CTC

Commission on Teacher Credentialing

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Executive Office

June 6, 2011

Elaine M. Howle, CPA
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

Attached is the 60 day update on the efforts of the Commission on Teacher Credentialing (Commission) to implement the eleven (11) recommendations outlined in the report issued on April 7, 2011 by California State Auditor 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*".

Since the audit findings were released on April 7, 2011, the Commission has already addressed or completed implementation of the following recommendations:

- In March, 2011, the Commission 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 begin to reduce the number of unnecessary RAP sheets received by the Division. The Commission in the process of developing a work plan to implement further changes in this database to eliminate subsequent reports for persons no longer holding credentials. (Audit Recommendation 1)

- On May 2, 2011, the Commission requested a legal opinion from the Attorney General to determine whether the Commission may delegate to the Division of Professional Practices (Division) the authority to close investigations. (Previously provided to the BSA on May 19, 2011.) Until this opinion is received, effective May 1, 2011, at each meeting the Committee of Credentials (COC) will review an electronic consent calendar of cases recommended to be closed which has been prepared by the Commission's legal staff. (Audit Recommendation 4)

- On May 6, 2011, completed comprehensive written procedures including revised standards of service to ensure consistency and conformity by Division staff in processing and analyzing reported misconduct. (Previously provided to the BSA on May 19, 2011.) On May 25, 2011, conducted training for all staff. (Audit Recommendation 6)

- In April, 2011, developed an automated workload report to monitor the progress of all cases for reports to the Commission. (Audit Recommendation 7)

- On June 1, 2011, completed development, with assistance from the State Personnel Board, and circulated to managers and supervisors a comprehensive Hiring Handbook. (Audit Recommendation 10)

- On May 9, 2011, developed and circulated to all agency staff a revised Equal Employment Opportunity policy. (Audit Recommendation 11)

- Developed a **"Teacher Discipline Improvement Initiative (TDII)"** 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 Commission has attached various supporting documentation for reference to demonstrate the commitment of the Commission to implement each of the recommendations. The following table reflects the current status of each of the recommendations.

Commission on Teacher Credentialing
Recommendations from the Bureau of State Audit

BSA Recommendations	Commission Responses	Status as of June 6, 2011
Recommendation One: 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:** The Commission concurs with this recommendation, implementation has begun and a work plan to complete all phases of the project is being developed.	This recommendation is a two stage process. **Stage One:** In March, 2010, the Commission transitioned to a daily electronic uploading of the RAP Sheet data from the Department of Justice (DOJ) into the Commission's CASE system. Previously, this was a paper process handled by a different Division. **Stage Two:** An analysis of the data is necessary to determine the parameters regarding a RAP Sheet "discontinue request" to DOJ. There is a work plan in progress to address the scope of this portion of the recommendation. **Outstanding issues:** • Determine how many people are currently in the CASE system that were issued a one-time document, 30 day substitute, etc. If they have not renewed this document in three (3) years then DOJ would be notified that the Commission is no longer interested in receiving subsequent RAP information. • Determine those individuals that submitted fingerprint information in anticipation of requesting a document, but who never applied. Commission staff is working to identify who is appropriate to include in this domain. It is

BSA Recommendations	Commission Responses	Status as of June 6, 2011
		anticipated that once this recommendation is fully implemented, it will significantly reduce the number of unnecessary rap sheets received by the Commission from the DOJ.
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.	**Response:** 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.	This recommendation will be implemented when the new Executive Director is appointed at which time he or she will begin the process to revise the strategic plan. The recommendations from the audit will be included in the strategic plan at that time.
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.	**Response:** The Commission concurs with the recommendation. The Commission plans to gather data to effectively evaluate the number and classification of staff needed to maintain a particular level of service and if needed request a Budget Change Proposal for FY 12-13.	Commission staff is currently gathering data to determine how long it takes to complete each of the tasks in the discipline review process. In addition, staff presented the expected service level goals to the Commission on June 2, 2011. The Commission has directed staff to collect baseline data and report on each of the activities in the discipline review process. Once the Division has calculated the amount of work that can be completed by an individual per hour/day, the Commission will then be able to project the staffing needs for the Division of Professional Practices. This analysis will provide the detail needed to develop a Budget Change Proposal for FY 12-13, if appropriate. It is expected that an agenda item with the data will be presented to the Commission at the August 2011 meeting.
Recommendation Four: The Commission should seek a legal opinion from the attorney general to	**Response:** The Commission requested a formal Attorney General's opinion	On May 2, 2011, the Commission submitted a request for a formal Attorney General's (AG) opinion

BSA Recommendations	Commission Responses	Status as of June 6, 2011
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.	on the delegation issue. In the interim, effective May 1, 2011, the Committee of Credentials will review an electronic Consent Calendar of work evaluated by legal staff and take action. In addition, the Commission developed an electronic process to notify individuals on the Consent Calendar of the action taken by the COC. This process is done within 24 hours of the meeting.
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.	**Response:** 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.	This recommendation is delayed until the AG's opinion is received, a process that generally takes 6-7 months. Until the opinion is received the Commission staff will work with policymakers, stakeholders and other interested parties to discuss potential procedural and statutory solutions to increase the number of cases reviewed by the COC.
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.	**Response:** 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.	On May 6, 2011, a comprehensive Division procedure manual was completed and posted on the CTC intranet along with other DPP training materials and resources. In addition, the manual was forwarded to the BSA on May 19, 2011. On May 25, 2011, Division staff participated in mandatory training on the use of the site. Additional training is scheduled in June 2011.
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.	**Response:** 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.	The Commission staff will continue to develop and/or enhanced various management tools that will provide better oversight. A draft oversight plan is being reviewed and other reports are being worked on. Two reports completed are as follows:

BSA Recommendations	Commission Responses	Status as of June 6, 2011
		• DPP Monthly Activity Report • DPP RAP Sheet Processing Summary In addition, staff has developed a procedure manual for entering activities in the system and training and retraining staff to provide uniformity to insure that information in the system is consistent, accurate and complete.
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.	**Response:** 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.	A complaint tracking database is being developed to track the receipt of the various reports listed in this recommendation. The complaint tracking database will be closely linked to DPP's current CASE tracking system. This recommendation is estimated to be completed by July 2011.
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	**Response:** 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.	Please refer to the Recommendation 7 update.

BSA Recommendations	Commission Responses	Status as of June 6, 2011
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.		
Recommendation Ten: 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 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:** 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.	On June 1, 2011, staff completed development, with assistance from the State Personnel Board, and circulated a comprehensive Hiring Handbook to managers/supervisors. Required training of all managers and supervisors is scheduled for June 22, 2011. As part of the new process there are some additional safeguards to ensure that in the event of an audit or if a hire is challenged the hiring package is legally defensible.
Recommendation Eleven: 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:	**Response:** The Commission concurs with the recommendation and has developed and issued a revised EEO policy on May 9, 2011. Employees have been notified of	On May 9, 2011, a revised Equal Employment Opportunity policy was provided to all staff. In addition, an Equal Employment Opportunity handbook that outlines the process for filing an EEO

BSA Recommendations	Commission Responses	Status as of June 6, 2011
• 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.	the revision in the Insider, the weekly communication from the Executive Office to all Commission staff. Training will be conducted every two years.	complaint was developed and provided to all staff. Commission leadership is currently looking for a training class for staff which, once identified, will be shared with staff. In addition, to ensure that 100 percent of Commission staff is aware of the EEO policy, annually (July) have staff certify that they have reviewed and they are familiar with the EEO policy. Commission staff that wish to file a grievance will be referred to the respective Bargaining Unit (BU) contract that outlines the process and procedures to file a grievance. In addition, staff has access to their BU representatives who can assist them with the process.

The Commission looks forward to meeting with you and your staff on June 7, 2011 at 1:30 pm to discuss the 60 day status update. In the event you have questions regarding this report please do not hesitate to contact Crista Hill, Director of the Administrative Services Division, at 916-322-3459.

Thank you,

Teri Clark, Acting Executive Director

Patty Wohl, Acting Executive Director

Attachments

cc: Commission on Teacher Credentialing
Governor's Office
Joint Legislative Audit Committee
Education Policy Committees
Education Budget Subcommittees
Department of Finance
Legislative Analyst Office

Weekly Project Meeting Status Reports

Commission on Teacher Credentialing BSA Recommendation Project		Status Report #1 Week Ending: 04/22/2011
Prepared by: Andy Munguia		
Area	**Changes (Y/N)**	**Description**
Scope		
Schedule		
Resources		

PLANNED FOR THE WEEK:

- (15) Assessing requirements for Commission Monthly Report
- (3) Staff has requested an opinion with AG, waiting on response. Assessing requirements for automating consent calendar.
- (5) Procedures are being written
- (9.4) Currently assessing this process
- (12) Develop case deletion procedures
- (13) Currently assessing this process
- (16) Enhance various ad-hoc DPP Reports
  - (16.1) Enhancements of Application Aging Report in draft mode
  - (16.2) Enhance Pending LOI Report
- Project Management
- Priority Planning

ACHIEVED FOR THE WEEK:

- (16.3) Completed WADU Report enhancements
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PLANNED FOR NEXT WEEK:

- Determine time frames
- (15) Assessing requirements for Commission Monthly Report
- (3) Staff has registered an opinion with AG, waiting on response. Assessing requirements for automating consent calendar.
- (5) Procedures are being written
- (9.4) Currently assessing this process
- (12) Develop case deletion procedures
- (13) Currently assessing this process
- (16) Enhance various ad-hoc DPP Reports
  - (16.1) Enhancements of Application Aging Report in draft mode
  - (16.2) Enhance Pending LOI Report

ISSUES:

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BSA Recommendation Matrix

BSA Recommendation	Start	End
1. Revise strategic plan		
2. Assess workload		
3. Seek Attorney General's opinion on authority to close investigations without committee review	04/20/2011	
4. Procedural/Statutory changes after opinion from AG		
5. Procedures for management's policies and directives	04/18/2011	
6. Training		
7. Reducing workload by notifying DOJ on RAP sheets	03/08/2011	
8. Develop a document tracking system		
9.1 Reducing time in the review process		
9.2 Review mandatory revocation process		
9.3 Review the prompt requests for informational surrounding reports of misconduct		
9.4 Having reasons for delay in CASE		
9.5 Management review of all reports		
9.6 Tracking of jurisdiction dates		
10. Assess hiring practices		
11. EEO complaint process		
12. Develop case deletion procedures	04/21/2011	
13. Tracking of the investigative process		
14. Storage of RAP sheets		
15. Commission Monthly Report	04/18/2011	
16. Various ad-hoc DPP Reports & automated processes	04/18/2011	

Commission on Teacher Credentialing
BSA Recommendation Project

Status Report #2
Week Ending: 04/29/2011

Prepared by: Andy Munguia

Area	Changes (Y/N)	Description
Scope		
Schedule		
Resources		

PLANNED FOR THE WEEK:

- (15) Assessing requirements and designing the Commission Monthly Report
- (3) Staff has requested an opinion with AG, waiting on response.
  - (16.6) Developing Consent Calendar Report.
- (5) Procedures are being written
  - Intranet redesign is being developed to centralize DPP procedures
  - Documenting process for updating DPP procedures
- (8) Currently assessing this process
- (9.4) Currently assessing this process
- (12) Assessing case deletion/changes policies and procedures
- (13) Currently assessing this process
- (17) Data Cleansing – ongoing

ACHIEVED FOR THE WEEK:

- (16.1) Completed Application Aging Report
- (16.2) Completed Pending LOI Report – renamed Cases Ready for Committee
- (16.5) Completed Case Aging Report

PLANNED FOR NEXT WEEK:

- (15) Complete Commission Monthly Report
- (3) Staff has registered an opinion with AG, waiting on response.
  - (16.6) Developing Consent Calendar Report.
- (5) Procedures will be written and approved by management
  - Intranet redesign is being developed to centralize DPP procedures
  - Documenting process for updating DPP procedures
- (8) Analysis and Design stage
- (12) Assess the current deletion and change process with business staff
- (13) Currently assessing this process
- (17) Data Cleansing – ongoing

ISSUES:

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BSA Recommendation Matrix

Priority	BSA Recommendation	Start	End
	1. Revise strategic plan		
	2. Assess workload		
1	3. Seek Attorney General's opinion on authority to close investigations without committee review	04/20/2011	
	4. Procedural/Statutory changes after opinion from AG		
2	5. Procedures for management's policies and directives	04/18/2011	
	6. Training		
4	7. Reducing workload by notifying DOJ on RAP sheets	03/08/2011	
3	8. Develop a document tracking system	04/27/2011	
	9.1 Reducing time in the review process		
	9.2 Review mandatory revocation process		
	9.3 Review the prompt requests for informational surrounding reports of misconduct		
	9.4 Having reasons for delay in CASE without reviewing paper files		
	9.5 Management review of all reports		
	9.6 Tracking of jurisdiction dates		
	10. Assess hiring practices		
	11. EEO complaint process		
3	12. Develop case deletion procedures	04/21/2011	
4	13. Tracking of the investigative process		
4	14. Storage of RAP sheets		
1	15. Commission Monthly Report	04/18/2011	
	16. Various ad-hoc DPP Reports & automated processes	04/18/2011	
	17. Data Cleansing	Ongoing	

Commission on Teacher Credentialing
BSA Recommendation Project

Status Report #3
Week Ending: 05/06/2011

Prepared by: Andy Munguia

Area	Changes (Y/N)	Description
Scope	N	
Schedule	N	
Resources	N	

PLANNED FOR THE WEEK:

- (15) Complete Commission Monthly Report
- (4) Staff has registered an opinion with AG, waiting on response.
  - (16.6) Developing Consent Calendar Report.
- (6) Procedures will be written and approved by management
  - Redesigned DPP's intranet website to include Procedure Manuals
  - Created a process in writing for updating DPP procedure Manuals
- (8) Analysis and Design stage
- (12) Assess the current deletion and change process with business staff.
- (13) Currently assessing this process
- (17) Data Cleansing – ongoing

ACHIEVED FOR THE WEEK:

- (4) Staff has requested an opinion with AG, waiting on response
- (6) Procedures written and approved by management
  - Redesigned DPP's intranet website to include Procedure Manuals
  - Created a process in writing for updating DPP procedure Manuals
- (11) Sent draft EEO policy to Senior Managers for review
- (17) Data Cleansing – ongoing

PLANNED FOR NEXT WEEK:

- (15) Finalizing Commission Monthly Report
- (1) Reducing workload by notifying DOJ on RAP sheets
- (8) Analysis and Design stage
- (10) Hiring Procedures update – target draft by 5/15/2011
- (11) Finalize the EEO policy for posting to the Insider and Intranet on 5/9/2011
- (12) Assess the change process with business staff
- (13) Currently assessing this process
- (14) Begin analysis
- (16.6) Finalizing Consent Calendar Report

ISSUES:

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BSA Recommendation Matrix

Priority	BSA Recommendation	Start	End
4	1. Reducing workload by notifying DOJ on RAP sheets	03/08/2011	
	2. Revise strategic plan		
	3. Assess staffing level to accommodate workload		
1	4. Seek Attorney General's opinion on authority to close investigations without committee review	04/20/2011	
	5. Procedural/Statutory changes after opinion from AG		
2	6. Written procedures	04/18/2011	05/06/2011
	7. Training and oversight		
3	8. Develop a complaint document tracking system	04/27/2011	
	9. Revisit management reports and process		
	9.1 Reducing time in the review process		
	9.2 Review mandatory revocation process		
	9.3 Review the prompt requests for informational surrounding reports of misconduct		
	9.4 Having reasons for delay in CASE without reviewing paper files		
	9.5 Management review of all reports		
	9.6 Tracking of jurisdiction dates		
2	10. Assess hiring practices	03/29/2011	
2	11. EEO complaint process	04/25/2011	
3	12. Develop case deletion procedures	04/21/2011	
4	13. Tracking of the investigative process		
4	14. Storage of RAP sheets		
1	15. Commission Monthly Report	04/18/2011	
	16. Various ad-hoc DPP Reports & automated processes	04/18/2011	
	17. Data Cleansing	Ongoing	

Commission on Teacher Credentialing BSA Recommendation Project		Status Report #4 Week Ending: 05/13/2011
Prepared by: Andy Munguia		
Area	**Changes (Y/N)**	**Description**
Scope	N	
Schedule	N	
Resources	N	

PLANNED FOR THE WEEK:

- (15) Commission Monthly Report – finalizing
- (10 Assess Hiring Practices – target draft by 5/15/2011
- (11) EEO policy – finalize for posting to the Insider and Intranet on 5/9/2011
- (8) complaint document tracking system - analysis and design
- (12) Develop case deletion procedures – development
- (13) tracking investigative process – analysis
- (14) storage of RAP sheets – analysis
- (1) notify DOJ on RAP sheets - analysis
- (16.6) Consent Calendar Report – finalizing

ACHIEVED FOR THE WEEK:

- (11) EEO policy and handbook
- (16.5) Case Aging Report
- (16.6) Consent Calendar Report

PLANNED FOR NEXT WEEK:

- (15) Commission Monthly Report – working on aging section of report
- (10) Assess Hiring Practices - Review the SPB Hiring Guide to determine if this better meets CTC needs for a handbook
- (8) complaint document tracking system - analysis and design
- (12) Develop case deletion procedures – development
- (13) tracking investigative process – analysis
- (14) storage of RAP sheets – analysis
- (1) notify DOJ on RAP sheets - analysis
- (17) Data Cleansing – ongoing

ISSUES:

- (10) Assess Hiring Practices – Initially OHR was looking at using the DGS guide as possible guide. DGS is a large department in comparison to CTC. SPB has offered to provide their existing guide. SPB is similar in size to CTC and this guide may better meet CTC's needs.

BSA Recommendation Priorities				
Priority	**BSA Recommendation**	**Start Date**	**Planned Date**	**End Date**
4	1. Notify DOJ on RAP sheets	3/8/2011		
	2. Revise strategic plan			
	3. Assess staffing level to accommodate workload			
1	4. Seek Attorney General's opinion on authority to close investigations without committee review	4/20/2011		
	5. Procedural/Statutory changes after opinion from AG			
✓	6. Written procedures	4/18/2011		
	7. Training and oversight			
3	8. Develop a complaint document tracking system	4/27/2011		
	9. Revisit management reports and process			
	9.1 Reducing time in the review process			
	9.2 Review mandatory revocation process			
	9.3 Review the prompt requests for informational surrounding reports of misconduct			
	9.4 Having reasons for delay in CASE without reviewing paper files			
	9.5 Management review of all reports			
	9.6 Tracking of jurisdiction dates			
2	10. Assess hiring practices	3/29/2011	6/1/2011	
✓	11. EEO complaint process	4/25/2011		5/9/2011
3	12. Develop case deletion procedures	4/21/2011		
4	13. Tracking of the investigative process			
4	14. Storage of RAP sheets			
1	15. Commission Monthly Report	4/18/2011		
	16. Various ad-hoc DPP Reports & automated processes	4/18/2011		
	17. Data Cleansing	Ongoing		

Commission on Teacher Credentialing BSA Recommendation Project	Status Report #5 Week Ending: 05/20/2011

Prepared by: Andy Munguia

Area	Changes (Y/N)	Description
Scope	N	
Schedule	N	
Resources	N	

PLANNED FOR THE WEEK:

- (15) Commission Monthly Report – working on aging section of report
- (10) Assess Hiring Practices - Review the SPB Hiring Guide to determine if this better meets CTC needs for a handbook
- (8) complaint document tracking system - analysis and design
- (12) Policies on changes/deletes – development
- (1) notify DOJ on RAP sheets - analysis
- (14) storage of RAP sheets – analysis
- (17) Data Cleansing – ongoing

ACHIEVED FOR THE WEEK:

- (10) Assess Hiring Practices - Reviewed SPB Hiring Guide and determined that it will meet CTC needs.

