b) CASSMC Chula Vista #S152027. DMV - Clear. | C | None |

Total items for report: 5

Record selection criteria:
(DPP_DUI_NOTE_SUMMARY_VW.NOTE_TYPE) = "DPP MISCONDUCT NOTE" and
(DPP_DUI_NOTE_SUMMARY_VW.NOTE_DATE) = CurrentDate - 1
Linked as: First-time DUI Notes Summary

Division of Professional Practices
DPP Single Offense Alcohol Misconduct Report
For Notes Entered 03/21/2012

3/22/2012 6:01:27AM


Manager Initials:

[redacted]

| Date | SSN | Name | Note | DPP Status | Date of Most Recent Case |
|---|---|---|---|---|---|
| 03/21/2012 | [redacted] | [redacted] | App # 7180. Single DUI. 2007/04/27 CASCCOMPTON<br>001:COM6CP0801401<br>23152(B) VC-DUI ALCOHOL/0.08 PERCENT<br>DISPO:CONVICTED-PROB/JAIL<br>CONV STATUS:MISDEMEANOR<br>SEN: 036 MONTHS PROBATION, 001 DAYS JAIL, FINE, RESTN,<br>IMP SEN SS | C | **None** |
| 03/21/2012 | [redacted] | [redacted] | App # 7241. Self-disclosed Single DUI, 1991. DMV and fingerprints clear. | C | **None** |
| 03/21/2012 | [redacted] | [redacted] | App # 7073. Single DUI.2005/03/15 CASCPLACER<br>001:62 50051<br>23152(A) VC-DUI ALCOHOL/DRUGS<br>DISPO:CONVICTED-PROB/JAIL<br>CONV STATUS:MISDEMEANOR | C | **None** |
| 03/21/2012 | [redacted] | [redacted] | app # 7130. Single DUI.2001/08/21 CASCSANTA CRUZ CRIM TRAFF<br>001:71393PR<br>23152(A) VC-DUI ALCOHOL/DRUGS<br>DISPO:CONVICTED-PROB/JAIL<br>CONV STATUS:MISDEMEANOR<br>SEN: 060 MONTHS PROBATION, JAIL, FINE | C | **None** |

[redacted]

| Date | SSN | Name | Note | DPP Status | Date of Most Recent Case |
|---|---|---|---|---|---|
| 03/21/2012 | [redacted] | [redacted] | APP # 7173 / RAP DATED 01-21-12 // SINGLE OFENSE DUI // ARREST 06/2000.<br>Conviction 08-09-00 VC 23152(b) CASSMC Chula Vista #S152027. DMV - Clear. | C | **None** |

**Total items for report: 5**

Record selection criteria:

{DPP_DUI_NOTE_SUMMARY_VW.NOTE_TYPE} = "DPP MISCONDUCT NOTE" and
{DPP_DUI_NOTE_SUMMARY_VW.NOTE_DATE} = CurrentDate - 1

Listed as: First-time DUI Notes Summary

# COC Consent Calendar Procedures

**Intro**

Effective April 30, 2011, the Commission changed its review process of what was previously called a "not under" (NU). Previous NUs were reviewed by a manager based on general guidelines. If a case fell below the scope of the guidelines, and it was determined that the misconduct was not under the jurisdiction of the Commission, a staff close or staff grant was processed. If it was above the scope of the guidelines, the case was forwarded to an attorney, who then determined the level of case review needed. Effective May 1, 2011, a new process called COC Consent Calendar Misconduct (CC) was implemented, which is the review of all misconduct that falls under the jurisdiction of the Commission. CoC CCs will be processed as outlined below:

**Notification**

When the Commission is notified of misconduct, via fingerprint history (RAP), school district notification, self-disclosure on an application, affidavit or any other notification, it is reviewed according to the basic guidelines of the Division and designated as an appropriate case type. This case type may change with the evolution of the case.

**Case Type**

- COC Consent Calendar – These cases are to be reviewed by Committee (Previously NUs)
    - Examples:
        - Multiple DUIs that do not meet the LOI criteria
        - Resisting Arrest (PC 148)
        - Trespassing (PC 602) – in relation to Protesting
        - Petty Theft (PC 484)

**Processing**

- Flag the information in Person//Notes
    - App #0101/Rap, Rap or App#0101
- Create a New Case
- In the Case//More Info tab
    - Add Case Type
- In Case//Activities
    - Add Activity Group//Case Opened
    - Add Activity Type//Application & Rap, Rap or Application
        - Add Activity Group//Prepare Document
        - Add Activity Type//Misconduct Review Form
- Prepare the MR Misconduct Form
    - Add Activity Group//Pending Arrival
    - Add Activity Type//Misconduct Review Form
    - Give to Manager for review
- After review, approval and signature
    - Change Case Type to: COC Consent Calendar
    - Add Meeting Date (must be in M/D-D/YYYY format)
        - Add Activity Group//Assigned To
        - Add Activity Type// COC Consent Calendar -OR-
        - Add Activity Type//COC Consent Calendar (Discuss) [Effective June 2011 meeting]

        - Change the Effective Date to the Wednesday date of the meeting (ex: 6/22/2011)
    - Attach Misconduct Review Form to Case//Attachments
    - Add Info to Case Charges (copy and paste from your MR attachment)

**Case Charges**

Add the misconduct that needs reviewed by the Committee into Case Charges. Any prior misconduct or previous reviews should be briefly included. You will need to include the following:

- Criminal
    - Info Arrest//Location
    - Conviction//Date
    - Code Section Violated
    - Misdemeanor//Felony
    - Dismissal//Expungement
    - Brief Summary of Misconduct: Include any aggravating circumstances, such as violence, acting belligerent, or if children were involved.
    - Prior Case Review and associated action
        - EX: NU GRANT 12/01/2010 for a 2009 DUI VC 23152(a)
- Misconduct Info
    - Date
    - Location
    - School District, if applicable
    - Explanation of Misconduct
    - Result of Misconduct

After approval and Siebel is updated as described above, the Technician will place the file in the COC Consent Calendar box. This box will contain any documents that will be available for the Committee to review during the meeting. They will be listed in alphabetical order with the final report that goes to Committee.

**Committee Recommendations**

Once Committee has completed its review, a record of the Committee's action for each case will be given to the Technician's for completion. For each activity entered for Committee, the effective date must be the WEDNESDAY after Committee. For example: Committee meets 06/22-24/2011, the effective date for any Consent Calendar grant, close or close/grant would be 6/29/2011.

- Grant:
    - Add Activity Group//COC Consent Calendar
    - Add Activity Type// Grant
    - Change effective date to following Wednesday
        - Add Activity Group// COC Consent Calendar
        - Add Activity Type//File Permed
        - Change the effective date to following Wednesday
- Close:
    - Add Activity Group// COC Consent Calendar
    - Add Activity Type// Close
    - Change effective date to following Wednesday

        - Add Activity Group// COC Consent Calendar
        - Add Activity Type//File Permed
        - Change effective date to following Wednesday
- Grant/Close
    - Add Activity Group// COC Consent Calendar
    - Add Activity Type//Close/Grant
    - Change effective date to following Wednesday
        - Add Activity Group// COC Consent Calendar
        - Add Activity Group//File Permed
        - Change effective date to following Wednesday

Once all of the activities are completed, place the file on the perm shelf in alphabetical order.

- Pursue: If Committee recommends further review and investigation, the case will move forward as an LOI, add the following:
    - Add Activity Group//Assigned To
    - Add Activity Type//Pending LOI
    - Change case type to Pending LOI
    - Change case manager to Investigative Supervisor
    - Put in the Investigative Supervisor's Office

**Consent Discuss**

A secondary detailed level of review was added to the Consent Calendar and is termed Consent Discuss. The Discuss level of review is determined by Staff Counsel, and is handled in the exact fashion as Consent Calendar with the following exceptions:

**Processing:**

- After review, approval and signature
    - Change Case Type to: COC Consent Calendar
    - Add Meeting Date (must be in M/D-D/YYYY format)
        - Add Activity Group//Assigned To
        - Add Activity Type// COC Consent Calendar -OR-
        - **Add Activity Type//COC Consent Calendar (Discuss) [Effective June 2011 meeting]**
        - Change the Effective Date to the Wednesday date of the meeting (ex: 6/22/2011)

**Case Charges:**

- Include the following ***additional*** information from the Misconduct Review form:
    - Designation
    - Type
    - Additional Doc Info
    - Failed to Disclose

# 2012 COC CONSENT and DISCUSS Calendar DUE DATES

| CoC MEETING | DUE to MGR By: | MGR Review By: | In Siebel By: | SSA Downloads By: | SSA Uploads By: | Grant/Closes By: |
|---|---|---|---|---|---|---|
| JAN 18-20 | 1/4 | 1/5 | 1/6 | 1/9 | 1/13 | 1/25 |
| FEB 15-17 | 2/1 | 2/2 | 2/3 | 2/6 | 2/10 | 2/22 |
| MAR 21-23 | 3/7 | 3/8 | 3/9 | 3/12 | 3/9 | 3/28 |
| APR 18-20 | 4/4 | 4/5 | 4/6 | 4/9 | 4/13 | 4/25 |
| MAY 16-18 | 5/2 | 5/3 | 5/4 | 5/7 | 5/11 | 5/23 |
| JUN 20-22 | 6/6 | 6/7 | 6/8 | 6/11 | 6/15 | 6/27 |
| JUL 18-20 | 7/3 | 7/5 | 7/6 | 7/9 | 7/13 | 7/25 |
| AUG 22-24 | 8/8 | 8/9 | 8/10 | 8/13 | 8/17 | 8/29 |
| SEP 19-21 | 9/5 | 9/6 | 9/7 | 9/10 | 9/14 | 9/26 |
| OCT 17-19 | 10/3 | 10/4 | 10/5 | 10/8 | 10/12 | 10/24 |
| NOV 14-16 | 10/31 | 11/1 | 11/2 | 11/5 | 11/9 | 11/21 |
| DEC 12-14 | 11/26 | 11/27 | 11/28 | 12/3 | 12/7 | 12/19 |

# No Longer Interested (NLI) Process

**Intro:**

When a Respondent's credential expires, their application is rejected, or they have simply failed to apply in a timely manner, their Department of Justice/Federal Bureau of Investigation (DOJ/FBI) statuses (fingerprints) are invalidated. If a credential expires, a Respondent currently has 3 years to re-apply prior to their prints being invalidated.

**NLI Process:**

DPP Manual Process: The manual process means that a DPP staff member has created the following Person Note: TYPE//DOJ/NLI. The Description field will contain any information on why the Commission is invalidating the fingerprints on this person.

- Place DOJ/NLI note type
- Place information in Description field of DOJ/NLI note
- Change DOJ/FBI statuses to N
  - N = Needs: this will force Respondent to re-fingerprint
- If NLI is processed by DPP staff
  - Change DPP status to F
    - F = Flagged: this forces any new application to DPP for review

It is possible that a Respondent in Siebel has the status of N/N in the DOJ/FBI fields and a NLI note is not present. These statuses may be set at any time to assist the entire Commission in recognizing that Respondent needs fingerprints.

NLI REPORT: The NLI Report will run daily, and captures all DOJ/NLI notes placed in Person Notes, and based on any other listed criteria (expiration, etc.). This report will create a list that will be submitted to DOJ each day for processing. This list will batch individuals pursuant to DOJ requirements. When the batch list is processed, the DOJ/NLI note in person will change to DOJ/NLI SENT and the DOJ/FBI statuses will change to N. This will tell staff that the NLI request was processed and Respondent must be re-fingerprinted. If Siebel determines that not all criteria are met to send the NLI to DOJ, the information is recorded on an exception report, and the DOJ/NLI Note is changed to DOJ/NLI VOIDED. The exception reports are sent to the Manager of the Intake Unit for review and further processing.

Siebel Automation Process: The automation of NLI means that Siebel will do a full sweep of Respondents in the database, and will NLI any person whose credentials have expired over 3 years from the date of expiration, have no pending applications, and have no open cases in DPP. This information is transmitted to DOJ electronically for immediate processing (within 24 hours).

The process of invalidating (NLI) a person's fingerprints is to assure that the Commission has the most accurate information relative to criminal history available. The (FBI) does not currently have a subsequent rap notification program, so CTC does not receive additional out of state criminal history notifications without a re-print. Although the DOJ does have a subsequent rap notification program for California violations, the purpose of the NLI is two-fold. The CTC does not wish to receive sub rap notifications on persons who no longer hold a valid credential as the rap notification process is time intensive, and the NLI process will help reduce the number of unnecessary raps received monthly.

**Exception Reports:**

- DOJ/FBI statuses are incorrect (DOJ/NLI note voided)
    - Check that the DOJ/FBI statuses have been changed to N correctly and Respondent does not have a pending application or hold a valid document.
- FP Response Received near an NLI event (No Action Taken)
    - Check the Response RO tab under Person to verify the date of Response and confirm fingerprint status.
- App pending/NLI set manually (DOJ/NLI note voided)
    - Check APP status. If Respondent has a valid application pending, forward info to staff member who placed NLI note for correction.
- Valid documents/NLI set manually (DOJ/NLI note voided)
    - If Respondent has a valid document, forward info to staff member who placed NLI note for correction.
- Case Open (DOJ/NLI note voided)
    - If all other factors are present that would allow an NLI to process, but DPP has an open case.

The above sections are listed on an exception report which requires review by Staff. The DOJ/NLI note will move to voided until correction, and will reflect on the exception report until corrected.

# TRANSACTION REPORT

MAR/20/2012/TUE 01:12 PM

FAX(TX)

| # | DATE | START T. | RECEIVER | COM.TIME | PAGE | TYPE/NOTE | FILE |
|---|---|---|---|---|---|---|---|
| 001 | MAR/20 | 01:10PM | 2274722 | 0:01:11 | 8 | OK SG3 | 0506 |

**Commission on Teacher Credentialing**
1900 Capitol Avenue Sacramento, CA 95811 (888) 921-2682 www.ctc.ca.gov
*Division of Professional Practices*

March 20, 2012

Department of Justice
Bureau of Criminal Investigation and Analysis
P.O. Box 903417
Sacramento, CA 94203-4170

Please process the enclosed batch of 100 persons in whom we are no longer interested. We wish to stop receiving RAP information related to the indicated application types for these persons. **Our ORI number is A0821.** Please contact Rachel Grizzaffi at (916) 323-4996 with any questions or concerns.

Sincerely,

R. Grizzaffi

for Gary Chapman

Custodian of Records
California Commission on Teacher Credentialing

**Fax to (916) 227-4722**
**DOJ: Please Process MANUALLY**

California Commission On Teacher Credentialing - **ORI # A0821**

(CTC internal batch number: 201203_00016)



| Name | Sex | DOB | AppType | SSN | NLI Date |
|---|---|---|---|---|---|
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |
| [redacted] | X | [redacted] | 92078, 90000, 92117 | [redacted] | 03/22/2012 |

# NLI Batch Run Exception Report



## Exceptions for batch number 201203_00016 processed on 03/22/2012

**Exception Description:**
**DOJ/FBI Status Codes Incorrect**

**Action Taken:**
**Response NLI flag(s) set to N; Person Note Type (if any) set to DOJ/NLI Void.**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | MANUAL |

Total DOJ/FBI Status Codes Incorrect: 1

**Exception Description:**
**FP Response received near NLI Event**

**Action Taken:**
**No action taken. (Verify the person's status with DOJ.)**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | AUTO_UPLOAD |

Total FP Response received near NLI Event: 1

**Exception Description:**
**App pending for manually flagged NLI**

**tion Taken:**
**esponse NLI flag(s) set to N; Person Note Type (if any) set to DOJ/NLI Void.**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | AUTO_UPLOAD |

Total App pending for manually flagged NLI: 1

**Exception Description:**
**Open Case - Ongoing**

**Action Taken:**
**Response NLI flag(s) set to N; Person Note Type (if any) set to DOJ/NLI Void.**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | MANUAL |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | MANUAL |
| | | AUTO_UPLOAD |

Total Open Case - Ongoing: 5

**Exception Description:**
**Open Case - Exception**

**Action Taken:**
**ponse NLI flag(s) set to N; Person Note Type (if any) set to DOJ/NLI Void.**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | MANUAL |
| | | MANUAL |

# NLI Batch Run Exception Report



## Exceptions for batch number 201203_00016 processed on 03/22/2012

**Exception Description:**
**Open Case - Exception (Continued)**

**Action Taken:**
**Response NLI flag(s) set to N; Person Note Type (if any) set to DOJ/NLI Void.**

| Name | SSN | Batch Type |
|---|---|---|
| [redacted] | [redacted] | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
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| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | MANUAL |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | MANUAL |
| | | MANUAL |
| | | MANUAL |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | MANUAL |
| | | MANUAL |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | MANUAL |
| | | AUTO_UPLOAD |
| | | MANUAL |
| | | MANUAL |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |
| | | AUTO_UPLOAD |

Total Open Case - Exception: 42

# No Longer Interested (NLI) Process

**Intro:**
When a Respondent's credential expires, their application is rejected, or they have simply failed to apply in a timely manner, their Department of Justice/Federal Bureau of Investigation (DOJ/FBI) statuses (fingerprints) are invalidated. If a credential expires, a Respondent currently has 3 years to re-apply prior to their prints being invalidated.

**NLI Process:**

DPP Manual Process: The manual process means that a DPP staff member has created the following Person Note: TYPE//DOJ/NLI. The Description field will contain any information on why the Commission is invalidating the fingerprints on this person.

- Place DOJ/NLI note type
- Place information in Description field of DOJ/NLI note
- Change DOJ/FBI statuses to N
  - N = Needs: this will force Respondent to re-fingerprint
- If NLI is processed by DPP staff
  - Change DPP status to F
    - F = Flagged: this forces any new application to DPP for review

It is possible that a Respondent in Siebel has the status of N/N in the DOJ/FBI fields and a NLI note is not present. These statuses may be set at any time to assist the entire Commission in recognizing that Respondent needs fingerprints.

NLI REPORT: The NLI Report will run daily, and captures all DOJ/NLI notes placed in Person Notes, and based on any other listed criteria (expiration, etc.). This report will create a list that will be submitted to DOJ each day for processing. This list will batch individuals pursuant to DOJ requirements. When the batch list is processed, the DOJ/NLI note in person will change to DOJ/NLI SENT and the DOJ/FBI statuses will change to N. This will tell staff that the NLI request was processed and Respondent must be re-fingerprinted. If Siebel determines that not all criteria are met to send the NLI to DOJ, the information is recorded on an exception report, and the DOJ/NLI Note is changed to DOJ/NLI VOIDED. The exception reports are sent to the Manager of the Intake Unit for review and further processing.

Siebel Automation Process: The automation of NLI means that Siebel will do a full sweep of Respondents in the database, and will NLI any person whose credentials have expired over 3 years from the date of expiration, have no pending applications, and have no open cases in DPP. This information is transmitted to DOJ electronically for immediate processing (within 24 hours).

The process of invalidating (NLI) a person's fingerprints is to assure that the Commission has the most accurate information relative to criminal history available. The (FBI) does not currently have a subsequent rap notification program, so CTC does not receive additional out of state criminal history notifications without a re-print. Although the DOJ does have a subsequent rap notification program for California violations, the purpose of the NLI is two-fold. The CTC does not wish to receive sub rap notifications on persons who no longer hold a valid credential as the rap notification process is time intensive, and the NLI process will help reduce the number of unnecessary raps received monthly.

**Exception Reports:**

- DOJ/FBI statuses are incorrect (DOJ/NLI note voided)
    - Check that the DOJ/FBI statuses have been changed to N correctly and Respondent does not have a pending application or hold a valid document.
- FP Response Received near an NLI event (No Action Taken)
    - Check the Response RO tab under Person to verify the date of Response and confirm fingerprint status.
- App pending/NLI set manually (DOJ/NLI note voided)
    - Check APP status. If Respondent has a valid application pending, forward info to staff member who placed NLI note for correction.
- Valid documents/NLI set manually (DOJ/NLI note voided)
    - If Respondent has a valid document, forward info to staff member who placed NLI note for correction.
- Case Open (DOJ/NLI note voided)
    - If all other factors are present that would allow an NLI to process, but DPP has an open case.

The above sections are listed on an exception report which requires review by Staff. The DOJ/NLI note will move to voided until correction, and will reflect on the exception report until corrected.

# DPP Phone Queue Voicemails/Messages Procedures

**Intro**

The Commission on Teacher Credentialing's telephone queues are available to accept voicemails on business days between the hours of 12pm and 4:45pm. When callers reach the Division of Professional Practices through CTC's phone queue system, callers are presented with the option to leave a message. The DPP Intake Team is responsible for retrieving the voicemails and compiling the messages into one DPP Queue Phone Messages Log for distribution to appropriate staff who are the intended recipients of the calls. Staff is required to respond to their messages within 1 business day.

**Retrieving DPP Phone Queue Voicemails (CCOD/CCA Login / Wallboards / Voicemail Windows)**

The DPP Intake team will Log in to CCOD/CCA in the morning before 9 AM to retrieve the previous day's DPP Phone Queue voicemails.

Logging in to CCOD/CCA:
https://service.contactondemand.com/CCA/

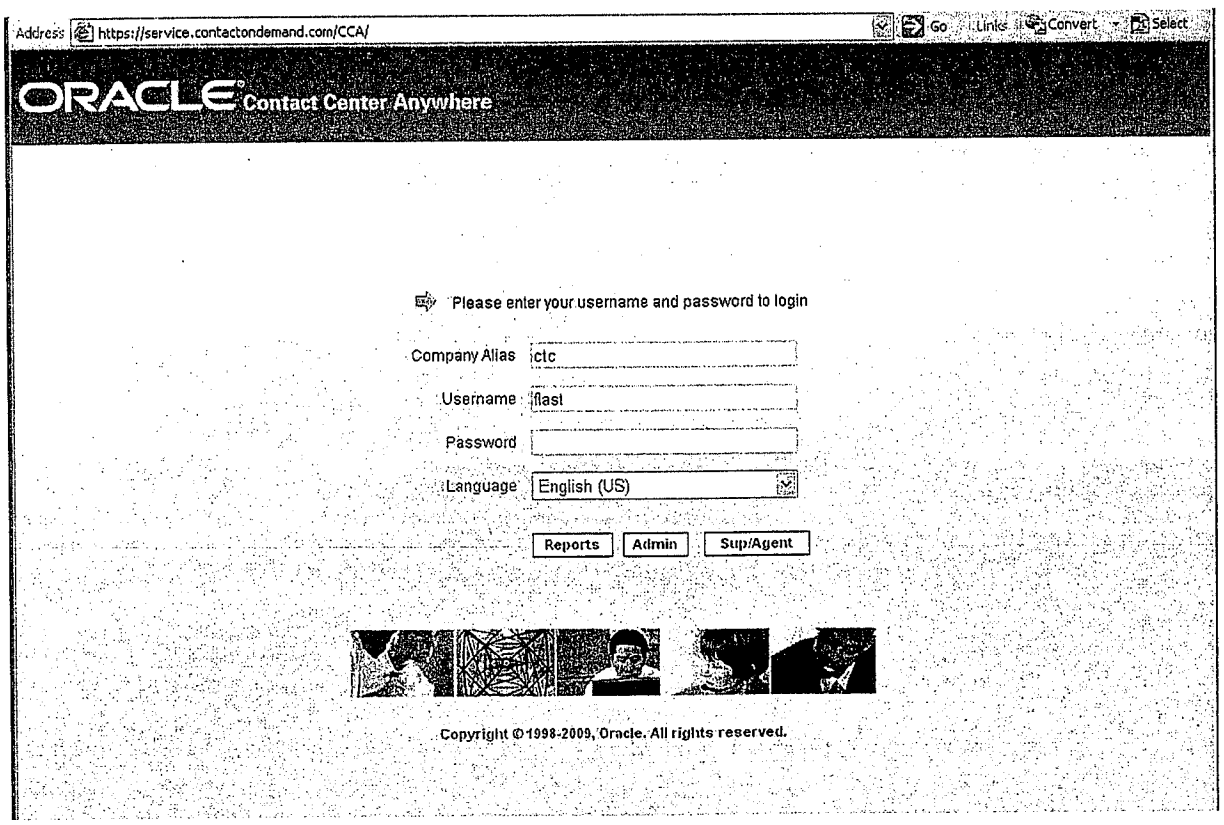
Company Alias is: "ctc"

Enter Username

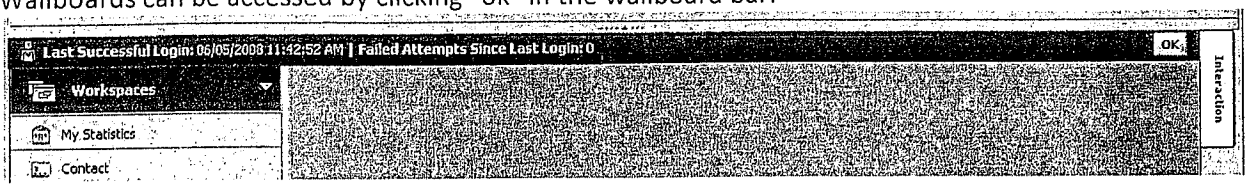
Enter Password

Click "Sup/Agent"

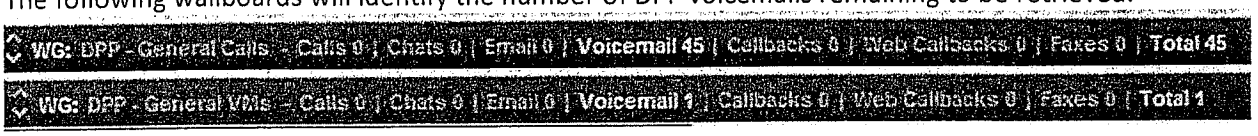
Interaction Agent will open



CCOD/CCA Wallboards:
Wallboards can be accessed by clicking "ok" in the wallboard bar:

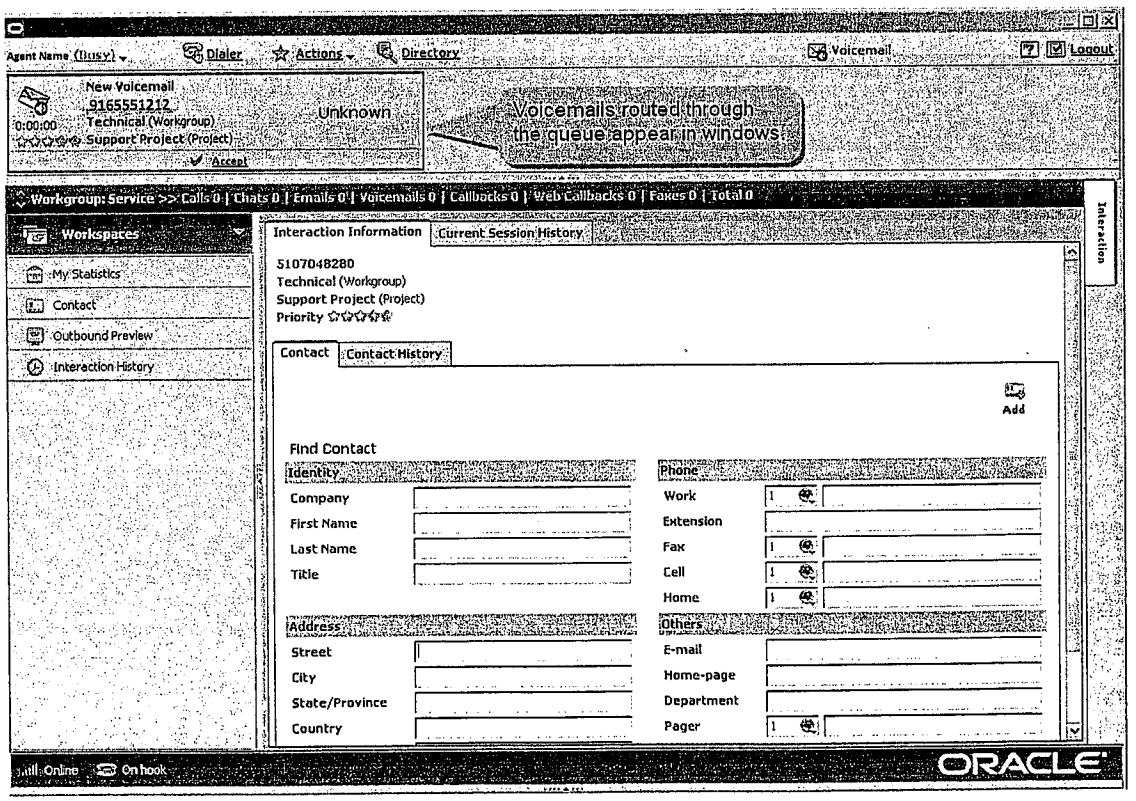



The following wallboards will identify the number of DPP voicemails remaining to be retrieved.




Incoming calls/voicemails:
New voicemails from the queue that are routed to an agent will show as follows in a yellow box/window. Click on "Accept" to listen to the voicemail. Accepted voicemails will turn into a blue box.

To right, we see an envelope icon with "Voicemail" next to it in red. These are voicemails that have been transferred directly to this agent's line. They are like "personal" voicemails as opposed to Queue voicemails that show up in the boxes/windows.



## DPP Phone Queue Messages: Agent Log

Upon retrieval of voicemails, DPP Intake Team DPP Phone Queue Agents will identify callers in Siebel and complete pertinent information on the DPP Phone Queue Messages: Agent Log, so that appropriate staff who are the intended recipients of the calls and messages can easily identify the caller and caller's information in Siebel. Pertinent information will include: Agent Initials, Recipient Initials, Caller Last Name, Caller Contact phone #, and additional identifier such as *SSN, DOB, email address, etc.

Special attention should be given to correct spellings of names, correct transcription of *SSN info, and including additional identifiers such as DOB, Email Address, Case #, etc when provided by caller or if known.

Agents will then email their logs to the Analyst compiling the DPP Queue Phone Messages Log for distribution.

**DPP PHONE QUEUE MESSAGES**

**AGENT LOG**

| | DPP Queue Agent | Date Voicemail Received | TO: | From: LAST NAME | FIRST NAME | Contact Phone | *SSN | Message/ Reason for Call | DOB | Email/ if given | Case # if known | Contact Phone 2 if given |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| i.e | JAN | 3/14/2012 | IW | SMITH | JANE | 916 555 1212 | 1234 | STATUS | | | | |
| 1 | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | |

## DPP Queue Phone Messages Staff Notification

Analyst will compile Agent logs into one log for distribution and distribute the log to appropriate staff via email before 10 AM.

**From:** Analyst
**Sent:** Day, Month 1, 2012 12:00 AM
**To:** Intended Recipients
**Cc:**
**Subject:** DPP Queue Phone message for you

**Please respond to the following phone messages within 1 business day.**
**You may find your messages by identifying your initials in the "TO:" column. Thank you.**

| DPP Queue Agent | Date | TO: | From: LAST NAME | FIRST NAME | Contact Phone | Email/ if given | *SSN | DOB | Message/ Reason for Call | Case # if known | Contact Phone 2 given |
|---|---|---|---|---|---|---|---|---|---|---|---|
| JAN | 3/14/2012 | AC | Smith | John | 111 111 1111 | | 1234 | | Status | | |
| MC | 3/14/2012 | AC | Doe | Jane | 222 222 2222 | | 2345 | | Status | | |
| LH | 3/14/2012 | MC | Williams | Mister | 333 333 3333 | | 3456 | | Appeal | | |

## Responding to Messages from DPP Queue Phone Messages Log

Staff will identify their messages by locating their initials in the "TO:" column and responding to the message via email or telephone within 1 business day.

## INTRO

Rap sheets are a record of a person's criminal history. Both Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) process the fingerprints when a person takes a fingerprint exam (usually called a LIVESCAN). The criminal history of a person fingerprinted is then returned to our agency. We commonly receive these rap notifications prior to someone applying for a Certificate of Clearance or any type of Credential. Their background must be reviewed and approved by our Division prior to their original application being granted. If they hold any credential and a rap sheet is received, they are called Subsequent rap notifications. We receive these rap sheets from DOJ only. The FBI does not currently have a subsequent rap notification program. DOJ reports criminal history for crimes committed in the state of California. The FBI reports criminal history for any/all crimes committed in any other state and may or may not reflect California criminal history.

Raps are processed on a daily basis from three different sources:

Subsequent arrest notifications:

1. SMSS online system: staff process Raps daily.
2. Paper rap received from CAW: Stamped by OT, scanned (eff. 4/20/2010) and processed by staff.

Original fingerprint submissions:

3. E-Z Gov/DOJ Interface: OTs access to process newly submitted fingerprints.

Each rap will be reviewed and the following should be entered into Siebel.

- Person/Notes/DPP Note: See RAP

Paper raps are received from CAW/Gary Chapman, and may come to DPP once or twice a week. Paper raps come from DOJ, and are sometimes duplicates of raps we have already received in the SMSS system. They can however, be for individuals that were fingerprinted prior to our online system. (see Not in Siebel section). Prior to 4/20/2010, paper raps were reviewed and processed without being attached. Therefore, the Person note will just read RAP.

## CATEGORIES

Raps are currently processed in two different groups.

- Raps that need additional processing. These raps stay with the case through completion.
  - New
  - Potential LOI
  - Potential Mandatory
  - Open Case Update
- Raps that do not require additional processing.
  - RFRDOJ
  - Duplicate

- Traffic/Infraction
- Infraction
- First Offense DUI
- No Action Necessary (NAN)
- Red Flag

The raps are assigned to different categories depending on the level of review necessary after a complete review of determining factors, i.e., prior misconduct, type of current misconduct, type of credential held (CoC vs. TC1) etc.

To view the attached rap and see which category it was assigned and any comments associated with the rap go to: Person//Attachments

The following categories are in Person/Attachments and dictate how a rap should be processed.

a. New
b. Duplicate
c. RFRDOJ
d. Already Reviewed
e. Potential LOI (POT LOI)
f. Potential Mandatory (POT MAND)
g. Open Case Update
h. Traffic
i. Infraction
j. First Offense DUI
k. No Action Needed (NAN)
l. Red Flag

**New:** If Respondent has a rap with new charges, and a case needs to be opened. The rap will be categorized as NEW, and the rap forwarded to the appropriate OT. New cases will be ALL cases that are not POT LOI or POT MAND cases.

**Duplicate:** If a Respondent has been fingerprinted on multiple occasions, their rap sheet will appear duplicated. The arrest/conviction information will be identical on these raps. The original fingerprint date will be different. These raps are kept together, as they come from DOJ as separate notifications.

**RFRDOJ:** (Red Flag Reject Department of Justice) When a Respondent no longer has valid documents or an application in Siebel, his rap sheet may be marked as RFRDOJ. Please be cautious to review the misconduct date, and verify that Respondent was not holding when the misconduct occurred or during conviction. You may only RFRDOJ a rap when the Respondent is NOT holding, and their misconduct did not occur while they were holding or convicted. Currently we process RFRDOJs as follows:

Respondent in Seibel:

- IF all docs are expired and there is no current application within 3 months of process date: Red Flag/NAN
- IF all docs are expired and no current app over 3 months of process date: RFRDOJ

Respondent not in Siebel:

- IF a Respondent has been fingerprinted but are NOT IN SIEBEL (NIS) and have been printed within one year of rap process date: Red Flag/NAN
- IF a Respondent has been fingerprinted but are NOT IN SIEBEL (NIS) and have been printed over one year of the rap process date: RFRDOJ
- IF a Respondent has been fingerprinted but are NOT IN SEIBEL (NIS) and have been fingerprinted prior to March 1989: SEE SEID/Jacket Request section.

Effective March 8, 2011, DPP began returning the physical RFRDOJ raps to DOJ. The package of raps is accompanied with a brief letter from CTC, and an attached spreadsheet with the names, SSNs and date sent by DOJ, and date returned to DOJ listed. This package is compiled on Fridays, and mailed to DOJ on Mondays. A copy of the letter and spreadsheet are kept on the DPP share drive. J:\Raps\RFRDOJ.

**Not in Siebel (NIS):** Any person fingerprinted prior to March 1989 may not be in Siebel. These raps require a jacket request to CAW. CAW will search the microfiche for this person and return all DPP related material to the requestor. The detail of the person will also be entered into Siebel by CAW. The person's rap should then be added to Person/Attachments. (see Location of Raps)

Some persons may have been fingerprinted but haven't applied yet, and may never apply. These persons are in Siebel, but not in the standard search query. Any persons fingerprinted after March 1989 should be reflected in Siebel. To find these people, query the following: Use =DOJ in the last name field and DOJ in the first name field and hit Go. Now click on the Response RO tab. Now query by SSN or by first and last name. Sometimes the SSN will be blank. If the SSN is blank, the Micro Team in CAW can manually move the person from Response RO, into Siebel. The SSN will sometimes be listed in the OCA field. In order for the information to attach into Siebel, you'll need to use whatever number is listed in the SSN field. Once you have entered a new person into Seibel, you can change the SSN to the correct number as listed on the rap and in the OCA field. Please see How to Enter a Person in Siebel for directions on how to correctly enter a person in Siebel and what information you need to include.

**Reminder:** A "JACKET" request rap to CAW cannot be attached at the time the rap is received, because there isn't a "person" in Siebel. Once CAW pulls the microfilm and enters the Respondent into Siebel, the Rap may be attached at that time. The date the rap is attached may not always be reflective of the date of the rap itself.

**SEID/Jacket Request**

In January 2008, County Offices of Education (COE) were notified that in a joint project between the CA Department of Education and CTC, the issuance of State Educator Identification (SEID) numbers became

effective March 1, 2008. This SEID is a 10-digit randomly generated number given the COE by CTC. Annually, all COE's must identify persons working within their county and make sure they have a SEID #.

Effective April 8, 2011, a new process was created between CAW and DPP, which allows DPP to create a person in Siebel when a rap sheet is received and the Respondent is a possible Jacket Conversion. It is the thought process of both Divisions, that because these persons are still NIS that they are NOT working for a District are retired, or deceased. A new Person//Note//Type was created: "Check for Jacket." This note will be used by DPP to alert CAW that DPP has information regarding this person. Should a SEID number be requested by a COE, or, should the person re-apply, CAW will forward any/all information to DPP. DPP will process Jacket Conversion Raps accordingly:

DPP will place the following notes and attachments in Person for all persons with a rap sheet that may be a possible Jacket Conversion:
Person//Note
Check for Jacket// See RAP: RED FLAG: NIS: R fingerprinted MM/YYYY, SEID never requested:

Person//Attachments:
SMITH_John 04082011 | NIS: FP'd in 1986: Check for Jacket | RED FLAG

The physical rap will be filed in a Red Flag folder.

***NOTE: Any rap that has an arrest/conviction/booking or warrant information that would be a potential CCS*, CCO* or S* case will NOT be red flagged as described above. A Jacket Conversion request will be completed and a case will be opened accordingly. Also, any rap that contains multiple Social Security Numbers (SSN) will also be issued a Jacket Conversion request.***

**Entering a Person in Siebel:**
On the Person tab, click new. Enter ONLY the SSN, last name, first name, middle name if available and date of birth (DOB). NO other information is required or needed. Once you have entered the information, wait for Siebel to update itself. Siebel will pull the Response RO information into the Person tab. Click query and enter the person's SSN and hit Go. If you entered the SSN number that was listed in the Response RO tab, you may change it to the correct SSN at this time after you see the information in Response RO is listed correctly. The status of the person's fingerprints will automatically be designated depending on their criminal background. If a criminal background was found, then an F will appear in either DOJ/FBI or possibly both. Leave the status of their prints as they populated, but put an F in DPP status. If the person was fingerprinted over a year prior and still has not filed an application, DPP may RFRDOJ these raps at this time. You may change the FPs to N in DOJ and N in FBI and change the DPP status to F. And then attach the rap and make the appropriate notes in Siebel.

**Red Flag:** DPP currently has a date requirement in which we allow Respondents with an expired credential 3 months before officially removing their fingerprint clearance. Once FP clearance is removed, a Respondent MUST be re-fingerprinted. This is called Red Flagging. We will red flag this person as a notice to all departments that DPP has information that must be reviewed prior to approval and granting of any/all applications. Consider the 3-month period from the date you are processing the rap sheet.

**Already Reviewed:** This is a rare category. Subsequent rap notifications are usually new misconduct. However, should a rap notification be received for misconduct previously reviewed, this category will be assigned to the attachment. The info on how the misconduct has been previously reviewed, such as the case number, will be listed in the comment field of the attachment. This rap requires no further processing and is placed in a file until such a time that destruction is required.

**Potential LOI:** If the level of misconduct would require Committee review, these raps are categorized Potential LOI. The Respondent's prior case history and current misconduct are all factored in to determine a level of review.

**Potential Mandatory:** If the level of misconduct on the rap notification requires a Mandatory action by CTC, the rap will be categorized Potential Mandatory. These raps are priority and require immediate processing. For a list of all possible Mandatory charges, check your current CTC California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel booklet. Please see the tab marked Offenses. If you are not certain misconduct may qualify for Mandatory processing, please see your supervisor.

**Open Case Update:** A rap sheet may be categorized as Open Case Update if there is already an established case open prior misconduct is still being reviewed by staff. The relevant open case number will be in the comment field in attachments. *Example: 1-25252525*

**Traffic:** If a rap notification is received with simple traffic citations, and after thorough review of Respondent's prior misconduct, if any, may be categorized as Traffic. Example: speeding, red light etc. Some traffic violations such as VC 12500 driving without a license and VC 14601.1 Driving with a suspended license, may be looked at depending on Respondent's prior misconduct (DUI, multiple license violations). Although these are generally traffic related, they are misdemeanors and may require the attention and review by CTC. This rap requires no further processing and is placed in a file until such a time that destruction is required.

**Infraction:** If a rap notification is received and shows that a charge has been reduced from a minor misdemeanor to an infraction, or the charge may be a local ordinance violation, these raps may be categorized as Infractions. This rap requires no further processing and is placed in a file until such a time that destruction is required.

**First Offense DUI:** If a rap notification is received with DUI related information, DPP may review a singular DUI offense without any further processing, IF it is the only misconduct within the past 5 years.

Example: Respondent has no other misconduct but gets arrested for a DUI on 1/1/2010. You should expect to see the following:

Person/Notes/DPP Misconduct: See Rap: First offense DUI
Person/Attachments: SMITH_John 010310 | VC 23152(a)(b) | FIRST OFFENSE DUI

Any paper raps processed prior to 4/20/2010 you should expect to see the following:
Person/Notes/DPP Misconduct: RAP: Arrest on 1/1/2010 by Sacramento PD for VC 23152(a)
Any conviction information will be added, but won't always be available. These raps are filed separately, and should you need a copy please see your supervisor.

IF a Respondent has a 2nd DUI offense and the convictions are more than five years apart. An overall view of the Respondent's misconduct is considered when allowing a secondary DUI to be noted as a First Offense DUI. If a person has multiple convictions even though they may be, more than five years apart will not necessarily constitute a clear-cut decision to allow a secondary DUI as First Offense DUI misconduct. If you unsure how to process these raps, please see your supervisor. However, you should expect to see the following:

Person/Notes/DPP Misconduct: See Rap: First offense DUI (DUI 2010 and DUI 1995)
Person/Attachments: SMITH_John 010310 | VC 23152(a)(b) | FIRST OFFENSE DUI

**Changes to the 1st DUI Misconduct note effective 08/10/2010. Some raps that were originally flagged in during February and March of 2010 were prior to the DPP MISCONDUCT NOTE: FIRST OFFENSE DUI process. These raps were attached as "NEW" cases, and continue to appear on the weekly/monthly log of cases to be opened. We have reviewed the process and are currently changing these original "NEW" cases to "FIRST OFFENSE DUI" cases, as they have already been reviewed in this manner. A note stating the attachment was changed due to the new process is added to Person Note, and the attachment is updated to reflect 1st DUI Offense.

**No Action Necessary (NAN):** If a rap notification is received and marked No Action Necessary, it will usually be a Red Flag situation. However, there may be additional scenarios that no action may be necessary. If a rap is received that reflects PROS REL-DET ONLY-LACK of SUFF EVID, or INADMISS SEARCH & SEIZ. These raps relate that there might have been an arrest, but no formal charges were filed against Respondent. In many of these cases, we do not have jurisdiction to review them, and therefore No Action is Necessary. However, should you come across a rap that would be a POT MAND, or reflects aggravating circumstances such as violence, involves children, or occurred on school grounds, a follow-up for documentation is required to verify there has not been an error by DOJ in reporting the rap, or by the District Attorney's (DA) office in reporting to DOJ. Please verify with the DA's office if charges may be filed in the future. The DA commonly has one (1) year to file a Misdemeanor charge, and three (3) years to file a Felony charge.

You may see raps that fall under this category for additional reasons, as they just don't fit in any other category, and the misconduct isn't under our jurisdiction, or may not be sufficient for review. Please

review ANY of these raps with a supervisor. You may also review with the supervising investigator to see if an affidavit is possible.

There are always exceptions to the rules, and if you have any questions, please see your supervisor.

**Location of online Raps:** Copies of the attached raps are kept on the DPP share drive. J:\Raps. You should be able to print a copy of any rap received since February 16, 2010, and any paper raps received after 4/20/2010. They are kept in separate folders, which are designated SMSS or PAPER.

SMSS raps are identified by the date listed on the rap and in the attachment naming convention. A rap from the SMSS system dated 3/1/2010 will be downloaded, reviewed and processed on the same date. The rap attachment will read: SMITH_John 030110.

Paper raps may be dated randomly, but they are stamped in with a "DPP RECEIVED" date the date they are received. This is the date we using in the naming convention of paper raps. So a paper rap will be identified with a DPP received stamp. An example of a paper rap may have a DOJ date of 12/29/2009, may have a DPP received date of 2/13/2010. The naming convention on the paper rap will be the date received by DPP. So the rap will read SMITH_John 021310.

**Location of physical Raps:** The physical rap, that was originally printed from SMSS, or came from CAW are either forwarded to the OT to open, are kept in dated folders, or if they are RFRDOJ raps, they are returned to DOJ.

**Questions??:** If you receive a rap and have questions on why the rap was flagged in, or the type of misconduct to be reviewed. Please see your supervisor. The rap is always reviewed for the totality of the circumstances, and someone may see something you don't and vice versa. The flagging mechanism is only a starting point, and not a permanent description of the case to opened.

# Recording Statute Of Limitation Dates Procedures

**Introduction BSA Recommendation 2.9:**

To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:

**BSA Recommendation 2.9.f:**

Clear tracking of the dates at which time the Commission will lose jurisdiction over the case as a result of the expiration of statute based time frames for investigating the misconduct as required by Education Code section 44242.7.

**PROCEDURE:**

School District Case Files:

School district case files are currently being reviewed by staff counsel within 48 hours of the case file being opened. The staff counsel will review the documents in the file and determine both the one year and four year statute of limitation dates based on Education Code section 44242.7. The information will be detailed in the case file notes and the file returned to Intake staff analysts who will the complete the SOL activities.

Criminal Case Files:

The SOL dates in Siebel will be entered by Intake staff prior to forwarding the case to management for review based on the information and/or documents in the case file. The SOL dates will be reviewed by management and/or legal staff prior to the case being assigned for "Initial Review/LOI."

The SOL dates for both the school district and criminal case files will be entered using the following activity:

**Activity Group** = Statue of Limitation

**Activity Type** = One Year
Four Year

**Effective Date** = will be entered by Intake staff based on the following:

One Year = from date the act or omission should reasonably have been discovered by CTC

Four Years = from date of misconduct in a School District report or date of criminal conviction.

*Note*: The above SOL activity may be entered for each activity type (One & Four years)

The SOL activity will be incorporated in the "COC Assigned and Pending Cases" Report, which will assist staff and management in prioritizing assigned cases and cases yet to be assigned.

The SOL dates will also be noted in a monthly management Report called the "Statute of Limitations (6 Month) Report," which will be designed to include any case that is within 6 months of its SOL dates. This will alert management that any case in this report should

Exceptions:

Education Code section 44242.7 also includes Exceptions that eliminate the need for the Statue of Limitation dates on cases involving Applicant only cases, Allegations of sex with a minor, and recurring conduct.

When these exceptions exist on a given case, Intake staff should enter the following Activity Group and Activity Types in order to record any Exceptions on reports and the corresponding case file.

**Activity Group** = SOL Exception

**Activity Type** = Applicant Only
Allegations Sex/minor
Recurring conduct

More Info Screen:

The above Activities will also be displayed on the "More Info Screen" which will contain three new fields: 1) SOL 1 Year 2) SOL 4 Years 3) SOL Exception. The effective date of the SOL activities will auto-populate the new "SOL Date" fields.

For the SOL Exception field - the Activity Type Exceptions will auto populate the new field.

How to Update SOL Date:

The SOL effective date can be updated by doing the same activities noted above (Group/Type). Only the last activity will be used for reporting purposes or to update the More Info Screen.

# Training: Statute of Limitations (SOL)

On March 26, 2012, I received review and training on the Statute of Limitations training.

| Print Name | Sign Name |
|---|---|
| Janice Nakamura | |
| Inez Walls | |
| Cristina Romero | |
| Monica Zuniga | |
| Rachel Grizzaffi | |
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## Intro

The monitoring of cases assigned by the Supervising Investigator (SI) to analysts and investigators will be done through the "COC Assigned and Pending Cases" report. The report consists of cases assigned to each analyst, investigator and pending cases assigned to the SI. The report will be sent automatically via email to the SI on the 1st and 15th of each month. The SI will then forward a hard copy of the report to each analyst and investigator who has been assigned cases for review.

Cases assigned to analysts and investigators will be recorded in the report and grouped by "Case Owner" and fall into one of three categories:

1. Pending LOI
2. Initial Review
3. Formal Review (Appearance and Non-Appearance)

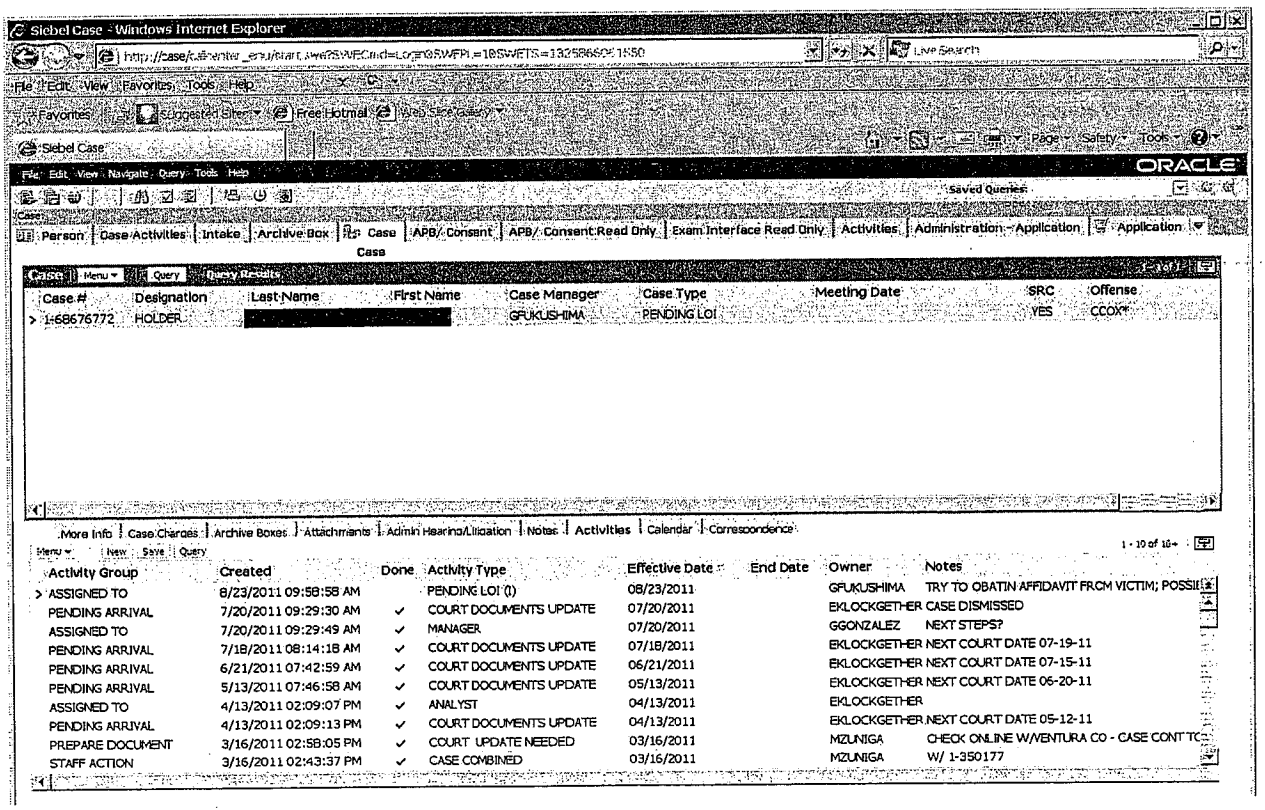
1. The SI assigns cases to the analysts and investigators as a "Pending LOI" case and is noted in Case with the following activity:

   Assigned To//Pending LOI (A) = Analysts or
   Assigned To//Pending LOI (I) = Investigators

   The SI also completes the following:

   Case Type = Pending LOI
   Case Owner = Analyst or Investigator Name
   Done Box = Not checked

Example 1



Because the "done box" remains unchecked, the case will be listed on the case owner's report under "Pending LOI" until the analyst/investigator does the following:

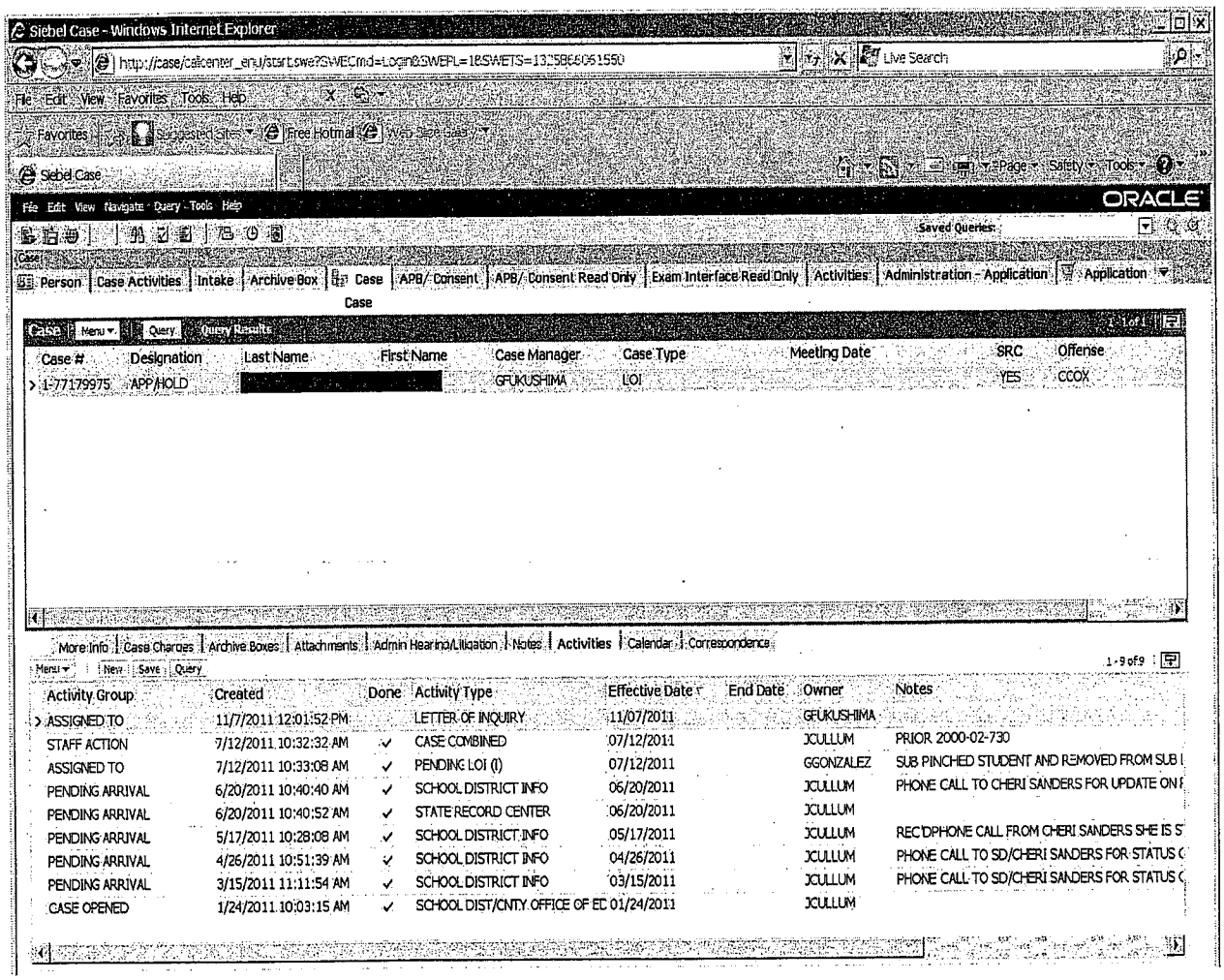
The analyst/investigator will check the "done box" in the above "Pending" activity when they send the LOI letter. The analyst/investigator should then complete activity #2 below:

2. Cases assigned to LOI/Initial Review are noted in Siebel-Case by the analyst/investigator when they complete the following activity and enter the following fields:

   Assigned To//Letter of Inquiry; Done Box = not checked

   More Info Screen fields:
   - Case Type = LOI
   - Meeting Date = Date of COC meeting
   - Six month date = six months from LOI date
   - School district, and any additional fields that can be completed.

Example 2




The case will then be listed in the case owner's Assigned COC Cases report under "Initial Review" until the following occurs:

After the COC meeting is completed and the final agenda with COC recommendations is distributed, the analyst/investigator will check the "done box" in the above "LOI/Initial Review" activity and will update Siebel-Case <u>if the COC recommends a 30 day letter be sent.</u> The Analyst/ Investigator will enter the activity in Step 3 below:

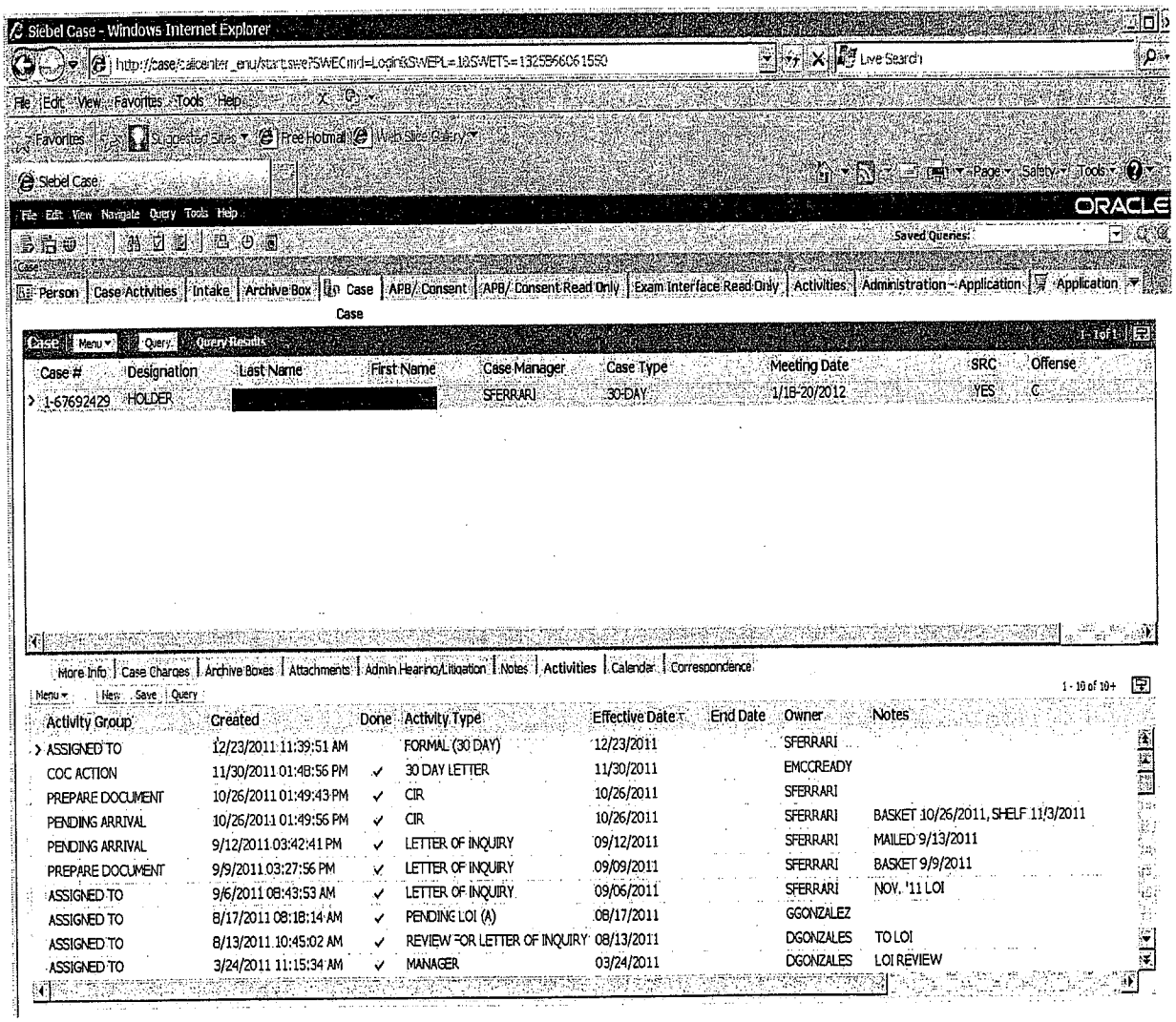
3. Cases assigned to Formal Review (30 Day) are noted in Siebel-Case by completing the following activity:

   Assigned To//Formal (30 Day) (Note: new activity type option); Done Box = not checked

   Fields:

   Case Type & Meeting Date will be completed by Agenda Analyst the Friday following the COC meeting due to report/letter writing purposes.

Example 3




The case should then be listed in the case owner's Assigned COC Cases report under "Formal Review - Non-Appearance (30 Day) until the following occurs:

When the COC meeting is completed and the completed agenda is distributed, the analyst/ investigator will check the "done box" in the above "Formal Review" activity. This will result in the case being removed from the case owners Assigned COC Cases report.

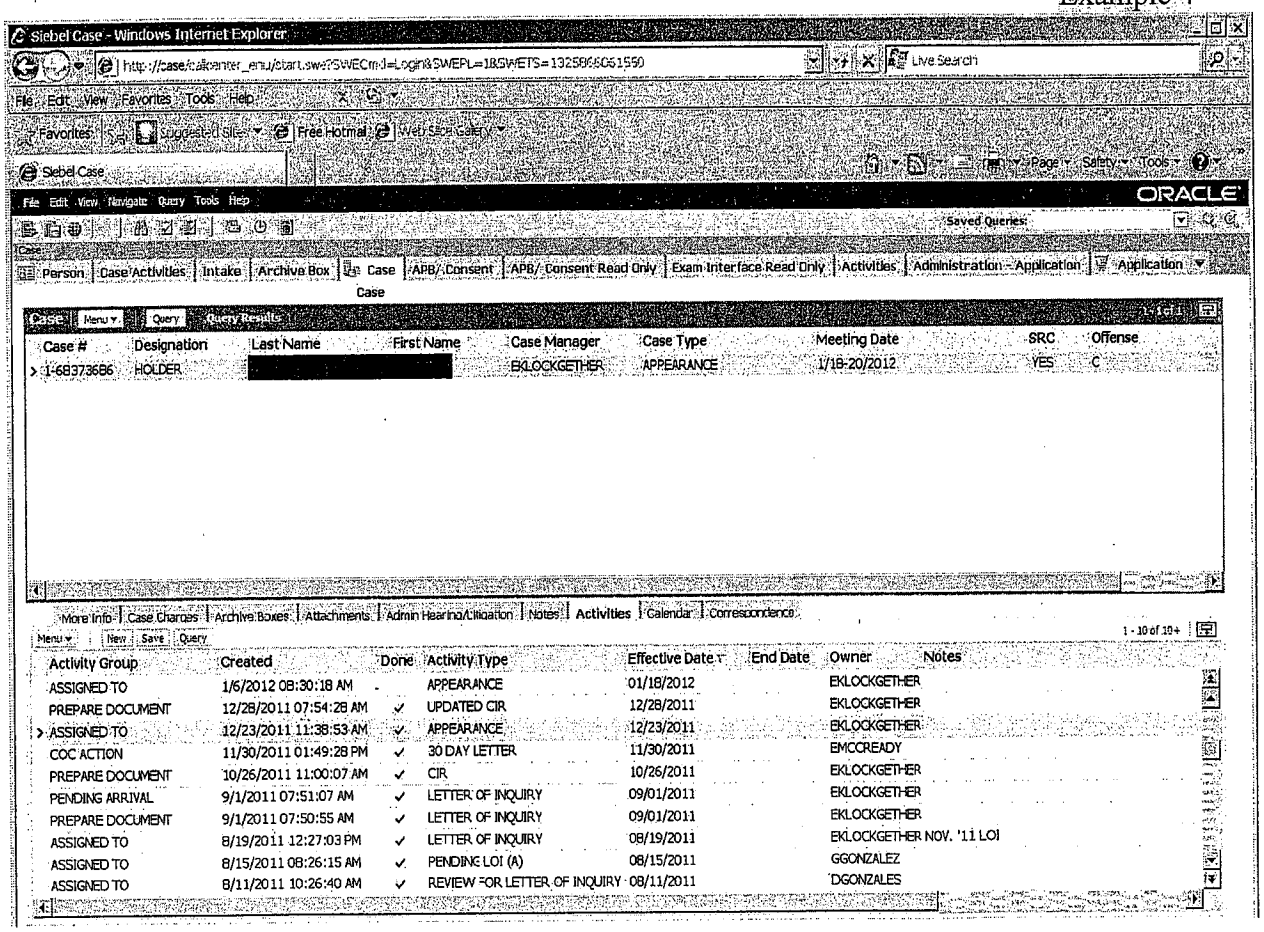
4. Cases assigned to Formal Review – Appearance, will be updated by the case owner when the Agenda Analyst notifies the case owner that his/her case is scheduled for an appearance. In addition to preparing COC questions, the case owner will check the "done box" in the 30 Day Formal Activity and update Siebel-Case activities to reflect the appearance by adding the following new activity:

   Assigned To//Appearance (Note: new activity type option); done box = not checked

   Fields:

   Case Type & Meeting Date will be completed by Agenda Analyst the Friday following the COC meeting due to report/letter writing purposes.

Example 4




When the COC meeting is completed and the completed agenda is distributed, the analyst or investigator will check the "done" box in the above "Appearance" activity. This will result in the case being removed from the case owners Assigned COC Cases report.

NOTE:

If the appearance is cancelled the Agenda Analyst will update Siebel-Case by checking the "done box" in the appearance activity and add a note indicating in the same activity that the "appearance was cancelled." The Agenda Analyst will then repeat activity step #3 above.

# Probation Monitoring Procedures

## Introduction

The Compliance Monitor is responsible for monitoring Probationers to ensure they are in compliance with the terms and conditions contained in their Consent Determination and Order (Order). Since each case may be different, it is important to carefully read the entire Order to determine the course of action. Since adverse action, including, but not limited to, revocation of Probationers' credential(s) may be taken, it is important to ensure that Probationers are in compliance by reviewing their files on a regular basis to determine if all required information has been received and/or if additional action is necessary. Cases requiring Compliance Monitoring may be received as a:

- Order drafted by California Commission on Teacher Credentialing (CCTC) staff;
- Order drafted by Attorney General (AG) staff; or
- Decision and Order of Administrative Law Judge.

## Instructions

The Supervising Investigator (SI) will assign cases to the probation monitors in the following manner:

| | |
|---|---|
| Case Manager: | Name of Compliance Monitor |
| Case Type: | Probation |
| Activity Group: | Stayed Action |
| Activity Type: | Probation |
| Effective Date: | Date probation begins |
| End Date: | Date probation ends |

## Receipt of an Order

The Compliance Monitor will receive a copy of the Order, along with the confidential file, after the Order is approved by the Committee of Credentials (Committee), and signed by the Executive Director or designee. When the Order is received, the Compliance Monitor will carefully read the terms and conditions to determine whether immediate action is needed, i.e. therapist or course approval, alcohol/drug testing, etc.

## Probation Packet

Once the fully executed Order is received, the Compliance Monitor will prepare the initial probation packet containing the following documents:

- Cover letter;
- Copy of the fully executed Order;
- Quarterly Compliance Reports;
- Acknowledgement of Receipt forms for the Probationer's employer and immediate supervisor, to be completed if employed using their credential;
- Release of Records and Waiver of Confidentiality form; and
- AA/NA Attendance Records.

Based on the type of probation, all of the above-mentioned documents may not be required.

Once the initial probation packet is completed, have the attorney of record review prior to mailing to Probationer.

**CCTC's Probation File**

Contents of the Probation file should include the following, if applicable:

- The Probation Chronology Sheet which includes details of probation;
- File Note sheet(s);
- Address and Notification sheet;
- A copy of the signed, adopted Order and the cover letter mailed from the Commission (located in the confidential file);
- A copy of the Confidential Investigative Report (CIR) (located in the confidential file);
- Fully executed Acknowledgement of Receipt forms;
- Quarterly Compliance Report (QCR) forms;
- Therapy/Counseling Chronology, including backup documentation;
- Random Drug/Alcohol Testing Chronology; and
- AA/NA Attendance Record.

**Confidential File**

Once the probation file is set-up, the confidential file is placed on the probation shelf located in the file room.

**Probation Orientation**

The Probationer is required to contact the assigned Compliance Monitor no later than 30 days from the date of the cover letter contained in the probation packet to make arrangements to complete a telephonic probation orientation. Although the Order states that the Probationer must meet in Sacramento, at the discretion of the Compliance Monitor, the Probationer may be allowed to complete the orientation telephonically. Typically the orientation should take no longer than an hour.

The purpose of the orientation is to provide the Probationer with an opportunity to inquire about the process and for the Compliance Monitor to explain the Probationer's responsibilities for compliance with all terms and conditions of probation. Additionally, the Compliance Monitor will verify the Probationer's current mailing address and telephone number(s).

The Order shall be used as the basis for the orientation. First, discuss each term and condition with the Probationer and answer any possible questions. Second, give an explanation for each of the following documents if applicable:

- Quarterly Compliance Reports;
- Acknowledgement of Receipt Forms for Employer and Immediate Supervisor;
- Release of Records and Waiver of Confidentiality; and
- AA/NA Logs.

During the orientation, make note of any information the Probationer shares which may be helpful in the future. Additionally, if the Probationer raises any questions that you are unable to answer, always consult with the attorney of record.

Once the orientation is completed, a letter of acknowledgement shall be sent to the Probationer. Enter the following activities *which apply to your case*:

| | |
|---|---|
| Activity Group: | Pending Arrival |
| Activity Type: | Ack. District (Probation) |
| Effective Date: | Date of the Order |
| Due Date: | Date form should be received |
| Done Box: | Do not check the box until acknowledgement is received |

| | |
|---|---|
| Activity Group: | Pending Arrival |
| Activity Type: | Ack. Supervisor (Probation) |
| Effective Date: | Date of the Order |
| Due Date: | Date form should be received |
| Done Box: | Do not check the box until acknowledgement is received |

| | |
|---|---|
| Activity Group: | Pending Arrival |
| Activity Type: | Waiver (Probation) |
| Effective Date: | Date of the Order |
| Due Date: | Date form should be received |
| Done Box: | Do not check the box until the waiver is received |

| | |
|---|---|
| Activity Group: | Pending Arrival |
| Activity Type: | Quarterly Comp. Report |
| Effective Date: | Date of the Order |
| Due Date: | Date form should be received |
| Done Box: | Do not check the box until the initial compliance report is received |

Note: Once the above documents are received, check the done box of that specific activity. Once the initial compliance report is received check the done box and enter the next compliance report activity, along with the date the following compliance report is due.

**Approval of a Therapist**

The Probationer shall provide a copy of the therapist's resume, contact information, and the therapist's California license number. Prior to recommendation of approval of a therapist, the Compliance Monitor must verify the type of license held, whether the license is valid, whether there are any complaints on file against the therapist, and if the therapist's license is "clear."

To verify licenses of:

Marriage and Family Therapists go to the website of the California Board of Behavioral Sciences at www.bbs.ca.gov.

Psychologists – California Board of Psychology at www.psychboard.ca.gov.

Psychiatrists – Medical Board of California at www.medbd.ca.gov.

Area of Specialty - American Board of Medical Specialties (ABMS) at www.abms.org. (Not all psychiatrists belong to ABMS)

Once license verification is obtained, submit the verification along with the resume to the attorney of record for approval.

After approval by the attorney of record, prepare a letter to the therapist summarizing the counseling requirements, and provide the appropriate documentation as noted in the Order. Additionally, cc the Probationer without attachments and enter the following activity:

| | |
|---|---|
| Activity Group: | Pending Arrival |
| Activity Type: | Counseling Report |
| Effective Date: | Date of the Order |
| Due Date: | Date report is due |
| Done Box: | Do not check the box until counseling report is received |

Note: If the order requires quarterly counseling reports, the Compliance Monitor will enter the next counseling report activity along with the date the following counseling report is due.

**Approval of Drug/Alcohol Testing Facilities**

The Probationer is required to locate a testing facility that is convenient to their home or work and offers the following services:

- Provides chain of custody of the sample;
- Allows walk-in appointments and direct pay by Probationer at the time of service; and
- Forwards test results directly to CCTC's Compliance Monitor.

In addition, the Probationer shall provide the Compliance Monitor with contact information for staff at the testing facility so that the Compliance Monitor may verify the location of the facility and the above-referenced services.

After verification of the testing facility, prepare a memorandum to the attorney of record for approval. Once approval is received, send a letter of notification to the Probationer.
All test results must be of forensic quality. If the results cannot be considered by a court of law, they cannot be used for CCTC's purposes. Be sure to advise the Probationer of this fact.

For random drug/alcohol testing, the Compliance Monitor will be responsible for developing a schedule to contact Probationers for their testing based on the terms contained in the Order. Enter the following activity after the Probationer is contacted for testing:

| | |
|---|---|
| Activity Group: | Pending Arrival |
| Activity Type: | Drug/Alcohol Results |

| | |
|---|---|
| Effective Date: | Date of the Order |
| Due Date: | One week from effective date (reminder only). |
| Done Box: | Do not check the box until drug/alcohol results are received |

**AA/NA Attendance Records**

AA/NA Attendance Records are signed under penalty of perjury. When the Probationer submits their initial attendance record they are requested to provide a copy of their meeting schedule. AA/NA Attendance Records are to be submitted in accordance with the terms and conditions of the Order.

| | |
|---|---|
| Activity Group: | Pending Arrival |
| Activity Type: | NA/AA Attendance Records |
| Effective Date: | Date of the Order |
| Due Date: | Date report is due |
| Done Box: | Do not check the box until the attendance records are received |

Note: Once the above document is received, check the done box and enter the next NA/AA activity, along with the date the next report is due.

**Modification of Order**

If a situation arises where the Order needs to be modified, discuss the issue with the attorney of record and ensure the following language is included in the Order prior to preparing the Modification:

> "Any term or condition of probation may be modified with the authorization of the Compliance Monitor, Legal Counsel to the Committee of Credentials, and Respondent."

Prepare a Modification of Consent Determination and Order and a cover letter to be reviewed by the attorney of record. After the review is completed, mail the Modification to the Probationer for his/her signature. Once the Probationer returns the signed Modification to the Commission, the Modification is then signed by the attorney of record and Compliance Monitor. A copy of the fully executed Modification is provided to the Probationer and the original is filed with the Order in the probation file.

If the modification includes any changes to the dates of probation, update the probation file and Siebel to reflect the new dates.

**Violation of Probation**

If the Compliance Monitor finds the Probationer is non-compliant with the terms and conditions of the Order, the Compliance Monitor will consult with the attorney of record to determine if the Probationer should be violated.

If the CCTC receives credible evidence that the Probationer is in violation of any term or condition of the Order, the Compliance Monitor will prepare and send a "Notice of Suspension and Demand for Surrender of Credentials".

The Compliance Monitor will coordinate with the appropriate staff to have credentials suspended on Siebel.

The Compliance Monitor will then prepare a letter for the attorney of record's signature, which will include the Probationer's alleged violation, the date of the Committee meeting, and the due date of the Probationer's written response to the Committee regarding the alleged violation. The Violation packet will consist of the following:

- Violation of Probation letter; and
- The Compliance Monitor's Declaration, including Exhibits.

The following documents should be included in the Committee's agenda packet for review at the scheduled meeting:

- "Priority" agenda sheet for the Committee meeting;
- Declaration including, Exhibits; and
- Probationer's response and/or any other document submitted by Probationer.

If the Committee finds the Probationer to be in violation of probation, they will recommend to the CCTC to set aside the stay order and implement the adverse action.

The Compliance Monitor will prepare a letter to be signed by the attorney of record notifying the Probationer of the Committee's recommendation. The Compliance Monitor will also prepare language for approval by the attorney of record, to be included in the All Points Bulletin (APB).

**Reminder:** Update Siebel by clicking on the Activities tab and entering the following information:

| | |
|---|---|
| Activity Group: | Stayed Action |
| Activity Type: | Probation No Compliance |
| Effective Date: | Effective date of action |

**Successful Termination of Probation**

Once the Compliance Monitor receives the Probationer's final Quarterly Compliance Report, an acknowledgement letter will be sent to confirm the successful completion of probation, and to inform the Probationer that the file will be presented to the CCTC at its next available meeting for successful termination of probation. The Compliance Monitor will also prepare language for approval by the attorney of record, to be included in the APB.

**Reminder:** Update Siebel by clicking on the Activities tab and entering the following information:

| | |
|---|---|
| Activity Group: | Stayed Action |
| Activity Type: | Probation Compliance |
| Effective Date: | Effective date of action |

## Acknowledgement of Receipt

When the Compliance Monitor receives document(s) the Probationer is required to submit, a letter of acknowledgement will be sent to the Probationer.

## Miscellaneous Items

The Compliance Monitor will be required to write letters depending on the various circumstances or issues that may arise while working on the individual probation files.

*Please note that cases will vary in nature; therefore, if there are any issues or concerns, the Compliance Monitor will seek advice from the attorney of record.*

## Helpful Tips

It is important to keep detailed file notes for future reference. In addition, send written correspondence to inform the Probationers when they are non-compliant with their probation. These notes and/or documents may be used at a later date to substantiate the violation of probation.

## Subsequent Rap Sheets

All subsequent Rap sheets received by the Division of Professional Practices (DPP) for probationers, will be forwarded to the assigned Compliance Monitor for discussion with the attorney of record to determine how to proceed in the matter, and/or to order court or law enforcement documents.

## Applications

When credential/permit applications are received by DPP, the program technician will forward the applications for review to the Compliance Monitor of record. Once the Compliance Monitor determines that the probationer is compliant with the terms and conditions of his/her Order, the application(s) will be returned to the program technician to be granted.

## Reports

On the first of each month, Compliance Monitors will receive a copy of the DPP Probation report, which is a list of cases assigned to the Compliance Monitor. The Report will include the date the individual case was assigned to Probation, the date probation is scheduled to end, and the last activity entered into Siebel. The report will assist both the Compliance Monitor and Management in tracking their case files and any upcoming activities and due dates.

**Probation Cases:**

Probation Report

In order to auto-fill the "Start" & "End" dates on the Probation Aging report the following needs to be completed:

Probation Report Start/End Dates are auto-filled from activity:

Stayed Action//Probation Activity; Start Date = Effective Date; End Date = End Date

Probation Activities

Need Following Probation Activities:

- Activity Group: Activity Type:

  Pending Arrival
  - Alcohol/Drug Results
  - Quarterly Comp. Report
  - Counseling Report
  - Waiver (Probation)
  - Ack. District (Probation)
  - Ack. Principal/Supervisor (Probation)
  - NA/AA Attendance Records

- Staff Action — Inactive Probation

# BSA Recommendation 2.6

***Recommendation 2.6:*** *The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in its database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information.*

**Index:**

- **Training Sign in Sheets:**
  - January 11, 2012 Investigation Process Training
  - March 6, 2012 Review of Mandatory Offenses
  - March 13, 2012 DPP Misconduct Note
  - March 26, 2012 Statute of Limitations

- **DPP Organization Chart**

- **Duty Statements**
  - Duty Statement for SSM II and the SSM I positions. These are new positions which are currently being filled.

