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Information

Executive Committee

Proposed Addition to the Commission Policy Manual

Executive Summary: The Committee will discuss whether to add a provision to the Policy Manual to address the policy and procedure to follow to remove a member of a statutory committee.

Recommended Action: For information only

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Strategic Plan Goal: 1

Promote educational excellence through the preparation and certification of professional educators

April 2011

Proposed Addition to the Commission Policy Manual

Introduction

The Commission appoints members to two statutory committees: the Committee of Credentials (COC) and the Committee on Accreditation (COA). Currently the Commission's Policy Manual is silent regarding the policy and procedure necessary to remove a member from the aforementioned Committees. This agenda item initiates the discussion of what the policy and procedure for such a removal should be and provides draft language for review and discussion.

Background

The power to appoint members to the COC and COA is given by statute to the Commission as is the power to supervise and set the terms of office. (Education Code §§44240, 44242, 44372(d), 44373(b)) The Education Code does not have a provision addressing the issue of removal once an appointment has been made.

The Policy Manual is currently silent with respect to the removal of members of the COC and COA for cause. The Policy Manual is the document adopted by the Commission to provide the framework and rules to govern the conduct of the business of the Commission on Teacher Credentialing. (§101. PURPOSE OF POLICY MANUAL) The Policy Manual currently provides in §502 that a COC member may be removed if absence causes undue hardship but does not otherwise provide any policy or procedure to remove a COC or COA member.

As a result of a request by the COC Chair to the Commission Chair, at the December 2010 Commission Meeting the Executive Committee recommended the removal of a member of the COC. Although it is unclear whether due process is a legal requirement when removing a COC/COA member, in the interest of fairness the Commission Chair and the Executive Director developed a process to meet the requirements of common law due process which included the following: Notice of the charges to the affected Member; the Opportunity to Respond to the Charges; and the Opportunity to be Heard at an open meeting.

At the conclusion of the December Executive Committee meeting, the Committee directed staff to return with an agenda item for discussion of a proposed policy and procedure to add to the Policy Manual for any future removal requests. The Executive Committee acknowledged that as the appointing body, the Commission may remove any member of the COC or COA prior to the end of his or her term and while it may not be clear that due process is a requirement, nonetheless the Commission is interested, as a matter of fairness, in ensuring due process when dealing with an issue of this type. Having a due process system in place will ensure a fair and consistent system to address the possible removal of Committee members and provide important safeguards against arbitrary and capricious requests.

Discussion

In preparation for the Executive Committee's discussion of this matter, staff sought input and comments from both COA and COC members. It was a consensus on the part of these members that a procedure should include as a first step that the Chair of the committee address the behavior on an informal basis and then, if there is no change in the behavior that gave rise to the misconduct the matter should be elevated to the Chair of the Commission. The members were largely in agreement that fundamental due process should be provided to the member and that the process that the Executive Committee followed in December 2010 met those requirements. It was also discussed that the recent removal of the COC member was unusual and should not be done unless the conduct is of a serious nature and impedes the functioning of the Committee in question.

Proposed Addition

Based on the comments of the Executive Committee and the discussions with the COC and COA a proposed addition to the Policy Manual is set forth below. The suggested language does not specify types of misconduct because it is impossible to anticipate what can occur in the future. The proposed language also includes a caveat that a Member's voting record cannot be considered the basis for a removal request.

§XX Procedure to Remove A Member of the Committee of Credentials and Committee on Accreditation.

A Member of the Committee of Credentials (COC) or the Committee on Accreditation (COA) may be removed by the Commission following notification by the COC or COA Chair that a member has engaged in recurring conduct that is an impediment to the statutory responsibilities of the Committee and/or has failed to maintain a cooperative working relationship with other Committee members and staff which has caused undue hardship. Except under unusual circumstances, the notification should only occur after attempts to informally correct the conduct have not succeeded. Notification shall be made to the Chair of the Commission who will place the matter on the agenda of the next scheduled Executive Committee meeting. The Commission Chair shall notify the affected member of the meeting and the opportunity to respond and appear. If, in the opinion of the Commission Chair the conduct alleged is such that the Committee member's appointment should be suspended pending a review by the Executive Committee, the Chair has the discretion to suspend the Committee member under review during the interim. A failure on the part of a Committee member to vote with the majority, change a vote, or request reconsideration of a matter shall not be considered grounds for removal under this section.

Next Steps

Following discussion of the issues presented in this agenda item by the Committee and the public the Executive Committee may direct staff to amend the proposed addition to the Policy Manual to reflect the discussion and to return for final adoption.