PLANNED FOR NEXT WEEK:

- (15) Commission Monthly Report – working on aging section of report
- (10) Assess Hiring Practices – Update SPB guide for CTC
- (8) complaint document tracking system – development
- (12) Policies on changes/deletes – development
- (1) notify DOJ on RAP sheets - analysis
- (14) storage of RAP sheets – decision being finalized
- (17) Data Cleansing – ongoing

ISSUES:

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BSA Recommendation Priorities

Priority	BSA Recommendation	Start Date	Planned Date	End Date
4	1. Notify DOJ on RAP sheets	3/8/2011	7/2011	
	2. Revise strategic plan		5/2012	
	3. Assess staffing level to accommodate workload		Budget Change FY 12/13	
1	4. Seek Attorney General's opinion on authority to close investigations without committee review	4/20/2011		
	5. Procedural/Statutory changes after opinion from AG			
✓	6. Written procedures	4/18/2011		5/6/2011
	7. Training and oversight	5/24/11	6/2011	
3	8. Develop a complaint document tracking system	4/27/2011	7/2011	
	9. Revisit management reports and process			
	9.1 Reducing time in the review process			
	9.2 Review mandatory revocation process			
	9.3 Review the prompt requests for informational surrounding reports of misconduct			
	9.4 Having reasons for delay in CASE without reviewing paper files			
	9.5 Management review of all reports			
	9.6 Tracking of jurisdiction dates			
2	10. Assess hiring practices	3/29/2011	6/2011	
✓	11. EEO complaint process	4/25/2011		5/9/2011
3	12. Policies on changes/deletes	4/21/2011		
4	13. Tracking of the investigative process			
4	14. Storage of RAP sheets		7/2011	
1	15. Commission Monthly Report	4/18/2011		
	16. Various ad-hoc DPP Reports & automated processes	4/18/2011		
	17. Data Cleansing	Ongoing		

Commission on Teacher Credentialing BSA Recommendation Project		Status Report #6 Week Ending: 05/27/2011
Prepared by: Andy Munguia		
Area	**Changes (Y/N)**	**Description**
Scope	N	
Schedule	N	
Resources	N	

PLANNED FOR THE WEEK:

- (15) Commission Monthly Report – working on aging section of report
- (10) Assess Hiring Practices – Update SPB guide for CTC
- (8) complaint document tracking system – development
- (12) Policies on changes/deletes – development
- (1) notify DOJ on RAP sheets - analysis
- (14) storage of RAP sheets – decision being finalized
- (17) Data Cleansing – ongoing

ACHIEVED FOR THE WEEK:

- (10) Assess Hiring Practices – Reviewed and updated the Hiring Guide

PLANNED FOR NEXT WEEK:

- (15) Commission Monthly Report – working on aging section of report
- (10) Assess Hiring Practices – release Hiring Guide
- (8) complaint document tracking system – development
- (12) Policies on changes/deletes – development
- (1) notify DOJ on RAP sheets - analysis
- (14) storage of RAP sheets – decision being finalized
- (17) Data Cleansing – ongoing

ISSUES:

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BSA Recommendation Priorities				
Priority	**BSA Recommendation**	**Start Date**	**Planned Date**	**End Date**
4	1. Notify DOJ on RAP sheets	3/8/2011	7/2011	
	2. Revise strategic plan		5/2012	
	3. Assess staffing level to accommodate workload		Budget Change FY 12/13	
1	4. Seek Attorney General's opinion on authority to close investigations without committee review	4/20/2011		
	5. Procedural/Statutory changes after opinion from AG			
✓	6. Written procedures	4/18/2011		5/6/2011
	7. Training and oversight	5/24/11	6/2011	
3	8. Develop a complaint document tracking system	4/27/2011	7/2011	
	9. Revisit management reports and process			
	9.1 Reducing time in the review process			
	9.2 Review mandatory revocation process			
	9.3 Review the prompt requests for informational surrounding reports of misconduct			
	9.4 Having reasons for delay in CASE without reviewing paper files			
	9.5 Management review of all reports			
	9.6 Tracking of jurisdiction dates			
2	10. Assess hiring practices	3/29/2011	6/2011	
✓	11. EEO complaint process	4/25/2011		5/9/2011
3	12. Policies on changes/deletes	4/21/2011		
4	13. Tracking of the investigative process			
4	14. Storage of RAP sheets		7/2011	
1	15. Commission Monthly Report	4/18/2011		
	16. Various ad-hoc DPP Reports & automated processes	4/18/2011		
	17. Data Cleansing	Ongoing		

Commission on Teacher Credentialing
BSA Recommendation Project

Status Report #7
Week Ending: 06/03/2011

Prepared by: Andy Munguia

Area	Changes (Y/N)	Description
Scope	N	
Schedule	N	
Resources	N	

PLANNED FOR LAST WEEK:

- (15) Commission Monthly Report – working on aging section of report
- (10) Assess Hiring Practices – reviewed and updated the Hiring Guide
- (8) complaint document tracking system – development
- (12) Policies on changes/deletes – development
- (1) notify DOJ on RAP sheets - analysis
- (14) storage of RAP sheets – decision being finalized
- (17) Data Cleansing – ongoing

ACHIEVED FOR LAST WEEK:

- (10) Assess Hiring Practices – Reviewed and updated the Hiring Guide

PLANNED FOR THE WEEK:

- Provide 60 day update to BSA
- (15) Commission Monthly Report – working on aging section of report
- **(1)** notify DOJ on RAP sheets – jacket conversion; regulation policies for RAP sheets
- **(7)** Training and oversight – Training will begin this week, oversight plan being reviewed
- (8) complaint document tracking system – development
- **(10)** Assess Hiring Practices – training for managers/supervisors is planned for June 22nd
- (12) Policies on changes/deletes – development
- **(14)** storage of RAP sheets – proposal will be provided to DPP
- (17) Data Cleansing – ongoing
-

ISSUES:

-

BSA Recommendation Priorities				
Priority	**BSA Recommendation**	**Start Date**	**Planned Date**	**End Date**
4	1. Notify DOJ on RAP sheets	3/8/2011	7/2011	
	2. Revise strategic plan		5/2012	
	3. Assess staffing level to accommodate workload		Budget Change FY 12/13	
1	4. Seek Attorney General's opinion on authority to close investigations without committee review	4/20/2011		
	5. Procedural/Statutory changes after opinion from AG			
✓	6. Written procedures	4/18/2011		5/6/2011
	7. Training and oversight	5/24/11	6/2011	
3	8. Develop a complaint document tracking system	4/27/2011	7/2011	
	9. Revisit management reports and process			
	9.1 Reducing time in the review process			
	9.2 Review mandatory revocation process			
	9.3 Review the prompt requests for informational surrounding reports of misconduct			
	9.4 Having reasons for delay in CASE without reviewing paper files			
	9.5 Management review of all reports			
	9.6 Tracking of jurisdiction dates			
2	10. Assess hiring practices	3/29/2011	6/2011	
✓	11. EEO complaint process	4/25/2011		5/9/2011
3	12. Policies on changes/deletes	4/21/2011		
4	13. Tracking of the investigative process			
4	14. Storage of RAP sheets		7/2011	
1	15. Commission Monthly Report	4/18/2011		
	16. Various ad-hoc DPP Reports & automated processes	4/18/2011		
	17. Data Cleansing	Ongoing		

RECOMMENDATION #1

ATTACHMENTS

Hill, Crista

From: Armstrong, Mary
Sent: Monday, June 06, 2011 2:50 PM
To: Hill, Crista
Cc: Wohl, Patty; Grizzaffi, Rachel; Gonzalez, Gilberto; Gonzales, Dan; Pope, Lee
Subject: FW: Rap Sheet report Samples
Attachments: weekly_rap_sheet_status_summary_sample_20100218.pdf; daily_incoming_rap_sheet_sample_20100218.pdf

This should be enough documentation along with the last email and whatever Rachael sends.

-----Original Message-----
From: Gonzales, Dan
Sent: Thursday, February 18, 2010 10:54 AM
To: Gonzalez, Gilberto; Armstrong, Mary; Pope, Lee
Cc: Klockgether, Eileen; Grizzaffi, Rachel; Ferrari, Sylvia; Ng, Lawrence
Subject: FW: Rap Sheet report Samples

This is the report of rap sheets attached in person notes. The numbers are high because they worked on several days worth of raps. Any comments?

Rachel, do what to set at time for automated distribution or do it yourself?

-----Original Message-----
From: McGillivray, Don
Sent: Thursday, February 18, 2010 9:03 AM
To: Gonzales, Dan
Subject: Rap Sheet report Samples

Dan,

The necessary code has been migrated to the production database, and I have attached samples of the rap sheet reports based on production data. We can deploy these for automated distribution when you're ready and on a schedule of your choosing.

-Don

Division of Professional Practices
Weekly Rap Sheet Status/Summary Report
For the Week Ending 2/17/2010

Printed 2/18/2010 8:58:07AM

Last Week's Raps Recorded

Rap Status	Count
Already Reviewed	3
Duplicate	3
New	40
Potential LOI	13
Potential Mandatory	6
RFRDOJ	47
Total Raps	112

New

Date	Name	SSN	Comment	Case Status
02/17/2010	ALVAREZ, JAYR KENNY			No Case
02/17/2010	AMAYA, ROBERT			No Case
02/17/2010	ANDUJAR CASTANER, NICOLE MARIA			No Case
02/17/2010	ARCHER, WADE DAVID RUSSELL			No Case
02/17/2010	BIRKELAND, PAUL ANDREW			No Case
02/18/2010	CARDOZA, CHRISTINA MARIA			No Case
02/18/2010	CARRILLO, LUZ ANGELINA		aka JIMENEZ	No Case
02/17/2010	CASTELLANOS, CARLOS PABLO		23152(a)(b)	No Case
02/17/2010	CHESLEY, TIFFANY KARRELL			No Case
02/17/2010	CHOI, GRACE WOORI			No Case
02/17/2010	COOPERIDER, JAMES ALAN			No Case
02/17/2010	DALY-WEBER, EILEEN BENITA			1-68064039 - 02/18/2010
02/17/2010	DAVIS, COLM GARAN			1-68064046 - 02/18/2010
02/18/2010	DIETRICH, STEVEN WAYNE			No Case
02/17/2010	GALLUCCI, NANCY JEAN		AKA GALUCCI	No Case
02/17/2010	GIVENS, QUEANA LEE			1-68064031 - 02/18/2010
02/17/2010	GONZALEZ, FERNANDO MELGUIADES			1-68064063 - 02/18/2010
02/17/2010	GUTIERREZ, MICHAEL A.			1-68064070 - 02/18/2010
02/17/2010	GUTILLA, MATTHEW ANTHONY			1-68064077 - 02/18/2010
02/17/2010	HANEY, KATRINA GAYLE			No Case
02/17/2010	HUFF, ROSE EARLENE		23152(A)(B)	No Case
02/17/2010	KOCHEL, JR., MICHAEL STEPHEN			No Case
02/17/2010	KORETSKY, COLETTE DIANE		AKA KORESTSKY	No Case
02/17/2010	LIGHTNER, MICHAEL PAUL			1-67955731 - 02/17/2010
02/17/2010	LOWENSTEIN, CAROLE MARIE			No Case
02/17/2010	MC CONNELL, ALYSON ELAINE			No Case
02/17/2010	MC ENROE, BARBARA ANN			No Case
02/18/2010	MCCLAIN, KATHRYN NICOLE			No Case
02/17/2010	MICHEL, DAVID BRIAN		23152(a) VC	No Case
02/18/2010	MILLER, SELENA CARIDAD			No Case
02/17/2010	MILLER, VICTORIA KELAINE		23550(a); 23152(a)(b)	No Case
02/18/2010	MORENO, MICHAEL ALLEN		VC 23152	No Case
02/17/2010	MYERS, IAN JEFFERY			No Case
02/17/2010	NOELL, CHARLENE ADELL		AKA NOELL	No Case
02/17/2010	PALOMARES, LETICIA NECOCHEA			No Case
02/17/2010	PONCE, ABEL			No Case

Division of Professional Practices
Weekly Rap Sheet Status/Summary Report
For the Week Ending 2/17/2010

Printed 2/18/2010 8:58:09AM

02/17/2010	RAMIREZ, CYNTHIA MICHELLE		No Case
02/18/2010	ROBINS, CEDRIC DEWAYNE	PC 273	No Case
02/17/2010	ROMANO, DAVID		No Case
02/17/2010	SCHUSTER, HILARY K	23152(a)(b)	No Case
02/17/2010	SHERWOOD, JUDITH LEE		No Case
02/17/2010	SILVA, JOHN T.		No Case
02/17/2010	TORRES, CYNTHIA RUBY	20002(a) VC	No Case
02/17/2010	WARRINER, DONALD SIMONS		No Case
02/16/2010	WEDERTZ, SUSAN GAIL		No Case
02/18/2010	WILLIAMS, NICOLE SHARLEE	VC 23152	No Case
02/17/2010	WING, EILZABETH A.		No Case
02/17/2010	WISE, RUTH ANN		No Case

Items Reported as **New**: 48

Potential LOI

Date	Name	SSN	Comment	Case Status
02/17/2010	DAVENPORT, MICHAEL WAYNE			No Case
02/17/2010	DAVIS, STEVEN ROBERT			No Case
02/17/2010	FLORES, REINA MARCELINA		273.5(a) PC; 243(b) PC	No Case
02/17/2010	FRANKLIN, DARRICK DALE		242 PC	No Case
02/17/2010	HALL, ELIJAH JAMES			No Case
02/17/2010	HOOPER, HOSSON D			No Case
02/17/2010	LIN, QI FENG		243(e)(1) PC	No Case
02/17/2010	RAMOS, OTHON		23152(a) VC	No Case
02/17/2010	RICE, JANNETJE CORINA			No Case
02/17/2010	RIFFE-KAHOLOKULA, SHIRLEY LINN		AKA KOHOLOKULA	No Case
02/17/2010	TELLERS, THADDEUS PAUL			No Case
02/17/2010	TETREAULT, DELLAS WILLIAM			No Case
02/17/2010	WARD, BRIANNE ALYSE		23152(a)(b) VC	No Case

Items Reported as **Potential LOI**: 13

Potential Mandatory

Date	Name	SSN	Comment	Case Status
02/18/2010	BYNUM, KALLY		PC 273 HS 11550	No Case
02/17/2010	EDWARDS, CAROLE JO ANNE		PC 272	No Case
02/17/2010	FLEMING-MCBETH, KIMBERLY LAVONNE		PC 273a(b)	1-67952593 - 02/17/2010
02/17/2010	GUO, HONG			No Case
02/17/2010	HAARD, ELIZABETH HAZEL		PC 187 PC 273	No Case
02/17/2010	HAHN, JAY K.			No Case
02/17/2010	HSU, KUEI-HUA SHARON			No Case
02/18/2010	MOTT, KRISTOFFER RYAN		PC 647.6	No Case

Items Reported as **Potential Mandatory**: 8

Total Items Reported: 69

Division of Professional Practices
Daily Incoming Rap Sheet/Attachment Report
For Raps Recorded 02/17/2010

Printed 2/18/2010 8:52:44AM

Already Reviewed

Date	Name	SSN
02/17/2010	BUENROSTRO, SONIA	
02/17/2010	HILL, SHELTON GARY	
02/17/2010	LE, MICHAEL	

Items Reported as **Already Reviewed:** 3

Duplicate

Date	Name	SSN
02/17/2010	GONZALEZ, FERNANDO MELGUIADES	
02/17/2010	HOOPER, HOSSON D	
02/17/2010	WHITE, RICHARD BLAKE	

Items Reported as **Duplicate:** 3

New

Date	Name	SSN
02/17/2010	ALVAREZ, JAYR KENNY	
02/17/2010	AMAYA, ROBERT	
02/17/2010	ANDUJAR CASTANER, NICOLE MARIA	
02/17/2010	ARCHER, WADE DAVID RUSSELL	
02/17/2010	BIRKELAND, PAUL ANDREW	
02/17/2010	CASTELLANOS, CARLOS PABLO	
02/17/2010	CHESLEY, TIFFANY KARRELL	
02/17/2010	CHOI, GRACE WOORI	
02/17/2010	COOPERIDER, JAMES ALAN	
02/17/2010	DALY-WEBER, EILEEN BENITA	
02/17/2010	DAVIS, COLM GARAN	
02/17/2010	GALLUCCI, NANCY JEAN	
02/17/2010	GIVENS, QUEANA LEE	
02/17/2010	GONZALEZ, FERNANDO MELGUIADES	
02/17/2010	GUTIERREZ, MICHAEL A.	
02/17/2010	GUTILLA, MATTHEW ANTHONY	
02/17/2010	HANEY, KATRINA GAYLE	
02/17/2010	HUFF, ROSE EARLENE	
02/17/2010	KOCHEL, JR., MICHAEL STEPHEN	
02/17/2010	KORETSKY, COLETTE DIANE	
02/17/2010	LIGHTNER, MICHAEL PAUL	
02/17/2010	LOWENSTEIN, CAROLE MARIE	
02/17/2010	MC CONNELL, ALYSON ELAINE	
02/17/2010	MC ENROE, BARBARA ANN	
02/17/2010	MICHEL, DAVID BRIAN	
02/17/2010	MILLER, VICTORIA KELAINE	
02/17/2010	MYERS, IAN JEFFERY	
02/17/2010	NOELL, CHARLENE ADELL	
02/17/2010	PALOMARES, LETICIA NECOCHEA	
02/17/2010	PONCE, ABEL	
02/17/2010	RAMIREZ, CYNTHIA MICHELLE	
02/17/2010	ROMANO, DAVID	
02/17/2010	SCHUSTER, HILARY K	
02/17/2010	SHERWOOD, JUDITH LEE	
02/17/2010	SILVA, JOHN T.	
02/17/2010	TORRES, CYNTHIA RUBY	
02/17/2010	WARRINER, DONALD SIMONS	

02/17/2010	WING, EILZABETH A.
02/17/2010	WISE, RUTH ANN

Items Reported as **New**: 39

Potential LOI

Date	Name	SSN
02/17/2010	DAVENPORT, MICHAEL WAYNE	
02/17/2010	DAVIS, STEVEN ROBERT	
02/17/2010	FLORES, REINA MARCELINA	
02/17/2010	FRANKLIN, DARRICK DALE	
02/17/2010	HALL, ELIJAH JAMES	
02/17/2010	HOOPER, HOSSON D	
02/17/2010	LIN, QI FENG	
02/17/2010	RAMOS, OTHON	
02/17/2010	RICE, JANNETJE CORINA	
02/17/2010	RIFFE-KAHOLOKULA, SHIRLEY LINN	
02/17/2010	TELLERS, THADDEUS PAUL	
02/17/2010	TETREAULT, DELLAS WILLIAM	
02/17/2010	WARD, BRIANNE ALYSE	

Items Reported as **Potential LOI**: 13

Potential Mandatory

Date	Name	SSN
02/17/2010	EDWARDS, CAROLE JO ANNE	
02/17/2010	FLEMING-MCBETH, KIMBERLY LAVONNE	
02/17/2010	GUO, HONG	
02/17/2010	HAARD, ELIZABETH HAZEL	
02/17/2010	HAHN, JAY K.	
02/17/2010	HSU, KUEI-HUA SHARON	

Items Reported as **Potential Mandatory**: 6

RFRDOJ

Date	Name	SSN
02/17/2010	ALVARADO, REGAN DANIELLE	
02/17/2010	ANDRADE, EVA CHRISTINE	
02/17/2010	BREWER, JAMES WILLIAM	
02/17/2010	BROWN, BRITTA LANKFORD	
02/17/2010	BUCKNER, DAVID JAMES	
02/17/2010	CAJUGUIRAN, GENER EFREN	
02/17/2010	CARDOSO, CAROLINE ELIZABETH	
02/17/2010	DWYER, DAVID JOSEPH	
02/17/2010	FILLPOT, ROBERT WAYNE	
02/17/2010	FRANCO, ARACELI	
02/17/2010	GAMBRELL, BONDIE REX	
02/17/2010	GIAKAS, KOSTADINOS	
02/17/2010	GRAVES, BENJAMIN RANKIN	
02/17/2010	GRIFFIN, THOMAS ROBERT	
02/17/2010	HARP, JOHN P.	
02/17/2010	HASS, CHRISTOPHER CARL	
02/17/2010	HEISICK, JENNIFER MARY	
02/17/2010	HIDALGO, WILLIAM IVAAN	
02/17/2010	HILL, DOUGLAS ALAN	

Division of Professional Practices
Daily Incoming Rap Sheet/Attachment Report
For Raps Recorded 02/17/2010

02/17/2010	HUGHES, LAVONDA DENISE
02/17/2010	JOHANSEN, DOUGLAS LEVI
02/17/2010	KING, ANDREW ASA
02/17/2010	LE SIEUR, ZELLA MARIE
02/17/2010	LEON, FELIX M.
02/17/2010	LINDSEY, DAVID PRICE
02/17/2010	MARTINEZ, RICHARD GERARD
02/17/2010	MEDINA, LUCY MARIE
02/17/2010	MENDEZ, RICHARD CLAY
02/17/2010	MILLER, LAYN FORD
02/17/2010	MOGHRABI, ABDUL RAHMAN
02/17/2010	PARRISH, MAREN ELIZABETH
02/17/2010	PICANSO, DOUGLAS ALAN
02/17/2010	RIOS, GRISCELDA C.
02/17/2010	SCHRECK, KATHRYN CHRISTINE
02/17/2010	SHAMIEH, HEATHER ELLEN
02/17/2010	SIMS, LORI ANN
02/17/2010	SPAGNOLA, FRANK ALBERT
02/17/2010	TOEWS, RENEE KRISTINE
02/17/2010	TURK, DANIELLA AUGUSTINE
02/17/2010	TWEEDIE, DAVID MICHAEL
02/17/2010	TWEEDIE, DAVID MICHAEL
02/17/2010	VOLPA, MARIO MICHAEL
02/17/2010	WHITE, RICHARD BLAKE
02/17/2010	WILLIAMS, DAREN LEE
02/17/2010	WILLIAMS, MASON GREGOR
02/17/2010	ZIMMERMANN, KIMBERLY CHI

Items Reported as **RFRDOJ**: 46

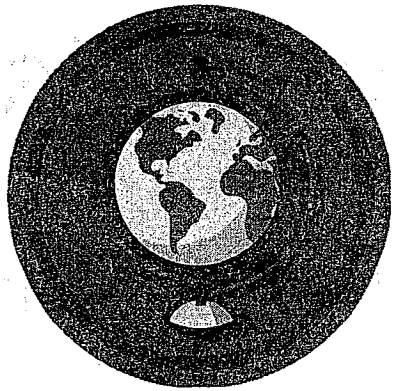
Total Items Reported : 110

FEBRUARY DPP PROJECTS

2/18/2010 3:13 PM

TITLE	DESCRIPTION	STATUS	NOTES
SAVE/TRACK SUBSEQUENT RAPS IN SIEBEL	Subsequent raps in DOJ SMS are saved in Siebel. DPP staff will sort raps. DPP staff will review raps in DOJ SMS, by duplicate, RFRDOJ, potential mandatory, LOI, updated, add to CASE/Notes for single DUI, etc Weekly report displays summary and tracks possible LOI and possible mandatory.	Analysis and design by ETSS completed. DPP staff prepared LOVs and procedures. Gary showed Gil, Sylvia, Rachel and Carlos SMS process. Reports prepared by ETSS.	Went live on 2/16. Reports went live 2/17 for work done on 2/16.
MY TEAM NOTIFICATION TO STAFF	Staff provided early warning of activity due dates.	DPP prepared service request. Report developed DPP staff to cleanse data. To add priority LOV to sort priority cases for doc request and case open activities and to include auto suspension update. Reports run in production.	Discussing 3 data cleansing options, computer cleanse, limit through report query or manual by DPP staff.
MY TEAM NOTIFICATION TO MANAGER	Mgr is notified when activities are not completed by due date.	DPP prepared service request. Same as above.	Same as above
ELECTRONIC APPLICATIONS	Siebel prints out applications – including if applicant has previous case, yes answer, rap or NASDTEC hit. Eliminates applications with flags lost on spreadsheet.	SR completed by DPP. Must coordinate with CAW.	ETSS working on first draft of applications.

ONLY DUI INTO PERSON/NOTES	Staff are adding holders with single DUI into Person/Notes. Report prepared and printed daily	First day adding was 2/1/2010, 2/2/2010 first day of reporting. Pilot project to continue. As of 2/16, 1,335 DUI raps left to review and add to Person/Notes or sort into previous case.	Revised due date to input first time DUIs is 3/3. Pilot project to continue for future DUIs.
MONTHLY STATISTICAL REPORTING	Mgr is providing a monthly workload completed and pending report. Some information is in Siebel and some is a manual count.	SR with monthly report template and where data is pulled to ETSS 2/3. To include individual work completed report.	Rough draft ok'ed by DPP. ETSS looking for method to display manual counts.
PARALLEL PROCESSING	Apps are processed by CAW and DPP at the same time. The last division to ok application grants application.	Lower priority – to start in a few weeks. Scripts for electronic application may need to be revised.	ETSS working on analysis, same/similar to electronic applications.



