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## Information

### *Professional Practices Committee*

### **Discussion of a Plan to Study California's Educator Discipline Process**

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**Executive Summary:** This agenda item presents information on California's Educator Discipline process. Building on information about the discipline process provided to stakeholders via a webinar on July 12, 2011, this agenda item proposes a plan for bringing policymakers, stakeholders and other interested parties together to discuss potential recommendations for changes and actions which could improve the process, including increasing the number of cases the Committee of Credentials reviews each month.

**Recommended Action:** For information only

**Presenter:** Patty Wohl, Director, Certification, Assignment and Waivers Division and Teri Clark, Director, Professional Services Division

**Strategic Plan Goal: 1**

**Promote educational excellence through the preparation and certification of professional educators**

- ◆ Evaluate and monitor the moral fitness of credential applicants and holders and take appropriate action

August 2011



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# Discussion of a Plan to Study California's Educator Discipline Process

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## Introduction

This agenda item builds on the July 12, 2011 webinar presentation on *California's Educator Discipline Process—Laws and Current Commission Procedures* (<http://video.ctc.ca.gov/2011-07-12-Ed-Disc-Process/>). At the July 2011 webinar, data on reports of misconduct and adverse actions from the 05-06 to 09-10 years were shared. Provided in Appendix A of this agenda item are the updated data tables with information on the following for the 05-06 through 10-11 years:

- reports of misconduct the Commission receives
- mandatory actions
- discretionary actions

In addition, this item presents information about policy issues related to the educator discipline process and proposes convening a series of stakeholder meetings to study California's educator discipline process and make recommendations for improving the process.

Finally Appendix B provides a graphic representation of the steps in California's Educator Discipline process. The representation addresses the general steps in the system and shows how cases move through the system. Each case is evaluated individually and moves through the system as is appropriate for the circumstances in the specific case. This information would be foundational for any stakeholder meetings convened to study the disciplinary process.

## Background

On April 7, 2011 the Bureau of State Audits (BSA) released the report entitled *Commission on Teacher Credentialing: Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Process that Will Safeguard against Future Backlogs* (<http://www.ctc.ca.gov/audit/2010-119-BSA-report.pdf>). A number of the BSA recommendations focus on establishing and maintaining systems to monitor the discipline process to ensure that work is completed in a timely manner. Commission staff developed a Teacher Discipline Improvement Initiative (TDII) to address the recommendations from the audit. A new dedicated TDII webpage holds all information related to this initiative. Staff has been working to develop the reports and monitoring processes recommended by the BSA Report (<http://www.ctc.ca.gov/audit/default.html>).

The Educator Discipline process is complex, involving two levels of discretionary review prior to any recommendation of an adverse action by the Committee of Credentials (COC). Commission staff presented a webinar on Tuesday, July 12, 2011 that described the basics of the educator discipline process in California (<http://video.ctc.ca.gov/2011-07-12-Ed-Disc-Process/>). This item builds upon the information presented in the webinar.

As was explained in the webinar, an individual's case must be presented to the COC two times (*Initial* and *Formal Review*) prior to any adverse action being recommended to the Commission. The COC currently meets monthly and has historically been able to review approximately 50-60 cases in the *Initial Review* phase and 45-55<sup>1</sup> cases in *Formal Review*. In addition to the two levels of review, the COC also reviews Consent (settlement) determinations; Reconsiderations of prior actions, reports of Probation Violation, and requests for Waivers.

Beginning in Spring 2011, staff from the Professional Practices Division (DPP) began scheduling an increased number of cases for *Initial Review* to try to reduce the number of cases and the length of time a case must wait until it can be scheduled for the discretionary review process. This increase can be seen in the number of cases, in the table below, identified for *Initial Review* in July and August 2011. Because of vacancies in the division, the increased number of cases having an *Initial Review* each month is not sustainable and the number of cases scheduled for *Initial Review* in fall 2011 will be reduced to the 50-60 case level that was scheduled prior to July 2011.

**Number of Cases Reviewed by the COC**  
*Italics indicate proposed numbers of cases*

	Cases Closed by Staff	Consent Calendar <sup>a</sup>	Discuss Calendar <sup>b</sup>	Initial Review	Formal Review	Reconsideration	Probation Violation	Waiver	Consent Determination	Total
January 2011	194	-	-	51	51	0	0	0	6	<b>302</b>
February 2011	305	-	-	52	43	1	3	2	4	<b>410</b>
March 2011	233	-	-	56	43	0	0	0	5	<b>337</b>
April 2011	258	-	-	62	44	3	0	4	6	<b>377</b>
May 2011	0	126	-	53	42	3	1	2	5	<b>232</b>
June 2011	0	238	28	65	54	3	2	0	7	<b>397</b>
July 2011	0	282	25	85	44	1	1	2	5	<b>445</b>
August 2011	0	? <sup>c</sup>	? <sup>c</sup>	81	52	? <sup>c</sup>	? <sup>c</sup>	? <sup>c</sup>	? <sup>c</sup>	? <sup>c</sup>

<sup>a.</sup> The *Consent Calendar* was initiated in May 2011 after the BSA Report raised the question as to the ability of the COC to delegate authority to staff to close cases. The Consent Calendar is comprised of cases for which the COC has historically declined to take adverse action. The COC may remove any case from the Consent Calendar prior to taking action on the Consent Calendar.