# Monitoring of Cases – Investigation Process Training

Wednesday, January 11, 2012
9:00 – 10:00 am
DPP Conference Room

| Printed Name | Signature |
|---|---|
| 1. Gayle Dameron | Gayle Dameron |
| 2. Eileen Klockgether | Eileen Klockgether |
| 3. Karen Romo | Karen Romo |
| 4. John Yamamoto | John E. Yamamoto |
| 5. Erin McCready | Erin McCready |
| 6. Judy Lowe | Judy Lowe |
| 7. Don Gonzales | Don Gonzales |
| 8. Sylvia Ferrari | Sylvia Ferrari |
| 9. LARRY NG | Larry Ng |
| 10. | |
| 11. | |
| 12. | |
| 13. | |
| 14. | |
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| 16. | |
| 17. | |
| 18. | |

Note: met & discussed process w/ Diana Monsher on 1/18/12 since she was absent on 1/11/12.

## Training: Review of Mandatory Offenses

On March 6, 2012, I received additional training on the "Review of Mandatory Offenses" presented by Staff Counsel, Ani Kindall

| Print Name | Sign Name |
|---|---|
| RACHEL GRIZZAFFI | Rachel Grizzaffi |
| Melissa Standen | Melissa Standen |
| MONICA ZUNIGA | Monica Zuniga |
| LINDA HERNANDEZ | Linda Hernandez |
| Cynthia Thomason | Cynthia Thomason |
| CRISTINA ROMERO | ABSENT |
| Inez Walls | Inez Walls |
| Sarah Willis | Sarah A. Willis |
| KYLE TABLER | Kyle Tabler |
| JANICE NAKAMURA | Janice N |
| MIKE MOSTAFANEJAD | [illegible] |
| MICHAEL BARTH | [illegible] |
| Monica Silva | [illegible] |
| GIL GONZALEZ | [illegible] |
| CHASTINE GASPAR | [illegible] |
| Patricia Vossar | [illegible] |
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## Training: DPP Misconduct Note

During the Intake Staff Meeting held on Tuesday, March 13, 2012 I received training and written procedures regarding the DPP Misconduct Note, in relation to the new Single Offense Alcohol Policy.

| Print Name | Sign Name |
|---|---|
| RACHEL GRIZZAFFI | Rachel Grizzaffi |
| Melissa Standen | absent |
| MONICA ZUNIGA | Monica Zuniga |
| LINDA HERNANDEZ | Linda Hernandez |
| Cynthia Thomason | Cynthia Thomason |
| Patricia Vassar | [illegible] |
| INEZ WALLS | Inez Walls |
| CRISTINA ROMERO | Cristina Romero |
| Sarah Willis | Sarah A. Willis |
| KYLE TABLER | Kyle Tabler |
| JANICE NAKAMURA | Janice [illegible] |
| MIKE MOSTAFANEJAD | [illegible] |
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# Training: Statute of Limitations

On March 26, 2012, I received review and training on the Statute of Limitations training.

| Print Name | Sign Name |
|---|---|
| Janice Nakamura | Janice A. Nakamura |
| Inez Walls | Inez Walls |
| Cristina Romero | Cristina Romero |
| Monica Zuniga | Monica Zuniga |
| Rachel Grizzaffi | Rachel Grizzaffi |
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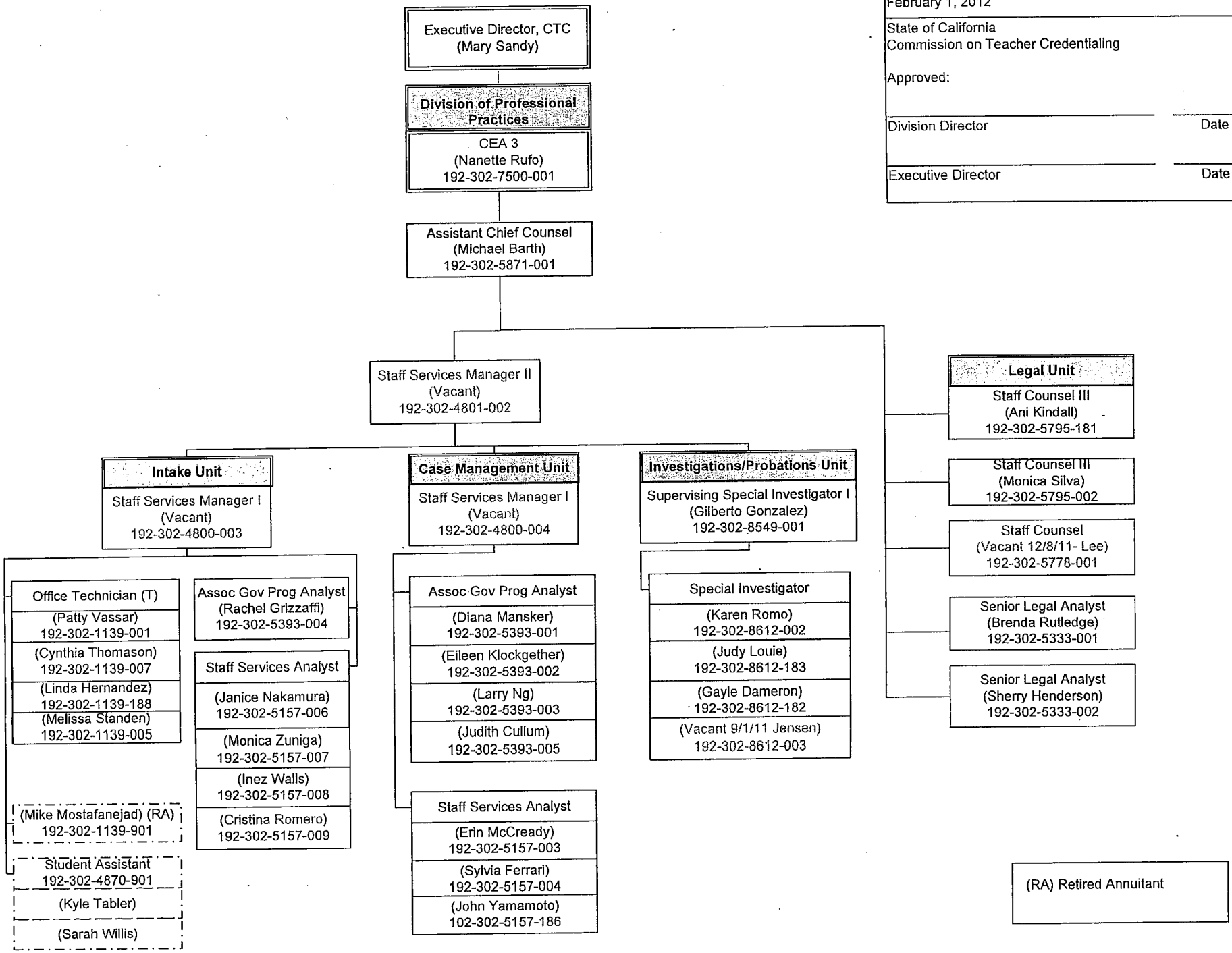
February 1, 2012

State of California
Commission on Teacher Credentialing

Approved:

Division Director — Date

Executive Director — Date



STATE OF CALIFORNIA
COMMISISON ON TEACHER CREDENTIALING

# DUTY STATEMENT

CCTC-AGENCY xxx (REV 06/11)

| RPA # | EFFECTIVE DATE: |
|---|---|
| 12-056 | |

| EMPLOYEE'S NAME | POSITION NUMBER (Agency - Unit - Class - Serial) |
|---|---|
| | 192-302-4801-002 |
| DIVISION/UNIT<br>DPP – Division of Professional Practices | CLASS TITLE<br>Staff Services Manager II (SSM-II) |

You are a valued member of the Commission on Teacher Credentialing (CTC). You are expected to work cooperatively with all employees, our customers and members of the public to enable the CTC to provide the highest level of service possible. Your creativity and ingenuity are encouraged. Your commitment to treat others fairly, honestly, respectfully and professionally is critical to the success of the CTC's Mission.

BRIEFLY (1-3 sentences) DESCRIBE THE POSITION'S PRIMARY ROLE AND PURPOSE. PLEASE INCLUDE THE POSITION'S REPORTING RELATIONSHIP AND LEVEL OF INDEPENDENCE.

The SSM-II supervises two SSM-I managers and the Supervising Special Investigator I (SSI-I). The two SSM-I managers are responsible for operations of the Intake Unit and the Case Management in DPP. The SSI-I is responsible for the operations of the Investigation/Probations Unit of DPP. The SSM-II is under the general supervision of Assistant Chief Counsel and performs their duties through their knowledge of data analysis, of the process of license discipline and of the criminal justice system. The SSM-II oversees the processes under their control and establishes systems to collect and analyze workflow data to provide timely due process for cases that propose teacher discipline.

| Percentage of time performing duties | Indicate the duties and responsibilities assigned to the position and the percentage of time spent on each. Group related tasks under the same percentage with the highest percentage first. |
|---|---|
| | **ESSENTIAL FUNCTIONS** |
| 20% | **Planning**: in concert with DPP management creates plans to assure that the Committee of Credentials maintains a full calendar each month and requires that the incumbent coordinate the workflow among the three units assigned. Provides analysis and advises management of trends in the number of cases received and processed each month. Provides analysis of future staffing needs including the number and types of staff required to meet production goals. In cooperation with management and the information technology staff plans systems to create processes to increase the efficiency of the unit staff assigned. |
| 20% | **Directing**: on a daily basis directs the activities of the individual managers assigned to achieve the caseload goals of DPP. Interprets and evaluates statutes and regulations (Education, Penal and Government Codes) for staff in consultation with staff attorneys to guide the managers of the units assigned. Obtains feedback and advises DPP management of issues related to production efficiency. In concert with the unit managers creates and manages incentive and reward systems for employees and conducts progressive discipline when employees fail to meet their performance standards. |
| 20% | **Organizing**: in concert with DPP management organizes the necessary supports for the DPP unit managers including, but not limited to: assuring necessary supplies are available to meet caseload goals; assuring necessary support services are provided in a timely manner such as legal approval and facility readiness. Provides necessary training to the managers assigned to meet contracts and laws related to the employees of the respective units assigned. |
| 20% | **Controlling**: maintains data related to the intake of cases and production for DPP and provides monthly feedback to the unit managers. Based upon data collected creates performance measures for the unit managers and incorporates these measures into performance standards for the unit mangers. Provides data analysis to the DPP management team on a monthly basis or as needed. |

| | |
|---|---|
| 15% | **Administrative functions:** conducts an array of administrative functions, including but not limited to preparing and reviewing time reports from the units assigned; preparing and reviewing employee evaluations; preparing and reviewing employee disciplinary actions and preparing the necessary documentation for hiring including job bulleting, duty statements and evaluative tools for interview. |
| 5% | **MARGINAL FUNCTIONS**<br>Develop and design database system modifications to enhance work efficiencies. Test and implement changes working with Information Technology staff and other DPP staff. Lead the Best Practices Committee. |

**KNOWLEDGE AND ABILITIES**

*Knowledge of:*

1. Data analysis to create production standards and workflow processes.
2. Current laws, codes and regulations regarding teacher education and disciplinary practices in California.
3. Current laws related to criminal justice system, including infractions, misdemeanors and felonies as well as rehabilitation
4. Administrative functions, organization and structure of Commission on Teacher Credentialing.
5. Trends and practices in the disciplinary process of teacher licensing.
6. National and regional policies and procedures regarding disciplinary practices.
7. California principles and methods of disciplinary practices for teachers.
8. State personnel practices.

*Ability to:*

1. Collect and interpret data to establish production goals and create and evaluate workflow processes.
2. Interpret and apply provisions of the California Education Code, Penal Code, Government Code and the policies and regulations of the Commission on Teacher Credentialing.
3. Analyze policy issues in teacher discipline.
4. Analyze legislation and its fiscal impact on the Commission.
5. Perform in an independent and creative manner.
6. Speak effectively and write clear, concise reports.
7. Utilize effective techniques in human relations.
8. Analyze situations accurately and take effective action.
9. Analyze policy issues related to the evaluation of professional practices.
10. Implement data systems to improve efficiency of DPP division.
11. Prepare policy recommendations, workload reports and agenda items for consideration by the Commission.

**DESIRABLE QUALIFICATIONS**

- **Integrity** – consistently adheres to his/her duties to execute the mission and responsibilities of the CTC.
- **Expertise** – be a reliable source of accurate information.
- **Teamwork** – works collaboratively and in recognition of the contribution each makes to the common purpose.
- **Respect** – recognizes the validity of other points of view and treats others with civility.
- **Problem Solving** – strives to find practical and effective solutions to achieving desired goals

STATE OF CALIFORNIA
COMMISISON ON TEACHER CREDENTIALING

# DUTY STATEMENT

CCTC-AGENCY xxx (REV 06/11)

**SPECIAL PERSONAL CHARACTERISTICS** (optional...if not on the class spec, do not include)

- NA

**INTERPERSONAL SKILLS** (optional)

- An ability to be empathetic to employee concerns and to effectively communicate the goals of the unit.

**WORK ENVIRONMENT, PHYSICAL OR MENTAL ABILITIES**

Work Environment:

- Overtime may be necessary depending upon the situation (ie travel, attendance at conferences, etc.)
- Requires prolonged sitting, use of telephones and computers, frequent contact with employees and some public contact. Requires mobility to various areas of the CTC and the ability to work business hours of 8 am to 5 pm.
- Demonstrates a commitment to perform duties in a service-oriented manner. Demonstrates a commitment to maintaining a work environment free from discrimination and sexual harassment.
- Maintains good work habits and adheres to all policies and procedures.
- Requires fingerprint clearance.
- Has daily contact with CTC management and staff.
- Willing to travel.

Physical Ability

- Must possess and maintain sufficient strength, agility, endurance and sensory ability to perform the duties contained in this duty statement with or without reasonable accommodation

Mental Ability

- Ability to communicate clearly and tactfully; read and follow written and oral instructions; and to change tasks and work with multiple task assignments

***Some of the requirements above may be accommodated for otherwise qualified individuals requiring and requesting such accommodations.***

**PERSONAL CONTACTS**

- CTC management and staff
- Educators and the Public
- Stakeholders
- Commission and Committee of Credential members

**LEVEL OF RESPONSIBILITY – ACTIONS AND CONSEQUENCES**

Incumbent will have a very high level of responsibility. Failure to use good judgment in handling sensitive and confidential information could result in confidential and/or incorrect information being released to unauthorized person, and may result in adverse actions. The actions of the individual can and will affect the Commission public responsibility and the safety of the children of California.

| MANAGER/SUPERVISOR'S NAME (Print) | MANAGER/SUPERVISOR'S SIGNATURE | DATE |
|---|---|---|
| | | |

EMPLOYEE'S STATEMENT: *I HAVE DISCUSSED WITH MY SUPERVISOR THE DUTIES OF THE POSITION AND HAVE RECEIVED A COPY OF THE DUTY STATEMENT*

The statements contained in this duty statement reflect general details as necessary to describe the principal functions of this job. It should not be considered an all-inclusive listing of work requirements. Individuals may perform other duties as assigned, including work in other functional areas to cover absence of relief, to equalize peak work periods or otherwise balance the workload.

| EMPLOYEE'S NAME (Print) | EMPLOYEE'S SIGNATURE | DATE |
|---|---|---|
| | | |

STATE OF CALIFORNIA
COMMISISON ON TEACHER CREDENTIALING

# DUTY STATEMENT

CCTC-AGENCY xxx (REV 06/11)

| RPA # | EFFECTIVE DATE: |
|---|---|

| EMPLOYEE'S NAME | POSITION NUMBER (Agency - Unit - Class - Serial)<br>192-302-4800- |
|---|---|
| DIVISION/UNIT<br>DPP – Division of Professional Practices | CLASS TITLE<br>Staff Services Manager I (SSM-I) |

You are a valued member of the Commission on Teacher Credentialing (CTC). You are expected to work cooperatively with all employees, our customers and members of the public to enable the CTC to provide the highest level of service possible. Your creativity and ingenuity are encouraged. Your commitment to treat others fairly, honestly, respectfully and professionally is critical to the success of the CTC's Mission.

BRIEFLY (1-3 sentences) DESCRIBE THE POSITION'S PRIMARY ROLE AND PURPOSE. PLEASE INCLUDE THE POSITION'S REPORTING RELATIONSHIP AND LEVEL OF INDEPENDENCE.

The SSM-I manages either the Intake Unit or the Case Management in DPP under the general supervision of Staff Services Manager II (SSM-II). Through knowledge data analysis, the process of license discipline and of the criminal justice system the SSM-I oversees the processes under their control and supervises the employees of the Intake Unit or the Case Management Unit and provides them with the necessary support to do their work.

| Percentage of time performing duties | Indicate the duties and responsibilities assigned to the position and the percentage of time spent on each. Group related tasks under the same percentage with the highest percentage first. |
|---|---|
| | **ESSENTIAL FUNCTIONS** |
| 20% | **Planning**: in concert with DPP management creates plans to assure that the Committee of Credentials to maintain a full calendar each month. Provides analysis and advises management of trends in the number of cases received and processed each month. Provides analysis of future staffing needs including the number and types of staff required to meet production goals. In cooperation with management and the information technology staff plans systems to create processes to increase the efficiency of the unit staff assigned. |
| 20% | **Directing**: on a daily basis directs the activities of the individuals assigned to their staff to perform in a manner to meet the caseload goals of the unit. Interprets and evaluates statutes and regulations (Education, Penal and Government Codes) for staff in consultation with staff attorneys. Obtains feedback and advises DPP management of issues related to production efficiency. Creates and manages incentive and reward systems for employees and conducts progressive discipline when employees fail to meet performance standards. |
| 20% | **Organizing**: in concert with DPP management organizes the necessary supports for their unit including, but not limited to: assuring necessary supplies are available to meet caseload goals; assuring necessary support services are provided in a timely manner such as legal approval and facility readiness. |
| 20% | **Controlling**: maintains data related to the intake of cases and production for their assigned unit and provides monthly feedback to the employees assigned to their unit. Establishes procedures to collect data. Based upon data collected creates performance measures for the employees assigned to their unit and incorporates these measures into performance standards for their assigned employees. Provides weekly workload reports to management comparing receipt of cases under their control to completion of staff work. |
| 15% | **Administrative functions:** conducts an array of administrative functions, including but not limited to evaluating performance, approving time reports, preparing probation reports, documenting employee issues and preparing the necessary documentation for hiring including job bulleting, duty statements and evaluative tools for interview. |

| | |
|---|---|
| 5% | **MARGINAL FUNCTIONS**<br>Develop and design database system modifications to enhance work efficiencies. Test and implement changes working with Information Technology staff and other DPP staff used to collect data and produce reports. |

**KNOWLEDGE AND ABILITIES**

*Knowledge of:*

1. Current laws, codes and regulations regarding teacher education and disciplinary practices in California
2. Current laws related to criminal justice system, including infractions, misdemeanors and felonies as well as rehabilitation
3. Administrative functions, organization and structure of Commission on Teacher Credentialing.
4. Trends and practices in the disciplinary process of teacher education.
5. National and regional policies and procedures regarding disciplinary practices.
6. California principles and methods of disciplinary practices for teachers.
7. State personnel practices.

*Ability to:*

1. Interpret and apply provisions of the California Education Code, Penal Code, Government Code and the policies and regulations of the Commission on Teacher Credentialing.
2. Analyze policy issues in teacher discipline.
3. Analyze legislation and its fiscal impact on the Commission.
4. Perform in an independent and creative manner.
5. Speak effectively and write clear, concise reports.
6. Utilize effective techniques in human relations.
7. Analyze situations accurately and take effective action.
8. Analyze policy issues related to the evaluation of professional practices.
9. Utilize alternative approaches to the determination of program status.
10. Implement data systems to improve efficiency of DPP division.
11. Prepare policy recommendations, workload reports and agenda items.
12. Collects and interprets data to establish production standards and create and evaluate workflow processes.

**DESIRABLE QUALIFICATIONS**

- **Integrity** – consistently adheres to his/her duties to execute the mission and responsibilities of the CTC.
- **Expertise** – be a reliable source of accurate information.
- **Teamwork** – works collaboratively and in recognition of the contribution each makes to the common purpose.
- **Respect** – recognizes the validity of other points of view and treats others with civility.
- **Problem Solving** – strives to find practical and effective solutions to achieving desired goals

**SPECIAL PERSONAL CHARACTERISTICS** (optional…if not on the class spec, do not include)

- N/A

**INTERPERSONAL SKILLS** (optional)

- An ability to be empathetic to employee concerns and to communicate effective the goals of the unit.

STATE OF CALIFORNIA
COMMISISON ON TEACHER CREDENTIALING

# DUTY STATEMENT

CCTC-AGENCY xxx (REV 06/11)

## WORK ENVIRONMENT, PHYSICAL OR MENTAL ABILITIES

Work Environment:

- Overtime may be necessary depending upon the situation (ie travel, attendance at conferences etc.)
- Requires prolonged sitting, use of telephones and computers, frequent contact with employees and some public contact. Requires mobility to various areas of the CTC and the ability to work business hours of 8 am to 5 pm.
- Demonstrates a commitment to perform duties in a service-oriented manner. Demonstrates a commitment to maintaining a work environment free from discrimination and sexual harassment.
- Maintains good work habits and adheres to all policies and procedures.
- Requires fingerprint clearance.
- Has daily contact with CTC management and staff.
- Willing to travel.

Physical Ability

- Must possess and maintain sufficient strength, agility, endurance and sensory ability to perform the duties contained in this duty statement with or without reasonable accommodation

Mental Ability

- Ability to communicate clearly and tactfully; read and follow written and oral instructions; and to change tasks and work with multiple task assignments

***Some of the requirements above may be accommodated for otherwise qualified individuals requiring and requesting such accommodations.***

## PERSONAL CONTACTS

- CTC management and staff
- Educators and the Public
- Stakeholders
- Commission and Committee of Credential members

## LEVEL OF RESPONSIBILITY – ACTIONS AND CONSEQUENCES

Incumbent will have a high level of responsibility. Failure to use good judgment in handling sensitive and confidential information could result in confidential and/or incorrect information being released to unauthorized person, and may result in adverse actions. The actions of the individual can and will affect the Commission public responsibility and the safety of the children of California.

| MANAGER/SUPERVISOR'S NAME (Print) | MANAGER/SUPERVISOR'S SIGNATURE | DATE |
|---|---|---|
| | | |

EMPLOYEE'S STATEMENT: *I HAVE DISCUSSED WITH MY SUPERVISOR THE DUTIES OF THE POSITION AND HAVE RECEIVED A COPY OF THE DUTY STATEMENT*

**The statements contained in this duty statement reflect general details as necessary to describe the principal functions of this job. It should not be considered an all-inclusive listing of work requirements. Individuals may perform other duties as assigned, including work in other functional areas to cover absence of relief, to equalize peak work periods or otherwise balance the workload.**

| EMPLOYEE'S NAME (Print) | EMPLOYEE'S SIGNATURE | DATE |
|---|---|---|
| | | |

***Recommendation 2.7:*** *The commission should continue to implement its new procedures related to deleting cases from its database to ensure that all such proposed deletions are reviewed by management for propriety before they are deleted and a record is kept of the individuals to which each such deleted case record pertains. Further, the Commission should develop and implement policies and procedures related to managing changes and deletions in the database.*

**Index:**

- **ETSS Policy and Procedure**
  - Tracking of database changes/deletions.
- **Division Procedure for Deletion**
  - Procedures regarding the deletion of information from the database.
- **Delete Log**
  - Sample page of deletion log.
- **Deletion Request Form**
  - Redacted form requesting delete of a "double entry".

# Case Data Policy and Procedure

## 1. Purpose

The purpose of the Commission's case data Policies and Procedures is to ensure that full and accurate records of all Case activities and decisions are created, managed, retained, deleted and secured appropriately in the case system for the Division of Professional Practices. This will enable the Commission to achieve information accessibility, business enhancement, and improvement. It will also meet its obligations for accountability while ensuring that it protects the rights and interests of the Commission and the public.

## 2. Scope

This Policy and Procedure applies to the Division of Professional Practices and the information involving a case in the Credential Automation System Enterprise (CASE) system.

## 3. Background

This policy document meets recommendation 2.7 "Develop and implement policies and procedures related to managing changes and deletions in the database" of a report issued on April 7, 2011 by the California State Auditor titled "Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed and Adequate Strategy or Implemented Processes that will Safeguard Against Future Backlogs".

## 4. Definitions

The Commission on Teacher Credentialing means the same as the Commission.
The Division of Professional Practices means the same as DPP.
Then Enterprise Technology Services Section means the same as ETSS.

## 5. Applies to

This applies to any individual or system that has access to the case data for the Division of Professional Practices.

## 6. Policy

The policy of the Commission is to ensure that full and accurate records of all case activities and decisions are added, changed, deleted, managed and secured appropriately in the CASE system for the Division of Professional Practices.

### 6.1 Creation and capture of data

To ensure that full and accurate data is captured into the case system all staff must go through proper training. Procedures, standards, and data

control also assist to provide secure data and the highest quality data captured.

### 6.2 Data Access Roles and Responsibilities

All users who require access to case data must be assigned specific data security roles and responsibilities, as determined by the Division of Professional Practices management team, before accessing any system data. The DPP management team must determine how much access is appropriate and have ETSS assigned the relevant roles and responsibilities to the individual so that they can have the acceptable read/write privileges.

### 6.3 New Data Elements or Changes to Existing Data Elements

All additions of new data elements or changes/deletions of existing data elements to case systems must be reviewed and approved by DPP management team. Consideration of additional data elements will rely on existing statutory, regulatory, policy, and business requirements. New data and changes to existing data will need to be reviewed by DPP management to determine what data controls and auditing is needed.

### 6.4 Conducting Data Audits

The Director, Division of Professional Practices is authorized to and responsible for determining the acceptable level of data quality and conducting data auditing of the data produced or collected for cases by the Commission's CASE system. Case data will undergo an audit annually or as deemed necessary by the Director.

Using the results of the data audits, the Director of the Division Professional Practices will approve the corrective actions. System corrective action will be set by department priorities and the urgency for each issue will be based on business initiatives. If departmental resources are needed to resolve the issues, the Director will provide them.

### 6.5 Data Security

All full and part time, permanent and temporary employees and contractors are responsible for the security of confidential data stored on computers or other electronic devices assigned to them.

The Siebel Application will provide security controls for data access to the Siebel database.

Access to case data through the Operational Data Store (ODS) will be controlled by users and roles.

## Case Data Policy and Procedure

All direct access to the Siebel/ODS database(s) or access through the Siebel application itself need to be approved by DPP Management with the exception of ETSS staff.

### 6.6 Contractors and outsourced functions

Any contractor or outsourced personnel that will be accessing Case data information will be required to fill out a Confidentiality Agreement form and will be required to be finger printed.

## 7. Procedure

### 7.1 Creation and capture of data

Procedures are updated on an as needed basis and reviewed on an annual basis by management. There is PowerPoint presentations that provide CASE training knowledge and DPP directory structure. To ensure that full and accurate data is captured into the case system all staff must go through proper training.

### 7.2 Data Access Roles and Responsibilities

All users who require access to case data must be assigned specific data security roles and responsibilities, as determined by the Division of Professional Practices management team, before accessing any system data. Steps as follows:

1. The DPP management team must fill out an ETSS Service Request and send it in to the ETSS helpdesk.
2. ETSS staff must complete task then notify DPP management when complete.
3. After changes have been completed sign off by DPP and ETSS management.

### 7.3 New Data Elements or Changes to Existing Data Elements

All addition of new data elements or changes/deletions of existing data elements to case systems must be reviewed and approved by DPP management team. Steps as follows:

1. The DPP management team must fill out an ETSS Service Request and send it in to the ETSS helpdesk.
2. ETSS staff will do an analysis, development, configure, test, and implement the enhancements.
3. Procedures must be updated and training must be provided if necessary.

4. Changes must be signed off by DPP and ETSS management.

### 7.4 Conducting Data Audits

The Director, Division of Professional Practices is authorized to and responsible for determining the acceptable level of data quality and conducting data auditing of the data produced or collected for cases by the Commissions CASE system. Currently all activity data (adds, changes, and deletes) is captured by the CASE audit. All deletes are also copied into a table and a full delete process and procedures exist. Steps as follows:

1. The DPP management team must fill out an ETSS Service Request and send it in to the ETSS helpdesk.
2. ETSS staff will do an analysis, development, test, and implement the data auditing. Some auditing may not be possible due to the high overhead that auditing may create.
3. Auditing can be viewed by screen in the CASE system or a report can be run by business staff. On occasion business staff request special audit reports. An ETSS Service Agreement must be filled out.
4. Enhancements must be signed off by management.

### 7.5 Data Security

All full and part time, permanent and temporary employees and contractors are responsible for the security of confidential data stored on computers or other electronic devices assigned to them. Steps as follows:

1. Security begins with roles and responsibilities. The DPP management team must fill out an ETSS Service Request and send it in to the ETSS helpdesk.
2. ETSS staff must complete task then notify DPP management when complete.
3. Standard storage of backup tapes are kept in-house and external through a secure vendor.

### 7.6 Contractors and outsourced functions

Any contractor or outsourced personnel that will be accessing case data information will be required to fill out a Confidentiality Agreement form and will be required to be finger printed for any criminal activity.

## 8. Responsibilities

Chief Counsel

- Review this document on annual basis

## Case Data Policy and Procedure

DPP Manager

- Determine proper access for users case data or screens
- Procedures for adding, changing and deleting data for the case system
- Responsible for reviewing data that is deleted utilizing a report

ETSS

- Responsible for configuring the proper access for users
- Responsible for securing the electronic data
- Responsible for auditing the data that is requested by business staff
- Responsible for archiving deleted Case data and its associated records

## 9. Approved by

Chief Counsel, Nanette Rufo

# Procedures for Deletions

## Introduction

In the event a case, case activity, or case note has been created in error a deletion request must be made to ensure the deletion is made using current procedures. After approval by the unit manager, these deletions are performed by either an authorized staff member (ASM) or ETSS.

## Procedure

I. Requesting a Deletion

1. To request a deletion, locate the 'Deletion Request Form' on the DPP shared drive in the Procedure Manuals under GENERAL INFORMATION. (\\Hqfp003\dpp procedure manuals.html) This form can be used in two ways:
   a. Type information into the form and then print the form
   b. Print the form and then write the information onto the form
2. Submit the form to the unit supervisor for approval.
3. The Unit Supervisor initials the request form and forwards to the ASM for deletion.
4. ASM enters the appropriate information regarding the deletion onto the computerized deletion log located on the DPP shared drive in the DELETIONS folder subfolder 'Scanned Request Forms'. (\\Hqfp003\dpp shared\Deletions\Scanned Request Forms)
5. The request form is placed in a binder designated as the DELETION LOG BACKUP ITEMS, maintained by the ASM.

II. Deleting in Siebel

There are different steps to follow Depending on what type of information is being deleted:

- Deletion of entire case (done by ASM)

1. In the screen showing the case to be deleted, click on Menu. From the drop down list, choose 'About Record.' Take a screen shot that includes the 'About Record' sub screen. In the shared drive navigate to the folder 'Deletion Log Screen Shots' (\\Hqfp003\dpp shared\Deletions\Deletion Log Screen Shots) and save the screen shot in the file for the year and month deletion is occurring.
2. Navigate to Case > Opportunity Administration
3. Click <Query> button
4. Set OPPORTUNITY NAME field value to Case #
5. Click <Go> button
6. Click record for deletion
7. Click <OK> button

8. Log information on physical log and on Deletion Log in 'Deletions' folder on Shared Drive. (\\Hqfp003\dpp shared\Deletions)
9. Scan request and save a copy of request form in DELETIONS folder subfolder 'Scanned Request Forms.'

- Deletion of Case/Activities (done by ASM)
  1. Query Case # containing Activity entry to be deleted
  2. Click on Activities Admin tab
  3. With the line containing the activity to be deleted highlighted, click on Menu. From the drop down list, choose 'About Record.' Take a screen shot that includes the 'About Record' sub screen. In the shared drive navigate to the folder 'Deletion Log Screen Shots' (\\Hqfp003\dpp shared\Deletions\Deletion Log Screen Shots) and save the screen shot in the file for the year and month deletion is occurring.
  4. Click on Menu and select 'Delete Record'
  5. Select 'ok' on the question 'Are you sure you want to delete the selected record in 'Activities.'
  6. Log information on physical log and on Deletion Log in 'Deletions' folder on Shared Drive. (\\Hqfp003\dpp shared\Deletions)
  7. Scan request and save a copy of request form in DELETIONS folder subfolder 'Scanned Request Forms'. (\\Hqfp003\dpp shared\Deletions\Scanned Request Forms)

- Case Notes (done by ASM)
  1. Query Case # containing Notes entry to be deleted
  2. Click on Notes Admin tab
  3. With the line containing the 'Note' to be deleted highlighted, click on Menu. From the drop down list, choose 'About Record.' Take a screen shot that includes the 'About Record' sub screen. In the shared drive navigate to the folder 'Deletion Log Screen Shots' (\\Hqfp003\dpp shared\Deletions\Deletion Log Screen Shots) and save the screen shot in the file for the year and month deletion is occurring.
  4. Click on Menu and select 'Delete Record'
  5. Select ok on question 'Are you sure you want to delete the selected record in 'Notes.'
  6. Log information on physical log and on Deletion Log in 'Deletions' folder on Shared Drive. (\\Hqfp003\dpp shared\Deletions)
  7. Scan request and save a copy of request form in DELETIONS folder subfolder 'Scanned Request Forms.' (\\Hqfp003\dpp shared\Deletions\Scanned Request Forms)

III. Reconciling Deletions

IV. A report is generated on the first of each month showing deletions for the prior month. The report is received by the unit manager and the designated staff member. ASM checks report against log and enters a X in reconciliation column. Any cases on the monthly report or on the log that do not reconcile will be researched at that time and unit manager will be informed of the discrepancy.

V. Attachments

1. Deletion request form.docx

| DATE DELETED | DATE OF REQUEST | REQUESTER NAME | NAME OF APP/HOLDER | DOB | SSN *---- | CASE TO DELETE | CASE ACTIVITY TO DELETE GROUP/TYPE | CREATED BY | DELETED BY | REASON FOR DELETION | Audit Report |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 7/15/2011 | 7/21/2011 | GGONZALEZ | [redacted] | | | | | SFERRARI | SFERRARI | TEST CASE FOR IT TO REPAIR CASE CREATE DATE AUTOPOPULATE | |
| 7/27/2011 | 8/1/2011 | GGONZALEZ | | | | | STAFF ACTION/FILE PERMED | C.THOMASON | SFERRARI | SECOND FILE PERMED ACTIVITY ENTERED IN ERROR | |
| 8/2/2011 | 8/1/2011 | GGONZALEZ | | | | | CASE OPENED/WAIVER | JYAMAMOTO | SFERRARI | CASE OPENED ON A CASE THAT WAS PERMED. DELETED ACTIVITY AND OPENED A NEW CASE #1-81989522 | |
| 8/5/2011 | 8/5/2011 | GGONZALEZ | | | | | DELAY ACTION/NOTICE OF DELAY | DMANSKER | SFERRARI | CASE REMOVED FROM INITIAL REVIEW TO COC CC AND NO LONGER ON NDL LIST | X |
| 8/10/2011 | 8/8/2011 | RGRIZZAFFI | | | | | COC CONSENT CALENDAR/GRANT | JNAKAMURA | SFERRARI | DUPLICATE/ERROR ENTRY. REFLECTING TWICE ON REPORTS, AS DPP HAS A CLOSE/GRANT ACTIVITY TYPE | X |
| 8/10/2011 | 8/8/2011 | RGRIZZAFFI | | | | | MULTIPLE, SEE SCANNED REQUEST DOCUMENT | DMANSKER | SFERRARI | CASE REOPENED AFTER FILE PERMED. ALL ACTIVITIES CREATED AFTER ORIGINAL FILE PERMED HAVE BEEN MOVED INTO NEW CASE 1-82153606 | X |
| 8/15/2011 | 8/10/2011 | SFERRARI | | | | | | SFERRARI | ETSS | OPENED CASE ON EXPIRED CRED | ETSS |
| 8/16/2011 | 8/16/2011 | JNAKAMURA | | | | | PENDING ARRIVAL/STATE RECORD CENTER | JNAKAMURA | SFERRARI | CASE ALREADY PERMED ON 6/29/2011 | X |
| 8/16/2011 | 8/16/2011 | RGRIZZAFFI | | | | | ASSIGNED TO/COC CONSENT CALENDAR | PVASSAR | SFERRARI | CASE ALREADY PERMED ON 8/10/2011 AS A NO JX. | X |
| 8/17/2011 | 8/17/2011 | SFERRARI | | | | | STAFF ACTION/FILE PERMED | SFERRARI | SFERRARI | PERMED IN ERROR | X |
| 8/17/2011 | 8/17/2011 | SFERRARI | | | | | STAFF ACTION/FILE PERMED | SFERRARI | SFERRARI | PERMED IN ERROR | X |
| 8/25/2011 | 8/17/2011 | RGRIZZAFFI | | | | | | MCROFT | ETSS | CASE WAS OPENED IN ERROR ON A DUMMY RECORD. CASE IS INVALID. | ETSS |
| 8/25/2011 | 8/23/2011 | BRUTLEDGE | | | | | | DPP STAFF | ETSS | PURSUANT TO LAW, ENTIRE CASE MUST BE DELETED AS IF THERE WAS NEVER A CASE. | ETSS |
| 9/1/2011 | 9/1/2011 | GGONZALEZ | | | | | COC ACTION/FILE PERMED | MCROFT | SFERRARI | ENTRY "FILE PERMED" DONE TWICE | X |
| 9/1/2011 | 9/1/2011 | GGONZALEZ | | | | | COC ACTION/FILE PERMED | MZUNIGA | SFERRARI | ENTRY "FILE PERMED" DONE TWICE | X |
| 9/7/2011 | 9/7/2011 | MCROFT | | | | | COC CONSENT CALENDAR/CLOSE | MCROFT | SFERRARI | SHOULD NAVE BEEN ONLY ONE ACTIVITY RATHER THAN CLOSE AND GRANT SEPARATELY | X |
| 9/15/2011 | 9/1/2011 | EKLOCKGETHER | | | | | MULTIPLE, SEE SCANNED REQUEST DOCUMENT | EKLOCKGETHER | SFERRARI | UPON RECEIPT OF COURT DOCUMENTS EXPUNGING CASE AND REVIEW BY AK, MANDATORY ACTION TO BE RESCINDED AND APPLICATION GRANTED. | X |
| 9/15/2011 | 9/14/2011 | LNG | | | | | ASSIGNED TO/COC CONSENT CALENDAR | LNG | SFERRARI | CASE DID NOT GO TO COC CONSENT CALENDAR. CASE WAS NO JX. | X |
| 9/15/2011 | 9/12/2011 | MCROFT | | | | | STAFF ACTION/FILE PERMED 12-7-2009 AND STAFF ACTION/GRANT 10-23-2009 | MCROFT | SFERRARI | FILE PERMED ACTION WAS IN ERROR, GRANT ACTION NO LONGER NECESSARY PER NEW POLICIES | X |
| 9/20/2011 | 9/12/2011 | BRUTLEDGE | | | | | CTC ACTION/FILE PERMED | BRUTLEDGE | SFERRARI | FILE PERMED ENTERED TWICE | X |
| 9/20/2011 | 8/24/2011 | SFERRARI | | | | | ENTIRE CASE | SFERRARI | SFERRARI | CASE OPENED IN ERROR | |
| 10/4/2011 | 10/4/2011 | GGONZALEZ | | | | | CTC ACTION/FILE PERMED | BRUTLEDGE | SFERRARI | FILE PERMED TWICE | X |
| 10/10/2011 | 10/3/2011 | EMCCREADY | | | | | COC ACTION/ 30 DAY LETTER | EMCCREADY | SFERRARI | CASE MOVED FROM 10/19-21/2011 DATE TO 11/16-18/2011 BECAUSE OF NEW CONVICTION. | X |
| 10/13/2011 | 10/13/2011 | SFERRARI | | | | | DELAY ACTION/NOTICE OF DELAY | SFERRARI | SFERRARI | RESPONDENT IS A HOLDER AND WAS ENTERED ON THE NDL IN ERROR | X |

# DELETION REQUEST FORM

Deletion Type: ☐ Entire Case ☒ Case Activity ☐ Case Note ☐ Other

***DATE:*** *1/12/2012*
***CASE NUMBER OF DELETION:*** 1[redacted]
***RESPONDENT'S NAME:*** [redacted]
***RESPONDENT'S DOB:*** [redacted]
***REASON FOR DELETION:*** *DOUBLE ENTRY*

| ACTIVITY GROUP/TYPE, CASE NOTE, OR OTHER | DELETED ENTRY CREATED BY |
|---|---|
| ASSIGNED TO/APPEARANCE | 1/6/2012/EMCCREADY |
| | |
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| | |
|---|---|
| **REQUESTED BY:** **SFERRARI** | DATE: 1/12/2012 |
| **APPROVED BY:** [signature] | DATE: 1/12/12 |
| **DELETED BY:** S. Ferrari | DATE: 2/1/12 |

**[COMPLETE FORM AND SUBMIT TO UNIT MANAGER FOR APPROVAL]**

# BSA Recommendation 2.9.a

***Recommendation 2.9.a:*** *To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit management's reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate reduction of the time elapsed to perform critical steps in the review process.*

**Index:**

- **Intake Previous Day Summary Report**
  - Summary of the documents received and processed in Intake.
- **Intake Weekly Summary Report**
  - Summary of the documents to be processed in Intake for a given week.
- **Intake Monthly Summary Report (new)**
  - Total number of documents received by "type" and "DPP staff owner."
- **Daily Incoming Rap Sheet/Attachment Report**
  - Summary of rap sheets received and processed on a given day.
- **Weekly Rap Sheet Status/Summary Report**
  - Summary of total number of rap sheets received for a given week and raps pending cases.
- **Daily PENA Application Summary Report**
  - Summary of application moved to DPP due to application fitness.
- **DPP PENA Application Aging Report**
  - Summary of application being processed in DPP.
- **MY Team –Advance Notification of Activity Deadline**
  - Summary of staff upcoming activity deadlines.
- **Potential LOI Report (enhanced)**
  - List of cases by type/staff owner in which documents are being gathered prior to Investigation process.
- **Potential Consent Calendar (new)**
  - List of cases by type/staff owner in which documents are being gather prior to case being placed on Consent Calendar.
- **Probation Report (new)**
  - List of cases that have been through the COC process and have been placed on CTC Probation and are currently being monitored by DPP staff.
- **DEJ/Diversion Report (new)**
  - List of cases that have been placed on diversion via the criminal system and are being monitored by DPP staff.

- **COC Assigned and Pending Cases Report (enhanced)**
  - List of cases assigned to staff members to help track cases through the investigative process.

- **DPP Single Offense Alcohol Misconduct Report (new)**
  - List of single alcohol offenses processed daily.

- **Statute of Limitations (6 month) Report (new)**
  - List of Cases that are within six months of the statute of limitations end date.

- **Statute of Limitations (School District) Report (new)**
  - List of all school district cases which list the statute of limitations dates or statute of limitations exceptions.

- **Case Aging Report**
  - List of all open cases in DPP that are under review.

- **Monthly Summary Workload Report**
  - Details various categories of the current Division workload.

- **School District Notification Report (new – pending)**
  - List of cases received from school districts – tracks the number of days it took a school district to report a final action and/or change of employment status.

**CTC Agenda Items**

Division Workload Reports agenda items provided to the Commission on Teacher Credentialing regarding its progress of the Bureau of State Audit Recommendations:

- March 2012
- January 2012
- December 2011
- November 2011
- October 2011
- August 2011
- June 2011

Division of Professional Practices

# INTAKE PREVIOUS DAY SUMMARY REPORT

Printed on 3/17/2012

## Pending Documents by Type

| Case Type | Count |
|---|---|
| Respondent | 2 |
| Public records request | 1 |
| Miscellaneous | 1 |
| Fax | 6 |
| Email | 5 |
| Court | 36 |
| Arrest | 19 |
| Total Case Type | 70 |

List of Cases that are still pending (open)



| ID | CTC Person | FIRST NAME | DATE RECIEVED | CTC CASE | |
|---|---|---|---|---|---|
| [redacted] | | | | | |
| Court | [redacted] | | | [redacted] | |
| 12031611GNVCJ | | | 3/15/12 | | Total 1 |
| Arrest | | | | | |
| 12031611GNVCI | | | 3/15/12 | | Total 2 |
| [redacted] | | | | | |
| Fax | | | | | |
| 12031611GNVIN | | | 3/16/12 | | |
| 12031611GNVIP | | | 3/16/12 | | Total 2 |
| [redacted] | | | | | |
| Fax | | | | | |
| 12031611GNVIO | | | 3/16/12 | | Total 1 |
| [redacted] | | | | | |
| Respondent | | | | | |
| 12031611GNVCL | | | 3/15/12 | | Total 1 |
| Court | | | | | |
| 12031611GNVCK | | | 3/15/12 | | |
| 12031611GNVCM | | | 3/15/12 | | |
| 12031611GNVDI | | | 3/15/12 | | Total 4 |
| Arrest | | | | | |
| 12031611GNVDH | | | 3/15/12 | | |
| 12031611GNVFW | | | 3/15/12 | | Total 6 |
| [redacted] | | | | | |
| Email | | | | | |
| 12031611GNV3K | | | 3/15/12 | | |
| 12031611GNV3J | | | 3/15/12 | | |
| 12031611GNLFC | | | 3/16/12 | | |
| 12031611GNV3L | | | 3/15/12 | | |

## Division of Professional Practices
# INTAKE WEEKLY SUMMARY REPORT

Generated on 3/18/2012 for Period **03/12/2012** to **03/17/2012**

### Pending Documents by Type

| Case Type | Count |
|---|---|
| SRC request | 5 |
| School Report | 2 |
| Respondent | 4 |
| Public records request | 4 |
| Miscellaneous | 10 |
| Fax | 6 |
| Email | 11 |
| Court | 42 |
| Arrest | 26 |
| Total Case Type | 110 |

List of Cases that are still pending (open)



| ID | CTC Person | FIRST NAME | DATE RECIEVED | CTC CASE | |
|---|---|---|---|---|---|
| [redacted] | | | | | |
| **Miscellaneous** | [redacted] | | | [redacted] | |
| 12031411GN6AA | | | 3/14/12 | | |
| 12031511GNK4C | | | 3/15/12 | | **Total 2** |
| [redacted] | | | | | |
| **Fax** | | | | | |
| 12031511GNJTF | | | 3/15/12 | | **Total 1** |
| **Court** | | | | | |
| 12031311GM1DV | | | 3/12/12 | | |
| 12031611GNVCJ | | | 3/15/12 | | |
| 12031311GM1EJ | | | 3/12/12 | | **Total 4** |
| [redacted] | | | | | |
| **Court** | | | | | |
| 12031411GN69S | | | 3/14/12 | | **Total 1** |
| [redacted] | | | | | |
| **Fax** | | | | | |
| 12031211GKUTO | | | 3/12/12 | | **Total 1** |
| [redacted] | | | | | |
| **Miscellaneous** | | | | | |
| 12031511GNK4B | | | 3/15/12 | | |
| 12031411GN6A9 | | | 3/14/12 | | |
| 12031511GNK4A | | | 3/15/12 | | **Total 3** |
| [redacted] | | | | | |
| **Respondent** | | | | | |
| 12031611GNVCL | | | 3/15/12 | | **Total 1** |

Division of Professional Practices

# INTAKE MONTHLY SUMMARY REPORT

Printed on 2/29/2012

## Total Documents Received by Type

| | |
|---|---|
| Affidavits | 1 |
| Arrest | 236 |
| Court | 299 |
| Email | 27 |
| Fax | 112 |
| Miscellaneous | 132 |
| Public records request | 7 |
| Respondent | 111 |
| School Report | 26 |
| SRC request | 33 |
| **Total:** | 984 |

## Total Documents Received by DPP owner

| | |
|---|---|
| [redacted] | 50 |
| | 1 |
| | 1 |
| | 85 |
| | 11 |
| | 5 |
| | 44 |
| | 132 |
| | 12 |
| | 18 |
| | 3 |
| | 41 |
| | 83 |
| | 19 |
| | 116 |
| | 10 |
| | 23 |
| | 28 |
| | 63 |
| | 48 |
| | 138 |
| | 12 |
| | 2 |
| | 15 |
| | 24 |
| **Total:** | 984 |

# Division of Professional Practices
# Daily Incoming Rap Sheet/Attachment Report
# For Raps Recorded 3/20/2012

Printed 3/20/2012 11:50:22PM


**Already Reviewed**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | [redacted] | FIRST OFFENSE DUI - CONVICTION INF |

Items Reported as **Already Reviewed**: 1

**Duplicate**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | | |
| 03/20/2012 | | | |
| 03/20/2012 | | | |
| 03/20/2012 | | | |
| 03/20/2012 | | | |

Items Reported as **Duplicate**: 5

**First Offense DUI**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | | VC 23152(a) |
| 03/20/2012 | | | VC 23152(b) - CUSTODY |
| 03/20/2012 | | | VC 23152(a) |
| 03/20/2012 | | | VC 23152(a) |
| 03/20/2012 | | | VC 23152(a)(b) |
| 03/20/2012 | | | VC 23152(a)(b) |
| 03/20/2012 | | | VC 23152(a)(b) |
| 03/20/2012 | | | PC 647(f) |

Items Reported as **First Offense DUI**: 8

**New**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | | PC 243(e)(1) |
| 03/20/2012 | | | VC 23152(a) |
| 03/20/2012 | | | PC 484(a)/488 |
| 03/20/2012 | | | MISD 14601.1(a) |
| 03/20/2012 | | | PC 243(e)(1) |

Items Reported as **New**: 5

**Open Case Update**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | | 1-71357544 |
| 03/20/2012 | | | 1-85510939 // NEW ARREST: FEL 594(b)( |

Items Reported as **Open Case Update**: 2

**Potential LOI**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | | WARRANT INFO // 2 DUI'S W/IN 5 YRS |
| 03/20/2012 | | | FEL 23152(a) - DUI w/prior |

Items Reported as **Potential LOI**: 2

**Potential Mandatory**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | [redacted] | PC 273A(b); PC 647(f) |

# Division of Professional Practices
# Weekly Rap Sheet Status/Summary Report
# For the Week Ending 3/18/2012

Printed 3/19/2012 6:25:26AM



## Raps Recorded Week Ending 03/18/2012

| Rap Status | Count |
|---|---|
| Already Reviewed | 4 |
| Duplicate | 9 |
| First Offense DUI | 23 |
| New | 11 |
| No Action Needed | 2 |
| Open Case Update | 16 |
| Potential LOI | 13 |
| Potential Mandatory | 6 |
| Red Flag | 27 |
| RFRDOJ | 41 |
| Total Raps | 152 |

**New**

| Date | Name | SSN | Comment | Case Status |
|---|---|---|---|---|
| 10/17/2011 | [redacted] | [redacted] | DUI CUSTODY, NEED TO SEE WHEN DUI OCCURRED | No Case |
| 03/12/2012 | [redacted] | [redacted] | VC 23152(a) | [redacted] 03/12/2012 |
| 03/14/2012 | | | VC 12500(a) | - 03/14/2012 |
| 10/20/2011 | | | 23152 PLUS | No Case |
| 03/14/2012 | | | PC 647(f) | [redacted] - 03/14/2012 |
| 01/30/2012 | | | paper rap, | No Case |
| 03/16/2012 | | | PC 484(a) | [redacted] - 03/16/2012 |
| 12/22/2011 | | | FEL 273.5 | No Case |
| 03/13/2012 | | | PC415 x2 and VC 23152 | [redacted] - 03/13/2012 |
| 03/15/2012 | | | PC 243(e)(1) | 03/15/2012 |
| 03/12/2012 | | | VC 14601.1(a) | 03/12/2012 |
| 03/16/2012 | | | VC 14601.2(a) Drive: Lic susp: DUI: spec viol | - 03/16/2012 |
| 03/16/2012 | [redacted] | [redacted] | VC 12500(a) | [redacted] - 03/16/2012 |
| 03/16/2012 | | | PC 602(k) | 03/16/2012 |
| 03/15/2012 | | | PC 148(a) | 03/15/2012 |
| 12/23/2011 | | | CONVERSION THEN POT COC CC | No Case |

Items Reported as **New**: 16

**Potential LOI**

| Date | Name | SSN | Comment | Case Status |
|---|---|---|---|---|
| 03/16/2012 | [redacted] | [redacted] | 1-87624323 | No Case |
| 03/16/2012 | | | FEL 470(b) | [redacted] 03/16/2012 |
| 03/14/2012 | | | VC 23152(a); VC 20002 | - 03/14/2012 |
| 03/16/2012 | | | VC 23152(a)(b) // 2nd DUI within 5 yrs | - 03/16/2012 |
| 03/13/2012 | [redacted] | [redacted] | BP 25658(a) | [redacted] - 03/13/2012 |
| 03/13/2012 | | | FEL 23152(a) w/prior | 03/13/2012 |

# Daily PENA Application Summary

| | Name | SSN | DOB | App Stamp | PENA Date |
|---|---|---|---|---|---|
| 1 | [redacted] | [redacted] | [redacted] | 1203207241 | 03/20/2012 |
| 2 | [redacted] | [redacted] | [redacted] | 1203204107 | 03/20/2012 |
| 3 | [redacted] | [redacted] | [redacted] | 1203207239 | 03/20/2012 |
| 4 | [redacted] | [redacted] | [redacted] | 1203204368 | 03/20/2012 |
| 5 | [redacted] | [redacted] | [redacted] | 1203204318 | 03/20/2012 |
| 6 | [redacted] | [redacted] | [redacted] | 1203017292 | 03/20/2012 |
| 7 | [redacted] | [redacted] | [redacted] | 1203017082 | 03/20/2012 |
| 8 | [redacted] | [redacted] | [redacted] | 1203207018 | 03/20/2012 |
| 9 | [redacted] | [redacted] | [redacted] | 1203204210 | 03/20/2012 |
| 10 | [redacted] | [redacted] | [redacted] | 1202297272 | 03/20/2012 |
| 11 | [redacted] | [redacted] | [redacted] | 1203207058 | 03/20/2012 |
| 12 | [redacted] | [redacted] | [redacted] | 1203204116 | 03/20/2012 |
| 13 | [redacted] | [redacted] | [redacted] | 1203207170 | 03/20/2012 |
| 14 | [redacted] | [redacted] | [redacted] | 1203197164 | 03/20/2012 |
| 15 | [redacted] | [redacted] | [redacted] | 1203207217 | 03/20/2012 |
| 16 | [redacted] | [redacted] | [redacted] | 1203204193 | 03/20/2012 |
| 17 | [redacted] | [redacted] | [redacted] | 1203204194 | 03/20/2012 |
| 18 | [redacted] | [redacted] | [redacted] | 1203207133 | 03/20/2012 |
| 19 | [redacted] | [redacted] | [redacted] | 1203204063 | 03/20/2012 |
| 20 | [redacted] | [redacted] | [redacted] | 1203017262 | 03/20/2012 |
| 21 | [redacted] | [redacted] | [redacted] | 1203204204 | 03/20/2012 |
| 22 | [redacted] | [redacted] | [redacted] | 1203204039 | 03/20/2012 |
| 23 | [redacted] | [redacted] | [redacted] | 1202287143 | 03/20/2012 |
| 24 | [redacted] | [redacted] | [redacted] | 1203204131 | 03/20/2012 |
| 25 | [redacted] | [redacted] | [redacted] | 1203197047 | 03/20/2012 |
| 26 | [redacted] | [redacted] | [redacted] | 1203207252 | 03/20/2012 |
| 27 | [redacted] | [redacted] | [redacted] | 1203204392 | 03/20/2012 |
| 28 | [redacted] | [redacted] | [redacted] | 1203207199 | 03/20/2012 |
| 29 | [redacted] | [redacted] | [redacted] | 1203207166 | 03/20/2012 |
| 30 | [redacted] | [redacted] | [redacted] | 1112094250 | 03/20/2012 |
| 31 | [redacted] | [redacted] | [redacted] | 1203204024 | 03/20/2012 |
| 32 | [redacted] | [redacted] | [redacted] | 1202287188 | 03/20/2012 |
| 33 | [redacted] | [redacted] | [redacted] | 1203207151 | 03/20/2012 |
| 34 | [redacted] | [redacted] | [redacted] | 1202087087 | 03/20/2012 |
| 35 | [redacted] | [redacted] | [redacted] | 1203207099 | 03/20/2012 |
| 36 | [redacted] | [redacted] | [redacted] | 1203207083 | 03/20/2012 |
| 37 | [redacted] | [redacted] | [redacted] | 1203204370 | 03/20/2012 |
| 38 | [redacted] | [redacted] | [redacted] | 1203207184 | 03/20/2012 |
| 39 | [redacted] | [redacted] | [redacted] | 1203204033 | 03/20/2012 |
| 40 | [redacted] | [redacted] | [redacted] | 1203204219 | 03/20/2012 |

# DPP PENA Application Aging Report (Items aged as of 3/21/2012)

Printed 3/21/2012 6:02:14AM

| Application Info | | | Case Info | | Last Activity Info | |
|---|---|---|---|---|---|---|
| Name | | SSN | Case Number | Case Opened | Creation Date | Activity Group |
| App Stamp | App Date | Age (Days) | Case Manager | | Effective Date | Activity Type |
| App Status | | | Case Type | | Created By | Activity Note |
| | | | Offense Code | Designation | | |
| A | | | | | | |
| **360+ Days** | | | | | | |
| [redacted] | | | [redacted] | | 02/10/2012 | PENDING ARRIVAL |
| | | | | | 02/10/2012 | COURT DOCUMENTS UPDATE |
| PENA | | | POTENTIAL MANDATORY | | [redacted] | NEXT COURT DATE FOR 2 CASES 03-29-12 |
| | | | CCOX* | APP/HOLD | | |
| [redacted] | | | [redacted] | | 05/04/2011 | STAFF ACTION |
| | | | | | 05/04/2011 | COPY FILE FOR AG_NORM PRIORITY |
| NDL | | | CTC | | [redacted] | |
| | | | AX | APP | | |
| **241 - 360 Days** | | | | | | |
| [redacted] | | | [redacted] | | 02/16/2011 | STAFF ACTION |
| | | | | | 02/16/2011 | COPY FILE FOR AG_NORM PRIORITY |
| PENA | | | AG | | [redacted] | |
| | | | CCS* | APP/HOLD | | |
| [redacted] | | | [redacted] | | 02/16/2011 | STAFF ACTION |
| | | | | | 02/16/2011 | COPY FILE FOR AG_NORM PRIORITY |
| PENA | | | AG | | [redacted] | |
| | | | CCS* | APP/HOLD | | |
| [redacted] | | | [redacted] | | 03/12/2012 | ASSIGNED TO |
| | | | | | 03/12/2012 | ADMIN HEARING REQUESTED |
| PENA | | | POTENTIAL AG | | [redacted] | |
| | | | O | APP/HOLD | | |
| **181 - 240 Days** | | | | | | |
| [redacted] | | | [redacted] | | 03/14/2012 | ASSIGNED TO |
| | | | | | 04/18/2012 | COC CONSENT CALENDAR |
| PENA | | | POTENTIAL COC CONSENT CAL | | [redacted] | |
| | | | CCOX | APP/HOLD | | |
| [redacted] | | | [redacted] | | 02/07/2012 | ASSIGNED TO |
| | | | | | 02/07/2012 | TECH |
| PENA | | | POTENTIAL COC CONSENT CAL | | [redacted] | FILE TO MC TO REJECT- NO DOCS REC'D |
| | | | C | FIRST APP | | |

Division of Professional Practices
My Team - Advance Notification of Activity Deadline

Printed 4/2/2012 6:00:50AM


[redacted]

**Manager Alerts**

ASSIGNED TO

LETTER OF INQUIRY

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 02/01/2012 | [redacted] | [redacted] | [redacted] | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | APP/HOLD | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |
| 02/01/2012 | | | | HOLDER | 61 | 0 | 19 | 5 |

PENDING ARRIVAL

APP/PAK

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 01/20/2012 | [redacted] | [redacted] | [redacted] | FIRST APP | 73 | 0 | 38 | 3 |

ARREST REPORT

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 05/02/2011 | [redacted] | [redacted] | [redacted] | HOLDER | 336 | 0 | 308 | 294 |
| 06/27/2011 | | | | HOLDER | 280 | 0 | 252 | 238 |
| 08/15/2011 | | | | HOLDER | 231 | 0 | 203 | 189 |
| 10/31/2011 | | | | APP/HOLD | 154 | 0 | 126 | 112 |
| 01/12/2012 | | | | HOLDER | 81 | 0 | 53 | 39 |
| 01/25/2012 | | | | HOLDER | 68 | 0 | 40 | 26 |
| 01/30/2012 | | | | HOLDER | 63 | 0 | 35 | 21 |

COURT DOCUMENTS

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 01/17/2012 | [redacted] | [redacted] | [redacted] | HOLDER | 76 | 0 | 48 | 34 |
| 01/19/2012 | | | | HOLDER | 74 | 0 | 46 | 32 |
| 01/20/2012 | | | | HOLDER | 73 | 0 | 45 | 31 |
| 02/13/2012 | | | | HOLDER | 49 | 0 | 21 | 7 |
| 02/14/2012 | | | | HOLDER | 48 | 0 | 20 | 6 |

COURT DOCUMENTS UPDATE

| Start Date | Case Num | Offense | Name | Designation | Days Elapsed | Days Remain | Past Warn | Past Due |
|---|---|---|---|---|---|---|---|---|
| 01/10/2012 | [redacted] | [redacted] | [redacted] | HOLDER | 83 | 0 | 55 | 41 |
| 01/17/2012 | | | | HOLDER | 76 | 0 | 48 | 34 |
| 01/19/2012 | | | | HOLDER | 74 | 0 | 46 | 32 |
| 01/25/2012 | | | | HOLDER | 68 | 0 | 40 | 26 |
| 02/08/2012 | | | | HOLDER | 54 | 0 | 26 | 12 |
| 02/09/2012 | | | | HOLDER | 53 | 0 | 25 | 11 |
| 02/13/2012 | | | | HOLDER | 49 | 0 | 21 | 7 |
| 02/15/2012 | | | | HOLDER | 47 | 0 | 19 | 5 |

# Division of Professional Practices

## Monitor Cases by Case Type and Owner

### Potential LOI (Continued)

| Case Num | Name | Designation | Offense | Case Opened | Last Activity Date | Last Activity Group | Last Activity Type | Due Date | Past Due | Age (Days) Case | Age (Days) Activity |
|---|---|---|---|---|---|---|---|---|---|---|---|
| [redacted] | | HOLDER | D | 03/11/2011 | 08/19/2011 | PENDING ARRIVAL | ARREST REPORT | 09/30/2011 | 136 | 339 | 178 |
| | | HOLDER | AX | 12/06/2010 | 09/19/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 10/31/2011 | 105 | 434 | 147 |
| | | APP/HOLD | CCOX | 09/21/2011 | 10/17/2011 | PENDING ARRIVAL | STATE RECORD CENTER | 11/14/2011 | 91 | 145 | 119 |
| | | HOLDER | AX | 11/22/2010 | 10/07/2011 | PENDING ARRIVAL | DISTRICT ATTORNEY | 11/18/2011 | 87 | 448 | 129 |
| | | HOLDER | S | 01/25/2011 | 12/02/2011 | ASSIGNED TO | ANALYST | 12/02/2011 | 73 | 384 | 73 |
| | | HOLDER | C | 02/10/2011 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 368 | 70 |
| | | HOLDER | OX | 01/04/2011 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 405 | 70 |
| | | HOLDER | CX | 02/14/2011 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 364 | 70 |
| | | HOLDER | C | 02/09/2011 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 369 | 70 |
| | | HOLDER | C | 02/15/2011 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 363 | 70 |
| | | HOLDER | O | 09/08/2010 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 523 | 70 |
| | | HOLDER | O | 09/08/2010 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 523 | 70 |
| | | HOLDER | O | 09/08/2010 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 523 | 70 |
| | | HOLDER | AX | 06/22/2010 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 601 | 70 |
| | | HOLDER | AX | 06/29/2010 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 594 | 70 |
| | | HOLDER | C | 12/27/2010 | 10/26/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 12/07/2011 | 68 | 413 | 110 |
| | | HOLDER | O | 03/24/2011 | 12/09/2011 | STAFF ACTION | RAP RECEIVED | 12/09/2011 | 66 | 326 | 66 |
| | | HOLDER | C | 09/23/2010 | 10/28/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 12/09/2011 | 66 | 508 | 108 |
| | | HOLDER | CX | 05/02/2011 | 11/08/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 12/20/2011 | 55 | 287 | 97 |
| | | HOLDER | C | 04/27/2011 | 11/08/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 12/20/2011 | 55 | 292 | 97 |
| | | HOLDER | CX | 06/08/2011 | 11/09/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 12/21/2011 | 54 | 250 | 96 |
| | | HOLDER | AX | 03/10/2011 | 08/21/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 12/27/2011 | 48 | 340 | 176 |
| | | HOLDER | O | 05/17/2011 | 05/17/2011 | PREPARE DOCUMENT | COURT DOCUMENTS (FIRST) | 12/27/2011 | 48 | 272 | 272 |
| | | HOLDER | CX | 08/16/2011 | 10/18/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 12/28/2011 | 47 | 181 | 118 |
| | | HOLDER | AX | 05/12/2011 | 12/09/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 12/30/2011 | 45 | 277 | 66 |
| | | FIRST APP | CX | 01/10/2011 | 11/21/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 01/02/2012 | 42 | 399 | 84 |
| | | HOLDER | C | 09/30/2009 | 11/21/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 01/02/2012 | 42 | 866 | 84 |
| | | HOLDER | OX | 02/28/2011 | 01/05/2012 | ASSIGNED TO | ANALYST | 01/05/2012 | 39 | 350 | 39 |
| | | HOLDER | C | 12/10/2011 | 01/06/2012 | ASSIGNED TO | ANALYST | 01/06/2012 | 38 | 65 | 38 |
| | | HOLDER | A | 06/08/2010 | 12/19/2011 | PREPARE DOCUMENT | COURT UPDATE NEEDED | 01/06/2012 | 38 | 615 | 56 |
| | | HOLDER | AX | 02/10/2011 | 01/03/2012 | PREPARE DOCUMENT | DMV | 01/08/2012 | 36 | 368 | 41 |
| | | HOLDER | AX | 06/15/2010 | 11/29/2011 | PREPARE DOCUMENT | COURT UPDATE NEEDED | 01/09/2012 | 35 | 608 | 76 |
| | | HOLDER | CX | 04/22/2011 | 12/05/2011 | PENDING ARRIVAL | DISTRICT ATTORNEY | 01/16/2012 | 28 | 297 | 70 |
| | | HOLDER | O | 03/23/2011 | 12/08/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 01/19/2012 | 25 | 327 | 67 |
| | | HOLDER | AX | 06/02/2011 | 01/20/2012 | ASSIGNED TO | ANALYST | 01/20/2012 | 24 | 256 | 24 |
| | | HOLDER | O | 05/24/2011 | 01/20/2012 | STAFF ACTION | RAP RECEIVED | 01/20/2012 | 24 | 265 | 24 |
| | | APP/HOLD | O | 08/17/2011 | 01/25/2012 | ASSIGNED TO | ANALYST | 01/25/2012 | 19 | 180 | 19 |
| | | HOLDER | O | 07/13/2011 | 12/15/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 01/26/2012 | 18 | 215 | 60 |
| | | HOLDER | CX | 12/21/2011 | 01/26/2012 | ASSIGNED TO | ANALYST | 01/26/2012 | 18 | 54 | 18 |
| | | HOLDER | C | 05/26/2011 | 02/02/2012 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 02/02/2012 | 11 | 263 | 11 |
| | | HOLDER | AX | 06/22/2010 | 01/05/2012 | PENDING ARRIVAL | STATE RECORD CENTER | 02/02/2012 | 11 | 601 | 39 |
| | | HOLDER | AX | 10/03/2011 | 01/13/2012 | PREPARE DOCUMENT | COURT UPDATE NEEDED | 02/03/2012 | 10 | 133 | 31 |
| | | HOLDER | DX | 11/22/2011 | 02/04/2012 | ASSIGNED TO | ANALYST | 02/04/2012 | 9 | 83 | 9 |



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Selected case types: DEJ, POTENTIAL COC CONSENT CALENDAR, POTENTIAL LOI, POTENTIAL MANDATORY, PROBATION

# Division of Professional Practices

## Monitor Cases by Case Type and Owner

### Potential Consent Calendar (Continued)

| Case Num | Name | Designation | Offense | Case Opened | Last Activity Date | Last Activity Group | Last Activity Type | Due Date | Past Due | Age (Days) Case | Age (Days) Activity |
|---|---|---|---|---|---|---|---|---|---|---|---|
| [redacted] | | HOLDER | O | 07/12/2011 | 07/12/2011 | PREPARE DOCUMENT | COURT DOCUMENTS (FIRST) | 08/02/2011 | 195 | 216 | 216 |
| | | HOLDER | OX | 07/21/2011 | 08/05/2011 | PENDING ARRIVAL | ARREST REPORT | 09/16/2011 | 150 | 207 | 192 |
| | | HOLDER | AX | 09/13/2011 | 09/13/2011 | PREPARE DOCUMENT | DMV | 09/18/2011 | 148 | 153 | 153 |
| | | HOLDER | C | 06/14/2011 | 08/09/2011 | PENDING ARRIVAL | COURT DOCUMENTS(SECOND REQ) | 09/20/2011 | 146 | 244 | 188 |
| | | HOLDER | AX | 06/13/2011 | 08/16/2011 | PENDING ARRIVAL | ARREST REPORT | 09/27/2011 | 139 | 245 | 181 |
| | | HOLDER | O | 11/10/2011 | 11/10/2011 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 11/10/2011 | 95 | 95 | 95 |
| | | HOLDER | A | 11/09/2011 | 11/09/2011 | PREPARE DOCUMENT | DMV | 11/14/2011 | 91 | 96 | 96 |
| | | HOLDER | A | 11/10/2011 | 11/10/2011 | PREPARE DOCUMENT | DMV | 11/15/2011 | 90 | 95 | 95 |
| | | HOLDER | A | 11/10/2011 | 11/10/2011 | PREPARE DOCUMENT | DMV | 11/15/2011 | 90 | 95 | 95 |
| | | HOLDER | A | 11/14/2011 | 11/14/2011 | PREPARE DOCUMENT | DMV | 11/19/2011 | 86 | 91 | 91 |
| | | HOLDER | OX | 05/14/2011 | 10/22/2011 | PENDING ARRIVAL | STATE RECORD CENTER | 11/19/2011 | 86 | 275 | 114 |
| | | HOLDER | DX | 05/27/2011 | 10/19/2011 | PENDING ARRIVAL | ARREST REPORT | 11/30/2011 | 75 | 262 | 117 |
| | | HOLDER | C | 11/10/2011 | 11/10/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 12/01/2011 | 74 | 95 | 95 |
| | | HOLDER | C | 11/10/2011 | 11/10/2011 | PREPARE DOCUMENT | COURT DOCUMENTS (FIRST) | 12/01/2011 | 74 | 95 | 95 |
| | | APP/HOLD | CX | 09/24/2011 | 12/01/2011 | STAFF ACTION | RAP RECEIVED | 12/01/2011 | 74 | 142 | 74 |
| | | HOLDER | A | 11/28/2011 | 11/28/2011 | PREPARE DOCUMENT | DMV | 12/03/2011 | 72 | 77 | 77 |
| | | HOLDER | AX | 06/24/2010 | 12/05/2011 | ASSIGNED TO | ANALYST | 12/05/2011 | 70 | 599 | 70 |
| | | HOLDER | O | 06/25/2011 | 12/08/2011 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 12/08/2011 | 67 | 233 | 67 |
| | | HOLDER | O | 05/14/2011 | 12/10/2011 | ASSIGNED TO | ANALYST | 12/10/2011 | 65 | 275 | 65 |
| | | HOLDER | O | 05/11/2011 | 12/10/2011 | ASSIGNED TO | ANALYST | 12/10/2011 | 65 | 278 | 65 |
| | | HOLDER | AX | 07/23/2011 | 12/14/2011 | ASSIGNED TO | ANALYST | 12/14/2011 | 61 | 205 | 61 |
| | | HOLDER | O | 08/08/2011 | 12/16/2011 | ASSIGNED TO | ANALYST | 12/16/2011 | 59 | 189 | 59 |
| | | HOLDER | AX | 06/27/2011 | 10/20/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 12/30/2011 | 45 | 231 | 116 |
| | | FIRST APP | AX | 01/04/2012 | 01/09/2012 | PENDING ARRIVAL | APP/PAK | 01/09/2012 | 35 | 40 | 35 |
| | | HOLDER | OX | 12/29/2011 | 12/29/2011 | PREPARE DOCUMENT | STATE RECORD CENTER (FIRST) | 01/18/2012 | 26 | 46 | 46 |
| | | HOLDER | OX | 05/07/2011 | 01/19/2012 | ASSIGNED TO | ANALYST | 01/19/2012 | 25 | 282 | 25 |
| | | HOLDER | AX | 11/17/2011 | 01/20/2012 | STAFF ACTION | RAP RECEIVED | 01/20/2012 | 24 | 88 | 24 |
| | | HOLDER | OX | 11/19/2010 | 12/10/2011 | PENDING ARRIVAL | DISTRICT ATTORNEY | 01/21/2012 | 23 | 451 | 65 |
| | | APP | C | 12/14/2011 | 01/23/2012 | ASSIGNED TO | ANALYST | 01/23/2012 | 21 | 61 | 21 |
| | | FIRST APP | SX | 11/23/2011 | 12/10/2011 | PENDING ARRIVAL | APP/PAK | 01/23/2012 | 21 | 82 | 65 |
| | | HOLDER | O | 07/19/2011 | 01/31/2012 | ASSIGNED TO | ANALYST | 01/31/2012 | 13 | 209 | 13 |
| | | HOLDER | OX | 06/09/2011 | 02/01/2012 | ASSIGNED TO | ANALYST | 02/01/2012 | 12 | 249 | 12 |
| | | HOLDER | O | 08/15/2011 | 02/02/2012 | ASSIGNED TO | ANALYST | 02/02/2012 | 11 | 182 | 11 |
| | | HOLDER | AX | 09/19/2011 | 02/02/2012 | STAFF ACTION | RAP RECEIVED | 02/02/2012 | 11 | 147 | 11 |
| | | FIRST APP | C | 01/06/2012 | 02/02/2012 | ASSIGNED TO | ANALYST | 02/02/2012 | 11 | 38 | 11 |
| | | HOLDER | A | 10/13/2011 | 02/06/2012 | STAFF ACTION | RAP RECEIVED | 02/06/2012 | 7 | 123 | 7 |
| | | HOLDER | A | 12/15/2011 | 12/29/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 02/09/2012 | 4 | 60 | 46 |
| | | HOLDER | O | 08/29/2011 | 02/10/2012 | ASSIGNED TO | ANALYST | 02/10/2012 | 3 | 168 | 3 |
| | | FIRST APP | C | 09/22/2011 | 01/23/2012 | PREPARE DOCUMENT | FURTHER INFO NEEDED | 02/13/2012 | 0 | 144 | 21 |
| | | APP/HOLD | OX | 06/01/2011 | 01/05/2012 | PENDING ARRIVAL | ARREST REPORT | 02/16/2012 | 0 | 257 | 39 |
| | | HOLDER | AX | 07/14/2011 | 02/17/2012 | PREPARE DOCUMENT | COURT UPDATE NEEDED | 02/17/2012 | 0 | 214 | -4 |
| | | APP/HOLD | CCO | 12/15/2011 | 01/03/2012 | PENDING ARRIVAL | APP/PAK | 02/17/2012 | 0 | 60 | 41 |
| | | FIRST APP | OX | 05/04/2011 | 12/12/2011 | PENDING ARRIVAL | APP/PAK | 02/20/2012 | 0 | 285 | 63 |



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Selected case types: DEJ, POTENTIAL COC CONSENT CALENDAR, POTENTIAL LOI, POTENTIAL MANDATORY, PROBATION

# Division of Professional Practices

## Monitor Cases by Case Type and Owner

### Probation

| Case Num | Name | DEJ/Probation Dates | | Last Activity | | | | | Case Age Days |
|---|---|---|---|---|---|---|---|---|---|
| | | Start | End | Date | Group | Type | Due Date | Past Due | |
| [redacted] | | 08/04/2008 | 08/04/2013 | 08/04/2008 | STAYED ACTION | PROBATION | 09/22/2009 | 874 | 1,735 |
| | | 05/25/2008 | 05/25/2012 | 05/25/2008 | STAYED ACTION | PROBATION | 09/22/2009 | 874 | 1,651 |
| | | 05/25/2008 | 05/25/2012 | 05/25/2008 | STAYED ACTION | PROBATION | 09/22/2009 | 874 | 1,651 |
| | | 05/25/2008 | 05/25/2012 | 05/25/2008 | STAYED ACTION | PROBATION | 09/22/2009 | 874 | 1,651 |
| | | 08/06/2008 | 08/06/2012 | 08/06/2008 | STAYED ACTION | PROBATION | 09/22/2009 | 874 | 1,929 |
| | | 07/03/2009 | 07/31/2012 | 07/03/2009 | STAYED ACTION | PROBATION | 09/22/2009 | 874 | 2,076 |
| | | 04/24/2009 | 04/24/2012 | 04/24/2009 | STAYED ACTION | PROBATION | 09/22/2009 | 874 | 2,502 |
| | | 10/01/2007 | 10/01/2012 | 09/13/2010 | STAFF ACTION | OPEN/CLOSE PREVIOUSLY CLEAR | 09/13/2010 | 518 | 2,307 |
| | | 08/09/2010 | 08/09/2013 | 08/09/2010 | STAYED ACTION | PROBATION | 04/20/2011 | 299 | 973 |
| | | 10/29/2009 | 10/29/2012 | 10/29/2009 | STAYED ACTION | PROBATION | 04/20/2011 | 299 | 1,337 |
| | | 07/01/2010 | 07/01/2013 | 07/01/2010 | STAYED ACTION | PROBATION | 04/20/2011 | 299 | 1,483 |
| | | 04/12/2010 | 04/12/2013 | 04/12/2010 | STAYED ACTION | PROBATION | 04/20/2011 | 299 | 1,838 |
| | | 06/08/2009 | 06/08/2014 | 06/08/2009 | STAYED ACTION | PROBATION | 04/20/2011 | 299 | 1,782 |
| | | 04/12/2006 | | 04/13/2010 | STAYED ACTION | PROBATION | 04/20/2011 | 299 | 2,506 |
| | | 11/06/2008 | 11/06/2011 | 05/12/2011 | ASSIGNED TO | INVESTIGATOR | 05/12/2011 | 277 | 3,330 |
| | | 01/04/2009 | 01/04/2012 | 01/13/2012 | STAYED ACTION | PROBATION COMPLIANCE | 01/13/2012 | 31 | 1,659 |

**Total Probation Cases owned by Louie, Judy: 16**



Selected case types: DEJ, POTENTIAL COC CONSENT CALENDAR, POTENTIAL LOI, POTENTIAL MANDATORY, PROBATION

# Division of Professional Practices

## Monitor Cases by Case Type and Owner

### DEJ/Diversion (Continued)

| Case Num | Name | DEJ/Probation Dates Start | DEJ/Probation Dates End | Last Activity Date | Last Activity Group | Last Activity Type | Due Date | Past Due | Case Age Days |
|---|---|---|---|---|---|---|---|---|---|
| [redacted] | | 04/27/2011 | 03/19/2012 | 06/08/2011 | PENDING ARRIVAL | ARREST REPORT(THIRD REQ) | 07/20/2011 | 208 | 385 |
| | | 02/04/2011 | | 10/11/2011 | PENDING ARRIVAL | COURT DOCUMENTS(SECOND REQ) | 11/22/2011 | 83 | 412 |
| | | 08/11/2011 | 01/22/2013 | 12/06/2011 | STAFF ACTION | RAP RECEIVED | 12/06/2011 | 69 | 276 |
| | | 01/13/2011 | 07/17/2012 | 01/17/2012 | PREPARE DOCUMENT | DMV | 01/22/2012 | 22 | 578 |
| | | 10/27/2010 | 04/08/2012 | 12/16/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 01/27/2012 | 17 | 648 |
| | | 01/30/2012 | 04/19/2012 | 01/30/2012 | ASSIGNED TO | DIVERSION/DEJ | 01/30/2012 | 14 | 396 |
| | | 02/06/2012 | 07/19/2012 | 02/06/2012 | ASSIGNED TO | DIVERSION/DEJ | 02/06/2012 | 7 | 31 |
| | | 04/05/2011 | 12/20/2013 | 04/05/2011 | ASSIGNED TO | DIVERSION/DEJ | 02/09/2012 | 4 | 488 |
| | | | | 02/10/2012 | ASSIGNED TO | ANALYST | 02/10/2012 | 3 | 193 |
| | | 02/13/2012 | | 02/13/2012 | ASSIGNED TO | DIVERSION/DEJ | 02/13/2012 | 0 | 175 |
| | | 02/13/2012 | | 02/13/2012 | ASSIGNED TO | DIVERSION/DEJ | 02/13/2012 | 0 | 118 |
| | | 07/29/2011 | | 08/30/2011 | PENDING ARRIVAL | COURT DIVERSION/DEJ STATUS | 02/26/2012 | 0 | 290 |
| | | 08/05/2011 | 12/02/2012 | 01/17/2012 | PENDING ARRIVAL | ARREST REPORT | 02/28/2012 | 0 | 670 |
| | | 06/16/2011 | 02/28/2012 | 06/20/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 02/28/2012 | 0 | 511 |
| | | 03/01/2011 | 01/27/2012 | 01/26/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 03/08/2012 | 0 | 448 |
| | | 10/07/2011 | 01/30/2012 | 01/27/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 03/09/2012 | 0 | 418 |
| | | 04/18/2011 | | 01/27/2012 | PENDING ARRIVAL | COURT DOCUMENTS(THIRD REQ) | 03/09/2012 | 0 | 740 |
| | | 07/13/2010 | 06/09/2011 | 01/27/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 03/09/2012 | 0 | 739 |
| | | 04/15/2011 | | 04/22/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 03/09/2012 | 0 | 717 |
| | | 12/07/2011 | 11/09/2013 | 12/30/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 03/12/2012 | 0 | 343 |
| | | 05/17/2011 | 08/25/2012 | 01/30/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 03/12/2012 | 0 | 433 |
| | | 09/03/2010 | 01/30/2012 | 01/31/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 03/13/2012 | 0 | 627 |
| | | 08/10/2011 | 03/14/2012 | 10/03/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 03/14/2012 | 0 | 672 |
| | | | | 02/02/2012 | PENDING ARRIVAL | COURT DOCUMENTS | 03/15/2012 | 0 | 717 |
| | | 04/22/2011 | 02/06/2012 | 02/06/2012 | PENDING ARRIVAL | COURT DOCUMENTS | 03/19/2012 | 0 | 304 |
| | | | | 09/21/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 03/19/2012 | 0 | 713 |
| | | 01/13/2011 | 01/17/2012 | 02/09/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 03/22/2012 | 0 | 536 |
| | | 01/13/2011 | 01/14/2012 | 02/09/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 03/22/2012 | 0 | 536 |
| | | 06/03/2010 | | 10/06/2011 | PENDING ARRIVAL | COURT DIVERSION/DEJ STATUS | 04/03/2012 | 0 | 630 |
| | | 06/03/2011 | | 10/10/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 04/07/2012 | 0 | 390 |
| | | 06/28/2011 | | 10/11/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 04/08/2012 | 0 | 284 |
| | | 02/24/2011 | | 10/11/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 04/08/2012 | 0 | 368 |
| | | 12/29/2010 | 04/12/2012 | 08/08/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 04/12/2012 | 0 | 566 |
| | | 11/23/2010 | 04/13/2012 | 08/04/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 04/13/2012 | 0 | 481 |
| | | | | 07/20/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 04/13/2012 | 0 | 1,005 |
| | | 10/18/2011 | | 10/18/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 04/15/2012 | 0 | 236 |
| | | 05/03/2011 | | 10/18/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 04/15/2012 | 0 | 329 |
| | | 11/19/2011 | | 02/09/2012 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 04/20/2012 | 0 | 334 |
| | | | | 10/24/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 04/21/2012 | 0 | 112 |
| | | 12/30/2010 | | 10/25/2011 | PREPARE DOCUMENT | COURT DIVERSION/DEJ STATUS | 04/22/2012 | 0 | 412 |
| | | 06/07/2010 | 04/30/2013 | 10/31/2011 | PENDING ARRIVAL | COURT DIVERSION/DEJ STATUS | 04/28/2012 | 0 | 725 |



Selected case types: DEJ, POTENTIAL COC CONSENT CALENDAR, POTENTIAL LOI, POTENTIAL MANDATORY, PROBATION

# Division of Professional Practices

## COC Assigned and Pending Cases as of 03/01/2012

Printed 3/1/2012 7:59:31AM



[redacted]

| Case Num | Respondent | App/ AppHld | Offense Code | Case Type | COC Meeting Date | Opened | Case Age Days | Assigned | Assign Age Days |
|---|---|---|---|---|---|---|---|---|---|
| **Initial Review** | | | | | | | | | |
| [redacted] | | | AX | LOI | 3/21-23/2012 | 06/07/2010 | 633 | 03/01/2012 | 0 |
| | | | O | LOI | 3/21-23/2012 | 10/14/2010 | 504 | 03/01/2012 | 0 |
| | | | O | LOI | 3/21-23/2012 | 10/21/2010 | 497 | 03/01/2012 | 0 |
| | | | OX | LOI | 3/21-23/2012 | 10/21/2010 | 497 | 03/01/2012 | 0 |
| | | | CCOX | LOI | 4/18-20/2012 | 07/22/2010 | 588 | 03/01/2012 | 0 |
| | | | O | LOI | 4/18-20/2012 | 09/30/2010 | 518 | 03/01/2012 | 0 |
| | | | O | LOI | 4/18-20/2012 | 09/30/2010 | 518 | 03/01/2012 | 0 |
| | | | CCO | LOI | 4/18-20/2012 | 11/23/2010 | 464 | 03/01/2012 | 0 |
| | | | CCO | LOI | 4/18-20/2012 | 11/23/2010 | 464 | 03/01/2012 | 0 |
| **Formal Review - Non-Appearance (30 Day)** | | | | | | | | | |
| [redacted] | | | O | 30-DAY | 3/21-23/2012 | 07/23/2010 | 587 | 03/01/2012 | 0 |
| | | | DX | 30-DAY | 3/21-23/2012 | 07/23/2010 | 587 | 03/01/2012 | 0 |
| | | | CCO | 30-DAY | 3/21-23/2012 | 07/23/2010 | 587 | 03/01/2012 | 0 |
| | | ✓ | O | 30-DAY | 3/21-23/2012 | 07/29/2010 | 581 | 03/01/2012 | 0 |
| | | | S | 30-DAY | 4/18-20/2012 | 07/29/2010 | 581 | 03/01/2012 | 0 |
| | | | O | 30-DAY | 4/18-20/2012 | 10/07/2010 | 511 | 03/01/2012 | 0 |
| | | | O | 30-DAY | 4/18-20/2012 | 11/17/2010 | 470 | 03/01/2012 | 0 |
| **Formal Review - Appearance** | | | | | | | | | |
| [redacted] | | | CCO | APPEARANCE | 3/21-23/2012 | 07/26/2010 | 584 | 03/01/2012 | 0 |
| | | ✓ | O | APPEARANCE | 4/18-20/2012 | 08/08/2011 | 206 | 03/01/2012 | 0 |

Division of Professional Practices
DPP Single Offense Alcohol Misconduct Report
For Notes Entered 03/20/2012

3/21/2012 6:03:33AM


Manager Initials:

[redacted]

| Date | SSN | Name | Note | DPP Status | Date of Most Recent Case |
|---|---|---|---|---|---|
| 03/20/2012 | [redacted] | | APP # [redacted] SINGLE DUI CONVICTION 2009/11/19 GWINNETT COUNTY RECORDER'S COURT, GA<br>CASE NO [redacted]<br>CHARGE 1-DUI ALCOHOL MISD<br>DISPOSITION: GUILTY | C | None |
| 03/20/2012 | | | APP [redacted] Single DUI //<br>1999/02/18 CASCMCVENTURA<br>[redacted]<br>23152(B) VC-DUI ALCOHOL/0.08 PERCENT<br>DISPO:CONVICTED-PROBATION<br>CONV STATUS:MISDEMEANOR<br>COM:SEN-X36 MO PROB, , $1879 FINE | C | None |

[redacted]

| Date | SSN | Name | Note | DPP Status | Date of Most Recent Case |
|---|---|---|---|---|---|
| 03/20/2012 | [redacted] | | SINGLE OFFENSE DUI // DMV VERIFIED - NO OTHE MISD CONV REFLECTED | F | None |
| 03/20/2012 | | | SINGLE OFFENSE DUI // DMV VERIFIED - NO OTHE MISD CONV REFLECTED | F | None |
| 03/20/2012 | | | SINGLE OFFENSE DUI // DMV VERIFIED - NO OTHE MISD CONV REFLECTED | F | None |
| 03/20/2012 | | | SINGLE OFFENSE DUI // DMV VERIFIED - NO OTHER MISD CONV REFLECTED | F | None |
| 03/20/2012 | | | SINGLE OFFENSE DUI // DMV VERIFIED - NO OTHE MISD CONV REFLECTED | C | None |
| 03/20/2012 | | | SINGLE OFFENSE DUI // DMV VERIFIED - NO OTHE MISD CONV REFLECTED | F | None |
| 03/20/2012 | | | SINGLE OFFENSE DUI // DMV VERIFIED - NO OTHE MISD CONV REFLECTED | F | None |
| 03/20/2012 | | | SINGLE OFFENSE DUI // DMV VERIFIED - NO OTHE MISD CONV REFLECTED | F | None |
| 03/20/2012 | | | SINGLE OFFENSE DUI // DMV VERIFIED - NO OTHE MISD CONV REFLECTED | F | None |
| 03/20/2012 | | | SINGLE OFFENSE DUI // DMV VERIFIED - NO OTHE MISD CONV REFLECTED | F | None |

**Total items for report: 12**

Record selection criteria:

{DPP_DUI_NOTE_SUMMARY_VW.NOTE_TYPE} = "DPP MISCONDUCT NOTE" and
{DPP_DUI_NOTE_SUMMARY_VW.NOTE_DATE} = CurrentDate - 1

Listed as: First-time DUI Notes Summary

# Statute of Limitations Report - Expiration in Six Months or Less

| Case Num | Resp Name | Case Open | Designation | Case Type | Case Owner | SD Case | JXd | SOL Expires |
|---|---|---|---|---|---|---|---|---|
| [redacted] | | 10/29/2011 | HOLDER | PENDING LOI | JLOUIE | ✓ | | 08/01/2012 |
| [redacted] | | 10/29/2011 | HOLDER | LOI | JLOUIE | ✓ | | 08/30/2012 |

Total Cases this Report: **2**

Cases displayed in **BOLD** have more than one SOL activity record that is not flagged as Done.