The World of Raps

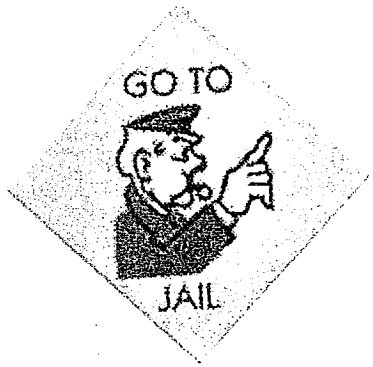
Division of Professional Practices

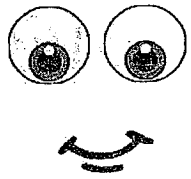
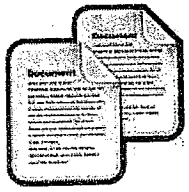
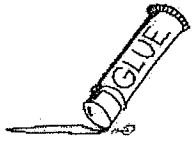
2010

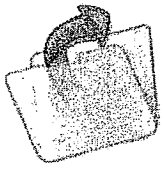
New DPP Rap Intake Process

Two types of rap sheets are sent from DOJ via a secure email server.

1) Subsequent Rap (Holders)
2) Follow-up Rap (FT Apps & App)



- Raps are viewed 
- copied 
- pasted 

- saved 
- printed

Siebel

Once the rap is saved,
the person is reviewed in Siebel.

- DPP status
- Prior Case status
- APP/Document status

The rap is then categorized in order to determine the level of priority.

Current Categories

- New (New Case needs opened)
- Duplicate
- RFRDOJ (Red Flag/Reject DOJ)
- Already Reviewed
- Potential LOI
- Potential Mandatory
- Open Case Update
- Infraction
- Traffic
- First Offense DUI

Person Notes: RAP

The person note is updated with “RAP”

These notes, however will differ depending on the new processes being implemented.

One of the different notes you might start seeing are…

FIRST OFFENSE DUI

A First Offense DUI is qualified by the following:

- DPP status is N or X
- No prior DPP review (for anything)
- Only VC sections 23152(a)(b)
- Documents are valid

FIRST OFFENSE DUI

An attached rap in Person Note will look like:

FIRST OFFENSE DUI: see Rap

A paper rap in Person Note will look like:

FIRST OFFENSE DUI: Rap-Arrest: 7/4/2009 by Sac PD for VC 23152(a). Conv: 9/18/2009 in Sac Superior #09SC254863.

The DPP status will be changed to a “C”.

1st DUI Example: Paper Rap

Siebel Case - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Address http://case/callcenter_enu/start.swe?SWECmd=Login&SWEPL=1&_sn=vCqXdqopYWv-SWvhNxh.JzZWIcmCIwlk1AKLxYwgwXdMANScq1Zc0sss&nvp9D8SWETS=1267461632688&SWEHo=case

ORACLE

File Edit View Navigate Query Tools Help

Saved Queries:

Person:

Person | Case | Case Activities | Organization | Service Request | Correspondence | APB/ Consent Read Only | Exam Interface Read Only | Administration - Application

Person

1 of 1

Person

Menu Query

SSN:

Address Line 1:

Work Phone #:

DOJ Status:

More Info | Person RO | Case RW | Activities | Degree RO | Document | Document (SUSP) | Notes | SLMS | Application (RO) | Attachments | Former Name | Former Name RO | Response RO | Calendar

Menu New Delete Query Check Spelling

Created	Created By	Type	Description
> 2/23/2010 01:30:12 PM	RGRIZZAFFI	DPP NOTE	FIRST OFFENSE DUI: Rap-Arrest on 2/11/2010 Los Angeles by Lakewood LASO
10/23/2008 11:26:16 AM	DMOSS	Note	ZERO FEE REQ CORRECTION DOC#1986 EX DATE S/B 10/1/2010 PER SANDRA S. CSULA.
9/29/2008 08:54:02 AM	SADMIN	IHE WEB APP NOTE	SSN = 074729598 IHE_FIRST_NAME = EDITH IHE_MIDDLE_NAME = L IHE_LAST_NAME = TORRES IHE_EMAIL = ETORRES@CSLANET.CALSTATELA.EDU

0 of 0

Done

Local Intranet

1st DUI Example: Attached Rap

Siebel Case - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Address http://case/callcenter_enu/start.swe?SWECmd=Login&SWEPL=1&_sn=vCgXdqopYWV-SWvhfXh.Jz2WIcmCIwIlkLAKLxYwgwXdtMANScq1ZcOsssBnvp9D&SWETS=1267461632688&SWEHo=case

File Edit View Navigate Query Tools Help

ORACLE

Saved Queries:

Person:

Person | Case | Case Activities | Organization | Service Request | Correspondence | APB/ Consent Read Only | Exam Interface Read Only | Administration - Application

Person

Person

1 of 1

Menu Query

SSN

Address Line 1

Work Phone #

DOJ Status

More Info | Person RO | Case RW | Activities | Degree RO | Document | Document (SUSP) | Notes | SLMS | Application (RO) | Attachments | Former Name | Former Name RO | Response RO | Calendar

Menu New Delete Query Check Speling

Created	Created By	Type	Description
> 2/26/2010 08:19:50 AM	RGRIZZAFFI	DPP NOTE	FIRST OFFENSE DUI: See rap
12/19/2008 07:23:31 AM	SADMIN	IHE WEB APP NOTE	SSN = 551991229 IHE_FIRST_NAME = DENISE IHE_MIDDLE_NAME = ELIZABETH IHE_LAST_NAME = ROSCOE IHE_EMAIL = DROSCOE@CALBAPTIST.EI
8/29/2006 01:56:53 PM	SADMIN	IHE WEB APP NOTE	SSN = 551991229 IHE_FIRST_NAME = DENISE IHE_MIDDLE_NAME = ELIZABETH IHE_LAST_NAME = ROSCOE IHE_EMAIL = DROSCOE@CALBAPTIST.EI

0 of 0

Done

Local intranet

Person Attachments

The rap is then attached in Person:

It should always appear in the following manner…

LASTNAME_Firstname 030110

Another rap received same day will look like this:

LASTNAME_Firstname_2 030110

Otherwise multiple raps will be differentiated by their date.

LASTNAME_Firstname 022410

Attached Rap

Siebel Data - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Search Favorites

Address http://case/callcenter_enu/start.swe?SWECmd=Login&SWEPL=1&_sn=vCgXdqopYWW-5WvHXh.Jz2WJcmCJwiJk1AKLxYwgwXdfMANScq1Zc0sssBnvp9D&SWETS=1267461632688&SWEHo=case Go

File Edit View Navigate Query Tools Help

ORACLE

Saved Queries:

Person:CHESLEY > Case:1-68123133 > Person:

Person | Case | Case Activities | Organization | Service Request | Correspondence | APB/ Consent Read Only | Exam Interface Read Only | Administration - Application

Person

Person

Menu Query

1 of 1

SSN

Address Line 1

Work Phone #

DOJ Status

More Info | Person RO | Case RW | Activities | Degree RO | Document | Document (SUSP) | Notes | SLMS | Application (RO) | Attachments | Former Name | Former Name RO | Response RO | Calendar

Menu Delete Query New File New URL

Attachment Name	Comments	Category	Modified	Update File
> CHESLEY_Tiffany 021410	VC 23152	First Offense DUI	2/17/2010 11:30:24 AM	✓

0 of 0

Done

Local intranet

VOILA!

The rap is attached, categorized by priority and forwarded to the Tech Team.

A report process is being implemented in order to verify the amount of raps being processed by DPP, open cases and types of cases.

This will help ensure the priority cases are reviewed in a timely manner.

RECOMMENDATION #2

ATTACHMENTS

Commission on Teacher Credentialing
1900 Capitol Avenue Sacramento, CA 95811 (916) 323-4650 Fax (916) 324-4650 www.ctc.ca.gov

EXEMPT APPOINTMENT OPPORTUNITY

AN EQUAL OPPORTUNITY EMPLOYER TO ALL REGARDLESS OF RACE, COLOR, CREED, NATIONAL ORIGIN, ANCESTRY, SEX, MARITAL STATUS, DISABILITY, RELIGIOUS, OR POLITICAL AFFILIATION, AGE, OR SEXUAL ORIENTATION.

IT IS AN OBJECTIVE OF THE STATE OF CALIFORNIA TO ACHIEVE A DRUG-FREE STATE WORKPLACE. ANY APPLICANT FOR STATE EMPLOYMENT WILL BE EXPECTED TO BEHAVE IN ACCORDANCE WITH THIS OBJECTIVE BECAUSE THE USE OF ILLEGAL DRUGS IS INCONSISTENT WITH THE LAW OF THE STATE, THE RULES GOVERNING CIVIL SERVICE AND THE SPECIAL TRUST PLACED IN PUBLIC SERVANTS.

DEPARTMENT: COMMISSION ON TEACHER CREDENTIALING
POSITION TITLE: EXECUTIVE DIRECTOR
SALARY: $10,672 - $11,544 PER MONTH
FINAL FILING DATE: JUNE 30, 2011 OR UNTIL FILLED
(The position will be available on (01/01/12)

AN EXEMPTION FROM THE GOVERNOR'S CURRENT HIRING FREEZE IS PENDING.

The California Commission on Teacher Credentialing is an agency in the Executive Branch of California State Government. It was created in 1970 and is the oldest autonomous educator standards boards in the nation. The Commission establishes, maintains, and enforces standards for educator preparation, licensing and discipline, ensuring that each credential holder meets the highest standards of professionalism and academic excellence. The Commission is also responsible for the accreditation of more than 255 educator preparation institutions.

The Commission consists of nineteen members. Fourteen are appointed by the Governor and serve as volunteers for four-year terms. The State Superintendent of Public Instruction or a designee serves as the fifteenth voting member. Four additional nonvoting members are selected from the major segments of California higher education.

DESIRED BACKGROUND EXPERIENCE:

The Commission seeks a highly motivated leader committed to developing California education policy. The ideal candidate will have proven experience with strong administrative, management and leadership skills and an understanding and appreciation of the mission and structure of the Commission.

DUTIES AND RESPONSIBILITIES:

The Executive Director serves as the Secretary and Chief Executive Officer of the Commission. The Executive Director has three broad roles and responsibilities; Secretary and Advisor to the Commission; Chief Executive Officer of the Commission and Representative of the Commission.

Secretary and Advisor to the Commission:

- Develop and recommend legislation, California Code of Regulations and Commission policies and procedures designed to improve educator preparation and credentialing in California.

- Assure efficient and effective functioning of the Commission, including preparation of Commission agenda, implement Commission directives and organization of special conferences sponsored by or for the Commission.
- Keep the Commission abreast of significant research, field studies, and other findings related to the preparation and credentialing of educators.

Chief Executive Officer of the Commission:

- Perform the statutory responsibilities of the Commission. Any person, duty, purpose, function, or jurisdiction which the Commission may lawfully delegate is delegated to the Executive Director unless the Commission specifically has reserved the same for its own action. (Education Code 44220(b)).
- Organize, coordinate and supervise Commission staff.
- Provide fiscal management for the Commission by developing, presenting before the Legislature and implementing the annual Commission budget, as well as administer contracts.
- Serves as the chief planner for the Commission, providing reports periodically on the status of projects planned or authorized by the Commission.
- Develop, publish, and administer the Commission's Strategic Plan.
- Assume statewide and national leadership in the improvement of teacher preparation and credentialing.

Representative for the Commission:

- Serve as liaison with, and convey findings and recommendations of the Commission to, the Legislature, the Governor, the State Board of Education, the Superintendent of Public Instruction, the State Department of Education, the Department of Finance, the educator preparation institutions, Commission stakeholders and the general public.
- Participate in regional and national conferences dealing with educator preparation and credentialing.

DESIRABLE QUALIFICATIONS:

- Broad and extensive senior management or administrative level experience with an education system.
- Appropriate formal education.
- Experience working with Commissions, Boards, or Committees.
- Experience appearing before legislative and administrative bodies.
- An understanding of the Commission's mission and structure.
- Earned a teaching credential.
- Strong communication skills, ability to speak and write clearly and persuasively and listen attentively.
- Seasoned, mature judgment; ability to be as firm or flexible as the situation requires.
- Executive Presence - Ability to earn the confidence and respect of others.
- Self confidence tempered by diplomacy and humility.
- Creativity and Innovation - Applies new ways of thinking. Has the ability to solve problems, create new ideas, and develop new approaches to achieve the Department's mission.

- Credibility and Integrity – Understands internal and external customers. Has the ability to make decisions and be accountable for those decisions.
- Tolerant of and effective in guiding process decision making; ability to articulate and work through group processes.
- Team Oriented - Ability to build, foster, manage, and lead successful team efforts. Cooperates to achieve the Department's mission, goals, and values and encourages diversity of opinions.
- Highest ethical standards and conduct; holds self and others accountable.
- Disciplined, dependable, pragmatic, and hardworking.
- Commitment to diversity.
- Personally committed to the mission and goals of the Commission on Teacher Credentialing.
- Communication – Has a clear expression of ideas, thoughts and expectations and is an active listener. Understands that people process information differently, takes initiative to build relationships; understands cultural differences.
- Staff Development – Recognizes that people are the Department's most valuable resource. Takes the time to develop and encourage staff to achieve their true potential.

PERSONAL CHARACTERISTICS:

The ideal Executive Director will have demonstrated outstanding leadership skills with a solid record of achievement as an executive. He/she will be broadly knowledgeable of education issues and will possess excellent consensus building, negotiation and communication skills, and will enjoy a reputation for honesty, integrity, strong character, creative strategic thinking, and for working effectively with Commissioners.

STATEMENT OF QUALIFICATIONS:

When responding to the Statement of Qualifications, applicants must follow these guidelines:

- Your responses must be typewritten or generated by word document on 8 ½" x 11" paper, using no smaller than a 12 point font.
- Your responses must be limited to one page per item.
- Identify each page with your full name.
- Make sure your responses are complete, specific, clear, and concise.
- Answer each numbered item separately indicating the corresponding item number for each response.

All interested applicants are required to submit a Statement of Qualifications with specific information on how his/her background, knowledge, skills, and abilities meet the desirable qualifications, and desirable/personal characteristics. The Statement of Qualifications must discuss the following critical factors:

1. Describe your leadership ability, including techniques of organizing and motivating groups and/or employees.
2. Describe your experience dealing effectively with a variety of individuals, organizations, state agencies, and local governments.
3. Describe your knowledge of the principles and practices of public administration, organization and management.

4. Describe your knowledge of and experience with the California legislative and budgetary processes.
5. Describe your experience with the California Education Code.
6. Describe your working knowledge of, and experience with, planning, developing, and implementing policies and procedures that improve educator preparation and credentialing in California.
7. Describe your experience that relates to your ability to apply consistent and fair application of statutes and regulations.
8. Describe your experience in participating with regional and national conferences dealing with educator preparation and credentialing.
9. Describe a strategy/action that demonstrates your ability to be creative and/or innovative in developing a policy alternative to a particularly challenging issue.
10. Describe your knowledge of the Department's mission, organization, functions, and policy goals.

SELECTION PROCESS:
Only the most qualified candidates will be invited to the interview. The interviews will be held in Sacramento.

CONDITIONS OF EMPLOYMENT:
Fingerprint clearance is required.

FILING INSTRUCTIONS:
Application packages postmarked or personally delivered after 4:30 p.m. on the final filing date, will not be accepted.

In addition, the applicant must submit to the Commission, a Standard State Application (Form 678), the Statement of Qualifications described above, a current resume (resume does not take the place of the Statement of Qualifications), and a list that includes three professional references (names and telephone numbers).

Application packages must be submitted to:

COMMISSION ON TEACHER CREDENTIALING
OFFICE OF HUMAN RESOURCES
LINDA GOODMAN
1900 CAPITOL AVENUE
SACRAMENTO, CA 95811-4213

Questions regarding the selection process may be directed to: Linda Goodman at LGoodman@ctc.ca.gov or at (916) 323-4650.

RECOMMENDATION #3

ATTACHMENTS

DPP STANDARD OF SERVICE GOALS

June 6, 2011

TASK	GOAL
Receive rap and open case	Daily and simultaneously open case (no more than 5 bus days)
From rap to open case and request documentation (potential mandatory)	COB next day
From receipt of application by DPP to open case	5 bus days
From open case to request documents for applications (App Pak)	5 bus days (revised process may eliminate)
From open case to request documents on a holder	7 bus days (follow-up in 30 days)
From receipt of mail to add to file (this information is not maintained in Siebel)	5 bus days
From receipt of all documents to recommendation for COC Consent Calendar or LOI checklist	5 bus 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	100%
Average hold time	Less than 3 minutes
Email from schools district and IHE answer time	3 business days (autoreply all others)

RECOMMENDATION #4

ATTACHMENTS

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

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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.
>
> (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

Volume 10 1965–1967 Number 23

THE RESTORATION OF TEACHING

A REPORT OF THE

SUBCOMMITTEE ON SCHOOL PERSONNEL AND TEACHER QUALIFICATIONS

Assembly Interim Committee on Education

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January 1967

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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

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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*

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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 possbile.

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 recordkeeping, 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.[5] 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.

[5] 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 they 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 they 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.

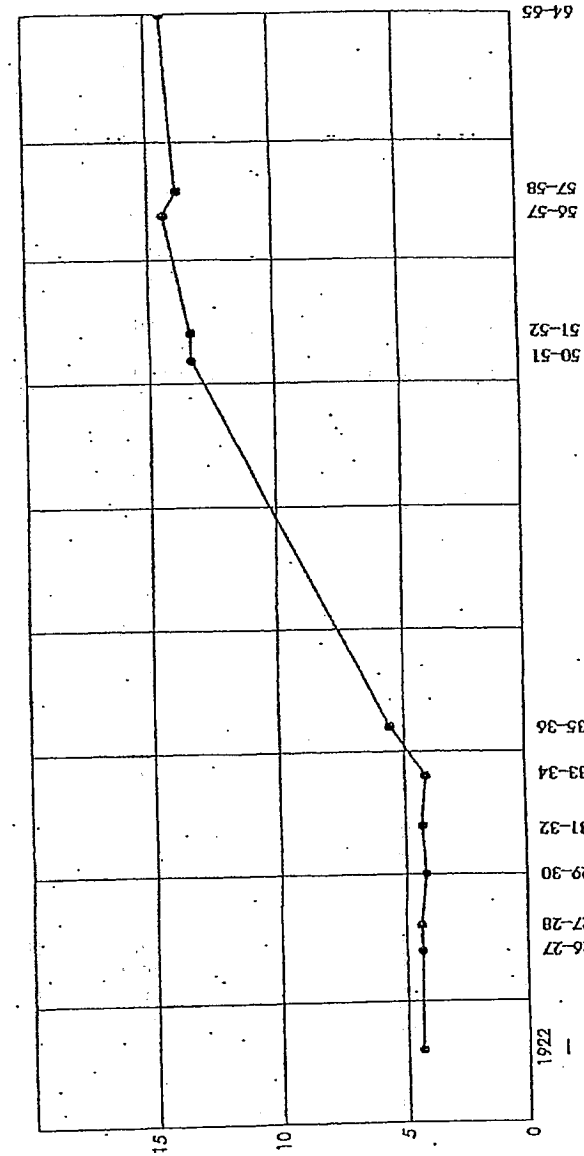
A tangible result of a teacher's work is the grade a student receives at the end of a course. For generations, teachers have considered the fundamental judgment about a student's relative success to be the province of their own determination. Whether it is "A" or "B," pass or fail, good teachers have 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 1957–58— REPORT OF THE SENATE FACT-FINDING COMMITTEE ON EDUCATIONAL ADMINISTRATION, 1959
1964–65 — ALLIANCE OF THE STATES, National Education Association, 1965

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.)

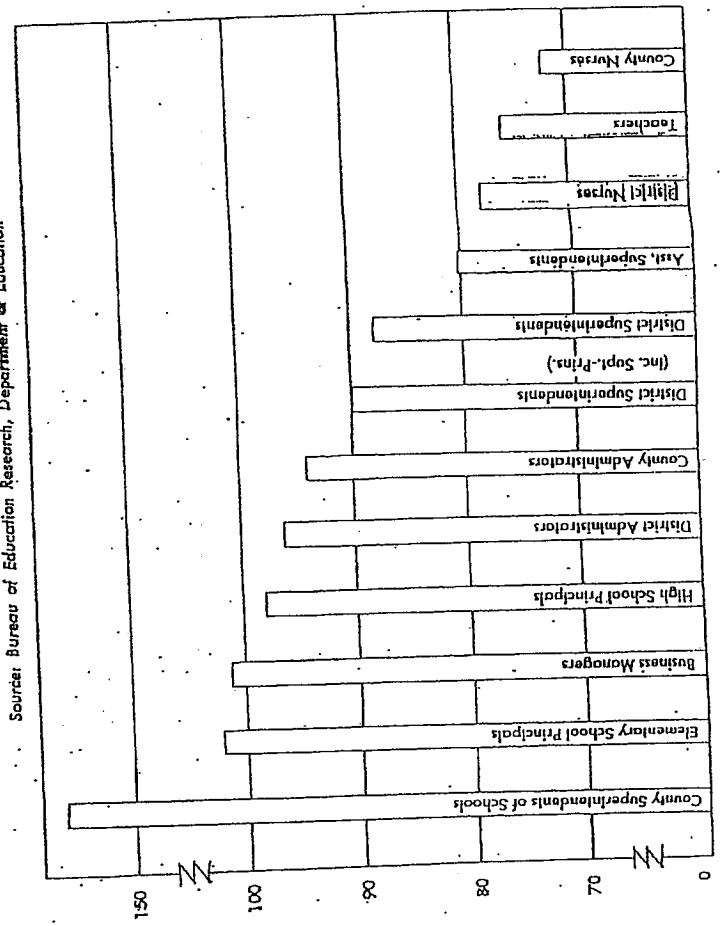
Or rather, is the vast enterprise of public education getting out of hand? We know that teachers have become less and less important. While administrative ranks multiplied, class size remained virtually static until the Legislature financed and mandated a significant reduction in class size in the primary 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."

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 or 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.

√ 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
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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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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.

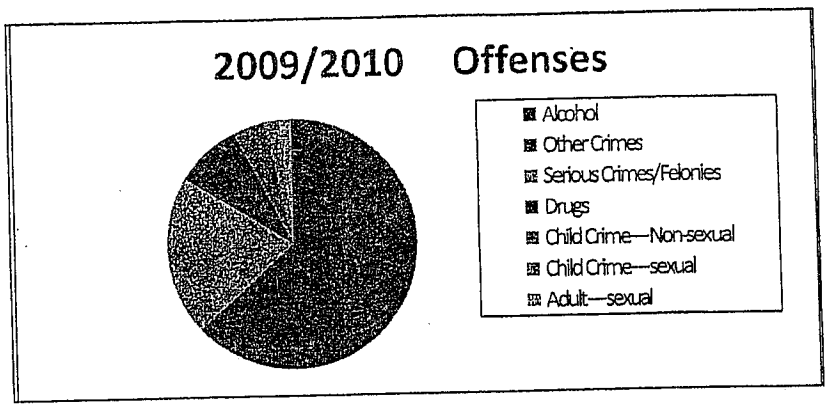
	FY 05/06	FY 06/07	FY 07/08	FY 08/09	FY 09/10
E-mails Sent to DPP Info	N/A	N/A	592	4,588	5,630
Phone Calls	N/A	N/A	37,448	9,801	8,088

Analysis of Types of Criminal Misconduct

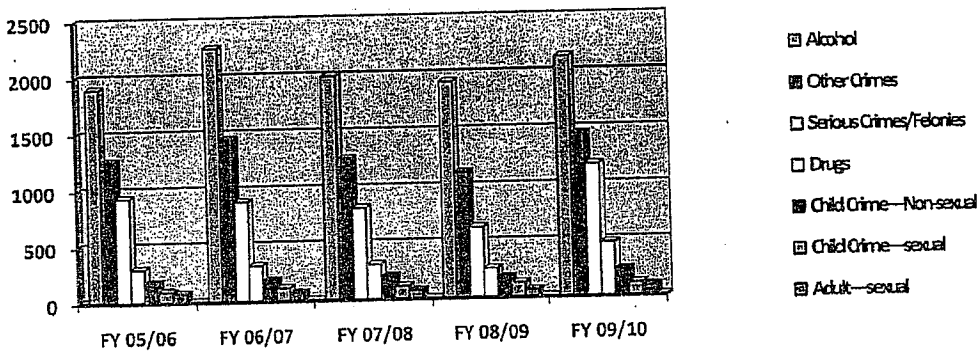
Of the total number of allegations of criminal misconduct reviewed during FY 2009-10, one-third of the offenses were alcohol related. This trend is consistent with the criminal misconduct over the previous four years.

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.

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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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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 29, 1999

The Honorable Ronald B. Robie
Judge, Sacramento County Superior Court

RONALD B. ROBIE

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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 **PEREMPTORY WRIT OF MANDATE** [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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DIVISION OF PROFESSIONAL PRACTICES

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 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

RECOMMENDATION #5

ATTACHMENTS

Please Refer to Recommendation #4

RECOMMENDATION #6

ATTACHMENTS

Comprehensive DPP Policy Manual
Forwarded to BSA on May 19, 2011

Information contained in this manual has confidential references that may not be distributed.

DPP Intranet & Directories Training

Wednesday, May 25, 2011
10:00 am – 11:00 am
DPP Conference Room

Printed Name	Signature
1. Melissa Croft Stranden	[illegible]
2. Judy Louie	[illegible]
3. Gayle Fukushima	[illegible]
4. SHEILA JENSEN	[illegible]
5. Janice Nakamura	[illegible]
6. Sarah Willis	[illegible]
7. Lauren Blume	[illegible]
8.	
9.	
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19.	
20.	

DPP Intranet & Directories Training

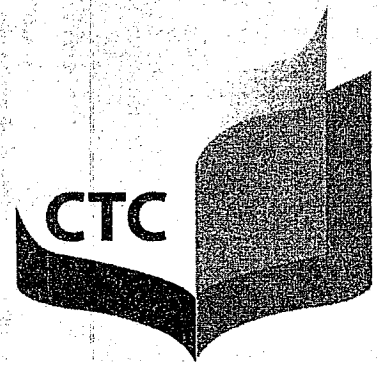
Wednesday, May 25, 2011
10:00 am – 11:00 am
DPP Conference Room

Printed Name	Signature
1. John Yamamoto	
2. Gil Gonzalez	
3. LARRY NG	
4. Erick Schmitt	
5. Ani Kindall	Ani Kindall
6. Monica Silva	
7. JUDY CULLUM	Judy Cullum
8. LINDA HERNANDEZ	Linda Hernandez
9. Sylvia Ferrari	Sylvia Ferrari
10. KYLE TABLER	
11. Karen Romo	Karen Romo
12. ERIN McCREADY	Erin McCready
13. Eileen Klockgether	Eileen Klockgether
14. MONICA ZUNIGA	Monica Zuniga
15. Diana Mansker	Diana Mansker
16. Cynthia Thomason	Cynthia Thomason
17. JANET VINING	Janet Vining
18. Rachel GRIZZAFFI	Rachel GRIZZAFFI
19. Sherry Henderson	
20. Patty Vassar	Patty Vassar

DPP Intranet & Directories Training

Agenda

- Audit
- Phase 1 Training → Phase 2 Retraining
- Intranet Training



COMMISSION ON
TEACHER CREDENTIALING

Ensuring Educator Excellence

DPP Intranet

- **Purpose**: provide reference documentation and communication to DPP staff
- **Location:** Divisions → DPP

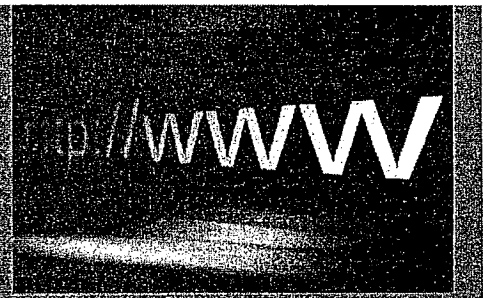
What's New

- **Purpose:** way of communicating changes/updates
- EVERYTHING is new
  - External Links
  - Case Manuals
  - Procedure Manuals
  - Management Oversight

Let us know…

- By clicking the link "input or thoughts"

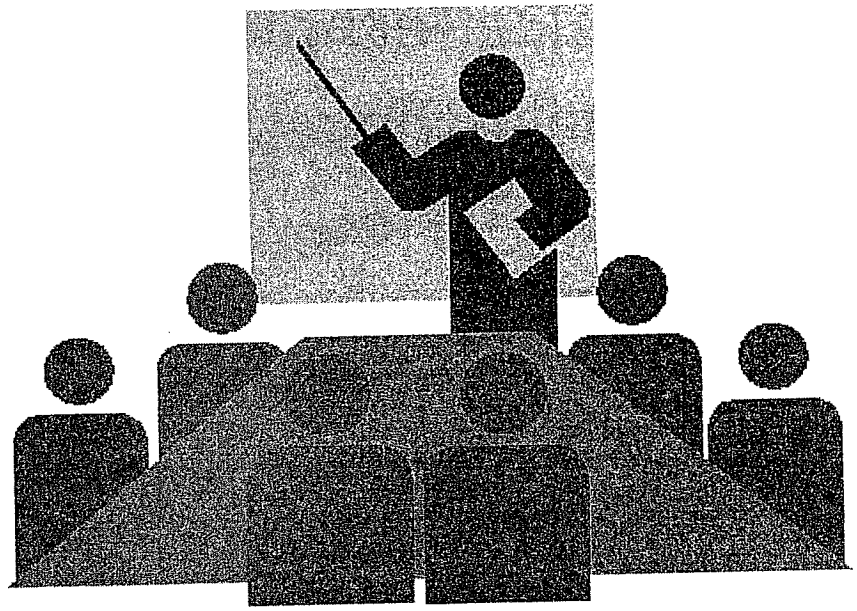
External Links



- **Purpose**: provides a list of commonly used external links
- **Examples:**
  - California Courts
  - Online Courts
  - CA School Directory
  - CHP Offices

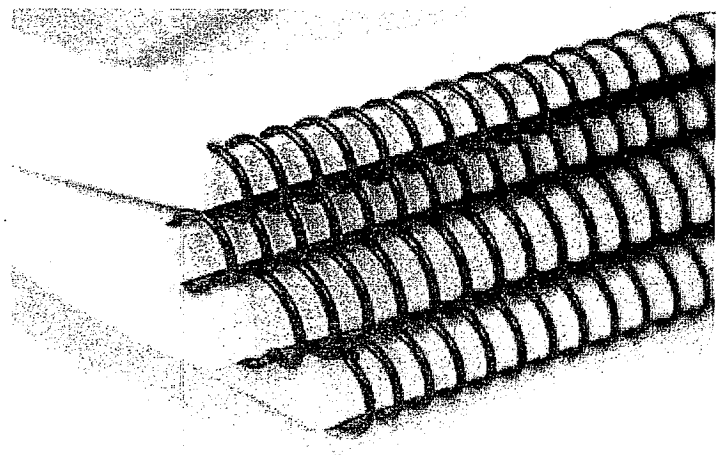
Case Manuals

- **Purpose**: provides CASE system documentation
- **Examples:**
  - Data Dictionary
  - DPP Training Manual



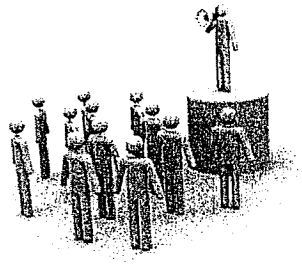
Procedure Manuals

- <u>Purpose</u>: provide procedure manuals for tasks done by various DPP staff
- Categories:
  - General information
  - Office Technician
  - Analyst/Investigator
  - COC – Prep
  - Legal
  - CTC – Prep



Management Oversight

- **Purpose**: provides written management policies with regards to oversight
- **Staff Expectations:**
  - We need to take the necessary steps to ensure that the case information in the database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information.



Questions

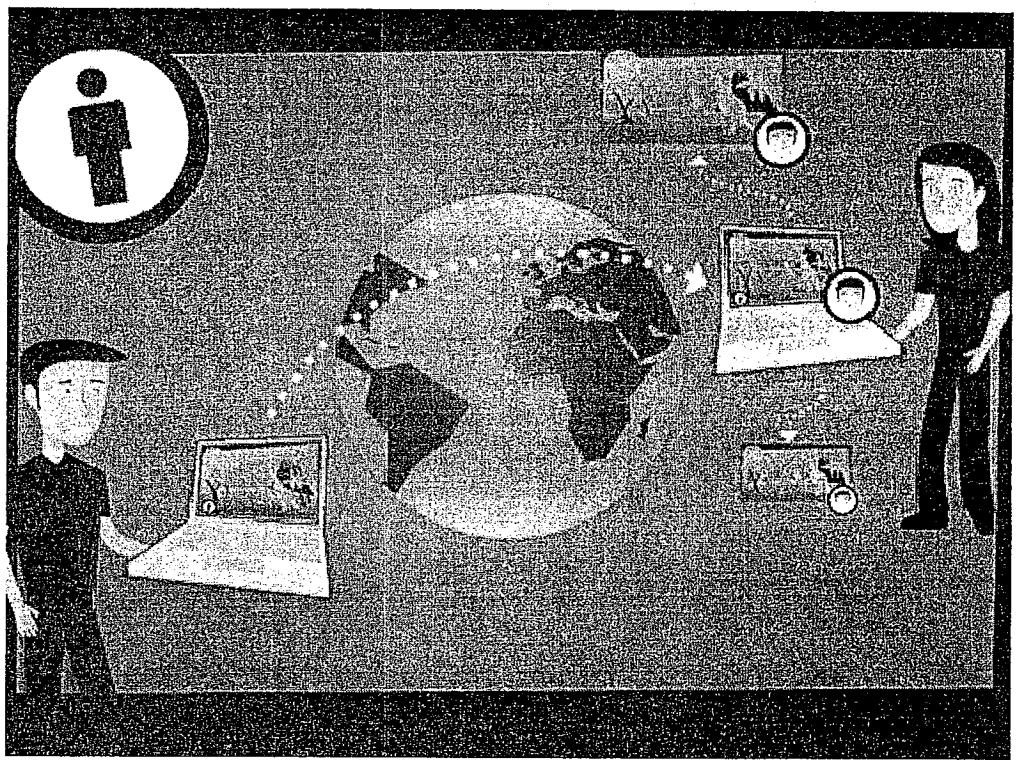
Links

- **Purpose**: provide helpful links to various systems/reports/interfaces
- **Examples:**
  - **CASE** Web Link
  - CASE Test
  - Crystal 11
  - Crystal 11 *Test*
  - DOJ Interface

NOTE: *appropriate permissions are needed to access the systems above*

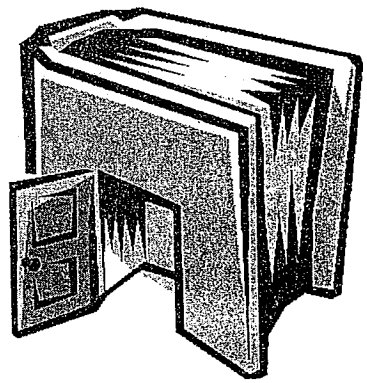
Shared Directories

- **Purpose**: provide a list of often used shared directories
- **Examples:**
  - DPP Shared
  - Data Shared
  - Projects Shared
  - IT Drop Box

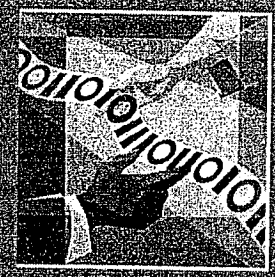


DPP Shared

- **Purpose**: houses internal DPP documents
- **Subfolders:**
  - Forms-Templates
    - Stores standard DPP document templates
  - Data
    - Stores DPP-related data
  - Projects
    - Stores documentation for DPP-related projects
  - Policies and Procedures
    - Stores all DPP policies and procedures
  - Professional Development
    - Stores information on training, upward mobility, professional development



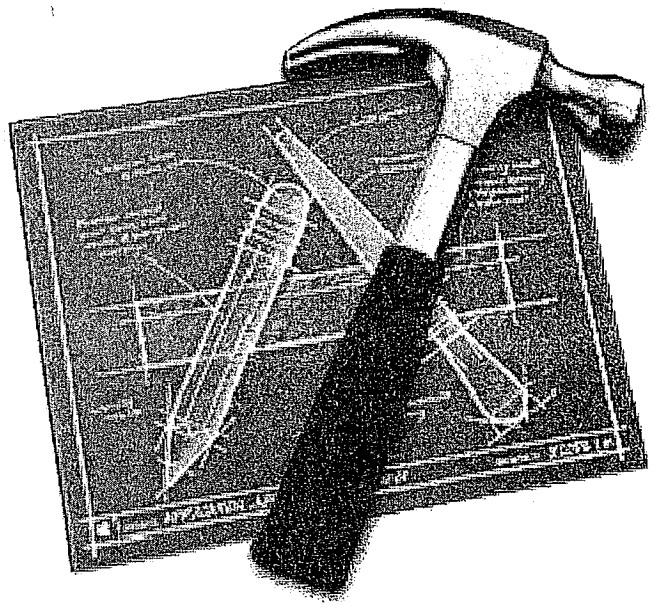
Data Shared



- **Purpose**: ETSS houses data that is shared with entire agency
- **Examples:**
  - DOJ Shared- location of exception reports we generate for business users
  - NASDTEC Shared- location of exception reports we generate for business users
  - Notice of Delay – location of NDL files to be encrypted

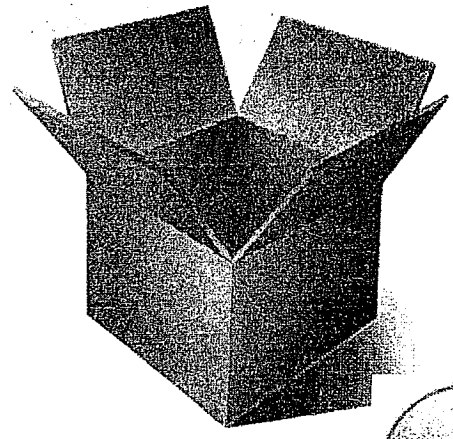
Projects Shared

- **Purpose:** houses all current agency-wide projects
- **Examples:**
  - CWIP
  - FileMaker Upgrade Project



IT Drop Box

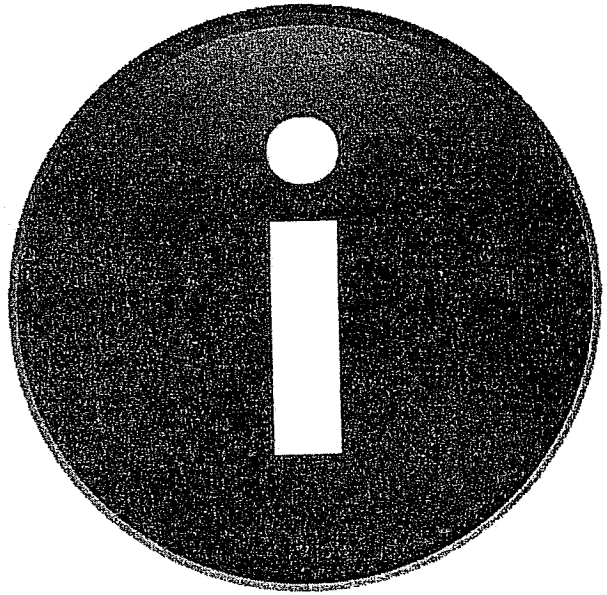
- **Purpose:** location to exchange/drop files with ETSS and vice-versa
  - Files that are too big for email
  - Files that contain sensitive information (SSNs)



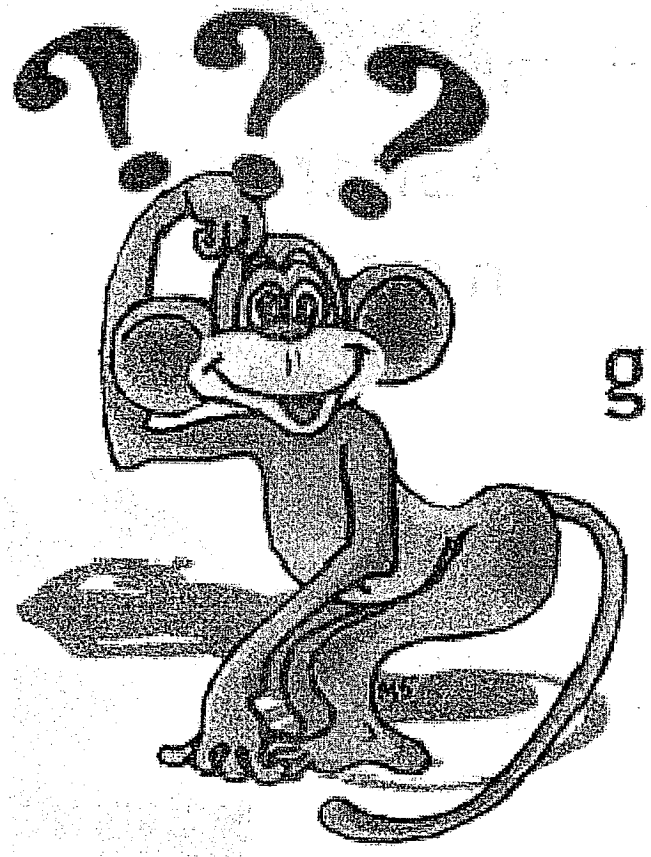
Click Here

CASE Homepage

- **Purpose**: provide assistance to business users/ IT developers in CASE through publishing of information and links
- **Examples:**
  - ETSS Agreements
  - CASE Work Hours
  - ETSS Maintenance Schedule



Questions & Comments



Questions are guaranteed in life; Answers aren't.

RECOMMENDATION #7

ATTACHMENTS

Rap Categories

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.