# Monthly Statute of Limitations Report

| Case Num | Resp Name | Case Open | Designation | Case Type | Case Owner | SD Case | SOL Excp | JXd | SOL Expires |
|---|---|---|---|---|---|---|---|---|---|
| [redacted] | | 10/29/2011 | HOLDER | PENDING LOI | JLOUIE | ✓ | | | 08/01/2012 |
| | | 10/29/2011 | HOLDER | LOI | JLOUIE | ✓ | | | 08/30/2012 |
| | | 05/14/2011 | HOLDER | LOI | ADCHAVEZ | ✓ | | | 12/11/2012 |
| | | 03/01/2012 | HOLDER | POTENTIAL LOI | GGONZALEZ | ✓ | | | 12/26/2012 |
| | | 10/29/2011 | APP/HOLD | PENDING LOI | GGONZALEZ | ✓ | | | 02/10/2013 |
| | | 03/03/2012 | HOLDER | POTENTIAL LOI | MCROFT | ✓ | | | 02/21/2013 |
| | | 03/08/2012 | HOLDER | PENDING LOI | SHENDERSON | ✓ | | | 02/28/2013 |
| | | 03/08/2012 | HOLDER | POTENTIAL LOI | IWALLS | ✓ | | | 02/28/2013 |
| | | 03/06/2012 | HOLDER | PENDING LOI | SHENDERSON | ✓ | | | 03/02/2013 |
| | | 03/08/2012 | HOLDER | POTENTIAL LOI | CROMERO | ✓ | | | 03/04/2013 |
| | | 03/08/2012 | HOLDER | POTENTIAL LOI | CROMERO | ✓ | | | 03/04/2013 |
| | | 03/10/2012 | HOLDER | PENDING LOI | GGONZALEZ | ✓ | | | 03/05/2013 |
| | | 03/10/2012 | HOLDER | POTENTIAL LOI | IWALLS | ✓ | | | 03/05/2013 |
| | | 03/10/2012 | HOLDER | POTENTIAL LOI | IWALLS | ✓ | | | 03/05/2013 |
| | | **03/10/2012** | **HOLDER** | **POTENTIAL COC CONSENT CALENDAR** | **IWALLS** | ✓ | | | **03/05/2013** |
| | | 03/10/2012 | HOLDER | POTENTIAL LOI | IWALLS | ✓ | | | 03/05/2013 |
| | | 03/10/2012 | HOLDER | POTENTIAL COC CONSENT CALENDAR | JNAKAMURA | ✓ | | | 03/07/2013 |
| | | 03/10/2012 | HOLDER | POTENTIAL COC CONSENT CALENDAR | IWALLS | ✓ | | | 03/07/2013 |
| | | 03/08/2012 | HOLDER | POTENTIAL LOI | CROMERO | ✓ | | | 03/09/2013 |
| | | 03/12/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 03/10/2013 |
| | | 03/12/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 03/10/2013 |
| | | 03/14/2012 | HOLDER | POTENTIAL LOI | CROMERO | ✓ | | | 03/11/2013 |
| | | 03/14/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 03/12/2013 |
| | | 03/14/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 03/12/2013 |
| | | 03/14/2012 | HOLDER | POTENTIAL LOI | IWALLS | ✓ | | | 03/12/2013 |
| | | 03/14/2012 | HOLDER | POTENTIAL LOI | IWALLS | ✓ | | | 03/12/2013 |
| | | 03/14/2012 | HOLDER | POTENTIAL LOI | CROMERO | ✓ | | | 03/13/2013 |
| | | 03/16/2012 | HOLDER | PENDING LOI | CROMERO | ✓ | | | 03/13/2013 |
| | | 03/16/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 03/13/2013 |
| | | 11/08/2011 | HOLDER | POTENTIAL LOI | LHERNANDEZ | | | | 03/13/2013 |
| | | 03/14/2012 | HOLDER | POTENTIAL LOI | IWALLS | ✓ | | | 03/14/2013 |
| | | 03/14/2012 | HOLDER | POTENTIAL LOI | IWALLS | ✓ | | | 03/14/2013 |
| | | 03/21/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 03/18/2013 |
| | | 03/21/2012 | HOLDER | POTENTIAL LOI | MCROFT | ✓ | | | 03/18/2013 |
| | | 03/05/2012 | HOLDER | PENDING LOI | GGONZALEZ | ✓ | | | 03/18/2013 |
| | | 03/21/2012 | HOLDER | POTENTIAL LOI | CROMERO | ✓ | | | 03/19/2013 |
| | | 03/21/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 03/19/2013 |
| | | 03/21/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 03/19/2013 |
| | | 03/21/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 03/19/2013 |
| | | 03/21/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 03/19/2013 |
| | | 03/14/2012 | HOLDER | POTENTIAL LOI | MCROFT | ✓ | | | 03/19/2013 |
| | | 03/21/2012 | HOLDER | POTENTIAL LOI | IWALLS | ✓ | | | 03/19/2013 |
| | | 03/10/2012 | HOLDER | POTENTIAL COC CONSENT CALENDAR | CROMERO | ✓ | | | 03/30/2013 |
| | | 03/21/2012 | HOLDER | POTENTIAL LOI | LHERNANDEZ | ✓ | | | 04/17/2013 |
| | | 03/10/2012 | HOLDER | POTENTIAL LOI | JNAKAMURA | ✓ | | | 04/21/2013 |
| | | 03/10/2012 | HOLDER | POTENTIAL LOI | CROMERO | ✓ | | | 04/22/2013 |
| | | 03/12/2012 | HOLDER | POTENTIAL LOI | CROMERO | ✓ | | | 04/26/2013 |
| | | 03/08/2012 | HOLDER | POTENTIAL LOI | | | | | |



Printed 4/4/2012 4:57:32PM

# DPP Case Aging Report (Cases aged through March 15, 2012)

Printed 3/23/2012 9:54:01AM

| Person Info | | Case Info | | Last Activity Info | |
|---|---|---|---|---|---|
| Name<br>SSN | DOB | Case Num<br>Case Opened<br>Case Designation<br>Age (Days) | Offense<br>Case Type | Created<br>Effective<br>Activity Group<br>Activity Type<br>(Activity Notes) | Creator<br>Owner |
| **A** | | | | | |
| **Aged 360+ Days** | | | | | |
| [redacted] | | [redacted]<br>05/09/2008<br>HOLDER<br>1,414 | OX<br>POTENTIAL LOI | 01/27/2012<br>01/27/2012<br>PENDING ARRIVAL<br>COURT DOCUMENTS UPDATE<br>CONT FROM 1/20/12 | IWALLS<br>IWALLS |
| | | [redacted]<br>02/01/2006<br>HOLDER<br>2,242 | CCS*<br>PROBATION | 05/25/2010<br>05/25/2010<br>STAFF ACTION<br>OPEN/CLOSE PREVIOUSLY CLEAR | JCONDIT<br>JCONDIT |
| | | [redacted]<br>11/22/2010<br>HOLDER<br>487 | AX<br>POTENTIAL LOI | 10/07/2011<br>10/07/2011<br>PENDING ARRIVAL<br>DISTRICT ATTORNEY<br>2ND REQ TO ALAMEDA CO RE 01/11/11 ARREST;<br>CHARGES FILED? | MZUNIGA<br>MZUNIGA |
| | | [redacted]<br>08/19/2010<br>APP/HOLD<br>582 | CCOX*<br>POTENTIAL MANDATORY | 02/10/2012<br>02/10/2012<br>PENDING ARRIVAL<br>COURT DOCUMENTS UPDATE<br>NEXT COURT DATE FOR 2 CASES 03-29-12 | EKLOCKGETHER<br>EKLOCKGETHER |
| | | [redacted]<br>09/17/2009<br>APP/HOLD<br>918 | CCS*<br>AG | 02/16/2011<br>02/16/2011<br>STAFF ACTION<br>COPY FILE FOR AG_NORM PRIORITY | BRUTLEDGE<br>ESCHMITT |
| | | [redacted]<br>05/03/2010<br>HOLDER<br>690 | AX<br>30-DAY | 02/24/2012<br>02/24/2012<br>COC ACTION<br>SUSPEND<br>21 DAYS | EMCCREADY<br>EMCCREADY |

# DPP Monthly Activity Summary

## Activity During February 2012

### Pre COC

**Work Received in DPP**

| | Items Rec'd | Cases Opened |
|---|---|---|
| RAPs | 869 | 286 |
| Apps | 999 | 235 |
| SD Reports * | 118 | 4 |
| Misc * | 5 | 10 |
| **Total** | **1,991** | **535** |

* Work related to cases opened may have been received in a prior period

**Document Requests**

| | |
|---|---|
| Arrest | 185 |
| Court | 403 |

### COC Inventory

| | |
|---|---|
| Initial Review | 61 |
| Formal Review | 49 |
| Consent Review | 124 |

### COC Work Completed (February 2012)

**Cases to COC**

| | |
|---|---|
| Intitial Review | 65 |
| Formal Review | 42 |
| Reconsideration | 3 |
| Consent Review | 279 |

**Cases Completed**

| | |
|---|---|
| Closed | 104 |
| Granted | 182 |
| Adverse Actions | 39 |

### Post COC

| | |
|---|---|
| Settlement | 1 |
| AG | 4 |
| CTC | 50 |

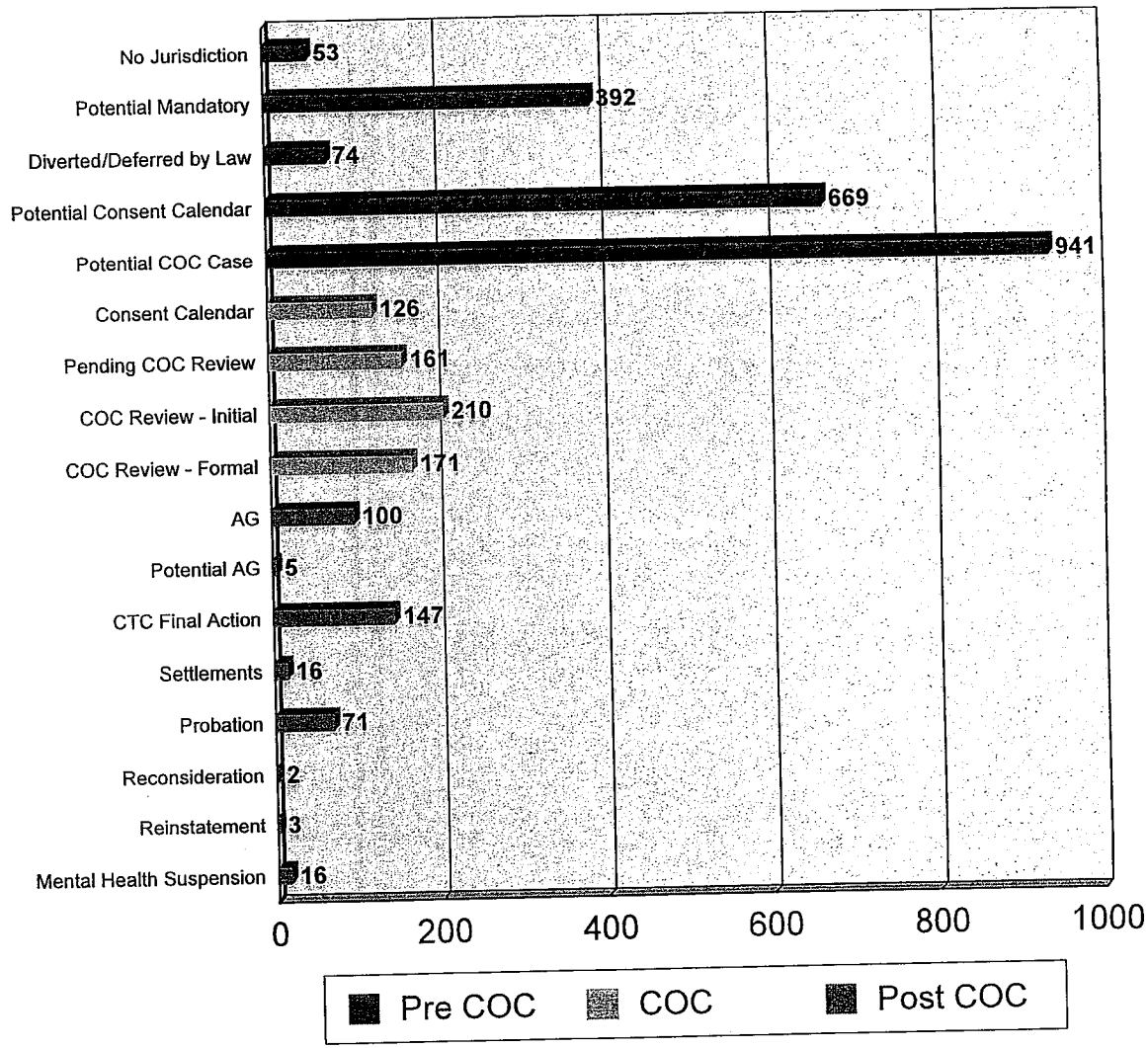
### Mandatory Actions

| | |
|---|---|
| Revocations | 14 |
| Denials | 3 |
| Automatic Suspensions | 19 |

### Inventory for February 2012

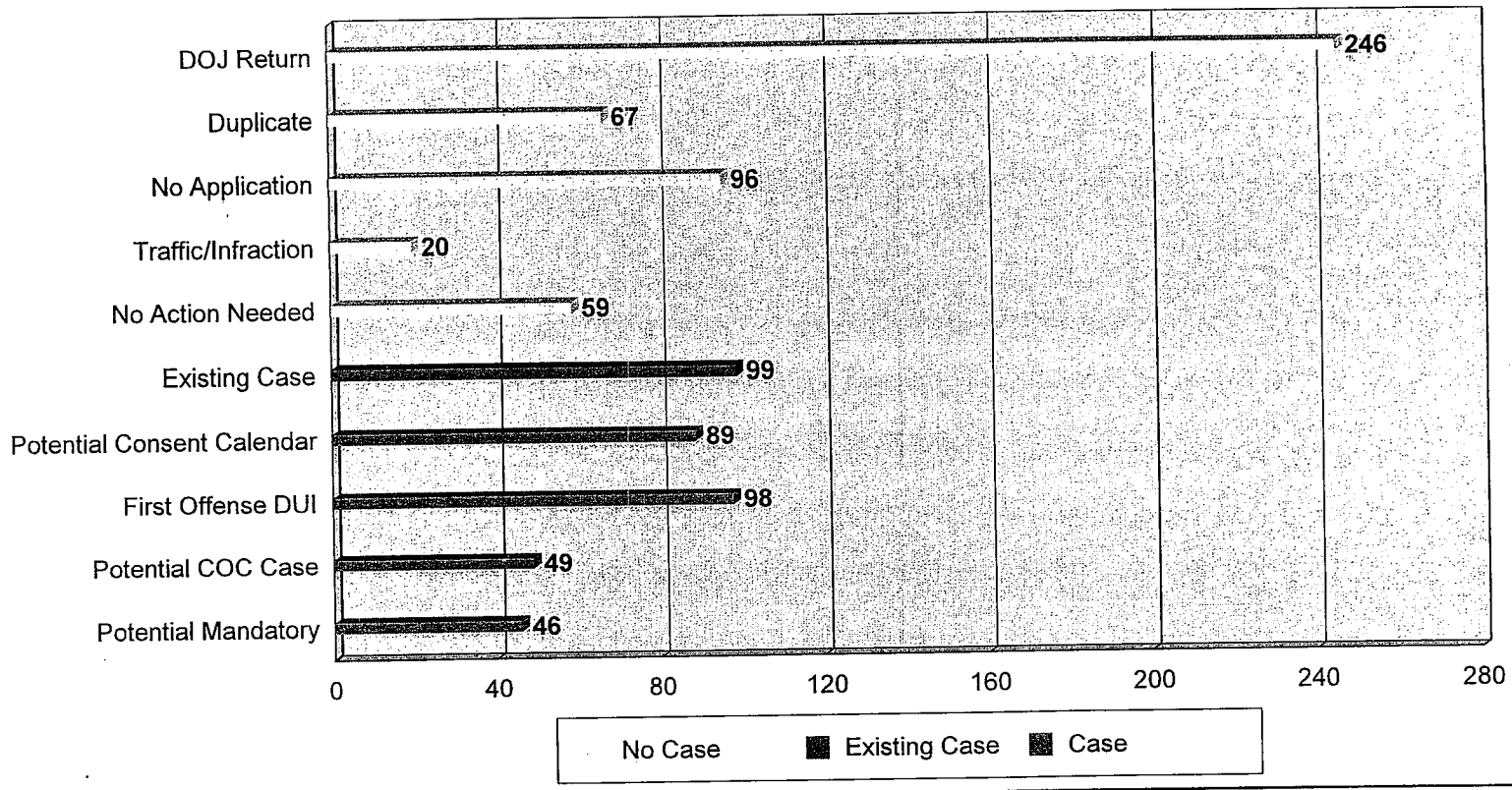
| | |
|---|---|
| Starting Case Load | 3,049 |
| Cases Opened | 535 |
| Cases Closed | 427 |
| Ending Case Load | 3,157 |

## Open Cases by Status and Type as of February 29, 2012



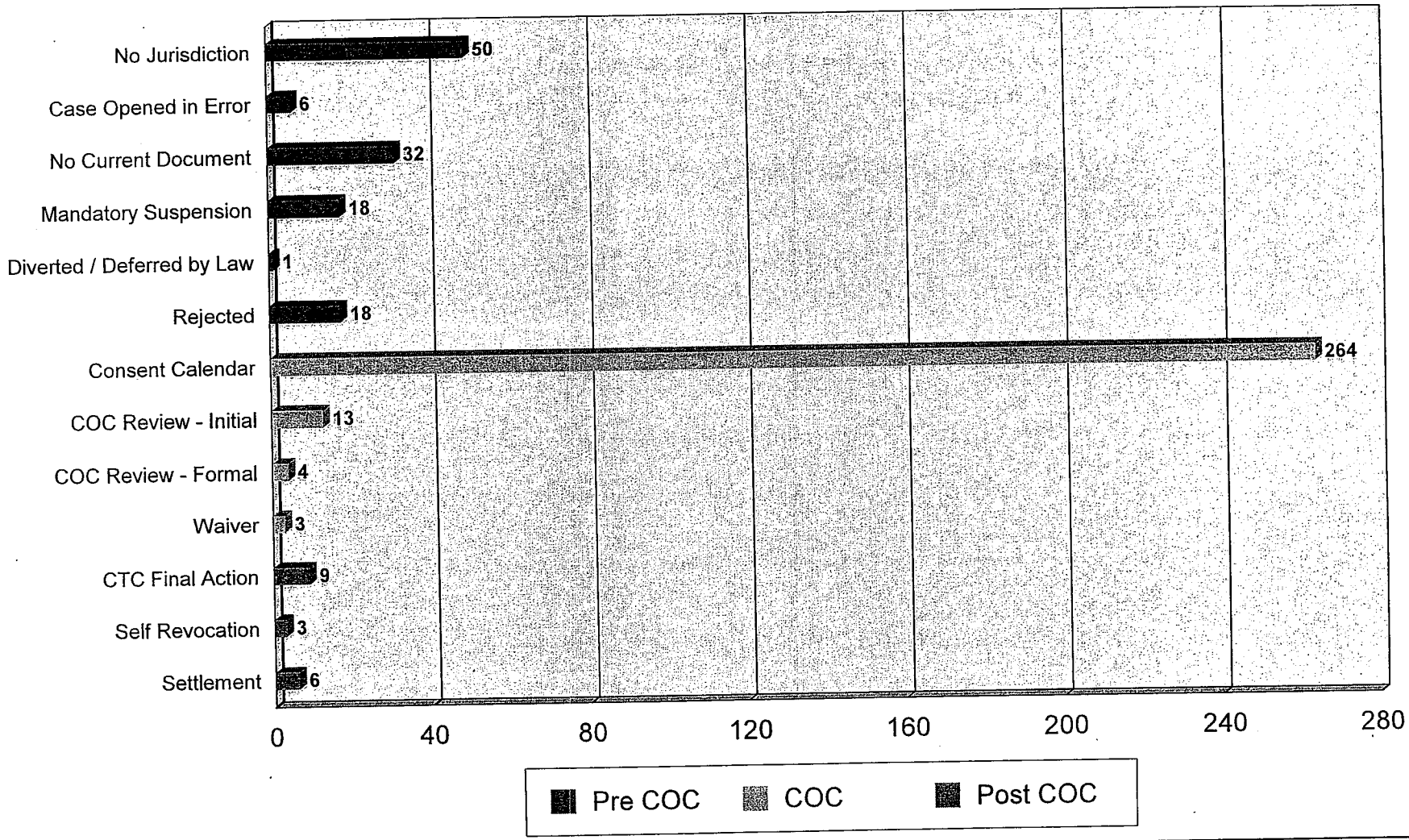

| | |
|---|---|
| **Pre COC** | **2,129** |
| **COC** | **668** |
| **Post COC** | **360** |
| **Total Open Cases** | **3,157** |

## DPP RAPs Received and Processed February 2012




| | |
|---|---|
| **No Case** | **488** |
| **Existing Case** | **99** |
| **Case** | **282** |
| **Total RAPs** | **869** |

## Cases Closed by Type During February 2012




| | |
|---|---|
| **Pre COC** | **125** |
| **COC** | **284** |
| **Post COC** | **18** |
| **Total Cases Closed** | **427** |

# Open Cases Aged by Case Status, Case Type, and Offense as of February 29, 2012

| Status | Case Type | Offense Code | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 450 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | No Jurisdiction | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 1 | 1 | 0 | 2 | 1 | 0 | 5 |
| | | Adult - Sexual | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| | | Drugs | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | | Serious Crimes/Felonies | 0 | 2 | 4 | 2 | 2 | 2 | 12 |
| | | Alcohol | 2 | 0 | 2 | 1 | 1 | 1 | 7 |
| | | Other Crimes/Misdemeanors | 3 | 8 | 5 | 6 | 2 | 2 | 26 |
| | | **Total** | **7** | **11** | **12** | **11** | **6** | **6** | **53** |
| | Potential Mandatory | Child Crime - Sexual | 34 | 13 | 14 | 9 | 6 | 28 | 104 |
| | | Child Crime - Non-sexual | 21 | 13 | 2 | 8 | 2 | 5 | 51 |
| | | Adult - Sexual | 9 | 6 | 2 | 3 | 0 | 4 | 24 |
| | | Drugs | 16 | 17 | 12 | 5 | 4 | 11 | 65 |
| | | Serious Crimes/Felonies | 35 | 26 | 27 | 11 | 13 | 21 | 133 |
| | | Alcohol | 4 | 3 | 5 | 0 | 0 | 0 | 12 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 0 | 1 | 1 | 3 |
| | | **Total** | **120** | **78** | **62** | **36** | **26** | **70** | **392** |
| | Diverted / Deferred by Law | Child Crime - Non-sexual | 0 | 0 | 1 | 1 | 0 | 4 | 6 |
| | | Drugs | 2 | 3 | 6 | 7 | 9 | 20 | 47 |
| | | Serious Crimes/Felonies | 0 | 1 | 2 | 3 | 1 | 6 | 13 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 2 | 2 | 2 | 0 | 6 |
| | | **Total** | **2** | **4** | **11** | **13** | **12** | **32** | **74** |
| | Potential Consent Calendar | Child Crime - Sexual | 1 | 0 | 1 | 0 | 0 | 0 | 2 |
| | | Child Crime - Non-sexual | 4 | 4 | 0 | 1 | 0 | 0 | 9 |
| | | Adult - Sexual | 1 | 2 | 1 | 1 | 1 | 0 | 6 |
| | | Drugs | 6 | 3 | 1 | 0 | 0 | 1 | 11 |
| | | Serious Crimes/Felonies | 42 | 20 | 8 | 6 | 2 | 1 | 79 |
| | | Alcohol | 256 | 62 | 42 | 16 | 2 | 10 | 388 |
| | | Other Crimes/Misdemeanors | 85 | 34 | 28 | 21 | 2 | 4 | 174 |
| | | **Total** | **395** | **125** | **81** | **45** | **7** | **16** | **669** |
| | Potential COC Case | Child Crime - Sexual | 1 | 3 | 0 | 1 | 0 | 3 | 8 |
| | | Child Crime - Non-sexual | 25 | 22 | 7 | 12 | 0 | 4 | 70 |
| | | Adult - Sexual | 4 | 4 | 3 | 3 | 0 | 3 | 17 |
| | | Drugs | 11 | 14 | 7 | 6 | 1 | 5 | 44 |
| | | Serious Crimes/Felonies | 99 | 64 | 55 | 28 | 19 | 25 | 290 |
| | | Alcohol | 60 | 57 | 54 | 42 | 18 | 32 | 263 |
| | | Other Crimes/Misdemeanors | 43 | 88 | 53 | 38 | 14 | 13 | 249 |
| | | **Total** | **243** | **252** | **179** | **130** | **52** | **85** | **941** |
| | **Total** | | **767** | **470** | **345** | **235** | **103** | **209** | **2,129** |
| COC | All Case Types | All Offense Types | 103 | 38 | 67 | 108 | 80 | 272 | 668 |
| | | **Total** | **103** | **38** | **67** | **108** | **80** | **272** | **668** |
| | **Total** | | **103** | **38** | **67** | **108** | **80** | **272** | **668** |
| Post COC | All Case Types | All Offense Types | 8 | 2 | 2 | 5 | 14 | 329 | 360 |
| | | **Total** | **8** | **2** | **2** | **5** | **14** | **329** | **360** |
| | **Total** | | **8** | **2** | **2** | **5** | **14** | **329** | **360** |

| | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 450 + Days | Total |
|---|---|---|---|---|---|---|---|
| Total | 878 | 510 | 414 | 348 | 197 | 810 | 3,157 |

# Open Cases Aged by Case Status, Credential Status, and Offense - as of February 29, 2012

| Case Status | Credential Status | Offense | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | Authorized | Child Crime - Sexual | 13 | 4 | 3 | 1 | 0 | 3 | 24 |
| | | Child Crime - Non-sexual | 38 | 32 | 8 | 19 | 2 | 10 | 109 |
| | | Adult - Sexual | 9 | 9 | 5 | 7 | 1 | 3 | 34 |
| | | Drugs | 28 | 28 | 24 | 17 | 12 | 34 | 143 |
| | | Serious Crimes/Felonies | 121 | 86 | 74 | 43 | 30 | 49 | 403 |
| | | Alcohol | 248 | 104 | 96 | 54 | 19 | 40 | 561 |
| | | Other Crimes/Misdemeanors | 90 | 118 | 78 | 60 | 18 | 18 | 382 |
| | | **Total** | **547** | **381** | **288** | **201** | **82** | **157** | **1,656** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 18 | 11 | 10 | 8 | 6 | 27 | 80 |
| | | Child Crime - Non-sexual | 1 | 1 | 0 | 0 | 0 | 1 | 3 |
| | | Adult - Sexual | 3 | 1 | 1 | 0 | 0 | 2 | 7 |
| | | Serious Crimes/Felonies | 0 | 0 | 1 | 0 | 0 | 1 | 2 |
| | | Alcohol | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| | | **Total** | **22** | **13** | **12** | **8** | **7** | **31** | **93** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 1 | 0 | 0 | 1 | 0 | 1 | 3 |
| | | Child Crime - Non-sexual | 5 | 3 | 1 | 2 | 0 | 1 | 12 |
| | | Adult - Sexual | 2 | 1 | 1 | 0 | 0 | 2 | 6 |
| | | Drugs | 8 | 8 | 2 | 1 | 2 | 3 | 24 |
| | | Serious Crimes/Felonies | 55 | 24 | 19 | 7 | 6 | 4 | 115 |
| | | Alcohol | 70 | 15 | 6 | 2 | 0 | 2 | 95 |
| | | Other Crimes/Misdemeanors | 42 | 12 | 9 | 6 | 3 | 2 | 74 |
| | | **Total** | **183** | **63** | **38** | **19** | **11** | **15** | **329** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 4 | 1 | 2 | 0 | 0 | 1 | 8 |
| | | Child Crime - Non-sexual | 7 | 4 | 1 | 3 | 1 | 1 | 17 |
| | | Adult - Sexual | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| | | Drugs | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| | | Serious Crimes/Felonies | 0 | 3 | 2 | 0 | 1 | 1 | 7 |
| | | Alcohol | 4 | 3 | 1 | 3 | 1 | 3 | 15 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 1 | 1 | 0 | 0 | 2 |
| | | **Total** | **15** | **13** | **7** | **7** | **3** | **6** | **51** |
| | **Total** | | **767** | **470** | **345** | **235** | **103** | **209** | **2,129** |
| COC | Authorized | Child Crime - Sexual | 1 | 3 | 0 | 4 | 0 | 5 | 13 |
| | | Child Crime - Non-sexual | 2 | 6 | 10 | 20 | 16 | 30 | 84 |
| | | Adult - Sexual | 0 | 1 | 1 | 4 | 1 | 1 | 8 |
| | | Drugs | 0 | 0 | 1 | 1 | 1 | 15 | 18 |
| | | Serious Crimes/Felonies | 1 | 1 | 10 | 16 | 13 | 49 | 90 |
| | | Alcohol | 26 | 10 | 18 | 19 | 15 | 80 | 168 |
| | | Other Crimes/Misdemeanors | 6 | 5 | 13 | 31 | 23 | 62 | 140 |
| | | **Total** | **36** | **26** | **53** | **95** | **69** | **242** | **521** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| | | Child Crime - Non-sexual | 0 | 0 | 1 | 2 | 2 | 1 | 6 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 0 | 1 | 0 | 2 |

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| COC | Not Authorized - Docs Suspende | **Total** | **1** | **1** | **1** | **2** | **3** | **3** | **11** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Child Crime - Non-sexual | 3 | 0 | 1 | 1 | 1 | 2 | 8 |
| | | Adult - Sexual | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | | Drugs | 2 | 0 | 0 | 0 | 0 | 1 | 3 |
| | | Serious Crimes/Felonies | 8 | 4 | 1 | 2 | 5 | 6 | 26 |
| | | Alcohol | 40 | 2 | 5 | 2 | 1 | 4 | 54 |
| | | Other Crimes/Misdemeanors | 11 | 4 | 3 | 2 | 1 | 0 | 21 |
| | | **Total** | **65** | **10** | **10** | **7** | **8** | **15** | **115** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 0 | 0 | 1 | 0 | 0 | 4 | 5 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Serious Crimes/Felonies | 0 | 0 | 1 | 0 | 0 | 3 | 4 |
| | | Alcohol | 1 | 1 | 1 | 1 | 0 | 2 | 6 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 3 | 0 | 1 | 4 |
| | | **Total** | **1** | **1** | **3** | **4** | **0** | **12** | **21** |
| | **Total** | | **103** | **38** | **67** | **108** | **80** | **272** | **668** |
| Post COC | Authorized | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 18 | 18 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 1 | 2 | 30 | 33 |
| | | Adult - Sexual | 0 | 0 | 0 | 1 | 1 | 8 | 10 |
| | | Drugs | 0 | 0 | 0 | 0 | 1 | 7 | 8 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 1 | 0 | 33 | 34 |
| | | Alcohol | 0 | 0 | 1 | 0 | 1 | 51 | 53 |
| | | Other Crimes/Misdemeanors | 5 | 0 | 1 | 0 | 2 | 75 | 83 |
| | | **Total** | **5** | **0** | **2** | **3** | **7** | **222** | **239** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 1 | 0 | 4 | 5 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 7 | 7 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 11 | 11 |
| | | **Total** | **0** | **0** | **0** | **1** | **0** | **28** | **29** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 6 | 6 |
| | | Child Crime - Non-sexual | 0 | 1 | 0 | 0 | 2 | 4 | 7 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 1 | 1 | 2 |
| | | Drugs | 1 | 0 | 0 | 0 | 0 | 3 | 4 |
| | | Serious Crimes/Felonies | 0 | 1 | 0 | 0 | 1 | 12 | 14 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 5 | 5 |
| | | Other Crimes/Misdemeanors | 2 | 0 | 0 | 1 | 3 | 6 | 12 |
| | | **Total** | **3** | **2** | **0** | **1** | **7** | **37** | **50** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 4 | 4 |

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Post COC | Not Authorized - No App(s) Pending | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 12 | 12 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 6 | 6 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 14 | 14 |
| | | **Total** | **0** | **0** | **0** | **0** | **0** | **42** | **42** |
| | **Total** | | **8** | **2** | **2** | **5** | **14** | **329** | **360** |
| **Total** | | | **878** | **510** | **414** | **348** | **197** | **810** | **3,157** |

# School District Notification Report

| Case number | Resp. Name | District/COE Name | Act. Group | Act. Type | Case Open Date | Dist. Action Date | District Due Date | Days Past Due |
|---|---|---|---|---|---|---|---|---|

Totals:

Number of Cases:
Ave. Number of Days Past Due:

Date of Report:

# 4C

## Information

*Professional Practices Committee*

## Workload Report Regarding the BSA Audit Recommendations

**Executive Summary:** This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP); the Commission's response to the Audit as well as an update on staff progress in addressing the recommendations; and a report on DPP's current workload.

**Recommended Action:** For information only

**Presenter:** Nanette Rufo, Director, Division of Professional Practices

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

March 2012

# Workload Report Regarding the BSA Audit Recommendations

**Introduction**
This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and of the Office of Human Resources, and also provides the Commission's responses to the Audit recommendations. This agenda item presents the January 2012 DPP workload reports. The February reports will be posted once they are available.

**Audit Update**
On April 7, 2011 the California State Auditor issued a report entitled "*Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs*". The audit identified eleven recommendations. The initial update was presented to the Commission at the June 2011 Meeting (http://www.ctc.ca.gov/commission/agendas/2011-06/2011-06-2H.pdf).

On Monday, June 6, 2011 the required sixty day response was submitted to the Bureau of State Audits (BSA), followed by the six month report on October 5, 2011. On October 7, 2011, CTC management staff met with representatives of the BSA to discuss the report and to respond to any questions from the auditors. According to BSA staff, that office will submit a report to the Legislature in February 2012. That means that information going to the Legislature in February 2012 will be based on the six-month-report. Information from the one-year-report that CTC will submit to BSA will then be included in BSA's February 2013 report to the Legislature.

As part of the response to the audit, staff scheduled two meetings for stakeholders. A stakeholder planning group was formed with five groups to assist in the planning process, the California Teachers Association (CTA), California Federation of Teachers (CFT), the California School Boards Association (CSBA), the Association of California School Administrators (ACSA), and the California County Superintendents Educational Services Association (CCSESA). The meetings were held on October 28, 2011 and November 18, 2011. A report on the stakeholder meetings was presented to the Commission at the January 2012 Meeting http://www.ctc.ca.gov/commission/agendas/2012-01/2012-01-4C.pdf.

Attached as an appendix is a list of the specific recommendations of the BSA. Staff will provide an update on each recommendation at the March Commission meeting.

**DPP Workload Update**
The DPP Monthly Activity Summary report provides additional information on DPP's workload. These reports include a detailed look at the COC workload including all Open Cases by Status and Type (Chart 1); monthly RAPs Received and Processed (Chart 2); and a report on the Closed Cases (Chart 3); Charts 4a and 4b on the aging of cases; and a chart showing the number and types of cases considered by the COC through January 2012 (Chart 5).

The workload shown in Chart 1, is organized by cases preparing to go to the COC in blue, cases that are currently in the COC review phase in yellow and cases that are post-COC review in green. As staff continue to make progress and gain efficiencies in the area of identifying and processing pre-COC cases, the COC workload is likely to continue to grow as there are only a finite number of cases that can be heard by the COC each month.

**December 2011 Commission Policy**

During the December 2011 meeting, the Commission adopted a policy that called for the flagging of cases in which the respondent's credentials were expired and the individual had no applications pending. The exceptions to this rule included cases involving allegations of sexual misconduct, crimes against children and reports filed by school districts and other licensing agencies.

As a result of the above policy, DPP staff began flagging new cases under this policy. (The "flagging" mechanism will redirect any future new applications to DPP and cause the flagged cases to be reviewed by the Committee and/or the Commission should the case warrant that type of review.) In addition, staff closed over 200 existing cases that fell within the scope of the policy decision.

Chart 1:

## DPP Monthly Activity Summary

### Activity During January 2012

#### Pre COC

**Work Received in DPP**

| | Items Rec'd | Cases Opened |
|---|---|---|
| RAPs | 489 | 140 |
| Apps | 1,068 | 201 |
| SD Reports * | 37 | 4 |
| Misc * | 3 | 6 |
| Total | 1,597 | 351 |

* Work related to cases opened may have been received in a prior period

**Document Requests**

| | |
|---|---|
| Arrest | 165 |
| Court | 354 |

#### COC Inventory

| | |
|---|---|
| Initial Review | 64 |
| Formal Review | 42 |
| Consent Review | 236 |

#### COC Work Completed (January 2012)

**Cases to COC**

| | |
|---|---|
| Initial Review | 64 |
| Formal Review | 45 |
| Reconsideration | 4 |
| Consent Review | 291 |

**Cases Completed**

| | |
|---|---|
| Closed | 155 |
| Granted | 156 |
| Adverse Actions | 40 |

#### Post COC

| | |
|---|---|
| Settlement | 3 |
| AG | 2 |
| CTC | 0 |

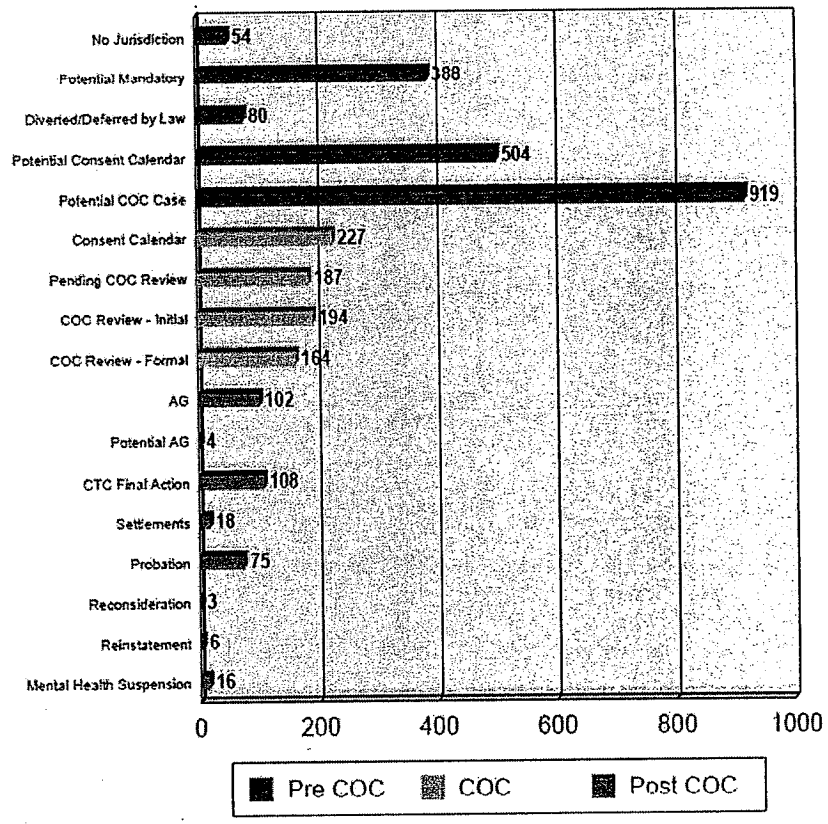
#### Mandatory Actions

| | |
|---|---|
| Revocations | 13 |
| Denials | 2 |
| Automatic Suspensions | 10 |

#### Inventory for January 2012

| | |
|---|---|
| Starting Case Load | 3,338 |
| Cases Opened | 351 |
| Cases Closed | 640 |
| Ending Case Load | 3,049 |

### Open Cases by Status and Type as of January 31, 2012




| | |
|---|---|
| Pre COC | 1,945 |
| COC | 772 |
| Post COC | 332 |
| Total Open Cases | 3,049 |

DPP Monthly Commission Summary Report for January 2012

Chart 2 shows all RAP sheets received in the month of January 2012. This report now presents the workload in a sequential organization with the yellow rows showing the RAPs that do not lead to a case, the red rows are the RAPs which are affiliated with an existing case and the green rows show the RAPS that lead to a new case. The labels for the rows in this report were also modified to more clearly describe the type of category of RAPs received.

**Chart 2:**

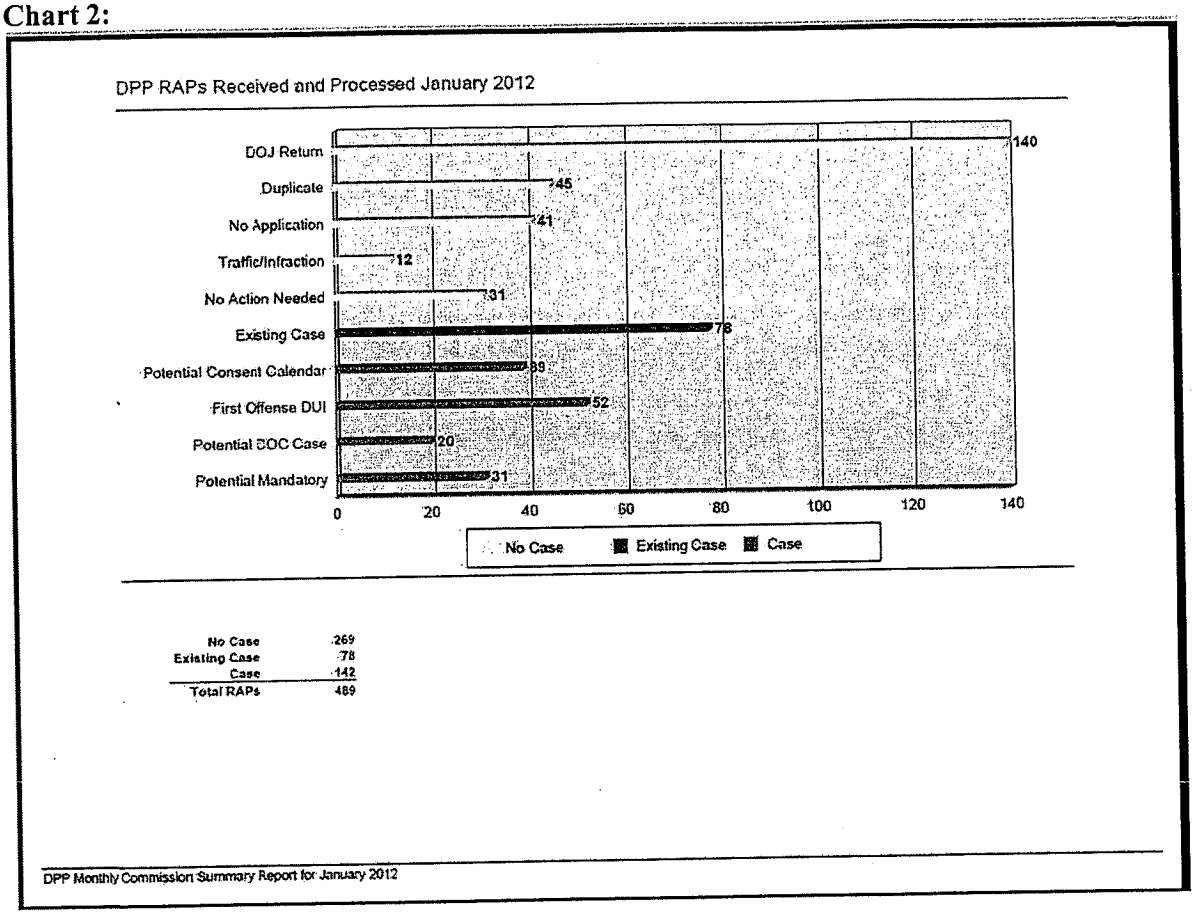
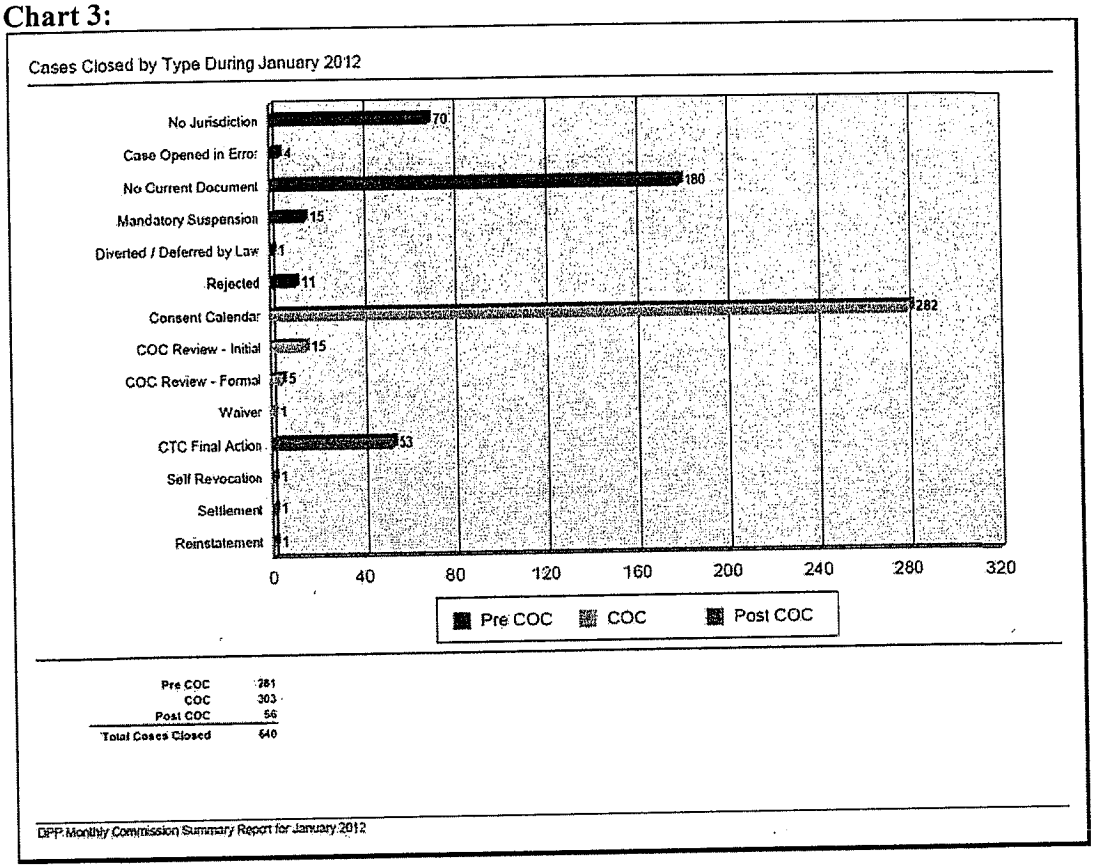


Chart 3 identifies the types of items that were closed throughout the month of January 2012. It is important to note that cases may be closed at any one of multiple steps in the discipline process and not all the cases that are closed were received in any one month.

**Chart 3:**




**Charts 4a and 4b: Case Aging Reports** – January 2012

Two versions of the Case Aging Report are presented. Each provides information on the same cases but through a slightly different lens. Both reports provide information on:

a) the number of cases and how many days the cases have been in the process (0-30, 31-180, 181-270, 271-360, 361-450, and 450+ days);
b) the cases by status in relation to the Committee of Credentials (COC): Pre COC, at the COC, or post COC, and;
c) the type of misconduct the educator has been accused or convicted of, categorized into one of the following seven groups:
   - Child Crime-Sexual
   - Child Crime-Non-Sexual
   - Adult-Sexual
   - Drugs
   - Serious Crimes/Felonies
   - Alcohol
   - Other Crimes/Misdemeanors

Where the two reports differ is that one reports on the case type while the other includes information on the license status of the individual. Chart 4a, on page 7, provides information on the type of case and this information is also found on DPP Monthly Summary report and the Cases Closed reports. The second report, Chart 4b, presents information organized by whether or not the individual currently holds a valid license to serve as an educator in California.

**4a: Open Case Aged by Case Status, Case Type, and Offense as of January 2012**
This table, on page 7, is organized into three sections based on the work and its relation to the COC (Pre COC, at the COC, and Post COC). Within the work that has not yet gone to the COC, the information is organized into five types of cases:

- No Jurisdiction
- Potential Mandatory
- Diverted/Deferred by Law
- Potential Consent Calendar
- Potential Committee Case

For the cases that are at the COC or have completed the COC process, this report does not delineate among the case types.

Chart 4a:

## Open Cases Aged by Case Status, Case Type, and Offense as of January 31, 2012

| Status | Case Type | Offense Code | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 450 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | No Jurisdiction | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 1 | 0 | 1 | 1 | 0 | 0 | 3 |
| | | Adult - Sexual | 0 | 0 | 1 | 1 | 0 | 0 | 2 |
| | | Drugs | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| | | Serious Crimes/Felonies | 2 | 2 | 3 | 3 | 2 | 1 | 13 |
| | | Alcohol | 1 | 0 | 2 | 1 | 0 | 1 | 5 |
| | | Other Crimes/Misdemeanors | 7 | 6 | 9 | 2 | 3 | 2 | 29 |
| | | Total | 11 | 8 | 17 | 8 | 5 | 5 | 54 |
| | Potential Mandatory | Child Crime - Sexual | 34 | 13 | 10 | 10 | 6 | 30 | 103 |
| | | Child Crime - Non-sexual | 18 | 11 | 4 | 9 | 1 | 6 | 49 |
| | | Adult - Sexual | 10 | 7 | 3 | 2 | 0 | 3 | 25 |
| | | Drugs | 22 | 18 | 11 | 4 | 3 | 9 | 67 |
| | | Serious Crimes/Felonies | 31 | 27 | 22 | 11 | 13 | 20 | 124 |
| | | Alcohol | 7 | 5 | 4 | 0 | 0 | 1 | 17 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 0 | 1 | 1 | 3 |
| | | Total | 123 | 81 | 54 | 36 | 24 | 70 | 388 |
| | Diverted / Deferred by Law | Child Crime - Non-sexual | 0 | 0 | 1 | 2 | 0 | 4 | 7 |
| | | Drugs | 2 | 3 | 5 | 7 | 7 | 22 | 46 |
| | | Serious Crimes/Felonies | 0 | 2 | 2 | 2 | 3 | 6 | 15 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Other Crimes/Misdemeanors | 1 | 2 | 2 | 3 | 2 | 0 | 10 |
| | | Total | 3 | 7 | 10 | 14 | 12 | 34 | 80 |
| | Potential Consent Calendar | Child Crime - Non-sexual | 3 | 3 | 0 | 0 | 0 | 0 | 6 |
| | | Adult - Sexual | 1 | 1 | 1 | 1 | 0 | 0 | 4 |
| | | Drugs | 2 | 2 | 2 | 0 | 0 | 1 | 7 |
| | | Serious Crimes/Felonies | 34 | 14 | 6 | 6 | 2 | 2 | 64 |
| | | Alcohol | 171 | 56 | 35 | 14 | 1 | 7 | 284 |
| | | Other Crimes/Misdemeanors | 60 | 24 | 37 | 14 | 2 | 2 | 139 |
| | | Total | 271 | 100 | 81 | 35 | 5 | 12 | 504 |
| | Potential COC Case | Child Crime - Sexual | 2 | 1 | 1 | 1 | 0 | 3 | 8 |
| | | Child Crime - Non-sexual | 24 | 18 | 22 | 2 | 0 | 4 | 70 |
| | | Adult - Sexual | 1 | 3 | 4 | 2 | 2 | 4 | 16 |
| | | Drugs | 9 | 14 | 5 | 4 | 1 | 7 | 40 |
| | | Serious Crimes/Felonies | 92 | 62 | 53 | 38 | 15 | 20 | 280 |
| | | Alcohol | 53 | 46 | 61 | 39 | 19 | 34 | 252 |
| | | Other Crimes/Misdemeanors | 73 | 75 | 58 | 21 | 16 | 10 | 253 |
| | | Total | 254 | 219 | 204 | 107 | 53 | 82 | 919 |
| | Total | | 662 | 415 | 366 | 200 | 99 | 203 | 1,945 |
| COC | All Case Types | All Offense Types | 190 | 56 | 83 | 65 | 128 | 250 | 772 |
| | | Total | 190 | 56 | 83 | 65 | 128 | 250 | 772 |
| | Total | | 190 | 56 | 83 | 65 | 128 | 250 | 772 |
| Post COC | All Case Types | All Offense Types | 5 | 4 | 3 | 3 | 15 | 302 | 332 |
| | | Total | 5 | 4 | 3 | 3 | 15 | 302 | 332 |
| | Total | | 5 | 4 | 3 | 3 | 15 | 302 | 332 |
| Total | | | 857 | 475 | 452 | 268 | 242 | 755 | 3,049 |

DPP Monthly Commission Summary Report for January 2012

**4b: Open Cases Aged by Case Status, Credential Status, and Offense as of January 31, 2012**
In this table, within each section of the work in relation to the COC (Pre COC, COC, and Post COC) there are four sets of rows (4-7 rows) where information related to individuals in each of the following groups is presented:

- Individuals holding a current, valid credential and therefore the individuals could be in a classroom or working with students in the K-12 public schools.
- Individuals who held one or more California credentials but all credentials have been suspended by the Commission. Since all licenses are suspended, these individuals should not be working with public school students at this time.
- Individuals who do not hold a California credential, but have one or more applications pending. These individuals should not be working with public school students at this time.
- Individuals who do not hold any current, valid credential and have no applications pending. These individuals should not be working with public school students at this time.

Pursuant to the Commission's adoption of policy last month concerning the last category listed above, this number will be reduced and hopefully eliminated over the coming month.

Chart 4b:

## Open Cases Aged by Case Status, Credential Status, and Offense - as of January 31, 2012

| Case Status | Credential Status | Offense | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | Authorized | Child Crime - Sexual | 14 | 5 | 1 | 1 | 0 | 4 | 25 |
| | | Child Crime - Non-sexual | 36 | 25 | 23 | 9 | 0 | 10 | 103 |
| | | Adult - Sexual | 5 | 10 | 8 | 6 | 1 | 3 | 33 |
| | | Drugs | 26 | 27 | 23 | 14 | 10 | 35 | 135 |
| | | Serious Crimes/Felonies | 116 | 79 | 67 | 52 | 28 | 42 | 384 |
| | | Alcohol | 195 | 89 | 93 | 53 | 15 | 42 | 487 |
| | | Other Crimes/Misdemeanors | 110 | 94 | 92 | 38 | 22 | 13 | 369 |
| | | Total | 502 | 329 | 307 | 173 | 76 | 149 | 1,536 |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 14 | 8 | 10 | 9 | 6 | 29 | 76 |
| | | Child Crime - Non-sexual | 0 | 1 | 0 | 0 | 1 | 1 | 3 |
| | | Adult - Sexual | 1 | 1 | 0 | 0 | 0 | 2 | 4 |
| | | Serious Crimes/Felonies | 0 | 0 | 1 | 0 | 0 | 2 | 3 |
| | | Alcohol | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| | | Total | 15 | 10 | 11 | 9 | 8 | 34 | 87 |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 1 | 0 | 0 | 1 | 0 | 1 | 3 |
| | | Child Crime - Non-sexual | 4 | 3 | 3 | 0 | 0 | 1 | 11 |
| | | Adult - Sexual | 2 | 0 | 0 | 0 | 1 | 2 | 5 |
| | | Drugs | 4 | 9 | 1 | 1 | 1 | 3 | 19 |
| | | Serious Crimes/Felonies | 41 | 25 | 17 | 8 | 5 | 4 | 100 |
| | | Alcohol | 31 | 15 | 9 | 0 | 2 | 2 | 59 |
| | | Other Crimes/Misdemeanors | 30 | 12 | 13 | 2 | 2 | 2 | 61 |
| | | Total | 113 | 64 | 43 | 12 | 11 | 15 | 258 |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 7 | 1 | 0 | 0 | 0 | 0 | 8 |
| | | Child Crime - Non-sexual | 6 | 3 | 2 | 5 | 0 | 2 | 18 |
| | | Adult - Sexual | 4 | 0 | 1 | 0 | 0 | 0 | 5 |
| | | Drugs | 5 | 1 | 0 | 0 | 0 | 1 | 7 |
| | | Serious Crimes/Felonies | 2 | 3 | 1 | 0 | 2 | 1 | 9 |
| | | Alcohol | 6 | 3 | 0 | 1 | 2 | 1 | 13 |
| | | Other Crimes/Misdemeanors | 2 | 1 | 1 | 0 | 0 | 0 | 4 |
| | | Total | 32 | 12 | 5 | 6 | 4 | 5 | 64 |
| | Total | | 662 | 415 | 366 | 200 | 99 | 203 | 1,945 |
| COC | Authorized | Child Crime - Sexual | 1 | 3 | 0 | 4 | 2 | 3 | 13 |
| | | Child Crime - Non-sexual | 3 | 5 | 12 | 11 | 26 | 26 | 83 |
| | | Adult - Sexual | 0 | 1 | 2 | 4 | 2 | 4 | 13 |
| | | Drugs | 0 | 0 | 1 | 0 | 3 | 13 | 17 |
| | | Serious Crimes/Felonies | 1 | 5 | 7 | 12 | 13 | 48 | 86 |
| | | Alcohol | 59 | 8 | 20 | 8 | 22 | 83 | 199 |
| | | Other Crimes/Misdemeanors | 11 | 8 | 24 | 17 | 42 | 47 | 149 |
| | | Total | 74 | 30 | 66 | 56 | 110 | 224 | 560 |
| | Not Authorized - Docs Suspended | Child Crime - Non-sexual | 0 | 0 | 3 | 0 | 2 | 1 | 6 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| | | Total | 0 | 0 | 3 | 0 | 3 | 2 | 8 |

DPP Monthly Commission Summary Report for January 2012

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| COC | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 1 | 1 | 2 |
| | | Child Crime - Non-sexual | 0 | 2 | 1 | 0 | 1 | 1 | 5 |
| | | Adult - Sexual | 0 | 1 | 1 | 0 | 1 | 1 | 4 |
| | | Drugs | 3 | 1 | 0 | 0 | 0 | 1 | 5 |
| | | Serious Crimes/Felonies | 15 | 9 | 2 | 3 | 7 | 5 | 41 |
| | | Alcohol | 66 | 5 | 4 | 1 | 1 | 3 | 80 |
| | | Other Crimes/Misdemeanors | 31 | 7 | 3 | 2 | 3 | 2 | 48 |
| | | Total | 115 | 25 | 11 | 6 | 14 | 14 | 185 |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 1 | 0 | 0 | 1 | 2 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 1 | 2 | 3 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Alcohol | 1 | 1 | 1 | 1 | 0 | 1 | 5 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 1 | 2 | 0 | 0 | 3 |
| | | Total | 1 | 1 | 3 | 3 | 1 | 10 | 19 |
| | Total | | 190 | 56 | 83 | 65 | 128 | 250 | 772 |
| Post COC | Authorized | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 18 | 18 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 1 | 2 | 27 | 30 |
| | | Adult - Sexual | 0 | 0 | 1 | 0 | 0 | 6 | 7 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 5 | 5 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 26 | 26 |
| | | Alcohol | 0 | 0 | 1 | 0 | 2 | 43 | 46 |
| | | Other Crimes/Misdemeanors | 2 | 0 | 1 | 0 | 1 | 74 | 78 |
| | | Total | 2 | 0 | 3 | 1 | 5 | 199 | 210 |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 1 | 1 | 4 | 6 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 1 | 1 | 2 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 1 | 6 | 7 |
| | | Alcohol | 0 | 0 | 0 | 0 | 1 | 2 | 3 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 12 | 12 |
| | | Total | 0 | 0 | 0 | 1 | 4 | 29 | 34 |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 6 | 6 |
| | | Child Crime - Non-sexual | 0 | 1 | 0 | 0 | 1 | 5 | 7 |
| | | Drugs | 1 | 1 | 0 | 0 | 0 | 3 | 5 |
| | | Serious Crimes/Felonies | 0 | 2 | 0 | 0 | 2 | 12 | 16 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Other Crimes/Misdemeanors | 2 | 0 | 0 | 1 | 3 | 2 | 8 |
| | | Total | 3 | 4 | 0 | 1 | 6 | 32 | 46 |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 11 | 11 |

DPP Monthly Commission Summary Report for January 2012

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Post COC | Not Authorized - No App(s) Pending | Alcohol | 0 | 0 | 0 | 0 | 0 | 5 | 5 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 14 | 14 |
| | | Total | 0 | 0 | 0 | 0 | 0 | 41 | 41 |
| | Undefined | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Total | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | Total | | 5 | 4 | 3 | 3 | 15 | 302 | 332 |
| Total | | | 857 | 475 | 452 | 268 | 242 | 755 | 3,045 |

**Chart 5: Caseload of the Committee of Credentials**

This chart represents the types of cases reviewed by the COC from January 2011 through January 2012.

| Committee Review 2011/2012 | | | | | | |
|---|---|---|---|---|---|---|
| | Consent | Discuss | Initial | Formal App[1] | Formal Non App[2] | Total |
| January '11 | | | 51 | 18 | 33 | 102 |
| February | | | 52 | 15 | 28 | 95 |
| March | | | 56 | 12 | 31 | 99 |
| April | | | 62 | 14 | 30 | 106 |
| May | 125 | 0 | 53 | 18 | 24 | 220 |
| June | 283 | 28 | 65 | 15 | 39 | 430 |
| July | 285 | 25 | 85 | 12 | 32 | 439 |
| August | 233 | 14 | 82 | 19 | 31 | 379 |
| September | 158 | 13 | 60 | 12 | 52 | 295 |
| October | 201 | 9 | 53 | 25 | 42 | 330 |
| November | 325 | 6 | 50 | 16 | 40 | 437 |
| December | 244 | 7 | 59 | 16 | 29 | 355 |
| January '12 | 278 | 8 | 64 | 21 | 24 | 395 |

**Next Steps**

Staff will continue to post the Monthly Activity Summary reports on the Commissioners' internal webpage each month. Staff will continue working to implement the State Auditor's recommendations and file required updates. The one year report to BSA will be due on April 7, 2012.

[1] "App" means the person chose to appear and testify before the Committee.

[2] "Non App" means the person chose not to appear before the Committee.

# APPENDIX

| # | BSA Recommendation |
|---|---|
| 1 | To comply with the law and reduce unnecessary workload, the division should continue to notify Justice of individuals for whom the division is no longer interested in receiving RAP sheets. |
| 2 | The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee in overcoming those challenges, and the goals and actions necessary to accomplish its mission. |
| 3 | To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload. |
| 4 | The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct. After the commission receives the attorney general's legal advice regarding the division's authority to close investigations without committee review, the commission should take all necessary steps to comply with the attorney general's advice. |
| 5 | Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month. |
| 6 | The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct. |
| 7 | The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in its database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information. |
| 8 | To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self disclosures of misconduct, the division should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability. |
| 9 | To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit management's reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following: |
| | • 9.1 - Reducing the time elapsed to perform critical steps in the review process. |
| | • 9.2 - Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential. |
| | • 9.3 - Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals. |
| | • 9.4 - An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases. |
| | • 9.5 -Clear evidence of management review of reports intended to track the division's progress in its investigations of misconduct. |
| | • 9.6 - Clear tracking of the dates at which the commission will lose its jurisdiction over the case as a result of the expiration of statute-based time frames for investigating the misconduct. |
| 10 | The commission should continue to implement its new procedures related to deleting cases from its database to ensure that all such proposed deletions are reviewed by management for propriety before they are deleted and a record is kept of the individuals to which each such deleted case record pertains. Further, the commission should develop and implement policies and procedures related to managing changes and deletions to its database. |
| 11 | The division should develop and implement procedures to track cases after they have been assigned to the investigative process. |
| 12 | RAP sheets not all saved in the same location |

# 4B

## Information

*Professional Practices Committee*

## Workload Report Regarding the BSA Audit Recommendations

**Executive Summary:** This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP); the Commission's response to the Audit as well as an update on staff progress in addressing the recommendations; and a report on DPP's current workload.

**Recommended Action:** For information only

**Presenter:** Nanette Rufo, Director, Division of Professional Practices

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

January 2012

# Workload Report Regarding the BSA Audit Recommendations

**Introduction**
This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and of the Office of Human Resources, and also provides the Commission's responses to the Audit recommendations. This agenda item presents the December 2011 DPP workload reports. The January reports will be posted once they are available.

**Audit Update**
On April 7, 2011 the California State Auditor issued a report entitled "*Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs*". The audit identified eleven recommendations. The initial update was presented to the Commission at the June 2011 Meeting (http://www.ctc.ca.gov/commission/agendas/2011-06/2011-06-2H.pdf).

On Monday, June 6, 2011 the required sixty day response was submitted to the Bureau of State Audits (BSA), followed by the six month report on October 5, 2011. On October 7, 2011, CTC management staff met with representatives of the BSA to discuss the report and to respond to any questions from the auditors. According to BSA staff, that office will submit a report to the Legislature in February 2012. That means that information going to the Legislature in February 2012 will be based on the six-month-report. Information from the one-year-report that CTC will submit to BSA will then be included in BSA's February 2013 report to the Legislature.

As part of the response to the audit, staff scheduled two meetings for stakeholders. A stakeholder planning group was formed with five groups to assist in the planning process, the California Teachers Association (CTA), California Federation of Teachers (CFT), the California School Boards Association (CSBA), the California Association of School Administrators (ACSA), and the California County Superintendents Educational Services Association (CCSESA). The meetings were held on October 28, 2011 and November 18, 2011. A report on the stakeholder meetings is included in this month's agenda.

Following is a description of staff analysis of issues and related actions that fall within major areas of the report:

1. **Individuals for whom the Commission needs subsequent misconduct reports.** The Department of Justice (DOJ) currently provides copies of the "Reports of Arrest and Prosecution" (RAP) for all individuals who currently hold or have ever held a teaching/services credential, a 30 day substitute permit, and/or a certificate of clearance or who have submitted fingerprints to the Commission in preparation for applying for a credential or certificate of clearance. If the Commission receives RAPs for only those individuals who are currently

authorized to provide service in the public schools, the division's RAP processing workload would be significantly reduced. (BSA Recommendation 1)

2. **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff.** Once an opinion is received from the Attorney General (AG), we will take the steps necessary to comply with the AG's advice and undertake all necessary procedural and statutory changes to increase the number of cases the COC can review each month. (BSA Recommendations 4 and 5)

3. **Division of Professional Practices. The audit recommendations highlighted several areas of concern regarding how reports of misconduct are handled and followed up.** The auditors indicated that the processing of reports of misconduct must be analyzed and clear criteria and procedures must be developed for timely, accurate processing of all reports. The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed. Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, the person(s) responsible for the case, length of time at each stage of review, reasons for delays, and final disposition. The data needs to be complete, accurate, and consistently entered into the database. An oversight process needs to be developed to ensure the accuracy of data entered into the database and to provide data in a form useful as a management tool. The time elapsed in the processing of misconduct needs to be reduced, including making prompt requests for information from law enforcement agencies, courts, schools, and knowledgeable individuals. Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload. The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC. While not included in the BSA recommendations, the early pursuit of information related to more serious cases should be examined. (BSA Recommendations 2, 3, 6, 7, 8, and 9)

4. **Office of Human Resources.** The auditors indicated that information about staffing and about staff concerns must be clearly documented, current, and shared with the appropriate staff at the appropriate intervals. This includes information on 1) hiring and promotions, 2) making sure supervisors and managers are appropriately documenting their hiring processes, and 3) ensuring that staff understands the grievance and EEO complaint processes. (BSA Recommendations 10 and 11)

Information on the specific actions taken to date related to the audit report is provided in the Appendix.

**DPP Workload Update**
The DPP Monthly Activity Summary report provides additional information on DPP's workload. These reports include a detailed look at the COC workload including all Open Cases by Status and Type (Chart 1); monthly RAPs Received and Processed (Chart 2); and a report on the Closed Cases (Chart 3); Charts 4a and 4b on the aging of cases; and a chart showing the number and types of cases considered by the COC through December (Chart 5).

The workload shown in Chart 1, page 4, is organized by cases preparing to go to the COC in blue, cases that are currently in the COC review phase in yellow and cases that are post-COC review in green. As staff continue to make progress and gain efficiencies in the area of identifying and processing pre-COC cases, the COC workload is likely to continue to grow as there are only a finite number of cases that can be heard by the COC each month.

**December 2011 Commission Policy**
During the December 2011 meeting, the Commission adopted a policy that called for the flagging of cases in which the respondent's credentials were expired and the individual had no applications pending. The exceptions to this rule included cases involving allegations of sexual misconduct, crimes against children and reports filed by school districts and other licensing agencies.

The policy allows the division to delay the processing of these cases until a new application is received and enables staff to redirect its time and effort to complete cases on individuals currently holding and/or seeking teaching credentials.

As a result of the above policy, DPP staff began flagging cases. Staff will provide a verbal update on the number of cases closed at the January meeting. (The "flagging" mechanism will redirect any future new applications to DPP and cause the flagged cases to be reviewed by the Committee and/or the Commission should the case warrant that type of review.) A total number of flagged cases will be reflected in the "Cases Closed" report available in February 2012.

Chart 1:

## DPP Monthly Activity Summary

### Activity During December 2011

#### Pre COC

**Work Received in DPP**

| | Items Rec'd | Cases Opened |
|---|---|---|
| RAPs | 623 | 197 |
| Apps | 823 | 183 |
| SD Reports * | 24 | 22 |
| Misc * | 6 | 18 |
| **Total** | 1,476 | 420 |

* Work related to cases opened may have been received in a prior period

**Document Requests**

| | |
|---|---|
| Arrest | 143 |
| Court | 340 |

#### COC Inventory

| | |
|---|---|
| Initial Review | 64 |
| Formal Review | 146 |
| Consent Review | 185 |

#### COC Work Completed (December 2011)

**Cases to COC**

| | |
|---|---|
| Initial Review | 59 |
| Formal Review | 45 |
| Reconsideration | 6 |
| Consent Review | 257 |

**Cases Completed**

| | |
|---|---|
| Closed | 125 |
| Granted | 161 |
| Adverse Actions | 37 |

#### Post COC

| | |
|---|---|
| Settlement | 1 |
| AG | 7 |
| CTC | 270 |

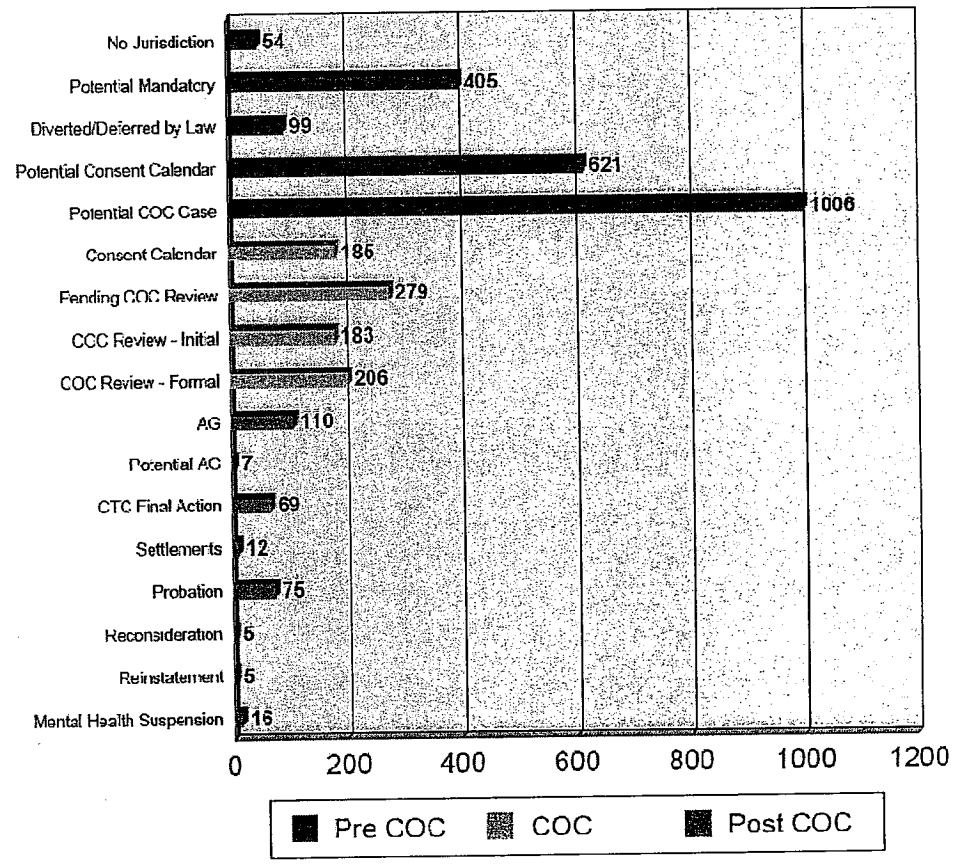
#### Mandatory Actions

| | |
|---|---|
| Revocations | 18 |
| Denials | 2 |
| Automatic Suspensions | 4 |

#### Inventory for December 2011

| | |
|---|---|
| Starting Case Load | 3,356 |
| Cases Opened | 420 |
| Cases Closed | 439 |
| Ending Case Load | 3,337 |

### Open Cases by Status and Type as of December 31, 2011




| | |
|---|---|
| **Pre COC** | 2,185 |
| **COC** | 853 |
| **Post COC** | 299 |
| **Total Open Cases** | 3,337 |

DPP Monthly Commission Summary Report for December 2011

Chart 2 shows all RAP sheets received in the month of December 2011. This report now presents the workload in a sequential organization with the yellow rows showing the RAPs that do not lead to a case, the red rows are the RAPs which are affiliated with an existing case and the green rows show the RAPS that lead to a new case. The labels for the rows in this report were also modified to more clearly describe the type of category of RAPs received.

**Chart 2:**

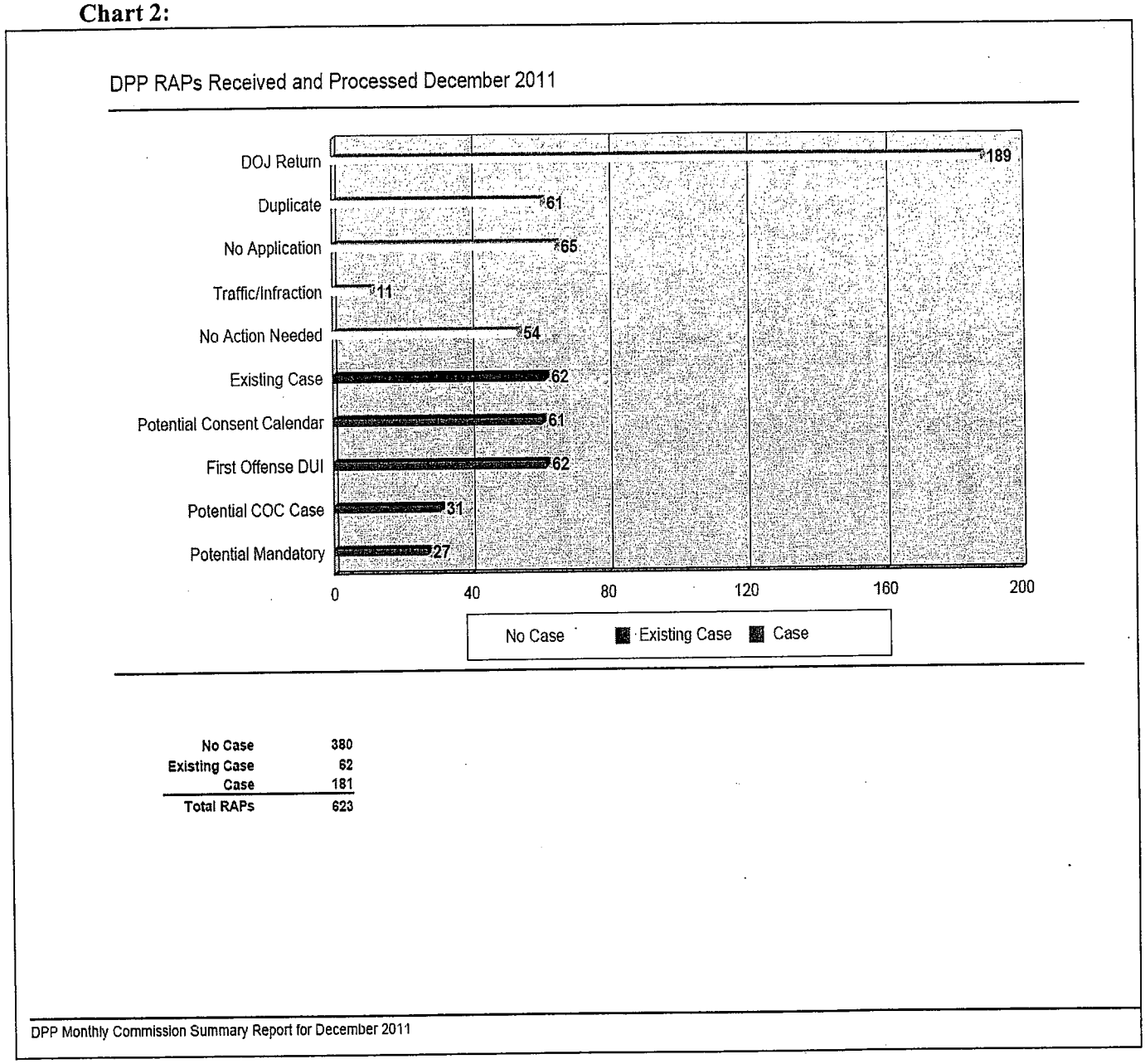
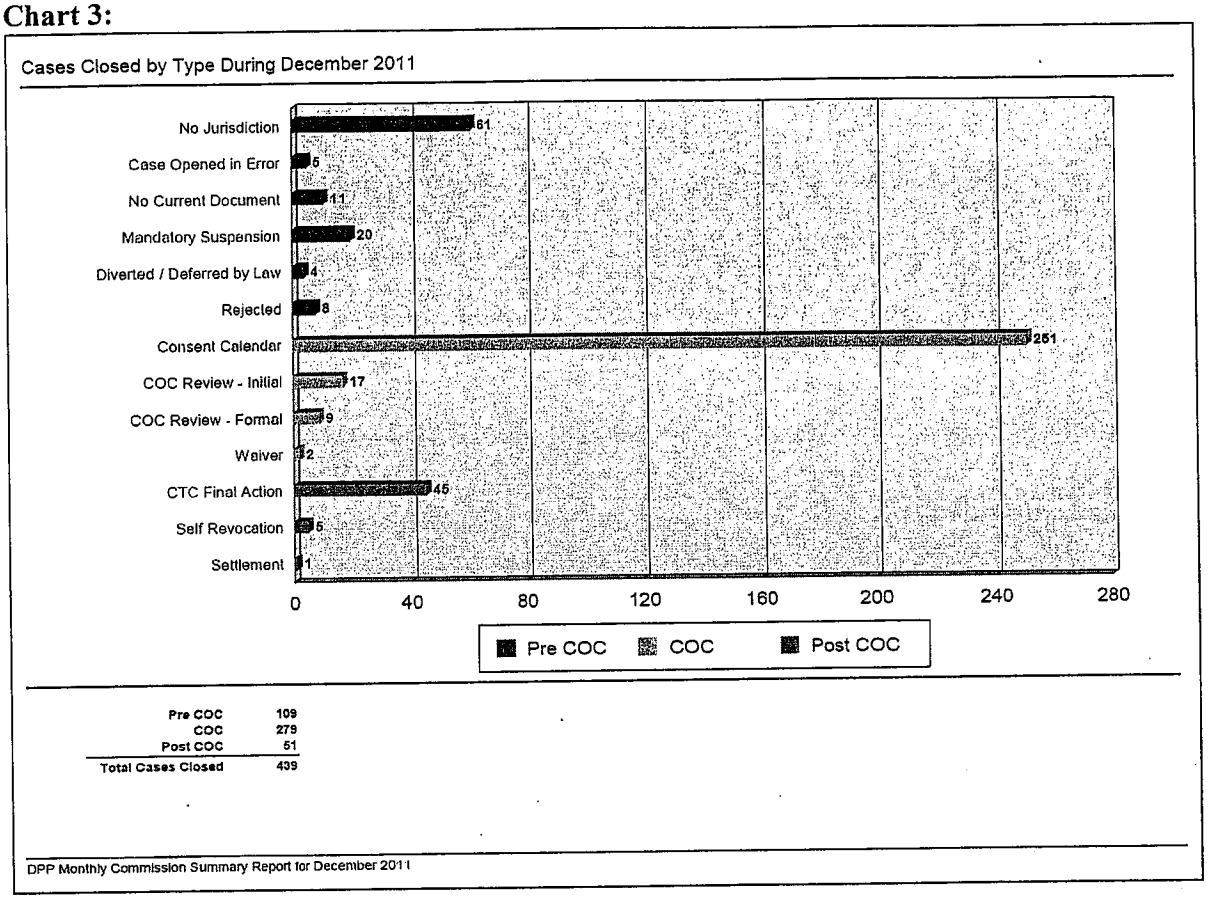


Chart 3 identifies the types of items that were closed throughout the month of December 2011. It is important to note that cases may be closed at any one of multiple steps in the discipline process and not all the cases that are closed were received in any one month.

**Chart 3:**




**Charts 4a and 4b: Case Aging Reports** – December 2011

Two versions of the Case Aging Report are presented. Each provides information on the same cases but through a slightly different lens. Both reports provide information on:

a) the number of cases and how many days the cases have been in the process (0-30, 31-180, 181-270, 271-360, 361-450, and 450+ days);
b) the cases by status in relation to the Committee of Credentials (COC): Pre COC, at the COC, or post COC, and;
c) the type of misconduct the educator has been accused or convicted of, categorized into one of the following seven groups:
   - Child Crime-Sexual
   - Child Crime-Non-Sexual
   - Adult-Sexual
   - Drugs
   - Serious Crimes/Felonies
   - Alcohol
   - Other Crimes/Misdemeanors

Where the two reports differ is that one reports on the case type while the other includes information on the license status of the individual. Chart 4a, on page 8, provides information on the type of case and this information is also found on DPP Monthly Summary report and the Cases Closed reports. The second report, Chart 4b, presents information organized by whether or not the individual currently holds a valid license to serve as an educator in California.

**4a: Open Case Aged by Case Status, Case Type, and Offense as of December 30, 2011**
This table, on page 8, is organized into three sections based on the work and its relation to the COC (Pre COC, at the COC, and Post COC). Within the work that has not yet gone to the COC, the information is organized into five types of cases:

- No Jurisdiction
- Potential Mandatory
- Diverted/Deferred by Law
- Potential Consent Calendar
- Potential Committee Case

For the cases that are at the COC or have completed the COC process, this report does not delineate among the case types.

Chart 4a:

## Open Cases Aged by Case Status, Case Type, and Offense as of December 31, 2011

| Status | Case Type | Offense Code | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 450 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | No Jurisdiction | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 2 | 1 | 1 | 1 | 0 | 0 | 5 |
| | | Adult - Sexual | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| | | Drugs | 0 | 0 | 1 | 0 | 1 | 0 | 2 |
| | | Serious Crimes/Felonies | 1 | 2 | 3 | 1 | 3 | 0 | 10 |
| | | Alcohol | 0 | 2 | 1 | 1 | 0 | 1 | 5 |
| | | Other Crimes/Misdemeanors | 10 | 6 | 7 | 1 | 5 | 1 | 30 |
| | | **Total** | **13** | **11** | **14** | **4** | **9** | **3** | **54** |
| | Potential Mandatory | Child Crime - Sexual | 32 | 14 | 6 | 9 | 9 | 28 | 98 |
| | | Child Crime - Non-sexual | 18 | 5 | 8 | 8 | 2 | 6 | 47 |
| | | Adult - Sexual | 10 | 6 | 5 | 0 | 0 | 3 | 24 |
| | | Drugs | 26 | 24 | 5 | 6 | 3 | 9 | 73 |
| | | Serious Crimes/Felonies | 35 | 33 | 20 | 19 | 8 | 28 | 143 |
| | | Alcohol | 7 | 5 | 3 | 0 | 0 | 1 | 16 |
| | | Other Crimes/Misdemeanors | 2 | 0 | 0 | 0 | 1 | 1 | 4 |
| | | **Total** | **130** | **87** | **47** | **42** | **23** | **76** | **405** |
| | Diverted / Deferred by Law | Child Crime - Non-sexual | 0 | 1 | 0 | 2 | 0 | 4 | 7 |
| | | Drugs | 2 | 3 | 6 | 10 | 8 | 29 | 58 |
| | | Serious Crimes/Felonies | 0 | 2 | 4 | 1 | 3 | 8 | 18 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Other Crimes/Misdemeanors | 1 | 2 | 4 | 1 | 3 | 2 | 13 |
| | | **Total** | **3** | **8** | **14** | **14** | **14** | **46** | **99** |
| | Potential Consent Calendar | Child Crime - Non-sexual | 5 | 1 | 0 | 0 | 0 | 2 | 8 |
| | | Adult - Sexual | 3 | 2 | 1 | 0 | 0 | 0 | 6 |
| | | Drugs | 4 | 3 | 2 | 0 | 0 | 1 | 10 |
| | | Serious Crimes/Felonies | 35 | 11 | 12 | 5 | 3 | 3 | 69 |
| | | Alcohol | 235 | 67 | 35 | 5 | 2 | 8 | 352 |
| | | Other Crimes/Misdemeanors | 84 | 31 | 44 | 7 | 2 | 8 | 176 |
| | | **Total** | **366** | **115** | **94** | **17** | **7** | **22** | **621** |
| | Potential COC Case | Child Crime - Sexual | 1 | 2 | 1 | 1 | 1 | 3 | 9 |
| | | Child Crime - Non sexual | 35 | 16 | 16 | 2 | 0 | 5 | 74 |
| | | Adult - Sexual | 3 | 2 | 3 | 2 | 1 | 4 | 17 |
| | | Drugs | 11 | 12 | 4 | 3 | 3 | 9 | 42 |
| | | Serious Crimes/Felonies | 98 | 75 | 53 | 44 | 19 | 26 | 315 |
| | | Alcohol | 57 | 56 | 60 | 38 | 21 | 41 | 273 |
| | | Other Crimes/Misdemeanors | 112 | 61 | 45 | 31 | 17 | 10 | 276 |
| | | **Total** | **317** | **224** | **184** | **121** | **62** | **98** | **1,006** |
| | **Total** | | **829** | **445** | **353** | **198** | **115** | **245** | **2,185** |
| COC | All Case Types | All Offense Types | 152 | 38 | 107 | 89 | 153 | 314 | 853 |
| | | **Total** | **152** | **38** | **107** | **89** | **153** | **314** | **853** |
| | **Total** | | **152** | **38** | **107** | **89** | **153** | **314** | **853** |
| Post COC | All Case Types | All Offense Types | 4 | 3 | 2 | 5 | 15 | 270 | 299 |
| | | **Total** | **4** | **3** | **2** | **5** | **15** | **270** | **299** |
| | **Total** | | **4** | **3** | **2** | **5** | **15** | **270** | **299** |
| **Total** | | | **985** | **486** | **462** | **292** | **283** | **829** | **3,337** |

DPP Monthly Commission Summary Report for December 2011

**4b: Open Cases Aged by Case Status, Credential Status, and Offense as of December 30, 2011**
In this table, within each section of the work in relation to the COC (Pre COC, COC, and Post COC) there are four sets of rows (4-7 rows) where information related to individuals in each of the following groups is presented:

- Individuals holding a current, valid credential and therefore the individuals could be in a classroom or working with students in the K-12 public schools.
- Individuals who held one or more California credentials but all credentials have been suspended by the Commission. Since all licenses are suspended, these individuals should not be working with public school students at this time.
- Individuals who do not hold a California credential, but have one or more applications pending. These individuals should not be working with public school students at this time.
- Individuals who do not hold any current, valid credential and have no applications pending. These individuals should not be working with public school students at this time.

Pursuant to the Commission's adoption of policy last month concerning the last category listed above, this number will be reduced and hopefully eliminated over the coming month.

Chart 4b:

## Open Cases Aged by Case Status, Credential Status, and Offense - as of December 31, 2011

| Case Status | Credential Status | Offense | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | Authorized | Child Crime - Sexual | 12 | 7 | 1 | 1 | 1 | 3 | 25 |
| | | Child Crime - Non-sexual | 50 | 15 | 20 | 8 | 1 | 12 | 106 |
| | | Adult - Sexual | 10 | 7 | 10 | 1 | 0 | 3 | 31 |
| | | Drugs | 29 | 27 | 15 | 15 | 11 | 33 | 130 |
| | | Serious Crimes/Felonies | 117 | 89 | 59 | 49 | 25 | 43 | 382 |
| | | Alcohol | 226 | 113 | 88 | 36 | 15 | 46 | 524 |
| | | Other Crimes/Misdemeanors | 156 | 81 | 85 | 32 | 20 | 15 | 389 |
| | | **Total** | **600** | **339** | **278** | **142** | **73** | **155** | **1,587** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 10 | 8 | 6 | 8 | 9 | 27 | 68 |
| | | Child Crime - Non-sexual | 1 | 0 | 0 | 0 | 1 | 1 | 3 |
| | | Adult - Sexual | 0 | 2 | 1 | 0 | 0 | 2 | 5 |
| | | Serious Crimes/Felonies | 1 | 0 | 1 | 0 | 0 | 2 | 4 |
| | | Alcohol | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| | | Other Crimes/Misdemeanors | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| | | **Total** | **12** | **11** | **8** | **8** | **11** | **32** | **82** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 1 | 0 | 2 | 3 |
| | | Child Crime - Non-sexual | 4 | 4 | 2 | 0 | 0 | 1 | 11 |
| | | Adult - Sexual | 4 | 0 | 1 | 0 | 1 | 2 | 8 |
| | | Drugs | 10 | 8 | 2 | 1 | 1 | 2 | 24 |
| | | Serious Crimes/Felonies | 45 | 22 | 21 | 10 | 4 | 3 | 105 |
| | | Alcohol | 64 | 11 | 8 | 0 | 2 | 2 | 87 |
| | | Other Crimes/Misdemeanors | 49 | 13 | 13 | 0 | 3 | 1 | 79 |
| | | **Total** | **176** | **58** | **47** | **12** | **11** | **13** | **317** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 11 | 1 | 0 | 0 | 0 | 0 | 12 |
| | | Child Crime - Non-sexual | 5 | 5 | 3 | 5 | 0 | 3 | 21 |
| | | Adult - Sexual | 2 | 1 | 0 | 1 | 0 | 0 | 4 |
| | | Drugs | 4 | 7 | 1 | 3 | 3 | 13 | 31 |
| | | Serious Crimes/Felonies | 6 | 12 | 11 | 11 | 7 | 17 | 64 |
| | | Alcohol | 9 | 6 | 3 | 8 | 5 | 6 | 37 |
| | | Other Crimes/Misdemeanors | 4 | 5 | 2 | 8 | 5 | 6 | 30 |
| | | **Total** | **41** | **37** | **20** | **36** | **20** | **45** | **199** |
| | **Total** | | **829** | **445** | **353** | **198** | **115** | **245** | **2,185** |
| COC | Authorized | Child Crime - Sexual | 2 | 1 | 1 | 3 | 4 | 3 | 14 |
| | | Child Crime - Non-sexual | 2 | 6 | 12 | 18 | 21 | 24 | 83 |
| | | Adult - Sexual | 0 | 1 | 5 | 3 | 1 | 6 | 16 |
| | | Drugs | 1 | 0 | 3 | 1 | 5 | 12 | 22 |
| | | Serious Crimes/Felonies | 1 | 5 | 8 | 11 | 12 | 63 | 100 |
| | | Alcohol | 65 | 6 | 27 | 13 | 23 | 84 | 218 |
| | | Other Crimes/Misdemeanors | 15 | 9 | 28 | 26 | 56 | 53 | 187 |
| | | **Total** | **86** | **28** | **84** | **75** | **122** | **245** | **640** |
| | Not Authorized - Docs Suspended | Child Crime - Non-sexual | 0 | 0 | 3 | 1 | 2 | 1 | 7 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 1 | 2 | 3 |

DPP Monthly Commission Summary Report for December 2011

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| COC | Not Authorized - Docs Suspended | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| | | **Total** | **0** | **0** | **3** | **1** | **4** | **4** | **12** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| | | Child Crime - Non-sexual | 1 | 1 | 0 | 2 | 1 | 1 | 6 |
| | | Adult - Sexual | 0 | 0 | 0 | 2 | 0 | 1 | 3 |
| | | Drugs | 2 | 1 | 0 | 0 | 0 | 1 | 4 |
| | | Serious Crimes/Felonies | 11 | 3 | 6 | 2 | 9 | 6 | 37 |
| | | Alcohol | 36 | 0 | 4 | 2 | 2 | 3 | 47 |
| | | Other Crimes/Misdemeanors | 16 | 4 | 5 | 0 | 5 | 3 | 33 |
| | | **Total** | **66** | **9** | **15** | **8** | **18** | **15** | **131** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 1 | 0 | 0 | 1 | 2 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 2 | 2 | 4 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Drugs | 0 | 0 | 0 | 0 | 1 | 5 | 6 |
| | | Serious Crimes/Felonies | 0 | 1 | 0 | 1 | 2 | 19 | 23 |
| | | Alcohol | 0 | 0 | 2 | 1 | 2 | 13 | 18 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 2 | 3 | 2 | 7 | 14 |
| | | **Total** | **0** | **1** | **5** | **5** | **9** | **50** | **70** |
| | **Total** | | **152** | **38** | **107** | **89** | **153** | **314** | **853** |
| Post COC | Authorized | Child Crime - Sexual | 0 | 0 | 0 | 0 | 1 | 18 | 19 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 2 | 0 | 26 | 28 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 5 | 5 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 18 | 18 |
| | | Alcohol | 0 | 0 | 0 | 1 | 4 | 41 | 46 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 2 | 67 | 69 |
| | | **Total** | **0** | **0** | **0** | **3** | **7** | **179** | **189** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 1 | 4 | 5 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 12 | 12 |
| | | **Total** | **0** | **0** | **0** | **0** | **1** | **26** | **27** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 1 | 0 | 0 | 1 | 0 | 6 | 8 |
| | | Child Crime - Non-sexual | 0 | 1 | 0 | 0 | 0 | 5 | 6 |
| | | Drugs | 1 | 0 | 0 | 0 | 0 | 3 | 4 |
| | | Serious Crimes/Felonies | 0 | 2 | 1 | 0 | 0 | 13 | 16 |
| | | Alcohol | 0 | 0 | 0 | 1 | 3 | 5 | 9 |
| | | Other Crimes/Misdemeanors | 2 | 0 | 1 | 0 | 3 | 0 | 6 |
| | | **Total** | **4** | **3** | **2** | **2** | **6** | **32** | **49** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 1 | 1 |

DPP Monthly Commission Summary Report for December 2011

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Post COC | Not Authorized - No App(s) Pending | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 6 | 6 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 1 | 14 | 15 |
| | | Total | 0 | 0 | 0 | 0 | 1 | 33 | 34 |
| | Total | | 4 | 3 | 2 | 5 | 15 | 270 | 299 |
| Total | | | 985 | 486 | 462 | 292 | 283 | 829 | 3,337 |

**Chart 5: Caseload of the Committee of Credentials**
This chart represents the types of cases reviewed by the COC in 2011, through December.

| Committee Review 2011 | | | | | | |
|---|---|---|---|---|---|---|
| | Consent | Discuss | Initial | Formal App[1] | Formal Non APP[2] | Total |
| January | | | 51 | 18 | 33 | 102 |
| February | | | 52 | 15 | 28 | 95 |
| March | | | 56 | 12 | 31 | 99 |
| April | | | 63 | 14 | 30 | 107 |
| May | 125 | 0 | 53 | 18 | 24 | 220 |
| June | 283 | 28 | 65 | 15 | 39 | 430 |
| July | 285 | 25 | 85 | 12 | 32 | 439 |
| August | 233 | 14 | 82 | 19 | 31 | 379 |
| September | 158 | 13 | 60 | 12 | 52 | 295 |
| October | 201 | 9 | 53 | 25 | 42 | 330 |
| November | 325 | 6 | 50 | 16 | 40 | 437 |
| December | 244 | 7 | 59 | 16 | 29 | 355 |

**Next Steps**
Staff will continue to post the Monthly Activity Summary reports on the Commissioners' internal webpage each month. Staff will continue working to implement the State Auditor's recommendations and file required updates. The one year report to BSA will be due on April 7, 2012.

[1] "App" means the person chose to appear and testify before the Committee.
[2] "Non App" means the person chose not to appear before the Committee.

## Appendix
## Detailed Audit Tracking by Topic

**Recommendation One.** To comply with the law and reduce unnecessary workload, the division should continue to notify the Department of Justice of individuals for whom it is no longer interested in receiving RAP sheets, so DOJ will no longer notify DPP of criminal activity for these individuals.

When people first apply for credential they must submit fingerprints. DOJ retains that information and submits arrest information to CTC when a credentialed person is arrested, aka subsequent arrest notification. As part of audit, the BSA recommended when a person no longer holds a credential, the Commission inform the DOJ that we are "No Longer Interested" (NLI) in receiving an arrest report. This would reduce time expended by DPP staff in dealing with arrest notices for persons without a credential.

Staff has determined how many people are currently in the CASE system (over 1,100,000 total individuals in the system) but have never held a license, or all licenses held have been expired for a minimum of 3 years (~300,000).

Beginning in March 2011, staff began returning RAPs to the DOJ. On June 21, 2011 staff confirmed with the DOJ that returning RAP information will remove the individual from the list. Staff began returning the names of individuals to the DOJ with a status of NLI on a manual basis, but a limited number have been returned to date.

In response to stakeholder input, staff presented an action item to the Commission at its October 2011 meeting with regulatory language to change from 3 years to an eighteen month time period, to notify the DOJ to no longer send subsequent RAPs for an individual, increasing our "No Longer Interested" number by an approximately 40,000.

Approximately 340,000 people in the database have not held a credential within 18 months. When the NLI process is automated, DOJ can accept up to 10,000 names a day. The Commission's DPP staff and ETSS staff are working on this process. The system analysis and development are under way, and testing started in December 2011. So to date, the automated system is well into the process of development, testing is underway, and implementation is expected by early February.

A review and analysis of the 340,000 persons show that a large percentage, perhaps up to half, submitted fingerprints to the DOJ on paper fingerprint cards. The DOJ informed the Commission that it has to manually enter the NLI notice into DOJ's database if the fingerprints were submitted on paper cards. Therefore, the DOJ will only accept up to 100 notices a day. This limitation will slow the NLI process. For those with paper records at DOJ, staff plans to sort the records by date of birth and process the records starting from youngest and ending with the oldest person. The basis for that plan is that younger people are more frequently arrested than older people.

The automated process to return raps to DOJ began testing. Testing the process located some bugs in the process that will require correction. At this time, staff expects the automated process to return raps to DOJ will be implemented and functioning by early February 2012. Once implemented, staff believes Recommendation O will be addressed.

**Recommendation Two.** The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee, and to determine the goals and actions necessary to accomplish its mission.

The strategic plan for DPP is included in the January 2012 agenda.

Commission staff believe the plan will address BSA Recommendation 2.

**Recommendation Three.** To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload.

The collection of workload data will be included in the strategic plan described in Recommendation 2. However, before workload data will be collected, DPP will be implementing BSA recommendations dealing with needed improvements to the database, including adequate oversight and monitoring. Since these recommendations will change processes, procedures, and number of documents received by DPP, the workload analysis will be completed after those recommendations are implemented.

If the workload analysis indicates that additional staff are needed or that changes are needed to the COC to insure workload moves effectively through the process, a Budget Change Proposal (BCP) may be necessary. BCP concepts are traditionally submitted to the Department of Finance in August each year.

**Recommendation Four.** The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice.

**Recommendation Five.** Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month.

The Commission requested a formal Attorney General Opinion in May 2, 2011 and confirmed that the request for an opinion has been received and assigned an opinion number 11-606. In the interim, effective May 1, 2011, the COC began reviewing a Consent Calendar of work evaluated by legal staff and takes action at each meeting on all cases rather than staff closing any cases.

At its June 22-23, 2011 meeting, the COC considered an additional calendar of cases that legal staff has identified as the type of case that might be closed at the Initial Review. Twenty-eight cases were presented in this "discuss calendar" in June and the COC decided to close or grant 19 of the cases. The remaining 9 cases will be scheduled for COC Initial Review. Summary disposition of such cases could result in the completion of approximately 100-150 additional cases a year. Below is a summary of the combined number of "Consent" and "Discuss" cases presented to the COC since May 2011:

- May: 125 cases
- June: 311 cases
- July: 310 cases
- August: 247 cases
- September: 171 cases
- October: 210 cases
- November: 331 cases
- December: 251 cases

On July 12, 2011, staff presented information on the current educator discipline process in a Discipline Process Webinar, *California's Educator Discipline Process—Laws and Current Commission Procedures.*

At the August 4, 2011 Commission meeting, staff presented an update on the work to date to address the audit recommendations. In addition, staff presented an agenda item on the discipline process and proposed the development of stakeholder meetings to discuss the discipline process and provide recommendations on improving the discipline process. The Commission directed staff to move forward with the stakeholder meetings.

The Commission staff began work with policymakers, stakeholders and other interested parties to discuss the COC process and potential procedural and statutory solutions to increase the number of cases reviewed by the COC. Stakeholder meetings were held in October and November 2011 to discuss California's Educator Discipline process. A report of these meetings is included in this month's agenda.

Additional action will be taken on these recommendations after the formal opinion is received from the Office of the Attorney General.

**Recommendation Six:** The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct.

A comprehensive Procedures Manual was developed by the Division and posted on the CTC intranet along with other DPP training materials (May 6, 2011). As procedures are fine-tuned or additional systems are developed, the Procedures Manual will be updated. All division staff completed initial training on the Procedures Manual (May 25, 2011). As new procedures or systems are put in place, additional training will be held.

**Recommendation Seven:** The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in the commission's database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information.

**Recommendation Eight:** To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self disclosures of misconduct, it should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability.

**Recommendation Nine:**
To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:

- Reduction of the time elapsed to perform critical steps in the review process.
- Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.
- Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.
- An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases.

Recommendations 7, 8 and 9 all cover aspects of CTC's data system and its uses. Because these functions overlap, the responses to these recommendations are consolidated here.

All allegations of misconduct (RAP, employer report, affidavit and self-disclosure) are entered, including arrival date, into the SIEBEL system within 5 business days of arriving at the Commission.

Intake and Tracking screens have been developed within the SIEBEL (database) system and will serve as a monitoring process; management reports are being developed as part of the oversight process. Implementation of the screens began on August 9, 2011.

A comprehensive Procedures Manual was developed by the Division and posted on the CTC intranet along with other DPP training materials (May 6, 2011).

As procedures are fine-tuned or additional systems are developed, the Procedures Manual will be updated.

All division staff completed initial training on the Procedures Manual (May 25, 2011). As new procedures or systems are put in place, additional training will be held.

Staff has developed initial workload reports to gather the data necessary to understand the volume of work on a task by task basis. This includes the following reports:

a. Monthly Activity Summary and Existing Inventory-Workload by status and type
b. Cases Closed
c. Case Aging Reports
d. Cases Ready for Committee Report (developed and being refined to include additional information about types and severity of misconduct of the cases awaiting COC Review)

Division leadership analyzes the data collected including type of task, staff completing the task, and time to complete the task. Based on that analysis, management reviews current procedures and develops additional oversight procedures to monitor the implementation of the policies in the division (beginning in June 2011).

# 4B

## Information

*Professional Practices Committee*

## Workload Report Regarding the BSA Audit Recommendations

**Executive Summary:** This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP); the Commission's response to the Audit as well as an update on staff progress in addressing the recommendations; and a report on DPP's current workload.

**Recommended Action:** For information only

**Presenter:** Nanette Rufo, Director, Division of Professional Practices

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

December 2011

# Workload Report Regarding the BSA Audit Recommendations

**Introduction**
This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and of the Office of Human Resources, and also provides the Commission's responses to the Audit recommendations. This agenda item presents the October 2011 DPP workload reports. The November reports will be posted once they are available.

**Audit Update**
On April 7, 2011 the California State Auditor issued a report entitled "*Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs*". The audit identified eleven recommendations. The initial update was presented to the Commission at the June 2011 Meeting (http://www.ctc.ca.gov/commission/agendas/2011-06/2011-06-2H.pdf).

On Monday, June 6, 2011 the required sixty day response was submitted to the Bureau of State Audits (BSA), followed by the six month report on October 5, 2011. On October 7, 2011 CTC management staff met with representatives of the BSA to discuss the report and to respond to any questions from the auditors. According to BSA staff, that office will submit a report to the Legislature in February 2012. That means that information going to the Legislature in February 2012 will be based on the six month report. Information from the one-year-report CTC will submit to BSA will then be included in BSA's February 2013 report to the Legislature.

As part of the response to the audit, staff scheduled two meetings for stakeholders. A stakeholder planning group was formed with five groups to assist in the planning process, the California Teachers Association (CTA), California Federation of Teachers (CFT), the California School Boards Association (CSBA), the California Association of School Administrators (ACSA) and the California County Superintendents Educational Services Association (CCSESA). The meetings were held on October 28, 2011 and November 18, 2011. Staff will prepare an agenda item for the January 2012 Commission Meeting with information gathered from the stakeholder meetings.

Following is a description of staff analysis of issues and related actions that fall within major areas of the report:

1. **Individuals for whom the Commission needs subsequent misconduct reports.** The Department of Justice (DOJ) currently provides copies of the "Reports of Arrest and Prosecution" (RAP) for all individuals who currently hold or have ever held a teaching/services credential, a 30 day substitute permit, and/or a certificate of clearance or who have submitted fingerprints to the Commission in preparation for applying for a credential or certificate of clearance. If the Commission receives RAPs for only those

individuals who are currently authorized to provide service in the public schools, the division's RAP processing workload would be significantly reduced. (BSA Recommendation 1)

2. **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff.** Once an opinion is received from the Attorney General, we will take the steps necessary to comply with the Attorney General's advice and undertake all necessary procedural and statutory changes to increase the number of cases the COC can review each month. (BSA Recommendations 4 and 5)

3. **Division of Professional Practices. The audit recommendations highlighted several areas of concern regarding how reports of misconduct are handled and followed up.** The auditors indicated that the processing of reports of misconduct must be analyzed and clear criteria and procedures must be developed for timely, accurate processing of all reports. The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed. Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, the person(s) responsible for the case, length of time at each stage of review, reasons for delays and final disposition. The data needs to be complete, accurate and consistently entered into the database. An oversight process needs to be developed to ensure the accuracy of data entered into the database and to provide data in a form useful as a management tool. The time elapsed in the processing of misconduct needs to be reduced, including making prompt requests for information from law enforcement agencies, courts, schools, and knowledgeable individuals. Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload. The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC. While not included in the BSA recommendations, the early pursuit of information related to more serious cases should be examined. (BSA Recommendations 2, 3, 6, 7, 8, and 9)

4. **Office of Human Resources.** The auditors indicated that information about staffing and about staff concerns must be clearly documented, current, and shared with the appropriate staff at the appropriate intervals. This includes information on 1) hiring and promotions, 2) making sure supervisors and managers are appropriately documenting their hiring processes, and 3) ensuring that staff understands the grievance and EEO complaint processes. (BSA Recommendations 10 and 11)

Information on the specific actions taken to date related to the audit report is provided in the Appendix.

**DPP Workload Update**

Staff fine-tuned the DPP Monthly Activity Summary reports provided to Commissioners and added additional information on DPP's workload. These reports include a detailed look at the COC workload including all Open Cases by Status and Type (Chart 1); monthly RAPs Received and Processed (Chart 2); and a report on the Closed Cases (Chart 3); Charts 4a and 4b on the aging of cases; and a chart showing the number and types of cases considered by the COC through October (Chart 5).

The workload shown in Chart 1, page 4, is organized by cases preparing to go to the COC in blue, cases that are currently in the COC review phase in yellow and cases that are post-COC review in green. As staff continue to make progress and gain efficiencies in the area of identifying and processing pre-COC cases, the COC workload is likely to continue to grow as there are only a finite number of cases that can be heard by the COC each month.

Chart 1:

# DPP Monthly Activity Summary

## Activity During October 2011

### Pre COC

**Work Received in DPP**

| | Items Rec'd | Cases Opened |
|---|---|---|
| RAPs* | 524 | 157 |
| Apps* | 1,124 | 278 |
| SD Reports * | 26 | 51 |
| Misc * | 7 | 10 |
| **Total** | **1,681** | **496** |

* Work related to cases opened may have been received in a prior period

**Document Requests**

| | |
|---|---|
| Arrest | 179 |
| Court | 526 |

### COC Inventory

| | |
|---|---|
| Initial Review | 50 |
| Formal Review | 58 |
| Consent Review | 207 |

### COC Work Completed (October 2011)

**Cases to COC**

| | |
|---|---|
| Initial Review | 53 |
| Formal Review | 67 |
| Reconsideration | 1 |
| Consent Review | 210 |

**Cases Completed**

| | |
|---|---|
| Closed | 77 |
| Granted | 161 |
| Adverse Actions | 62 |

### Post COC

| | |
|---|---|
| Settlement | 1 |
| AG | 3 |
| CTC | 47 |

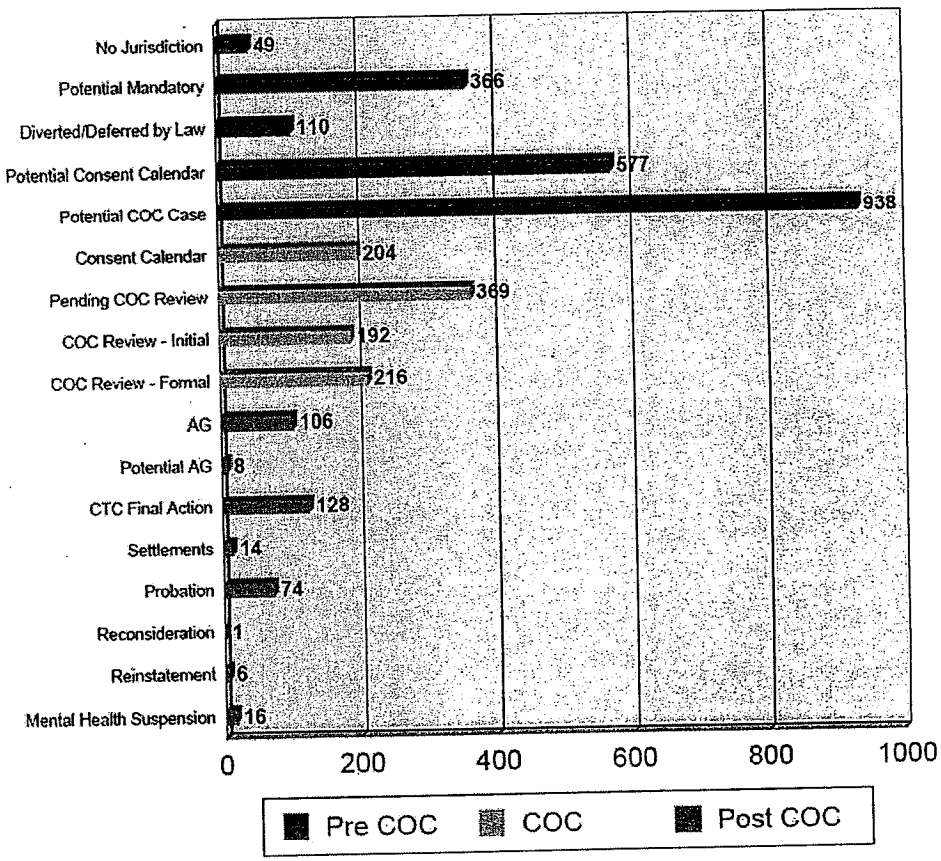
### Mandatory Actions

| | |
|---|---|
| Revocations | 12 |
| Denials | 1 |
| Automatic Suspensions | 6 |

### Inventory for October 2011

| | |
|---|---|
| Starting Case Load | 3,240 |
| Cases Opened | 496 |
| Cases Closed | 362 |
| Ending Case Load | 3,374 |

## Open Cases by Status and Type as of October 31, 2011




| | |
|---|---|
| **Pre COC** | **2,040** |
| **COC** | **981** |
| **Post COC** | **353** |
| **Total Open Cases** | **3,374** |

DPP Monthly Commission Summary Report for October 2011

Chart 2 shows all RAP sheets received in the month of October 2011. This report now presents the workload in a sequential organization with the yellow rows showing the RAPs that do not lead to a case, the red rows are the RAPs which are affiliated with an existing case and the green rows show the RAPS that lead to a new case. The labels for the rows in this report were also modified to more clearly describe the type of category of RAPs received.

**Chart 2:**

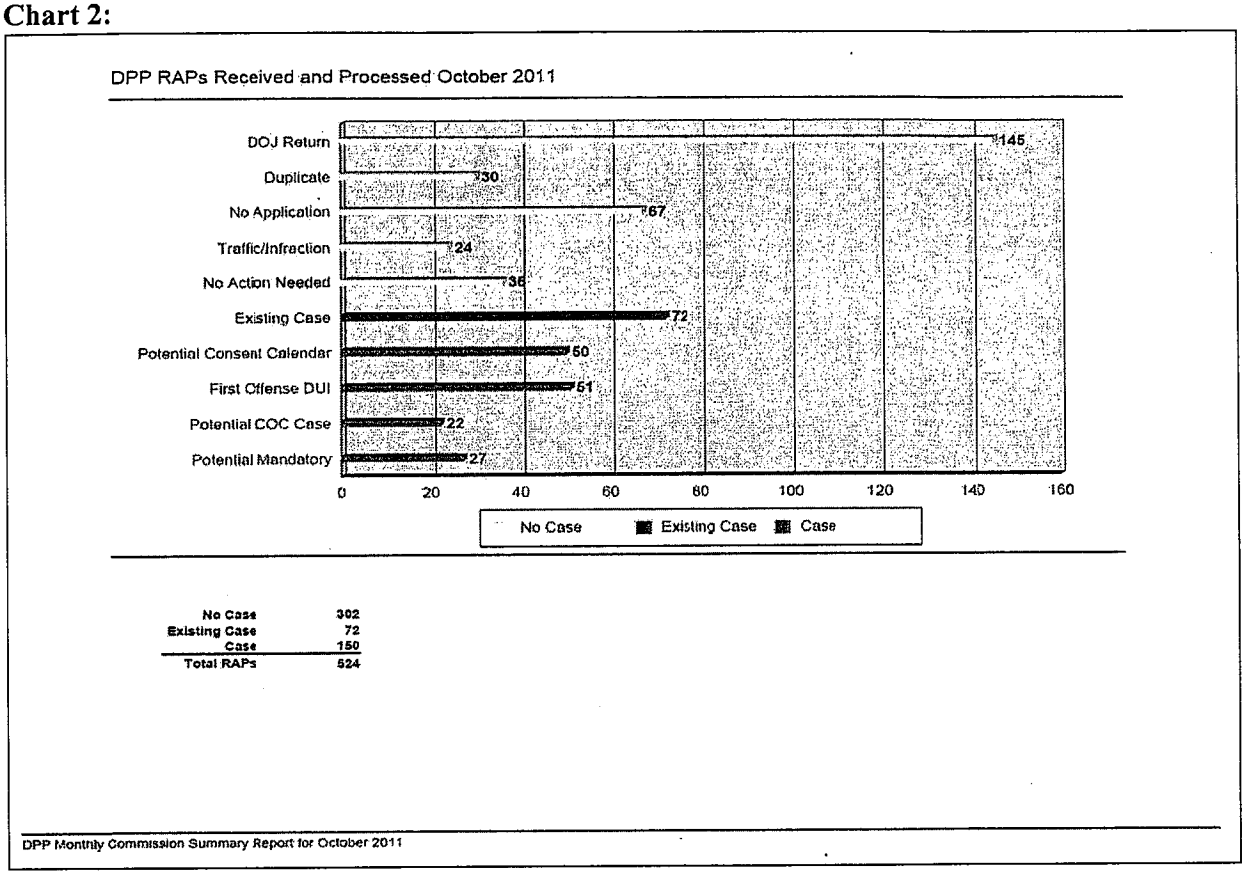
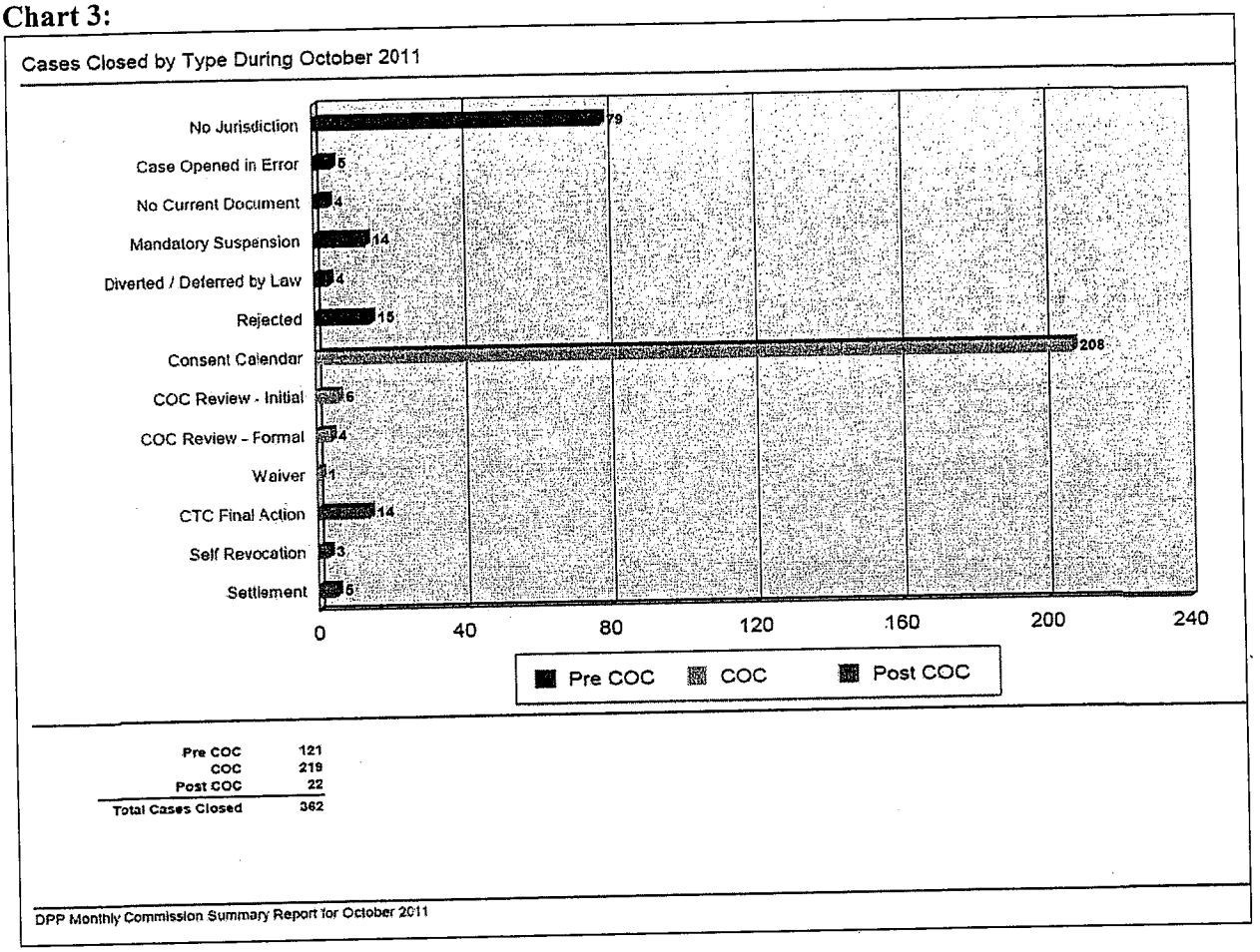


Chart 3 identifies the types of items that were closed throughout the month of October 2011. It is important to note that cases may be closed at any one of multiple steps in the discipline process and not all the cases that are closed were received in any one month.

**Chart 3:**




**Charts 4a and 4b: Case Aging Reports** – October 2011

Two versions of the Case Aging Report are presented. Each provides information on the same cases but through a slightly different lens. Both reports provide information on:

a) the number of cases and how many days the cases have been in the process (0-30, 31-180, 181-270, 271-360, 361-450, and 450+ days);
b) the cases by status in relation to the Committee of Credentials (COC): Pre COC, at the COC, or post COC, and;
c) the type of misconduct the educator has been accused or convicted of, categorized into one of the following seven groups:
   - Child Crime-Sexual
   - Child Crime-Non-Sexual
   - Adult-Sexual
   - Drugs
   - Serious Crimes/Felonies

- Alcohol
- Other Crimes/Misdemeanors

Where the two reports differ is that one reports on the case type while the other includes information on the license status of the individual. Chart 4a, on page 8, provides information on the type of case and this information is also found on DPP Monthly Summary report and the Cases Closed reports. The second report, Chart 4b, instead presents information organized by whether or not the individual currently holds a valid license to serve as an educator in California.

**4a: Open Case Aged by Case Status, Case Type, and Offense as of October 31, 2011**
This table, on page 8, is organized into three sections based on the work and its relation to the COC (Pre COC, at the COC, and Post COC). Within the work that has not yet gone to the COC, the information is organized into five types of cases:

- No Jurisdiction
- Potential Mandatory
- Diverted/Deferred by Law
- Potential Consent Calendar
- Potential Committee Case

For the cases that are at the COC or have completed the COC process, this report does not delineate among the case types.

Chart 4a:

## Open Cases Aged by Case Status, Case Type, and Offense as of October 31, 2011

| Status | Case Type | Offense Code | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 450 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | No Jurisdiction | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 0 | 3 | 0 | 0 | 0 | 0 | 3 |
| | | Drugs | 0 | 1 | 1 | 0 | 0 | 1 | 3 |
| | | Serious Crimes/Felonies | 0 | 2 | 3 | 0 | 2 | 1 | 8 |
| | | Alcohol | 2 | 0 | 4 | 0 | 0 | 1 | 7 |
| | | Other Crimes/Misdemeanors | 7 | 9 | 8 | 1 | 1 | 1 | 27 |
| | | **Total** | **9** | **15** | **16** | **1** | **3** | **5** | **49** |
| | Potential Mandatory | Child Crime - Sexual | 19 | 11 | 12 | 8 | 9 | 26 | 85 |
| | | Child Crime - Non-sexual | 14 | 7 | 15 | 3 | 4 | 5 | 48 |
| | | Adult - Sexual | 9 | 3 | 3 | 0 | 1 | 2 | 18 |
| | | Drugs | 24 | 12 | 6 | 6 | 3 | 12 | 63 |
| | | Serious Crimes/Felonies | 39 | 31 | 19 | 12 | 4 | 28 | 133 |
| | | Alcohol | 8 | 7 | 0 | 0 | 0 | 1 | 16 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 1 | 0 | 1 | 3 |
| | | **Total** | **114** | **71** | **55** | **30** | **21** | **75** | **366** |
| | Diverted / Deferred by Law | Child Crime - Non-sexual | 0 | 1 | 1 | 0 | 0 | 4 | 6 |
| | | Drugs | 2 | 6 | 5 | 12 | 6 | 31 | 62 |
| | | Serious Crimes/Felonies | 2 | 3 | 4 | 3 | 3 | 10 | 25 |
| | | Alcohol | 0 | 1 | 0 | 0 | 0 | 4 | 5 |
| | | Other Crimes/Misdemeanors | 2 | 2 | 4 | 1 | 1 | 2 | 12 |
| | | **Total** | **6** | **13** | **14** | **16** | **10** | **51** | **110** |
| | Potential Consent Calendar | Child Crime - Non-sexual | 3 | 1 | 0 | 0 | 0 | 0 | 4 |
| | | Adult - Sexual | 1 | 3 | 0 | 0 | 0 | 0 | 4 |
| | | Drugs | 10 | 4 | 2 | 1 | 1 | 0 | 18 |
| | | Serious Crimes/Felonies | 32 | 22 | 10 | 4 | 1 | 4 | 73 |
| | | Alcohol | 196 | 77 | 18 | 5 | 5 | 5 | 306 |
| | | Other Crimes/Misdemeanors | 84 | 65 | 18 | 3 | 1 | 1 | 172 |
| | | **Total** | **326** | **172** | **48** | **13** | **8** | **10** | **577** |
| | Potential COC Case | Child Crime - Sexual | 0 | 2 | 1 | 1 | 2 | 1 | 7 |
| | | Child Crime - Non-sexual | 23 | 29 | 4 | 1 | 0 | 4 | 61 |
| | | Adult - Sexual | 4 | 4 | 4 | 2 | 2 | 2 | 18 |
| | | Drugs | 19 | 9 | 6 | 2 | 5 | 7 | 48 |
| | | Serious Crimes/Felonies | 94 | 71 | 44 | 28 | 20 | 21 | 278 |
| | | Alcohol | 54 | 84 | 49 | 29 | 18 | 29 | 263 |
| | | Other Crimes/Misdemeanors | 99 | 78 | 33 | 39 | 10 | 4 | 263 |
| | | **Total** | **293** | **277** | **141** | **102** | **57** | **68** | **938** |
| | **Total** | | **748** | **548** | **274** | **162** | **99** | **209** | **2,040** |
| COC | All Case Types | All Offense Types | 167 | 99 | 71 | 167 | 102 | 375 | 981 |
| | | **Total** | **167** | **99** | **71** | **167** | **102** | **375** | **981** |
| | **Total** | | **167** | **99** | **71** | **167** | **102** | **375** | **981** |
| Post COC | All Case Types | All Offense Types | 8 | 2 | 3 | 5 | 12 | 323 | 353 |
| | | **Total** | **8** | **2** | **3** | **5** | **12** | **323** | **353** |
| | **Total** | | **8** | **2** | **3** | **5** | **12** | **323** | **353** |
| **Total** | | | **923** | **649** | **348** | **334** | **213** | **907** | **3,374** |

DPP Monthly Commission Summary Report for October 2011

**4b: Open Cases Aged by Case Status, Credential Status, and Offense as of October 31, 2011**
In this table, within each section of the work in relation to the COC (Pre COC, COC and Post COC) there are four sets of rows (4-7 rows) where information related to individuals in each of the following groups is presented:

- Individuals holding a current, valid credential and therefore the individuals could be in a classroom or working with students in the K-12 public schools.
- Individuals who held one or more California credentials but all credentials have been suspended by the Commission. Since all licenses are suspended, these individuals should not be working with public school students at this time.
- Individuals who do not hold a California credential, but have one or more applications pending. These individuals should not be working with public school students at this time.
- Individuals who do not hold any current, valid credential and have no applications pending. These individuals should not be working with public school students at this time.

Last month's agenda item noted concerns about the fourth group of cases in each section of Chart 4b. The individuals do not hold a current license as an educator in California and have no applications pending. Staff researched the issue and is bringing forward, as an action item, a proposed policy on expired credentials as part of the agenda this month.

Chart 4b:

## Open Cases Aged by Case Status, Case Type, and Offense as of October 31, 2011

| Status | Case Type | Offense Code | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 450 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | No Jurisdiction | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 0 | 3 | 0 | 0 | 0 | 0 | 3 |
| | | Drugs | 0 | 1 | 1 | 0 | 0 | 1 | 3 |
| | | Serious Crimes/Felonies | 0 | 2 | 3 | 0 | 2 | 1 | 8 |
| | | Alcohol | 2 | 0 | 4 | 0 | 0 | 1 | 7 |
| | | Other Crimes/Misdemeanors | 7 | 9 | 8 | 1 | 1 | 1 | 27 |
| | | **Total** | **9** | **15** | **16** | **1** | **3** | **5** | **49** |
| | Potential Mandatory | Child Crime - Sexual | 19 | 11 | 12 | 8 | 9 | 26 | 85 |
| | | Child Crime - Non-sexual | 14 | 7 | 15 | 3 | 4 | 5 | 48 |
| | | Adult - Sexual | 9 | 3 | 3 | 0 | 1 | 2 | 18 |
| | | Drugs | 24 | 12 | 6 | 6 | 3 | 12 | 63 |
| | | Serious Crimes/Felonies | 39 | 31 | 19 | 12 | 4 | 28 | 133 |
| | | Alcohol | 8 | 7 | 0 | 0 | 0 | 1 | 16 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 1 | 0 | 1 | 3 |
| | | **Total** | **114** | **71** | **55** | **30** | **21** | **75** | **366** |
| | Diverted / Deferred by Law | Child Crime - Non-sexual | 0 | 1 | 1 | 0 | 0 | 4 | 6 |
| | | Drugs | 2 | 6 | 5 | 12 | 6 | 31 | 62 |
| | | Serious Crimes/Felonies | 2 | 3 | 4 | 3 | 3 | 10 | 25 |
| | | Alcohol | 0 | 1 | 0 | 0 | 0 | 4 | 5 |
| | | Other Crimes/Misdemeanors | 2 | 2 | 4 | 1 | 1 | 2 | 12 |
| | | **Total** | **6** | **13** | **14** | **16** | **10** | **51** | **110** |
| | Potential Consent Calendar | Child Crime - Non-sexual | 3 | 1 | 0 | 0 | 0 | 0 | 4 |
| | | Adult - Sexual | 1 | 3 | 0 | 0 | 0 | 0 | 4 |
| | | Drugs | 10 | 4 | 2 | 1 | 1 | 0 | 18 |
| | | Serious Crimes/Felonies | 32 | 22 | 10 | 4 | 1 | 4 | 73 |
| | | Alcohol | 196 | 77 | 18 | 5 | 5 | 5 | 306 |
| | | Other Crimes/Misdemeanors | 84 | 65 | 18 | 3 | 1 | 1 | 172 |
| | | **Total** | **326** | **172** | **48** | **13** | **8** | **10** | **577** |
| | Potential COC Case | Child Crime - Sexual | 0 | 2 | 1 | 1 | 2 | 1 | 7 |
| | | Child Crime - Non-sexual | 23 | 29 | 4 | 1 | 0 | 4 | 61 |
| | | Adult - Sexual | 4 | 4 | 4 | 2 | 2 | 2 | 18 |
| | | Drugs | 19 | 9 | 6 | 2 | 3 | 7 | 46 |
| | | Serious Crimes/Felonies | 94 | 71 | 44 | 28 | 20 | 21 | 278 |
| | | Alcohol | 54 | 84 | 49 | 29 | 18 | 29 | 263 |
| | | Other Crimes/Misdemeanors | 99 | 78 | 33 | 39 | 10 | 4 | 263 |
| | | **Total** | **293** | **277** | **141** | **102** | **57** | **68** | **938** |
| | **Total** | | **748** | **548** | **274** | **162** | **99** | **209** | **2,040** |
| COC | All Case Types | All Offense Types | 167 | 99 | 71 | 167 | 102 | 375 | 981 |
| | | **Total** | **167** | **99** | **71** | **167** | **102** | **375** | **981** |
| | **Total** | | **167** | **99** | **71** | **167** | **102** | **375** | **981** |
| Post COC | All Case Types | All Offense Types | 8 | 2 | 3 | 5 | 12 | 323 | 353 |
| | | **Total** | **8** | **2** | **3** | **5** | **12** | **323** | **353** |
| | **Total** | | **8** | **2** | **3** | **5** | **12** | **323** | **353** |
| **Total** | | | **923** | **649** | **348** | **334** | **213** | **907** | **3,374** |

DPP Monthly Commission Summary Report for October 2011

## Open Cases Aged by Case Status, Credential Status, and Offense - as of October 31, 2011

| Case Status | Credential Status | Offense | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | Authorized | Child Crime - Sexual | 9 | 1 | 2 | 0 | 2 | 2 | 16 |
| | | Child Crime - Non-sexual | 32 | 29 | 14 | 3 | 3 | 9 | 90 |
| | | Adult - Sexual | 10 | 8 | 5 | 1 | 2 | 1 | 27 |
| | | Drugs | 31 | 23 | 15 | 16 | 11 | 36 | 132 |
| | | Serious Crimes/Felonies | 102 | 82 | 57 | 36 | 20 | 43 | 340 |
| | | Alcohol | 165 | 150 | 61 | 24 | 20 | 35 | 455 |
| | | Other Crimes/Misdemeanors | 128 | 123 | 50 | 34 | 11 | 5 | 351 |
| | | **Total** | **477** | **416** | **204** | **114** | **69** | **131** | **1,411** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 9 | 10 | 11 | 8 | 9 | 24 | 71 |
| | | Child Crime - Non-sexual | 1 | 0 | 0 | 1 | 0 | 1 | 3 |
| | | Adult - Sexual | 1 | 1 | 1 | 0 | 0 | 2 | 5 |
| | | Serious Crimes/Felonies | 0 | 1 | 0 | 0 | 0 | 2 | 3 |
| | | Alcohol | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | | **Total** | **12** | **12** | **12** | **10** | **9** | **29** | **84** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 5 | 5 | 0 | 0 | 1 | 0 | 11 |
| | | Adult - Sexual | 2 | 1 | 0 | 1 | 1 | 1 | 6 |
| | | Drugs | 20 | 5 | 3 | 1 | 2 | 1 | 32 |
| | | Serious Crimes/Felonies | 57 | 31 | 11 | 3 | 3 | 4 | 109 |
| | | Alcohol | 87 | 12 | 2 | 3 | 1 | 1 | 106 |
| | | Other Crimes/Misdemeanors | 60 | 25 | 4 | 3 | 1 | 0 | 93 |
| | | **Total** | **231** | **79** | **20** | **11** | **9** | **8** | **358** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 1 | 2 | 0 | 1 | 0 | 1 | 5 |
| | | Child Crime - Non-sexual | 2 | 7 | 6 | 0 | 0 | 3 | 18 |
| | | Adult - Sexual | 1 | 0 | 1 | 0 | 0 | 0 | 2 |
| | | Drugs | 4 | 4 | 2 | 4 | 2 | 14 | 30 |
| | | Serious Crimes/Felonies | 8 | 15 | 12 | 8 | 7 | 15 | 65 |
| | | Alcohol | 8 | 7 | 8 | 6 | 2 | 4 | 35 |
| | | Other Crimes/Misdemeanors | 4 | 6 | 9 | 8 | 1 | 4 | 32 |
| | | **Total** | **28** | **41** | **38** | **27** | **12** | **41** | **187** |
| | **Total** | | **748** | **548** | **274** | **162** | **99** | **209** | **2,040** |
| COC | Authorized | Child Crime - Sexual | 1 | 0 | 4 | 4 | 1 | 5 | 15 |
| | | Child Crime - Non-sexual | 0 | 12 | 7 | 27 | 10 | 26 | 82 |
| | | Adult - Sexual | 0 | 3 | 3 | 2 | 1 | 6 | 15 |
| | | Drugs | 0 | 1 | 1 | 3 | 6 | 11 | 22 |
| | | Serious Crimes/Felonies | 4 | 6 | 14 | 15 | 13 | 73 | 125 |
| | | Alcohol | 89 | 22 | 7 | 26 | 18 | 93 | 255 |
| | | Other Crimes/Misdemeanors | 1 | 22 | 20 | 51 | 32 | 72 | 198 |
| | | **Total** | **95** | **66** | **56** | **128** | **81** | **286** | **712** |
| | Not Authorized - Docs Suspended | Child Crime - Non-sexual | 0 | 2 | 1 | 2 | 0 | 1 | 6 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 1 | 1 |

DPP Monthly Commission Summary Report for October 2011

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Post COC | Not Authorized - No App(s) Pending | Alcohol | 0 | 0 | 0 | 0 | 0 | 6 | 6 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 1 | 11 | 12 |
| | | Total | 0 | 0 | 0 | 0 | 1 | 32 | 33 |
| | Total | | 8 | 2 | 3 | 5 | 12 | 323 | 353 |
| Total | | | 923 | 649 | 348 | 334 | 213 | 907 | 3,374 |

**Chart 5: Caseload of the Committee of Credentials**

This chart represents the types of cases reviewed by the COC in 2011, through October.

| Committee Review 2011 | | | | | | |
|---|---|---|---|---|---|---|
| | Consent | Discuss | Initial | Formal App[1] | Formal Non APP[2] | Total |
| January | | | 51 | 18 | 33 | 102 |
| February | | | 52 | 15 | 28 | 95 |
| March | | | 56 | 12 | 31 | 99 |
| April | | | 63 | 14 | 30 | 107 |
| May | 125 | 0 | 53 | 18 | 24 | 220 |
| June | 283 | 28 | 65 | 15 | 39 | 430 |
| July | 285 | 25 | 85 | 12 | 32 | 439 |
| August | 233 | 14 | 82 | 19 | 31 | 379 |
| September | 158 | 13 | 60 | 12 | 52 | 295 |
| October | 201 | 9 | 53 | 25 | 42 | 330 |
| | | | | | | |
| | | | | | | |

**Next Steps**

Staff will continue to post the Monthly Activity Summary reports on the Commissioners' internal webpage each month. Staff will continue working to implement the State Auditor's recommendations and file required updates. The one year report to BSA will be due on April 7, 2012.

[1] "App" means the person chose to appear and testify before the Committee.

[2] "Non App" means the person chose not to appear before the Committee.

## Appendix
## Detailed Audit Tracking by Topic

**Recommendation 1.** To comply with the law and reduce unnecessary workload, the division should continue to notify the Department of Justice of individuals for whom it is no longer interested in receiving RAP sheets, so DOJ will no longer notify DPP of criminal activity for these individuals.

When people first apply for credential they must submit fingerprints. DOJ retains that information and submits arrest information to CTC when a credentialed person is arrested, aka subsequent arrest notification. As part of audit, the BSA recommended when a person no longer holds a credential, the Commission inform the DOJ that we are "No Longer Interested" (NLI) in receiving an arrest report. This would reduce time expended by DPP staff in dealing with arrest notices for persons without a credential.

Staff has determined how many people are currently in the CASE system (over 1,100,000 total individuals in the system) but have never held a license, or all licenses held have been expired for a minimum of 3 years (~300,000).

Beginning in March 2011, staff began returning RAPs to the DOJ. On June 21, 2011 staff confirmed with the DOJ that returning RAP information will remove the individual from the list. Staff began returning the names of individuals to the DOJ with a status of NLI on a manual basis, but a limited number have been returned to date.

In response to stakeholder input, staff presented an action item to the Commission at its October 2011 meeting with regulatory language to change from 3 years to an eighteen month time period, to notify the DOJ to no longer send subsequent RAPs for an individual, increasing our "No Longer Interested" number by an approximately 40,000.

Approximately 340,000 people in the database have not held a credential within 18 months. When the NLI process is automated, DOJ can accept up to 10,000 names a day. The Commission's DPP staff and ETSS staff are working on this process. The system analysis and development are under way, but testing isn't started as of November 2011. Testing will take place after mid-December when the CWIP project is launched and the Siebel database is unlocked. So to date, the automated system is well into the process of development, but not yet tested and implemented.

A review and analysis of the 340,000 persons show that a large percentage, perhaps up to half, submitted fingerprints to the DOJ on paper fingerprint cards. The DOJ informed the Commission that it has to manually enter the NLI notice into DOJ's database if the fingerprints were submitted on paper cards. Therefore, the DOJ will only accept up to 100 notices a day. This limitation will slow the NLI process. For those with paper records at DOJ, staff plan to sort the records by date of birth and process the records starting from youngest and ending with the oldest person. The basis for that plan is that younger people are more frequently arrested than older people.

Commission staff believe the plan described above, when implemented, will fully address BSA Recommendation #1.

**Recommendation 2.** The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee, and to determine the goals and actions necessary to accomplish its mission.

The Quarterly agenda presented to the Commission in December 2011, calls for a strategic plan for DPP to be presented to the Commission for discussion in January 2011.

Commission staff believe the plan described above, when implemented, will fully address BSA Recommendation #1.

**Recommendation 3.** To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload.

The collection of workload data will be included in the strategic plan described in Recommendation 2. However, before workload data will be collected, DPP will be implementing BSA recommendations dealing with needed improvements to the database, including adequate oversight and monitoring. Since these recommendations will change processes, procedures, and number of documents received by DPP, the workload analysis will be completed after those recommendations are implemented.

If the workload analysis indicates that additional staff are needed or that changes are needed to the COC to insure workload moves effectively through the process, a Budget Change Proposal (BCP) may be necessary. BCP concepts are traditionally submitted to the Department of Finance in August each year.

**Recommendation 4:** The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice.

**Recommendation Five.** Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month.

The Commission requested a formal Attorney General Opinion in May 2, 2011 and confirmed that the request for an opinion has been received and assigned an opinion number 11-606. In the interim, effective May 1, 2011, the COC began reviewing a Consent Calendar of work evaluated by legal staff and takes action at each meeting on all cases rather than staff closing any cases.

At its June 22-23, 2011 meeting, the COC considered an additional calendar of cases that legal staff has identified as the type of case that might be closed at the Initial Review. Twenty-eight cases were presented in this "discuss calendar" in June and the COC decided to close or grant 19 of the cases. The remaining 9 cases will be scheduled for COC Initial Review. Summary disposition of such cases could result in the completion of approximately 100-150 additional cases a year. Below is a summary of the combined number of "Consent" and "Discuss" cases presented to the COC since May 2011:

- May: 125 cases
- June: 311 cases
- July: 310 cases
- August: 247 cases
- September: 171 cases
- October: 210 cases

On July 12, 2011 Staff presented information on the current educator discipline process in a Discipline Process Webinar, *California's Educator Discipline Process—Laws and Current Commission Procedures.*

At the August 4, 2011 Commission meeting, staff presented an update on the work to date to address the audit recommendations. In addition, staff presented an agenda item on the discipline process and proposed the development of stakeholder meetings to discuss the discipline process and provide recommendations on improving the discipline process. The Commission directed staff to move forward with the stakeholder meetings.

The Commission staff began work with policymakers, stakeholders and other interested parties to discuss the COC process and potential procedural and statutory solutions to increase the number of cases reviewed by the COC. Stakeholder meetings were held in October and November 2011 to discuss California's Educator Discipline process and possible recommendations from the stakeholder meetings will be presented to the Commission in January 2012.

**Recommendation Six:** The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct.

A comprehensive Procedures Manual was developed by the Division and posted on the CTC intranet along with other DPP training materials (May 6, 2011). As procedures are fine-tuned or additional systems are developed, the Procedures Manual will be updated. All division staff completed initial training on the Procedures Manual (May 25, 2011). As new procedures or systems are put in place, additional training will be held.

**Recommendation Seven:** The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in the commission's database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information.

**Recommendation Eight:** To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self disclosures of misconduct, it should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability.

**Recommendation Nine:**
To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:

- Reduction of the time elapsed to perform critical steps in the review process.
- Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.
- Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.
- An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases.

Recommendations 7, 8 and 9 all cover aspects of CTC's data system and its uses. Because these functions overlap, the responses to these recommendations are consolidated here.

All allegations of misconduct (RAP, employer report, affidavit and self-disclosure) are entered, including arrival date, into the SIEBEL system within 5 business days of arriving at the Commission.

Intake and Tracking screens have been developed within the SIEBEL (database) system and will serve as a monitoring process; management reports are being developed as part of the oversight process. Implementation of the screens began on August 9, 2011.

A comprehensive Procedures Manual was developed by the Division and posted on the CTC intranet along with other DPP training materials (May 6, 2011).

As procedures are fine-tuned or additional systems are developed, the Procedures Manual will be updated.

All division staff completed initial training on the Procedures Manual (May 25, 2011). As new procedures or systems are put in place, additional training will be held.

Staff has developed initial workload reports to gather the data necessary to understand the volume of work on a task by task basis. This includes the following reports:

a. Monthly Activity Summary and Existing Inventory-Workload by status and type
b. Cases Closed
c. Case Aging Reports
d. Cases Ready for Committee Report (developed and being refined to include additional information about types and severity of misconduct of the cases awaiting COC Review)

Division leadership analyzes the data collected including type of task, staff completing the task, and time to complete the task. Based on that analysis, management reviews current procedures and develops additional oversight procedures to monitor the implementation of the policies in the division (beginning in June 2011).

The Strategic Plan will be reviewed as a starting point for a revised effort no later than January 2012. The auditor's recommendations to identify programmatic, organizational, and external challenges will be integral to the review and revision of the Commission's Strategic Plan. The Quarterly agenda presented to the Commission in December 2011 calls for a strategic plan for DPP to be presented to the Commission for discussion in January 2011.

Stakeholder input will be critical as well. Stakeholder meetings took place in October and November 2011. An agenda item on those meetings will be presented to the CTC in January 2011.

# 2A

## Information

*Professional Practices Committee*

## Progress on Addressing the Recommendations from the April 7, 2011 Audit Report

**Executive Summary:** This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and of the Office of Human Resources; the Commission's response to the Audit as well as an update on staff progress in addressing the recommendations; and a report on DPP's current workload.

**Recommended Action:** For information only

**Presenter:** Nanette Rufo, Director, Professional Practices Division

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

November 2011

# Progress on Addressing the Recommendations from the April 7, 2011 Audit Report

**Introduction**
This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and of the Office of Human Resources, and also provides the Commission's responses to the Audit recommendations. This agenda item presents the September 2011 DPP workload reports. The October reports will be posted once they are available.

**Audit Update**
On April 7, 2011 the California State Auditor issued a report entitled "*Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs*". The audit identified eleven recommendations. The initial update was presented to the Commission at the June 2011 Meeting (http://www.ctc.ca.gov/commission/agendas/2011-06/2011-06-2H.pdf).

On Monday, June 6, 2011 the required sixty day response was submitted to the Bureau of State Audits (BSA), followed by the six month report on October 5, 2011. On October 7, 2011 Commission management staff met with representatives of the BSA to discuss the report and to respond to any questions from the auditors. According to BSA staff, the progress noted in the 60-day and six-month reports will be included in the BSA's annual report to the Legislature, which they anticipate will be submitted in February 2012.[1] Information from the one-year-report the Commission will submit to the BSA in April 2012 will then be included in the BSA's February 2013 report to the Legislature.

As part of the response to the audit, staff scheduled two meetings for stakeholders. A stakeholder planning group was formed with five groups to assist in the planning process, the California Teachers Association (CTA), California Federation of Teachers (CFT), the California School Boards Association (CSBA), the California Association of School Administrators (ACSA) and the California County Superintendents Educational Services Association (CCSESA). The first meeting will take place on October 28, 2011. Staff will be providing an oral update to the Commission on the content of this meeting. In addition, a second stakeholder meeting is set for November 18, 2011. After the meetings are completed, staff will prepare an agenda item for the Commission with information gathered from the meetings.

Many of the audit recommendations overlapped; therefore, at the direction of the Co-Acting Executive Directors, four areas of focus were identified that encompass the eleven recommendations as listed:

1. **Individuals for whom the Commission needs subsequent misconduct reports**

[1] Early each year, the BSA summarizes the major findings and recommendations from audit reports issued during the previous two years. The BSA includes in this report, actions auditees have taken to implement recommendations. The BSA makes these reports available to the members of the Legislature for their use in budget subcommittees and policy committees.