)PP 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

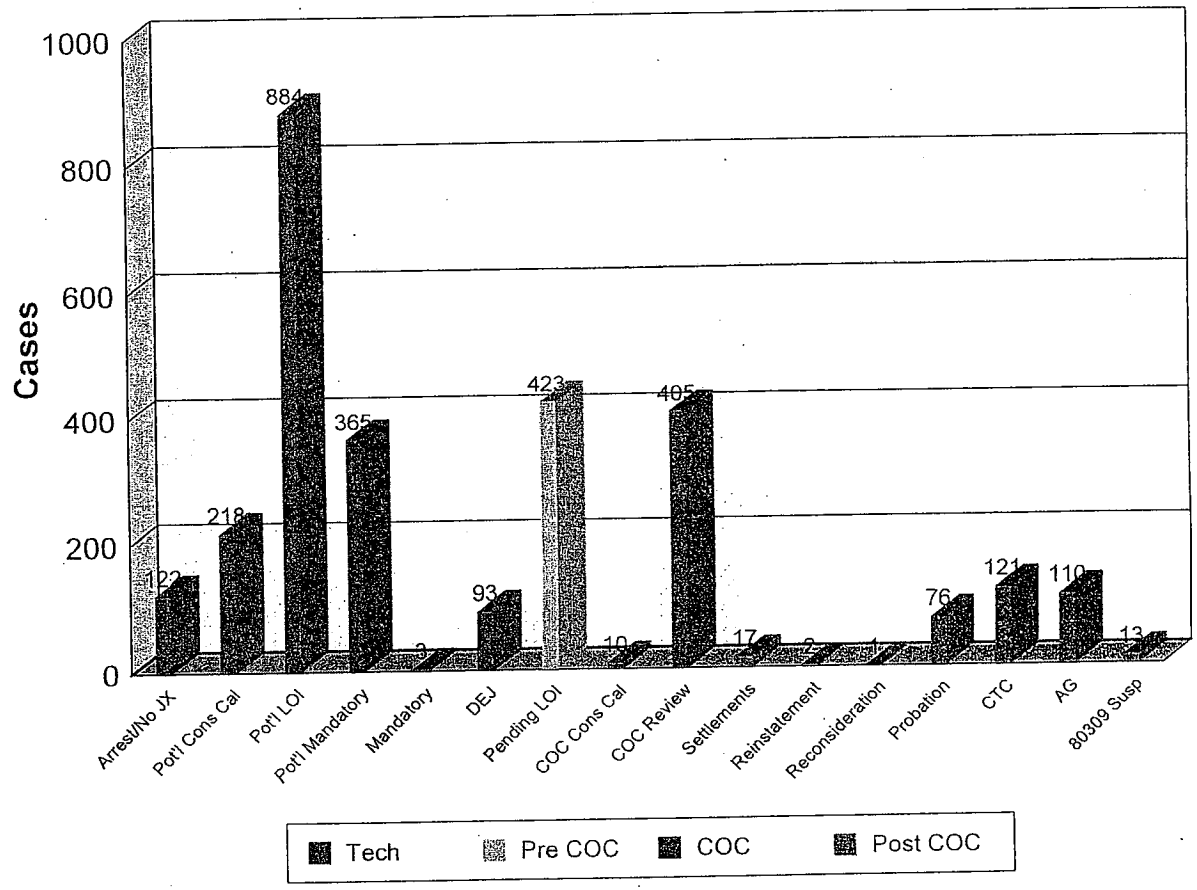
COC Prep

Future COC Meeting (May 2011)	
LOI	53
30-Day	43

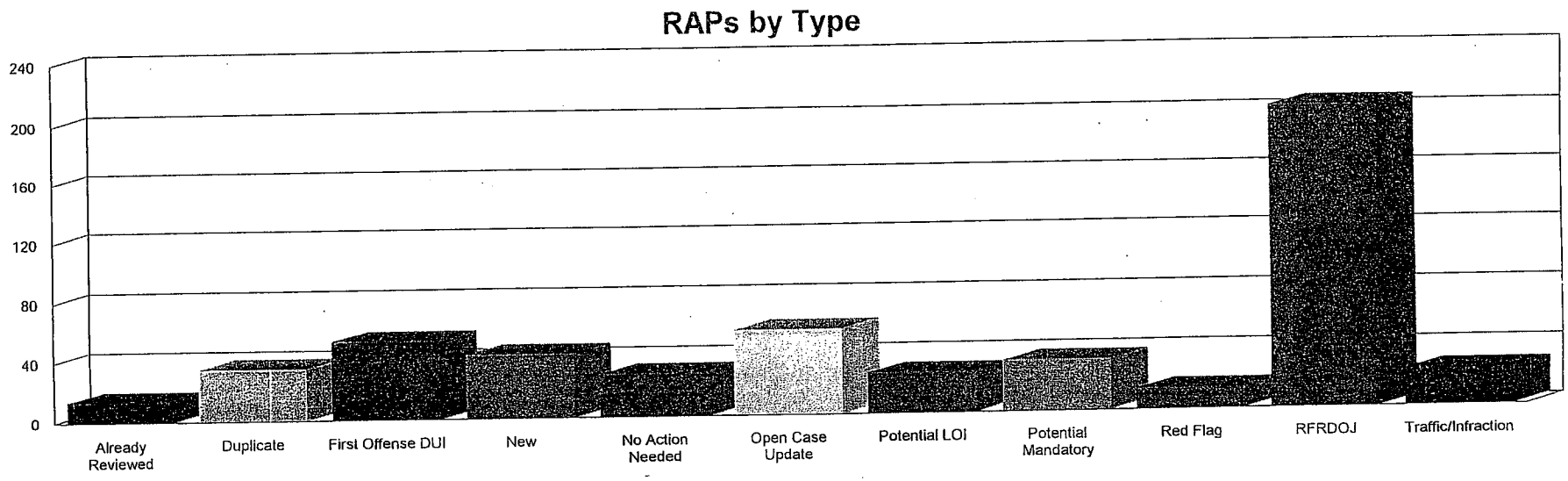
COC Current (April 2011)

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



DPP RAP Sheet Processing Statistics for April 2011



Total RAPS: 535

Possible Cases: 157

DPP Monthly Activity Summary

Activity During May 2011

Workload Statistics

Case Load Summary	
Starting Case Load	2,850
Cases Opened	710
Cases Closed	387
Ending Case Load	3,173
Work Received in DPP	
Apps	1,006
Raps	674
Misc	14
Documents Requested	
Arrest	289
Court	496
Mandatory Actions	
Revocations	17
Denials	8
Automatic Suspensions	10

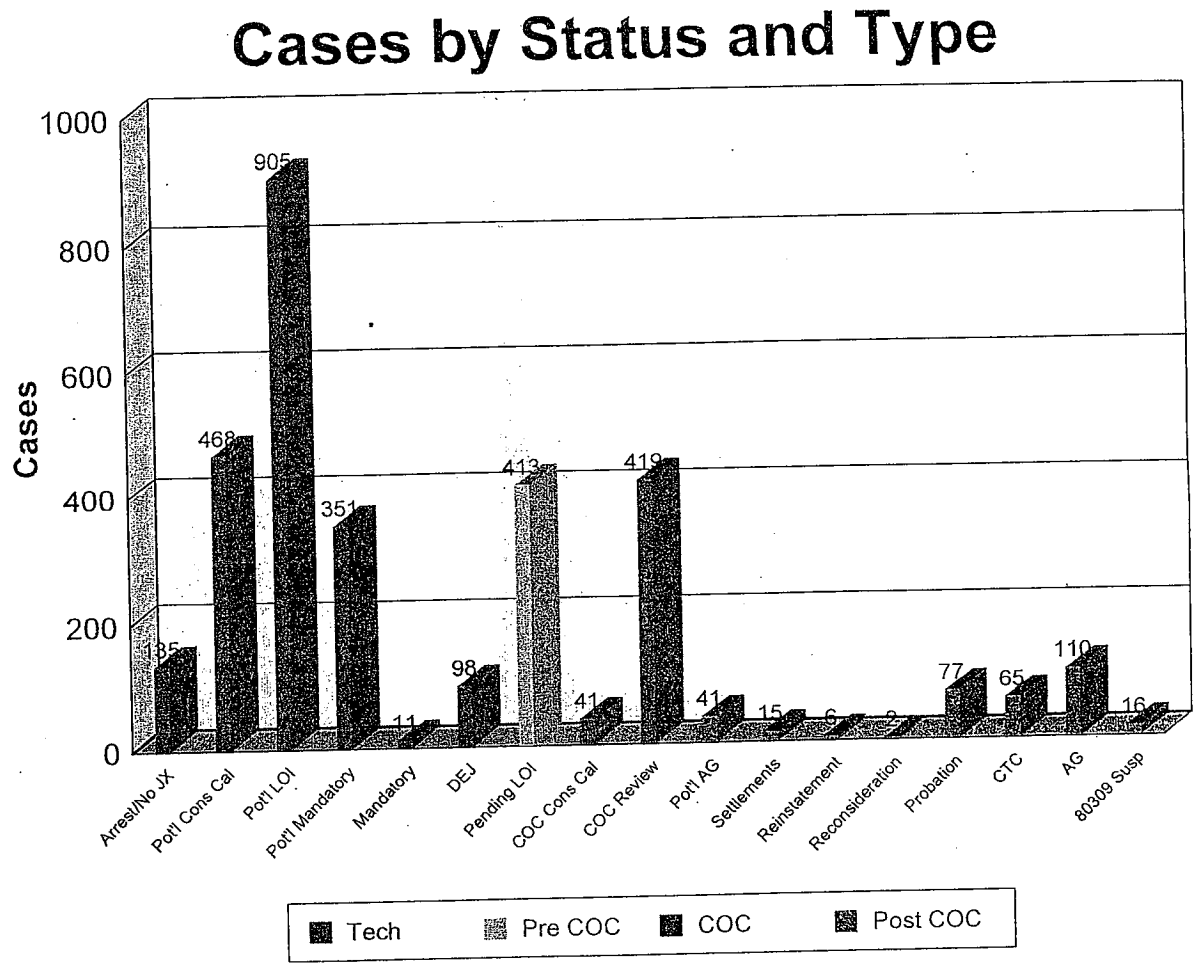
COC Prep

Future COC Meeting (June 2011)	
30-Day	53
LOI	66

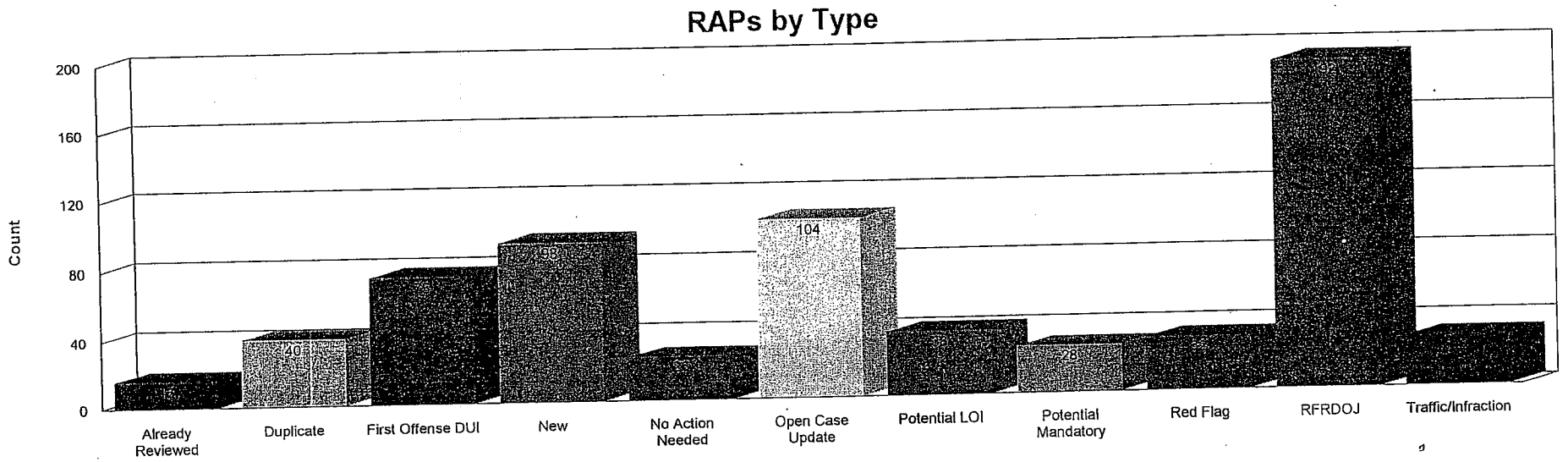
COC Current (May 2011)

Cases to COC	
LOI	53
30-Day	42
Reconsideration	3
Cases Completed	
Closed	5
Granted	19
Post COC	
Settlement	3
AG	5
CTC	58

Status as of the last day of May 2011



DPP RAP Sheet Processing Statistics for May 2011



Total RAPs: 674
Possible Cases: 234

RECOMMENDATION #8

ATTACHMENTS

Please Refer to the

Weekly Status Update Reports 1-7

RECOMMENDATION #9

ATTACHMENTS

Please Refer to Recommendation #7

RECOMMENDATION #10

ATTACHMENTS

Hill, Crista

Subject:	MAP Meeting
Location:	CONF Room COMMISSION (CRoomCOMMISSION@ctc.ca.gov)
Start:	Wed 6/22/2011 1:30 PM
End:	Wed 6/22/2011 3:00 PM
Recurrence:	(none)
Meeting Status:	Meeting organizer
Organizer:	Hill, Crista
Required Attendees:	MAP - Optional (Distribution List); Brown, Rhonda; Browning, Susan; Chapman, Gary; Clark, Teri; Cornejo, Cindy; Cunningham, Brenda; Elder, Denice; Errett, Marilyn; Gonzales, Dan; Gonzalez, Gilberto; Hollingsworth, Katrina; Janicki, Terence; Kelly, Patty; Moreno-Rios, MaryLou; Munguia, Andy; Noelting, Nadine; Pope, Lee; Roby, Lynette; Rodriguez, Raquel; Sikich, Monique; Wake, Richard
Resources:	CONF Room COMMISSION (CRoomCOMMISSION@ctc.ca.gov)

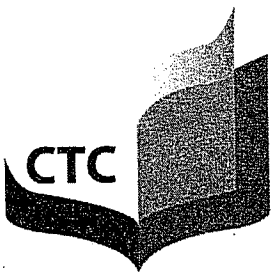
Agenda:

- Hiring Handbook

If you have other items to discuss please let me know so we can add them to the agenda.

Thank you,
Crista

HIRING HANDBOOK



COMMISSION ON
TEACHER CREDENTIALING

Ensuring Educator Excellence

Dale Janssen, Executive Director

June 2011

Hiring Handbook

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Final Stage of Hiring Process	8-9
RPA form – Other Uses	10
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Purpose

The purpose of this handbook is to provide each Commission on Teacher Credentialing (CTC) hiring manager/supervisor with an understanding of the hiring process. The handbook is to be used as a tool to assist those responsible for hiring to complete all the necessary paperwork to affect a hire. The handbook also addresses processes in how to set up oral interviews, written exercises and how to perform the appropriate reference checks/official personnel file reviews for your top candidates. The handbook is not all inclusive and is not intended to cover every single hiring situation.

Introduction

The hiring tools provided in this handbook are in conjunction with the support and the assistance provided by the Office of Human Resource (OHR) as managers/supervisors move through hiring process.

Roles and Responsibilities

The OHR, Division Directors, managers/supervisors work together to ensure that merit governs selection, development and promotion of CTC's current and future employees. By following sound management practices and CTC's personnel policies, the CTC hiring manager/supervisor will ensure that equal employment opportunities (EEO) are extended for all candidates. To ensure consistency in the guide, the term "hiring manager" is defined as any manager/supervisor or designee (i.e. staff responsible for assembling the hiring package) responsible for the hiring process.

Hiring Process Overview

The hiring process (Attachment 2) begins when the manager/supervisor decides to fill a vacant position. The manager/supervisor begins the process by developing the Request for Personnel Action (RPA) package.

CTC's hiring package is referred to as the RPA (Attachment 1) package which is required to document the reason and purpose of the requested personnel action, to obtain approvals and establish accountability with the California Civil Service and Federal hiring laws, rules and policies.

The following overview describes the steps of the hiring process. Please note that the OHR is available to provide assistance every step of the way. The steps are as follows:

1. **RPA Package**
   The RPA package serves to initiate the hiring process and/or the personnel action requested. Depending on the request, the RPA requires some or all of the following documents:

- **Job Opportunity Bulletin (JOB)** – Recruitment Tool – this document is prepared by the hiring manager/supervisor and is e-mailed to OHR. (Attachment 3)
- **Duty Statement** – Documents the essential and marginal functions of the position and should be emailed to the OHR. Please see the Duty Statement Handbook for more information on how to develop a Duty Statement. (Attachment 4)
- **Organization Chart** – Displays the Division/Office/Section/Unit's reporting relationships. The official document is kept in the OHR, so the OHR is responsible for attaching the organizational chart to the RPA package.
- **Position Justification** - Provides the OHR with the reasons why the personnel action is necessary, including but not limited to change in duties, reclassification and/or the establishment of a new position and/or a change in an employee's time-base.
- **Application Screening Criteria** – Provides the EEO Officer the opportunity to review the proposed selection criteria that will be used in reviewing the applications received.
- **Interview Questions** – Provides the EEO Officer the opportunity to review the proposed interview questions to ensure that they are job/classification appropriate.
- **Selection Rating Criteria** – Provides the EEO Officer the opportunity to review the proposed selection rating criteria prior to the actual interviews.
- **Special Appointment Plans** – An example may include a Training and Development Assignment plan, limited term, Special Consultant, etc.

2. **Completion of the RPA package and Approval Process**
   The hiring manager/supervisor is responsible for preparing the RPA package and submitting it through his/her chain of command for approval.

   Division Director - reviews and approves the RPA package and forwards it to the OHR.

   The OHR - OHR reviews the RPA package for completeness and determines if the classification is correctly allocated and/or if the personnel action requested is appropriate. The OHR will work with the hiring Division to ensure that all questions/concerns are addressed and that the requested action is appropriate. The OHR will process a RPA package typically within two (2) to five (5) business days from receipt. Upon approval, the OHR will forward the RPA package to the Fiscal and Business Services (FBS) Section/EEO Officer for review and approval.

   The FBS/EEO Officer – FBS/EEO Officer reviews the RPA package to ensure that funding is available for the requested action. If the request is to reclassify a position, the FBS and the OHR are responsible for generating a Change in Established Position (STD. 607). If the STD. 607 is required to be forwarded to the Department of Finance (DOF), the FBS Section is responsible for sending it to DOF and providing necessary documentation in support of the request. In addition, the EEO Officer reviews the RPA package to ensure the proposed recruitment plan is in compliance with EEO rules and regulations. Once

FBS/EEO Officer approves the RPA package, it is forwarded to the Executive Director for review and approval.

Executive Director – Executive Director is CTC's ultimate appointing authority. Once the Executive Director has provided the final approval, the RPA package is returned to the OHR.

3. Recruitment

The Job Opportunity Bulletin (JOB) is the recruitment document that provides the necessary information about the position to attract candidates to apply for the vacancy. The JOB states the duties of the position, the desired and required qualifications for the position as well as the classification, salary and location of the position. The JOB may also provide additional information concerning the specifics of the job, including, but not limited to, travel, overtime, work hours, and other conditions of work. The JOB should be sent to the OHR electronically.

It is CTC's policy to advertise vacancies unless there is a legal reason for an exception (i.e. promotions in place, mandatory reinstatement) refer to the OHR for other potential exceptions.

Vacancies should be advertised for a minimum of ten (10) business days for department specific classes and five (5) business days for service-wide classes or may be advertised "Until Filled."

The OHR is responsible for:

- Posting the JOB announcement on CTC's internet and the State Personnel Board vacant positions database, commonly known as VPOS.
- Ordering the certification list and contact letters for candidates.
- Work with hiring manager/supervisor on focused recruitment efforts.

The OHR will review and screen all incoming applications for eligibility and required clearances. The OHR Office will:

- Clear the certification list based on responses from the eligible applicants.
- Contact Surplus/State Restriction of Appointment (SROA) list candidates, as applicable.
- Log in all applications filed.
- Conduct a preliminary review of all applications for potential eligibility.
- Forwards applications to hiring manager/supervisor.

4. The Selection Process

The hiring manager/supervisor is responsible for completing the following steps of the process:

A. Screen the Applications by doing the following:
- Develop a selection criteria based on the essential and marginal functions of the job, desirable and required qualifications.
- Screen each applicant against the selection criteria.
- Establish a reasonable number of candidates to schedule for interviews.
- Only the most qualified applicants need be interviewed.

B. Schedule the Interviews

The goal of an interview is to help identify the best person for the job. Preparation is essential for a successful hire. The manager/supervisor (or designee) should:
- Schedule an interview location (i.e. a hard walled office or conference room).
- Secure an interview panel - minimum of two (2) managers and/or supervisors, establish timeframe/schedule for the interviews.
- Notify the front office of the scheduled interviews via email at frontoffice@ctc.ca.gov and who should be contacted when the candidate arrives.
- Have available an "Authorization to Review Official Personnel File" form(s) (Attachment 5).
- Offer and make available any reasonable accommodation for a candidate.
- May provide each candidate a copy of the questions prior to the interview. However the questions and notes taken by the candidate must be collected after the interview is complete.

Note: Surplus/SROA candidates are always a priority and must be interviewed and considered for the job, unless an exception is granted by the Department of Personnel Administration (DPA). The OHR will notify the hiring manager/supervisor when Surplus/SROA candidates apply. The OHR is responsible for working with DPA to secure an exception to Surplus/SROA.

C. Develop Interview Questions

The questions must solicit information that enables the panel to determine if the applicant is the best fit for the job. The questions must be based on selection criteria that are consistent with the essential and marginal functions of the job; desirable/required qualifications, job expectations and other business related factors that are necessary for successful performance on the job.

D. Qualified Appraisal Interview (QAP)

The hiring manager/supervisor is responsible for assembling an interview panel. The panel should consist of at least two (2) managers/supervisors familiar with the job in question. Each panel member must take copious notes during the interview so as to clearly distinguish among the candidates and support his/her evaluation of each candidate. The questions asked should be consistent. Follow-up questions may vary slightly based on the candidate's original answer; however, the panel must be

responsible for allowing each candidate equal opportunity to cover each desired qualification and answer each question in its entirety.

E. Written Exercise
The hiring manager/supervisor may determine that a written exercise is necessary to further ascertain a candidate's readiness to perform on the job. A written exercise must be job related and must be given to each candidate.

5. **Final Check with OHR**
Once all of the steps above have been completed and the hiring manager/supervisor has identified his/her top candidate(s), he/she should contact the OHR for a final review of each candidate's eligibility. The OHR will contact the person's prior employer and ascertain the candidate's appointment history to determine transfer eligibility or run a certification list to see if the person is reachable on the list. It may also require that the OHR contact the candidate's prior department to request to use an appropriate list to make the hire from. The hiring manager/supervisor may extend a "contingent" job offer to his/her top candidate, based on determining the candidate's actual appointment eligibility and pending the results of the reference checks and the Official Personnel File review.

6. **Reference Checks and Official Personnel File (OPF) Review**
The hiring manager/supervisor is then responsible for conducting reference checks and the Official Personnel File review.

Reference Checks – Is an important phase of the hiring process and are required for the top candidates. The CTC's Reference Check checklist (Attachment 6) will assist managers/supervisors in this process and ensure that only appropriate questions are asked. Contact the OHR if there are questions about what to ask before calling references.

Official Personnel File (OPF) - review of the top candidate prior to making a hiring commitment is required. The OPF should provide appropriate job-related information to determine a candidate's current and prior work performance and work behaviors to reasonably predict successful job performance. Often, private sector employers do not release information on their employees. Therefore, managers/supervisors may not be able to conduct an OPF review or a reference check on the prospective candidate. However, should the candidate provide a list of Personal References, you may contact them for information. To the extent necessary, the hiring manager/supervisor may request performance evaluations directly from the candidate. The hiring manager/supervisor must do his/her best to determine the candidate's past performance ratings based on the information available in their OPF. Please use the OPF form in reviewing the OPF (Attachment 7).

7. **Selection**
Once all of the steps above have been completed, the hiring manager/supervisor may invite the top candidate(s) for a second interview. Although a second interview is rare, it

does allow the hiring manager/supervisor and typically a higher level manager (Division Director or Executive Director) an opportunity to meet and talk with the top candidate(s). Second interviews are less structured and may also be used to invite Division staff members to meet the top candidates prior to final extension of a formal job offer.