2. **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff**
3. **Division of Professional Practices**
4. **Office of Human Resources**

Following is a description of staff analysis of issues and related actions that fall within these four areas:

1. **Individuals for whom the Commission needs subsequent misconduct reports.** The Department of Justice (DOJ) currently provides copies of the "Reports of Arrest and Prosecution" (RAP) for all individuals who currently hold or have ever held a teaching/services credential, a 30 day substitute permit, and/or a certificate of clearance or who have submitted fingerprints to the Commission in preparation for applying for a credential or certificate of clearance. If the Commission receives RAPs for only those individuals who are currently authorized to provide service in the public schools, the division's RAP processing workload would be significantly reduced. (BSA Recommendation 1)

2. **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff.** Once an opinion is received from the Attorney General, we will take the steps necessary to comply with the attorney general's advice and undertake all necessary procedural and statutory changes to increase the number of cases the COC can review each month. (BSA Recommendations 4 and 5)

3. **Division of Professional Practices. The audit recommendations highlighted several areas of concern regarding how reports of misconduct are handled and followed up.** The auditors indicated that the processing of reports of misconduct must be analyzed and clear criteria and procedures must be developed for timely, accurate processing of all reports. The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed. Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, the person(s) responsible for the case, length of time at each stage of review, reasons for delays and final disposition. The data needs to be complete, accurate and consistently entered into the database. An oversight process needs to be developed to ensure the accuracy of data entered into the database and to provide data in a form useful as a management tool. The time elapsed in the processing of misconduct needs to be reduced, including making prompt requests for information from law enforcement agencies, courts, schools, and knowledgeable individuals. Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload. The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC. While not included in the BSA recommendations, the early pursuit of information related to more serious cases should be examined. (BSA Recommendations 2, 3, 6, 7, 8, and 9)

4. **Office of Human Resources.** The auditors indicated that information about staffing and about staff concerns must be clearly documented, current, and shared with the appropriate staff at the appropriate intervals. This includes information on 1) hiring and promotions, 2) making sure supervisors and managers are appropriately documenting their hiring processes, and 3) ensuring that staff understands the grievance and EEO complaint processes. (BSA Recommendations 10 and 11)

Attachment Two provides information on the specific actions taken to date related to each of these four topics, dates of the actions and the identified *Next Steps*. This table is being updated weekly to track the agency's progress in addressing the audit recommendations.

**DPP Workload Update**

Staff fine tuned the DPP Monthly Activity Summary reports provided to Commissioners and added additional information on DPP's workload. These reports include a detailed look at the COC workload including all Open Cases by Status and Type (Chart 1); monthly RAPs Received and Processed (Chart 2); a report on the Closed Cases (Chart 3); Charts 4a and 4b on the aging of cases; and a new Chart 5 showing the number and types of cases considered by the COC in September.

Chart 1, the DPP monthly activity report, shows that the starting caseload for September was 3,252 cases. However, the ending caseload in the August 2011 report was 3,250 cases. Staff spent significant time to ascertain the source of the discrepancy and reconciled one case; but staff was unsuccessful in locating the second case. As the discipline database is refined, "locks" on data should assist in ensuring that such discrepancies do not occur. In the alternative, we will need to establish a process to reconcile the case counts.

The workload shown in Chart 1, page 4, is organized by cases preparing to go to the COC in blue, cases that are currently in the COC review phase in yellow and cases that are post-COC review in green. As staff continue to make progress and gain efficiencies in the area of identifying and processing pre-COC cases, the COC workload is likely to continue to grow as there are only a finite number of cases that can be heard by the COC each month.

Chart 1:

## DPP Monthly Activity Summary

### Activity During September 2011

#### Pre COC

**Work Received in DPP**

| | Items Rec'd | Cases Opened |
|---|---|---|
| RAPs | 586 | 160 |
| Apps | 1,206 | 171 |
| SD Reports * | 27 | 2 |
| Misc * | 11 | 7 |
| **Total** | **1,830** | **340** |

* Work related to cases opened may have been received in a prior period

**Document Requests**

| | |
|---|---|
| Arrest | 111 |
| Court | 356 |

#### COC Inventory

| | |
|---|---|
| Initial Review | 53 |
| Formal Review | 67 |
| Consent Review | 219 |

#### COC Work Completed (September 2011)

**Cases to COC**

| | |
|---|---|
| Initial Review | 60 |
| Formal Review | 64 |
| Reconsideration | 7 |
| Consent Review | 171 |

**Cases Completed**

| | |
|---|---|
| Closed | 56 |
| Granted | 140 |
| Adverse Actions | 106 |

#### Post COC

| | |
|---|---|
| Settlement | 2 |
| AG | 2 |
| CTC | 92 |

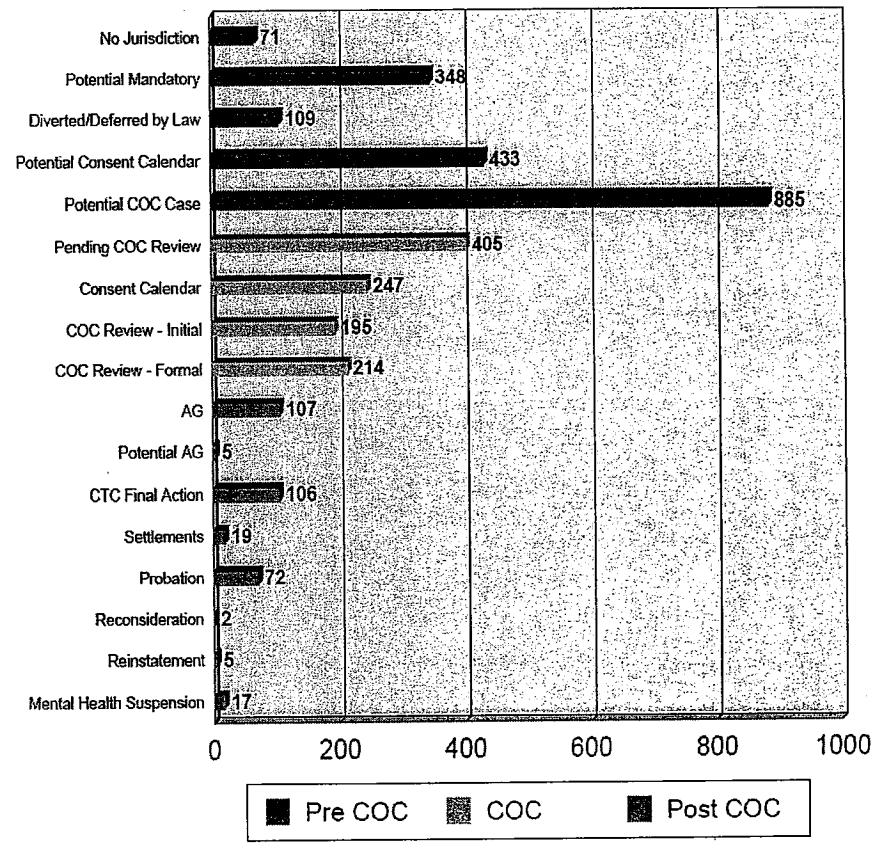
#### Mandatory Actions

| | |
|---|---|
| Revocations | 8 |
| Denials | 1 |
| Automatic Suspensions | 6 |

#### Inventory for September 2011

| | |
|---|---|
| Starting Case Load | 3,252 |
| Cases Opened | 340 |
| Cases Closed | 352 |
| Ending Case Load | 3,240 |

### Open Cases by Status and Type as of September 30, 2011




| | |
|---|---|
| **Pre COC** | **1,846** |
| **COC** | **1,061** |
| **Post COC** | **333** |
| **Total Open Cases** | **3,240** |

DPP Monthly Commission Summary Report for September 2011

Chart 2 shows all RAP sheets received in the month of September 2011. This report now presents the workload in a sequential organization with the yellow rows showing the RAPs that do not lead to a case, the red rows are the RAPs which are affiliated with an existing case and the green rows show the RAPS that lead to a new case. The labels for the rows in this report were also modified to more clearly describe the type of category of RAPs received.

**Chart 2:**

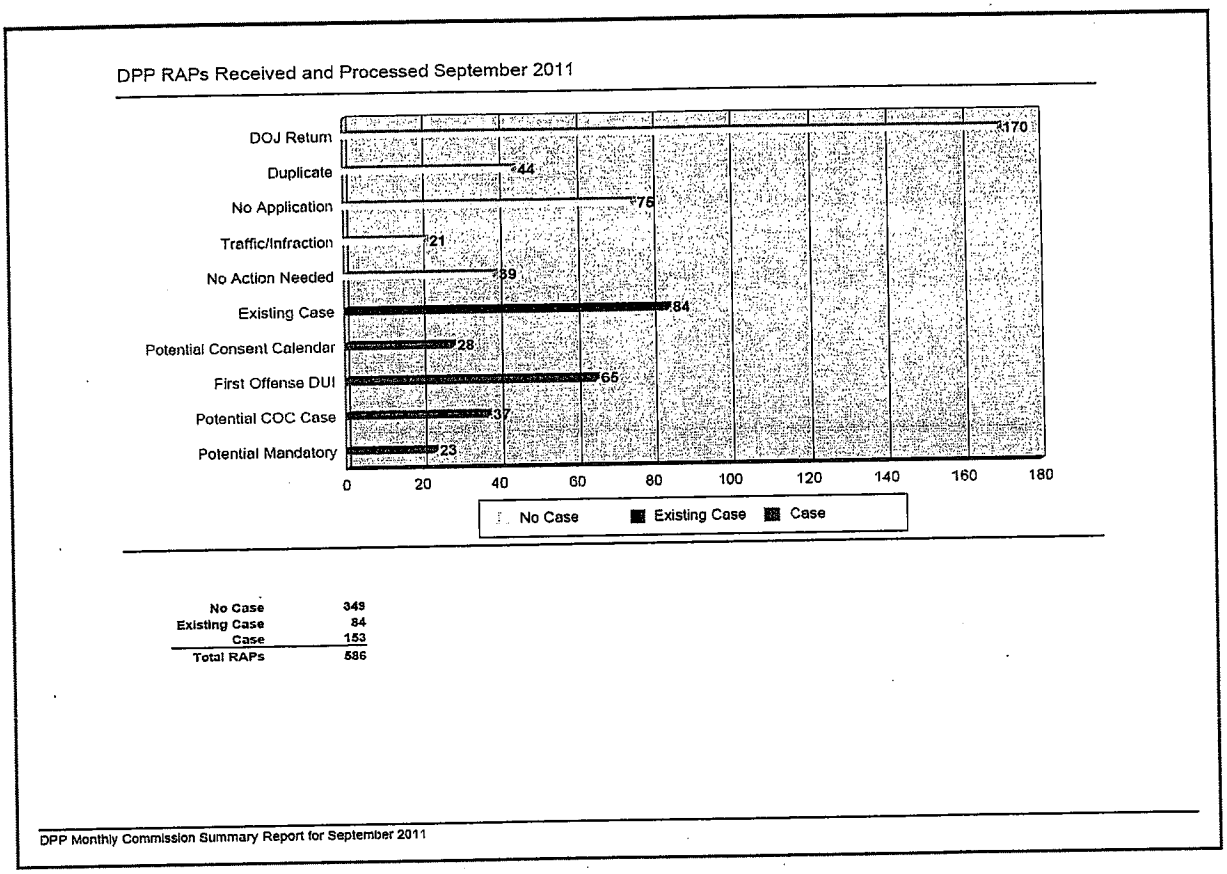
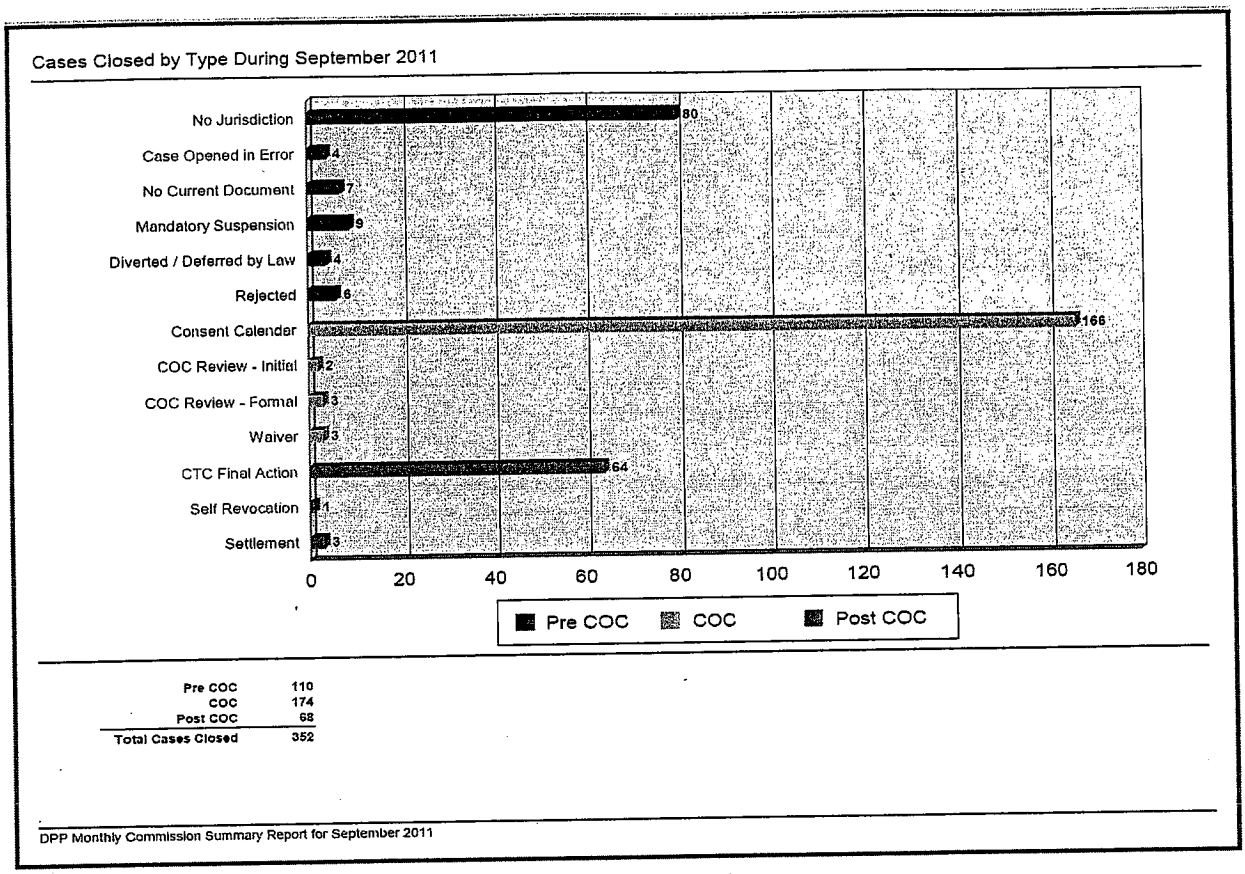


Chart 3 identifies the types of items that were closed throughout the month of September 2011. It is important to note that cases may be closed at any one of multiple steps in the discipline process and not all the cases that are closed were received in any one month.

**Chart 3:**




**Charts 4a and 4b: Case Aging Reports**-September 2011

Two versions of the Case Aging Report are presented. Each provides information on the same cases but through a slightly different lens. Both reports provide information on:

a) the number of cases and how many days the cases have been in the process (0-30, 31-180, 181-270, 271-360, 361-450, and 450+ days);
b) the cases by status in relation to the Committee of Credentials (COC): Pre COC, at the COC, or post COC, and;
c) the type of misconduct the educator has been accused or convicted of, categorized into one of the following seven groups.

- Child Crime-Sexual
- Child Crime-Non-Sexual
- Adult-Sexual
- Drugs
- Serious Crimes/Felonies

- Alcohol
- Other Crimes/Misdemeanors

Where the two reports differ is that one reports on the case type while the other includes information on the license status of the individual. Chart 4a, on page 8, provides information on the type of case and this information is also found on DPP Monthly Summary report and the Cases Closed reports. The second report, Chart 4b, instead presents information organized by whether or not the individual currently holds a valid license to serve as an educator in California.

**4a: Open Case Aged by Case Status, Case Type, and Offense as of September 30, 2011**
This Chart, on page 8, is organized into three sections based on the work and its relation to the COC (Pre COC, at the COC, and Post COC). Within the work that has not yet gone to the COC, the information is organized into five types of cases

- No Jurisdiction
- Potential Mandatory
- Diverted/Deferred by Law
- Potential Consent Calendar
- Potential Committee Case

For the cases that are at the COC or have completed the COC process, this report does not delineate among the case types.

Chart 4a:

## Open Cases Aged by Case Status, Case Type, and Offense as of September 30, 2011

| Status | Case Type | Offense Code | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 450 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | No Jurisdiction | Child Crime - Non-sexual | 1 | 4 | 0 | 1 | 0 | 0 | 6 |
| | | Adult - Sexual | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| | | Drugs | 4 | 1 | 1 | 0 | 0 | 0 | 6 |
| | | Serious Crimes/Felonies | 2 | 3 | 7 | 2 | 2 | 7 | 23 |
| | | Alcohol | 2 | 1 | 4 | 0 | 0 | 1 | 8 |
| | | Other Crimes/Misdemeanors | 5 | 13 | 6 | 1 | 0 | 2 | 27 |
| | | **Total** | **14** | **22** | **19** | **4** | **2** | **10** | **71** |
| | Potential Mandatory | Child Crime - Sexual | 19 | 13 | 12 | 9 | 9 | 25 | 87 |
| | | Child Crime - Non-sexual | 9 | 12 | 14 | 2 | 3 | 5 | 45 |
| | | Adult - Sexual | 7 | 6 | 0 | 0 | 1 | 2 | 16 |
| | | Drugs | 25 | 9 | 8 | 4 | 7 | 9 | 62 |
| | | Serious Crimes/Felonies | 37 | 24 | 22 | 10 | 5 | 25 | 123 |
| | | Alcohol | 7 | 3 | 1 | 0 | 1 | 0 | 12 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 1 | 0 | 0 | 1 | 3 |
| | | **Total** | **105** | **67** | **58** | **25** | **26** | **67** | **348** |
| | Diverted / Deferred by Law | Child Crime - Non-sexual | 1 | 0 | 0 | 0 | 0 | 4 | 5 |
| | | Drugs | 2 | 4 | 10 | 9 | 11 | 27 | 63 |
| | | Serious Crimes/Felonies | 2 | 5 | 2 | 4 | 5 | 7 | 25 |
| | | Alcohol | 0 | 1 | 0 | 0 | 0 | 4 | 5 |
| | | Other Crimes/Misdemeanors | 2 | 4 | 1 | 2 | 0 | 2 | 11 |
| | | **Total** | **7** | **14** | **13** | **15** | **16** | **44** | **109** |
| | Potential Consent Calendar | Child Crime - Non-sexual | 2 | 2 | 0 | 0 | 0 | 0 | 4 |
| | | Adult - Sexual | 1 | 3 | 0 | 0 | 0 | 0 | 4 |
| | | Drugs | 4 | 6 | 2 | 2 | 0 | 0 | 14 |
| | | Serious Crimes/Felonies | 25 | 23 | 9 | 6 | 1 | 2 | 66 |
| | | Alcohol | 125 | 66 | 10 | 5 | 3 | 4 | 213 |
| | | Other Crimes/Misdemeanors | 48 | 67 | 10 | 5 | 1 | 1 | 132 |
| | | **Total** | **205** | **167** | **31** | **18** | **5** | **7** | **433** |
| | Potential COC Case | Child Crime - Sexual | 0 | 1 | 3 | 2 | 1 | 1 | 8 |
| | | Child Crime - Non-sexual | 18 | 20 | 3 | 1 | 0 | 4 | 46 |
| | | Adult - Sexual | 3 | 5 | 2 | 1 | 3 | 1 | 15 |
| | | Drugs | 17 | 7 | 4 | 4 | 3 | 9 | 44 |
| | | Serious Crimes/Felonies | 92 | 61 | 46 | 31 | 18 | 16 | 264 |
| | | Alcohol | 66 | 87 | 49 | 26 | 19 | 24 | 271 |
| | | Other Crimes/Misdemeanors | 80 | 69 | 44 | 29 | 12 | 3 | 237 |
| | | **Total** | **276** | **250** | **151** | **94** | **56** | **58** | **885** |
| | **Total** | | **607** | **520** | **272** | **156** | **105** | **186** | **1,846** |
| COC | All Case Types | All Offense Types | 216 | 112 | 107 | 158 | 126 | 342 | 1,061 |
| | | **Total** | **216** | **112** | **107** | **158** | **126** | **342** | **1,061** |
| | **Total** | | **216** | **112** | **107** | **158** | **126** | **342** | **1,061** |
| Post COC | All Case Types | All Offense Types | 7 | 4 | 2 | 5 | 14 | 301 | 333 |
| | | **Total** | **7** | **4** | **2** | **5** | **14** | **301** | **333** |
| | **Total** | | **7** | **4** | **2** | **5** | **14** | **301** | **333** |
| **Total** | | | **830** | **636** | **381** | **319** | **245** | **829** | **3,240** |

DPP Monthly Commission Summary Report for September 2011

**4b: Open Cases Aged by Case Status, Credential Status, and Offense as of September 30, 2011**
In this Chart, within each section of the work in relation to the COC (Pre COC, COC and Post COC) there are four sets of rows (4-7 rows) where information related to individuals in each of the following groups is presented:

- Individuals holding a current, valid credential and therefore the individuals could be in a classroom or working with students in the K-12 public schools.
- Individuals who held one or more California credentials but all credentials have been suspended by the Commission. Since all licenses are suspended, these individuals should not be working with public school students at this time.
- Individuals who do not hold a California credential, but have one or more applications pending. These individuals should not be working with public school students at this time.
- Individuals who do not hold any current, valid credential and have no applications pending. These individuals should not be working with public school students at this time.

After looking at this information staff questions the fourth group of cases in each section of Chart 4b. The individuals do not hold a current license as an educator in California and have no applications pending. Additional research needs to be completed as to why these cases are in the Commission's discretionary discipline process and what the impact would be if cases were not opened for individuals who do not hold current, valid licenses and have no applications pending with the Commission.

Chart 4b:

## Open Cases Aged by Case Status, Credential Status, and Offense - as of September 30, 2011

| Case Status | Credential Status | Offense | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | Authorized | Child Crime - Sexual | 7 | 1 | 4 | 1 | 1 | 1 | 15 |
| | | Child Crime - Non-sexual | 19 | 27 | 11 | 4 | 2 | 9 | 72 |
| | | Adult - Sexual | 8 | 11 | 2 | 0 | 3 | 0 | 24 |
| | | Drugs | 34 | 22 | 17 | 16 | 16 | 29 | 134 |
| | | Serious Crimes/Felonies | 110 | 75 | 63 | 40 | 18 | 42 | 348 |
| | | Alcohol | 166 | 132 | 54 | 20 | 18 | 30 | 420 |
| | | Other Crimes/Misdemeanors | 107 | 119 | 50 | 28 | 10 | 5 | 319 |
| | | **Total** | **451** | **387** | **201** | **109** | **68** | **116** | **1,332** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 11 | 11 | 11 | 9 | 8 | 24 | 74 |
| | | Child Crime - Non-sexual | 0 | 0 | 1 | 0 | 0 | 1 | 2 |
| | | Adult - Sexual | 2 | 1 | 0 | 0 | 0 | 2 | 5 |
| | | Serious Crimes/Felonies | 0 | 1 | 0 | 0 | 1 | 1 | 3 |
| | | Alcohol | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | | **Total** | **14** | **13** | **12** | **10** | **9** | **28** | **86** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 5 | 5 | 0 | 0 | 1 | 0 | 11 |
| | | Adult - Sexual | 0 | 1 | 0 | 1 | 1 | 1 | 4 |
| | | Drugs | 13 | 4 | 3 | 1 | 2 | 3 | 26 |
| | | Serious Crimes/Felonies | 38 | 29 | 10 | 3 | 2 | 3 | 85 |
| | | Alcohol | 27 | 15 | 1 | 4 | 2 | 0 | 49 |
| | | Other Crimes/Misdemeanors | 22 | 27 | 3 | 1 | 3 | 0 | 56 |
| | | **Total** | **105** | **81** | **17** | **10** | **11** | **8** | **232** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 1 | 2 | 0 | 1 | 1 | 0 | 5 |
| | | Child Crime - Non-sexual | 7 | 6 | 5 | 0 | 0 | 3 | 21 |
| | | Adult - Sexual | 1 | 1 | 1 | 0 | 0 | 0 | 3 |
| | | Drugs | 5 | 1 | 5 | 2 | 3 | 13 | 29 |
| | | Serious Crimes/Felonies | 10 | 11 | 13 | 10 | 10 | 11 | 65 |
| | | Alcohol | 7 | 11 | 9 | 6 | 3 | 3 | 39 |
| | | Other Crimes/Misdemeanors | 6 | 7 | 9 | 8 | 0 | 4 | 34 |
| | | **Total** | **37** | **39** | **42** | **27** | **17** | **34** | **196** |
| | **Total** | | **607** | **520** | **272** | **156** | **105** | **186** | **1,846** |
| COC | Authorized | Child Crime - Sexual | 0 | 1 | 1 | 5 | 2 | 5 | 14 |
| | | Child Crime - Non-sexual | 4 | 12 | 21 | 18 | 14 | 16 | 85 |
| | | Adult - Sexual | 0 | 5 | 3 | 0 | 4 | 5 | 17 |
| | | Drugs | 2 | 1 | 3 | 5 | 5 | 9 | 25 |
| | | Serious Crimes/Felonies | 6 | 8 | 13 | 12 | 23 | 65 | 127 |
| | | Alcohol | 100 | 18 | 12 | 26 | 20 | 91 | 267 |
| | | Other Crimes/Misdemeanors | 6 | 28 | 29 | 55 | 31 | 61 | 210 |
| | | **Total** | **118** | **73** | **82** | **121** | **99** | **252** | **745** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Child Crime - Non-sexual | 0 | 2 | 2 | 1 | 1 | 1 | 7 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |

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| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| COC | Not Authorized - Docs Suspended | Drugs | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 1 | 1 | 1 | 3 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 1 | 0 | 0 | 1 | 2 |
| | | **Total** | **0** | **2** | **3** | **2** | **2** | **6** | **15** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 2 | 1 | 0 | 0 | 3 |
| | | Child Crime - Non-sexual | 0 | 1 | 3 | 1 | 1 | 2 | 8 |
| | | Adult - Sexual | 0 | 0 | 2 | 0 | 1 | 0 | 3 |
| | | Drugs | 1 | 3 | 1 | 1 | 0 | 1 | 7 |
| | | Serious Crimes/Felonies | 19 | 13 | 5 | 7 | 4 | 7 | 55 |
| | | Alcohol | 52 | 6 | 2 | 4 | 2 | 6 | 72 |
| | | Other Crimes/Misdemeanors | 24 | 9 | 3 | 12 | 2 | 4 | 54 |
| | | **Total** | **96** | **32** | **18** | **26** | **10** | **20** | **202** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 1 | 1 | 1 | 3 |
| | | Child Crime - Non-sexual | 0 | 1 | 0 | 2 | 0 | 4 | 7 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Drugs | 0 | 0 | 0 | 1 | 1 | 5 | 7 |
| | | Serious Crimes/Felonies | 0 | 0 | 1 | 2 | 5 | 16 | 24 |
| | | Alcohol | 2 | 3 | 1 | 1 | 3 | 20 | 30 |
| | | Other Crimes/Misdemeanors | 0 | 1 | 2 | 2 | 5 | 14 | 24 |
| | | **Total** | **2** | **5** | **4** | **9** | **15** | **64** | **99** |
| | **Total** | | **216** | **112** | **107** | **158** | **126** | **342** | **1,061** |
| Post COC | Authorized | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 20 | 20 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 1 | 28 | 29 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 1 | 7 | 8 |
| | | Drugs | 0 | 0 | 0 | 0 | 1 | 5 | 6 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 1 | 26 | 27 |
| | | Alcohol | 0 | 0 | 0 | 1 | 4 | 41 | 46 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 2 | 2 | 84 | 89 |
| | | **Total** | **1** | **0** | **0** | **3** | **10** | **211** | **225** |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 13 | 13 |
| | | **Total** | **0** | **0** | **0** | **0** | **0** | **26** | **26** |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 2 | 0 | 0 | 0 | 6 | 8 |
| | | Child Crime - Non-sexual | 1 | 0 | 1 | 0 | 0 | 5 | 7 |
| | | Drugs | 0 | 0 | 0 | 0 | 1 | 1 | 2 |
| | | Serious Crimes/Felonies | 2 | 1 | 0 | 0 | 1 | 13 | 17 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 8 | 8 |
| | | Other Crimes/Misdemeanors | 2 | 1 | 0 | 1 | 2 | 5 | 11 |
| | | **Total** | **5** | **4** | **1** | **1** | **4** | **38** | **53** |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Child Crime - Non-sexual | 0 | 0 | 1 | 0 | 0 | 2 | 3 |

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| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Post COC | Not Authorized - No App(s) Pending | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 6 | 6 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Other Crimes/Misdemeanors | 1 | 0 | 0 | 1 | 0 | 11 | 13 |
| | | Total | 1 | 0 | 1 | 1 | 0 | 25 | 28 |
| | Undefined | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Total | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | Total | | 7 | 4 | 2 | 5 | 14 | 301 | 333 |
| Total | | | 830 | 636 | 381 | 319 | 245 | 829 | 3,240 |

DPP Monthly Commission Summary Report for September 2011

**Chart 5: Caseload of the Committee of Credentials**
This Chart represents the types of cases reviewed by the COC in 2011, through September.

| Committee Review 2011 | | | | | | |
|---|---|---|---|---|---|---|
| | Consent | Discuss | Initial | Formal App[2] | Formal Non APP[3] | Total |
| January | | | 51 | 18 | 33 | 102 |
| February | | | 52 | 15 | 28 | 95 |
| March | | | 56 | 12 | 31 | 99 |
| April | | | 63 | 14 | 30 | 107 |
| May | 125 | 0 | 53 | 18 | 24 | 220 |
| June | 283 | 28 | 65 | 15 | 39 | 430 |
| July | 285 | 25 | 85 | 12 | 32 | 439 |
| August | 233 | 14 | 82 | 19 | 31 | 379 |
| September | 158 | 13 | 60 | 12 | 52 | 295 |
| October | | | | | | 0 |
| November | | | | | | 0 |
| December | | | | | | 0 |

**Next Steps**
Staff will continue to post the Monthly Activity Summary reports on the Commissioners' internal webpage each month. Staff will continue working to implement the State Auditor's recommendations and file required updates. The one year report to BSA will be due on April 7, 2012.

[2] "App" means the person chose to appear and testify before the Committee.
[3] "Non App" means the person chose not to appear before the Committee.

# Appendix One

## Recommendations from the Bureau of State Audits and Organization of CTC's Response

| BSA Recommendations | Focus Area |
|---|---|
| **Recommendation One:**<br>To comply with the law and reduce unnecessary workload, the division should continue to notify the Department of Justice of individuals for whom it is no longer interested in receiving RAP sheets. | 1. Individuals for whom the Commission needs updated misconduct reports |
| **Recommendation Two:**<br>The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee, and to determine the goals and actions necessary to accomplish its mission. | 3. Division of Professional Practices |
| **Recommendation Three:**<br>To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload. | |
| **Recommendation Four:**<br>The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice. | 2. Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff. |
| **Recommendation Five:**<br>Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month. | |
| **Recommendation Six:**<br>The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct. | 3. Division of Professional Practices |
| **Recommendation Seven:**<br>The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in the commission's database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information. | |
| **Recommendation Eight:**<br>To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self disclosures of misconduct, it should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability. | |

| BSA Recommendations | Focus Area |
|---|---|
| **Recommendation Nine:**<br>To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:<br>• Reduction of the time elapsed to perform critical steps in the review process.<br>• Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.<br>• Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.<br>• An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases. | 3. Division of Professional Practices |
| **Recommendation Ten:**<br>To better ensure that its hiring decisions are fair and that employment opportunity is equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should do the following:<br>• Prepare and/or formally adopt a comprehensive hiring manual that clearly indicates hiring procedures and identifies parties responsible for carrying out various steps in the hiring process.<br>• Maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.<br>• Hiring managers should provide to the commission's Office of Human Resources documentation supporting the appointment decision, and the Office of Human Resources should maintain this documentation so that it can demonstrate that the hiring process was based on merit and the candidate's fitness for the job. | 4. Office of Human Resources |
| **Recommendation Eleven:**<br>To ensure that employees understand their right to file either an EEO complaint or grievance, and to reduce any associated fear of retaliation, the commission should do the following:<br>• Include in its EEO policy a statement informing staff members that they may make complaints without fear of retaliation.<br>• Actively notify employees annually of its EEO complaint and grievance processes, including the protection from retaliation included in both.<br>• Conduct training on its EEO complaint process on a periodic basis. | |

## Appendix Two

### Detailed Audit Tracking by Topic

| 1. **Individuals for whom the Commission needs updated misconduct reports** (BSA Recommendation 1): The DOJ currently provides copies of the "Reports of Arrest and Prosecution" (RAP) for all individuals who currently hold or have ever held a teaching/services credential, a 30 day substitute permit, certificate of clearance or submitted fingerprints to the Commission in preparation for applying for a credential or certificate of clearance. |
|---|
| **CTC Actions as of October 18, 2011** |
| • Beginning in March 2011, staff began returning RAPs to the DOJ— On June 21, 2011 staff confirmed with DOJ that returning RAP information will remove the individual from the list. Once an individual is removed from the Commission's list, the individual would need to be fingerprinted again in order to apply for a new credential or permit in order for the Commission to receive current and subsequent arrest information. Staff has begun returning the names of individuals to DOJ with a status of "No Longer Interested". **{BSA #1}**<br>• Staff has determined how many people are currently in the CASE system (over 1,100,000 total individuals in the system) but have never held a license, or all licenses held have been expired for a minimum of 3 years (~300,000). These are the first groups that are being sent to DOJ as "No Longer Interested" in receiving RAPs. **{BSA #1}**<br>• Regulatory changes were proposed as an information item to the Commission to clarify the expiration date of all Certificates of Clearance issued prior to July 2007 and to reduce the timeframe for retaining fingerprints for individuals with no valid credentials from 3 years to 1 year (August 2011). **{BSA #1}**<br>• In response to stakeholder input, staff presented an action item to the Commission at its October 2011 meeting with regulatory language to change from 3 years to an eighteen month time period, to notify DOJ to no longer send subsequent RAPs for an individual, increasing our "No Longer Interested" number by an approximately 40,000 (October 2011). **{BSA #1}**<br>• Developed and will begin implementing the process to notify DOJ on a regular (daily) basis of the individuals for whom the Commission is "No Longer Interested" in receiving subsequent RAPs (August 2011-November 2011). **{BSA #1}** |

The Commission believes it has fully addressed this audit recommendation (BSA #1). Staff is finalizing the process through which the DOJ will continue to be notified of those individuals for whom the Commission is "No Longer Interested" (NLI) in receiving subsequent notifications of arrest and prosecution.

| 2. **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff** (BSA Recommendations 4 and 5): Once an opinion is received from the Attorney General, take necessary steps to comply with the attorney general's advice and undertake all necessary procedural and statutory changes to increase the number of cases the COC can review each month. | |
|---|---|
| **CTC Actions as of October 18, 2011** | **Next Steps** |
| • Requested a formal Attorney General Opinion (May 2, 2011). Contacted the AG on June 21, 2011, requesting confirmation that the request for an opinion had been received. Request has been received and assigned an opinion number 11-606. **{BSA # 4}**<br>• In the interim, effective May 1, 2011, the COC began reviewing a Consent Calendar of work evaluated by legal staff and takes action at each meeting on all cases rather than staff closing any cases. **{BSA #5}**<br>• At its June 22-23, 2011 meeting, the COC considered an additional calendar of cases that legal staff has identified as the type of case that might be closed at the Initial Review. Twenty-eight cases were presented in this "discuss calendar" in June and the COC decided to close or grant 19 of the cases. The remaining 9 cases will be scheduled for COC Initial Review. Summary disposition of such cases could result in the completion of approximately 100-150 additional cases a year. **{BSA #5}** Below is a summary of the combined number of "Consent" and "Discuss" cases presented to the COC since May 2011:<br>- May: 125 cases<br>- June: 311 cases<br>- July: 310 cases<br>- August: 247 cases<br>- September: 171 cases<br>• Discipline Process Webinar – July 12, 2011. *California's Educator Discipline Process—Laws and Current Commission Procedures.* Staff presented information on the current educator discipline process. **{BSA #5}**<br>• At the August 4, 2011 Commission meeting staff presented staff presented an update on the work to date to address the audit recommendations. In addition, staff presented an agenda item on the discipline process and proposed the development of stakeholder meetings to discuss the discipline process and provide recommendations on improving the discipline process. The Commission directed staff to move forward with the stakeholder meetings. **{BSA #5}** | • Prior to receiving the AG's opinion the Commission staff will work with policymakers, stakeholders and other interested parties to discuss the COC process and potential procedural and statutory solutions to increase the number of cases reviewed by the COC. **{BSA #5, 9}**<br>• Stakeholder meetings are planned for October and November 2011 to discuss California's Educator Discipline process and possible recommendations from the stakeholder meetings will be presented to the Commission by January 2012. **{BSA #5, 9}** |

**3. Division of Professional Practices** (BSA Recommendations 2, 3, 6, 7, 8, and 9): The processing of reports of misconduct must be analyzed and clear procedures developed for timely, accurate processing of all reports (#6). The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed (#6, 7). Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, length of time at each stage of review, reasons for delays and the person (s) responsible for the case (#8). The data needs to be complete, accurately and consistently entered into the database and useful as a management tool (# 7). An oversight process needs to be developed to ensure the accuracy of data entered into the database (# 7). The time elapsed in the processing of misconduct needs to be reduced including prompt requests for information from law enforcement agencies, the courts, schools, and knowledgeable individuals (# 9). Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload (#3). The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC (#2).

| CTC Actions as of October 18, 2011 | Next Steps |
|---|---|
| • All allegations of misconduct (RAP, employer report, affidavit and self-disclosure) are entered, including arrival date, into the SIEBEL system within 5 business days of arriving at the Commission. **{BSA # 8}**<br>• Intake and Tracking screens have been developed within the SIEBEL (database) system and will serve as a monitoring process; management reports are being developed as part of the oversight process. Implementation of the screens began on August 9, 2011. **{BSA #8}**<br>• A comprehensive Procedures Manual was developed by the Division and posted on the CTC intranet along with other DPP training materials (May 6, 2011). **{BSA #6}**<br>- As procedures are fine-tuned or additional systems are developed, the Procedures Manual will be updated. **{BSA #6}**<br>- All division staff completed initial training on the Procedures Manual (May 25, 2011). As new procedures or systems are put in place, additional training will be held. **{BSA #7}**<br>• Staff has developed initial workload reports to gather the data necessary to understand the volume of work on a task by task basis. This includes the following reports: **{BSA # 3, 9}**<br>a.Monthly Activity Summary and Existing Inventory- | • For the 2011-12 year, move a position from the Certification Division to the Professional Practices Division to reorganize the management of the division (August 2011). Once the new management structure is in place, the refinement and implementation of the comprehensive monitoring and oversight plan will be the primary focus for management.<br>• Additional training for staff on the Procedures Manual is scheduled as updated procedures are put in place. **{BSA #7}**<br>• After reviewing management reports, staffing and any changes from stakeholder |

3. **Division of Professional Practices** (BSA Recommendations 2, 3, 6, 7, 8, and 9): The processing of reports of misconduct must be analyzed and clear procedures developed for timely, accurate processing of all reports (#6). The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed (#6, 7). Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, length of time at each stage of review, reasons for delays and the person (s) responsible for the case (#8). The data needs to be complete, accurately and consistently entered into the database and useful as a management tool (# 7). An oversight process needs to be developed to ensure the accuracy of data entered into the database (# 7). The time elapsed in the processing of misconduct needs to be reduced including prompt requests for information from law enforcement agencies, the courts, schools, and knowledgeable individuals (# 9). Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload (#3). The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC (#2).

| CTC Actions as of October 18, 2011 | Next Steps |
|---|---|
| **(continued from previous page)**<br><br>Workload by status and type<br>b. Cases Closed<br>c. Case Aging Reports<br>d. Cases Ready for Committee Report (developed and being refined to include additional information about types and severity of misconduct of the cases awaiting COC Review)<br><br>• The Commission took action to appoint Mary Vixie Sandy as the new Executive Director at the October 5-6, 2011 meeting. She will begin her service on November 1, 2011. **{BSA #2}**<br><br>• The Commission hired Nanette Rufo, to serve as its new General Counsel and Director of the Division of Professional Practices. Ms. Rufo began her service on September 12, 2011. **{BSA #2}**<br><br>• Division leadership analyzes the data collected including type of task, staff completing the task, and time to complete the task and based on the analysis review current procedures and develop additional oversight procedures to monitor the implementation of the policies in the division (beginning in June 2011). **{BSA #3, 9}** | meetings, if necessary submit a BCP for FY 2013-14. **{BSA #3}**<br><br>• The Strategic Plan will be reviewed as a starting point for a revised effort no later than January 2012. The auditor's recommendations to identify programmatic, organizational, and external challenges will be integral to the review and revision of the Commission's Strategic Plan. Stakeholder input will be critical as well. **{BSA #2}** |

**4. Office of Human Resources** (BSA Recommendations 10 and 11): Information must be clearly documented, current, and shared with the appropriate staff at the appropriate intervals. This includes information on 1) hiring and promotions, 2) supervisors and managers appropriately documenting the hiring process, and 3) ensuring that all employees understand the grievance and EEO complaint processes.

**CTC Actions as of October 18, 2011**

- With assistance from State Personnel Board (SPB) a comprehensive Hiring Handbook was developed. **{BSA #10}**
  - The Handbook provides clear expectations for the hiring process.
  - OHR staff monitors all hiring processes.
  - Handbook was reviewed by Senior Managers.
  - The Hiring Handbook was shared with all CTC Staff on June 6, 2011 via the *CTC Insider*
  - Training for all supervisors and managers was held on June 22, 2011.
- The Commission's EEO Policy was updated. **{BSA #11}**
  - The updated EEO Policy was provided to all staff (May 9, 2011).
  - EEO Handbook was developed. The handbook outlines the process to file an EEO complaint.
  - An EEO webpage was developed for the CTC intranet (June 27, 2011). The Handbook is posted on the new web page.
  - SEIU Provided Onsite Employee meetings to review EEO (June 8, 2011).
- A webinar on Workplace Retaliation was held on June 15, 2011and all supervisors and managers were notified of the expectation that all attend the training or view the archived webinar. As of August 25, 2011 all managers and supervisors have participated in the webinar and/or reviewed the information. **{BSA #11}**
- Per SPB guidance, OHR will maintain all documentation for hiring and promotion decisions based on state policies for retention. (June 2011). **{BSA #10}**
- The Interim Executive Director began meeting with the union stewards on a monthly basis (July 2011).
- EEO training held for rank and file employees (required) and for all supervisors and managers (required). **{BSA #11}**
  All Staff Training: September 14 or October 4, 2011; Supervisors and Managers: September 14, 2011.
  - All staff members will be reminded annually of the EEO policy and required to verify that he or she has reviewed and is familiar with the EEO policy. Initial certification was due from all staff by October 6, 2011.
  - Initial certification for the Sexual Harassment training was due from all staff by September 1, 2011.
  - Enhanced the new EEO webpage with resources for staff on EEO related topics (August 15, 2011).

The Commission believes it has fully addressed these two audit recommendations (BSA #10, 11). Additional work is taking place to ensure that all managers, supervisors and staff are aware of the policies of the Commission and that implementation is consistent across the agency. A Joint Labor Management Advisory Committee is being developed.

# 1H

## Information

*General Session*

## Progress on Addressing the Recommendations from the April 7, 2011 Audit Report

**Executive Summary:** This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and of the Office of Human Resources; the Commission's response to the Audit as well as an update on staff progress in addressing the recommendations; and a report on DPP's current workload.

**Recommended Action:** For information only

**Presenters:** Nanette Rufo, Director, Professional Practices Division, Patty Wohl, Director, Certification, Assignment and Waivers Division, and Teri Clark, Director, Professional Services Division

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

October 2011

# Progress on Addressing the Recommendations from the April 7, 2011 Audit Report

**Introduction**
This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and of the Office of Human Resources, and also provides the Commission's responses to the Audit recommendations. This agenda item presents the August 2011 DPP workload reports. The September reports will be posted once they are available.

**Audit Update**
On April 7, 2011 the California State Auditor issued a report entitled "*Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs*". The audit identified eleven recommendations. The initial update was presented to the Commission at the June 2011 Meeting (http://www.ctc.ca.gov/commission/agendas/2011-06/2011-06-2H.pdf). On Monday, June 6, 2011 the required sixty day response was submitted to the Bureau of State Audits. The six month response is due on October 7, 2011.

Many of the audit recommendations overlapped; therefore, at the direction of the Co-Acting Executive Directors, four areas of focus were identified that encompass the eleven recommendations as listed below. Attachment One identifies where each of the eleven recommendations falls within the four areas of focus.

1. **Individuals for whom the Commission needs subsequent misconduct reports**
2. **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff**
3. **Division of Professional Practices**
4. **Office of Human Resources**

Following is a description of staff analysis of issues and related actions that fall within these four areas:

1. **Individuals for whom the Commission needs subsequent misconduct reports.** The Department of Justice (DOJ) currently provides copies of the "Reports of Arrest and Prosecution" (RAP) for all individuals who currently hold or have ever held a teaching/services credential, a 30 day substitute permit, and/or a certificate of clearance or who have submitted fingerprints to the Commission in preparation for applying for a credential or certificate of clearance. If the Commission receives RAPs for only those individuals who are currently authorized to provide service in the public schools, the division's RAP processing workload would be significantly reduced. (BSA Recommendation 1)

2. **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff.** Once an opinion is received from the Attorney General, we will take the steps necessary to comply with the attorney general's advice and undertake all necessary procedural and statutory changes to increase the number of cases the COC can review each month. (BSA Recommendations 4 and 5)

3. **Division of Professional Practices. The audit recommendations highlighted several areas of concern regarding how reports of misconduct are handled and followed up.** The auditors indicated that the processing of reports of misconduct must be analyzed and clear criteria and procedures must be developed for timely, accurate processing of all reports. The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed. Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, the person(s) responsible for the case, length of time at each stage of review, reasons for delays and final disposition. The data needs to be complete, accurate and consistently entered into the database. An oversight process needs to be developed to ensure the accuracy of data entered into the database and to provide data in a form useful as a management tool. The time elapsed in the processing of misconduct needs to be reduced, including making prompt requests for information from law enforcement agencies, courts, schools, and knowledgeable individuals. Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload. The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC. While not included in the BSA recommendations, the early pursuit of information related to more serious cases should be examined. (BSA Recommendations 2, 3, 6, 7, 8, and 9)

4. **Office of Human Resources.** The auditors indicated that information about staffing and about staff concerns must be clearly documented, current, and shared with the appropriate staff at the appropriate intervals. This includes information on 1) hiring and promotions, 2) making sure supervisors and managers are appropriately documenting their hiring processes, and 3) ensuring that staff understands the grievance and EEO complaint processes. (BSA Recommendations 10 and 11)

Attachment Two provides information on the specific actions taken to date related to each of these four topics, dates of the actions and the identified *Next Steps*. This table is being updated weekly to track the agency's progress in addressing the audit recommendations.

**DPP Workload Update**

Staff has been fine tuning the DPP Monthly Activity Summary reports provided to Commissioners and adding additional information on DPP's workload. These reports include a detailed look at the COC workload including all Open Cases by Status and Type (Chart 1); monthly RAPs Received and Processed (Chart 2); and a report on the Closed Cases (Chart 3) and the newest charts (Charts 4a and 4b) on the aging of cases.

Chart 1:

# DPP Monthly Activity Summary

## Activity During August 2011

### Pre COC

**Work Received in DPP**

| | Items Rec'd | Cases Opened |
|---|---|---|
| RAPs | 885 | 285 |
| Apps | 1,395 | 203 |
| SD Reports * | 23 | 5 |
| Misc * | 15 | 9 |
| **Total** | **2,118** | **502** |

* Work related to cases opened may have been received in a prior period

**Document Requests**

| | |
|---|---|
| Arrest | 220 |
| Court | 425 |

### COC Inventory

| | |
|---|---|
| Initial Review | 60 |
| Formal Review | 65 |
| Consent Review | 96 |

### COC Work Completed (August 2011)

**Cases to COC**

| | |
|---|---|
| Initial Review | 82 |
| Formal Review | 50 |
| Reconsideration | 1 |
| Consent Review | 251 |

**Cases Completed**

| | |
|---|---|
| Closed | 108 |
| Granted | 162 |
| Adverse Actions | 0 |

### Post COC

| | |
|---|---|
| Settlement | 5 |
| AG | 2 |
| CTC | 0 |

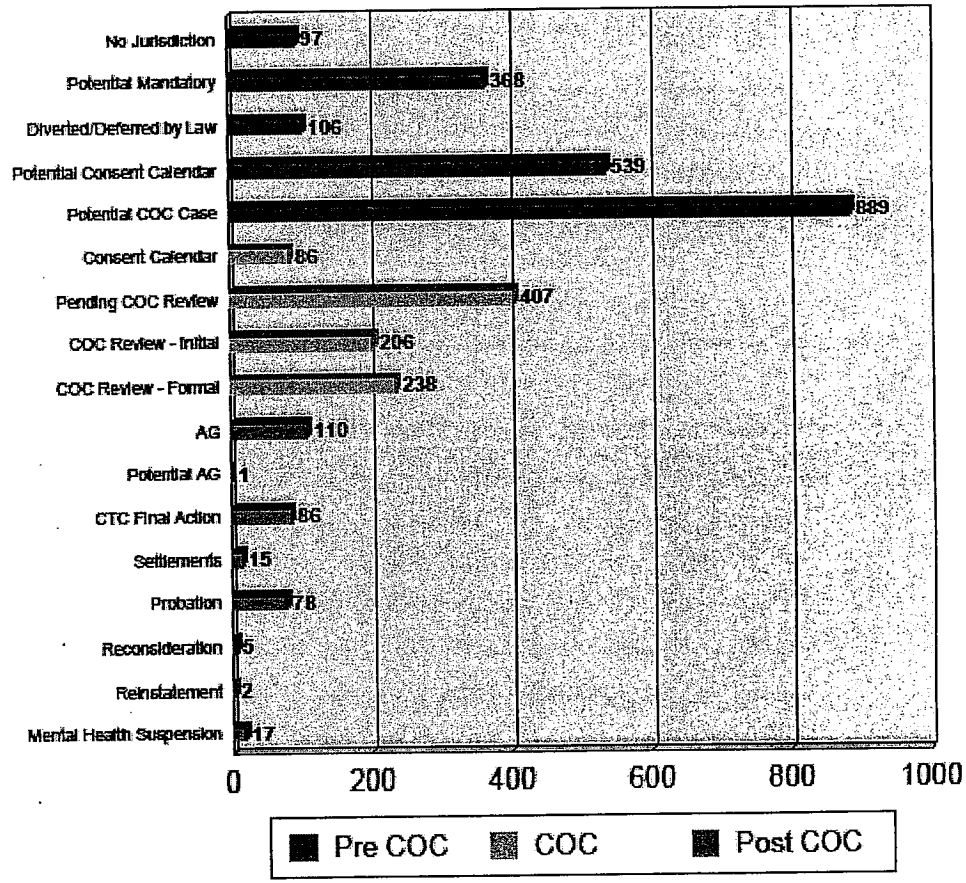
### Mandatory Actions

| | |
|---|---|
| Revocations | 10 |
| Denials | 4 |
| Automatic Suspensions | 8 |

### Inventory for August 2011

| | |
|---|---|
| Starting Case Load | 3,196 |
| Cases Opened | 502 |
| Cases Closed | 448 |
| Ending Case Load | 3,250 |

## Open Cases by Status and Type as of August 31, 2011

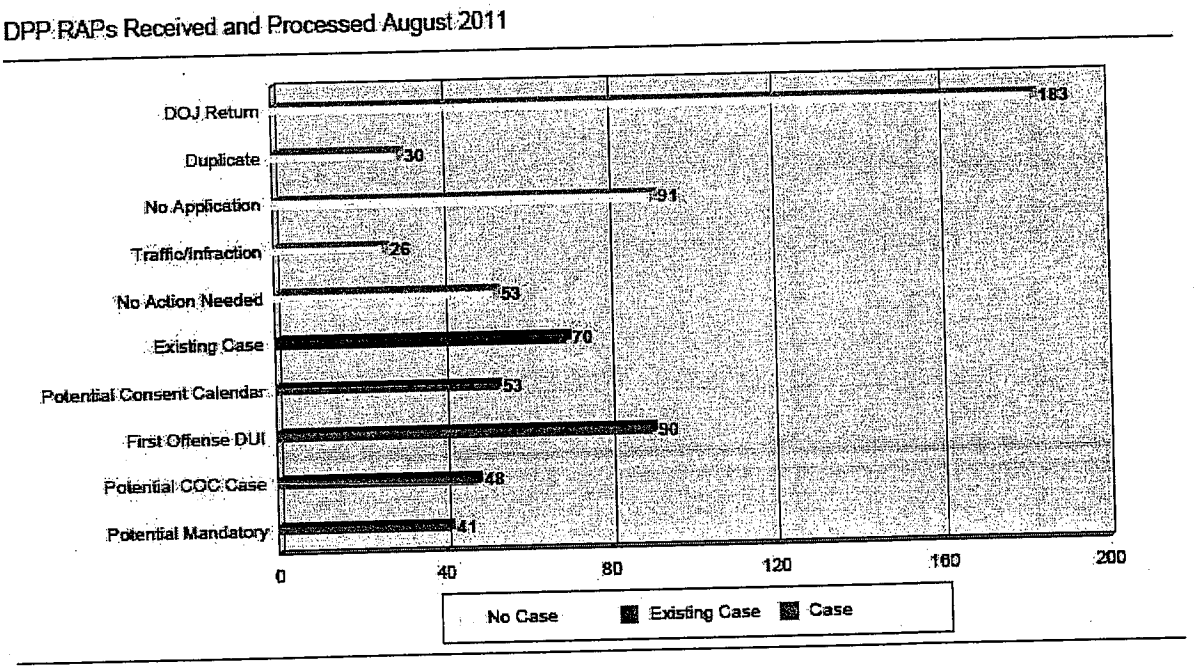



| | |
|---|---|
| Pre COC | 1,999 |
| COC | 937 |
| Post COC | 314 |
| **Total Open Cases** | **3,250** |

The workload shown in Chart 1, page 3, is organized by cases preparing to go to the COC in blue, cases that are currently in the COC review phase in yellow and cases that are post-COC review in green. As staff continue to make progress and gain efficiencies in the area of identifying and processing pre-COC cases, the COC workload is likely to continue to grow as there are only a finite number of cases that can be heard by the COC each month.

Chart 2 shows all RAP sheets received in the month of August 2011. This report now presents the workload in a sequential organization with the yellow rows showing the RAPs that do not lead to a case, the red rows are the RAPs which are affiliated with an existing case and the green rows show the RAPS that lead to a new case. The labels for the rows in this report were also modified to more clearly describe the type of category of RAPs received.

**Chart 2:**

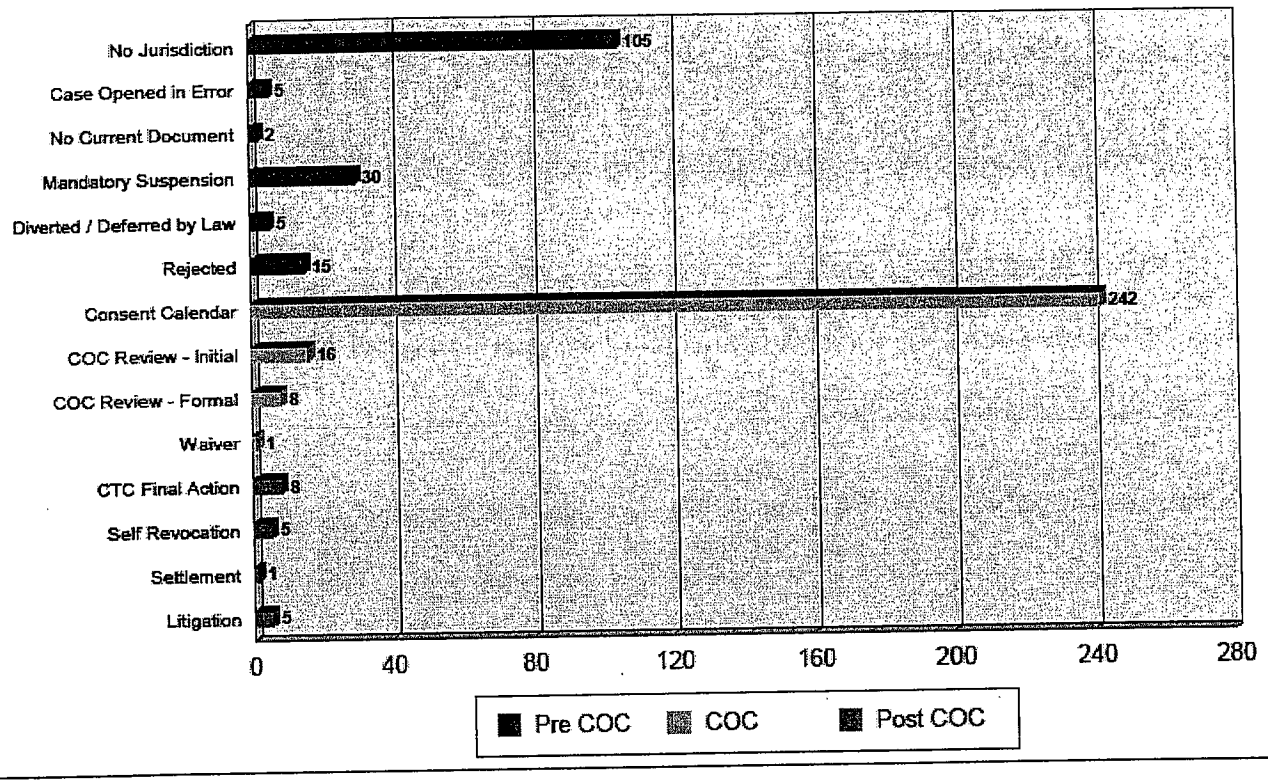



| | |
|---|---|
| No Case | 383 |
| Existing Case | 70 |
| Case | 232 |
| Total RAPs | 685 |

Chart 3 identifies the types of items that were closed throughout the month of August 2011. It is important to note that cases may be closed at any one of multiple steps in the discipline process and not all the cases that are closed were received in any one month.

**Chart 3:**

Cases Closed by Type During August 2011




| | |
|---|---|
| Pre COC | 162 |
| COC | 267 |
| Post COC | 19 |
| Total Cases Closed | 448 |



**Charts 4a and 4b: Case Aging Reports**—August 2011

Two versions of the Case Aging Report have been developed. Each provides information on the same cases but through a slightly different lens. Both reports provide information on a) the number of cases and how many days the cases have been in the process (0-30, 31-180, 181-270, 271-360, 361-450, and 450+ days). In addition both reports b) separate the cases by status in relation to the Committee of Credentials (COC): Pre COC, at the COC, or post COC. Finally both reports provide information on the c) type of misconduct the educator has been accused or convicted of, categorized into one of the following seven groups.

- Child Crime-Sexual

- Child Crime-Non-Sexual
- Adult-Sexual
- Drugs
- Serious Crimes/Felonies
- Alcohol
- Other Crimes/Misdemeanors

Where the two reports differ is that one reports on the case type while the other includes information on the license status of the individual. Chart 4a provides information on the type of case and this information is also found on DPP Monthly Summary report and the Cases Closed reports. The second report, Chart 4b, instead presents information organized by whether or not the individual currently holds a valid license to serve as an educator in California.

**4a: Open Case Aged by Case Status, Case Type, and Offense as of August 31, 2011**
This table is organized into three sections based on the work and its relation to the COC (Pre COC, at the COC, and Post COC). Within the work that has not yet gone to the COC, the information is organized into five types of cases

- No Jurisdiction
- Potential Mandatory
- Diverted/Deferred by Law
- Potential Consent Calendar
- Potential Committee Case

For the cases that are at the COC or have completed the COC process, this report does not delineate among the case types.

4a:

## Open Cases Aged by Case Status, Case Type, and Offense as of August 31, 2011

| Status | Case Type | Offense Code | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 450 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | No Jurisdiction | Child Crime - Non-sexual | 1 | 1 | 0 | 0 | 0 | 1 | 3 |
| | | Adult - Sexual | 0 | 2 | 0 | 1 | 0 | 0 | 3 |
| | | Drugs | 0 | 2 | 0 | 1 | 1 | 0 | 4 |
| | | Serious Crimes/Felonies | 1 | 10 | 4 | 5 | 6 | 5 | 31 |
| | | Alcohol | 2 | 5 | 0 | 1 | 1 | 1 | 10 |
| | | Other Crimes/Misdemeanors | 13 | 22 | 0 | 2 | 2 | 2 | 41 |
| | | Total | 17 | 42 | 4 | 10 | 10 | 9 | 92 |
| | Potential Mandatory | Child Crime - Sexual | 20 | 17 | 10 | 10 | 10 | 23 | 90 |
| | | Child Crime - Non-sexual | 11 | 17 | 8 | 2 | 3 | 5 | 46 |
| | | Adult - Sexual | 6 | 5 | 0 | 1 | 2 | 2 | 16 |
| | | Drugs | 20 | 10 | 8 | 4 | 11 | 5 | 67 |
| | | Serious Crimes/Felonies | 47 | 25 | 20 | 11 | 10 | 22 | 135 |
| | | Alcohol | 6 | 3 | 3 | 0 | 1 | 0 | 13 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 2 | 0 | 0 | 1 | 3 |
| | | Total | 119 | 77 | 51 | 28 | 37 | 58 | 370 |
| | Diverted / Deferred by Law | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Drugs | 1 | 7 | 11 | 6 | 13 | 26 | 64 |
| | | Serious Crimes/Felonies | 2 | 5 | 1 | 4 | 5 | 6 | 23 |
| | | Alcohol | 0 | 1 | 0 | 0 | 0 | 3 | 4 |
| | | Other Crimes/Misdemeanors | 2 | 2 | 3 | 1 | 0 | 3 | 11 |
| | | Total | 5 | 15 | 15 | 11 | 18 | 42 | 106 |
| | Potential Consent Calendar | Child Crime - Non-sexual | 4 | 2 | 0 | 0 | 0 | 0 | 6 |
| | | Adult - Sexual | 3 | 6 | 1 | 1 | 0 | 0 | 5 |
| | | Drugs | 9 | 8 | 1 | 3 | 1 | 2 | 24 |
| | | Serious Crimes/Felonies | 32 | 23 | 7 | 4 | 3 | 3 | 72 |
| | | Alcohol | 237 | 46 | 4 | 10 | 6 | 1 | 304 |
| | | Other Crimes/Misdemeanors | 94 | 52 | 4 | 6 | 2 | 0 | 158 |
| | | Total | 379 | 131 | 17 | 24 | 12 | 6 | 569 |
| | Potential COC Case | Child Crime - Sexual | 1 | 2 | 2 | 0 | 0 | 1 | 6 |
| | | Child Crime - Non-sexual | 15 | 27 | 1 | 2 | 0 | 8 | 53 |
| | | Adult - Sexual | 2 | 6 | 1 | 3 | 1 | 0 | 13 |
| | | Drugs | 14 | 11 | 1 | 5 | 5 | 7 | 43 |
| | | Serious Crimes/Felonies | 97 | 59 | 40 | 37 | 21 | 18 | 272 |
| | | Alcohol | 97 | 71 | 47 | 32 | 32 | 11 | 290 |
| | | Other Crimes/Misdemeanors | 96 | 58 | 44 | 24 | 8 | 3 | 233 |
| | | Total | 322 | 234 | 136 | 103 | 67 | 48 | 910 |
| | Total | | 842 | 499 | 223 | 176 | 144 | 163 | 2,047 |
| COC | All Case Types | All Offense Types | 51 | 85 | 105 | 149 | 189 | 311 | 890 |
| | | Total | 51 | 85 | 105 | 149 | 189 | 311 | 890 |
| | Total | | 51 | 85 | 105 | 149 | 189 | 311 | 890 |
| Post COC | All Case Types | All Offense Types | 1 | 5 | 2 | 4 | 18 | 283 | 313 |
| | | Total | 1 | 5 | 2 | 4 | 18 | 283 | 313 |
| | Total | | 1 | 5 | 2 | 4 | 18 | 283 | 313 |
| Total | | | 894 | 589 | 330 | 329 | 351 | 757 | 3,250 |

DPP Monthly Commission Summary Report for August 2011

**4b: Open Cases Aged by Case Status, Credential Status, and Offense as of August 31, 2011**
In this table, within each section of the work in relation to the COC (Pre COC, COC and Post COC) there are four sets of rows (4-7 rows) where information related to individuals in each of the following groups is presented:

- Individuals holding a current, valid credential and therefore the individuals could be in a classroom or working with students in the K-12 public schools.
- Individuals who held one or more California credentials but all credentials have been suspended by the Commission. Since all licenses are suspended, these individuals should not be working with public school students at this time.
- Individuals who do not hold a California credential, but have one or more applications pending. These individuals should not be working with public school students at this time.
- Individuals who do not hold any current, valid credential and have no applications pending. These individuals should not be working with public school students at this time.

After looking at this information staff questions the fourth group of cases in each section of Chart 4b. The individuals do not hold a current license as an educator in California and have no applications pending. Additional research needs to be completed as to why these cases are in the Commission's discretionary discipline process and what the impact would be if cases were not opened for individuals who do not hold current, valid licenses and have no applications pending with the Commission.

4b:

## Open Cases Aged by Case Status, Credential Status, and Offense - as of August 31, 2011

| Case Status | Credential Status | Offense | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Pre COC | Authorized | Child Crime - Sexual | 4 | 5 | 0 | 0 | 0 | 1 | 10 |
| | | Child Crime - Non-sexual | 19 | 34 | 5 | 4 | 2 | 12 | 76 |
| | | Adult - Sexual | 8 | 11 | 1 | 4 | 2 | 0 | 26 |
| | | Drugs | 36 | 23 | 16 | 15 | 19 | 27 | 136 |
| | | Serious Crimes/Felonies | 118 | 81 | 54 | 46 | 26 | 41 | 366 |
| | | Alcohol | 270 | 100 | 45 | 31 | 33 | 15 | 494 |
| | | Other Crimes/Misdemeanors | 150 | 105 | 38 | 26 | 8 | 5 | 332 |
| | | Total | 605 | 359 | 159 | 126 | 90 | 101 | 1,440 |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 16 | 13 | 10 | 10 | 10 | 22 | 81 |
| | | Child Crime - Non-sexual | 0 | 1 | 1 | 0 | 0 | 2 | 4 |
| | | Adult - Sexual | 1 | 1 | 0 | 0 | 1 | 1 | 4 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 1 | 1 | 2 |
| | | Alcohol | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| | | Total | 17 | 15 | 12 | 10 | 12 | 26 | 92 |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 1 | 1 | 0 | 0 | 1 | 3 |
| | | Child Crime - Non-sexual | 4 | 6 | 0 | 0 | 1 | 1 | 12 |
| | | Adult - Sexual | 0 | 0 | 1 | 2 | 0 | 1 | 4 |
| | | Drugs | 13 | 12 | 1 | 3 | 1 | 3 | 33 |
| | | Serious Crimes/Felonies | 49 | 27 | 6 | 3 | 2 | 6 | 93 |
| | | Alcohol | 60 | 17 | 1 | 4 | 1 | 0 | 83 |
| | | Other Crimes/Misdemeanors | 49 | 25 | 6 | 3 | 1 | 0 | 84 |
| | | Total | 175 | 88 | 16 | 15 | 6 | 12 | 312 |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 1 | 0 | 1 | 0 | 0 | 0 | 2 |
| | | Child Crime - Non-sexual | 8 | 6 | 3 | 0 | 0 | 3 | 20 |
| | | Adult - Sexual | 2 | 1 | 0 | 0 | 0 | 0 | 3 |
| | | Drugs | 4 | 3 | 4 | 1 | 11 | 10 | 33 |
| | | Serious Crimes/Felonies | 12 | 14 | 12 | 12 | 16 | 6 | 72 |
| | | Alcohol | 12 | 9 | 7 | 8 | 6 | 1 | 43 |
| | | Other Crimes/Misdemeanors | 6 | 4 | 9 | 4 | 3 | 4 | 30 |
| | | Total | 45 | 37 | 36 | 25 | 36 | 24 | 203 |
| | Total | | 842 | 499 | 223 | 176 | 144 | 163 | 2,047 |
| COC | Authorized | Child Crime - Sexual | 0 | 2 | 1 | 5 | 2 | 5 | 15 |
| | | Child Crime - Non-sexual | 3 | 13 | 18 | 17 | 14 | 16 | 81 |
| | | Adult - Sexual | 0 | 6 | 2 | 1 | 3 | 7 | 19 |
| | | Drugs | 0 | 1 | 2 | 5 | 6 | 9 | 23 |
| | | Serious Crimes/Felonies | 1 | 5 | 14 | 15 | 31 | 59 | 125 |
| | | Alcohol | 14 | 5 | 12 | 22 | 51 | 66 | 170 |
| | | Other Crimes/Misdemeanors | 7 | 31 | 27 | 51 | 38 | 71 | 225 |
| | | Total | 25 | 63 | 76 | 116 | 145 | 233 | 658 |
| | Not Authorized - Docs Suspended | Child Crime - Non-sexual | 0 | 1 | 2 | 0 | 1 | 1 | 5 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 1 | 2 | 0 | 3 |

DPP Monthly Commission Summary Report for August 2011

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| COC | Not Authorized - Docs Suspended | Other Crimes/Misdemeanors | 0 | 0 | 1 | 0 | 0 | 1 | 2 |
| | | Total | 0 | 1 | 3 | 1 | 3 | 4 | 12 |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 0 | 1 | 1 | 0 | 0 | 2 |
| | | Child Crime - Non-sexual | 0 | 1 | 4 | 0 | 1 | 1 | 7 |
| | | Adult - Sexual | 0 | 1 | 2 | 0 | 1 | 0 | 4 |
| | | Drugs | 1 | 1 | 1 | 1 | 0 | 1 | 5 |
| | | Serious Crimes/Felonies | 5 | 4 | 4 | 4 | 5 | 9 | 31 |
| | | Alcohol | 17 | 2 | 5 | 4 | 8 | 6 | 42 |
| | | Other Crimes/Misdemeanors | 3 | 9 | 6 | 10 | 2 | 8 | 38 |
| | | Total | 26 | 18 | 23 | 20 | 17 | 25 | 129 |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 1 | 1 | 1 | 3 |
| | | Child Crime - Non-sexual | 0 | 0 | 1 | 2 | 1 | 3 | 7 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Drugs | 0 | 0 | 0 | 1 | 0 | 6 | 7 |
| | | Serious Crimes/Felonies | 0 | 0 | 1 | 3 | 8 | 14 | 26 |
| | | Alcohol | 0 | 1 | 1 | 1 | 9 | 10 | 22 |
| | | Other Crimes/Misdemeanors | 0 | 2 | 0 | 4 | 5 | 11 | 22 |
| | | Total | 0 | 3 | 3 | 12 | 24 | 49 | 91 |
| | Total | | 51 | 85 | 105 | 149 | 189 | 311 | 890 |
| Post COC | Authorized | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 20 | 20 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 2 | 24 | 26 |
| | | Adult - Sexual | 0 | 0 | 0 | 1 | 0 | 6 | 7 |
| | | Drugs | 0 | 0 | 0 | 0 | 1 | 5 | 6 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 25 | 25 |
| | | Alcohol | 0 | 0 | 0 | 0 | 6 | 33 | 39 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 1 | 2 | 77 | 80 |
| | | Total | 0 | 0 | 0 | 2 | 11 | 190 | 203 |
| | Not Authorized - Docs Suspended | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 0 | 0 | 13 | 13 |
| | | Total | 0 | 0 | 0 | 0 | 0 | 25 | 25 |
| | Not Authorized - App(s) Pending | Child Crime - Sexual | 0 | 2 | 0 | 0 | 1 | 5 | 8 |
| | | Child Crime - Non-sexual | 0 | 1 | 0 | 0 | 1 | 7 | 9 |
| | | Adult - Sexual | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Drugs | 0 | 0 | 0 | 0 | 2 | 1 | 3 |
| | | Serious Crimes/Felonies | 0 | 1 | 0 | 0 | 0 | 15 | 16 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 9 | 9 |
| | | Other Crimes/Misdemeanors | 1 | 1 | 2 | 1 | 2 | 1 | 8 |
| | | Total | 1 | 5 | 2 | 1 | 6 | 39 | 54 |
| | Not Authorized - No App(s) Pending | Child Crime - Sexual | 0 | 0 | 0 | 0 | 0 | 4 | 4 |
| | | Child Crime - Non-sexual | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Drugs | 0 | 0 | 0 | 0 | 0 | 2 | 2 |

DPP Monthly Commission Summary Report for August 2011

| | | | 0 - 90 Days | 91 - 180 Days | 181 - 270 Days | 271 - 360 Days | 361 - 450 Days | 451 + Days | Total |
|---|---|---|---|---|---|---|---|---|---|
| Post COC | Not Authorized - No App(s) Pending | Serious Crimes/Felonies | 0 | 0 | 0 | 0 | 0 | 6 | 6 |
| | | Alcohol | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| | | Other Crimes/Misdemeanors | 0 | 0 | 0 | 1 | 1 | 11 | 13 |
| | | Total | 0 | 0 | 0 | 1 | 1 | 29 | 31 |
| | Total | | 1 | 5 | 2 | 4 | 18 | 283 | 313 |
| Total | | | 894 | 589 | 330 | 329 | 351 | 757 | 3,250 |

**Next Steps**

Staff will continue to post the Monthly Activity Summary reports on the Commissioners' internal webpage each month. Staff will continue working to implement the State Auditor's recommendations and file required updates. The second (6-month) report is due to be submitted on October 7, 2011 and the one year report will be due on April 7, 2012.