Once the OHR confirms the eligibility of the top candidate(s) and communicates this to the hiring manager/supervisor, he/she may then extend an official job offer. Upon acceptance, the hiring manager/supervisor should:

- Coordinate a tentative start date with OHR. In determining the tentative hire date, please allow a minimum of five (5) days for the fingerprint process to be complete.
- Document the tentative job offer and acceptance in writing via a note to the prospective employee.
- Negotiate the tentative start date with the candidate and/or the candidate's first line manager/supervisor.
- Notify the OHR of candidate's acceptance and tentative start date and request a fingerprint package for the candidate.
- Prepare letters to all unsuccessful candidates that filed an application and participated in the hiring process. (Attachment 8).

8. Hiring Package

The Hiring Package should be submitted within five (5) days to the OHR Office for filing. The Hiring Package consists of the following documents:

- JOB
- Application Screening Criteria.
- Interview Questions and value rating for each question.
- Written exercise (if applicable).
- Reference Check notes.
- OPF Review notes.
- Selection Rating Criteria
- Statement of Selection signed and dated by the hiring manager/supervisor
- All the applications filed for the vacancy.

If the hiring package is not complete this could delay the start date of the new hire. The OHR is responsible for filing the Hiring Package for two (2) years from the date of hire. The Hiring Package is the documentation necessary to support the hire, should the selection or selection process be appealed.

Final Stage of Hiring Process

The Probationary Period for the newly appointed employee is the continuation of the hiring process. The hiring manager/supervisor is responsible for monitoring an employee's job performance and documenting it accurately and timely on the probationary report. It is important that employees receive feedback on their performance at all times, but especially during one's probationary period as their performance determines if he/she gains permanent status or not.

Employees who fail to perform satisfactory may be "rejected on probation" and returned to their previous employer or released from state service.

The hiring of employees is the most difficult responsibility bestowed to a manager/supervisor. A successful hire will ultimately result in building a more productive CTC now and in the future. Therefore it is imperative that a hiring manager/supervisor take this part of their job seriously and take the time necessary to make a good selection.

This handbook and related attachments are available on the CTC intranet for future reference. If you have any questions regarding the Hiring process, please contact the Office of Human Resources.

Other Uses for the Request for Personnel Action (RPA)
The RPA is a document that is used for almost every personnel transaction. The RPA is the document that provides the authority for the OHR staff to make changes to a position and/or make changes that directly impact the employee in the position.

A RPA is used for the following:

- Establish a position
- Reclassify a position (upgrade or downgrade)
- Transfer a position from one unit to another
- Abolish a position

The RPA is also used to:

- Increase an employee's time base
- Decrease an employee's time base
- Appoint an employee
    - Full time
    - Part time
    - Intermittent
    - Temporary

The RPA is also used to:
Document pay for employees, such as:

- Out of Class
- Bilingual
- Hiring Above Minimum
- Alternate Range Criteria if above Range A

The RPA is also used to document how an employee is appointed. For example:

- List Appointment
- Promotion
- Transfer
- Training and Development Assignment
- Reinstatement
- New Hire to state service
- Retirement annuitant
- Blanket

OTC Hiring Process

Initiate Paperwork
Hiring Division/Manager Completes RPA package - includes:
- Current/Proposed Org Charts
- Current/Proposed Duty Statements
- Justification memo (as necessary)
- App screening/interview questions
- Signs RPA form and forwards to Division Chief for approval

→

Division Chief
- Reviews and approves (signs) RPA
- Forwards to Human Resources (HR) Office

→

HR Office
- HR reviews RPA and justification memo
- Prepares justification for DPA if required.
- Approves RPA
- Forwards it to Fiscal Office

→

Fiscal Office
Reviews for funding source
- May require 607 and justification to DOF
- Approves and forwards RPA to Executive Office

→

EEO Office
- Reviews the RPA for compliance with EEO rules and regulations
- Approves and forwards RPA to Executive Office

→

Executive Office
- Approves or denies RPA
- Returns it to the HR Office

→

HR Office
- Post Vacancy Bulletin on VPOS
- Orders the Cert
- Mails Cert Letters

→

HR Office
- Receives Applications
- Clears Cert
- Reviews applications for eligibility
- Forwards applications to hiring manager

→

Hiring Manager
- Screens applicants using predetermined, job related criteria
- Documents app screening on rating sheet
- Identify Interview panel

→

Hiring Panel
- Interview applicants
- Document interview rankings on rating sheet
- Score written exercise if applicable
- Select top candidates

→

Candidate Selection Hiring Manager
- Conducts reference check and OPF review
- Makes contingent job offer and notifies HR of job offer

→

HR – Confirms Final Selection
- Eligibility is confirmed
- Approves manager to extend final official job offer

→

Hiring Manager
- Makes official job offer pending fingerprint clearance
- Notifies HR of acceptance
- Requests fingerprint package
- After fingerprint clearance notifies HR of start date to initiate entrance form
- Notifies all candidates of recruit closure.
- Completes Hiring Package and sends to HR

→

HR Office
- Send hiring manager entrance form
- Completes RPA
- Appoints off Cert if appropriate
- Completes all appropriate documents for position and appointment of candidate
- Works with "from" department to effect the transfer/ promotion
- Prepares for new employee orientation
- Files Hiring Package

COMMISSION ON TEACHER CREDENTIALING

Ensuring Educator Excellence

JOB Checklist

#	Description	
1.	Class Title	
2.	Salary	
3.	Job Description	
4.	Desirable Qualification	
5.	Requirements of the Job (Travel, Overtime, Hours 8-5)	

STATE OF CALIFORNIA
DUTY STATEMENT

Commission on Teacher Credentialing

DUTY STATEMENT

RPA #	EFFECTIVE DATE:

EMPLOYEE'S NAME	POSITION NUMBER (Agency - Unit - Class - Serial) - - -
DIVISION/UNIT	CLASS TITLE

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.

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
	MARGINAL FUNCTIONS

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.
	KNOWLEDGE AND ABILITIES *Knowledge of:* *Ability to:* **DESIRABLE QUALIFICATIONS** • • • • • SPECIAL PERSONAL CHARACTERISTICS (optional...if not on the class spec, do not include) • • • INTERPERSONAL SKILLS (optional) • • • **WORK ENVIRONMENT, PHYSICAL OR MENTAL ABILITIES** <u>Work Environment:</u> • • • • • <u>Physical Ability</u> • • • • <u>Mental Ability</u> • • • • ***Some of the requirements above may be accommodated for otherwise qualified individuals requiring and requesting such accommodations.***

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.
	PERSONAL CONTACTS **LEVEL OF RESPONSIBILITY – ACTIONS AND CONSEQUENCES**

SUPERVISOR'S STATEMENT: *I HAVE DISCUSSED THE DUTIES OF THE POSITION WITH THE EMPLOYEE*		
SUPERVISOR'S NAME (Print)	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
COMMISSION ON TEACHER CREDENTIALING

AUTHORIZATION TO VIEW OFFICIAL PERSONNEL FILE AND CONTACT REFERENCES

CCTC – HR 07 (Rev. 06/09)

I _____, hereby authorize a Representative from the Commission on Teacher Credentialing (CTC) to review my personnel records in connection with my application for employment. I understand that the documents to be reviewed could include, but are not limited to, the following:

- Documents contained in my Official Personnel File
- Attendance records for the past three (3) years, including leave balances
- Personnel Action Request (PAR)
- PIMS history
- Performance evaluations
- Any information of a negative nature or adverse action
- Any other personnel/payroll related information.

I also authorize a representative of the CTC to contact my former supervisors and other appropriate references to obtain information regarding my past job performance.

Any information obtained through this release is to be kept confidential by the CTC. This authorization is valid for sixty (60) calendar days from the date of this form.

_____ _____
Applicant's Signature Date

_____ _____
Reviewer's Signature Date

California Commission on Teacher Credentialing
CCTC HR 51 (New 10/00)

OFFICIAL PERSONNEL FILE REVIEW WORKSHEET

APPLICANT'S NAME	COMPLETED BY
DEPARTMENT	DATE COMPLETED
CURRENT CLASS TITLE	POSITION APPLYING FOR

PAR INFORMATION (Employment History)

DATE	TRANSACTION	CLASSIFICATION	TENURE/TIMEBASE	SALARY	RANGE	COMMENTS

ATTENDANCE

Total State Service: _____

Balances: Sick Hours: _____ Vacation Hours: _____ Annual Leave: _____ Holiday Credit: _____

Other: _____

PROBATIONARY REPORTS

Classification: _____

Reporting Period:	**1st**	**2nd**	**Final**
1. Skill	_____	_____	_____
2. Knowledge	_____	_____	_____
3. Work Habits	_____	_____	_____
4. Relationships	_____	_____	_____
5. Learning Abiliities	_____	_____	_____
6. Attitude	_____	_____	_____
7. Ability as Supervisor	_____	_____	_____
8. Administrative	_____	_____	_____
9. Ability	_____	_____	_____
10. Overall Rating	_____	_____	_____

Comments:

_____
_____
_____
_____
_____
_____
_____
_____
_____

PROBATIONARY REPORTS (continued)

Classification: _____

	1st	2nd	Final
Reporting Period:	_____	_____	_____
1. Skill	_____	_____	_____
2. Knowledge	_____	_____	_____
3. Work Habits	_____	_____	_____
4. Relationships	_____	_____	_____
5. Learning Abiliities	_____	_____	_____
6. Attitude	_____	_____	_____
7. Ability as Supervisor	_____	_____	_____
8. Administrative	_____	_____	_____
9. Ability	_____	_____	_____
10. Overall Rating	_____	_____	_____

Comments:

ANNUAL REPORTS

Classification: _____ _____ _____

Reporting Period: _____ _____ _____

1. Skill			
2. Knowledge			
3. Work Habits			
4. Relationships			
5. Learning Abiliities			
6. Attitude			
7. Ability as Supervisor			
8. Administrative			
9. Ability			
10. Overall Rating			

Comments:

COMMENDATIONS

OTHER INFORMATION

PAR Transactions Codes

This is a listing of codes that you need to be aware of when reviewing a potential employee's PAR history. Make sure you record the codes on the OPF Review Sheet. Here is a list of codes that are considered "Red Flags" to supervisors reviewing employment histories:

CODE	DEFINITION
A01=	List appointment
A14=	Adverse demotion
S20=	Voluntary resignation under unfavorable circumstances
S21=	AWOL – Automatic resignation as a result of an absence without approved leave for five consecutive days
S32=	Medical termination
S40=	Termination with fault
S41=	Dismissal
S49=	Leave of absence/NDI
S50=	Leave of absence
S57=	Temporary off payroll pending WC/NDI
S85=	Adverse suspension
S90=	Rejection during probation period
ORP=	Official Reprimand
PUN=	Adverse salary decrease

RECOMMENDATION #11

ATTACHMENTS

COMMISSION ON
TEACHER CREDENTIALING
Ensuring Educator Excellence

POLICY DIRECTIVE

EFFECTIVE DATE: May 9, 2011	**NUMBER:** PD-018
EXPIRES: Indefinite	**FROM:** Dale Janssen, Executive Director
SUPERCEDES: Policy Directive 07-014 CTC Administrative Manual Sections 3-4262 - 3-4269	
TITLE: EQUAL EMPLOYMENT OPPORTUNITY POLICY	

Policy:
It is the policy of the Commission on Teacher Credentialing (CTC) that discrimination against any employee, volunteer (as applicable), or applicant will not be tolerated. Discrimination is defined as any unfair employment practice or behavior that treats individuals differently because of their race, color, national origin, ancestry, religion, creed, sex, sexual orientation, marital status, age, physical or mental disability as defined in the Americans with Disabilities Act, political affiliation, or veteran status. The practice or behavior may or may not be intentional but it results in applicants, employees, and/or volunteers not being given full and equal consideration for employment, retention, evaluation, or advancement purely on the basis of merit and job related qualifications. The CTC process for addressing discrimination complaints has been developed to facilitate resolution of the complaint at the lowest level possible and in the fairest, most timely manner.

Sexual harassment has been interpreted by the courts to be a form of sex discrimination. Therefore, complaints based on sexual harassment are subject to the same process and time frames as complaints based on sex, race, color, religion, etc. Once an allegation of sexual harassment is brought to the attention of a manager/supervisor, the manager/supervisor is legally required to investigate the allegation, even if the complaining employee, volunteer, or applicant requests that no action be taken.

Purpose:

The purpose of this Policy Directive is threefold:

1. To provide a ready means for resolving individual or group problems of a sensitive nature, quickly, informally and at the lowest level possible.
2. To decrease significantly formal complaints, which are expensive, time-consuming, and detrimental to employee relations.
3. To make manages/supervisors more sensitive to the needs of individual employees and groups, and to improve their capacity of handling problems before they become complaints.

The establishment of a discrimination complaint procedure is not intended to supplant regular grievance procedures or prohibit employees from filing a complaint with the DFEH or the EEOC, or filing an action in court. The procedure is intended, and should be viewed, as a means of providing the special skill needed to promptly and fairly handle the sensitive issues involved in allegations of discrimination and to ensure full cooperation with Federal and State control agencies.

An individual who utilizes the discrimination complaint process is entitled to certain rights and guarantees. These rights must be discussed with the complainant at the initial stages of the complaint process. The EEO Officer and/or the EEO Investigator shall ensure the complainant clearly understands each right.

These rights include:

- An informal, confidential presentation of a complaint to the manager/supervisor, EEO Officer.*
- Keeping their complaint confidential until such time as they give their manager/supervisor or EEO Officer permission to do otherwise, in order to bring the complaint to the appropriate authority for remedy; or until such time as a formal complaint is filed.*
- A full, impartial and prompt investigation by a trained departmental investigator.*
- A timely, written decision from the appointing power, after full consideration of all relevant facts and circumstances.
- Representation by a person of his/her own choosing at each and all steps of the process.*
- Appealing the appointing power's decision within thirty (30) days to the State Personnel Board and/or file a complaint with the appropriate Federal or State agency.
- Being free from reprisals after filing a complaint.
- Being notified in writing when a formal complaint has been filed and when a final decision has been made.*

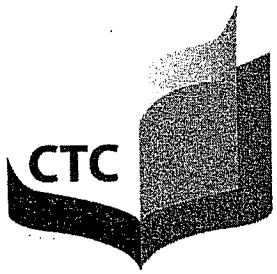
*Also applies to employees responding to a complaint (respondents).

References (or Legal Authority):

Resource	Section
Executive Orders	S-6-04
Laws and Regulations http://www.leginfo.ca.gov/calaw.html http://www.dpa.ca.gov/statesys/dpa/oalrules.htm	GC: 18701, 8547.2, 8547.8, 19683, 18500, 12900, 12940, 18930.5, 11092, 11092.5, 11139.6, 12926, 12926.1, 12940, 18523, 18675, 18952, 19230, 19240, 19241, 19700, 19790 et seq. Education Code: 87162, 87164 Rules: 10, 56.1-56.8, 53, 54-54.2, 547-547.2, 250, 547.58, 547.79-547.806, 547.807-547.8191 Labor Code: 1101, 1102 Federal Laws: Civil Rights Act of 1964 http://www.eeoc.gov/policy/vii.html, Rehabilitation Act of 1973 http://www.dol.gov/esa/regs/compliance/ofccp/sec503.htm, Age Discrimination Act of 1978 http://www.eeoc.gov/policy/adea.html, www.ada.gov/pubs/ada.htm
Memorandum of Understanding (MOU) http://www.dpa.ca.gov/bargaining/contracts/index.htm	See applicable MOU
Responsible Agency/Program	Federal Government, SPB, DFEH, DGS EEO Office
SPB/DPA Policy Memos http://www.spb.ca.gov/pinkies.htm	SPB Pinkies: 12/22/05, 12/20/05, 5/19/03, 12/23/02, 11/22//02, 8/29/02, 5/17/02, 4/12/02, 2/4/02, 1/10/02(2), 12/21/02(2), 1/3/01, 9/26/00, 9/5/00, 6/15/,00, 12/14/99, 11/17/97, 5/6/92, 7/18/91, 11/14/90, 12/2/88, 10/20/88, 9/23/88, 5/10/88
Other	
Workers' Compensation/Return to Work Coordinator ADA DFEH	http://orim.dgs.ca.gov/WorkersCompensation/default.htm http://www.usdoj.gov/crt/ada/adahom1.htm http://www.dfeh.ca.gov/

Contact Information:
Equal Employment Opportunity Officer, Administrative Services Division.

EQUAL EMPLOYMENT OPPORTUNITY HANDBOOK



COMMISSION ON
TEACHER CREDENTIALING

Ensuring Educator Excellence

Dale Janssen, Executive Director

May 2011

Equal Employment Opportunity

The purpose of the discrimination complaint procedures is to provide all Commission on Teacher Credentialing (Commission) employees, volunteers (as applicable) and applicants, with a uniform method to raise allegations and complaints of discrimination. The procedures are intended to resolve complaints at the lowest possible organizational level, while assuring that such allegations and complaints receive full consideration and appropriate remedy as applicable, without fear of reprisal or retaliation.

Complaints of discrimination, which the Commission has authority to investigate, must allege that the complainant was discriminated against on the basis of age, race, sex (including sexual harassment), ancestry, color, religion, disability, national origin, marital status, political affiliation or opinion, sexual orientation, pregnancy, or retaliation.

These procedures apply to all Commission employees, volunteers (as applicable, applicants.

ROLES AND RESPONSIBILITIES

Equal Employment Opportunity (EEO) Officer

The EEO Officer is responsible for providing leadership in resolving informal and formal complaints of discrimination by working with managers/supervisors, providing EEO counseling, and investigating complaints as necessary. He/she must determine if the Commission has jurisdiction: The legal power to act on a complaint in order to investigate it or attempt resolution.

A complaint can be received formally or informally, directly from the complainant, with or without the manager's/supervisor's knowledge. It can be forwarded by a manager/supervisor after initial review or it can be brought to the attention of the EEO Officer by a third party.

The EEO Officer is responsible for developing and implementing a plan to resolve each individual complaint. The plan can include 1) Manager/Supervisor counseling, 2) informal complaint resolution procedures, and/or 3) procedures for formal complaint investigation and findings.

Managers/Supervisors

It is the managers/supervisors' responsibility to promote a discrimination-free work environment, and take appropriate action to prevent or stop any and all forms of discrimination, including sexual harassment; ensure that all employees, volunteers and applicants are informed of the Commission's discrimination complaint process prior to the need to know, and again if a complaint is brought forth; ensure that subordinate managers/supervisors and employees attend training as a preventive measure, and to sensitize then to conduct and/or behavior that constitutes discrimination and the consequences of such actions.

When a discrimination complaint is filed (formally or informally) or brought to the managers/supervisors' attention, it is the managers'/supervisors' responsibility to:

- Listen to the complainant and take the complaint seriously (employees/volunteers/applicants should not be discouraged from reporting such complaints);
- Provide the complainant with a copy of the Statement of Rights (CCTC-HR-XXX); and contact the EEO Officer immediately.

- The EEO Officer will provide assistance to resolve the issue informally or determine if other action is necessary;
- Record and document the complaint and perform an immediate preliminary investigation to determine the validity of the complaint;
- Provide a copy of the preliminary investigation report to the EEO Office regardless of the findings;

In conjunction with the EEO Office, initiate appropriate and immediate action against the respondent where discrimination is found; Ensure that the complainant is made aware of the actions taken against the respondent (within guidelines of the Information Practices Act) to give the victim a sense of redress; Protect the employee(s) complaining of discrimination or sexual harassment from any reprisal or retaliation.

Employees/Volunteers/Applicants
An employee, volunteer, or applicant who perceives the comments, gestures, or actions of another employee, volunteer or applicant to be discriminatory and offensive should immediately communicate to that person that such behavior is not appropriate and/or is unwelcome. Employees, volunteers, or applicants who feel threatened or have difficulty expressing disapproval may seek informal assistance from the manager/supervisor or EEO Officer. Failure to confront the harasser, however, does not interfere with the rights to file a discrimination complaint.

An employee/volunteer/applicant who believes he/she has incurred discrimination or witnessed discrimination has the responsibility to report it to the appropriate manager/supervisor or the EEO Officer and to provide all relevant information in a manner that allows the Commission the best opportunity to resolve the complaint at the lowest level possible.

An employee, volunteer or applicant may file a discrimination complaint informally, formally, or externally. The complainant decides which level or type of complaint to file. He/she may contact the EEO Officer at any time to determine if his/her concerns constitute discrimination.

PROCEDURES FOR RESOLVING DISCRMINATION COMPLAINTS

The stages of the discrimination complaint process are described below. Before discussing the stages, there are several points that should be highlighted.

The identification that managers/supervisors serve as Equal Employment Opportunity Counselors and Investigators is critical to the success of Commission's discrimination complaint process. It is the responsibility of the EEO Officer to see that persons are knowledgeable, empathetic, flexible and resourceful people who can diplomatically correct misunderstandings and help forge stronger relationships between people working in the same work environment. He/she must maintain the employees' concerns in the strictest confidence.

Those who conduct investigations must maintain the role of fact finder. His/her responsibility is to assemble enough information to provide a basis for deciding whether the action was or was not discriminatory. Therefore, he/she should never act in such a way as to leave an impression of personal interest in the outcome of the investigation. The manager/supervisor should also avoid becoming the intermediary between the complainant and the Commission in any efforts on their part in seeking a resolution of the complaint during an investigation.

The importance of neutrality cannot be overemphasized. The EEO Investigator must not communicate any personal judgment or opinion on the merits of any complaint he/she investigates.

The Commission has two levels for raising concerns of possible discrimination: an informal process using managers/supervisors and a formal process using trained EEO Investigators.

Employees are **urged** to resolve complaints on an informal process or as a last resort file a complaint of discrimination through the formal process.