# Appendix One

## Recommendations from the Bureau of State Audits and Organization of CTC's Response

| BSA Recommendations | Focus Area |
|---|---|
| **Recommendation One:**<br>To comply with the law and reduce unnecessary workload, the division should continue to notify the Department of Justice of individuals for whom it is no longer interested in receiving RAP sheets. | 1. Individuals for whom the Commission needs updated misconduct reports |
| **Recommendation Two:**<br>The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee, and to determine the goals and actions necessary to accomplish its mission. | 3. Division of Professional Practices |
| **Recommendation Three:**<br>To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload. | |
| **Recommendation Four:**<br>The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice. | 2. Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff. |
| **Recommendation Five:**<br>Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month. | |
| **Recommendation Six:**<br>The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct. | 3. Division of Professional Practices |
| **Recommendation Seven:**<br>The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in the commission's database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information. | |
| **Recommendation Eight:**<br>To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self disclosures of misconduct, it should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability. | |

| BSA Recommendations | Focus Area |
|---|---|
| **Recommendation Nine:**<br>To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:<br>• Reduction of the time elapsed to perform critical steps in the review process.<br>• Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.<br>• Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.<br>• An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases. | 3. Division of Professional Practices |
| **Recommendation Ten:**<br>To better ensure that its hiring decisions are fair and that employment opportunity is equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should do the following:<br>• Prepare and/or formally adopt a comprehensive hiring manual that clearly indicates hiring procedures and identifies parties responsible for carrying out various steps in the hiring process.<br>• Maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.<br>• Hiring managers should provide to the commission's Office of Human Resources documentation supporting the appointment decision, and the Office of Human Resources should maintain this documentation so that it can demonstrate that the hiring process was based on merit and the candidate's fitness for the job. | 4. Office of Human Resources |
| **Recommendation Eleven:**<br>To ensure that employees understand their right to file either an EEO complaint or grievance, and to reduce any associated fear of retaliation, the commission should do the following:<br>• Include in its EEO policy a statement informing staff members that they may make complaints without fear of retaliation.<br>• Actively notify employees annually of its EEO complaint and grievance processes, including the protection from retaliation included in both.<br>• Conduct training on its EEO complaint process on a periodic basis. | |

## Appendix Two

### Detailed Audit Tracking by Topic

| 1. **Individuals for whom the Commission needs updated misconduct reports** (BSA Recommendation 1): The DOJ currently provides copies of the "Reports of Arrest and Prosecution" (RAP) for all individuals who currently hold or have ever held a teaching/services credential, a 30 day substitute permit, certificate of clearance or submitted fingerprints to the Commission in preparation for applying for a credential or certificate of clearance. |
|---|
| **CTC Actions** as of September 16, 2011 |
| • Beginning in March 2011, staff began returning RAPs to the DOJ— On June 21, 2011 staff confirmed with DOJ that returning RAPs will remove the individual from the list. Once an individual is removed from the Commission's list, the individual would need to be fingerprinted again in order to apply for a new credential or permit in order for the Commission to receive current and subsequent arrest information. Staff has begun returning the names of individuals to DOJ with a status of "No longer interested." **{BSA #1}**<br>• Staff has determined how many people are currently in the CASE system (over 1,100,000 total individuals in the system) but have never held a license, or all licenses held have been expired for a minimum of 3 years (~300,000). These are the first groups that are being sent to DOJ as "*No longer interested*" in receiving RAPs. **{BSA #1}**<br>• Regulatory changes were proposed as an information item to the Commission to clarify the expiration date of all Certificates of Clearance issued prior to July 2007 and to reduce the timeframe for retaining fingerprints for individuals with no valid credentials from 3 years to 1 year (August 2011). **{BSA #1}**<br>• An action item will be presented to the Commission at its October 2011 meeting with regulatory language to change from 3 years to an eighteen month time period, in response to stakeholder input, to notify DOJ to no longer send subsequent RAPs for an individual increasing our "no longer interested" number by an additional 80,000. (October 2011) **{BSA #1}**<br>• Developed and will begin implementing the process to notify DOJ on a regular (i.e., weekly) basis of the individuals for whom the Commission is "no longer interested in" receiving subsequent RAPs (August 2011-November 2011). **{BSA #1}** |

The Commission believes it has fully addressed this audit recommendation (BSA #1). Staff is now finalizing the process through which the Department of Justice will continue to be notified of those individuals for whom the Commission is 'No Longer Interested' (NLI) in receiving subsequent notifications of arrest and prosecution.

| 2. **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff** (BSA Recommendations 4 and 5): Once an opinion is received from the Attorney General, take necessary steps to comply with the attorney general's advice and undertake all necessary procedural and statutory changes to increase the number of cases the COC can review each month. | |
|---|---|
| **CTC Actions** as of September 16, 2011 | **Next Steps** |
| • Requested a formal Attorney General Opinion (May 2, 2011). Contacted the AG on June 21, 2011, requesting confirmation that the request for an opinion had been received. Request has been received and assigned an opinion number 11-606. **{BSA # 4}**<br>• In the interim, effective May 1, 2011, the Committee of Credentials began reviewing a Consent Calendar of work evaluated by legal staff and takes action at each meeting on all cases rather than staff closing any cases. **{BSA #5}**<br>- May: 126 cases<br>- June: 283 cases<br>- July: 311 cases<br>- August: 251 cases<br>- September: 171 cases<br>• At its June 22-23, 2011, meeting the COC considered an additional calendar of cases that legal staff has identified as the type of case that might be closed at the Initial Review. Twenty-eight cases were presented in this discuss calendar in June and the COC decided to close or grant 19 of the cases. The remaining 9 cases will be scheduled for COC Initial Review. Summary disposition of such cases could result in the completion of approximately 100-150 additional cases a year. **{BSA #5}**<br>• Discipline Process Webinar – July 12, 2011. *California's Educator Discipline Process—Laws and Current Commission Procedures.* Staff presented information on the current educator discipline process. **{BSA #5}**<br>• At the August 4, 2011 Commission meeting an update on the work to date to address the audit recommendations. In addition, staff presented an agenda item on the discipline process and proposed the development of stakeholder meetings to discuss the discipline process and provide recommendations on improving the discipline process. The Commission directed staff to move forward with the stakeholder meetings. **{BSA #5}** | • Prior to receiving the AG's opinion the Commission staff will work with policymakers, stakeholders and other interested parties to discuss the COC process and potential procedural and statutory solutions to increase the number of cases reviewed by the COC. **{BSA #5, 9}**<br>• Stakeholder meetings are planned for October and November 2011 to discuss California's Educator Discipline process and possible recommendations from the stakeholder meetings will be presented to the Commission by January 2012. **{BSA #5, 9}** |

3. **Division of Professional Practices** (BSA Recommendations 2, 3, 6, 7, 8, and 9): The processing of reports of misconduct must be analyzed and clear procedures developed for timely, accurate processing of all reports (#6). The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed (#6, 7). Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, length of time at each stage of review, reasons for delays and the person (s) responsible for the case (#8). The data needs to be complete, accurately and consistently entered into the database and useful as a management tool (# 7). An oversight process needs to be developed to ensure the accuracy of data entered into the database (# 7). The time elapsed in the processing of misconduct needs to be reduced including prompt requests for information from law enforcement agencies, the courts, schools, and knowledgeable individuals (# 9). Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload (#3). The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC (#2).

| **CTC Actions** as of September 16, 2011 | **Next Steps** |
|---|---|
| • All allegations of misconduct (RAP, employer report, affidavit and self-disclosure) are entered, including arrival date, into the SIEBEL system within 5 business days of arriving at the Commission. **{BSA # 8}**<br>• Intake and Tracking screens have been developed within the SIEBEL (database) system and will serve as a monitoring process; management reports are being developed as part of the oversight process. Implementation of the screens began on August 9, 2011. **{BSA #8}**<br>• A comprehensive Procedures Manual was developed by the Division and posted on the CTC intranet along with other DPP training materials (May 6, 2011). **{BSA #6}**<br>- As procedures are fine-tuned or additional systems are developed, the Procedures Manual will be updated. **{BSA #6}**<br>- All division staff completed initial training on the Procedures Manual (May 25, 2011). As above, as new procedures or systems are put in place, additional training will be held. **{BSA #7}**<br>• Staff has developed initial workload reports to gather the data necessary to understand the volume of work on a task by task basis. This includes the following reports: **{BSA # 3, 9}**<br>a.Monthly Activity Summary and Existing Inventory- | • For the 2011-12 year, move a position from the Certification Division to the Professional Practices Division to reorganize the management of the division (August 2011). Once the new management structure is in place, the refinement and implementation of the comprehensive monitoring and oversight plan will be the primary focus for management.<br>• Additional training for staff on the Procedures Manual is scheduled as updated procedures are put in place. **{BSA #7}**<br>• After reviewing management reports, staffing and any changes from stakeholder |

| 3. **Division of Professional Practices** (BSA Recommendations 2, 3, 6, 7, 8, and 9): The processing of reports of misconduct must be analyzed and clear procedures developed for timely, accurate processing of all reports (#6). The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed (#6, 7). Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, length of time at each stage of review, reasons for delays and the person (s) responsible for the case (#8). The data needs to be complete, accurately and consistently entered into the database and useful as a management tool (# 7). An oversight process needs to be developed to ensure the accuracy of data entered into the database (# 7). The time elapsed in the processing of misconduct needs to be reduced including prompt requests for information from law enforcement agencies, the courts, schools, and knowledgeable individuals (# 9). Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload (#3). The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC (#2). | |
|---|---|
| **CTC Actions** as of September 16, 2011 | **Next Steps** |
| Workload by status and type (sample attached)<br>b. RAPs—type of misconduct in the RAP (sample attached)<br>c. Cases Closed<br>d. Case Aging Reports<br>e. Cases Ready for Committee Report (developed and being refined to include additional information about types and severity of misconduct of the cases awaiting COC Review)<br>• A search for the new Executive Director is currently taking place with a filing date of June 30, 2011, or until the position is filled. Initial interviews took place in August 2011. **The Commission should have a new Executive Director on board by November 1, 2011. {BSA #2}**<br>• A new General Counsel began work on September 12, 2011. **{BSA #2}**<br>• Division leadership analyzes the data collected including type of task, staff completing the task, and time to complete the task and based on the analysis review current procedures and develop additional oversight procedures to monitor the implementation of the policies in the division (beginning in June 2011). **{BSA #3, 9}** | meetings, if necessary submit a BCP for FY 2013-14. **{BSA #3}**<br>• It is expected that a new Executive Director will be in place by fall 2011. Once the new Executive Director has been appointed, the Strategic Plan will be reviewed as a starting point for a revised effort no later than January 2012. The auditor's recommendations to identify programmatic, organizational, and external challenges will be integral to the review and revision of the Commission's Strategic Plan. Stakeholder input will be critical as well. **{BSA #2}** |

| 4. **Office of Human Resources** (BSA Recommendations 10 and 11): Information must be clearly documented, current, and shared with the appropriate staff at the appropriate intervals. This includes information on 1) hiring and promotions, 2) supervisors and managers appropriately documenting the hiring process, and 3) ensuring that all staff understand the grievance and EEO complaint processes. |
|---|
| **CTC Actions** as of September 16, 2011 |
| • With assistance from State Personnel Board (SPB) a comprehensive Hiring Handbook was developed. **{BSA #10}**<br>- The Handbook provides clear expectations for the hiring process.<br>- OHR staff monitors all hiring processes.<br>- Handbook was reviewed by Senior Managers.<br>- The Hiring Handbook was shared with all CTC Staff on June 6, 2011 via the *CTC Insider*<br>- Training for all supervisors and managers was held on June 22, 2011.<br>• The Commission's EEO Policy was updated. **{BSA #11}**<br>- The updated EEO Policy was provided to all staff (May 9, 2011).<br>- EEO Handbook was developed. The handbook outlines the process to file an EEO complaint.<br>- An EEO webpage was developed for the CTC intranet (June 27, 2011). The Handbook is posted on the new web page.<br>- SEIU Provided Onsite Employee meetings to review EEO (June 8, 2011).<br>• A webinar on Workplace Retaliation was held on June 15, 2011and all supervisors and managers were notified of the expectation that all attend the training or view the archived webinar. As of August 25, 2011 all managers and supervisors have participated in the webinar and/or reviewed the information. **{BSA #11}**<br>• Per SPB guidance, OHR will maintain all documentation for hiring and promotion decisions based on state policies for retention. (June 2011). **{BSA #10}**<br>• Executive Director began meeting with the union stewards on a monthly basis (July 2011).<br>• EEO training held for rank and file employees (required) and for all supervisors and managers (required). **{BSA #11}**<br>All Staff Training: September 14 or October 4, 2011; Supervisors and Managers: September 14, 2011.<br>- All staff members will be reminded annually of the EEO policy and required to verify that he or she has reviewed and is familiar with the EEO policy. Initial certification will be due from all staff by October 6, 2011.<br>- Initial certification for the Sexual Harassment training was due from all staff by September 1, 2011.<br>- Enhanced the new EEO webpage with resources for staff on EEO related topics (August 15, 2011). |

The Commission believes it has full addressed these two audit recommendations (BSA #10, 11). Additional work is taking place to ensure that all managers, supervisors and staff are aware of the policies of the Commission and that implementation is consistent across the agency. A Labor Management Advisory Group is being developed

# 1H

## Information

*General Session*

## Recommendations from the April 7, 2011 Audit Report

**Executive Summary:** This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and of the Office of Human Resources; the Commission's response to the Audit as well as an update on staff progress in addressing the recommendations; and a report on DPP's current workload.

**Recommended Action:** For information only

**Presenters:** Patty Wohl, Director, Certification, Assignment and Waivers Division and Teri Clark, Director, Professional Services Division

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

August 2011

# Recommendations from the April 7, 2011 Audit Report

**Introduction**
This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and of the Office of Human Resources, and also provides the Commission's responses to the Audit recommendations.

**Audit Update**
On April 7, 2011 the California State Auditor issued a report entitled "*Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs*". The audit identified 11 recommendations. The initial update was presented to the Commission at the June 2011 Meeting (http://www.ctc.ca.gov/commission/agendas/2011-06/2011-06-2H.pdf). On Monday, June 6, 2011 the required sixty day response was submitted to the Bureau of State Audits.

Many of the audit recommendations overlapped; therefore, at the direction of the Co-Acting Executive Directors, four areas of focus were identified that encompass the 11 recommendations as listed below. Attachment One shows where each of the eleven recommendations falls within the four areas of focus.

1. **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff**
2. **Individuals for whom the Commission needs subsequent misconduct reports**
3. **Division of Professional Practices**
4. **Office of Human Resources**

Following is a description of staff analysis of issues and related actions that fall within these four areas:

**1. Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff.** Once an opinion is received from the Attorney General, we will take the steps necessary to comply with the attorney general's advice and undertake all necessary procedural and statutory changes to increase the number of cases the COC can review each month. (BSA Recommendations 4 and 5)

**2. Individuals for whom the Commission needs subsequent misconduct reports.** The Department of Justice (DOJ) currently provides copies of the "Reports of Arrest and Prosecution" (RAP) for all individuals who currently hold or have ever held a teaching/services credential, a 30 day substitute permit, and/or a certificate of clearance or who have submitted fingerprints to the Commission in preparation for applying for a credential or certificate of clearance. If the Commission receives RAPs for only those individuals who are currently authorized to provide service in the public schools, the division's RAP processing workload would be significantly reduced. (BSA Recommendation 1)

**3. Division of Professional Practices.** The auditors indicated that the processing of reports of misconduct must be analyzed and clear criteria and procedures must be developed for timely, accurate processing of all reports. The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed. Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, the person(s) responsible for the case, length of time at each stage of review, reasons for delays and final disposition. The data needs to be complete, accurate and consistently entered into the database. An oversight process needs to be developed to ensure the accuracy of data entered into the database and to provide data in a form useful as a management tool. The time elapsed in the processing of misconduct needs to be reduced, including making prompt requests for information from law enforcement agencies, courts, schools, and knowledgeable individuals. Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload. The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC. While not included in the BSA recommendations, the early pursuit of information related to more serious cases should be examined.

CTC staff is working hard to correct problems in the aforementioned areas and will continue to report to the Joint Legislative Audit Committee (JLAC), members of the Legislature, the BSA, and stakeholders on the progress that we are making in all areas. (BSA Recommendations 2, 3, 6, 7, 8, and 9)

**4. Office of Human Resources.** The auditors indicated that information about staffing and about staff concerns must be clearly documented, current, and shared with the appropriate staff at the appropriate intervals. This includes information on 1) hiring and promotions, 2) making sure supervisors and managers are appropriately documenting their hiring processes, and 3) ensuring that staff understands the grievance and EEO complaint processes. (BSA Recommendations 10 and 11)

Attachment Two provides information on the specific actions taken to date related to each of these four topics, dates of the actions and the identified *Next Steps*. This table is being updated weekly to track the agency's progress in addressing the audit recommendations.

**DPP Workload Update**

Staff has been fine tuning the DPP Monthly Activity Summary reports provided to you in June and adding additional information on DPP's workload. These three reports include a detailed look at the COC workload including all Open Cases by Status and Type (Chart 1); monthly RAPs Received and Processed (Chart 2); and a report on the Closed Cases (Chart 3). The revised versions of the first two charts provide a better breakdown and description of DPP's workload, and also provide tracking information on how the work is flowing through the division.

# DPP Monthly Activity Summary

## Activity During June 2011

### Pre COC

**Work Received in DPP**

| | Items Rec'd | Cases Opened |
|---|---|---|
| RAPs | 733 | 282 |
| Apps | 1,180 | 271 |
| SD Reports * | 29 | 12 |
| Misc * | 12 | 13 |
| **Total** | **1,954** | **578** |

* Work related to cases opened may have been received in a prior period

**Document Requests**

| | |
|---|---|
| Arrest | 227 |
| Court | 399 |

### COC Inventory

| | |
|---|---|
| Initial Review | 84 |
| Formal Review | 44 |
| Consent Review | 310 |

### COC Work Completed (June 2011)

**Cases to COC**

| | |
|---|---|
| Initial Review | 65 |
| Formal Review | 54 |
| Reconsideration | 0 |
| Consent Review | 311 |

**Cases Completed**

| | |
|---|---|
| Closed | 137 |
| Granted | 181 |
| Adverse Actions | 0 |

### Post COC

| | |
|---|---|
| Settlement | 6 |
| AG | 5 |
| CTC | 0 |

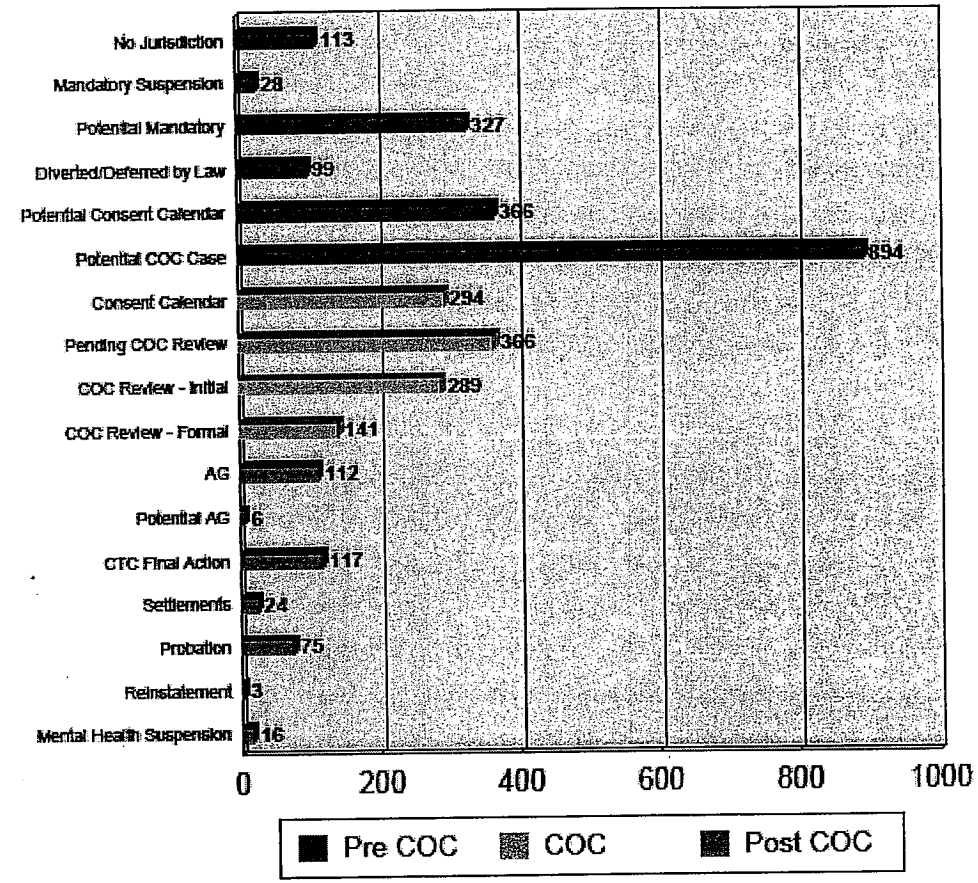
### Mandatory Actions

| | |
|---|---|
| Revocations | 17 |
| Denials | 10 |
| Automatic Suspensions | 12 |

### Inventory for June 2011

| | |
|---|---|
| Starting Case Load | 3,179 |
| Cases Opened | 578 |
| Cases Closed | 487 |
| Ending Case Load | 3,270 |

## Open Cases by Status and Type as of June 30, 2011

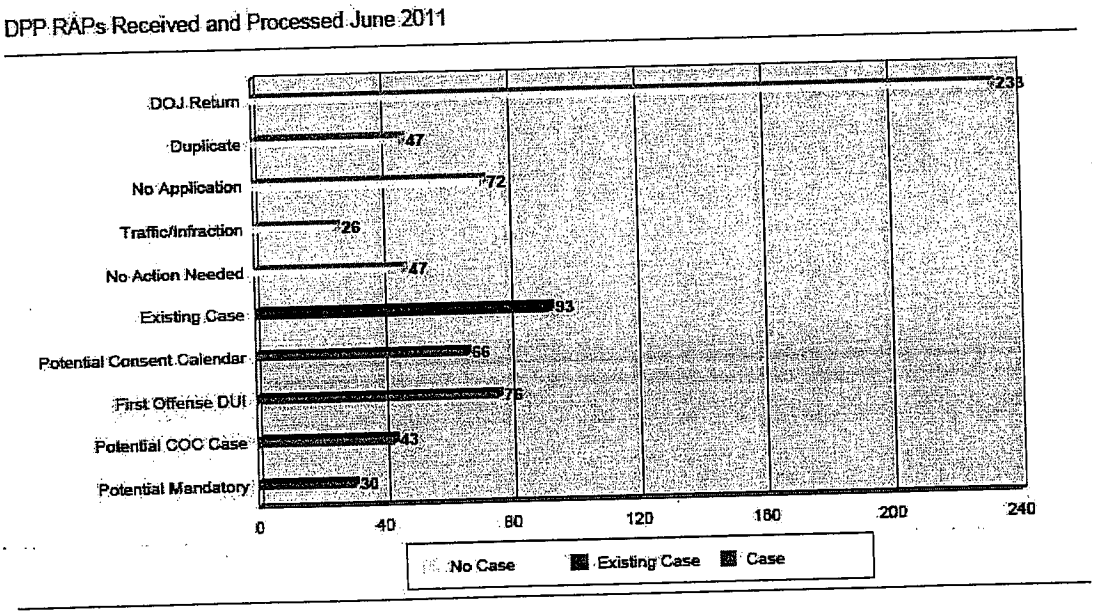



| | |
|---|---|
| Pre COC | 1,827 |
| COC | 1,090 |
| Post COC | 353 |
| **Total Open Cases** | **3,270** |

The workload shown in Chart 1, page 4, is now broken down by cases preparing to go to the Committee of Credentials (COC) in blue, cases that are currently in the COC review phase in yellow and cases that are post-COC review in green. As staff continue to make progress and gain efficiencies in the area of identifying and processing pre-COC cases, the COC workload is likely to continue to grow as there are only a finite number of cases that can be heard by the Committee each month.

Chart Two is a modified version of the RAP report provided in June 2011. This chart shows all RAP sheets received in the month of June 2011. This report now presents the workload in a sequential organization with the yellow rows showing the RAPs that do not lead to a case, the red rows are the RAPs which are affiliated with an existing case and the green rows show the RAPS that lead to a new case. The labels for the rows in this report were also modified to more clearly describe the type of category of RAPs received.

**Chart 2: Monthly RAPs Received and Processed**

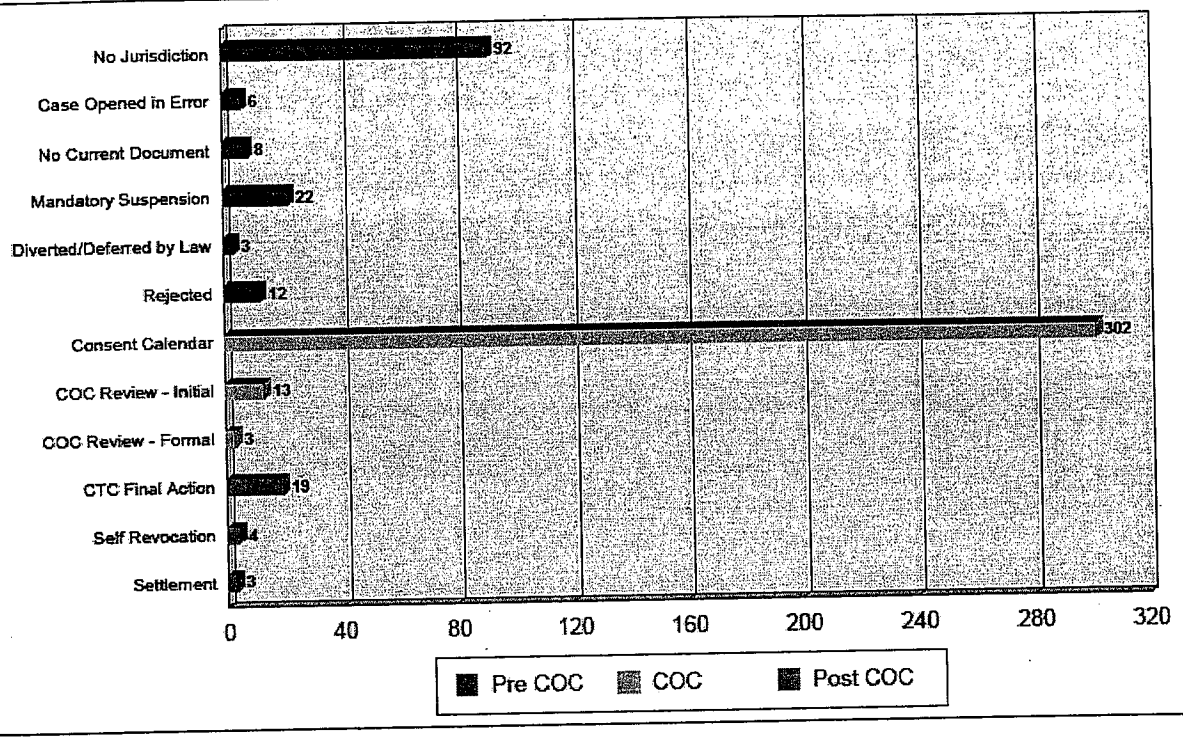



| | |
|---|---|
| No Case | 425 |
| Existing Case | 93 |
| Case | 215 |
| Total RAPs | 733 |

The third chart is a new chart which identifies the types of cases that were closed throughout the month of June 2011. It is important to note that cases may be closed at any one of multiple steps in the discipline process and not all the cases that are closed were received in any one month.

**Chart 3: Monthly Cases Closed**

Cases Closed by Type During June 2011




| | |
|---|---|
| Pre COC | 143 |
| COC | 318 |
| Post COC | 26 |
| Total Cases Closed | 487 |



Another report is planned which will provide a breakdown of the age and type of the cases in the Committee on Credentials review process. This report is still under development and will be available at the October 2011 Commission meeting.

**Next Steps**

Staff will continue to post the Monthly Activity Summary reports on the Commissioners' internal webpage each month. Staff will continue working to implement the State Auditor's recommendations and to file required updates. The second (6-month) report is due to be submitted on October 7, 2011.

# Attachment One

## Responses from the Commission on Teacher Credentialing regarding the Recommendations from the Bureau of State Audit and CTC-Assigned Focus Area

| BSA Recommendations | Focus Area |
|---|---|
| **Recommendation One:**<br>To comply with the law and reduce unnecessary workload, the division should continue to notify Justice of individuals for whom it is no longer interested in receiving RAP sheets. | 2. Individuals for whom the Commission needs updated misconduct reports |
| **Recommendation Two:**<br>The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee, and to determine the goals and actions necessary to accomplish its mission. | 3. Division of Professional Practices |
| **Recommendation Three:**<br>To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload. | |
| **Recommendation Four:**<br>The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice. | 1. Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff. |
| **Recommendation Five:**<br>Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month. | |
| **Recommendation Six:**<br>The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct. | 3. Division of Professional Practices |
| **Recommendation Seven:**<br>The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in the commission's database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information. | |
| **Recommendation Eight:**<br>To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self disclosures of misconduct, it should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability. | |
| **Recommendation Nine:**<br>To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following: | 3. Division of Professional Practices |

| BSA Recommendations | Focus Area |
|---|---|
| • Reduction of the time elapsed to perform critical steps in the review process.<br>• Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.<br>• Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.<br>• An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases. | |
| **Recommendation Ten:**<br>To better ensure that its hiring decisions are fair and that employment opportunity is equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should do the following:<br>• Prepare and/or formally adopt a comprehensive hiring manual that clearly indicates hiring procedures and identifies parties responsible for carrying out various steps in the hiring process.<br>• Maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.<br>• Hiring managers should provide to the commission's Office of Human Resources documentation supporting the appointment decision, and the Office of Human Resources should maintain this documentation so that it can demonstrate that the hiring process was based on merit and the candidate's fitness for the job. | 4. Office of Human Resources |
| **Recommendation Eleven:**<br>To ensure that employees understand their right to file either an EEO complaint or grievance, and to reduce any associated fear of retaliation, the commission should do the following:<br>• Include in its EEO policy a statement informing staff members that they may make complaints without fear of retaliation.<br>• Actively notify employees annually of its EEO complaint and grievance processes, including the protection from retaliation included in both.<br>• Conduct training on its EEO complaint process on a periodic basis. | |

## Attachment Two

| **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff.** Once an opinion is received from the Attorney General, take necessary steps to comply with the attorney general's advice and undertake all necessary procedural and statutory changes to increase the number of cases the COC can review each month (BSA Recommendations 4 and 5). | |
|---|---|
| **CTC Actions** as of July 12, 2011 | **Next Steps** |
| • Requested a formal Attorney General Opinion (May 2, 2011). Contacted the AG on June 21, 2011, requesting confirmation that the request for an opinion had been received. Request has been received and assigned an opinion number 11-501.<br><br>• In the interim, effective May 1, 2011, the Committee of Credentials began reviewing a Consent Calendar of work evaluated by legal staff and takes action at each meeting on all cases rather than staff closing any cases.<br>- May: 126 cases<br>- June: 283 cases<br><br>• At its June 22-23, 2011, meeting the COC considered an additional calendar of cases that legal staff has identified as the type of case that might be closed at the Initial Review. Twenty-eight cases were presented in this discuss calendar in June and the COC decided to close or grant 19 of the cases. The remaining 9 cases will be scheduled for COC Initial Review. Summary disposition of such cases could result in the completion of approximately 100-150 additional cases a year.<br><br>• Prior to receiving the AG's opinion the Commission staff will work with policymakers, stakeholders and other interested parties to discuss the COC process and potential procedural and statutory solutions to increase the number of cases reviewed by the COC. | • Commission Agenda Update– At the August 4, 2011 meeting, staff will present an update on the work to date. In addition, staff will present an agenda item on the discipline process and propose the development of stakeholder meetings to discuss the discipline process and provide recommendations on improving the discipline process. |

| **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff.** Once an opinion is received from the Attorney General, take necessary steps to comply with the attorney general's advice and undertake all necessary procedural and statutory changes to increase the number of cases the COC can review each month (BSA Recommendations 4 and 5). | |
|---|---|
| **CTC Actions** as of July 12, 2011 | **Next Steps** |
| • Discipline Process Webinar – July 12, 2011. *California's Educator Discipline Process—Laws and Current Commission Procedures.* Staff presented information on the current educator discipline process. | |

| **Individuals for whom the Commission needs updated misconduct reports.** The DOJ currently provides copies of the "Reports of Arrest and Prosecution" (RAP) for all individuals who currently hold or have ever held a teaching/services credential, a 30 day substitute permit, certificate of clearance or submitted fingerprints to the Commission in preparation for applying for a credential or certificate of clearance (BSA Recommendation 1). | |
|---|---|
| **CTC Actions** as of July 12, 2011 | **Next Steps** |
| • Beginning in March 2011, staff began returning RAPs to the DOJ—As of June 20, 2011, 908 individuals' RAP sheets have been returned to the DOJ. On June 21, 2011 staff confirmed with DOJ that returning RAPs will remove the individual from the list. Once an individual is removed from the Commission's list, the individual would need to be fingerprinted again in order to apply for a new credential or permit in order for the Commission to receive current and subsequent arrest information.<br>• Staff has determined how many people are currently in the CASE system (1,155,976 total individuals in the system) but have never held a license, or all licenses held have been expired for a minimum of 3 years. These are the first groups that are being sent to DOJ as "*No longer interested*" in receiving RAPs.<br>- 67,000: no license, only fingerprints in the system which were submitted a minimum of 3 years prior<br>- 268,000: all licenses expired 3 years or longer<br>- 30,000: only an expired COC (valid for 5 years) and no valid licenses | • Staff is investigating the feasibility of setting a one year (1) time period, instead of 3 years, to notify DOJ to no longer send subsequent RAPs for an individual.<br>• Developing the process to notify DOJ on a regular (i.e., weekly) basis of the individuals for whom the Commission no longer needs to receive subsequent RAPs (August 2011-November 2011).<br>• Regulatory changes will be proposed to clarify the expiration date of all Certificates of Clearance issued prior to July 2007 (August 2011). |

**Division of Professional Practices:** The processing of reports of misconduct must be analyzed and clear procedures developed for timely, accurate processing of all reports. The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed. Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, lengthy of time at each stage of review, reasons for delays and the person (s) responsible for the case. The data needs to be complete, accurately and consistently entered into the database and useful as a management tool. An oversight process needs to be developed to ensure the accuracy of data entered into the database. The time elapsed in the processing of misconduct needs to be reduced including prompt requests for information from law enforcement agencies, the courts, schools, and knowledgeable individuals. Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload. The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC. (BSA Recommendations 2, 3, 6, 7, 8, and 9)

| **CTC Actions** as of July 12, 2011 | **Next Steps** |
|---|---|
| • All allegations of misconduct (RAP, employer report, affidavit and self-disclosure) are entered, including intake date, into the SIEBEL system within 5 business days of arriving at the Commission.<br>• Intake and Tracking screens are being developed within the SIEBEL (database) system and will serve as a monitoring process; management reports are being developed as part of the oversight process.<br>• A comprehensive Procedures Manual was developed by the Division and posted on the CTC intranet along with other DPP training materials (May 6, 2011).<br>- As procedures are fine-tuned or additional procedures are developed, the Procedures Manual will be updated.<br>- All division staff completed initial training on the Procedures Manual (May 25, 2011).<br>• Staff has developed initial workload reports to gather the data necessary to understand the volume of work on a task by task basis. | • The Intake and Tracking Screens will be piloted (July 2011).<br>• Additional training for staff on the Procedures Manual is scheduled (July 2011).<br>• Analyze the data collected including type of task, staff completing the task, and time to complete the task and based on the analysis review current procedures and develop additional oversight procedures to monitor the implementation of the policies in the division (beginning in June 2011).<br>• For the 2011-12 year, move a position from the Certification Division to the Professional Practices Division to reorganize the management of the division (August 2011). Once the new management structure is in place, the refinement and implementation of the comprehensive monitoring and oversight plan will be the primary focus for management.<br>• After reviewing management reports, if necessary submit a BCP for FY 2013-14. |

**Division of Professional Practices:** The processing of reports of misconduct must be analyzed and clear procedures developed for timely, accurate processing of all reports. The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed. Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, lengthy of time at each stage of review, reasons for delays and the person (s) responsible for the case. The data needs to be complete, accurately and consistently entered into the database and useful as a management tool. An oversight process needs to be developed to ensure the accuracy of data entered into the database. The time elapsed in the processing of misconduct needs to be reduced including prompt requests for information from law enforcement agencies, the courts, schools, and knowledgeable individuals. Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload. The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC. (BSA Recommendations 2, 3, 6, 7, 8, and 9)

| **CTC Actions** as of July 12, 2011 | **Next Steps** |
|---|---|
| Additional reports are under development:<br>a. RAPs—type of misconduct in the RAP (sample attached)<br>b. Monthly Activity Summary and Existing Inventory-Workload by status and type (sample attached)<br>c. Case Aging Report (internal report developed and being refined, external non-confidential report under development)<br>d. Cases Ready for Committee Report (developed and being refined to include additional information about types and severity of misconduct of the cases awaiting COC Review)<br>• A search for the new Executive Director is currently taking place with a filing date of June 30, 2011, or until the position is filled. Interviews will take place in August 2011.<br>• A search for a new General Counsel is underway with a final filing date of July 1, 2011. Screening and interviews will take place in July-August 2011. | • An Interim Executive Director began on Monday, July 18, 2011.<br>• It is expected that a new Executive Director will be in place by fall 2011. Once the new Executive Director has been appointed, the Strategic Plan will be reviewed as a starting point for a revised effort. The auditor's recommendations to identify programmatic, organizational, and external challenges will be integral to the review and revision of the Commission's Strategic Plan. Stakeholder input will be critical as well.<br>• It is expected that a new General Counsel will be in place by September 1, 2011. |

| **Office of Human Resources:** Information must be clearly documented, current, and shared with the appropriate staff at the appropriate intervals. This includes information on 1) Hiring and promotions, 2) supervisors and managers appropriately documenting the hiring process, and 3) ensuring that all staff understand the grievance and EEO complaint processes (BSA Recommendations 10 and 11). | |
|---|---|
| **CTC Actions** as of July 12, 2011 | **Next Steps** |
| • With assistance from State Personnel Board (SPB) a comprehensive Hiring Handbook was developed.<br>- The Handbook provides clear expectations for hiring process.<br>- OHR staff monitors all hiring processes.<br>- Handbook was reviewed by Senior Managers.<br>- Training for all supervisors and managers was held on June 22, 2011.<br>• The Commission's EEO Policy was updated.<br>- The updated EEO Policy was provided to all staff (May 9, 2011).<br>- EEO Handbook was developed. The handbook outlines the process to file an EEO complaint.<br>- An EEO webpage was developed for the CTC intranet (June 27, 2011). The Handbook is posted on the new web page.<br>- SEIU Provided Onsite Employee meetings to review EEO (June 8, 2011).<br>• A webinar on Workplace Retaliation was held on June 15, 2011and all supervisors and managers were notified of the expectation that all attend the training or view the archived webinar. To date, 13 supervisors and managers have submitted verification of completion of the webinar (There are 27 supervisors and managers).<br>• Per SPB guidance OHR maintains all retention schedules, maintenance guidelines, and examination materials (June 2011). | • Develop an oversight plan to verify the hiring manual is being followed (by August 2011).<br>• Identify an online training class for EEO. Once a class has been found, notify all staff of the opportunity to attend the class.<br>- Annually remind staff of the EEO policy and have each staff member verify that he or she has reviewed and is familiar with the EEO policy.<br>- Enhance the new EEO webpage with resources for staff on EEO related topics (by September 1, 2011).<br>• Ensure that all supervisors and managers view the Workplace Retaliation webinar by August 15, 2011. |

# 2H

## Information

*General Session*

## Recommendations from the April 7, 2011 Audit Report

**Executive Summary:** This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and the Office of Human Resources; the Commission's response to the Audit as well as an update on staffs' progress in addressing the recommendations; and a report on DPP's current workload.

**Recommended Action:** For information only

**Presenters:** Mary C. Armstrong, Director, Division of Professional Practices, Andy Munguia, Senior Information Systems Analyst, Enterprise Technology Services Section and Crista Hill, Director, Administrative Services Division

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

June 2011

# Recommendations from the April 7, 2011 Audit Report

**Summary**
This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP) and the Office of Human Resources; and the Commission's responses to the Audit recommendations. At the request of the Chair of the Commission staff has also prepared Standards of Service goals for all tasks within DPP as well as reports on the DPP current workload.

**Audit Update**
On April 7, 2011 the California State Auditor issued a report entitled "*Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs*". Although the Auditor recognized that previously existing processes had undergone enhancements and had changed significantly before and during the time period of the Audit, the Auditor made several recommendations to improve the current process and ensure that all cases are completed in a timely manner. In response to these recommendations as well as direction from the Commission, the Division has already accomplished the following:

- Developed a process to notify the Department of Justice when there is no further need to receive RAP sheets on specified individuals because they no longer hold credentials. This action will reduce the number of unnecessary RAP sheets received by the Division. (Audit Recommendation 1)

- Requested a legal opinion from the Attorney General to determine whether the Commission may delegate to the Division the authority to close investigations. Until this opinion is received, the COC will review a consent calendar of cases recommended to be closed prepared by the Division's legal staff. (Audit Recommendation 4)

- Prepared comprehensive written procedures including revised standards of service to ensure consistency and conformity by staff in processing and analyzing reported misconduct. (Audit Recommendation 6)

- Developed an automated workload report to monitor the progress of all cases for reports to the Commission. An automated case aging report is also being developed to alert management and the Commission about cases with unexplained delays in processing. (Audit Recommendation 8)

- Initiated a plan to develop a comprehensive hiring practices manual with assistance from the State Personnel Board. (Audit Recommendation 10)

- Developed and circulated a revised Equal Employment Opportunity policy. (Audit Recommendation 11)

- Developed a Teacher Discipline Improvement Initiative detailing the Commission's plans for improving its discipline function for distribution to the Joint Legislative Audit Committee at its hearing on May 10, 2011. (Attachment 1)

The full text of the BSA Recommendations and the Commission's response (updated as of May 15, 2011) to each recommendation is set forth below:

## Responses from the Commission on Teacher Credentialing regarding the Recommendations from the Bureau of State Audit

| BSA Recommendations | Commission Responses |
|---|---|
| **Recommendation One:**<br>To comply with the law and reduce unnecessary workload, the division should continue to notify Justice of individuals for whom it is no longer interested in receiving RAP sheets. | **Response:**<br>The Commission concurs with this recommendation, implementation has begun and a work plan to complete all phases of the project developed. |
| **Recommendation Two:**<br>The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee, and to determine the goals and actions necessary to accomplish its mission. | **Response:**<br>The Commission will include the Audit recommendations in its next revision of its strategic plan. A new Executive Director will be in place by 2012 and that would be an appropriate time for a revision of the Commission's strategic plan. |
| **Recommendation Three:**<br>To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload. | **Response:**<br>The Commission concurs with the recommendation. The Commission plans to request a Budget Change Proposal for FY 12-13. |
| **Recommendation Four:**<br>The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice. | **Response:**<br>The Commission requested a formal Attorney General's opinion on May 2, 2011. |
| **Recommendation Five:**<br>Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month. | **Response:**<br>The Commission concurs with this recommendation. Upon receipt of the opinion the Commission will determine the necessary action to take. (Receipt of the opinion is expected in approximately 6 months. |

| | |
|---|---|
| **Recommendation Six:**<br>The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct. | **Response:**<br>The Commission concurs with the recommendation and has completed a comprehensive Division of Professional Practices' Procedure Manual and has posted it and other training materials on a dedicated Division of Professional Practice site on the Commission's intranet. |
| **Recommendation Seven:**<br>The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in the commission's database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information. | **Response:**<br>The Commission concurs with the recommendation. The Division of Professional Practices is working with the Enterprise Technology Services Section to make the necessary oversight improvements suggested in the Audit. |
| **Recommendation Eight:**<br>To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self disclosures of misconduct, it should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability. | **Response:**<br>The Commission concurs with the recommendation and implementation has already been initiated through the use and enhancement of the CASE tracking system. The workload activity report project, a component of this recommendation has already been completed. |
| **Recommendation Nine:**<br>To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:<br><br>• Reduction of the time elapsed to perform critical steps in the review process.<br>• Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.<br>• Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.<br>• An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases. | **Response:**<br>The Commission concurs with the recommendation and implementation has already been initiated through the use and enhancement of the CASE tracking system. A weekly and monthly automated case activity report has been developed and a weekly/monthly case aging report is in the final stages of development. |

| | |
|---|---|
| **Recommendation Ten:**<br>To better ensure that its hiring decisions are fair and that employment opportunity is equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should do the following:<br>• Prepare and/or formally adopt a comprehensive hiring manual that clearly indicates hiring procedures and identifies parties responsible for carrying out various steps in the hiring process.<br>• Maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.<br>• Hiring managers should provide to the commission's Office of Human Resources documentation supporting the appointment decision, and the Office of Human Resources should maintain this documentation so that it can demonstrate that the hiring process was based on merit and the candidate's fitness for the job. | **Response:**<br>The Commission concurs with the recommendations and has initiated a plan to develop a manual and maintain the proper documentation with assistance from the State Personnel Board. |
| **Recommendation Eleven:**<br>To ensure that employees understand their right to file either an EEO complaint or grievance, and to reduce any associated fear of retaliation, the commission should do the following:<br>• Include in its EEO policy a statement informing staff members that they may make complaints without fear of retaliation.<br>• Actively notify employees annually of its EEO complaint and grievance processes, including the protection from retaliation included in both.<br>• Conduct training on its EEO complaint process on a periodic basis. | **Response:**<br>The Commission concurs with the recommendation and issued a revised EEO policy on May 9, 2011 and notified employees of the revision. Training will be conducted on a periodic basis. |

As provided by statute, the California State Auditor requests auditees to report their progress implementing recommendations at 60 days, 6 months and one year. The California State Auditor's Office annually reports to the Legislature the auditee's progress in implementing recommendations.

**Workload Update**

**DPP Workload**

Staff from the Enterprise Technology and Support Services Section (ETSS) and DPP have developed a DPP Monthly Activity Summary. The Summary for April 2011 is provided on the next page. A May 2011 Summary will be provided as an agenda insert at the June 2, 2011 Commission meeting. The format will include an updated listing of current case load and include the work received each month in DPP covering the pre-Committee Work Load (Pre-COC) and the Committee of Credentials workload: Cases Completed: Cases Scheduled for COC review and cases completed by the COC but still open. (Open cases include those that have moved to the Office of Attorney General; are either settlement cases or are in the probation monitoring program.) Each Activity Summary will also include a cumulative summary of cases by Status and Type. A case aging summary showing both the age of each case as well as an explanation for where the case is in the DPP process is being developed and will be provided when completed. Staff has also prepared a monthly report detailing the number of Criminal History Information Reports (RAPs) it receives each month as well as a key to explain the various categories (provided on pages 7-9).

# DPP Monthly Activity Summary

**Activity During April 2011** | **Status as of the last day of April 2011**

## Workload Statistics

| | |
|---|---|
| **Case Load Summary** | |
| Starting Case Load | 2,953 |
| Cases Opened | 303 |
| Cases Closed | 393 |
| Ending Case Load | 2,863 |
| **Work Received in DPP** | |
| Apps | 1,045 |
| Raps | 535 |
| Misc | 14 |
| **Documents Requested** | |
| Arrest | 194 |
| Court | 393 |
| **Mandatory Actions** | |
| Revocations | 13 |
| Denials | 8 |
| Automatic Suspensions | 6 |

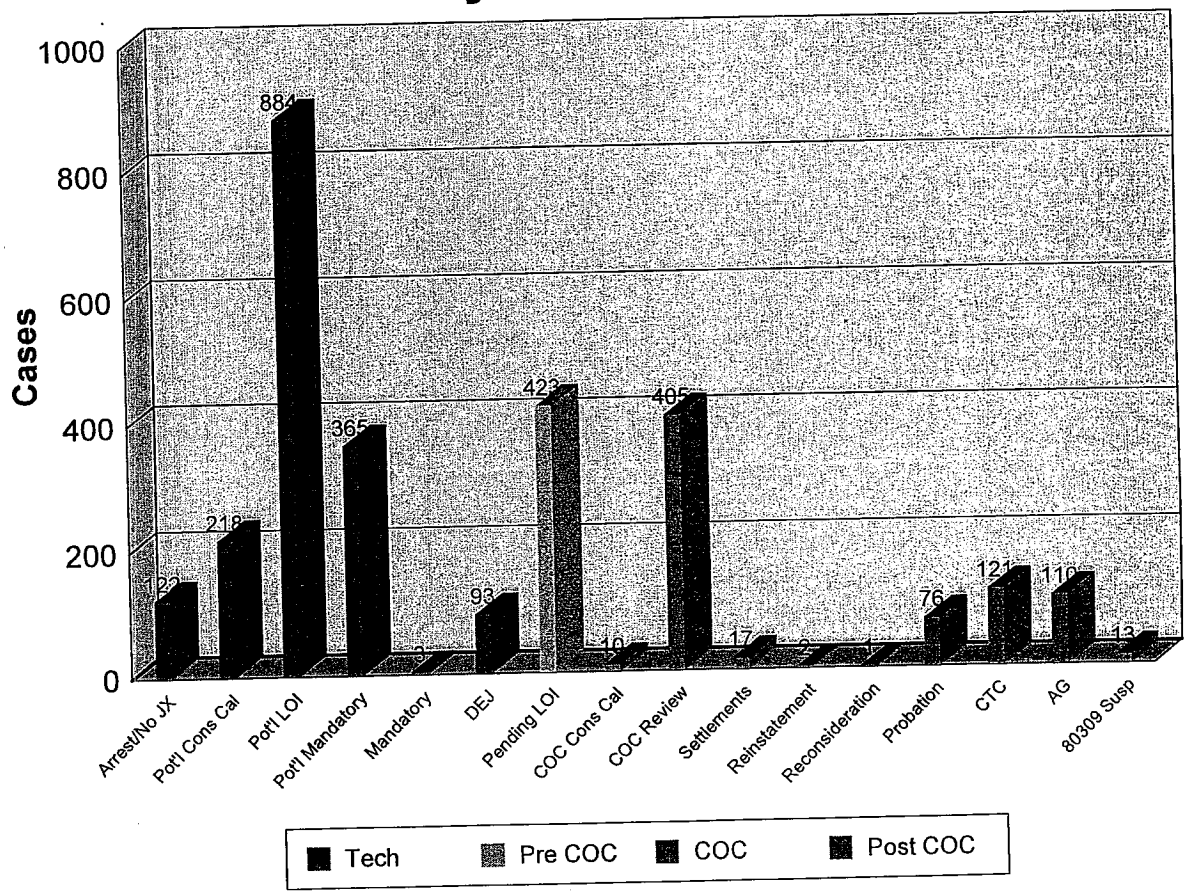
## COC Prep

| | |
|---|---|
| **Future COC Meeting (May 2011)** | |
| LOI | 53 |
| 30-Day | 43 |

## COC Current (April 2011)

| | |
|---|---|
| **Cases to COC** | |
| LOI | 62 |
| 30-Day | 44 |
| Reconsideration | 3 |
| **Cases Completed** | |
| Closed | 11 |
| Granted | 18 |
| **Post COC** | |
| Settlement | 3 |
| AG | 3 |
| CTC | 49 |

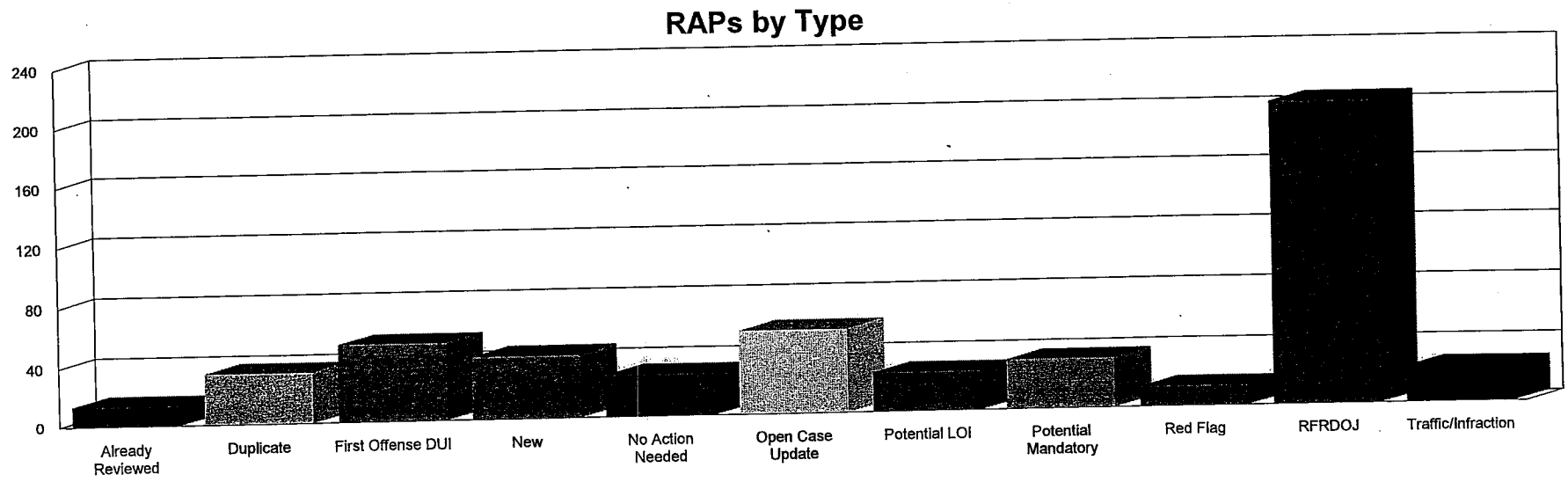
## Cases by Status and Type




GS 2H-6

June 2011

DPP RAP Sheet Processing Statistics for April 2011




**Total RAPS: 535**
**Possible Cases: 157**

## RAP CATEGORIES

Rap sheets are assigned to different categories depending on the level of review necessary which include determining factors, such as prior misconduct, type of current misconduct, type of credential held.

Raps are currently processed in two different groups. Raps that need additional processing and may result in a case file (*) and Raps that do not require additional processing.

## CATEGORIES/DEFINITIONS

**Already Reviewed:** This is a rare category. Subsequent rap notifications are usually new misconduct. However, rap notifications may be received for misconduct previously reviewed.

**Duplicate:** If a Respondent has been fingerprinted on multiple occasions, the same rap sheet will be submitted to CTC on more than one occasion. The arrest/conviction information will be identical on these raps. The original fingerprint date will be different.

**First Offense DUI:** If a rap notification is received with DUI related information, DPP may review a singular DUI offense without any further processing, if it is the only misconduct within the past 5 years. *Effective May 1, 2011* – all First Offense DUI's are considered Consent Calendar items and will go to COC.

***New:** Respondent has a rap with new charges, and a case needs to be opened.

**No Action Necessary (NAN):** Raps are considered No Action Necessary when a rap is received that reflects PROSECUTION RELEASE-DETENTION ONLY-LACK of SUFFCIENT EVIDENCE, or INADMISS SEARCH & SEIZ. These raps indicate there might have been an arrest, but no formal charges were filed against Respondent. In many of these cases, we do not have jurisdiction to review the case, and therefore No Action is Necessary. Cases are opened when they involve child crimes.

***Open Case Update:** A rap sheet may be categorized as Open Case Update if there is already an established case open regarding prior misconduct that is being reviewed by staff.

***Potential LOI:** The level of misconduct requires Committee review and are categorized Potential LOI. The Respondent's prior case history and current misconduct are all factored in to determine a level of review.

***Potential Mandatory:** The level of misconduct on the rap notification may require a Mandatory action by CTC upon receipt of a criminal conviction. Potential Mandatory actions may result in an auto-suspension while court charges are pending. These raps are priority and require immediate processing.

**Red Flag:** DPP currently has a date requirement in which we allow Respondents with an expired credential 3 months before officially removing their fingerprint clearance. Once FP clearance is removed, a Respondent MUST be re-fingerprinted. Red Flagging notifies all departments that DPP has information that must be reviewed prior to approval and granting of any/all applications.

# Rap Categories

**RFRDOJ:** (Red Flag Reject Department of Justice) If a Respondent no longer has a valid credential or an application in Siebel, his rap sheet will be marked as RFRDOJ. An RFRDOJ rap occurs when the Respondent is NOT holding a credential, and their misconduct did not occur while they were holding. The Rap sheet is returned to DOJ and requires that Respondent be re-fingerprinted when submitting a subsequent application.

**Traffic:** Rap notifications with simple traffic citations may be reviewed depending on Respondent's prior misconduct (DUI, multiple license violations). These raps generally require no further processing.

**Infraction:** Rap notifications regarding minor misdemeanor to an infraction, or the charge may be a local ordinance violation, these raps may be categorized as Infractions. This rap requires no further processing.

The Commission also directed staff to provide for its information and review the standards of service for each task in DPP. DPP's standards of service goals were updated on May 4, 2011 to reflect some of the changes in procedures that have already been implemented as a result of the audit and have been incorporated in the Procedures Manual. Most significantly when warranted a case is now opened simultaneously when a RAP is processed. The Standard of Service goals are set forth below:

**DPP Standard of Service Goals**

| TASK | GOAL |
|---|---|
| Receive rap and open case | Daily and simultaneously open case (no more than 5 business days) |
| From rap to open case and request documentation (potential mandatory) | COB next day |
| From receipt of application by DPP to open case | 5 business days |
| From open case to request documents for applications (App Pak) | 5 business days (revised process may eliminate) |
| From open case to request documents on a holder | 7 business days (follow-up in 30 days) |
| From receipt of mail to add to file (this information is not maintained in Siebel) | 5 business days |
| From receipt of all documents to recommendation for COC Consent Calendar or LOI checklist | 5 business days |
| From receipt of all documents, analysis to mandatory recommendation | 5 days |
| Legal review to determine if LOI | 5 days |
| From pending LOI to assignment to analyst or investigator | 90 days |
| From LOI assignment to analyst or investigator to LOI letter | 30 days |
| From initial review to formal review | 6 months (legal requirement under Education Code section 44243(b)(1) |

| | |
|---|---|
| From knowledge of misconduct to letter of initial review or close | 11 months (Education Code section 44242.7 requires all misconduct by a credential holder to be presented to COC within one year the misconduct was discovered or four years from the date of misconduct) |
| Percent of calls answered | 90% |
| Average hold time | Less than 3 minutes |
| Email from schools district and IHE answer time | 3 business days (auto reply all others) |

ETSS staff and DPP have developed an intranet site for DPP. This site will provide staff access to the Procedure Manual and other training materials. A copy of the Procedure Manual has been furnished to each Member of the Commission as well as management.

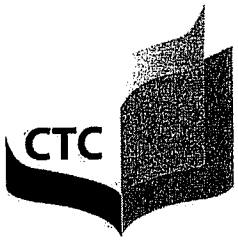
**Addressing COC Workload**

In the first quarter of 2011, the COC transitioned to a paperless agenda. As a result, COC members are now able to obtain case summaries and other agenda materials 3 to 5 days earlier than previously. This allows COC members greater flexibility in managing their review of cases and, in some instances, eliminates additional time away from employment. It is anticipated that some of the time formerly spent preparing cases might be used to schedule additional meeting time for the COC to increase the number of cases reviewed at each meeting. In addition, staff has identified categories of cases with uncomplicated fact patterns that may be added to the COC schedule without increasing meeting time. This project was initiated in early May and the first level of review will be conducted in June. The COC will review 66 cases for initial review in June and 84 in July.

**Next Steps**

Staff will send the Monthly Activity Summary to the Members of the Commission and any interested legislators each month. Staff will continue working to implement the State Auditor's recommendations and file required updates. The first report is required to be filed on June 7, 2011.

# Attachment 1




COMMISSION ON
TEACHER CREDENTIALING

*Ensuring Educator Excellence*

# TEACHER DISCIPLINE IMPROVEMENT INITIATIVE

## A Summary of Implementation Plans and Action in Response to the State Auditor's Report issued April 7, 2011

Presented by the Commission on Teacher Credentialing
to the Joint Legislative Audit Committee
Ricardo Lara, Chair
May10, 2011

Ting Sun
Chair

Dale Janssen
Executive Director

GS 2H-13

June 2011

## TEACHER DISCIPLINE IMPROVEMENT INITIATIVE
### Ensuring Educator Excellence through Improved Discipline Processes and Procedures

The Commission on Teacher Credentialing (Commission) is an agency in the Executive Branch of California State Government. It was created in 1970 by the Ryan Act (Teacher Preparation and Licensing Act of 1970, Education Code Sections 44200 *et. seq*), and is the oldest of the autonomous state standards boards in the nation. The major purpose of the agency is to serve as a state standards board for educator preparation for the public schools of California, the licensing and credentialing of professional educators in the State, the enforcement of professional practices of educators, and the discipline of credential holders in the State of California.

The Division of Professional Practices (DPP or Division) is the division charged with the responsibility of supporting the work of the Committee of Credentials (COC), a statutory committee appointed by the Commission to review allegations of misconduct by applicants for and holders of certificated documents issued by the Commission. DPP is also the legal department for the Commission and the Director of DPP serves as the General Counsel for the Commission. The Director/General Counsel oversees a staff of attorneys, investigators, analysts, and technicians. In support of the work of the COC, Commission staff reviews criminal history information reports (RAP sheets) received from the Department of Justice, reports of misconduct from individuals, reports of changes in employment from school districts, and disclosures of potential misconduct from applicants. The Commission reviews thousands of allegations of misconduct a year; the majority of which involve criminal conduct.[1] Commission staff reviews the conduct, gathers the necessary documents to evaluate the conduct, performs a legal review as to jurisdiction and defensibility, and initiates the discretionary investigation on behalf of the COC. Additionally, Commission legal staff works with the members of the COC to identify behaviors that the Committee has determined do not warrant a recommendation of an adverse credentialing action.

On April 7, 2011 the California State Auditor issued a report "Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs". Although the Auditor recognized that previously existing processes had undergone enhancements and had changed significantly before and during the time period of the Audit, the Auditor made several recommendations to improve the current process and ensure that all cases are completed in a timely manner (Attachment 1). In response to these recommendations as well as direction from the Commission, the Division has already accomplished the following:

- Developed a process to notify the Department of Justice when there is no further need to receive RAP sheets on specified individuals because they no longer hold credentials. This action will reduce the number of unnecessary RAP sheets received by the Division. (Audit Recommendation 1)
- Developed an automated workload report to monitor the progress of all cases for reports to the Commission. An automated case aging report is also being developed to alert

[1] See Division of Professional Practices Discipline Workload Report FY 2009-2010, Item 2A, December 9-10 Commission meeting (Attachment 5).

management and the Commission about cases with unexplained delays in processing (Attachment 2). (Audit Recommendation 8)

- Requested a legal opinion from the Attorney General to determine whether the Commission may delegate to the Division the authority to close investigations. Until this opinion is received, the COC will review a consent calendar of cases recommended to be closed prepared by the Division's legal staff (Attachment 3). (Audit Recommendation 4)
- Prepared comprehensive written procedures to ensure consistency and conformity by staff in processing and analyzing reported misconduct. (Audit Recommendation 6)
- Developed a revised Equal Employment Opportunity policy. (Audit Recommendation 11)

In addition to reporting to the State Auditor on the Commission's progress in implementing all of the Audit's recommendations, staff will also report progress on these and other DPP improvements to the full Commission at each meeting and to interested members of the Legislature.

The continued improvements and changes fall into three broad categories which form the basis of the Commission's Teacher Discipline Improvement Initiative, as follows:

I. Utilize and Enhance Technology to Implement Processes that will Safeguard Against Future Backlogs
II. Develop Case Priorities to Minimize and Eliminate Case Delays Within the Commission's Control
III. Institute a Discussion of Statutory Changes that Will Protect Children and Maintain the Professional Integrity of Certificated Educators

## I. Utilize and Enhance Technology to Implement Processes that will Safeguard Against Future Backlogs

### Case Tracking System

Prior to the Audit, the Commission had begun final implementation of a computer based tracking system to identify and track documents, applications and cases as they are processed through DPP. The system provides weekly reports to staff members and management to identify that activities have been completed and cases are processed in a timely manner. In addition, the system also identifies high priority cases, notifies management when activities are not completed and establishes a weekly report to track applications as soon as the application is assigned to DPP. The Audit included several recommendations to strengthen this system and provide improved oversight, data, and information about case status. The Commission technology staff has already begun working with DPP staff to fully implement all of the State Auditor's technology recommendations.

### Improvements in Management and Tracking of Criminal History Information Reports

Each month as many as 1000 criminal history information reports (RAPs) can be received by DPP. Prior to 2010, RAPs were sent to another Division of the Commission, downloaded, printed and then provided to DPP in a paper format. When the RAPs were received by DPP, they were sorted and all priority RAPs involving serious criminal misconduct were processed, however RAPs involving lower level misconduct or persons on longer holding credentials were

set aside for later processing. A majority of the RAPs received by DPP do not result in a case being opened or considered by the COC. It was, however, necessary to sort and process the reports, enter relevant information as necessary into the system, track arrests to determine if the arrest led to a conviction, and, in some cases, obtain necessary police reports and court documents. Other RAPs involved persons who no longer held a credential or who had never held a credential and had to be returned to the DOJ. As a result of staff turnover, training issues and furloughs, DPP faced a backlog in processing these lower level RAPs. DPP addressed the issue two ways. First, student assistants were hired to process the backlogged RAPs. The project was begun in September 2009 and fully completed by June 2010. Second, to prevent future problems of this nature, streamline the procedure, and utilize technology, in early 2010 DPP moved to a paperless receipt and sort of RAPs. The RAPs are now sent electronically directly to DPP, entered in the system, sorted by priority and tracked, all on a same day basis. While this does not eliminate the workload that results if a case is opened, it does eliminate any backlog of RAPs to be processed. In order to further enhance this process and provide improved tracking of cases, DPP has now implemented a procedure to open a case, when warranted, simultaneously with the processing of RAPs and then cases rather than RAPs will be assigned to technician staff. (Attachment 4)

**Improve Reporting of Educator Misconduct by School Districts**

In September 2010, the Commission redesigned its website to simplify reports of Educator Misconduct by employing school districts and charter/private schools as well as the public (http://www.ctc.ca.gov/educator-discipline/school-districts.html). Notification forms were developed to standardize reporting and assist employers and members of the public in determining what kind of information was needed by DPP. In addition, a process was developed to permit receipt of information electronically as well as by facsimile and US mail.

**Streamline Processing of Pending COC Cases**

In early July 2009, as a result of both the limited amount of time the volunteer COC members have each month to meet and consider the cases and the cancellation of several meeting days caused by imposition of furloughs, the Commission through the Executive Director and the Committee delegated to legal staff the responsibility to close cases and/or grant credentials where the alleged misconduct did not rise to the level that warranted an Education Code §44242.5(b) informal review by the COC. The new procedure resulted in processing these matters one to seven weeks faster than the previous practice which was a benefit to applicants who were awaiting a decision on a pending application and school districts that are required by law to remove an applicant from the classroom while the review is pending. As a result of the audit's questions regarding this practice, an Attorney General's opinion has been requested to determine whether this work can be delegated. In the interim, the staff has returned to preparing a consent calendar. Although this will delay the process, staff has developed appropriate technology to minimize delay by automating all post-committee actions (granting or closing files and notification to respondents).

**Utilize Technology to Support Adequate and Appropriate Staffing Levels**

An added benefit of the case tracking system and monthly activity summary is the availability of verifiable data to support adequate and appropriate staffing levels without relying on temporary help such as student assistants and retired annuitants. This is particularly evident for the

technician staff where the crucial first steps in the discipline process begin. The Commission anticipates preparing a BCP for 2012-13.

## II. Develop Case Priorities to Minimize and Eliminate Case Delays Within the Commission's Control

### Processing Mandatory Cases

The Division has developed enhanced procedures to identify and prioritize cases where based on the type of criminal misconduct, the law requires that an application be denied or a credential be suspended or revoked. In addition, the time period to process a mandatory case after receipt of final court documents is now 5 days or less.

### Shorten Administrative Appeal Procedures

Periodic meetings are held with the staff at the Attorney General's Office to discuss the administrative workload process. Educators have the right to appeal the COC's recommendation for adverse action before it is sent to the Commission for final action. These appeals are handled by the Attorney General's office. Staff from both offices have developed a case priority system to complete cases at the administrative level in a timely manner. This includes setting expectations for filing accusations (which begins the administrative hearing process), and setting cases for hearing. In June 2010, DPP and the Attorney General's office put in place a new process to handle high priority cases which involves direct assignment of a case to a Deputy Attorney General who drafts the accusation rather than assignment to legal analysts. This change has already resulted in a minimum of nine months being eliminated in the administrative hearing process.

### Addressing COC Workload

In the first quarter of 2011, the COC transitioned to a paperless agenda. As a result, COC members are now able to obtain case summaries and other agenda materials 3 to 5 days earlier than previously. This allows COC members greater flexibility in managing their review of cases and, in some instances, eliminates additional time away from employment. It is anticipated that some of the time formerly spent preparing cases might be used to schedule additional meeting time for the COC to increase the number of cases reviewed at each meeting.

## III. Institute a Discussion of Statutory Changes that will Protect Children and Maintain the Professional Integrity of Certificated Educators

The Commission, through the COC, is charged with monitoring the moral fitness of certificated educators and applicants. First and foremost, this monitoring process is done through the prism of determining whether allegations of misconduct have harmed or are potentially harmful to public school children. An equally important concern is whether the misconduct is an act of moral turpitude which calls into question the certificated educator's professional integrity and ability to serve as a role model. Currently, discipline falls into two categories. Mandatory denials of applications and suspensions or revocations of credentials are required by statute and do not go through the COC's discretionary review process. Convictions that result in mandatory action include misdemeanor and felony sex offenses, drug offenses and serious and violent felony convictions (Attachment 6). In FY 09/10 there were 202 mandatory revocations and 64 mandatory denials. All other misdemeanor and felony convictions are reviewed by the COC. In

addition, the COC reviews allegations of misconduct reported by school districts as well as the public. During FY 09/10 the Committee recommended revocation in 104 cases and 49 denials. In an additional 281 cases reviewed, the COC recommendation resulted in suspensions, public reprovals and private admonitions, which indicates that the Committee did not believe that the misconduct reviewed warranted barring the certificated educator from the classroom. In addition, the COC also closed 150 cases following review. There is a very important fundamental constitutional right to due process guaranteed to certificated educators. Finally, the COC performs an important function, particularly with respect to misconduct arising from a school setting since the members, by statute, include two teachers, a school board representative, and an administrator as well as three public members. Valuable insight and real world knowledge is provided when reviewing non-criminal misconduct allegations. The downside is that all of the members are volunteers who have school district or other employment and their time is limited. Currently, the COC meets 3 days a month. Increasing the time the COC meets could be too great a burden, particularly for the classroom teacher members. It is against this backdrop that the following possible statutory changes are put forth to initiate a discussion.

## Proposed Statutory Changes to Assist the Commission's Effectiveness in Investigating Educator Misconduct

### Provide Increased Investigatory Authority to the Commission

Provide statutory authority to allow the Commission to make preliminary investigatory inquiries about allegations of misconduct and contact any individual or entity that may reasonably have knowledge of the alleged misconduct. Pursuant to court order, the Commission has jurisdiction to conduct an investigation, including requests for information to public agencies, *only* upon receipt of relevant information as specified within and pursuant to Education Code section 44242.5, copy attached as Attachment 7. Currently, unless the Commission receives such information as specified in the manner specified in section 44242.5, it may not proceed to investigate, including the undertaking of a preliminary review of allegations of misconduct.[2]

### Improve School District Reporting

Establish stricter enforcement/consequences for school districts who fail to notify the Commission regarding termination, resignations, suspensions and non-reelection of certificated employees. Several such situations were identified in the audit report which added to delays in processing cases. Currently, the only consequence is to take action against a Superintendent's credential however not all Superintendents hold credentials and frequently the current Superintendent is not the person who was in charge when the District failed to notify the Commission. Providing stricter sanctions could result in more attention being paid to this statutory responsibility on the part of school districts. Sanctions could be in the form of withholding of funding or requiring payment of a fine.

## Proposed Statutory Changes to Provide Increased Protections, Decrease COC Workload and Fund the Discipline Process

[2] A previous attempt to effectuate this statutory change by amending SB 1656 (Chap. 471, Stats, 2002) was unsuccessful due to opposition from teacher groups.

**Increase Suspension Authority**
Currently, the ability to suspend a credential prior to conviction applies to certain sex and drug offenses which are considered so potentially harmful that action to suspend should be taken automatically once charges are filed. For other offenses including serious and violent felonies, a certificated educator continues to hold a valid credential until convicted and sentenced, a process that can take months or years. (School districts often remove the teacher from the classroom during this time.) A statutory change could broaden the authority to suspend a credential during the duration of the criminal matter to ensure that the credential holder could not be employed in a public school while the criminal matter was pending.

**Expand Mandatory Revocation/Denial Statutes**
Current law does not provide that all felony convictions result in mandatory revocations. Historically, those felony convictions that are reviewed by the COC result in a recommendation to revoke. The recommendation can be appealed to an Administrative Law Judge. Although school districts often remove the teacher from the classroom, throughout the process the credential of the educator under review remains valid. Providing for a revocation for all felony convictions would eliminate this issue. This change would also allow more time for the COC to review non-criminal matters.

**Shorten COC Review Process for Applicants**
Existing statutes and regulations provide applicants with the same two-tiered review by the COC and a right to appear personally before the Committee that is available to credential holders. If first time applicants were limited to one paper review, the result would be a faster processing of applicants and cost savings by eliminating one review and the personal appearances. The two tier review was originally enacted to provide credential holders a safeguard because of the possibility of untrue allegations and undue damage to a educator's reputation and employment that could result. The same rationale is not applicable for applicants who are requesting entry to the profession. In FY 09/10 the COC reviewed 207 applicants. This is approximately 12 days of COC meeting time each year. If one stage of the review were eliminated this would allow additional time for the COC's review of other cases.[3]

**Impose Discipline Fees**
Currently, the cost of discipline is spread throughout all credential holders. A model used by other licensing agencies is one which charges fees to those persons who are subject to review. In addition, a processing fee is charged when an appeal is filed. Statutory authority to cite and fine lower levels of discipline and institute a charge over and above the application fee could be imposed to cover increases in discipline costs or support staff increases.

Largely as a result of the settlement program, instituted in 2003, where cases are reviewed for possible settlement before an administrative hearing is requested, the DPP currently monitors 74 credential holders on probation. This program has allowed certificated personnel to remain in the classroom while still ensuring the safety of California's public school children and has resulted in a cost and time savings by eliminating the administrative review process, however it has also resulted in an increased workload to be absorbed by staff. Credential holders benefit because

[3] This statutory change was included as budget trailer language in 2005 (Chap.73, Stats. 2005) and was repealed in 2006 as urgency legislation (Chap. 79 Stats. 2006).

they are allowed to continue employment while on probation. A review of other licensing agencies in the state indicates that some charge a monthly fee (usually $25 a month) to recover some of the costs of probation or diversion monitoring. In addition, the criminal courts charge a sliding fee to recover the costs of probation. Alternatively, the application fee could be raised in order to meet the costs.

**Develop a Fine Schedule for Certain Misdemeanor Cases**
Legislation could establish a statutory based fee schedule in lieu of suspensions and COC review for non-school related non-violent misdemeanor convictions where safety of children was not an issue. There would be no discretion regarding the fines and the COC review would not be required. The criminal conviction has provided the forum for adjudication and presentation of defenses and mitigating factors and the level of review is "beyond a reasonable" doubt.

**Create an Alternative Process for Alcohol Related Convictions**
Currently 40-45% of the criminal arrest/conviction reports involve an alcohol related offense. Because of state and federal employment protections, most of the holders who have an alcohol related problem remain in the classroom and many are monitored by their employers. In addition, those credential holders who have been through the COC review process frequently agree to a reduction in the adverse action recommended by the COC in exchange for probation monitoring. If the educator tests positive for alcohol while monitored adverse action is imposed without a full COC due process review. If a process could be established in statute to provide for a voluntary non-disciplinary process coupled with mandatory probation monitoring for misdemeanor DUI/alcohol related convictions the a major area of the COC caseload could be reduced.

**Eliminate or Amend Breach of Contract Provisions (Education Code Section 44420)**
Under current law the COC may suspend a credential for up to one year if a certificated employee refuses, without good cause, to fulfill a valid contract or leaves without the consent of the Superintendent. This issue is an employment contract matter. Reports of breach of contract are not made on a uniform basis by school districts throughout the state and districts are not required to make a 44420 report. If this section is not eliminated a fine in lieu of suspension could be allowed.

**Establish Waiting Periods for Denied Applicants and Petitioners for Reinstatement**
Under current law an applicant who is denied a credential may reapply 30 days after final action on the denial and one year following a Petition for Reinstatement. Often these short time periods are not enough time to result in a different decision by the COC or the Commission, however the cases add to the workload. Setting a one-year waiting period for denied applicants to reapply and five years following denial of a petition for reinstatement would decrease workload and provide an adequate time period to elapse before a subsequent review.

# Attachment 1

## Responses from the Commission on Teacher Credentialing regarding the Recommendations from the Bureau of State Audit

| BSA Recommendations | Commission Responses |
|---|---|
| **Recommendation One:**<br>To comply with the law and reduce unnecessary workload, the division should continue to notify Justice of individuals for whom it is no longer interested in receiving RAP sheets. | **Response:**<br>The Commission concurs with this recommendation and implementation has already been initiated. |
| **Recommendation Two:**<br>The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee, and to determine the goals and actions necessary to accomplish its mission. | **Response:**<br>The Commission will consider the recommendations of the audit report when it next revises its strategic plan. |
| **Recommendation Three:**<br>To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload. | **Response:**<br>The Commission concurs with the recommendation. |
| **Recommendation Four:**<br>The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice. | **Response:**<br>The Commission requested a formal Attorney General's opinion on May 2, 2011. |
| **Recommendation Five:**<br>Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month. | **Response:**<br>The Commission concurs with this recommendation. Upon receipt of the opinion the Commission will determine the necessary action to take. (Receipt of the opinion is expected in approximately 6 months.) |
| **Recommendation Six:**<br>The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct. | **Response:**<br>The Commission concurs with the recommendation and has completed a comprehensive Division of Professional Practices' Procedure Manual. |

| | |
|---|---|
| **Recommendation Seven:**<br>The division should provide training and oversight, and should take any other necessary steps, to ensure that the case information in the commission's database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information. | **Response:**<br>The Commission concurs with the recommendation. |
| **Recommendation Eight:**<br>To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self disclosures of misconduct, it should develop and implement procedures to create a record of the receipt of these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability. | **Response:**<br>The Commission concurs with the recommendation and implementation has already been initiated through the use of the CASE tracking system. |
| **Recommendation Nine:**<br>To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:<br><br>• Reduction of the time elapsed to perform critical steps in the review process.<br>• Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.<br>• Prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.<br>• An understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases. | **Response:**<br>The Commission concurs with the recommendation and implementation has already been initiated through the use of the CASE tracking system. |
| **Recommendation Ten:**<br>To better ensure that its hiring decisions are fair and that employment opportunity is equally afforded to all | **Response:**<br>The Commission concurs with the recommendations. |

| | |
|---|---|
| eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should do the following:<br>• Prepare and/or formally adopt a comprehensive hiring manual that clearly indicates hiring procedures and identifies parties responsible for carrying out various steps in the hiring process.<br>• Maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.<br>• Hiring managers should provide to the commission's Office of Human Resources documentation supporting the appointment decision, and the Office of Human Resources should maintain this documentation so that it can demonstrate that the hiring process was based on merit and the candidate's fitness for the job. | |
| **Recommendation Eleven:**<br>To ensure that employees understand their right to file either an EEO complaint or grievance, and to reduce any associated fear of retaliation, the commission should do the following:<br>• Include in its EEO policy a statement informing staff members that they may make complaints without fear of retaliation.<br>• Actively notify employees annually of its EEO complaint and grievance processes, including the protection from retaliation included in both.<br>• Conduct training on its EEO complaint process on a periodic basis. | **Response:**<br>The Commission concurs with the recommendation and issued a revised EEO policy on May 9, 2011 and notified employees of the revision. Training will be conducted on a periodic basis. |

# DPP Monthly Activity Summary

Attachment 2

**Activity During April 2011** | **Status as of the last day of April 2011**

## Workload Statistics

| | |
|---|---|
| **Case Load Summary** | |
| Starting Case Load | 2,953 |
| Cases Opened | 303 |
| Cases Closed | 393 |
| Ending Case Load | 2,863 |
| **Work Received in DPP** | |
| Apps | 1,045 |
| Raps | 535 |
| Misc | 14 |
| **Documents Requested** | |
| Arrest | 194 |
| Court | 393 |
| **Mandatory Actions** | |
| Revocations | 13 |
| Denials | 8 |
| Automatic Suspensions | 6 |

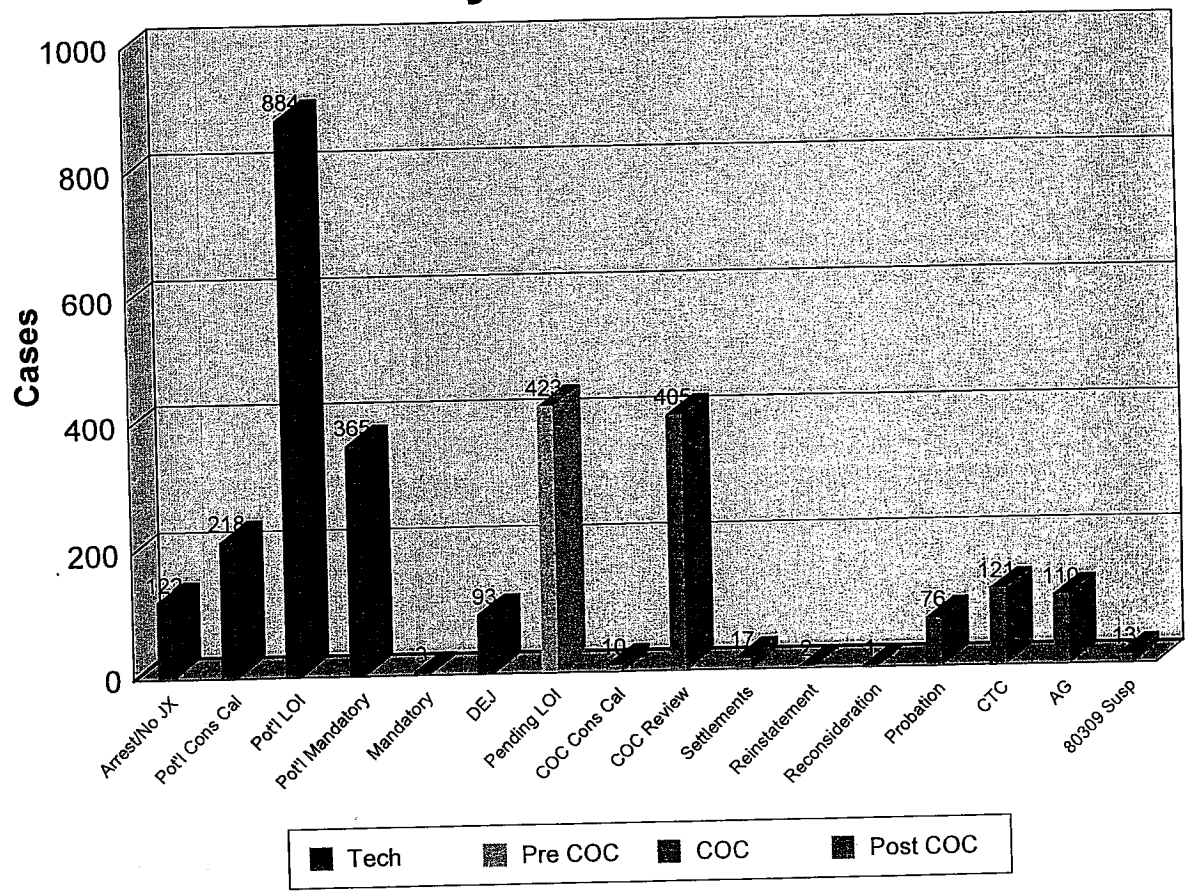
## COC Prep

| | |
|---|---|
| **Future COC Meeting (May 2011)** | |
| LOI | 53 |
| 30-Day | 43 |

## COC Current (April 2011)

| | |
|---|---|
| **Cases to COC** | |
| LOI | 62 |
| 30-Day | 44 |
| Reconsideration | 3 |
| **Cases Completed** | |
| Closed | 11 |
| Granted | 18 |
| **Post COC** | |
| Settlement | 3 |
| AG | 3 |
| CTC | 49 |

## Cases by Status and Type




GS 2H-24

June 2011

**Commission on Teacher Credentialing**
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*Office of the Executive Director*

May 2, 2011

Susan Lee, Supervising Deputy Attorney General
Opinion Unit
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102

**Request for Opinion**

Dear Ms. Lee:

The Commission on Teacher Credentialing (Commission) requests an opinion interpreting the statute delegating authority to the Executive Director as it relates to the discretionary disciplinary process of the Commission and the Committee of Credentials (Committee.) Specifically:

May the Commission pursuant to subdivision (b) of section 44220 of the Education Code delegate to the Executive Director and through him his subordinate staff, the authority to review and determine which cases are required to be presented to the Committee in accordance with subdivision (a) of section 44242.5 of the Education Code?

**Background and Statutory Framework**

The Commission is an agency in the Executive Branch of California State Government. It was created in 1970 by the Ryan Act (Teacher Preparation and Licensing Act of 1970, Education Code Sections 44200 *et. seq*)., and is the oldest of the autonomous state standards boards in the nation. The major purpose of the agency is to serve as a state standards board for educator preparation for the public schools of California, the licensing and credentialing of professional educators in the State, the enforcement of professional practices of educators, and the discipline of credential holders in the State of California.

Section 44220 of the Education Code[1] gives a broad delegation of authority to the Executive Director. Subdivision (b) of section 44220 reads as follows:

> Any power, duty, purpose, function, or jurisdiction that the commission may lawfully delegate is delegated to the executive director, unless the commission specifically has reserved the same for its own action.

The powers and duties provision of the Commission contained in section 44225 sets forth an extensive list of tasks that the Commission is required to perform, but it contains no specific reference to discipline. The Commission has not specifically reserved any functions that relate

[1] All statutory references are to the Education Code unless otherwise noted.

to the discretionary disciplinary review process in regulations promulgated by the Commission (Title 5 of the California Code of Regulations (commencing with section 80000)) nor in the Commission's Policy Manual (Commission on Teacher Credentialing Policy Manual, updated December 2007.) Section 600 of the Policy Manual reiterates and explains the statutory delegation to the Executive Director as follows:

> (b) Any power, duty purpose, function, or jurisdiction which the Commission may lawfully delegate shall be conclusively presumed to have been delegated to the Executive Director unless it is shown that the Commission has specifically reserved the same for its own action.
>
> *****
>
> (e) The Executive Director may authorize such assisting staff to perform in the name of the Executive Director, any of the authorized duties of the Executive Director.

The statutory provisions governing the discretionary[2] review process of disciplinary matters concerning credential holders and applicants for credentials is set forth in the sections 44240 through 44246. Section 44240 requires the Commission to appoint the Committee members in designated categories. The Education Code does not set forth a powers and duties provision for the Committee and there is no Legislative intent language in the statutes relating to the Committee. Section 44241 applies various administrative provisions to the Committee, including the delegation authority to the Executive Director found in section 44220. Section 44242 states that the Committee is under the direct supervision of the Commission and section 44243 states that the Commission may assign administrative duties to the Committee and shall supervise the work of the Committee and provide statements of policy and procedure as it deems appropriate. The Commission addresses its relationship with the Committee in sections 500 through 512 of the Policy Manual.

In order to perform its statutory duties, the members of the Committee meet once a month in Sacramento for three days to review the cases prepared by Commission staff. In order to investigate acts of misconduct, jurisdiction for an initial review must be established under the provisions of subdivision (b) of section 44242.5. At the initial review, the Committee determines whether to close the investigation or to proceed to a formal review pursuant to section 44244. A separate jurisdictional basis is required under subdivision (d) of 44242.5 to proceed to the formal review[3]. Respondents have a right to make a personal appearance at the formal review. The appearances limit the number of formal reviews the Committee can conduct during each meeting. After the formal review, the Committee may close the investigation or recommend an adverse action. The respondent may accept the recommendation of the Committee which is presented to the Commission on a

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[2] The Education Code contains provisions requiring the denial of an application or revocation of a credential by operation of law based on a specified criminal conviction (sections 44346, 44346.1, 44423.6, 44424, 44425, 44425.5, and 44426.) The Commission's involvement in these cases is purely ministerial (*DiGenova v. State Board of Education,* 45 Cal. 2d 255, 260.)

[3] For example, a police report or court document reflecting an individual has been arrested or charged with a crime would provide jurisdiction to conduct an initial review under section 44242.5(b)(1), but a conviction would be required to proceed to formal review under section 44242.5(d)(1). A sworn statement or an employment action provides jurisdiction for both initial and formal review under sections 44242.5(b)(2) and (b)(3) and 44242.5 (d)(2) and (d)(3).

Consent Calendar for adoption pursuant to section 44244.1. The respondent may appeal the recommendation of the Committee pursuant to section 44246 and the matter is adjudicated under the Administrative Procedures Act. The Commission is represented during these proceedings by the Office of the Attorney General.

The Division of Professional Practices (DPP) is the division charged with the responsibility of supporting the work of the Committee. DPP is also the legal department for the Commission and the Director of DPP serves as the General Counsel for the Commission. The Director/General Counsel oversees a staff of attorneys, investigators, analysts, and technicians. In support of the work of the Committee, Commission staff reviews criminal justice summaries (RAP sheets) received from the Department of Justice, reports of misconduct from individuals, reports of changes in employment from school districts, and disclosures of potential misconduct from applicants. The Commission reviews thousands of allegations of misconduct a year; the majority of which involve criminal conduct.[4] Commission staff reviews the criminal conduct, gathers the necessary documents to evaluate the conduct, performs a legal review as to jurisdiction and defensibility, and initiates the discretionary investigation on behalf of the Committee. Additionally, Commission legal staff works with the members of the Committee to identify behaviors that the Committee has determined do not warrant a recommendation of an adverse credentialing action[5].

**Analysis**

The Commission has historically interpreted the intent of the statutes governing the Committee as providing statutory due process prior to any discipline being imposed on a credential holder. The Committee on Education of the Assembly issued a report that addressed perceived deficiencies with the predecessor to the Committee of Credentials when it was under the auspices of the Department of Education (*The Restoration of Teaching: A Report of the Subcommittee of Personnel and Teacher Qualifications*, January 1967, pp. 21-35) which led to the Ryan Act that established the present day Commission and Committee. The recommendations of the subcommittee focused on providing greater due process and fairness to the Committee review process.

The language of subdivision (a) of section 44242.5 reads as follows:

> Each allegation of an act or omission by an applicant for, or holder of, a credential for which he or she may be subject to an adverse action shall be presented to the Committee of Credentials.

In a recent audit report on the Commission, the State Auditor issued a *de facto* legal opinion in which she interpreted the above-referenced language to require "...where the allegation of misconduct is one that gives the committee initial jurisdiction and may subject a credential holder or applicant to adverse action, staff must present it to the committee" (California State Auditor Report 2010-119, p. 108.) Under this interpretation of the statute, every credential

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[4] See Division of Professional Practices Discipline Workload Report FY 2009-2010, Item 2A, December 9-10 Commission meeting.

[5] Although a delegation of authority from the Committee was not viewed as applicable, Commission staff worked closely with the Committee to insure that its members were fully informed of staff's actions and were in agreement. Accordingly, Commission staff presented the Committee with information about the type of cases that cannot support discipline and the process of staff closing these cases was approved unanimously by a quorum of the Committee.

holder or applicant who was arrested for a crime, but not yet convicted would have to be presented to Committee for initial review, regardless of the nature of the crime or the status of the criminal case. The commencement of an initial review requires that the case be presented to the Committee for formal review within six months (section 44244(b)(1)) with a possibility of a six months extension from the chair of the Commission (section 44244(c)). If the individual is not convicted of the crime within this timeframe, the Committee would not have jurisdiction to proceed to the formal review absent Commission staff obtaining sworn statements from witnesses in multiple ongoing criminal investigations scattered throughout the state of California. The Commission has never taken the view that criminal charges that do not result in a conviction should routinely[6] be pursued given the statutory relationship between initial review jurisdiction under 44242.5(b)(1) [official documents from court or law enforcement agency] and formal review jurisdiction under 44242.5(d)(1) [documents supporting a conviction].

The State Auditor's opinion is also based on the assumption that the Committee has delegation authority rather than the Commission. Based on the statutory structure outlined above, the Commission has taken the position that the Committee performs an invaluable function, but has no authority to delegate. All delegations of authority flow from the Commission (sections 44220, 44241, 44242, 44243, Policy Manual sections 500-512, and 600). Recognizing that a legal opinion of the State Auditor has no binding effect, the Audit recommended that the Commission seek a legal opinion from the Attorney General to provide guidance on this issue.

Historically, the "shall" language of this passive-voiced sentence in section 44242.5 has been interpreted by the Commission to mean that no discipline may be imposed on an applicant or credential holder unless the allegations are reviewed by the Committee. Commission staff, on behalf of the Commission, presents allegations of misconduct that have been reviewed for jurisdictional and legal sufficiency.

The Education Code does not contain a definition of "misconduct" and provides no specific guidance as to what criminal behavior has a sufficient nexus to holding a credential to warrant a discretionary review and a possible adverse action. Section 44421 provides a general statement for the grounds for imposing an adverse action:

> The Commission on Teacher Credentialing shall privately admonish, publicly reprove, revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

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[6] On relatively rare occasions, the Commission will obtain initial review jurisdiction pursuant to a police report or court document and attempt to obtain formal review jurisdiction by obtaining a sworn statement from an individual with firsthand knowledge of the alleged misconduct. These cases usually involve an allegation of sexual misconduct with a minor where the Commission has determined that if a sworn statement can be obtained the Commission has a reasonable probability of prevailing in the matter because of its lower burden of proof and the fact that the behavior does not have to be criminal to be unprofessional or immoral for licensing purposes. Current staff and resources do not allow such action in every case.

Grounds for denying an application are found in section 44345:

> The commission may deny any application for the issuance of a credential or for the renewal of a credential made by any applicant who falls under any of the following categories:
>
> (a) Lacks the qualifications which are prescribed by law or regulations adopted by the commission pursuant thereto.
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> (b) Is physically or mentally so disabled as to be rendered unfit to perform the duties authorized by the credential for which he or she applies. However, the mere fact that an applicant has sought or received psychiatric treatment shall not be considered as preliminary evidence of mental disability and shall not provoke special scrutiny of such applicant's qualifications for a credential.
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> (c) Is addicted to the use of intoxicating beverages to excess.
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> (d) Is addicted to the use of controlled substances.
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> (e) Has committed any act involving moral turpitude.
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> (f) Has had a certification document revoked.
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> (g) Has intentionally practiced or attempted to practice any material deception or fraud in his or her application.
>
> (h) Fails or refuses to furnish reasonable evidence of identification or good moral character.
>
> (i) Has been convicted of any offense defined in subdivision 1 of Section 314 of the Penal Code prior to September 7, 1955.
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> Any denial pursuant to subdivisions (a) to (e), inclusive, shall be based upon reasons related to the applicant's fitness to teach or fitness to perform other duties for which that applicant is certificated, or competence to perform the duties which the credential would authorize the applicant to perform.

Based on this statutory guidance, it is not always clear which criminal behavior can sustain an adverse action. Section 44421 lists "unprofessional conduct" and "evident unfitness for service," but does not define either term. Section 44345 lists moral turpitude as grounds for denying an application, but both alcohol and drug use appear to be limited to cases involving addiction. The seminal case that is now applied to almost all misconduct involving licensing is *Morrison v. State Board of Education*, 1 Cal. 3d 214 (1969), which list the so called *Morrison* factors, as follows:

> We therefore conclude that the Board of Education cannot abstractly characterize the conduct in this case as 'immoral,' 'unprofessional,' or 'involving moral turpitude' within the meaning of section 13202 of the Education Code unless that conduct indicates that the petitioner is unfit to teach. In determining whether the teacher's conduct thus indicates unfitness to teach the board may consider such matters as the likelihood that the conduct may have adversely affected students or fellow teachers, the degree of such adversity anticipated, the proximity or remoteness in time of the conduct, the type of teaching certificate held by the party involved, the extenuating or aggravating circumstances, if any, surrounding the conduct, the praiseworthiness or blameworthiness of the motives resulting in the conduct, the likelihood of the recurrence of the questioned conduct, and the extent to which disciplinary action may inflict

> an adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers. These factors are relevant to the extent that they assist the board in determining a teacher's fitness to teach, i.e., in determining whether the teacher's future classroom performance and overall impact on his students are likely to meet the board's standards *id.*, at pp. 229-230.

Even though *Morrison* involved non criminal conduct, it is now routinely applied to criminal behavior. In a case recently litigated by the Commission, an Administrative Law Judge (ALJ) issued a Proposed Decision dismissing an accusation imposing a 60 day suspension on a credential holder who had been convicted of three instances of driving under the influence of alcohol over a lengthy period of time. The credential holder introduced evidence that she was not addicted to alcohol and persuaded the ALJ that the conduct could not be found to be unprofessional under the Education Code and applicable law. The Commission rejected the Proposed Decision, called for the transcript, and issued its own decision finding that the behavior was unprofessional. The respondent sought judicial review and ultimately, the Court of Appeals for the Third Appellate District, using the Morrison factors, held that the three convictions supported an adverse action under applicable law. (*Broney v. California Commission on Teacher Credentialing* (2010) 184 Cal.App.4th 462.) Applying the *Morrison* factors, the legal staff on behalf of the Commission determines that a significant portion of the criminal misconduct involving credential holders or applicants for a credential cannot legally support an adverse action and those convictions have not been presented to the Committee. This is a case-by-case review and cases involving minor crimes with aggravating circumstances that may support discipline are presented to the Committee.

The contemporaneous administrative construction of an enactment by those charged with its enforcement is entitled to great weight, and courts generally will not depart from that construction unless it is clearly erroneous or unauthorized (*People ex rel. Lungren v. Superior Court* (1996) 14 Cal.4th 294, 309). The Commission is charged with interpreting its governing statutes in a manner that is true to the Legislative intent that allows the agency to effectively carry out its statutory functions. Statutes must be construed so as to give a reasonable and commonsense construction that is consistent with the apparent purpose and intention of the lawmakers, that is practical rather than technical, and that leads to wise policy rather than mischief or absurdity (*People v. Turner* (1993) 15 Cal.App.4th 1690, 1696). Interpreting subdivision (a) of section 44242.5[7] to require a body that sits three days a month and has a very full agenda to review every arrest or even every conviction involving a credential holder or applicant for a credential holder that takes place throughout the state of California could result in such an absurdity.

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[7]Although an attempt might be made to argue that section 80308 of Title 5 of The California Code of Regulations provides authority for a review other than that found in section 44242.5, the Commission was unsuccessful in defending a Writ of Mandate, *Hewitt v. CTC*, Sacramento County Superior Court No. 98CS01418 (1999) and did not file an appeal and is therefore binding on the agency. The decision limits the Commission's authority to investigate to the process set forth in section 44242.5 and specifically states that section 80308 of Title 5 of the California Code of Regulations does not provide a separate investigative authority. This case could be construed to mean that all cases presented to the Committee pursuant to section 44242.5 must go through the formal process set forth in subdivision (b) through (f) of the statute.

Unfortunately, subdivision (a) of section 44242.5 has not been the subject of litigation that resulted in a reported case that can be cited as precedent. An individual did file a Petition for a Writ of Mandate asserting that subdivision (a) of section 44242.5 required that his complaint against a credential holder be presented to the Committee for review (*Barrera v. Commission on Teacher Credentialing*, SF Superior Court CPF 10510855 (2010)). The Deputy Attorney General representing the Commission made a number of arguments in opposition of the writ, but after the case was briefed by both sides, the Court did not issue a tentative decision and posed the following question to be argued at the hearing on the matter:

> On calendar for Thursday, December 16, 2010, Line 11, PETITIONER ARTURO BARRERA, IN HIS OFFICIAL CAPACITY AS GLENN COUNTY SUPERINTENDENT OF SCHOOLS' Motion For Issuance Of Peremptory Writ Of Mandate, A HEARING IS REQUIRED. DOES SECTION 44242.5 (A) ALLOW DISCRETION CONCERNING WHICH MATTERS ARE REFERRED TO THE COMMITTEE OF CREDENTIALS?

After hearing argument, the Court issued the following ruling:

> LAW AND MOTION 301, RULING - A R G U E D; PETITIONER ARTURO BARRERA, IN HIS OFFICIAL CAPACITY AS GLENN COUNTY SUPERINTENDENT OF SCHOOLS' MOTION FOR ISSUANCE OF PEREMPTORY WRIT OF MANDATE IS DENIED. THE COURT FINDS THAT SECTION 44242.5 CANNOT BE READ TO IMPOSE A MANDATORY DUTY ON RESPONDENT TO PRESENT PLAINTIFF'S ALLEGATIONS TO THE COMMITTEE.

The Commission is aware such a case cannot serve as true precedent; however, it does serve as evidence that at least in this instance, subdivision (a) of section 44242.5 was not found to require an allegation of misconduct to be presented to the Committee.

**Conclusion**

In construing statutory language, a court must consider the language in the context of the entire statute and the statutory scheme of which it is a part. The court is required to give effect to statutes according to the usual, ordinary import of the language employed in framing them. If possible, significance should be given to every word, phrase, sentence, and part of an act in pursuance of the legislative purpose. When used in a statute, words must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear. Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole (*Dubois v. Workers' Comp. Appeals Bd.* (1993) 5 Cal.4th 382, 388).

The Commission is of the opinion that the statutory scheme governing the discretionary review process of the Committee when viewed in context with the statutes addressing the relationship of the Committee to the Commission and the delegation of authority to the Executive Director and his staff supports the following conclusion:

Only those allegations of misconduct that legal staff, acting on behalf of the Commission through its delegation of authority to the Executive Director, determine can support an adverse action are required to be presented to the Committee under subdivision (a) of section 44242.5.

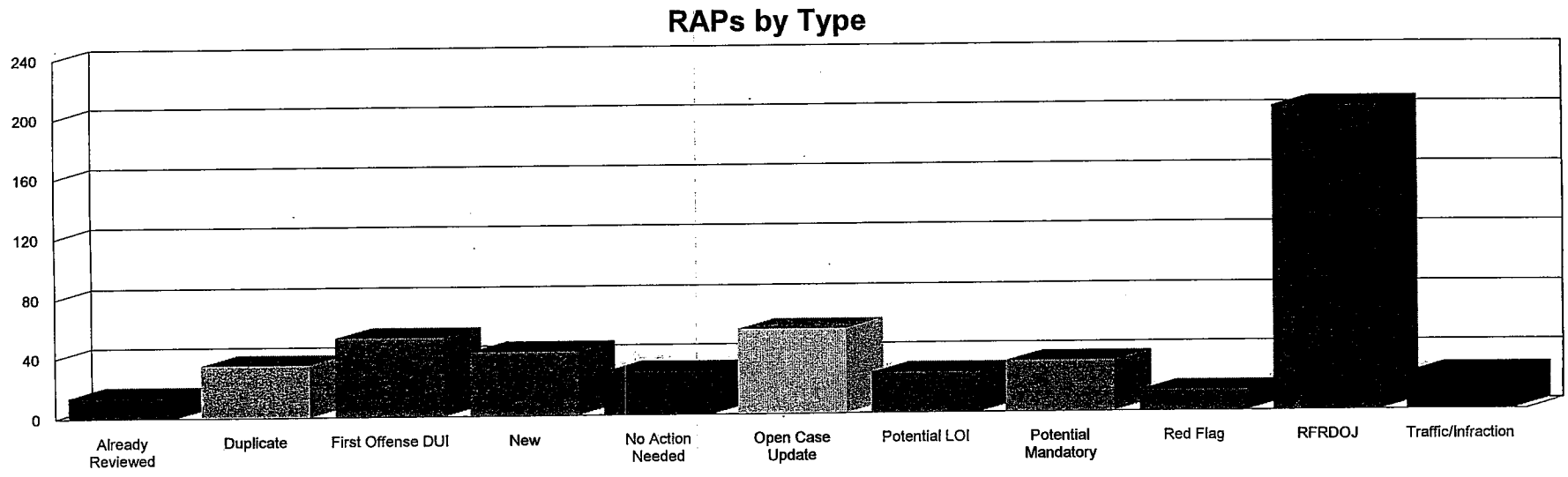
If you have any questions please contact Mary Armstrong, General Counsel, at marmstrong@ctc.ca.gov.

Respectively submitted,

Dale A. Janssen
Executive Director

Attachments

DPP RAP Sheet Processing Statistics for April 2011




**Total RAPS: 535**
**Possible Cases: 157**

## RAP CATEGORIES

Rap sheets are assigned to different categories depending on the level of review necessary which include determining factors, such as prior misconduct, type of current misconduct, type of credential held.

Raps are currently processed in two different groups. Raps that need additional processing and may result in a case file (*) and Raps that do not require additional processing.

## CATEGORIES/DEFINITIONS

**Already Reviewed:** This is a rare category. Subsequent rap notifications are usually new misconduct. However, rap notifications may be received for misconduct previously reviewed.

**Duplicate:** If a Respondent has been fingerprinted on multiple occasions, the same rap sheet will be submitted to CTC on more than one occasion. The arrest/conviction information will be identical on these raps. The original fingerprint date will be different.

**First Offense DUI:** If a rap notification is received with DUI related information, DPP may review a singular DUI offense without any further processing, if it is the only misconduct within the past 5 years. *Effective May 1, 2011* – all First Offense DUI's are considered Consent Calendar items and will go to COC.

***New:** Respondent has a rap with new charges, and a case needs to be opened.

**No Action Necessary (NAN):** Raps are considered No Action Necessary when a rap is received that reflects PROSECUTION RELEASE-DETENTION ONLY-LACK of SUFFCIENT EVIDENCE, or INADMISS SEARCH & SEIZ. These raps indicate there might have been an arrest, but no formal charges were filed against Respondent. In many of these cases, we do not have jurisdiction to review the case, and therefore No Action is Necessary. Cases are opened when they involve child crimes.

***Open Case Update:** A rap sheet may be categorized as Open Case Update if there is already an established case open regarding prior misconduct that is being reviewed by staff.

***Potential LOI:** The level of misconduct requires Committee review and are categorized Potential LOI. The Respondent's prior case history and current misconduct are all factored in to determine a level of review.

***Potential Mandatory:** The level of misconduct on the rap notification may require a Mandatory action by CTC upon receipt of a criminal conviction. Potential Mandatory actions may result in an auto-suspension while court charges are pending. These raps are priority and require immediate processing.

**Red Flag:** DPP currently has a date requirement in which we allow Respondents with an expired credential 3 months before officially removing their fingerprint clearance. Once FP clearance is removed, a Respondent MUST be re-fingerprinted. Red Flagging notifies all departments that DPP has information that must be reviewed prior to approval and granting of any/all applications.

# Rap Categories

**RFRDOJ:** (Red Flag Reject Department of Justice) If a Respondent no longer has a valid credential or an application in Siebel, his rap sheet will be marked as RFRDOJ. An RFRDOJ rap occurs when the Respondent is NOT holding a credential, and their misconduct did not occur while they were holding. The Rap sheet is returned to DOJ and requires that Respondent be re-fingerprinted when submitting a subsequent application.

**Traffic:** Rap notifications with simple traffic citations may be reviewed depending on Respondent's prior misconduct (DUI, multiple license violations). These raps generally require no further processing.

**Infraction**: Rap notifications regarding minor misdemeanor to an infraction, or the charge may be a local ordinance violation, these raps may be categorized as Infractions. This rap requires no further processing.

# 2A

## Information

*Professional Practices Committee*

## Division of Professional Practices Discipline Workload Report FY 2009-2010

**Executive Summary:** This agenda item is a status report on the discipline workload of the Division of Professional Practices for FY 2009-2010.

**Recommended Action:** For information only

**Presenter:** Mary Armstrong, Director, Division of Professional Practices

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

December 2010

# Division of Professional Practices Discipline Workload Report FY 2009-2010

**Introduction**
This agenda item is a status report on the discipline workload of the Division of Professional Practices (DPP) for FY 2009-2010.

**Background**
In addition to administering the laws and rules governing the issuance of credentials and approving educator preparation programs, the Commission on Teacher Credentialing (Commission) enforces professional conduct standards. In order to ensure a high level of public confidence in California teachers and other credentialed public school employees, DPP through the statutorily created Committee of Credentials (Committee), monitors the moral fitness and professional conduct of credential applicants and holders. The Commission has the authority to discipline an applicant or holder for fitness-related misconduct.

Applications and credentials may be adversely affected based on the applicant's or holder's immoral or unprofessional conduct, evident unfitness for service, refusal to obey laws regulating certified duties, unjustified refusal to perform under an employment contract, addiction to intoxicating beverages or controlled substances, commission of any act of moral turpitude, or intentional fraud or deceit in an application.

The Commission appoints the seven members of the Committee to review all alleged misconduct. The Committee includes three credential holders employed in public schools (one elementary teacher, one secondary teacher, and one administrator), one school board member, and three public members. The Committee meets once each month at the Commission's office in Sacramento and has the authority to close an investigation where the evidence does not support the allegations or to recommend discipline where the evidence supports the allegations. All discipline recommendations made by the Committee are subject to challenge and appeal by the credential applicant or holder and final approval by the full Commission.

The discipline investigation process is confidential, and only the discipline recommendation of the Committee and the Commission's final adoption of a disciplinary action are public information.

**DPP Discipline Workload FY 2009-2010**

**Reports of Misconduct**
DPP obtains jurisdiction to initiate an investigation of misconduct and/or moral fitness when it receives a report of an employment action taken as a result of misconduct by an employing school district; a complaint, under penalty of perjury, of alleged misconduct made from someone with firsthand knowledge; and as a result of reports of criminal convictions made by the Department of Justice (DOJ) and/or as a result of self-disclosure on an application. During FY 2009-10, the following reports of misconduct, by type were reviewed:

**Reports of Misconduct**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| School District Reports | 139 | 238 | 211 | 231 | 241 |
| Complaints under penalty of perjury | 139 | 47 | 223 | 135 | 130 |
| All others (includes DOJ reports and self Disclosures) | 4846 | 4490 | 3376 | 3777 | 5352 |
| **Total** | 5124 | 4775 | 3810 | 4143 | 5723 |

**Caseload**

Once jurisdiction is established, the reports of misconduct are reviewed by staff. A determination is made whether this alleged misconduct comes within the Commission's statutory authority. If yes, then a case is opened. The FY 2009-10 caseload is as follows:

**New Cases Opened**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Applicants | 851 | 423 | 348 | 409 | 360 |
| Applicants/Holders | 453 | 737 | 672 | 561 | 558 |
| First time applicants | 2069 | 2665 | 2364 | 2404 | 2074 |
| Holders | 1271 | 1357 | 1283 | 820 | 2624 |
| Waivers | 81 | 74 | 84 | 94 | 46 |
| **Total** | 4725 | 5256 | 4751 | 4288 | 5662 |

**Cases Opened Per Fiscal Year by Type**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Application | 1677 | 2010 | 1537 | 1748 | 1221 |
| Application & RAP | 1654 | 1676 | 1549 | 1728 | 1913 |
| Rap Sheet | 1408 | 672 | 303 | 256 | 2115 |
| School District/County Office of Education | 139 | 238 | 211 | 221 | 241 |
| Other | 69 | 115 | 153 | 49 | 126 |
| Arresting Agency | 4 | 5 | 26 | 17 | 9 |
| Affidavit/Complaint | 139 | 47 | 21 | 15 | 27 |
| Breach of Contract | 8 | 4 | 3 | 8 | 21 |
| State Test Misconduct | 0 | 8 | 3 | 2 | 10 |
| Waiver | 18 | 1 | 11 | 95 | 46 |
| **Total** | 5116 | 4776 | 3817 | 4139 | 5729 |

**Committee Review**

After a case is opened, the matter is prepared for initial review by the Committee. The review is governed by statute and at any point the Committee can close the case on jurisdictional or evidentiary grounds. Following its final review, the Committee makes a recommendation regarding whether or not to take adverse action. The Committee's recommendation is placed on the Commission's Consent Calendar for final action.

**Cases Completed**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Staff Action | 5171 | 4224 | 3133 | 3087 | 4630 |
| COC Grant/Close | 562 | 585 | 574 | 538 | 150* |
| Commission | 553 | 685 | 695 | 595 | 712 |
| **Total** | 6286 | 5494 | 4402 | 4220 | 5492 |

*Reflects change in procedure initiated in July 2009 which shifted portion of COC workload to staff action category resulting in increased number of staff actions.

**Final Actions**

Final actions fall into two categories. Mandatory actions are imposed by statute. The mandatory actions are delegated by the Commission to the Executive Director and are noticed on the Consent Calendar at the next scheduled Commission meeting. Discretionary actions are delegated by statute to the Committee for review and then the Committee's recommendation is sent to the Commission for final action. The Committee's recommendation can alternatively be appealed before a final action is taken and result in administrative adjudication (see next page).

**Commission Final Actions FY 05/06 through 09/10**

**Mandatory Actions**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Revocations | 114 | 114 | 103 | 90 | 202 |
| Denials | 38 | 36 | 42 | 29 | 64 |

**Discretionary Actions**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Revocation | 245 | 197 | 166 | 131 | 104 |
| Denials | 107 | 82 | 65 | 44 | 49 |
| Suspension | 172 | 267 | 279 | 194 | 207 |
| Public Reproval | 56 | 78 | 82 | 66 | 55 |
| Private Admonition | 16 | 16 | 24 | 20 | 19 |
| **Total Mandatory and Discretionary Actions** | 748 | 790 | 761 | 574 | 700 |

**Administrative Adjudication**

After its administrative review, the Committee may close its investigation or make a recommendation of adverse action. Respondents are provided notice of the recommendation and have the right to request an administrative appeal. The Commission is represented by the Attorney General and the matter is heard by an Administrative Law Judge who issues a proposed decision to the Commission. The Commission can adopt the proposed decision or reject it and call for the transcript. After review of the transcript, the Commission can adopt the Proposed Decision or issue its own decision.

**Administrative Adjudication Workload FY 05/06 through 09/10**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Appeals Requested | N/A | N/A | 103 | 161 | 159 |
| Settlements (Commission) | N/A | N/A | 68 | 62 | 46 |
| Settlements (Attorney General) | N/A | N/A | 15 | 10 | 24 |
| Proposed Decisions Adopted by CTC | N/A | N/A | 7 | 10 | 12 |
| Decisions Issued by CTC | N/A | N/A | 8 | 5 | 3 |
| Judicial Actions (Writs) | N/A | N/A | 2 | 2 | 6 |

**Commission Disciplinary Workload**

The Commission hears petitions for reinstatement, as provided by the Administrative Procedures Act, in closed session to determine whether petitioners whose credentials were revoked are fit to again hold a credential.

**Petitions for Reinstatement FY 05/06 through 09/10**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Granted | 3 | 7 | 5 | 9 | 9 |
| Denied | 7 | 8 | 10 | 15 | 15 |
| **Total Petitions** | 10 | 15 | 15 | 24 | 24 |

**Other DPP Discipline Activities**

In addition to the workload described above DPP provides telephonic and electronic mail responses to stakeholders and the public. A new telephone system was also fully implemented in 2009 to forward discipline related calls from the Commission's toll-free number to DPP. The number of telephone calls for does not reflect calls made directly to DPP.

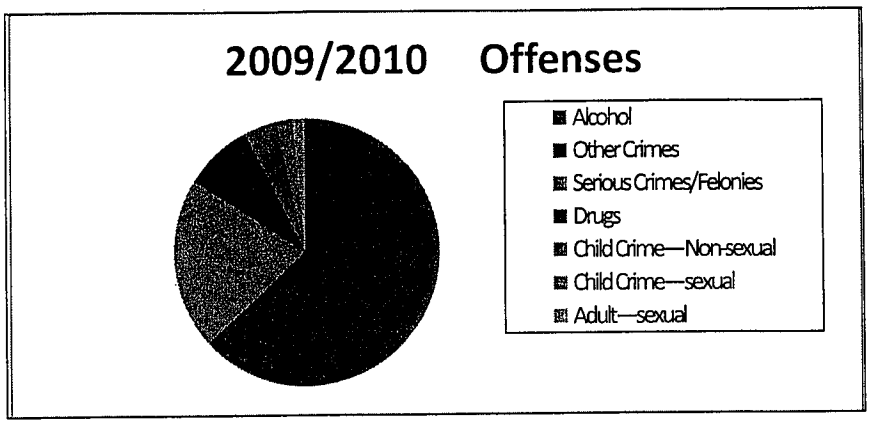
| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| E-mails Sent to DPP Info | N/A | N/A | 592 | 4,588 | 5,630 |
| Phone Calls | N/A | N/A | 37,448 | 9,801 | 8,088 |

**Analysis of Types of Criminal Misconduct**

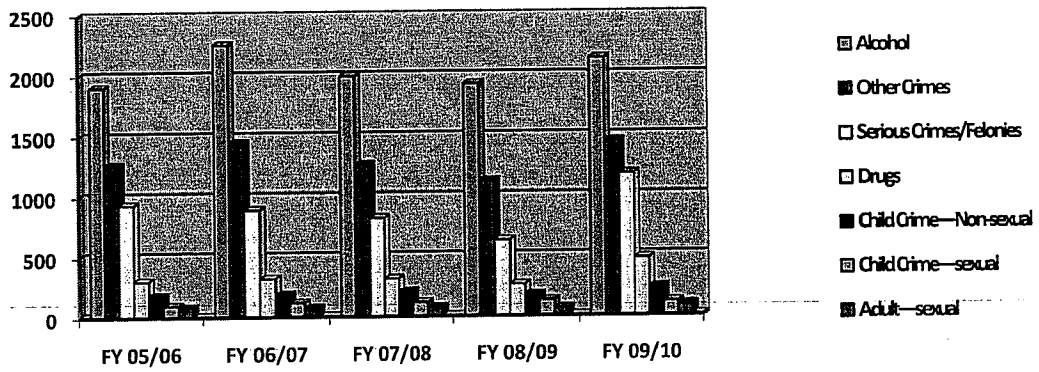
Of the total number of allegations of criminal misconduct reviewed during FY 2009-10, one-third of the offenses were alcohol related. This trend is consistent with the criminal misconduct over the previous four years.

**Cases Opened by Offense Code FY 06 through 09-10**

| | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 |
|---|---|---|---|---|---|
| Alcohol | 1901 | 2258 | 1990 | 1927 | 2136 |
| Other Crimes | 1259 | 1438 | 1258 | 1118 | 1446 |
| Serious Crimes/Felonies | 930 | 887 | 813 | 626 | 1174 |
| Drugs | 295 | 315 | 308 | 257 | 473 |
| Child Crime—Non-sexual | 175 | 179 | 201 | 173 | 234 |
| Child Crime—Sexual | 89 | 112 | 110 | 126 | 112 |
| Adult—Sexual | 76 | 67 | 71 | 61 | 87 |
| **Total** | 4725 | 5256 | 4751 | 4288 | 5662 |




**Criminal Misconduct Cases by Type FY 05/06 through 09/10**




**Improvements Initiated During FY 2009-2010**

DPP continues to review its processes and procedures to determine both efficiencies and streamlining of its work. The goal is to balance its mission of protection of California's public school children with the due process rights of credential holders and applicants. In the last half of FY 2008-2009 and throughout 2009-2010, DPP and the Attorney General's Office faced additional challenges with the imposition of furloughs for DPP and budget cuts at the Attorney General's Office. To that end DPP initiated the following improvements and changes during FY 2009-10.

- **Case Tracking System**
  Final implementation of a computer based tracking system to identify and track documents, applications and cases as they are processed through DPP. This system provides weekly reports to staff members and management to ensure that cases are processed in a timely manner. In addition the system also identifies high priority cases and notifies management when activities are not completed and establishes a weekly report to track applications as soon as the application is assigned to DPP.

- **Improvements in Management of Criminal History Information Reports**
  As a result of staff turnover, training issues and furloughs DPP faced a backlog in processing lower level criminal history information reports (raps) sent from the Department of Justice to the Commission. Unlike applicant information which is for the most part processed electronically, these reports were in a paper format sent to CAW and then to DPP. Many of the raps received in this manner do not result in a case being opened or considered by the COC. It was, however, necessary to sort and process the reports, enter relevant information as necessary into the system, track arrests to determine if the arrest led to a conviction, and, in some cases, obtain necessary police reports and court documents. In order to streamline the procedure, in early 2010 DPP moved to a paperless receipt and sort of raps. Raps are now sent electronically to DPP, entered in the system, sorted by priority and tracked, all on a same day basis. While this does not eliminate the workload that results if a case is opened, it does eliminate the number of raps waiting to be processed.

- **Streamline Processing of Pending COC Cases**
  In early July 2009, as a result of both the limited amount of time the volunteer COC members have each month to meet and consider cases and the imposition of furloughs cancelling several meeting dates, staff and the Chair of the COC met with the Executive Director to discuss strategies to streamline the processing of pending COC cases. It was decided that matters which were unlikely to rise to the level of an Education Code §44242.5(b) informal review by the COC which previously had been presented to the COC on a consent agenda would be delegated to staff to grant or close. (These matters consist of a review of misconduct that was not the type which results in a COC recommendation for discipline because of various factors such as the length of time since the misconduct occurred, lack of recurring misconduct or evidence of rehabilitation provided with an application.) The new procedure has resulted in processing these matters one to seven weeks faster than the previous practice. The biggest benefit is to applicants who are awaiting a review and school districts that are not forced to remove an applicant from the classroom unnecessarily.

- **Consultation with Attorney General's Staff**
  Periodic meetings are held with the staff at the Attorney General's Office to discuss the administrative workload process. Staff from both offices are developing and refining a case priority system to resolve cases at the administrative level in a timely manner. In June 2010, DPP and the Attorney General's office put in place a new process to handle high priority cases which involves direct assignment to a Deputy Attorney General who drafts the accusation rather than assignment to legal analysts. It is anticipated that this process will result in reducing the time it takes to bring a case to administrative hearing by a minimum of 12 months.

**Next Steps**

In FY 2010-2011, the Commission will complete the Credential Web Interface Project (CWIP) which will upgrade the Commission's existing computer system. DPP plans as part of the CWIP improvement project to achieve increased automation of its records, improve electronic monitoring of workload, improve DPP's continued use of technology to achieve greater efficiency and improve

and provide real time notification to school districts and the public regarding disciplinary actions. This will allow increased effectiveness in protecting California's public school children while at the same time providing credential holders and applicants with both due process and a faster processing time.

# Criminal Offenses Requiring Denial or Revocation of Teaching Credentials

## Table 1 – Enumerated Crimes and Violent/Serious Felonies in Education Code Sections 44346.1 and 44424

| Penal Code sections | Descriptions | Enumerated Crimes[1] | Violent Felonies[2] | Serious Felonies[3] |
|---|---|---|---|---|
| 136.1 | Intimidation of witness and victims | | √ | √ |
| 186.22 | Any felony offense, which would also constitute a violation of section 186.22 (participation in criminal street gang) | | | √ |
| 187 – 191 | Murder | √ | √ | √ |
| 187/664 | Attempted murder | √ | √ | √ |
| 191.5 | Gross vehicular manslaughter while intoxicated | | | √[4] |
| 192(a) | Voluntary manslaughter | √ | √ | √ |
| 192(c)(1) or (3) | Vehicular manslaughter | | | √[4] |
| 192.5(a) or (c) | Vehicular manslaughter while operating vessel | | | √[4] |
| 193 | Manslaughter | √ | | |
| 194 | Death of victim within 3 years and a day | √ | | |
| 203 | Mayhem | √ | √ | √ |
| 205 | Aggravated mayhem | √ | √ | √ |
| 206 | Torture | √ | | |
| 207 | Kidnapping | √ | √ | √ |
| 208 | Kidnapping – victim under 14 | √ | √ | √ |
| 209 | Kidnapping for ransom or to commit other crimes | √ | √ | √ |
| 209.5 | Kidnapping during carjacking | √ | √ | √ |
| 210 | Pose as kidnapper to extort | √ | | |
| 210.5 | Taking hostages | √ | | |
| 211 | Robbery | √ | √ | √ |
| 212.5 | Robbery | √ | √ | √ |
| 214 | Train robbery | √ | | |
| 215(a) | Carjacking | √ | √ | √ |
| 217.1 | Assault on public officials | √ | | |
| 220 | Assault w/intent to commit mayhem, rape, sodomy, and oral copulation | √ | √ | √ |
| 222 | Administering stupefying drugs during felony | √ | | |
| 244 | Assault w/caustic chemicals | √ | | √ |

[1]Enumerated crimes are listed in Education Code § 44424 and includes misdemeanors except as otherwise noted.
[2]Violent felonies are listed in Penal code § 667.5(c).
[3]Serious felonies are listed in Penal Code §§ 1192.7(c) and 1192.8.
[4]The offense is only a serious felony when it involves the personal infliction of great bodily injury on any person other than an accomplice, or the personal use of a dangerous or deadly weapon within the meaning of Penal Code §§ 1192.7(c)(8) or (23).

| Penal Code sections | Descriptions | Enumerated Crimes[1] | Violent Felonies[2] | Serious Felonies[3] |
|---|---|---|---|---|
| 245 | Assault w/deadly weapon or by the means of force likely to produce great bodily injury | √ | | √ |
| 245.2 | Assault w/deadly weapon/force on driver | | | √ |
| 245.3 | Assault w/deadly weapon/force on custodial Officer | | | √ |
| 245.5 | Assault w/deadly weapon/force on school Employee | | | √ |
| 246 | Shooting at inhabited dwelling | | | √ |
| 261 | Rape | √ | √[5] | √ |
| 261.5 | Unlawful sexual intercourse w/minor (statutory Rape | √ | | |
| 262 | Rape of spouse | √ | √[6] | |
| 264.1 | Voluntarily acting in concert with another…to commit an act in §§ 261, 262, or 289 | √ | √ | √ |
| 265 | Abduct women for marriage, etc. | √ | | |
| 266 | Entice minor female for prostitution, etc. | √ | | |
| 266a | Take person for prostitution w/o consent | √ | | |
| 266b | Take person for illicit relations | √ | | |
| 266c | Inducing consent of sexual act by fraud or fear | √ | | |
| 266d | Receive money for cohabitation placement | √ | | |
| 266e | Purchase a person to work as prostitute | √ | | |
| 266f | Sell person for immoral purpose | √ | | |
| 266g | Place wife in brothel | √ | | |
| 266h | Pimping/pimping a minor | √ | | |
| 266i | Pandering/pandering with a minor | √ | | |
| 266j | Procure a child under 14 years for lewd or lascivious acts | √ | | |
| 267 | Abduct minor for prostitution | √ | | |
| 272 | Contributing to the delinquency of a minor (involving lewd or lascivious conduct) | √ | | |
| 273a | Willful cruelty to child | √ | | |
| 273ab | Assault resulting in death to child | √ | | |
| 273d | Corporal punishment or injury to child | √ | | |
| 273f | Sending minor to immoral place | √ | | |
| 273g | Immoral acts before child | √ | | |
| 278 | Child stealing | √ | | |
| 285 | Incest | √ | | |
| 286 | Sodomy | √ | √ | √ |
| 286.5 | Sexual assault on animal | √ | | |
| 288 | Lewd or lascivious acts | √ | √[7]√ | √[6] |
| 288.2 | Harmful matter sent w/intent to seduce minor | √ | | |
| 288.5 | Continuous sexual abuse of child | √ | √ | √ |
| 288a | Oral copulation | √ | √ | √ |
| 289(a) | Forcible acts of sexual penetration | | √ | √ |

[5]Includes only violations of Penal Code §§ 261(a)(2) or (6).
[6]Includes only violations of Penal Code §§262(a)(1) or (a)(4).
[7]Includes only offenses involving a child under 14 years.

| Penal Code sections | Descriptions | Enumerated Crimes[1] | Violent Felonies[2] | Serious Felonies[3] |
|---|---|---|---|---|
| 422 | Making criminal threats | | | √ |
| 424 | Embezzlement by public officer | √ | | |
| 425 | Failure to pay public money | √ | | |
| 451 | Arson | | | √ |
| 451(a) or (b) | Arson | | √ | |
| 459 | Burglary in the first degree, as defined in 460(a) | | √[8] | √ |
| 484 | Theft of personal property (felony only) | √ | | |
| 484b | Diversion of funds (felony only) | √ | | |
| 484c | Obtain money by false voucher (felony only) | √ | | |
| 484e | Theft of access card (felony only) | √ | | |
| 484f | Forge access card (felony only) | √ | | |
| 484g | Fraudulent use of access card (felony only) | √ | | |
| 484h | Access card offenses by retailer (felony only) | √ | | |
| 484i | Possess access card equipment (felony only) | √ | | |
| 484j | Publication of access card number w/intent to defraud (felony only) | √ | | |
| 484.1 | False representation to pawnbroker (felony only) | √ | | |
| 485 | Theft: Appropriate lost property (felony only) | √ | | |
| 487 | Grand theft (felony only) | √ | | √[9] |
| 487a | Grand theft: animal carcass (felony only) | √ | | |
| 487b | Grand theft: convert real property (felony only) | √ | | |
| 487d | Grand theft: gold dust, mining equip (felony only) | √ | | |
| 487e | Grand theft: dog (felony only) | √ | | |
| 487g | Grand theft: animal for sale/research (felony only) | √ | | |
| 503 | Embezzlement | √ | | |
| 504 | Embezzlement | √ | | |
| 518 | Extortion | | √ | |
| 4500 | Assault w/force by a prisoner | | | √ |
| 4501 | Assault w/deadly weapon by a prisoner | | | √ |
| 4503 | Holding of hostages by a prisoner | | | √ |
| 11418(b) or (c) | Using weapons of mass destruction | | √ | √ |
| 12022.53 | Commit felony w/use of firearm | | √ | √ |
| 12034(c) or (d) | Discharge of firearm from vehicle | | | √ |
| 12303.3 | Exploding a destructive device w/intent to injure | | | √ |
| 12308 | Use of destructive device w/intent to murder | | √ | √ |
| 12309 | Exploding destructive device | | √ | √ |
| 12310 | Exploding destructive device | | √ | √ |
| H & S § 11055(d)(2 & (f)(1)(A) | Providing illegal drugs | | | √ |
| H & S § 11100(a) | Providing illegal drugs | | | √ |

[8]The offense is a violent felony if "it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary." See Penal Code § 487(d)(2).
[9]Includes only grand theft involving a firearm – Penal Code § 487(d)(2).

| Penal Code sections | Descriptions | Enumerated Crimes[1] | Violent Felonies[2] | Serious Felonies[3] |
|---|---|---|---|---|
| Vehicle Code § 2800.3 | Willful flight | | | √[4] |
| Vehicle Code § 23104(b) | Reckless driving | | | √[4] |
| Vehicle Code § 23153 | DUI | | | √[4] |
| Various | **Any attempt** to commit an enumerated crime, a violent felony, or a serious felony | √ | √ | √[10] |
| Various | **Any conspiracy** to commit a serious felony | | | √ |
| Various | **Any offense committed or attempted in any other state or against the laws of the United States** which, if committed or attempted in this state, would have been punished as one or more enumerated offenses, violent felonies, or serious felonies[11] | √ | √ | √ |
| Various | Any felony punishable by death or life imprisonment in the state prison | | √ | √ |
| Various | Any felony where the defendant personally uses a dangerous or deadly weapon, or a firearm | | √ | √ |
| Various | Any felony where the defendant personally inflicts great bodily injury on those other than accomplices | | √ | √ |
| Various | Assault w/intent to commit rape | | | √ |
| Various | Assault w/intent to commit robbery | | | √ |
| Various | Attempt to commit felony punishable by death or life imprisonment | | | √ |
| Various | Felony w/personal use of dangerous/deadly weapon | | | √ |
| Various | Grand theft involving firearm | | | √ |

[10]Other than assault – see Penal Code § 1192.7(39).
[11]See Education Code §§ 44424(a), 44346.1(b).

## Table 2 – Sex Offenses

| Penal Code Section | Descriptions | See Education Code § 44010, subsection: |
|---|---|---|
| 220 | Assault to commit rape | (a) |
| 243.4(a)(b)(c) | Sexual battery | |
| 261 | Rape | |
| 261.5 | Unlawful sexual intercourse with minor (statutory rape) | |
| 262 | Rape of spouse by force/fear/threat | |
| 264.1 | Aiding and abetting rape | |
| 266 | Entice minor female for prostitution/etc. | |
| 266j | Providing or transporting child under 16 for purpose of lewd or lascivious act | |
| 267 | Abduct minor for prostitution | |
| 272 | (On or after 9/15/61) Contributing to the delinquency of a minor involving lewd or lascivious conduct | (e) |
| 285 | Incest | (a) |
| 286 | Sodomy | (a), (g) |
| 288 | Lewd or lascivious acts with child under 14 years | (a) |
| 288.3 | Contact minor w/intent to commit sexual offense | (j) |
| 288.4 | Contact minor w/intent to commit sexual offense | (j) |
| 288.5 | Lewd or lascivious acts | (a) |
| 288a | Oral copulation | (a), (g) |
| 289 | Penetration by foreign object | (a) |
| 290 | Registration as a sex offender and for any conviction resulting in requirement to register as a sex offender | (j) Ed. Code §44425(d) |
| 311(1) | (After 9/7/55 but before 9/15/61) Indecent exposure | (d) |
| 311(2) | (Before 9/15/61) Procuring another's lewd exposure or excitation lewd thoughts | (b) |
| 311.1 | Sent or brought into state for sale or distribution, matter depicting sexual conduct by minor | (a) |
| 311.2 | Sending or bringing into state for sale or distribution, matter depicting sexual conduct by minor; transaction with minor | |
| 311.3 | Sexual exploitation of child | |
| 311.4 | Employment or use of minor to perform prohibited acts | |
| 311.10 | Advertising for sale or distribution obscene matter depicting a person under the age of 18 years engaging in or simulating sexual conduct | |
| 311.11 | Possession or control of matter depicting minor engaging or simulating sexual conduct | |
| 313.1 | Distribute harmful matter to minors | |
| 314 | (On or after 9/15/61) Indecent exposure | (c) |
| 647(a) | Disorderly conduct: solicit lewd act | (a) |
| 647(d) | Disorderly conduct: loiter in or about toilet | |
| 647a | (Before 12/31/87) Annoy/molest children | |
| 647b | Loitering about adult schools; molesting of pupils | |
| 647(5) | (Before 9/15/61) Vagrancy, lewd: solicitation of homosexual activity | (b) |
| 647.6 | (After 1/1/88) Annoy/molest children | (a) |
| Various | **Any attempt** to commit any of the above-mentioned offenses | (h) |
| Various | Any commission or attempt in another state or against the laws of the United States, which if committed in California would have been punishable as one or more of the above-mentioned offenses. [Including §290 per Ed. Code §44425(d)] | (i) Ed. Code §44425(d) |
| Wel & Inst §702 | (Prior to 9/15/61) Lewd and lascivious conduct | (f) |
| Wel & Inst §6300 | Commitment as a mentally disordered sex offender under former article (commencing with §6300) of Chapter 2 of Part 2 of the Welfare & Institutions Code, repealed by Chapter 928 of the statutes of 1981. | (k) |

## Table 3 – Controlled Substance Offenses

| Health & Safety Code Sections | Descriptions | See Education Code § 44011, subsection: |
|---|---|---|
| 11350 | Possession of designated controlled substances | (a) |
| 11351 | Possession/purchase of designated controlled substances for sale | |
| 11351.5 | Possession of cocaine for sale | |
| 11352 | Transportation/etc. designated controlled substances | |
| 11352.1 | Dispensing or furnishing drugs without a license | |
| 11352.5 | Sale of heroin | |
| 11353 | Adult induces/etc. minor to violate controlled substance provisions | |
| 11353.1 | Violation of 11353 by an adult near other minors | |
| 11353.4 | Multiple violations of 11353 by an adult; involving minor under 14 yrs | |
| 11353.5 | Sale/etc. of controlled substance by adult to a minor under 14 yrs and near other minors | |
| 11354 | Minor induces/etc. another minor to violate controlled substance provisions | |
| 11355 | Sale/etc. of substance in lieu of controlled substance | |
| 11361 | Employment of minor under 14 yrs to transport/sell/etc. | |
| 11366 | Open/maintain place to sell/etc. controlled substance | |
| 11368 | Forged or altered narcotic prescription | |
| 11377 | Possession of controlled substance | |
| 11378 | Possession of controlled substance for sale | |
| 11378.5 | Possession of phencyclidine for sale | |
| 11379 | Transportation/etc. of controlled substance | |
| 11379.2 | Possession for sale, or sale of ketamine | |
| 11379.5 | Transportation/etc. of phencyclidine | |
| 11379.6 | Manufacture/etc. of controlled substances | |
| 11379.7 | Violation of specified offenses near child under 16 | |
| 11379.8 | Violation of 11379.6 with specified controlled substances | |
| 11379.9 | Causing death or great bodily injury of another person | |
| 11380 | Use/etc. of minor by an adult to violate controlled substance provisions | (a) |
| 11380.1 | Violation of 11380 with specified controlled substances | |
| 11380.5 | Furnishing/etc. minor with specified controlled substances | |
| 11382 | Sale/etc. of substance in lieu of controlled substance | |
| 11550 | Use/under the influence of controlled substance | |
| Various | **Any offense committed or attempted in any other state or against the laws of the United States** which, if committed or attempted in this state, would have been punished as one or more of the above-mentioned offenses. | (b) |
| 11500 | (Former section) Unlawful possession of a controlled substance | (c) |
| 11500.5 | (Former section) Unlawful possession of controlled substance for sale | |
| 11501 | (Former section) Unlawful transportation of controlled substance | |
| 11502 | (Former section) Inducing minor's violation of controlled substance provisions | |
| 11502.1 | (Former section) Inducing minor's violation of controlled substance provisions | |
| 11503 | (Former section) Unlawful sale, transportation, etc. of controlled substance | |
| 11557 | (Former section) Operating or maintaining place for dispensing Controlled substance | |
| 11715 | (Former section) Forging or altering prescription | |

# BSA Recommendation 2.9.b

***Recommendation 2.9.b:*** *The division should adequately track the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.*

**Index:**

- **Analysis of BSA 2.9.b**
  - Analysis describes how mandatory cases are processed, recorded in the database and how cases are captured in division reports

- **Mandatory Procedures**
  - Procedures w/attachments regarding how mandatory cases are processed once court documents are received.

- **Sign In Sheet**
  - Sign in sheet regarding "Review of Mandatory Offenses" training of March 6, 2012

- **Reports – related to processes involving mandatory cases:**
  - Daily Incoming Rap Sheet
  - Weekly Incoming Rap Sheet Status/Summary Report
  - DPP RAP's Received and Processed (February 2012)
  - Intake – Previous Day Summary Report
  - Intake – Weekly Summary Report
  - Potential Mandatory Report
  - DPP Case Aging
  - COC Assigned and Pending Cases

**Introduction BSA Recommendation 2.9:**

To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:

**BSA Recommendation 2.9.b:**

Adequate tracking of the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.

**Analysis:**

To ensure proper handling of Mandatory Cases and timely revocations and denials, procedures were changed and written and reports were created and/or enhanced:

Potential mandatory cases are received via Rap Sheet reports that list the arrest, pending criminal charges, or conviction of the Respondent involved. Rap Sheets are now processed on a daily basis by the SSM I and/or Analyst assigned to assist the SSM I. Each Rap sheet is reviewed, entered into Siebel/Person; a PDF of the RAP is attached to Person/Attachment in the Siebel system and then the case is categorized as a Potential Mandatory (PM).

In most PM cases Rap Sheets contain only arrest or charging information. A case is opened in Siebel by the SSM I or Analyst as they process rap sheets. Offense Codes are assigned to all open cases which coincide with the type of offense committed by the Respondent. Cases are also assigned an asterisk (*) to their offense code (i.e. child crime sex = CCS*) to help identify the case as a potential mandatory case involving a child.

The initial phase of a PM case is tracked in the following reports:

1. Daily Incoming Rap Sheet Report: (exhibit #1)

   Rap Sheet/Open cases are initially listed in the Daily Incoming Rap Sheet Report under Potential Mandatory and include the Respondent's name and list the charges pending.

2. Weekly Rap Sheet Status/Summary:

   Open cases are then listed in the Weekly Rap Sheet Status/Summary report under Potential Mandatory, which lists the same information as the daily report and includes the "case status." The case status details the case number assigned and the date the case was opened. If no case was opened the report status will indicate, "No Case" until a case is opened.

3. DPP Rap's Received and Processed:

The total number of PM cases received in a given month is reported in the PM category of the DPP Rap's Received and Processed Report monthly graph.

Processing of PM Files:

PM case files are kept in two locations based on assignment. An AGPA is assigned to be the "Case Owner" of all child crime PM files while the SSM I is the case owner of all other PM files and is assisted by a staff analyst(s). This ensures that PM case files are given priority and are monitored and processed by experienced DPP staff members.

Documents are obtained from courts that provide on-line services or obtained by sending "Document Requests" forms, which are sent via U.S. mail if no on-line services are provided by the court of record. Document Requests for all Police and Court documents involved in the case are sent within 24 hours of the case being opened. The PM document request forms are clearly marked with the following header:

**"Potential Mandatory Revocation or Denial of Credential"**

This is done for ease of identification by both the external agency and DPP when the documents are returned to the Commission. This is to help ensure a more timely response by both agencies.

All documents received by DPP are tracked using the "Intake Document" system. This allows DPP mail staff to match any incoming documents with any open case file being reviewed by DPP. This also allows DPP staff members assigned a PM case to identify documents received on a Mandatory case easier and process the case in a timely manner.

Documents related to PM cases (and other cases) are then tracked in the following reports:

4. Daily Intake:

When the daily mail is received and processed PM document requests are processed and matched to an open case file. The report identifies the type of document received, the date received, the owner of the case file and name of the Respondent. The above heading alerts the DPP mail processer that the document is critical and ensures that the document is not delayed in reaching the case owner.

5. Weekly Intake:

This report provides the same information as the daily report, but indicates whether the document was processed after receipt.

Open PM cases are also tracked on the following reports:

6. Potential Mandatory – Aging Report:

Cases are listed in the weekly Potential Mandatory report while the case remains open and documents are obtained from various agencies. The Potential Mandatory report also lists the date PM cases were "auto-suspended," and the "Last Activity" completed by the DPP staff member assigned to the case, and the case age. The report is given to the "case owners" for tracking purposes and to management for oversight purposes and to ensure that the files are being completed in a timely manner.

7. Case Aging:

All open cases under review by DPP are listed and tracked on the Case Aging report, which includes the PM cases. The aging report provides information of each case in great detail and includes Respondent's name, case number, type and age of each case, and last activity of the case.

Receipt of Court Documents:

Receipt of court documents which indicate that a Respondent has been charged with a Mandatory crime may result in an auto-suspension of his/her credentials and removal from the classroom while the case is under review. This process is completed by one of two analysts who follow the "*Auto-suspension*" procedures.

It is DPP's goal to process an individual's file within 24 hours of receipt of court documents indicating he or she has been convicted of a Mandatory offense. This process is completed by an AGPA who follows the "Mandatory" procedures and processes all mandatory case files.

8. COC Assigned and Pending Cases Report

If a PM case does not result in mandatory charges being filed, the case may be 1) closed due to a lack of jurisdiction 2) placed on consent calendar if the case results in a minor crime, 3) reviewed by COC as an initial review if more serious charge(s) are filed that are not mandatory. Staff Counsel may also decide to seek jurisdiction in another manner such as obtaining an affidavit.

Oversight of PM cases:

Oversight will be done by reviewing the following Reports:

- Rap sheet reports indicate a rap sheet was processed and a case was opened;
- Document Intake reports alert staff of incoming documents related to PM cases or may cause a new PM case to be opened;
- Potential Mandatory and Case Aging reports ensure the case is being processed in a timely manner.

A review of the last activity and date of the activity should be within a reasonable time frame of the date of the Case Aging report. Any entry that does not seem reasonable may then cause management to review either or both the case file or Seibel for additional information regarding a lack of processing or possible problem with the case itself.

## INTRODUCTION

Pursuant to the provisions of the following Education Codes, any pending applications under the jurisdiction of the Commission shall be mandatorily denied:

Education Code section 44346.1: conviction of violent and/or serious crimes
Education Code section 44346: conviction of sex or drug crimes

Pursuant to the provisions of the following Education Codes, any and all credentials, life diplomas, or other certification documents issued under the jurisdiction of the Commission shall be mandatorily revoked:

Education Code section 44424: conviction of violent and/or serious crimes
Education Code section 44425: conviction of sex or drug crimes
Education Code section 44423.6 (effective 01-01-09): as a term or condition of probation, ability to associate with minors is limited
Education Code section 44425.5: found insane by a court

To process a mandatory, it is required to have the hard copies (no on-line documents) of the court plea and sentencing. On-line documents are acceptable for tracking a case, but hard copies are required to process the mandatory as discrepancies are sometimes found between the hard copies and the on-line information. Arrest / police reports are not required to process the mandatory, but should be obtained to complete the file contents.

NOTE: If convicted by a jury, Respondent has 60 days to file an appeal. If an appeal is filed, no mandatory action can be taken until the appeal is affirmed.

## PREPARE MANDATORY ACTION SHEET

1. Complete the Mandatory Action Sheet: (attached)
   - Enter initials for Prepared By
   - Enter Offense Code
   - Enter Respondent's name, birth date, SSN, city and state
   - Complete body which includes the Education Code, violation, and conviction.
   - Add information specific for the case such as PC 290 registration, multiple counts, serious and/or violent felonies, ability to associate with minors is limited, etc.

2. Attach the Mandatory Action sheet to the file and place in an attorney's in box. Two attorneys are required to review the mandatories. When approved, the attorneys will initial and date the Mandatory Action Sheet. If not approved, follow attorney directions for next steps.

## MANDATORY LETTERS

1. The file should already contain a Department of Motor Vehicle (DMV) report. Check the file and Seibel Computer System (Seibel) to obtain Respondent's most recent address. Always send the mandatory letter to the Commission address of record. If the DMV address is most current, send a courtesy copy to the DMV address with an Address Change Letter (attached).

2. Check entire file and Seibel for School District information. If School District is known, look up County Office of Education. Record information on file Address and Notification Sheet.

3. Prepare appropriate Mandatory Letters (attached) and envelopes. School Districts and County Offices of Education are copied on the first page only of the mandatory letters. Add information specific for the case such as PC 290 registration, multiple counts, serious and/or violent felonies, ability to associate with minors is limited, etc. (attached).

4. IF a Denial and IF there is a rap sheet, copy the rap sheet and include with mandatory letter to Respondent only. Do NOT send rap sheets to School Districts or County Offices of Education.

## MANDATORY DOCUMENTATION IN FILE

1. Copy the Mandatory Action Sheet (initialed and dated by attorneys) and place in the file labeled "Mandatories", located in the vertical file holder in the Sr. Legal Analyst's office.

2. File green Mandatory Action sheet on top of right side of file, followed by the Mandatory Letter, and Mandatory Action Sheet. If a Denial, stamp original application "DENIED" and file under the Mandatory Action Sheet.

3. Write "PERM" on the upper right hand corner on the outside of the file. On the green Mandatory Action sheet, circle appropriate Education Code and fill in Action Date. On Case Action Chronology Sheet, record date and initial on Commission Decision Letter Mailed line.

## MANDATORY DOCUMENTATION IN SEIBEL

1. Go to Case – Case Charges. Enter Respondent's Name (last name first in capitals, then first, middle). Copy and paste the case charges sample (attached) and revise as necessary for the particular case. Copy and paste the paragraph from the Mandatory Action Sheet.

2. Go to Person – More Info. Change DOJ and FBI Status to N. (NOTE: If any credentials remain valid, do NOT change to N). Change DPP status to D or R. If both D and R, change to R.

3. Go to Person – Documents (SUSP). Change all "V" and "S" under Document Status to "R". Do NOT change a "1969" type credential, leave as is.

4. If Denial, go to Person – Applications (RO). Change any applications with the Application Status "PENA" by clicking on Stamp #. Change Application Status to DPPD and Assigned To to DPP.

5. Go to Person – Notes. Enter DPP Notes with applicable Education Codes:
   - Holder: All certification documents are revoked per 44425, effective (date of letter). Check if person answer yes to having been the subject of a revocation.
   - Applicant: All pending applications are denied per 44346, effective (date of letter). Check if person answer yes to having been the subject of a denial.
   - Holder and Applicant: All certification documents are revoked and any pending applications are denied per 44425/44346, effective (date of letter). Check if person answer yes to having been the subject of a revocation and denial.

6. Go to Case – Activities. Enter appropriate activities.
   Activity Group = Prepare Document; Activity Type = Mandatory Letter (with rap)
   Activity Group = Mandatory Action; Activity Type = enter mandatory type
   If documents are complete and file is ready to be Permed:
   Activity Group = Mandatory Action; Activity Type = File Permed
   If documents are incomplete, return to technician / analyst to complete:
   Activity Group = Assigned To; Activity Type = Tech or Analyst;
   Owner = Change to Tech or Analyst Name assigned to
   Check each Activity "Done"

7. Go to Case – Attachments. Attach Mandatory Letter.
   Enter in Notes: Mandatory revocation and/or denial.

8. File to Perm Shelf or appropriate Tech or Analyst

Attachments:
Mandatory Action Sheet Sample
Address Change Letter
Mandatory Letter Samples
Case Charges Sample

# MANDATORY ACTION

Mandatory Action Date: _____

- [ ] Mandatory Revocation 44424
- [ ] Mandatory Revocation 44425
- [ ] Mandatory Revocation 44423.6
- [ ] Mandatory Revocation 44425.5

---

- [ ] Mandatory Denial 44346
- [ ] Mandatory Denial 44346.1

**Prepared by (initials)**
**(Offense Code)***

# MANDATORY ACTION

**(LAST NAME, First Middle)** **(birth date)** **(Full SSN)** **(City, State)**

Pursuant to Education Code section (Ed Code section), all applications for certification under the jurisdiction of the California Commission on Teacher Credentialing are **denied** following his/her felony/misdemeanor conviction for violating California Penal Code section XXX (offense discription).

OR

Pursuant to Education Code section (Ed Code section), all certification documents under the jurisdiction of the California Commission on Teacher Credentialing are **revoked** following his/her felony/misdemeanor conviction for violating California Penal Code section XXX (offense description), a serious felony.

OR

Pursuant to Education Code sections (Ed Code sections), all certification documents under the jurisdiction of the California Commission on Teacher Credentialing are **revoked** and all applications for certification are **denied** following his/her felony/misdemeanor conviction for violating California Penal Code section XXX (offense description).

Staff Counsel Initial:_____ Date:_____

Staff Counsel Initial:_____ Date:_____

**Commission on Teacher Credentialing**
1900 Capitol Avenue Sacramento, CA 95811 (888) 921-2682 Fax (916) 323-6735 www.ctc.ca.gov

*Division of Professional Practices*

(Date)

Name
Address
City, State, Zip

DOB: ****
SS#: xxx-xx-****

Dear ****:

This will serve as notification to you that pursuant to the provisions of Education Code section (Ed Code section), any pending applications under the jurisdiction of the California Commission on Teacher Credentialing are mandatorily denied effective (date), based on your felony/misdemeanor conviction for violating California Penal Code section XXX (offense description).

**(IF RAP SHEET)** Pursuant to the provisions of Education Code section 44346.5, the Commission is providing you with a copy of your criminal history record search response.

Sincerely,

Mary V. Sandy
Executive Director

cc: *** Unified School District
Superintendent

*** County Office of Education
Superintendent

MVS/SC/ek

**Commission on Teacher Credentialing**
1900 Capitol Avenue Sacramento, CA 95811 (888) 921-2682 Fax (916) 323-6735 www.ctc.ca.gov

*Division of Professional Practices*

(Date)

Name
Address
City, State, Zip

DOB: ***
SS#: xxx-xx-***

Dear ****:

This will serve as notification to you that pursuant to the provisions of Education Code section (Ed Code section) any and all credentials, life diplomas, or other certification documents issued to you under the jurisdiction of the California Commission on Teacher Credentialing, are mandatorily revoked effective (date), based on your felony/misdemeanor conviction for violating California Penal Code section XXX (offense description).

Sincerely,

Mary V. Sandy
Executive Director

cc: *** Unified School District
Superintendent

*** County Office of Education
Superintendent

MVS/SC/ek

**Commission on Teacher Credentialing**
1900 Capitol Avenue Sacramento, CA 95811 (916) 888-921-2682 Fax (916) 323-6735 www.ctc.ca.gov

*Division of Professional Practices*

**NOTICE OF REVOCATION**
**AND DEMAND**
**FOR SURRENDER OF CREDENTIALS**
**(Education Code 44360)**

Date: (date)

To: Name
Address
City, State, Zip

DOB: ***
SS#: xxx-xx-***

**PLEASE TAKE NOTICE** that all credentials, certificates, permits or other documents authorizing your employment in the public schools of California have been revoked by the California Commission on Teacher Credentialing, effective (date). You are required to surrender all of your credentials by mail or personal delivery to the address shown below, no later than two weeks from the effective date of the revocation. Your willful refusal or failure to comply with this demand is a misdemeanor and may result in your prosecution. (Ed. Code § 44360, subd. (e).)

Effective (date), a notice showing the said revocation of your credentials will be sent to all California school districts, county offices of education, institutions of higher education, and the same notice will be sent to the teacher credentialing agencies of other states. If you attempt to use your revoked credential documents as false evidence of your authority to teach you may be subject to arrest and prosecution.

**If the documents have been lost, stolen, or otherwise destroyed, or paper documents were not issued, you must execute and return the attached affidavit.**

Your credential documents or affidavit must be addressed to:

**California Commission on Teacher Credentialing**
**Division of Professional Practices**
**1900 Capitol Avenue**
**Sacramento, CA 95811-4213.**

Name
SSN: xxx-xx-****

## Affidavit of Credential Documents

**Please check appropriate box:**

- ☐ **It is impossible for me to return my revoked/suspended credential document(s) because the said document(s) have been lost, stolen, or otherwise destroyed.**
- ☐ **It is impossible for me to return my revoked/suspended credential document(s) because no paper credentials were received or issued.**

**I certify under penalty of perjury of the laws of California that the foregoing is true and correct.**

**Date:** _____ **Signature:** _____

_____
**Please print your name**

Penal Code 129. Every person who, being required by law to make any return, statement, or report, under oath, willfully makes and delivers any such return, statement, or report, purporting to be under oath, knowing the same to be false in any particular, is guilty of perjury, whether such oath was in fact taken or not. Penal Code 126. Perjury is punishable by imprisonment in the state prison

**Commission on Teacher Credentialing**
1900 Capitol Avenue Sacramento, CA 95811 (888) 921-2682 Fax (916) 323-6735 www.ctc.ca.gov

*Division of Professional Practices*

(date)

Name
Address
City, State, Zip

DOB: **
SS#: xxx-xx-**

Dear **:

This will serve as notification to you that pursuant to the provisions of Education Code sections (Ed Code sections), any and all credentials, life diplomas, or other certification documents issued to you under the jurisdiction of the California Commission on Teacher Credentialing are mandatorily revoked and any pending applications are mandatorily denied effective (date), based on your misdemeanor/felony conviction for violating California Penal Code section XXX (offense description).

**(IF RAP SHEET)** Pursuant to the provisions of Education Code section 44346.5, the Commission is providing you with a copy of your criminal history record search response.

Sincerely,

Mary V. Sandy
Executive Director

cc: **Unified School District
Superintendent

** County Office of Education
Superintendent

MVS/SC/ek

**Commission on Teacher Credentialing**
1900 Capitol Avenue Sacramento, CA 95811 (916) 888-921-2682 Fax (916) 323-6735 www.ctc.ca.gov

*Division of Professional Practices*

**NOTICE OF REVOCATION/SUSPENSION**
**AND DEMAND**
**FOR SURRENDER OF CREDENTIALS**
**(Education Code 44360)**

Date: (date)

To: Name
Address
City, State, Zip

DOB: **
SS#: xxx-xx-**

**PLEASE TAKE NOTICE** that all credentials, certificates, permits or other documents authorizing your employment in the public schools of California have been revoked by the California Commission on Teacher Credentialing, effective (date). You are required to surrender all of your credentials by mail or personal delivery to the address shown below, no later than two weeks from the effective date of the revocation. Your willful refusal or failure to comply with this demand is a misdemeanor and may result in your prosecution. (Ed. Code § 44360, subd. (e).)

Effective (date), a notice showing the said revocation of your credentials will be sent to all California school districts, county offices of education, institutions of higher education, and the same notice will be sent to the teacher credentialing agencies of other states. If you attempt to use your revoked credential documents as false evidence of your authority to teach you may be subject to arrest and prosecution.