PROCEDURES FOR FILING A DISCRIMINATION COMPLAINT

Informal Process

1. The employee, volunteer, or applicant should immediately report the incident to a manager/supervisor or to the EEO Officer if the respondent is the manager/supervisor. The manager/supervisor shall listen to the complaint and regard it seriously. The complaint shall not be shrugged off, minimized nor in any way shall the reporting of the complaint be discouraged. The manager/supervisor shall record and document the complaint. Managers/Supervisors are strongly encouraged to immediately contact the EEO Officer for assistance in dealing with potential discrimination issues. The manager/supervisor shall perform an immediate preliminary investigation to determine the validity of the complaint. A copy of this preliminary investigation shall be provided to the EEO Officer. If an employee wishes to initiate a formal complaint, managers/supervisors should allow the employee a reasonable amount of state time to prepare the complaint (Discrimination Complaint form, CCTC-HR-084).
2. If the respondent is the manager/supervisor or the employee does not believe the complaint is being adequately addressed by the manager/supervisor, he/should report the incident directly to the EEO Officer.
3. The EEO Officer will hear the complaint and initiate whatever preliminary inquiry is deemed necessary to prepare an informal analysis of the problem and/or achieve immediate resolution.
4. Unless otherwise waived by the complainant, the EEO Officer will attempt to keep the employee's/volunteer's/applicant's name confidential. However, it should be clear that in order to bring the complaint to the appropriate authority for resolution, confidentiality is often not possible.

Formal Process

1. If the complainant wishes to file a formal complaint, he/she should file the Discrimination Complaint form (CCTC-HR-084) with the EEO Officer within one (1) year of the alleged discriminatory action or decision or the time employee/volunteer/applicant first became aware of the action or decision. The written complaint must state the action perceived to be discriminatory, the basis of discrimination, and the specific remedy sought by the complainant.
2. The EEO Officer will notify the respondent that a formal complaint has been filed.
3. The EEO Officer will review the formal complaint and make a preliminary determination. He/she may:
    a. Attempt to mediate informal resolution of the complaint;
    b. Make a decision on the merits of the complaint; or
    c. Assign an investigator

4. If referred for investigation, the investigator will conduct a full investigation. Upon completion, he/she will provide the EEO Officer with a written report of the findings of fact.
5. If the allegations are substantiated, a meeting will be held between EEO Officer and Legal Counsel to determine a course of action. After consultation with Legal Counsel, the EEO Officer will release the results of the investigation including recommendations for any appropriate remedies, to the Director of the affected Division, the complainant, the respondent, and their respective representatives.
6. If the complainant is not satisfied with the results of the Commission's investigation, he/she may contact the State Personnel Board.

ADDITIONAL INFORMATION

Access to Records

The EEO Office shall have access to all information deemed necessary to determine the validity of the complaint in both the informal and formal stages of the process. The cooperation and assistance of all employees, volunteers, applicants, supervisors and managers involved is required. If an employee of the Commission refuses or threatens to refuse to cooperate in an investigation, the State Personnel Board (SPB) may directly investigate or hear the complaint. Subpoenas or any other action deemed appropriate will be used to affect the purpose of the investigation.

Appeal Process

A complainant who is not satisfied with the Commission's decision may file an appeal with the Executive Office of the SPB within thirty (30) days from the date of receipt of the Commission's decision, in accordance with Article 4, Rules 51.2 and 547.1 of the SPB Regulations.

A complaint that is not resolved by the Commission within 180 days from the date of formal filing with the Commission may be referred to the SPB as an appeal for remedial action.

Confidentiality

Generally, all discussions with a complainant are confidential and resolution will not be pursued without the concurrence of the complainant. However, when the issues are serious in nature (sexual harassment) or involve potential criminal activity, (abuse, rape, property damage) the EEO Officer or the manager/supervisor must advice the complainant that the information provided must be referred to the appropriate authority in order to remedy the conduct of the offending party. In addition, once the complainant requests resolution, confidentiality may no longer be assured.

When a complaint becomes formal, confidentiality provisions do not apply. Persons charged with discriminatory practices will be informed of the charge and allowed to respond once an investigation is initiated. Information gathered during the investigation regarding the complainant or charged party(s) will be kept confidential to the extent possible.

Persons interviewed during an investigation shall be informed that their comments will remain confidential unless the information is to be used for a basis for adverse action. In these cases the information may be presented in a public forum.

Involved participants will be informed that Federal and State EEO regulatory agencies require a report on both formal and informal discrimination complaints filed with the Commission. The identity of the complainant and other involved persons may be released to those agencies.

Parallel Review
The Discrimination Complaint procedure is separate and distinct from employee grievance procedures. An employee will not be allowed a parallel review under both the employee grievance and discrimination complaint procedures.

Complaints or issues that do not allege discrimination are handled through the employee grievance procedure or other applicable processes as a result the Office of Human Resources would be involved.

The grievance procedure is used to address terms and conditions of employment such as working hours, out of class claims, overtime requirements, etc.

If a grievance is found to meet the discrimination complaint criteria, the grievance process will cease at that point and the matter will be referred to the EEO Officer.

If during the course of the Commission discrimination complaint investigation, a rejection during probation or an adverse action appeal is filed with the SPB and the employee alleges discrimination, the Commission will suspend its investigation and the complaint will be examined and adjudicated by the SPB.

Release Time
The complainant may use a reasonable amount of State time based on the complexity and sensitivity of the issues, as determined by the EEO Officer, to discuss the complaint with a manager/supervisor or an EEO Investigator.

Retaliation and Intimidation
No person shall intimidate, threaten, coerce, or discriminate against any individual because he/she; 1) opposed an employment practice made unlawful by the laws (Federal and State) prohibiting employment discrimination; or 2) made a complaint or testified, assisted, or participated in any manner in any investigation, proceeding, or hearing regarding a discrimination complaint.

Right to Representation
The complainant has the right to representation at each step of the process by a person of his/her choosing.

TIME LINES

Filing Complaints
An employee, volunteer, or applicant has the right to file a discrimination complaint immediately after such incident occurs and has up to three hundred sixty-five (365) calendar days to file the complaint. This period may be extended up to ninety (90) days if a person allegedly aggrieved by the discrimination first obtained knowledge of the facts after the expiration of the one-year period.

A Discrimination Complaint Form (CCTC-HR-084) must be completed by the complainant, indicating whether the complainant wants to file an informal or formal complaint.

The time requirement for filing a discrimination complaint is in conformity with all other Federal and State statutes and policies. However, both the Department of Fair Employment and

Housing and the Federal Equal Employment Opportunity Commission Title VII guidelines do not allow the additional 90-day exception provided under the SPB administered process.

Responding to the Complaints
The complaint and notify the complainant within ten (10) days whether the allegations(s) meets the criteria to be handled through the discrimination complaint procedure. In accordance with the Commission stated process, the Commission as 90 (90) calendar days from the date the complaint is filed to issue a final decision on a formal discrimination complaint. This time frame may be extended upon mutual written agreement with the EEO Officer and the complainant.

The Department has thirty (30) days to resolve an informal discrimination complaint. If the complaint cannot be resolved in thirty (30) days, the complaint will be handled formally unless the complainant and the EEO Officer have agreed to extend that period.

EXTERNAL COMPLIANCE

External Compliance Agencies
The Commission's discrimination complaint procedures are not intended to prohibit employees from filing a charge of discrimination with the State Personnel Board (SPB), the Equal Employment Opportunity Commission (EEOC), the Department of Fair Employment and Housing (DFEH), and/or the Division of Labor Standards Enforcement (DLSE), Department of Industrial Relations. Employees are not required to exhaust the administrative procedure to file a formal discrimination complaint prior to exercising their right to file with an outside compliance agency.

The SPB will accept direct jurisdiction of a discrimination complaint under the following four circumstances:

- When the complainant is alleging discrimination based upon retaliation;
- When the circumstances directly involve a high level administrator of the Commission; or
- When the Department has exceeded its 90-day requirement to respond to the complaint.

The EEOC and DFEH maintain separate jurisdiction over discrimination complaints filed by State civil service employees. By mutual agreement, both EEOC and DFEH will cross-file discrimination complaints between each agency; thus the agency initially receiving the complaint will automatically cross-file with the other agency.

The Department of Industrial Relations, Division of Labor Standards Enforcement (DLSE) handles complaints of discrimination on the basis of sexual orientation.

Process
The external agency makes it a practice to notify the Commission that a complaint has been filed and may request information pertaining to the complaint. Commonly EEOC, DFEH, and SPB will file a notice with the Commission's EEO Office, advising that a complaint has been filed and requesting a position statement on the charges filed. If the notice of filing is received at the Commission, the notice should immediately be forwarded to the EEO Office for response.

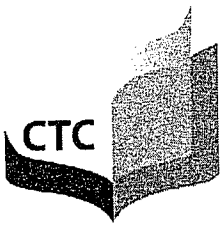
The EEO Office is responsible for providing a response to the outside compliance agency. The EEO Office sends a request to the appropriate Division Director with a copy of the charges filed. The Division is requested to provide the needed information within two (2) weeks from the request for information.

Because the complaint filed with an outside compliance agency in essence names the Commission itself as "respondent', the information contained in the complaint should be maintained as sensitive in nature. Those persons directly named in a charge filed with an outside compliance agency are notified directly by the compliance agency. All files will be maintained and monitored by the EEO Office. The EEO Office will be responsible for making any determination of case file information release. Any request for information contained in a discrimination complaint investigative file needs to be referred to the EEO Office.

Determination of the need for revision of this policy is the responsibility of the Equal Employment Opportunity Officer – Administrative Services Division. Questions about the status or maintenance of these procedures should be directed to the EEO Officer at (916) 322-3459.

Volume 3, Issue 21

May 9, 2011



COMMISSION ON TEACHER CREDENTIALING

CTC Insider

Executive Director's Message

Accreditation, Examinations, and Fewer Staff to do the Work, Oh My!

The Professional Services Division has been busy this spring with accreditation site visits. As of this week, 26 accreditation site visits have been completed. In addition, five institutions have hosted re-visits based on the standard findings and the COA's accreditation decision from the 2009-10 accreditation site visit. There are five more site visits scheduled to be completed during the remainder of May. Prior to an accreditation visit, the institution has submitted Biennial Reports and completed the Program Assessment process. The inclusion of the BTSA Induction programs in the Commission's accreditation system has definitely increased the division's workload. For comparison purposes, in 2009-10 a total of 13 initial site visits were held along with three re-visits.

In addition to accreditation, work related to the Commission's examinations has kept staff busy. The development for the California Preliminary Administrative Certification Examination (CPACE) is coming to fruition. The CPACE is the California developed examination that replaces the School Leaders Licensure Assessment (SLLA) that Educational Testing Services has been offering. The final administration of the SLLA for use in California was in February 2011. The CPACE examination will be administered for the first time in June 2011 and an agenda item will come to the Commission in August 2011 to set the passing standard on this new examination. In other work on examinations development, Evaluation Systems is working on developing an assessment for the Mathematics Instructional Added Authorization (MIAA) that pulls items from both the CSET Multiple Subjects and Single Subject Mathematics examinations. This exam would be available to programs to assess candidates' knowledge of mathematics. Staff will share this information with prospective program sponsors at the May 11 webinar focusing on the MIAA and Mathematics Instructional Leadership Specialist programs. An upcoming coded-correspondence will describe numerous changes to the 2011-2012 examination administrations. One, which will begin this fall, is the transition from paper-based to computer-based testing for the CSET: Multiple Subjects, CSET: Writing Skills, RICA: Written Examination, and CTEL examinations.

As you know the Governor ordered a hiring freeze on February 15, 2011. As of that date, there were four vacancies in the Professional Services Division. Since then, Cheryl Hickey has been promoted to the Administrator of Accreditation position which creates a fifth vacancy. In addition Jan Jones Wadsworth, the Commission's consultant who focused on special education for the past ten years, retired in March. Two of the vacancies are for support staff, but the others are consultant level positions. So possibly the biggest challenge for the Professional Services Division at this time is how to continue to staff the work that we are doing. Oh My!

— *Teri Clark*

Past Events

May 2-3
Cheryl Hickey facilitated the revisit to CSU, East Bay.

May 2-5
Rebecca Parker conducted the Accreditation Site Visit to Modesto City Schools.

Gay Roby facilitated the Accreditation Site Visit to Hayward Unified School District.

May 3
Teri Clark, Terri Fesperman, and Roxann Purdue met with representatives from the Special Education Local Plan Areas (SELPA) organization and staff from the Special Education Division of the California Department of Education to discuss assignment monitoring and Response to Instruction and Intervention (RtI^2) issues.

Past Events

May 5
Teri Clark and accreditation staff facilitated the year out pre-visit webcast from the Commission.

Susan Browning, Terri Fesperman, Roxann Purdue and Patty Kelly presented to the HR directors and county credential analysts at the Personnel Administrative Services Steering Committee (PASSCo) meeting.

May 5-6
Terry Janicki and Geri Mohler facilitated the fourth Library Panel meeting at the Commission.

Administrative Bulletin Board

Equal Employment Opportunity (EEO) Policy (PD-018)–The Equal Employment Opportunity Policy has been updated for your reference. In addition, a comprehensive EEO handbook has been established in the event you have questions regarding the process to file an EEO complaint. If you have any questions, please contact the ASD–EEO office. This will be posted on the Intranet under the Policies tab.

Facility Reminder–In the event you see a safety issue in the facility (i.e., lights out, shelf broken, entry doors not working, HVAC issues, etc), please take a few minutes to report this to FBS via the Facility Requests email facilityrequests@ctc.ca.gov. This will go to several FBS staff so the situation can be addressed. Thank you for keeping your eyes and ears open to facility issues.

Year-end Activities–It is that time of year again when we start preparing for year-end activities. If you have any outstanding TECs, Invoices etc., please submit them to FBS as soon as possible. Also, if you have any office supplies requests, please let your Division rep know so they can place an order. The cut-off this year is May 31 for items that will not be included on accruals. Divisions will prepare their accruals from May 16–May 31. If you have any questions please speak with your manager/supervisor or FBS.

Congratulations!–Please come celebrate Erin Snyder's wedding shower this Thursday (5/12) at 12:00 pm in the DPP conference room. See the attached flyer for detailed information.

Legislative Update

SB 941 (Senate Education Committee) "Sponsor"
[Technical Clean-up]--The Commission's sponsored technical clean-up bill passed on consent in the Senate Education Committee.

AB 1304 (Block) Support"
[Linked Learning Recognition of Study] passed in the Assembly Education Committee. Marilyn Errett testified on the Commission's behalf.

This Week at the Commission

Conf Rm.	Mon (5/9)	Tue (5/10)	Wed (5/11)	Thu (5/12)	Fri (5/13)
CAW	CAW Team Meeting (2:00-3:30)	Planning for Education Specialist Training (9:00-10:00)		IT Advisory Group Meeting (9:30-12:30)	CTE Makeup Training (11:00-12:00)
Comm.	ECE Stakeholder Meeting (12:30-3:00)	IDSolution Testing (8:00-5:00)	Program Assessment (8:00-5:00)		Year Our Pre-visit (10:00-3:00)
DPP	Sr. Manager Meeting (9:00-11:00)		SEIU (11:30-1:00)	Erin Snyder Bridal Shower (11:30-1:30)	
ASD		CWIP Status Meeting (10:00-11:00) PSD/CAW Division Meeting (2:00-4:30)	CWIP (9:30-11:30) Technical Assistant Meeting (1:00-4:00)	CWIP (1:30-4:00)	

COMMISSION ON
TEACHER CREDENTIALING

Ensuring Educator Excellence

POLICY DIRECTIVE

EFFECTIVE DATE: May 9, 2011	**NUMBER:** PD-018
EXPIRES: Indefinite	**FROM:** Dale Janssen, Executive Director
SUPERCEDES: Policy Directive 07-014 CTC Administrative Manual Sections 3-4262 - 3-4269	
TITLE: EQUAL EMPLOYMENT OPPORTUNITY POLICY	

Policy:
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Sexual harassment has been interpreted by the courts to be a form of sex discrimination. Therefore, complaints based on sexual harassment are subject to the same process and time frames as complaints based on sex, race, color, religion, etc. Once an allegation of sexual harassment is brought to the attention of a manager/supervisor, the manager/supervisor is legally required to investigate the allegation, even if the complaining employee, volunteer, or applicant requests that no action be taken.

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2. To decrease significantly formal complaints, which are expensive, time-consuming, and detrimental to employee relations.
3. To make manages/supervisors more sensitive to the needs of individual employees and groups, and to improve their capacity of handling problems before they become complaints.

The establishment of a discrimination complaint procedure is not intended to supplant regular grievance procedures or prohibit employees from filing a complaint with the DFEH or the EEOC, or filing an action in court. The procedure is intended, and should be viewed, as a means of providing the special skill needed to promptly and fairly handle the sensitive issues involved in allegations of discrimination and to ensure full cooperation with Federal and State control agencies.

An individual who utilizes the discrimination complaint process is entitled to certain rights and guarantees. These rights must be discussed with the complainant at the initial stages of the complaint process. The EEO Officer and/or the EEO Investigator shall ensure the complainant clearly understands each right.

These rights include:

- An informal, confidential presentation of a complaint to the manager/supervisor, EEO Officer.*
- Keeping their complaint confidential until such time as they give their manager/supervisor or EEO Officer permission to do otherwise, in order to bring the complaint to the appropriate authority for remedy; or until such time as a formal complaint is filed.*
- A full, impartial and prompt investigation by a trained departmental investigator.*
- A timely, written decision from the appointing power, after full consideration of all relevant facts and circumstances.
- Representation by a person of his/her own choosing at each and all steps of the process.*
- Appealing the appointing power's decision within thirty (30) days to the State Personnel Board and/or file a complaint with the appropriate Federal or State agency.
- Being free from reprisals after filing a complaint.
- Being notified in writing when a formal complaint has been filed and when a final decision has been made.*

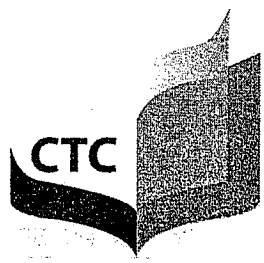
*Also applies to employees responding to a complaint (respondents).

References (or Legal Authority):

Resource	Section
Executive Orders	S-6-04
Laws and Regulations http://www.leginfo.ca.gov/calaw.html http://www.dpa.ca.gov/statesys/dpa/oalrules.htm	GC: 18701, 8547.2, 8547.8, 19683, 18500, 12900, 12940, 18930.5, 11092, 11092.5, 11139.6, 12926, 12926.1, 12940, 18523, 18675, 18952, 19230, 19240, 19241, 19700, 19790 et seq. Education Code: 87162, 87164 Rules: 10, 56.1-56.8, 53, 54-54.2, 547-547.2, 250, 547.58, 547.79-547.806, 547.807-547.8191 Labor Code: 1101, 1102 Federal Laws: Civil Rights Act of 1964 http://www.eeoc.gov/policy/vii.html, Rehabilitation Act of 1973 http://www.dol.gov/esa/regs/compliance/ofccp/sec503.htm, Age Discrimination Act of 1978 http://www.eeoc.gov/policy/adea.html, www.ada.gov/pubs/ada.htm
Memorandum of Understanding (MOU) http://www.dpa.ca.gov/bargaining/contracts/index.htm	See applicable MOU
Responsible Agency/Program	Federal Government, SPB, DFEH, DGS EEO Office
SPB/DPA Policy Memos http://www.spb.ca.gov/pinkies.htm	SPB Pinkies: 12/22/05, 12/20/05, 5/19/03, 12/23/02, 11/22//02, 8/29/02, 5/17/02, 4/12/02, 2/4/02, 1/10/02(2), 12/21/02(2), 1/3/01, 9/26/00, 9/5/00, 6/15/,00, 12/14/99, 11/17/97, 5/6/92, 7/18/91, 11/14/90, 12/2/88, 10/20/88, 9/23/88, 5/10/88
Other	
Workers' Compensation/Return to Work Coordinator ADA DFEH	http://orim.dgs.ca.gov/WorkersCompensation/default.htm http://www.usdoj.gov/crt/ada/adahom1.htm http://www.dfeh.ca.gov/

Contact Information:
Equal Employment Opportunity Officer, Administrative Services Division.

EQUAL EMPLOYMENT OPPORTUNITY HANDBOOK



COMMISSION ON
TEACHER CREDENTIALING

Ensuring Educator Excellence

Dale Janssen, Executive Director

May 2011

Equal Employment Opportunity

The purpose of the discrimination complaint procedures is to provide all Commission on Teacher Credentialing (Commission) employees, volunteers (as applicable) and applicants, with a uniform method to raise allegations and complaints of discrimination. The procedures are intended to resolve complaints at the lowest possible organizational level, while assuring that such allegations and complaints receive full consideration and appropriate remedy as applicable, without fear of reprisal or retaliation.

Complaints of discrimination, which the Commission has authority to investigate, must allege that the complainant was discriminated against on the basis of age, race, sex (including sexual harassment), ancestry, color, religion, disability, national origin, marital status, political affiliation or opinion, sexual orientation, pregnancy, or retaliation.

These procedures apply to all Commission employees, volunteers (as applicable, applicants.

ROLES AND RESPONSIBILITIES

Equal Employment Opportunity (EEO) Officer
The EEO Officer is responsible for providing leadership in resolving informal and formal complaints of discrimination by working with managers/supervisors, providing EEO counseling, and investigating complaints as necessary. He/she must determine if the Commission has jurisdiction: The legal power to act on a complaint in order to investigate it or attempt resolution.

A complaint can be received formally or informally, directly from the complainant, with or without the manager's/supervisor's knowledge. It can be forwarded by a manager/supervisor after initial review or it can be brought to the attention of the EEO Officer by a third party.

The EEO Officer is responsible for developing and implementing a plan to resolve each individual complaint. The plan can include 1) Manager/Supervisor counseling, 2) informal complaint resolution procedures, and/or 3) procedures for formal complaint investigation and findings.

Managers/Supervisors
It is the managers/supervisors' responsibility to promote a discrimination-free work environment, and take appropriate action to prevent or stop any and all forms of discrimination, including sexual harassment; ensure that all employees, volunteers and applicants are informed of the Commission's discrimination complaint process prior to the need to know, and again if a complaint is brought forth; ensure that subordinate managers/supervisors and employees attend training as a preventive measure, and to sensitize then to conduct and/or behavior that constitutes discrimination and the consequences of such actions.

When a discrimination complaint is filed (formally or informally) or brought to the managers/supervisors' attention, it is the managers'/supervisors' responsibility to:

- Listen to the complainant and take the complaint seriously (employees/volunteers/applicants should not be discouraged from reporting such complaints);
- Provide the complainant with a copy of the Statement of Rights (CCTC-HR-XXX); and contact the EEO Officer immediately.