**If the documents have been lost, stolen, or otherwise destroyed, or paper documents were not issued, you must execute and return the attached affidavit.**

Your credential documents or affidavit must be addressed to:

**California Commission on Teacher Credentialing**
**Division of Professional Practices**
**1900 Capitol Avenue**
**Sacramento, CA 95811-4213.**

NAME
SSN: xxx-xx-***

## Affidavit of Credential Documents

**Please check appropriate box:**

- ☐ **It is impossible for me to return my revoked/suspended credential document(s) because the said document(s) have been lost, stolen, or otherwise destroyed.**
- ☐ **It is impossible for me to return my revoked/suspended credential document(s) because no paper credentials were received or issued.**

**I certify under penalty of perjury of the laws of California that the foregoing is true and correct.**

**Date:** _____ **Signature:** _____

_____
**Please print your name**

Penal Code 129. Every person who, being required by law to make any return, statement, or report, under oath, willfully makes and delivers any such return, statement, or report, purporting to be under oath, knowing the same to be false in any particular, is guilty of perjury, whether such oath was in fact taken or not. Penal Code 126. Perjury is punishable by imprisonment in the state prison

## Training: Review of Mandatory Offenses

On March 6, 2012, I received additional training on the "Review of Mandatory Offenses" presented by Staff Counsel, Ani Kindall

| Print Name | Sign Name |
|---|---|
| RACHEL GRIZZAFFI | Rachel Grizzaffi |
| Melissa Standen | Melissa Standen |
| MONICA ZUNIGA | Monica Zuniga |
| LINDA HERNANDEZ | Linda Hernandez |
| Cynthia Thomason | Cynthia Thomason |
| CRISTINA ROMERO | ABSENT |
| Inez Walls | Inez A. Walls |
| Sarah Willis | Sarah A. Willis |
| KYLE TABLER | Kyle Tabler |
| JANICE NAKAMURA | [illegible] |
| MIKE MOSTAFANEJAD | [illegible] |
| MICHAEL BARTH | [illegible] |
| Monica Silva | [illegible] |
| GIL GONZALEZ | [illegible] |
| CHASTINE GASPAR | [illegible] |
| Patricia Vossar | [illegible] |
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# Division of Professional Practices
# Daily Incoming Rap Sheet/Attachment Report
# For Raps Recorded 3/20/2012

Printed 3/20/2012 11:50:22PM


**Already Reviewed**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | [redacted] | FIRST OFFENSE DUI - CONVICTION INF |

Items Reported as **Already Reviewed**: 1

**Duplicate**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | | |
| 03/20/2012 | | | |
| 03/20/2012 | | | |
| 03/20/2012 | | | |
| 03/20/2012 | | | |

Items Reported as **Duplicate**: 5

**First Offense DUI**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | | VC 23152(a) |
| 03/20/2012 | | | VC 23152(b) - CUSTODY |
| 03/20/2012 | | | VC 23152(a) |
| 03/20/2012 | | | VC 23152(a) |
| 03/20/2012 | | | VC 23152(a)(b) |
| 03/20/2012 | | | VC 23152(a)(b) |
| 03/20/2012 | | | VC 23152(a)(b) |
| 03/20/2012 | | | PC 647(f) |

Items Reported as **First Offense DUI**: 8

**New**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | | PC 243(e)(1) |
| 03/20/2012 | | | VC 23152(a) |
| 03/20/2012 | | | PC 484(a)/488 |
| 03/20/2012 | | | MISD 14601.1(a) |
| 03/20/2012 | | | PC 243(e)(1) |

Items Reported as **New**: 5

**Open Case Update**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | | 1-71357544 |
| 03/20/2012 | | | 1-85510939 // NEW ARREST: FEL 594(b)( |

Items Reported as **Open Case Update**: 2

**Potential LOI**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | | WARRANT INFO // 2 DUI'S W/IN 5 YRS |
| 03/20/2012 | | | FEL 23152(a) - DUI w/prior |

Items Reported as **Potential LOI**: 2

**Potential Mandatory**

| Date | Name | SSN | Comment |
|---|---|---|---|
| 03/20/2012 | [redacted] | [redacted] | PC 273A(b); PC 647(f) |

# Division of Professional Practices
# Weekly Rap Sheet Status/Summary Report
# For the Week Ending 3/18/2012

Printed 3/19/2012 6:25:26AM



## Raps Recorded Week Ending 03/18/2012

| Rap Status | Count |
|---|---|
| Already Reviewed | 4 |
| Duplicate | 9 |
| First Offense DUI | 23 |
| New | 11 |
| No Action Needed | 2 |
| Open Case Update | 16 |
| Potential LOI | 13 |
| Potential Mandatory | 6 |
| Red Flag | 27 |
| RFRDOJ | 41 |
| Total Raps | 152 |

**New**

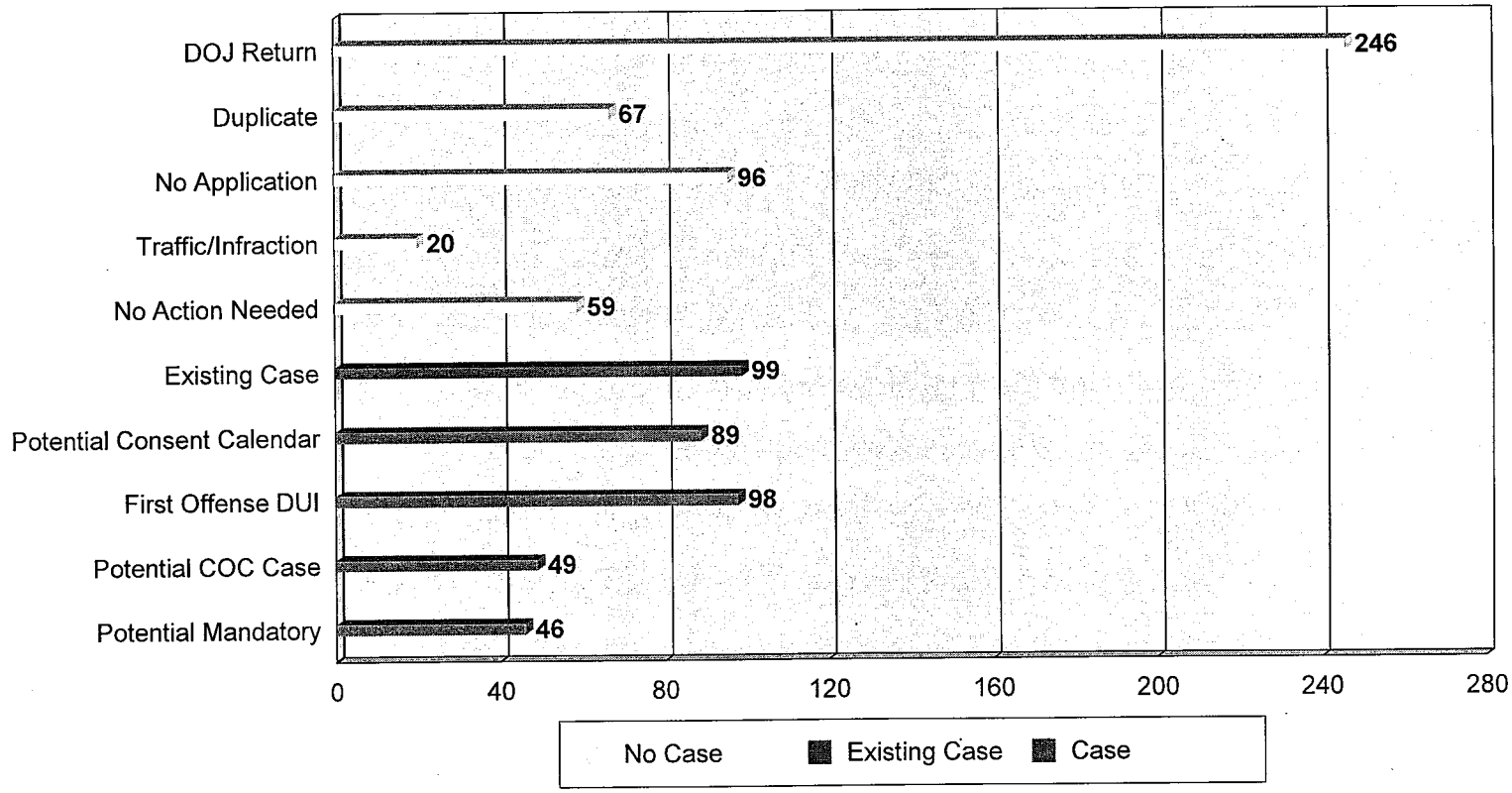
| Date | Name | SSN | Comment | Case Status |
|---|---|---|---|---|
| 10/17/2011 | [redacted] | [redacted] | DUI CUSTODY, NEED TO SEE WHEN DUI OCCURRED | No Case |
| 03/12/2012 | | | VC 23152(a) | [redacted] - 03/12/2012 |
| 03/14/2012 | | | VC 12500(a) | [redacted] - 03/14/2012 |
| 10/20/2011 | | | 23152 PLUS | No Case |
| 03/14/2012 | | | PC 647(f) | [redacted] - 03/14/2012 |
| 01/30/2012 | | | paper rap, | No Case |
| 03/16/2012 | | | PC 484(a) | [redacted] - 03/16/2012 |
| 12/22/2011 | | | FEL 273.5 | No Case |
| 03/13/2012 | | | PC415 x2 and VC 23152 | [redacted] - 03/13/2012 |
| 03/15/2012 | | | PC 243(e)(1) | [redacted] - 03/15/2012 |
| 03/12/2012 | | | VC 14601.1(a) | [redacted] - 03/12/2012 |
| 03/16/2012 | | | VC 14601.2(a) Drive: Lic susp: DUI: spec viol | [redacted] - 03/16/2012 |
| 03/16/2012 | | | VC 12500(a) | [redacted] - 03/16/2012 |
| 03/16/2012 | | | PC 602(k) | [redacted] - 03/16/2012 |
| 03/15/2012 | | | PC 148(a) | [redacted] - 03/15/2012 |
| 12/23/2011 | | | CONVERSION THEN POT COC CC | No Case |

Items Reported as **New**: 16

**Potential LOI**

| Date | Name | SSN | Comment | Case Status |
|---|---|---|---|---|
| 03/16/2012 | [redacted] | *****9671 | [redacted] | No Case |
| 03/16/2012 | | *****8481 | FEL 470(b) | [redacted] - 03/16/2012 |
| 03/14/2012 | | *****8823 | VC 23152(a); VC 20002 | [redacted] - 03/14/2012 |
| 03/16/2012 | | *****3771 | VC 23152(a)(b) // 2nd DUI within 5 yrs | [redacted] - 03/16/2012 |
| 03/13/2012 | | *****2987 | BP 25658(a) | [redacted] - 03/13/2012 |
| 03/13/2012 | | *****2718 | FEL 23152(a) w/prior | [redacted] - 03/13/2012 |

## DPP RAPs Received and Processed February 2012




| | |
|---|---|
| **No Case** | **488** |
| **Existing Case** | **99** |
| **Case** | **282** |
| **Total RAPs** | **869** |

## Division of Professional Practices

# INTAKE PREVIOUS DAY SUMMARY REPORT

Printed on 3/17/2012

### Pending Documents by Type

| Case Type | Count |
|---|---|
| Respondent | 2 |
| Public records request | 1 |
| Miscellaneous | 1 |
| Fax | 6 |
| Email | 5 |
| Court | 36 |
| Arrest | 19 |
| **Total Case Type** | 70 |

List of Cases that are still pending (open)



| ID | CTC Person | FIRST NAME | DATE RECIEVED | CTC CASE | |
|---|---|---|---|---|---|
| [redacted] | | | | | |
| **Court** | | | | | |
| 12031611GNVCJ | [redacted] | | 3/15/12 | [redacted] | **Total 1** |
| **Arrest** | | | | | |
| 12031611GNVCI | | | 3/15/12 | | **Total 2** |
| [redacted] | | | | | |
| **Fax** | | | | | |
| 12031611GNVIN | | | 3/16/12 | | |
| 12031611GNVIP | | | 3/16/12 | | **Total 2** |
| [redacted] | | | | | |
| **Fax** | | | | | |
| 12031611GNVIO | | | 3/16/12 | | **Total 1** |
| [redacted] | | | | | |
| **Respondent** | | | | | |
| 12031611GNVCL | | | 3/15/12 | | **Total 1** |
| **Court** | | | | | |
| 12031611GNVCK | | | 3/15/12 | | |
| 12031611GNVCM | | | 3/15/12 | | |
| 12031611GNVDI | | | 3/15/12 | | **Total 4** |
| **Arrest** | | | | | |
| 12031611GNVDH | | | 3/15/12 | | |
| 12031611GNVFW | | | 3/15/12 | | **Total 6** |
| [redacted] | | | | | |
| **Email** | | | | | |
| 12031611GNV3K | | | 3/15/12 | | |
| 12031611GNV3J | | | 3/15/12 | | |
| 12031611GNLFC | | | 3/16/12 | | |
| 12031611GNV3L | | | 3/15/12 | | |

## Division of Professional Practices

# INTAKE WEEKLY SUMMARY REPORT

Generated on 3/18/2012 for Period **03/12/2012** to **03/17/2012**

### Pending Documents by Type

| Case Type | Count |
|---|---|
| SRC request | 5 |
| School Report | 2 |
| Respondent | 4 |
| Public records request | 4 |
| Miscellaneous | 10 |
| Fax | 6 |
| Email | 11 |
| Court | 42 |
| Arrest | 26 |
| **Total Case Type** | 110 |

List of Cases that are still pending (open)



| ID | CTC Person | FIRST NAME | DATE RECIEVED | CTC CASE | |
|---|---|---|---|---|---|
| [redacted] | | | | | |
| **Miscellaneous** | | | | | |
| 12031411GN6AA | [redacted] | | 3/14/12 | [redacted] | |
| 12031511GNK4C | | | 3/15/12 | | **Total 2** |
| [redacted] | | | | | |
| **Fax** | | | | | |
| 12031511GNJTF | | | 3/15/12 | | **Total 1** |
| **Court** | | | | | |
| 12031311GM1DV | | | 3/12/12 | | |
| 12031611GNVCJ | | | 3/15/12 | | |
| 12031311GM1EJ | | | 3/12/12 | | **Total 4** |
| [redacted] | | | | | |
| **Court** | | | | | |
| 12031411GN69S | | | 3/14/12 | | **Total 1** |
| [redacted] | | | | | |
| **Fax** | | | | | |
| 12031211GKUTO | | | 3/12/12 | | **Total 1** |
| [redacted] | | | | | |
| **Miscellaneous** | | | | | |
| 12031511GNK4B | | | 3/15/12 | | |
| 12031411GN6A9 | | | 3/14/12 | | |
| 12031511GNK4A | | | 3/15/12 | | **Total 3** |
| [redacted] | | | | | |
| **Respondent** | | | | | |
| 12031611GNVCL | | | 3/15/12 | | **Total 1** |

# Division of Professional Practices

## Monitor Cases by Case Type and Owner

### Potential Mandatory (Continued)

| Case Num | Name | Designation | Offense | Susp Date | Last Activity Date | Last Activity Group | Last Activity Type | Due Date | Past Due | Age (Days) Case | Age (Days) Activity |
|---|---|---|---|---|---|---|---|---|---|---|---|
| [redacted] | | HOLDER | CCO* | | 10/17/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 11/28/2011 | 77 | 301 | 119 |
| | | HOLDER | CCO* | | 10/19/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 11/30/2011 | 75 | 348 | 117 |
| | | HOLDER | CCO* | | 11/04/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 12/12/2011 | 63 | 107 | 101 |
| | | HOLDER | CCSX* | 08/09/2011 | 12/12/2011 | STAFF ACTION | CASE COMBINED | 12/12/2011 | 63 | 188 | 63 |
| | | HOLDER | CCSX* | 03/21/2011 | 10/31/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 12/12/2011 | 63 | 332 | 105 |
| | | HOLDER | CCO* | | 11/04/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 12/16/2011 | 59 | 107 | 101 |
| | | HOLDER | CCS* | | 01/03/2012 | STAFF ACTION | RAP RECEIVED | 01/03/2012 | 41 | 140 | 41 |
| | | HOLDER | CCS* | | 01/18/2012 | STAFF ACTION | RAP RECEIVED | 01/18/2012 | 26 | 27 | 26 |
| | | HOLDER | CCOX* | | 01/20/2012 | STAFF ACTION | RAP RECEIVED | 01/20/2012 | 24 | 339 | 24 |
| | | HOLDER | CCOX* | | 01/23/2012 | STAFF ACTION | RAP RECEIVED | 01/23/2012 | 21 | 198 | 21 |
| | | HOLDER | CCSX* | 01/13/2012 | 01/23/2012 | STAFF ACTION | CASE COMBINED | 01/23/2012 | 21 | 31 | 21 |
| | | HOLDER | CCS* | | 12/13/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 01/24/2012 | 20 | 62 | 62 |
| | | HOLDER | CCS* | | 12/13/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 01/24/2012 | 20 | 65 | 62 |
| | | HOLDER | CCS* | | 12/20/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 01/31/2012 | 13 | 60 | 55 |
| | | HOLDER | CCS* | 02/06/2012 | 02/06/2012 | ASSIGNED TO | ANALYST | 02/06/2012 | 7 | 10 | 7 |
| | | APP | CCS* | | 02/06/2012 | STAFF ACTION | RAP RECEIVED | 02/06/2012 | 7 | 1,440 | 7 |
| | | HOLDER | CCS* | | 02/07/2012 | ASSIGNED TO | ANALYST | 02/07/2012 | 6 | 25 | 6 |
| | | HOLDER | CCOX* | | 12/28/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/08/2012 | 5 | 189 | 47 |
| | | HOLDER | CCS* | 11/23/2010 | 02/08/2012 | PREPARE DOCUMENT | PUBLIC RECORDS ACT | 02/08/2012 | 5 | 511 | 5 |
| | | APP/HOLD | CCSX* | 12/03/2009 | 12/28/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 02/08/2012 | 5 | 802 | 47 |
| | | HOLDER | CCS* | | 12/29/2011 | PENDING ARRIVAL | ARREST REPORT | 02/09/2012 | 4 | 62 | 46 |
| | | HOLDER | CCS* | 02/09/2012 | 02/09/2012 | ASSIGNED TO | ANALYST | 02/09/2012 | 4 | 25 | 4 |
| | | HOLDER | CCO* | | 02/10/2012 | STAFF ACTION | RAP RECEIVED | 02/10/2012 | 3 | 7 | 3 |
| | | HOLDER | CCS* | 02/03/2012 | 02/13/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/13/2012 | 0 | 14 | 0 |
| | | HOLDER | CCS* | 07/22/2010 | 12/07/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/13/2012 | 0 | 571 | 68 |
| | | APP/HOLD | CCS* | | 01/03/2012 | PENDING ARRIVAL | COURT DOCUMENTS | 02/14/2012 | 0 | 343 | 41 |
| | | HOLDER | CCSX* | 07/20/2011 | 01/25/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/14/2012 | 0 | 228 | 19 |
| | | HOLDER | CCO* | | 02/03/2012 | PENDING ARRIVAL | COURT DOCUMENTS | 02/14/2012 | 0 | 25 | 10 |
| | | HOLDER | CCS* | 07/18/2011 | 01/03/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/14/2012 | 0 | 210 | 41 |
| | | HOLDER | CCS* | 03/29/2011 | 02/03/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/14/2012 | 0 | 322 | 10 |
| | | HOLDER | CCS* | 09/28/2011 | 01/25/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/15/2012 | 0 | 179 | 19 |
| | | HOLDER | CCS* | 11/16/2011 | 01/17/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/16/2012 | 0 | 115 | 27 |
| | | HOLDER | CCO* | | 01/25/2012 | PENDING ARRIVAL | COURT DOCUMENTS | 02/16/2012 | 0 | 25 | 19 |
| | | HOLDER | CCO* | | 11/29/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/16/2012 | 0 | 314 | 76 |
| | | HOLDER | CCS* | 06/07/2011 | 12/02/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/16/2012 | 0 | 251 | 73 |
| | | HOLDER | CCS* | 12/26/2007 | 02/07/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/16/2012 | 0 | 1,510 | 6 |
| | | HOLDER | CCSX* | 08/09/2011 | 02/13/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/17/2012 | 0 | 189 | 0 |
| | | HOLDER | CCS* | 04/28/2009 | 01/23/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/17/2012 | 0 | 1,018 | 21 |
| | | HOLDER | C* | | 01/27/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/17/2012 | 0 | 2,225 | 17 |
| | | HOLDER | CCSX* | 10/11/2011 | 01/10/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/21/2012 | 0 | 125 | 34 |
| | | HOLDER | CCO* | 10/25/2011 | 12/13/2011 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 02/21/2012 | 0 | 112 | 62 |



Selected case types: DEJ, POTENTIAL COC CONSENT CALENDAR, POTENTIAL LOI, POTENTIAL MANDATORY, PROBATION

# DPP Case Aging Report (Cases aged through March 15, 2012)

Printed 3/23/2012 9:54:01AM

| Person Info | | Case Info | | Last Activity Info | |
|---|---|---|---|---|---|
| Name<br>SSN | DOB | Case Num<br>Case Opened<br>Case Designation<br>Age (Days) | Offense<br>Case Type | Created<br>Effective<br>Activity Group<br>Activity Type<br>(Activity Notes) | Creator<br>Owner |
| **A** | | | | | |
| **Aged 360+ Days** | | | | | |
| [redacted] | | [redacted]<br>05/09/2008<br>HOLDER<br>1,414 | OX<br>POTENTIAL LOI | 01/27/2012<br>01/27/2012<br>PENDING ARRIVAL<br>COURT DOCUMENTS UPDATE<br>CONT FROM 1/20/12 | [redacted] |
| | | [redacted]<br>02/01/2006<br>HOLDER<br>2,242 | CCS*<br>PROBATION | 05/25/2010<br>05/25/2010<br>STAFF ACTION<br>OPEN/CLOSE PREVIOUSLY CLEAR | [redacted] |
| | | [redacted]<br>11/22/2010<br>HOLDER<br>487 | AX<br>POTENTIAL LOI | 10/07/2011<br>10/07/2011<br>PENDING ARRIVAL<br>DISTRICT ATTORNEY<br>2ND REQ TO ALAMEDA CO RE 01/11/11 ARREST;<br>CHARGES FILED? | [redacted] |
| | | [redacted]<br>08/19/2010<br>APP/HOLD<br>582 | CCOX*<br>POTENTIAL MANDATORY | 02/10/2012<br>02/10/2012<br>PENDING ARRIVAL<br>COURT DOCUMENTS UPDATE<br>NEXT COURT DATE FOR 2 CASES 03-29-12 | [redacted] |
| | | [redacted]<br>09/17/2009<br>APP/HOLD<br>918 | CCS*<br>AG | 02/16/2011<br>02/16/2011<br>STAFF ACTION<br>COPY FILE FOR AG_NORM PRIORITY | [redacted] |
| | | [redacted]<br>05/03/2010<br>HOLDER<br>690 | AX<br>30-DAY | 02/24/2012<br>02/24/2012<br>COC ACTION<br>SUSPEND<br>21 DAYS | [redacted] |

# Division of Professional Practices

## COC Assigned and Pending Cases as of 03/01/2012

Printed 3/1/2012 7:59:31AM

[redacted]



| Case Num | Respondent | App/ AppHld | Offense Code | Case Type | COC Meeting Date | Opened | Case Age Days | Assigned | Assign Age Days |
|---|---|---|---|---|---|---|---|---|---|
| **Initial Review** | | | | | | | | | |
| [redacted] | | | AX | LOI | 3/21-23/2012 | 06/07/2010 | 633 | 03/01/2012 | 0 |
| | | | O | LOI | 3/21-23/2012 | 10/14/2010 | 504 | 03/01/2012 | 0 |
| | | | O | LOI | 3/21-23/2012 | 10/21/2010 | 497 | 03/01/2012 | 0 |
| | | | OX | LOI | 3/21-23/2012 | 10/21/2010 | 497 | 03/01/2012 | 0 |
| | | | CCOX | LOI | 4/18-20/2012 | 07/22/2010 | 588 | 03/01/2012 | 0 |
| | | | O | LOI | 4/18-20/2012 | 09/30/2010 | 518 | 03/01/2012 | 0 |
| | | | O | LOI | 4/18-20/2012 | 09/30/2010 | 518 | 03/01/2012 | 0 |
| | | | CCO | LOI | 4/18-20/2012 | 11/23/2010 | 464 | 03/01/2012 | 0 |
| | | | CCO | LOI | 4/18-20/2012 | 11/23/2010 | 464 | 03/01/2012 | 0 |
| **Formal Review - Non-Appearance (30 Day)** | | | | | | | | | |
| [redacted] | | | O | 30-DAY | 3/21-23/2012 | 07/23/2010 | 587 | 03/01/2012 | 0 |
| | | | DX | 30-DAY | 3/21-23/2012 | 07/23/2010 | 587 | 03/01/2012 | 0 |
| | | | CCO | 30-DAY | 3/21-23/2012 | 07/23/2010 | 587 | 03/01/2012 | 0 |
| | | ✓ | O | 30-DAY | 3/21-23/2012 | 07/29/2010 | 581 | 03/01/2012 | 0 |
| | | | S | 30-DAY | 4/18-20/2012 | 07/29/2010 | 581 | 03/01/2012 | 0 |
| | | | O | 30-DAY | 4/18-20/2012 | 10/07/2010 | 511 | 03/01/2012 | 0 |
| | | | O | 30-DAY | 4/18-20/2012 | 11/17/2010 | 470 | 03/01/2012 | 0 |
| **Formal Review - Appearance** | | | | | | | | | |
| [redacted] | | | CCO | APPEARANCE | 3/21-23/2012 | 07/26/2010 | 584 | 03/01/2012 | 0 |
| | | ✓ | O | APPEARANCE | 4/18-20/2012 | 08/08/2011 | 206 | 03/01/2012 | 0 |

# BSA Recommendation 2.9.c

***Recommendation 2.9.c:*** *The division should ensure that its reports and practices provide prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.*

**Index:**

- **January 2012 Commission on Teacher Credentialing Agenda Item (4F)**
  - Plan for a Division of Professional Practices "Dashboard Measuring System" of division workload.

# 4F

## Information

*Professional Practices Committee*

## Plan for a Division of Professional Practices Dashboard Measurement System

**Executive Summary:** This agenda item provides information on setting performance measures for critical stages of DPP's business processes. Staff also presents proposed targets to perform vital tasks and a proposed report on performance measures, with targets, cycle time, and volume.

**Policy Question:** What level and amount of information does the Commission need in order to be adequately informed about the workload and workflow in DPP?

**Recommended Action:** For information only

**Presenter:** Nanette Rufo, Director, Division of Professional Practices

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

January 2012

# Plan for a Division of Professional Practices Dashboard Measurement System

## Introduction

This agenda item provides information on setting performance measures for critical stages of the Division of Professional Practices' (DPP) business processes. Staff also presents proposed targets to perform vital tasks and a proposed report on performance measures, with targets, cycle time, and volume. These measurements would be displayed in a data dashboard, an executive level information display (similar to an automobile's dashboard) that is designed to be easy to read. Staff is looking for guidance, direction and advice from the Commission members about whether this approach will meet the information needs of Commissioners.

## Background

*State Auditor report recommendation*

On April 7, 2011, the California State Auditor recommended the Commission revise its strategic plan to identify the programmatic, organizational, and external challenges that face DPP and the Committee of Credentials (COC), and to determine the goals and actions necessary to accomplish its mission. Performance measures are a component of a strategic plan. Cycle time is the amount of time required to complete a business process and volume is a tally of the units of work performed. The dashboard is designed to provide key information in three areas: How much work is being done at a specific point in the process? Was the work done on a timely basis? Is DPP meeting standards set by the Commission?

*Why measure performance?*

Measuring performance is important for several reasons. First, performance measures will assist the Commission with fulfilling its oversight functions. The Commission members have a duty to oversee the operations of the Commission. Second, this information allows the Commission members to determine if staff is fulfilling their assigned duties and productively using limited resources. Lastly, what gets measured gets done. This information will be used in DPP's efforts to continuously improve its processes.

*Timeliness of activities*

Cycle time is the average time to complete a specific task under the control of DPP staff. DPP staff is proposing to measure the cycle time for several tasks and compare to target timeliness goals and report the results to the Commission. For example, the proposed report would display the average time staff took to initially request information from a court or law enforcement agency. DPP staff would not measure how long the court or law enforcement agency took to respond to DPP's request because that activity is not under our control.

*Volume*

Volume is a simple tally of the units of work. For example, the number of requests for information DPP staff sent to a court or law enforcement agency.

*Target*
A target is a specific level of performance against which actual performance is compared. Targets should be challenging, yet attainable and realistic. The report would compare the target against the cycle time or actual achievement.

**Six stages of DPP's core business processes**
The Commission has previously seen the Educator Discipline Workflow chart, Attachment 1. That chart accurately reflects the many stages a case may flow through. Much of the data being presented to the Commission in the monthly workload reports follow the steps in the Workflow chart. However, the charts do not appear to be particularly helpful in assessing the performance of Commission staff. It is impossible to determine the *promptness and effectiveness of staff work* from reviewing the number of cases at stages in the process. To provide key data on staff performance, staff suggests collecting measurements of staff performance. This means looking at critical activities within the Commission's control and then measuring the timeliness of staff action. Staff identified six critical business process stages and proposes measuring them. The six business processes below contain DPP's core business function.

*1. Log intake documents.* This step begins when the report of potential misconduct is received by DPP. Staff records in the computer system all receipts of reports of potential misconduct, such as mail, applications, criminal history reports, affidavits and district reports of misconduct. All documents received in DPP are date stamped electronically or manually on the day of receipt. Staff will send an acknowledgement of affidavits and district reports. However, staff usually must obtain more information to determine if the Commission has jurisdiction to impose an adverse action.

*2. Assign to staff and gather documents.* Case or intake documents are assigned to DPP staff, who requests court, law enforcement and other records. Staff reviews the respondent's misconduct for initial jurisdiction and policy compliance.

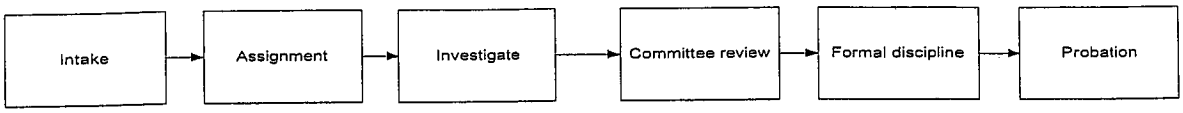
*3. Investigate and send notice of allegations.* After the assignment process is complete, staff collects and verifies facts to determine jurisdiction and potential violations of law. Staff notifies the respondent they are under investigation and additional material may be submitted or gathered. Staff prepares a Confidential Investigative Report for COC review.

*4. Committee Review.* Cases are presented to the COC to determine probable cause and any adverse action recommendation at the COC formal review meeting.

*5. Formal discipline and final decision.* This process includes any administrative action that could affect the issuance or status of the respondent's license. This process includes the Commission's adoption of the COC's recommendation, complete Petitions for Reinstatement, the filing of an Accusation or Statement of Issues, Settlement Agreement, Administrative Hearings, and submitting an Administrative Law Judge's proposed decision to the Commission.

*6. Probation.* Once there is a Settlement Agreement between the Commission and respondent, staff schedules an initial meeting with the respondent and monitors the respondent for potential violations of the Agreement. If the respondent successfully completes probation, the case is closed. If not, the respondent faces an adverse action.

These stages are graphically displayed below:




**Proposed cycle time target and volume definitions**
The chart below is an overall view of the DPP business process in six stages. The chart briefly summarizes the actions under the control of DPP staff necessary to complete that stage, the cycle time target, and the volume measurement.

**PROPOSED CYCLE TIME TARGET AND VOLUME DEFINITIONS**

| Business Process | Cycle Time Target | Volume Measurement |
|---|---|---|
| **1. Intake**<br>Log documents. | Each document will be logged within 5 days from the date of receipt. | Number of items logged in by DPP. |
| **2. Assignment**<br>Assign to intake unit staff and gather documents. | Following assignment, documents will be requested within 10 calendar days, when necessary. Follow-up requests will be made every 45 calendar days, when necessary. | Number of assignments made from intake. |
| **3. Investigate**<br>Investigate and send Letter of Inquiry. | Respondent notified of charges within 60 calendar days from assignment. Confidential Investigative Report prepared. | Number of people notified that allegations will be presented to the COC for initial review. |
| **4. Committee Review**<br>COC review and determination of probable cause. | All cases must complete the COC review process within 6 months. | Number of cases considered by the COC. (Since the COC may review a case twice, this number will be higher than initial review above.) |
| **5. Formal Discipline**<br>Formal discipline and final decision activities. | All COC recommendations, complete Petitions for Reinstatement, and Proposed Decisions must be presented at the next available[1] Commission or Committee meeting. | Number of final actions taken by the Commission. |

[1] *Available* means next available meeting after window for appeal has passed.

| | | |
|---|---|---|
| **6. Probation**<br>After an agreement between the Commission and respondent, staff monitors for compliance with terms of the agreement. | 6a. Numbers of days from placement on probation to date monitor makes first contact should be 15 days or less. | Number of probation cases. |
| | 6b. Number of days from when a violation is discovered to appropriate action should be 7 days or less. | Number of days from discovery of a violation to action. |

**Example of the proposed dashboard measurement report**
In order to provide a more transparent and easy to understand executive-level report on performance measures and volume measurement, staff has prepared an example of the proposed report, in Attachment 2.

Attachment 2 is an example of the type of information to be displayed to the Commission. This example does **not** contain actual results. We present this report only to provide an example of how the report would look. At this time, the database does not capture all information needed to generate the proposed reports. However, before spending scarce resources modifying the database and entering data, staff wants to make sure this report will assist the Commission in carrying out its oversight responsibilities.

**Conceptual discussion by the Commission**
The purpose of this agenda item is to request the Commission discuss and advise Commission staff. What level and amount of information does the Commission need in order to be adequately informed about the workload and workflow in DPP? Does the proposed report meet that need?

**Next steps**
Based on the comments from the Commissioners, staff will proceed to develop the report along with any requested changes. Staff will need to modify the computer system and its internal policy and procedures to gather the data. Staff estimates that the first report will be presented to the Commission using actual data in mid-2012.

Attachment 1

# Educator Discipline Workflow

COMMISSION ON TEACHER CREDENTIALING

*Ensuring Educator Excellence*

**Report of misconduct arrives at CTC**
DPP staff assign a tracking number, reviews and sorts reports of misconduct

- Report does not provide jurisdiction to CTC → **No case opened**
- Report provides jurisdiction (conviction) and the crime is a mandatory → Request certified court documents → **Adverse Action is taken based on operation of law**
- Report provides jurisdiction and misconduct is a potential mandatory → Open case → Mandatory / Discretionary
- Report provides jurisdiction for investigation to be opened, not mandatory or potential mandatory → Open case and analyze the type of misconduct → Open case / **No case**

**Request documents related to the misconduct**
Request documents, repeatedly if necessary. Collect and review documents, analyze to identify appropriate presentation to COC.

- Conduct is type or frequency for which the COC usually does not take Adverse Action. Place on COC agenda as Consent Item for action → COC agrees → **Close case/grant application**
- Conduct is type or frequency for which the COC usually does not take Adverse Action. Place on COC agenda as Consent Item for action → COC disagrees → Move case forward
- Conduct is type that COC might or might not want to review. Prepare an action item for COC meeting and based on summary review, COC makes a decision → COC decides not to review the case further → **Close/grant case**
- Conduct is type that COC might or might not want to review. Prepare an action item for COC meeting and based on summary review, COC makes a decision → COC decides that case should move to the Initial Review step → Move case forward
- Conduct is type the COC reviews → Begin the Initial Review by sending the LOI → Move case forward

*Continued on following page*

**KEY TERMS:**

**CTC:** Commission on Teacher Credentialing

**DPP:** Division of Professional Practices

**COC:** Committee of Credentials

**LOI:** Letter of Inquiry

**CIR:** Confidential Investigative Report

**Applicant:** Individual applying for a credential in California.

**Credential Holder:** Individual who holds, or held a credential in California.

**Initial Review:** The COC reviews CIR to decide whether to move the case forward for Formal Review or can close/grant at this time.

**Formal Review:** The COC reviews CIR and additional information submitted by the respondent. Respondent may appear before the COC. The COC can close the case, grant/deny the credential, and/or recommend an adverse action to the CTC.

**Adverse Action:** Disciplinary actions ranging from private admonition to credential revocation or denial.

**Credential:** A credential, certificate, life diploma, permit, certificate of clearance or waiver issued by the Commission.

# Educator Discipline Workflow

COMMISSION ON TEACHER CREDENTIALING

*Ensuring Educator Excellence*

*Continued from previous page*

**Send the LOI to individual** (must schedule COC hearing within 60 days of LOI) → Individual may submit information after LOI. Include all information in CIR. → Move case forward

**Finalize the CIR and place on COC agenda for the Initial Review** → Move case forward

**Initial Review takes place at a regularly scheduled COC meeting**
- → COC can decide to close/grant the case → **Close/grant case**
- → COC can move the case to a Formal Review → Move case forward

**Notify Individual of Formal Review and send the CIR to individual** (minimum of 30 days prior to the Formal Review) → Individual may submit additional information and request to appear at Formal Review → Move case forward

**Formal Review, at a regularly scheduled COC meeting** May include an appearance by individual.
- → COC can decide to close/grant the case → **Close/grant case**
- → COC can recommend Adverse Action → Notify individual of COC recommendation within 14 days of COC meeting

**Individual has 30 days to decide to request reconsideration, appeal COC recommendation or recommendation moves to the CTC.**
- → **Recommended adverse action moves to CTC Agenda**
- → Request reconsideration → **Place on a future COC meeting agenda**
- → Appeal recommended action → **Administrative hearing** → Potential resolution by settlement → **Place on a future COC meeting agenda**

**COC Actions or possible Adverse Actions:**

**Applicant:** "Grant" or "Deny the Credential Application"

**Holder:** "Close Case" "Private Admonition" "Public Reproval" "Suspend" (1-364 days), or "Revoke" all Credentials

**NOTE:**

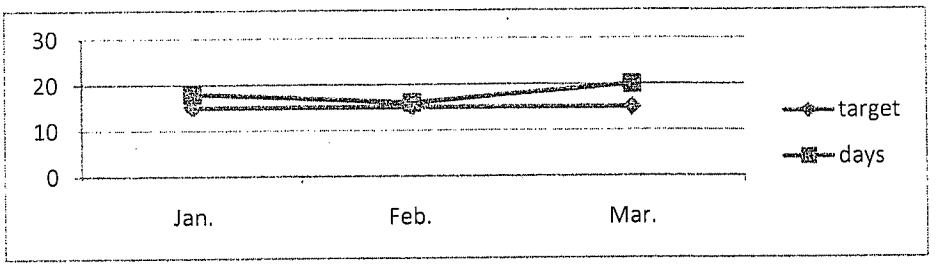
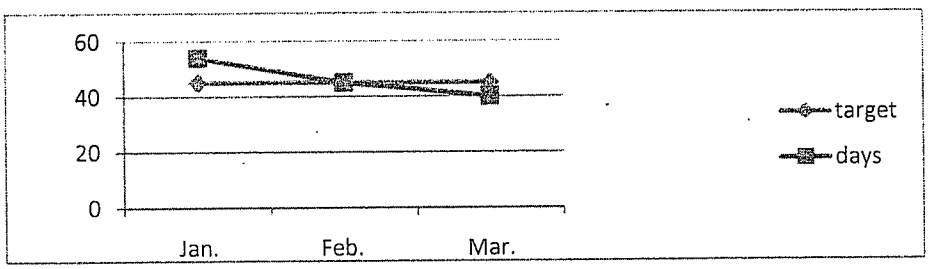
Applicants have the burden of proof — they are applying for a license.

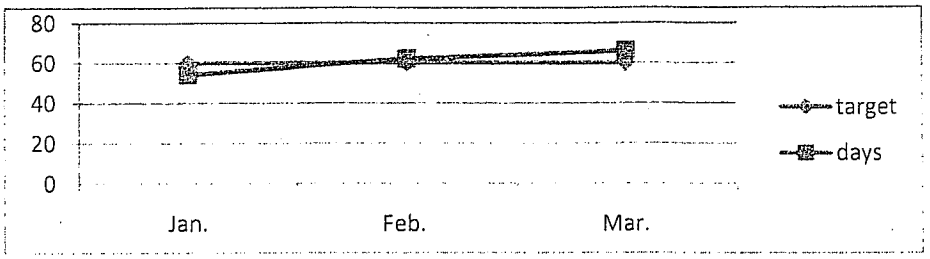
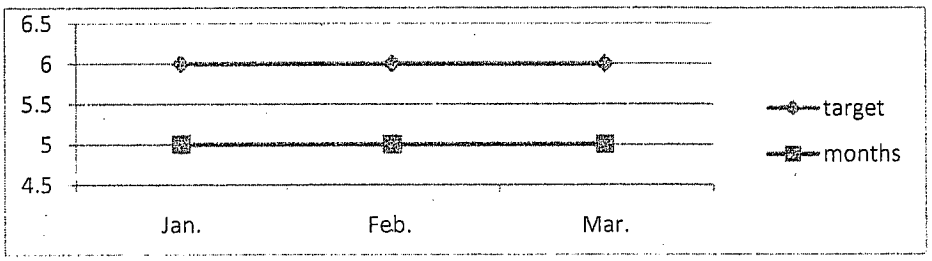
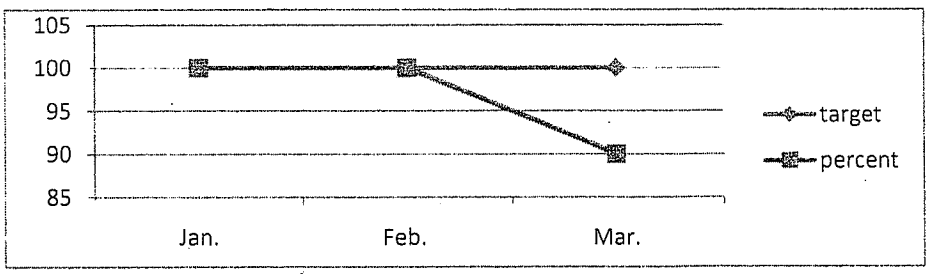
- Credential holders hold a credential and the Commission has the burden of proof because the Commission would be taking away the individual's property right to that credential.
- A denial or revocation is not necessarily premanent. The individual, under specified circumstances, may seek a credential in the future.

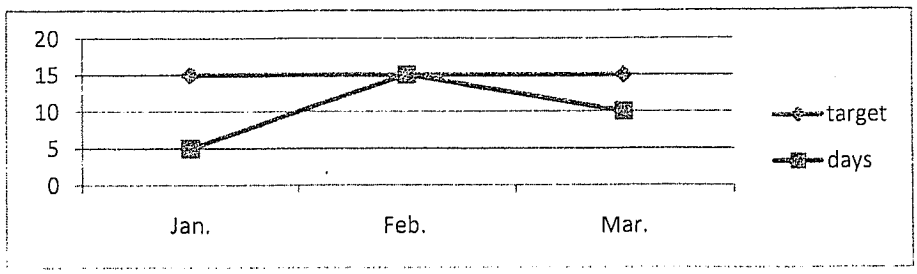
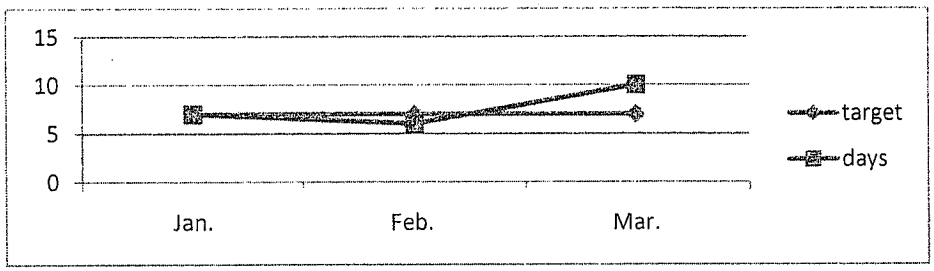
## Attachment 2

### EXAMPLE ONLY

### DPP PERFORMANCE MEASURES - JANUARY THROUGH MARCH 2012

| Business Process | Average time to process |
|---|---|
| **1. Intake**<br>Documents logged. |  <br>The Commission has set a target of 15 days for this activity. |
| **Volume** | **1608** **1430** **1762** |
| | |
| **2. Assignment**<br>Document gathering. |  <br>The Commission has set a target of 45 days for this activity. |
| **Volume** | **496** **682** **504** |
| | |

| | |
|---|---|
| **3. Investigate**<br>Investigate and send Letter of Inquiry. |  <br>The Commission has set a target of 60 days for this activity. |
| **Volume** | **72** **76** **81** |
| | |
| **4. Committee Review**<br>COC review and determination of probable cause. |  <br>The Commission has set a target of six months to complete this activity. |
| **Volume** | **287** **319** **386** |
| | |
| **5. Formal Discipline**<br>Formal discipline and final decision activities. |  <br>The Commission has set a target of next available meeting for this activity. |
| **Volume** | **120** **125** **176** |
| | |

| | |
|---|---|
| **6a. Probation Intake**<br>Time from placement on probation to date monitor makes first contact. |  <br>The Commission has set a target of 15 days for this activity. |
| **Volume** | **4** **6** **3** |
| | |
| **6b. Probation Violation**<br>Number of days from when a violation is discovered to appropriate action commenced. |  <br>The Commission has set a target of 7 days for this activity. |
| **Volume** | **2** **3** **1** |

# BSA Recommendation 2.9.d

***Recommendation 2.9.d:*** *The division should ensure that its reports and practices provide adequate understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases.*

**Index:**

- **Analysis of BSA 2.9.d**
  - Analysis describes how the division will track reasons for delay of individual reports of misconduct in the database system.

- **Reports**

  Reports to be enhanced to include delay information
  - Potential LOI
  - Potential Mandatory
  - Potential CC

# Analysis of BSA Recommendation 2.9.d

**BSA Recommendation 2.9:**

To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:

**BSA Recommendation 2.9.d:**

An understanding of the reasons for delays investigating individual reports of misconduct without having to review the paper files for the cases.

The following activities will be completed on new cases at the "Pre-COC" stage and will track delays caused by outside agencies. The activity will be completed on cases after a second request for information is sent to an outside agency.

Therefore, any case w/o a noted Delay Activity that is older than 60 days will be indentified as a case delayed by DPP staff or a case that requires the Delay Activity to be updated.

**Add the following Activities:**

**Activity Group** = Cause for Delay

**Activity Type** = Court
Arresting Agency
District Attorney
School District
Outside agency
Other

Activity Note field = Free form which allows staff to input the name of the specific agency causing the delay or additional information such as "pending court hearing."

Effective Date = Date second request for information sent that causes the Delay

End Date = Date document/information received

Done Box = Not checked in order to place on reports and screen;
Check box when document received – removes from Report/Screen

**More Info Screen**:

Cause for Delay Date Field = Auto fill effective date of activity above

Cause for Delay Field = Auto fill Activity Type

**Reports:**

The Delay Activity will be incorporated in the Potential Mandatory, Potential LOI & Potential Consent Calendar reports, which are given to Intake staff on the first and fifteenth of the month to help them manage their workload.

The Delay Activity will help management when reviewing the above mentioned reports by indicating whether a delay exists and help determine whether the delay is being caused internally or externally.

# Division of Professional Practices

## Monitor Cases by Case Type and Owner

## Potential LOI

| Case Num | Name | Designation | Offense | Case Opened | Delay Code | Last Activity Date | Last Activity Group | Last Activity Type | Due Date | Past Due | Age (Days) Case | Age (Days) Activity |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | **Croft, Melissa** | | | | | | | | | | | |
| [redacted] | | HOLDER | OX | 08/09/2011 | | 08/09/2011 | PREPARE DOCUMENT | COURT DOCUMENTS (FIRST) | 08/30/2011 | 216 | 237 | 237 |
| | | HOLDER | CX | 09/13/2011 | | 09/13/2011 | PREPARE DOCUMENT | STATE RECORD CENTER (FIRST) | 09/18/2011 | 197 | 202 | 202 |
| | | HOLDER | S | 09/13/2011 | | 09/21/2011 | PREPARE DOCUMENT | DISTRICT ATTORNEY REQUEST | 09/21/2011 | 194 | 202 | 194 |
| | | HOLDER | AX | 09/19/2011 | | 09/19/2011 | PREPARE DOCUMENT | DMV | 09/24/2011 | 191 | 196 | 196 |
| | | HOLDER | A | 10/04/2011 | | 10/04/2011 | PREPARE DOCUMENT | DMV | 10/09/2011 | 176 | 181 | 181 |
| | | HOLDER | O | 03/15/2011 | | 10/14/2011 | ASSIGNED TO | TECH | 10/14/2011 | 171 | 384 | 171 |
| | | HOLDER | OX | 09/24/2011 | | 09/24/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 10/15/2011 | 170 | 191 | 191 |
| | | HOLDER | A | 10/13/2011 | | 10/13/2011 | PREPARE DOCUMENT | DMV | 10/18/2011 | 167 | 172 | 172 |
| | | FIRST APP | C | 08/10/2011 | | 08/17/2011 | PENDING ARRIVAL | APP/PAK | 10/26/2011 | 159 | 236 | 229 |
| | | HOLDER | C | 10/05/2011 | | 10/05/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 10/26/2011 | 159 | 180 | 180 |
| | | HOLDER | C | 10/06/2011 | | 10/06/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 10/27/2011 | 158 | 179 | 179 |
| | | HOLDER | CX | 08/09/2011 | | 09/15/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 10/27/2011 | 158 | 237 | 200 |
| | | HOLDER | S | 10/10/2011 | | 10/10/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 10/31/2011 | 154 | 175 | 175 |
| | | HOLDER | A | 08/18/2011 | | 10/14/2011 | PREPARE DOCUMENT | COURT DOCUMENTS (FIRST) | 11/04/2011 | 150 | 228 | 171 |
| | | HOLDER | OX | 08/09/2011 | | 11/04/2011 | STAFF ACTION | RAP RECEIVED | 11/04/2011 | 150 | 237 | 150 |
| | | HOLDER | C | 10/21/2011 | | 10/21/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 11/11/2011 | 143 | 164 | 164 |
| | | HOLDER | O | 10/21/2011 | | 10/21/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 11/11/2011 | 143 | 164 | 164 |
| | | HOLDER | AX | 11/13/2011 | | 11/13/2011 | PREPARE DOCUMENT | DMV | 11/18/2011 | 136 | 141 | 141 |
| | | HOLDER | C | 10/29/2011 | | 10/29/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 11/19/2011 | 135 | 156 | 156 |
| | | HOLDER | AX | 11/18/2011 | | 11/18/2011 | PREPARE DOCUMENT | DMV | 11/23/2011 | 131 | 136 | 136 |
| | | HOLDER | C | 11/04/2011 | | 11/04/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 11/25/2011 | 129 | 150 | 150 |
| | | HOLDER | CX | 11/04/2011 | | 11/04/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 11/25/2011 | 129 | 150 | 150 |
| | | HOLDER | AX | 09/13/2011 | | 10/21/2011 | PENDING ARRIVAL | ARREST REPORT | 12/02/2011 | 122 | 202 | 164 |
| | | HOLDER | AX | 11/28/2011 | | 11/28/2011 | PREPARE DOCUMENT | DMV | 12/03/2011 | 121 | 126 | 126 |
| | | HOLDER | C | 11/23/2011 | | 11/23/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 12/14/2011 | 110 | 131 | 131 |
| | | HOLDER | CX | 11/28/2011 | | 11/28/2011 | PREPARE DOCUMENT | LA SHERIFF REQUEST | 12/19/2011 | 105 | 126 | 126 |
| | | HOLDER | CX | 11/28/2011 | | 11/28/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 12/19/2011 | 105 | 126 | 126 |
| | | HOLDER | OX | 11/28/2011 | | 11/28/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 12/19/2011 | 105 | 126 | 126 |
| | | HOLDER | C | 11/28/2011 | | 11/28/2011 | PREPARE DOCUMENT | COURT DOCUMENTS (FIRST) | 12/19/2011 | 105 | 126 | 126 |
| | | HOLDER | C | 11/28/2011 | | 11/28/2011 | PREPARE DOCUMENT | LA SHERIFF REQUEST | 12/19/2011 | 105 | 126 | 126 |
| | | HOLDER | AX | 12/15/2011 | | 12/15/2011 | PREPARE DOCUMENT | DMV | 12/20/2011 | 104 | 109 | 109 |
| | | HOLDER | A | 11/08/2011 | | 11/08/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 12/20/2011 | 104 | 146 | 146 |
| | | HOLDER | C | 07/30/2011 | | 11/09/2011 | PENDING ARRIVAL | DISTRICT ATTORNEY | 12/21/2011 | 103 | 247 | 145 |
| | | HOLDER | C | 12/01/2011 | | 12/01/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 12/22/2011 | 102 | 123 | 123 |
| | | HOLDER | OX | 08/22/2011 | | 11/14/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 12/26/2011 | 98 | 224 | 140 |
| | | HOLDER | CCO | 12/28/2011 | | 12/28/2011 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 12/28/2011 | 96 | 96 | 96 |
| | | HOLDER | CX | 12/10/2011 | | 12/10/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 12/31/2011 | 93 | 114 | 114 |
| | | HOLDER | D | 04/29/2010 | | 11/19/2011 | PENDING ARRIVAL | DISTRICT ATTORNEY | 12/31/2011 | 93 | 704 | 135 |
| | | HOLDER | A | 12/27/2011 | | 12/27/2011 | PREPARE DOCUMENT | DMV | 01/01/2012 | 92 | 97 | 97 |
| | | HOLDER | CX | 12/12/2011 | | 12/12/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 01/02/2012 | 91 | 112 | 112 |
| | | HOLDER | C | 09/12/2011 | | 01/03/2012 | PREPARE DOCUMENT | COURT UPDATE NEEDED | 01/05/2012 | 88 | 203 | 90 |
| | | HOLDER | CX | 12/15/2011 | | 12/15/2011 | PREPARE DOCUMENT | COURT DOCUMENTS (FIRST) | 01/05/2012 | 88 | 109 | 109 |
| | | HOLDER | CX | 12/15/2011 | | 12/15/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 01/05/2012 | 88 | 109 | 109 |

# Potential Mandatory

| Case Num | Name | Designation | Offense | Susp Date | Delay Code | Last Activity Date | Last Activity Group | Last Activity Type | Due Date | Past Due | Age (Days) Case | Age (Days) Activity |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Cullum, Judy** | | | | | | | | | | | | |
| [redacted] | | HOLDER | CCSX* | | | 12/23/2011 | PENDING ARRIVAL | SCHOOL DISTRICT INFO | 02/03/2012 | 59 | 109 | 101 |
| | | HOLDER | D* | | | 02/06/2012 | STAFF ACTION | RAP RECEIVED | 02/06/2012 | 56 | 222 | 56 |
| | | HOLDER | DX* | | | 01/30/2012 | PENDING ARRIVAL | COURT DOCUMENTS | 03/12/2012 | 21 | 529 | 63 |
| | | HOLDER | D* | | | 03/26/2012 | PREPARE DOCUMENT | COURT UPDATE NEEDED | 04/16/2012 | 0 | 123 | 7 |
| | | HOLDER | CCS* | 01/12/2012 | | 03/19/2012 | PENDING ARRIVAL | COURT DOCUMENTS UPDATE | 04/30/2012 | 0 | 199 | 14 |
| | | HOLDER | DX | | | 12/08/2012 | STATUTE OF LIMITATION | ONE YEAR | 12/08/2012 | 0 | 384 | -250 |

**Total Potential Mandatory Cases owned by Cullum, Judy: 6**

# Potential Consent Calendar

| Case Num | Name | Designation | Offense | Case Opened | Delay Code | Last Activity Date | Last Activity Group | Last Activity Type | Due Date | Past Due | Age (Days) Case | Age (Days) Activity |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Croft, Melissa** | | | | | | | | | | | | |
| [redacted] | | | AX | 11/23/2010 | | 09/12/2011 | ASSIGNED TO | ANALYST | 09/12/2011 | 203 | 496 | 203 |
| | | | AX | 07/30/2011 | | 08/02/2011 | PENDING ARRIVAL | APP/PAK - EXPLANATION ONLY | 10/11/2011 | 174 | 247 | 244 |
| | | | O | 08/04/2011 | | 08/04/2011 | PENDING ARRIVAL | APP/PAK | 10/13/2011 | 172 | 242 | 242 |
| | | | A | 08/01/2011 | | 10/14/2011 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 10/14/2011 | 171 | 245 | 171 |
| | | | O | 06/08/2011 | | 10/14/2011 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 10/14/2011 | 171 | 299 | 171 |
| | | | AX | 10/04/2011 | | 10/04/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 10/25/2011 | 160 | 181 | 181 |
| | | | A | 07/23/2011 | | 10/26/2011 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 10/26/2011 | 159 | 254 | 159 |
| | | | A | 10/21/2011 | | 10/21/2011 | PREPARE DOCUMENT | DMV | 10/26/2011 | 159 | 164 | 164 |
| | | | AX | 10/27/2011 | | 10/27/2011 | PREPARE DOCUMENT | DMV | 11/01/2011 | 153 | 158 | 158 |
| | | | AX | 07/12/2011 | | 09/21/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 11/02/2011 | 152 | 265 | 194 |
| | | | AX | 10/29/2011 | | 10/29/2011 | PREPARE DOCUMENT | DMV | 11/03/2011 | 151 | 156 | 156 |
| | | | O | 06/10/2011 | | 10/14/2011 | PREPARE DOCUMENT | DISTRICT ATTORNEY REQUEST | 11/04/2011 | 150 | 297 | 171 |
| | | | AX | 10/19/2011 | | 10/19/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 11/09/2011 | 145 | 166 | 166 |
| | | | OX | 10/21/2011 | | 10/21/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 11/11/2011 | 143 | 164 | 164 |
| | | | A | 11/10/2011 | | 11/17/2011 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 11/17/2011 | 137 | 144 | 137 |
| | | | AX | 11/13/2011 | | 11/13/2011 | PREPARE DOCUMENT | DMV | 11/18/2011 | 136 | 141 | 141 |
| | | | OX | 10/29/2011 | | 10/29/2011 | PREPARE DOCUMENT | ARREST REPORT (FIRST) | 11/19/2011 | 135 | 156 | 156 |
| | | | O | 11/29/2011 | | 11/29/2011 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 11/29/2011 | 125 | 125 | 125 |
| | | | OX | 05/14/2011 | | 10/19/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 11/30/2011 | 124 | 324 | 166 |
| | | | O | 07/12/2011 | | 12/01/2011 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 12/01/2011 | 123 | 265 | 123 |
| | | | AX | 11/28/2011 | | 11/28/2011 | PREPARE DOCUMENT | DMV | 12/03/2011 | 121 | 126 | 126 |
| | | | AX | 11/28/2011 | | 11/28/2011 | PREPARE DOCUMENT | DMV | 12/03/2011 | 121 | 126 | 126 |
| | | | A | 11/29/2011 | | 11/29/2011 | PREPARE DOCUMENT | DMV | 12/04/2011 | 120 | 125 | 125 |
| | | | O | 06/28/2011 | | 11/14/2011 | PREPARE DOCUMENT | DISTRICT ATTORNEY REQUEST | 12/05/2011 | 119 | 279 | 140 |
| | | | A | 11/13/2011 | | 01/03/2012 | PREPARE DOCUMENT | COURT DOCUMENTS (FIRST) | 12/06/2011 | 118 | 141 | 90 |
| | | | A | 11/17/2011 | | 11/17/2011 | PREPARE DOCUMENT | ARREST & COURT DOCS. | 12/08/2011 | 116 | 137 | 137 |
| | | | AX | 08/01/2011 | | 10/28/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 12/09/2011 | 115 | 245 | 157 |
| | | | CCO | 12/10/2011 | | 12/12/2011 | ASSIGNED TO | TECH | 12/12/2011 | 112 | 114 | 112 |
| | | | A | 12/08/2011 | | 12/08/2011 | PREPARE DOCUMENT | DMV | 12/13/2011 | 111 | 116 | 116 |
| | | | O | 12/14/2011 | | 12/14/2011 | PREPARE DOCUMENT | MISCONDUCT REVIEW FORM | 12/14/2011 | 110 | 110 | 110 |
| | | | A | 12/10/2011 | | 12/10/2011 | PREPARE DOCUMENT | DMV | 12/15/2011 | 109 | 114 | 114 |
| | | | A | 05/24/2011 | | 11/04/2011 | PENDING ARRIVAL | COURT DOCUMENTS | 12/16/2011 | 108 | 314 | 150 |
| | | | AX | 12/14/2011 | | 12/14/2011 | PREPARE DOCUMENT | DMV | 12/19/2011 | 105 | 110 | 110 |
| | | | A | 05/03/2011 | | 11/08/2011 | PENDING ARRIVAL | ARREST REPORT | 12/20/2011 | 104 | 335 | 146 |
| | | | O | 03/24/2011 | | 12/22/2011 | ASSIGNED TO | TECH | 12/22/2011 | 102 | 375 | 102 |

# BSA Recommendation 2.9.f

***Recommendation 2.9.f:*** *Clear tracking of the dates at which the commission will lose its jurisdiction over the case as a result of the expiration of statute -based time frames for investigating the misconduct.*

**Index:**

- **Analysis of BSA 2.9.f**
  - Analysis describes how the division will track Statute of Limitation dates as well as when jurisdiction[i] is obtained in a case.

- **Statute of Limitations Report – Six Months to Expiration**
  - Report lists cases which are within six months of the Statute of Limitation date.

- **COC Assigned and Pending Cases Report**
  - Staff report of cases assigned for investigation – includes Statute of Limitation dates to help staff prioritize case load.

- **Sign in Sheet**
  - Statute of Limitation training sign in sheet that occurred on March 26, 2012

[i] Jurisdiction Training to occur In April 2012

# Analysis of BSA Recommendation 2.9.f

**Introduction BSA Recommendation 2.9:**

To adequately address the weaknesses in its processing of reports of misconduct, the division should revisit its management reports and its processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate the following:

**BSA Recommendation 2.9.f:**

Clear tracking of the dates at which time the Commission will lose jurisdiction over the case as a result of the expiration of statute based time frames for investigating the misconduct.

**Statute of Limitation (SL) (EC 44242.7):**

The SL dates in Siebel will be entered by Intake staff prior to forwarding the case to management for review based on the information and/or documents in the case file. The SL dates will be reviewed by management and/or legal staff prior to the case being assigned for "Initial Review/LOI." The SL dates will be entered using the following activity:

**Activity Group** = Statue of Limitation

**Activity Type** = One Year
Four Year

**Effective Date** = will be entered by Intake staff based on the following:

One Year = from date the act or omission should reasonably have been discovered by CTC

Four Years = from date of misconduct in a School District report or date of criminal conviction.

*Note*: The above SL activity will be entered twice for each activity type (One & Four year)

A second Activity Group//Type will be entered to record any Exceptions to the SL that exist.

**Activity Group** = SL Exception

**Activity Type** = Applicant Only
Allegations Sex/minor
Recurring conduct

**More Info Screen:**

The above Activities will also be displayed on the "More Info Screen" which will contain three new fields: 1) SL 1 Year 2) SL 4 Years 3) SL Exception. The effective date of the SL activities will auto-populate the new "SL Date" fields.

For the SL Exception field - the Activity Type Exceptions will auto populate the new field.

**Update SL Date:**

The SL effective date can be updated by doing the same activities noted above (Group/Type) and only the last activity will be used for reporting purposes or to update the More Info Screen.

**Reports:**

- A "Statute of Limitations (6 Month) Report" is a monthly report that will be designed to run on any case that is within 6 months of its SL date. At that time, management can review and assign the case.
- The SL dates will be incorporated in the "COC Assigned and Pending Cases" Report which will assist staff and management in prioritizing cases.

**Jurisdiction (EC 44242.5):**

As all court, police, affidavits, district and other relevant documents are received by DPP staff that provide jurisdiction based on Education Code section 44242.5, the Intake staff members, will make the following case activity entries prior to forwarding the case files for management review:

**Activity Group** = Jurisdiction

**Activity Type** = ED Code (Pull down menu) of "B" and "D" jurisdiction listed below:

| B JX | D JX |
|---|---|
| 44242.5(b)(1) | 44242.5(d)(1) |
| 44242.5(b)(2) | 44242.5(d)(2) |
| 44242.5(b)(3) | 44242.5(d)(3) |
| 44242.5(b)(4) | 44242.5(d)(4) |
| 44242.5(b)(5) | 44242.5(d)(5) |
| 44242.5(b)(6)(A) | 44242.5(d)(6) |
| 44242.5(b)(6)(B) | |
| No JX | No JX |

*Note*: Enter multiple b and/or d jurisdiction activities if multiple jurisdictions exist.

Management Review:

Upon receipt of the case file for review, management must also review and determine whether both "B" and "D" jurisdiction have been established based on the documents received.

Reports:

- (d) Jurisdiction will be noted on the "COC Assigned and Pending Cases" report.
- (d) Jurisdiction will be noted on the "Statue of Limitations (6 Month) Report" report if the case is within 6 months of either date.

# Statute of Limitations Report - Expiration in Six Months or Less

| Case Num | Resp Name | Case Open | Designation | Case Type | Case Owner | SD Case | JXd | SOL Expires |
|---|---|---|---|---|---|---|---|---|
| [redacted] | | 10/29/2011 | HOLDER | PENDING LOI | JLOUIE | ✓ | | 08/01/2012 |
| | | 10/29/2011 | HOLDER | LOI | JLOUIE | ✓ | | 08/30/2012 |

Total Cases this Report: **2**

Cases displayed in **BOLD** have more than one SOL activity record that is not flagged as Done.

# Divisi_ of Professional Practices

## COC Assigned and Pending Cases as of 03/01/2012

Printed 3/1/2012 7:59:31AM

[redacted]



| Case Num | Respondent | App/ AppHld | Offense Code | Case Type | (d) Jx | SOL 1 yr. | SOL 4 yr. | COC Meeting Date | Opened | Case Age Days | Assigned | Assign Age Days |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Initial Review** | | | | | | | | | | | | |
| [redacted] | [redacted] | | AX | LOI | | | | 3/21-23/2012 | 06/07/2010 | 633 | 03/01/2012 | 0 |
| | | | O | LOI | | | | 3/21-23/2012 | 10/14/2010 | 504 | 03/01/2012 | 0 |
| | | | O | LOI | | | | 3/21-23/2012 | 10/21/2010 | 497 | 03/01/2012 | 0 |
| | | | OX | LOI | | | | 3/21-23/2012 | 10/21/2010 | 497 | 03/01/2012 | 0 |
| | | | CCOX | LOI | | | | 4/18-20/2012 | 07/22/2010 | 588 | 03/01/2012 | 0 |
| | | | O | LOI | | | | 4/18-20/2012 | 09/30/2010 | 518 | 03/01/2012 | 0 |
| | | | O | LOI | | | | 4/18-20/2012 | 09/30/2010 | 518 | 03/01/2012 | 0 |
| | | | CCO | LOI | | | | 4/18-20/2012 | 11/23/2010 | 464 | 03/01/2012 | 0 |
| | | | CCO | LOI | | | | 4/18-20/2012 | 11/23/2010 | 464 | 03/01/2012 | 0 |
| **Formal Review - Non-Appearance (30 Day)** | | | | | | | | | | | | |
| [redacted] | [redacted] | | O | 30-DAY | | | | 3/21-23/2012 | 07/23/2010 | 587 | 03/01/2012 | 0 |
| | | | DX | 30-DAY | | | | 3/21-23/2012 | 07/23/2010 | 587 | 03/01/2012 | 0 |
| | | | CCO | 30-DAY | | | | 3/21-23/2012 | 07/23/2010 | 587 | 03/01/2012 | 0 |
| | | ✓ | O | 30-DAY | | | | 3/21-23/2012 | 07/29/2010 | 581 | 03/01/2012 | 0 |
| | | | S | 30-DAY | | | | 4/18-20/2012 | 07/29/2010 | 581 | 03/01/2012 | 0 |
| | | | O | 30-DAY | | | | 4/18-20/2012 | 10/07/2010 | 511 | 03/01/2012 | 0 |
| | | | O | 30-DAY | | | | 4/18-20/2012 | 11/17/2010 | 470 | 03/01/2012 | 0 |
| **Formal Review - Appearance** | | | | | | | | | | | | |
| [redacted] | [redacted] | | CCO | APPEARANCE | | | | 3/21-23/2012 | 07/26/2010 | 584 | 03/01/2012 | 0 |
| | | ✓ | O | APPEARANCE | | | | 4/18-20/2012 | 08/08/2011 | 206 | 03/01/2012 | 0 |

# Training: Statute of Limitations

On March 26, 2012, I received review and training on the Statute of Limitations training.

| Print Name | Sign Name |
|---|---|
| Janice Nakamura | |
| Inez Walls | |
| Cristina Romero | |
| Monica Zuniga | |
| Rachel Grizzaffi | |
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***Recommendation 2.10:*** *The division should develop and implement procedures to track cases after they have been assigned to the investigative process.*

**Index:**

- **Monitoring of Cases – Investigation Process (procedures)**
  - Describes how the division will track cases once a case has been assigned to the investigation process.

- **COC Assigned and Pending Cases Report**
  - Staff report of cases assigned for investigation – includes SOL dates to help staff prioritize case load.

- **Sign in Sheet**
  - January 11, 20112 training regarding the above procedures.

# Monitoring of Cases - Investigation Process

## Intro

The monitoring of cases assigned by the Supervising Investigator (SI) to analysts and investigators will be done through the "COC Assigned and Pending Cases" report. The report consists of cases assigned to each analyst, investigator and pending cases assigned to the SI. The report will be sent automatically via email to the SI on the 1st and 15th of each month. The SI will then forward a hard copy of the report to each analyst and investigator who has been assigned cases for review.

Cases assigned to analysts and investigators will be recorded in the report and grouped by "Case Owner" and fall into one of three categories:

1. Pending LOI
2. Initial Review
3. Formal Review (Appearance and Non-Appearance)

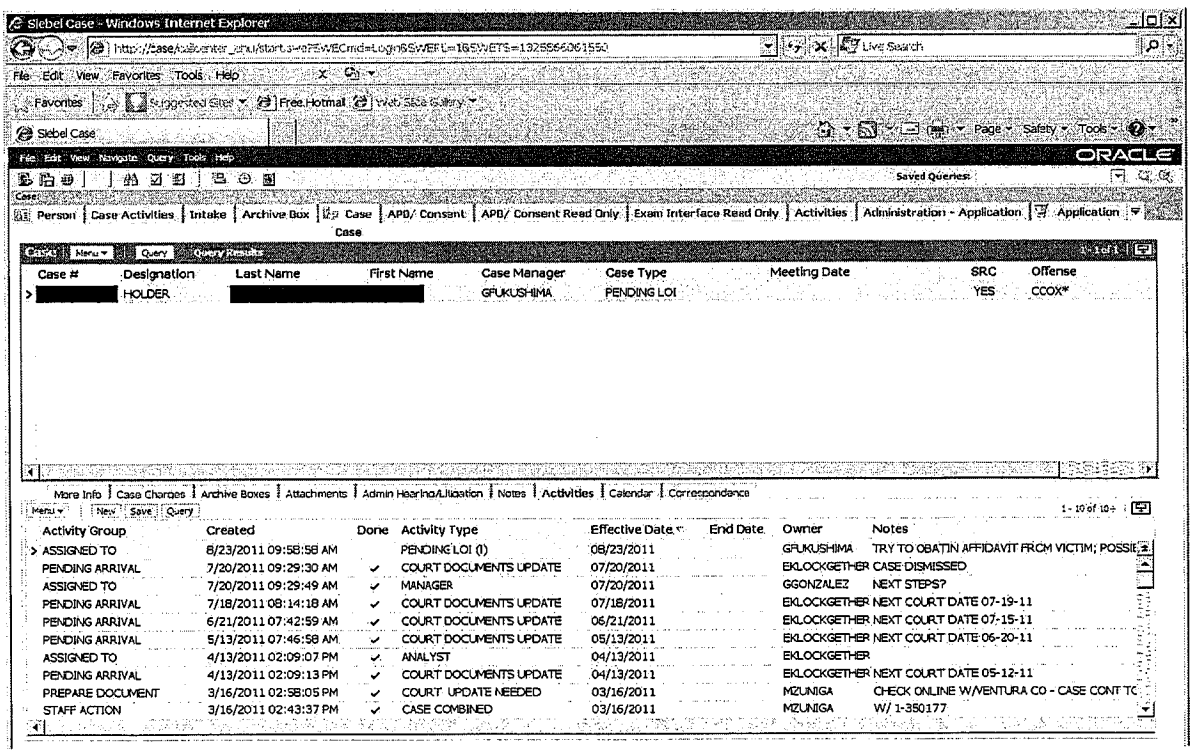
1. The SI assigns cases to the analysts and investigators as a "Pending LOI" case and is noted in Case with the following activity:

   Assigned To//Pending LOI (A) = Analysts or
   Assigned To//Pending LOI (I) = Investigators

   The SI also completes the following:

   Case Type = Pending LOI
   Case Owner = Analyst or Investigator Name
   Done Box = Not checked

Example 1



Because the "done box" remains unchecked, the case will be listed on the case owner's report under "Pending LOI" until the analyst/investigator does the following:

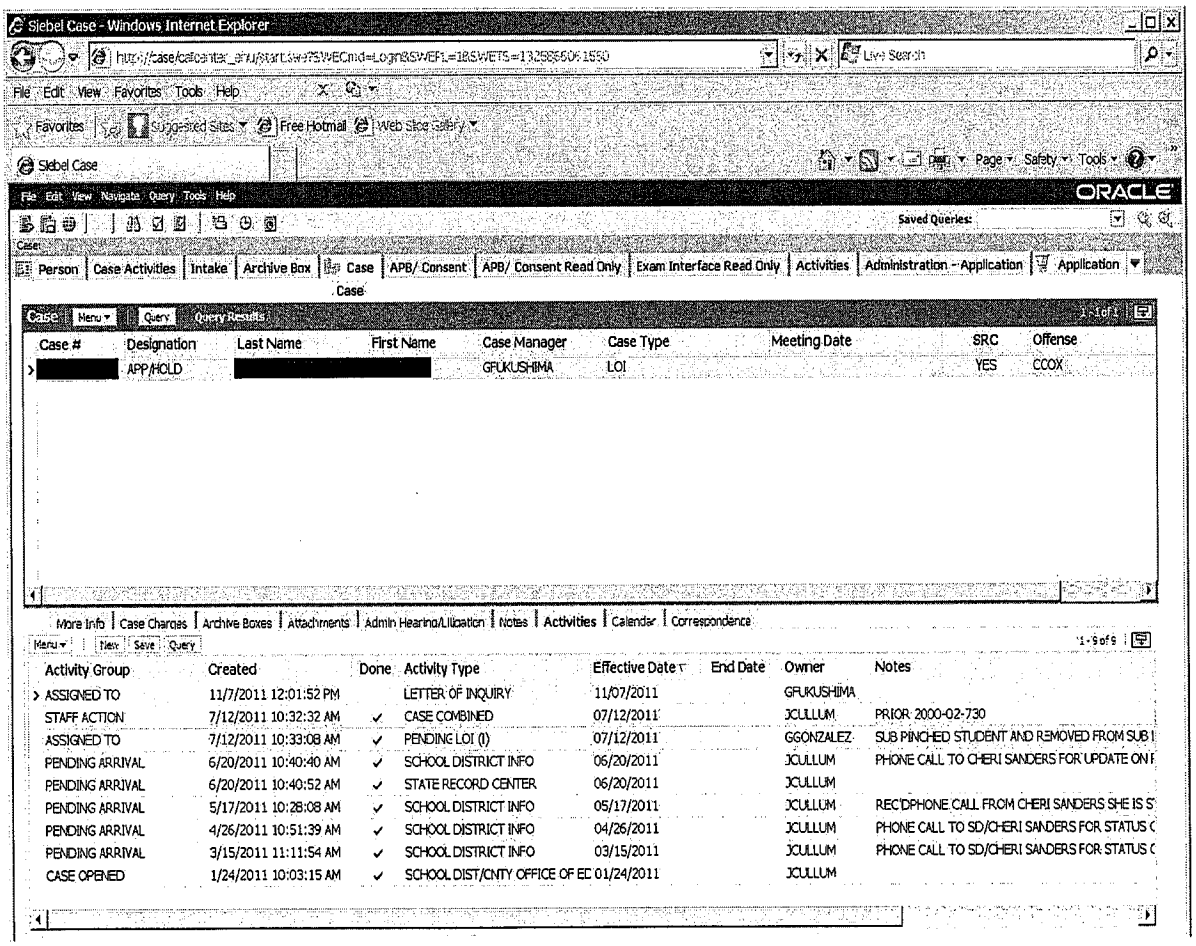
The analyst/investigator will check the "done box" in the above "Pending" activity when they send the LOI letter. The analyst/investigator should then complete activity #2 below:

2. Cases assigned to LOI/Initial Review are noted in Siebel-Case by the analyst/investigator when they complete the following activity and enter the following fields:

   Assigned To//Letter of Inquiry; Done Box = not checked

   More Info Screen fields:
   - Case Type = LOI
   - Meeting Date = Date of COC meeting
   - Six month date = six months from LOI date
   - School district, and any additional fields that can be completed.

Example 2




The case will then be listed in the case owner's Assigned COC Cases report under "Initial Review" until the following occurs:

After the COC meeting is completed and the final agenda with COC recommendations is distributed, the analyst/investigator will check the "done box" in the above "LOI/Initial Review" activity and will update Siebel-Case <u>if the COC recommends a 30 day letter be sent.</u> The Analyst/ Investigator will enter the activity in Step 3 below:

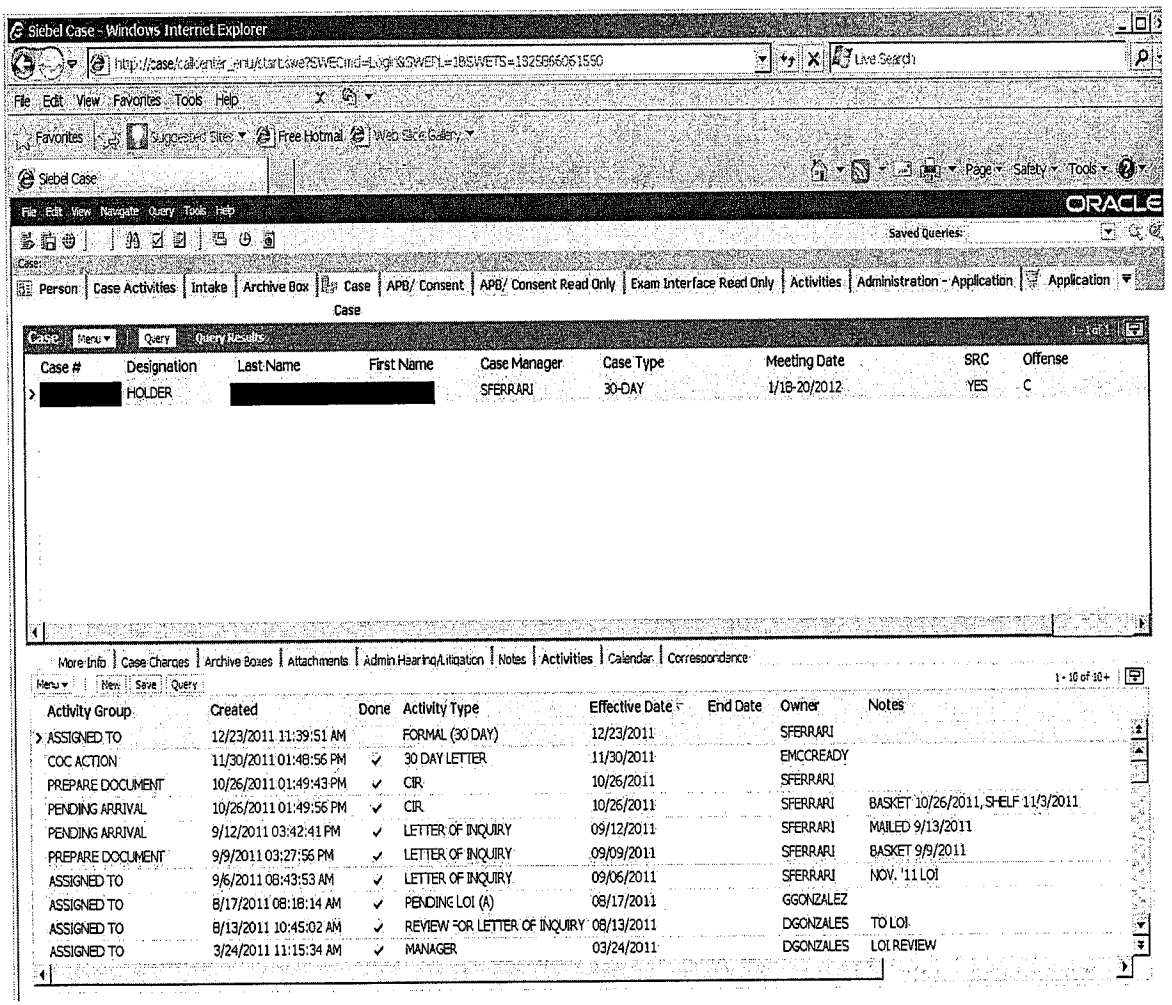
3. Cases assigned to Formal Review (30 Day) are noted in Siebel-Case by completing the following activity:

   Assigned To//Formal (30 Day) (Note: new activity type option); Done Box = not checked

   Fields:

   Case Type & Meeting Date will be completed by Agenda Analyst the Friday following the COC meeting due to report/letter writing purposes.

Example 3




The case should then be listed in the case owner's Assigned COC Cases report under "Formal Review - Non-Appearance (30 Day) until the following occurs:

When the COC meeting is completed and the completed agenda is distributed, the analyst/ investigator will check the "done box" in the above "Formal Review" activity. This will result in the case being removed from the case owners Assigned COC Cases report.

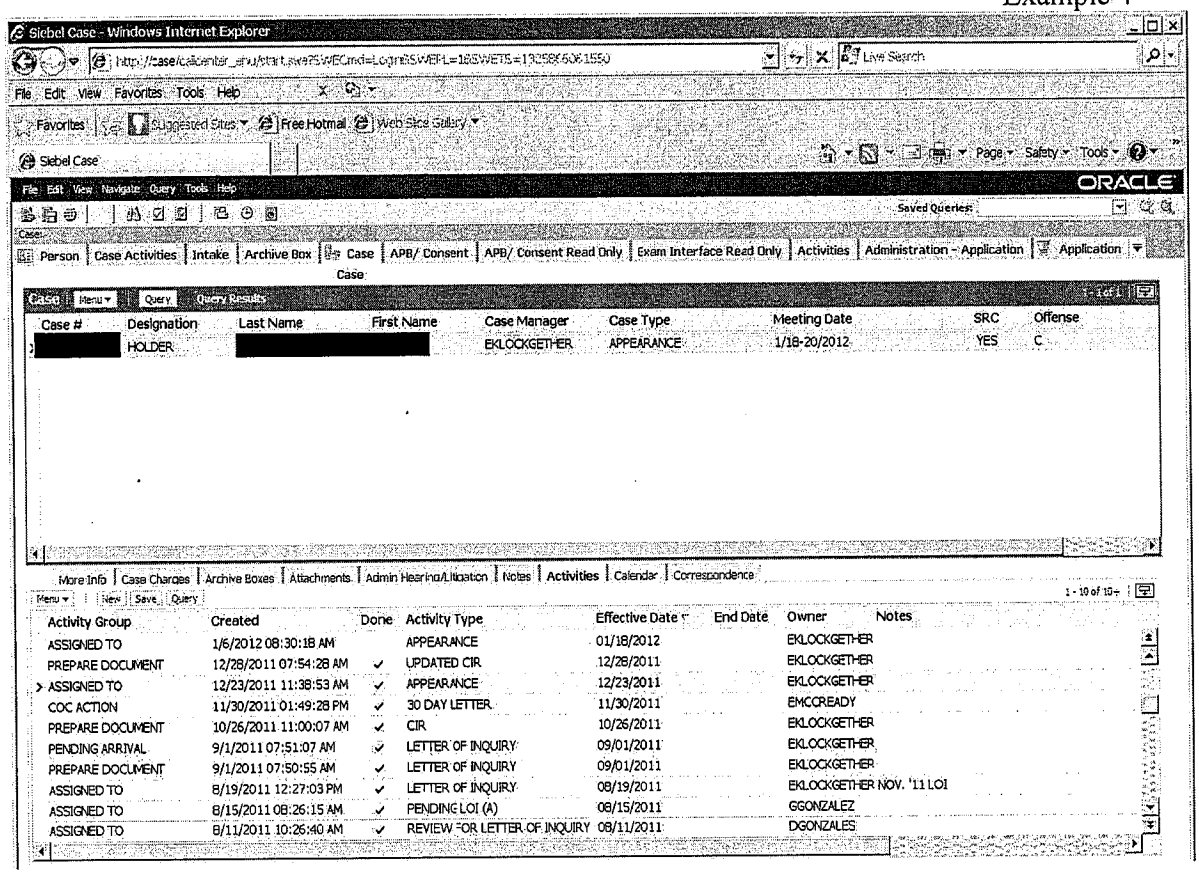
4. Cases assigned to Formal Review – Appearance, will be updated by the case owner when the Agenda Analyst notifies the case owner that his/her case is scheduled for an appearance. In addition to preparing COC questions, the case owner will check the "done box" in the 30 Day Formal Activity and update Siebel-Case activities to reflect the appearance by adding the following new activity:

   Assigned To//Appearance (Note: new activity type option); done box = not checked

   Fields:

   Case Type & Meeting Date will be completed by Agenda Analyst the Friday following the COC meeting due to report/letter writing purposes.

Example 4




When the COC meeting is completed and the completed agenda is distributed, the analyst or investigator will check the "done" box in the above "Appearance" activity. This will result in the case being removed from the case owners Assigned COC Cases report.

NOTE:

If the appearance is cancelled the Agenda Analyst will update Siebel-Case by checking the "done box" in the appearance activity and add a note indicating in the same activity that the "appearance was cancelled." The Agenda Analyst will then repeat activity step #3 above.

# Division of Professional Practices

## COC Assigned and Pending Cases as of 01/03/2012

Printed 1/3/2012 10:08:30AM



| Case Num | Respondent | App/ AppHld | Offense Code | Case Type | COC Meeting Date | Opened | Case Age Days | Assigned | Assign Age Days |
|---|---|---|---|---|---|---|---|---|---|
| **Pending LOI (I)** | | | | | | | | | |
| | | | CCS* | POTENTIAL LOI | | 07/24/2008 | 1258 | 12/23/2011 | 11 |
| | | | CCOX* | PENDING LOI | | 03/09/2010 | 665 | 08/23/2011 | 133 |
| | | | DX | PENDING LOI | | 10/28/2010 | 432 | 11/07/2011 | 57 |
| | | | CCS | PENDING LOI | | 10/18/2011 | 77 | 10/18/2011 | 77 |
| **Initial Review** | | | | | | | | | |
| | | ✓ | CCOX | LOI | | 01/24/2011 | 344 | 11/07/2011 | 57 |
| | | | CX* | LOI | | 02/10/2011 | 327 | 09/07/2011 | 118 |
| | | | CCS* | LOI | | 03/07/2011 | 302 | 10/20/2011 | 75 |
| | | | O | LOI | | 04/27/2011 | 251 | 11/07/2011 | 57 |
| | | | SX | LOI | | 05/21/2011 | 227 | 11/07/2011 | 57 |
| **Formal Review - Appearance** | | | | | | | | | |
| | | | O | APPEARANCE | 1/18-20/2012 | 04/23/2010 | 620 | 12/23/2011 | 11 |

# Monitoring of Cases – Investigation Process Training

Wednesday, January 11, 2012
9:00 – 10:00 am
DPP Conference Room

| Printed Name | Signature |
|---|---|
| 1. Gayle Dameron | [illegible] |
| 2. Eileen Klockgether | Eileen Klockgether |
| 3. Karen Romo | Karen Romo |
| 4. John Yamamoto | [illegible] |
| 5. Erin McCready | Erin McCready |
| 6. Judy Lowe | [illegible] |
| 7. Dan Gonzales | [illegible] |
| 8. Sylvia Ferrari | Sylvia Ferrari |
| 9. LARRY NG | [illegible] |
| 10. | |
| 11. | |
| 12. | |
| 13. | |
| 14. | |
| 15. | |
| 16. | |
| 17. | |
| 18. | |

Note: met & discussed process w/ Diana Marshall on 1/18/12 since she was absent on 1/11/12.