- The EEO Officer will provide assistance to resolve the issue informally or determine if other action is necessary;
- Record and document the complaint and perform an immediate preliminary investigation to determine the validity of the complaint;
- Provide a copy of the preliminary investigation report to the EEO Office regardless of the findings;

In conjunction with the EEO Office, initiate appropriate and immediate action against the respondent where discrimination is found; Ensure that the complainant is made aware of the actions taken against the respondent (within guidelines of the Information Practices Act) to give the victim a sense of redress; Protect the employee(s) complaining of discrimination or sexual harassment from any reprisal or retaliation.

Employees/Volunteers/Applicants
An employee, volunteer, or applicant who perceives the comments, gestures, or actions of another employee, volunteer or applicant to be discriminatory and offensive should immediately communicate to that person that such behavior is not appropriate and/or is unwelcome. Employees, volunteers, or applicants who feel threatened or have difficulty expressing disapproval may seek informal assistance from the manager/supervisor or EEO Officer. Failure to confront the harasser, however, does not interfere with the rights to file a discrimination complaint.

An employee/volunteer/applicant who believes he/she has incurred discrimination or witnessed discrimination has the responsibility to report it to the appropriate manager/supervisor or the EEO Officer and to provide all relevant information in a manner that allows the Commission the best opportunity to resolve the complaint at the lowest level possible.

An employee, volunteer or applicant may file a discrimination complaint informally, formally, or externally. The complainant decides which level or type of complaint to file. He/she may contact the EEO Officer at any time to determine if his/her concerns constitute discrimination.

PROCEDURES FOR RESOLVING DISCRMINATION COMPLAINTS

The stages of the discrimination complaint process are described below. Before discussing the stages, there are several points that should be highlighted.

The identification that managers/supervisors serve as Equal Employment Opportunity Counselors and Investigators is critical to the success of Commission's discrimination complaint process. It is the responsibility of the EEO Officer to see that persons are knowledgeable, empathetic, flexible and resourceful people who can diplomatically correct misunderstandings and help forge stronger relationships between people working in the same work environment. He/she must maintain the employees' concerns in the strictest confidence.

Those who conduct investigations must maintain the role of fact finder. His/her responsibility is to assemble enough information to provide a basis for deciding whether the action was or was not discriminatory. Therefore, he/she should never act in such a way as to leave an impression of personal interest in the outcome of the investigation. The manager/supervisor should also avoid becoming the intermediary between the complainant and the Commission in any efforts on their part in seeking a resolution of the complaint during an investigation.

The importance of neutrality cannot be overemphasized. The EEO Investigator must not communicate any personal judgment or opinion on the merits of any complaint he/she investigates.

The Commission has two levels for raising concerns of possible discrimination: an informal process using managers/supervisors and a formal process using trained EEO Investigators.

Employees are **urged** to resolve complaints on an informal process or as a last resort file a complaint of discrimination through the formal process.

PROCEDURES FOR FILING A DISCRIMINATION COMPLAINT

Informal Process

1. The employee, volunteer, or applicant should immediately report the incident to a manager/supervisor or to the EEO Officer if the respondent is the manager/supervisor. The manager/supervisor shall listen to the complaint and regard it seriously. The complaint shall not be shrugged off, minimized nor in any way shall the reporting of the complaint be discouraged. The manager/supervisor shall record and document the complaint. Managers/Supervisors are strongly encouraged to immediately contact the EEO Officer for assistance in dealing with potential discrimination issues. The manager/supervisor shall perform an immediate preliminary investigation to determine the validity of the complaint. A copy of this preliminary investigation shall be provided to the EEO Officer. If an employee wishes to initiate a formal complaint, managers/supervisors should allow the employee a reasonable amount of state time to prepare the complaint (Discrimination Complaint form, CCTC-HR-084).
2. If the respondent is the manager/supervisor or the employee does not believe the complaint is being adequately addressed by the manager/supervisor, he/should report the incident directly to the EEO Officer.
3. The EEO Officer will hear the complaint and initiate whatever preliminary inquiry is deemed necessary to prepare an informal analysis of the problem and/or achieve immediate resolution.
4. Unless otherwise waived by the complainant, the EEO Officer will attempt to keep the employee's/volunteer's/applicant's name confidential. However, it should be clear that in order to bring the complaint to the appropriate authority for resolution, confidentiality is often not possible.

Formal Process

1. If the complainant wishes to file a formal complaint, he/she should file the Discrimination Complaint form (CCTC-HR-084) with the EEO Officer within one (1) year of the alleged discriminatory action or decision or the time employee/volunteer/applicant first became aware of the action or decision. The written complaint must state the action perceived to be discriminatory, the basis of discrimination, and the specific remedy sought by the complainant.
2. The EEO Officer will notify the respondent that a formal complaint has been filed.
3. The EEO Officer will review the formal complaint and make a preliminary determination. He/she may:
    a. Attempt to mediate informal resolution of the complaint;
    b. Make a decision on the merits of the complaint; or
    c. Assign an investigator

4. If referred for investigation, the investigator will conduct a full investigation. Upon completion, he/she will provide the EEO Officer with a written report of the findings of fact.
5. If the allegations are substantiated, a meeting will be held between EEO Officer and Legal Counsel to determine a course of action. After consultation with Legal Counsel, the EEO Officer will release the results of the investigation including recommendations for any appropriate remedies, to the Director of the affected Division, the complainant, the respondent, and their respective representatives.
6. If the complainant is not satisfied with the results of the Commission's investigation, he/she may contact the State Personnel Board.

ADDITIONAL INFORMATION

Access to Records

The EEO Office shall have access to all information deemed necessary to determine the validity of the complaint in both the informal and formal stages of the process. The cooperation and assistance of all employees, volunteers, applicants, supervisors and managers involved is required. If an employee of the Commission refuses or threatens to refuse to cooperate in an investigation, the State Personnel Board (SPB) may directly investigate or hear the complaint. Subpoenas or any other action deemed appropriate will be used to affect the purpose of the investigation.

Appeal Process

A complainant who is not satisfied with the Commission's decision may file an appeal with the Executive Office of the SPB within thirty (30) days from the date of receipt of the Commission's decision, in accordance with Article 4, Rules 51.2 and 547.1 of the SPB Regulations.

A complaint that is not resolved by the Commission within 180 days from the date of formal filing with the Commission may be referred to the SPB as an appeal for remedial action.

Confidentiality

Generally, all discussions with a complainant are confidential and resolution will not be pursued without the concurrence of the complainant. However, when the issues are serious in nature (sexual harassment) or involve potential criminal activity, (abuse, rape, property damage) the EEO Officer or the manager/supervisor must advice the complainant that the information provided must be referred to the appropriate authority in order to remedy the conduct of the offending party. In addition, once the complainant requests resolution, confidentiality may no longer be assured.

When a complaint becomes formal, confidentiality provisions do not apply. Persons charged with discriminatory practices will be informed of the charge and allowed to respond once an investigation is initiated. Information gathered during the investigation regarding the complainant or charged party(s) will be kept confidential to the extent possible.

Persons interviewed during an investigation shall be informed that their comments will remain confidential unless the information is to be used for a basis for adverse action. In these cases the information may be presented in a public forum.

Involved participants will be informed that Federal and State EEO regulatory agencies require a report on both formal and informal discrimination complaints filed with the Commission. The identity of the complainant and other involved persons may be released to those agencies.

Parallel Review
The Discrimination Complaint procedure is separate and distinct from employee grievance procedures. An employee will not be allowed a parallel review under both the employee grievance and discrimination complaint procedures.

Complaints or issues that do not allege discrimination are handled through the employee grievance procedure or other applicable processes as a result the Office of Human Resources would be involved.

The grievance procedure is used to address terms and conditions of employment such as working hours, out of class claims, overtime requirements, etc.

If a grievance is found to meet the discrimination complaint criteria, the grievance process will cease at that point and the matter will be referred to the EEO Officer.

If during the course of the Commission discrimination complaint investigation, a rejection during probation or an adverse action appeal is filed with the SPB and the employee alleges discrimination, the Commission will suspend its investigation and the complaint will be examined and adjudicated by the SPB.

Release Time
The complainant may use a reasonable amount of State time based on the complexity and sensitivity of the issues, as determined by the EEO Officer, to discuss the complaint with a manager/supervisor or an EEO Investigator.

Retaliation and Intimidation
No person shall intimidate, threaten, coerce, or discriminate against any individual because he/she; 1) opposed an employment practice made unlawful by the laws (Federal and State) prohibiting employment discrimination; or 2) made a complaint or testified, assisted, or participated in any manner in any investigation, proceeding, or hearing regarding a discrimination complaint.

Right to Representation
The complainant has the right to representation at each step of the process by a person of his/her choosing.

TIME LINES

Filing Complaints
An employee, volunteer, or applicant has the right to file a discrimination complaint immediately after such incident occurs and has up to three hundred sixty-five (365) calendar days to file the complaint. This period may be extended up to ninety (90) days if a person allegedly aggrieved by the discrimination first obtained knowledge of the facts after the expiration of the one-year period.

A Discrimination Complaint Form (CCTC-HR-084) must be completed by the complainant, indicating whether the complainant wants to file an informal or formal complaint.

The time requirement for filing a discrimination complaint is in conformity with all other Federal and State statutes and policies. However, both the Department of Fair Employment and

Housing and the Federal Equal Employment Opportunity Commission Title VII guidelines do not allow the additional 90-day exception provided under the SPB administered process.

Responding to the Complaints
The complaint and notify the complainant within ten (10) days whether the allegations(s) meets the criteria to be handled through the discrimination complaint procedure. In accordance with the Commission stated process, the Commission as 90 (90) calendar days from the date the complaint is filed to issue a final decision on a formal discrimination complaint. This time frame may be extended upon mutual written agreement with the EEO Officer and the complainant.

The Department has thirty (30) days to resolve an informal discrimination complaint. If the complaint cannot be resolved in thirty (30) days, the complaint will be handled formally unless the complainant and the EEO Officer have agreed to extend that period.

EXTERNAL COMPLIANCE

External Compliance Agencies
The Commission's discrimination complaint procedures are not intended to prohibit employees from filing a charge of discrimination with the State Personnel Board (SPB), the Equal Employment Opportunity Commission (EEOC), the Department of Fair Employment and Housing (DFEH), and/or the Division of Labor Standards Enforcement (DLSE), Department of Industrial Relations. Employees are not required to exhaust the administrative procedure to file a formal discrimination complaint prior to exercising their right to file with an outside compliance agency.

The SPB will accept direct jurisdiction of a discrimination complaint under the following four circumstances:

- When the complainant is alleging discrimination based upon retaliation;
- When the circumstances directly involve a high level administrator of the Commission; or
- When the Department has exceeded its 90-day requirement to respond to the complaint.

The EEOC and DFEH maintain separate jurisdiction over discrimination complaints filed by State civil service employees. By mutual agreement, both EEOC and DFEH will cross-file discrimination complaints between each agency; thus the agency initially receiving the complaint will automatically cross-file with the other agency.

The Department of Industrial Relations, Division of Labor Standards Enforcement (DLSE) handles complaints of discrimination on the basis of sexual orientation.

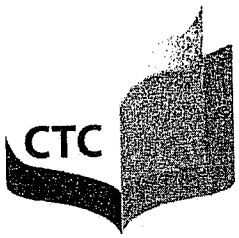
Process
The external agency makes it a practice to notify the Commission that a complaint has been filed and may request information pertaining to the complaint. Commonly EEOC, DFEH, and SPB will file a notice with the Commission's EEO Office, advising that a complaint has been filed and requesting a position statement on the charges filed. If the notice of filing is received at the Commission, the notice should immediately be forwarded to the EEO Office for response.

The EEO Office is responsible for providing a response to the outside compliance agency. The EEO Office sends a request to the appropriate Division Director with a copy of the charges filed. The Division is requested to provide the needed information within two (2) weeks from the request for information.

Because the complaint filed with an outside compliance agency in essence names the Commission itself as "respondent', the information contained in the complaint should be maintained as sensitive in nature. Those persons directly named in a charge filed with an outside compliance agency are notified directly by the compliance agency. All files will be maintained and monitored by the EEO Office. The EEO Office will be responsible for making any determination of case file information release. Any request for information contained in a discrimination complaint investigative file needs to be referred to the EEO Office.

Determination of the need for revision of this policy is the responsibility of the Equal Employment Opportunity Officer – Administrative Services Division. Questions about the status or maintenance of these procedures should be directed to the EEO Officer at (916) 322-3459.

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

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: 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:** The Commission concurs with this recommendation and implementation has already been initiated.
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.	**Response:** The Commission will consider the recommendations of the audit report when it next revises its strategic plan.
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.	**Response:** The Commission concurs with the recommendation.
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.	**Response:** The Commission requested a formal Attorney General's opinion on May 2, 2011.
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.	**Response:** 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: 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:** The Commission concurs with the recommendation and has completed a comprehensive Division of Professional Practices' Procedure Manual.

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.	**Response:** The Commission concurs with the recommendation.
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.	**Response:** The Commission concurs with the recommendation and implementation has already been initiated through the use of the CASE tracking system.
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.	**Response:** The Commission concurs with the recommendation and implementation has already been initiated through the use of the CASE tracking system.
Recommendation Ten: To better ensure that its hiring decisions are fair and that employment opportunity is equally afforded to all	**Response:** 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: • 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 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: 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.	**Response:** 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.

)PP Monthly Activity Summary

Attachment 2

Activity During April 2011 | **Status as of the last day of April 2011**

/orkload 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

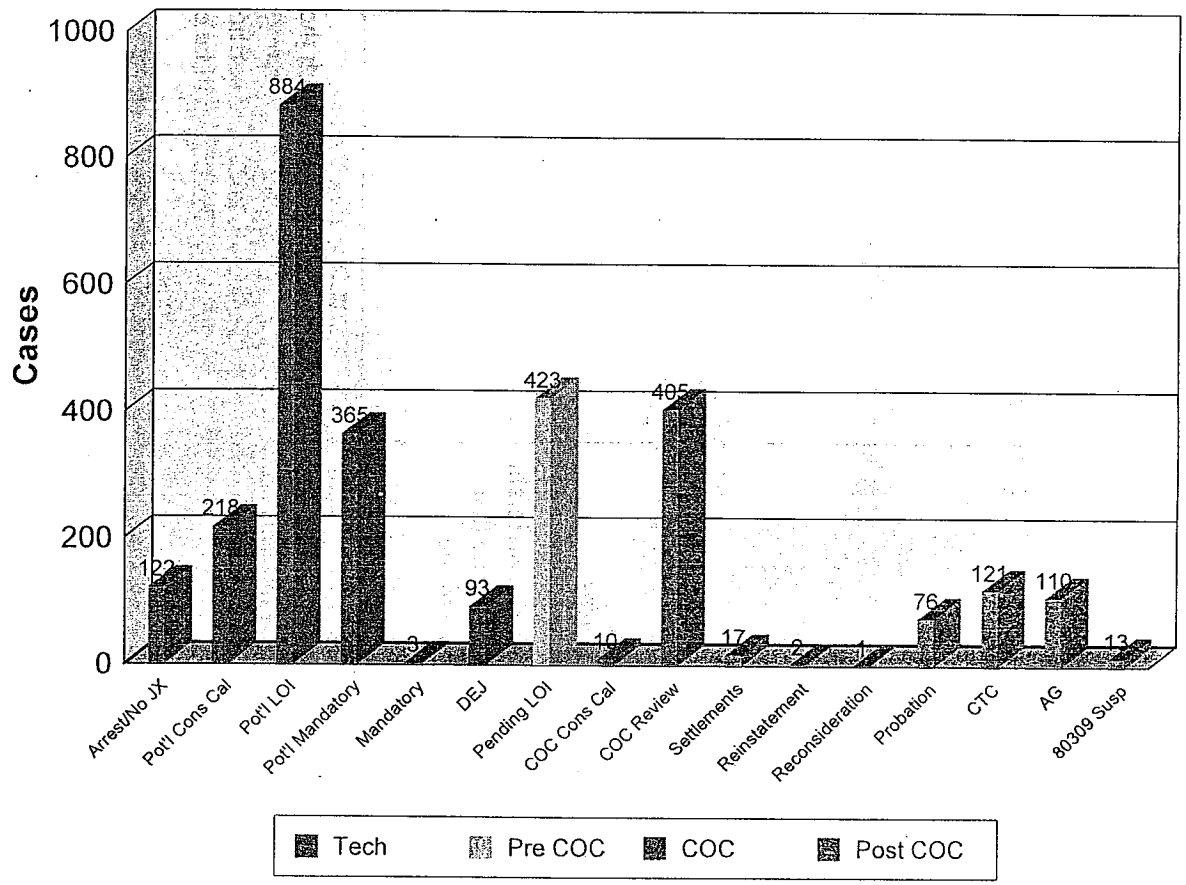
OC Prep

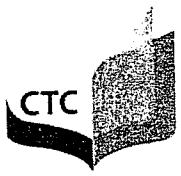
Future COC Meeting (May 2011)	
LOI	53
30-Day	43

OC 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





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.
>
> (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.

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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.

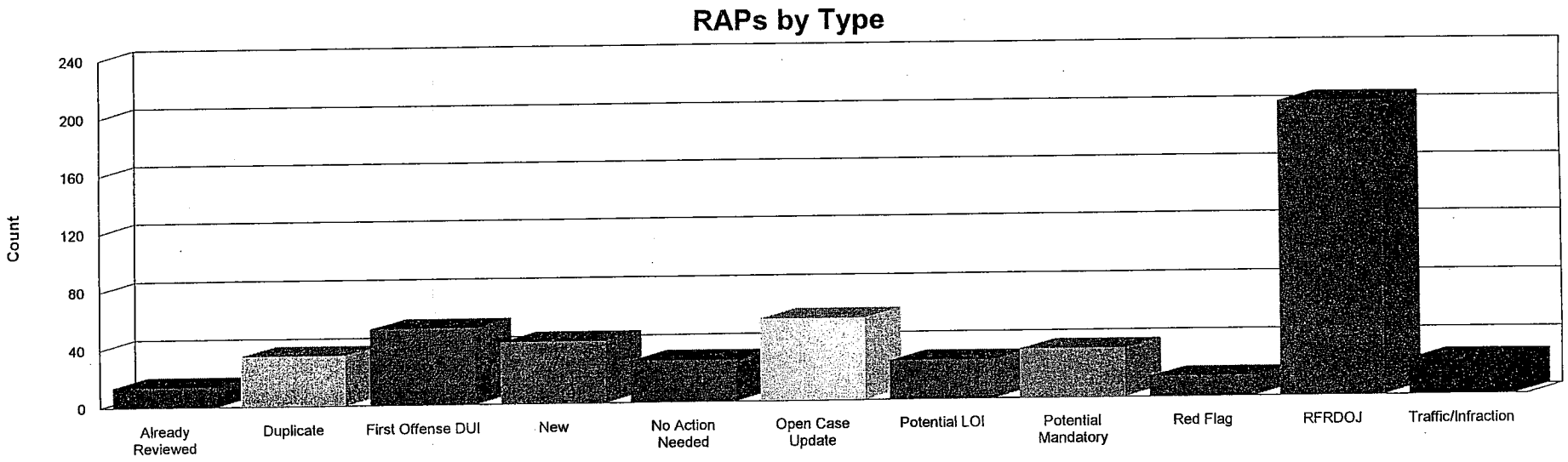
If you have any questions please contact Mary Armstrong, General Counsel, at marmstrong@ctc.ca.gov.

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 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.

Attachment 5

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.

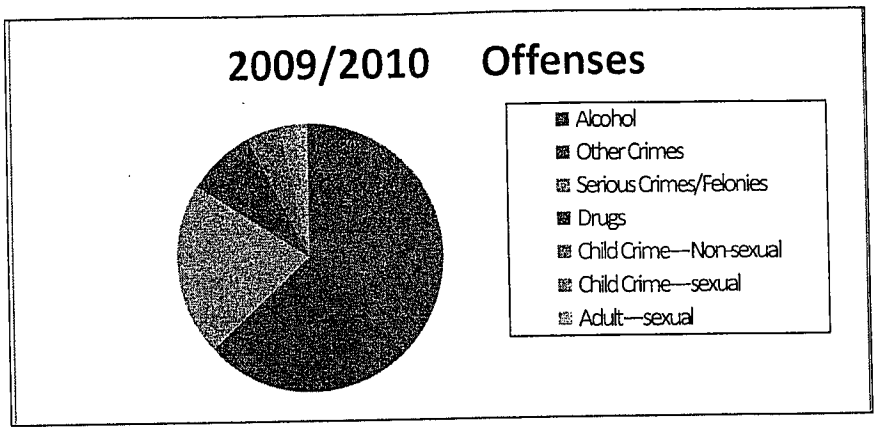
	FY 05/06	FY 06/07	FY 07/08	FY 08/09	FY 09/10
E-mails Sent to DPP Info	N/A	N/A	592	4,588	5,630
Phone Calls	N/A	N/A	37,448	9,801	8,088

Analysis of Types of Criminal Misconduct

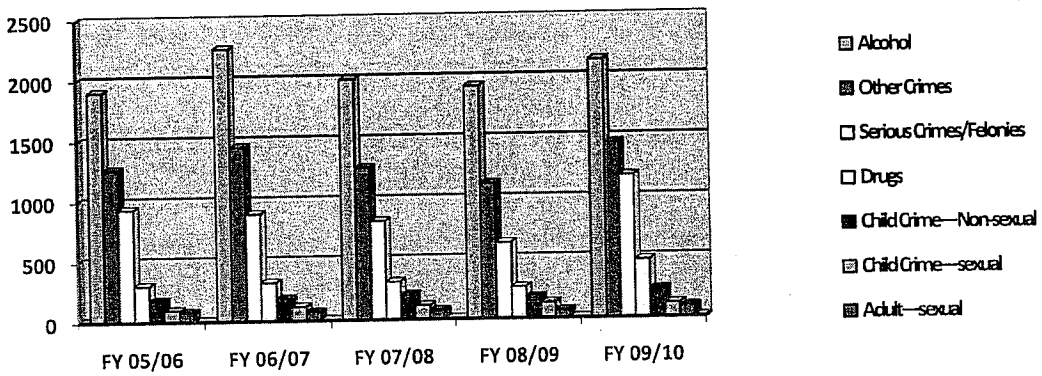
Of the total number of allegations of criminal misconduct reviewed during FY 2009-10, one-third of the offenses were alcohol related. This trend is consistent with the criminal misconduct over the previous four years.

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	(b)
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.	
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	