<sup>b.</sup> The *Discuss Calendar* was first presented in June 2011. The Discuss Calendar includes cases which the legal staff believes that the COC will most likely not take any adverse action. Details of the types of misconduct are presented for each case. The COC briefly discusses each case prior to taking action. If the COC agrees that there should be no adverse action, the case is closed (holder) or the application is granted

<sup>1</sup> The number of cases presented at both stages was reduced during the mandatory furloughs imposed from February 2009-April 2011.

(applicant); if the COC believes it might be appropriate to take adverse action, the case is scheduled for *Initial Review* at a future COC meeting.

- c. At the time of this agenda posting, it is unknown how many of this type of cases will be on the August 2011 COC agenda.

As DPP staff moves reports of misconduct through the intake and preparation process more quickly, the number of cases in the queue waiting to be scheduled for the COC's Initial Review will continue to grow. In the June 2011 DPP Monthly Activity Summary (provided in Agenda Item 1H of the August 2011 Commission agenda) there are 289 cases currently scheduled for *Initial Review* in June 2011 through Fall 2011. An additional 366 cases are pending COC review with almost 900 potential cases waiting to begin the COC's discretionary review process, resulting in over 1500 cases pending review by the COC. Given that the COC can hear an average of 55 cases a month for *Initial Review*, the cases currently ready for the COC to hear for *Initial Review* are sufficient for over two years of COC meetings.<sup>2</sup> It is important to understand that when a serious case needing urgent action enters the queue, this case is moved to the front of the queue.

### **Policy Issues**

Although the specifics of each individual's case must remain confidential, the process through which California's Educator Discipline process operates needs to be transparent. The Commission has not discussed policies related to the Committee of Credentials' process in recent years and could benefit from recommendations from interested stakeholders. Provided below are some possible issues that stakeholders could discuss and for which they could provide recommendations to the Commission.

1. The capacity of the Committee of Credentials to review cases and potential alternatives to the Committee of Credentials, such as, for example, two separate Committees of Credentials, and/or designation by the Commission to hearing officer(s).
2. Whether two levels of review by the Committee of Credentials should be required for all cases.
3. Whether the Commission should be given additional suspension authority to balance protection of children and the due process rights of credential holders while a review takes place, and, if so, for what types of offenses.
4. Whether statutory or regulatory penalties or fines could or should be established in lieu of current adverse actions for some offenses not involving children, and if so, for what types of offenses; therefore eliminating the need for a discretionary review by the COC.
5. Whether statutory or regulatory policies should be developed for certain alcohol related crimes; therefore eliminating the need for a discretionary review by the COC.
6. A discussion of potentially useful ideas from other licensing agencies regarding how they oversee their profession.

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<sup>2</sup> With the development of the Discuss Calendar (June 2011) approximately 240 cases per year may be resolved (Grant/Close) without completing the full discretionary review. This would reduce the size of the queue and therefore the number of months a case would possibly wait to be scheduled for its *Initial Review* from 2 years to 19 or 20 months.

7. Whether the public should be made aware if a credential holder or applicant is under review by the Commission.
8. Whether the Commission should investigate allegations of misconduct while criminal cases are in process.

### **Stakeholder Meetings**

If the Commission directs staff to move forward, staff will convene a series of meetings requesting input from stakeholders, the public and policymakers who work with various stakeholder groups and bring back recommendations to the Commission. Because it is essential to balance the safety of children with the due process rights of teachers, it is important to hear the views of many sides, including, teacher organizations, employers, law enforcement, and the public. In addition, if appropriate, staff could also survey these groups on the issues related to educator discipline.

### **Next Steps**

If the Commission so directs, staff will prepare to schedule Educator Discipline Stakeholder Meetings in the Fall of 2011 based on the information in this agenda item plus any modifications resulting from the Commission's discussion of the issues raised in this agenda item. Staff plans to bring information and recommendations from the stakeholder meetings to the Commission in January 2012.

## Appendix A

### Misconduct Reports Received by the Commission

	<b>05/06</b>	<b>06/07</b>	<b>07/08</b>	<b>08/09</b>	<b>09/10</b>	<b>10/11</b>
<b>DOJ Reports and others</b>	4846	4490	3376	3777	5352	5027
<b>Affidavit</b>	139	47	223	134	130	123
<b>School District Reports</b>	139	238	211	231	241	207
<b>Totals</b>	<b>5124</b>	<b>4775</b>	<b>3810</b>	<b>4143</b>	<b>5723</b>	<b>5357</b>

### Number of Mandatory Actions

	<b>05/06</b>	<b>06/07</b>	<b>07/08</b>	<b>08/09</b>	<b>09/10</b>	<b>10/11</b>
<b>Revocations</b>	114	114	103	90	202	193
<b>Denials</b>	38	36	42	29	64	76
<b>Totals</b>	<b>152</b>	<b>150</b>	<b>145</b>	<b>119</b>	<b>266</b>	<b>269</b>

### Number of Discretionary Actions

	<b>05/06</b>	<b>06/07</b>	<b>07/08</b>	<b>08/09</b>	<b>09/10</b>	<b>10/11</b>
<b>Private Admonition</b>	16	16	24	20	19	8
<b>Public Reproval</b>	56	78	82	66	55	72
<b>Suspension</b>	172	267	279	194	207	244
<b>Revocation</b>	245	197	166	131	104	178
<b>Denial (Applicant)</b>	107	82	65	44	49	40
<b>Totals</b>	<b>596</b>	<b>640</b>	<b>616</b>	<b>455</b>	<b>434</b>	<b>542</b>

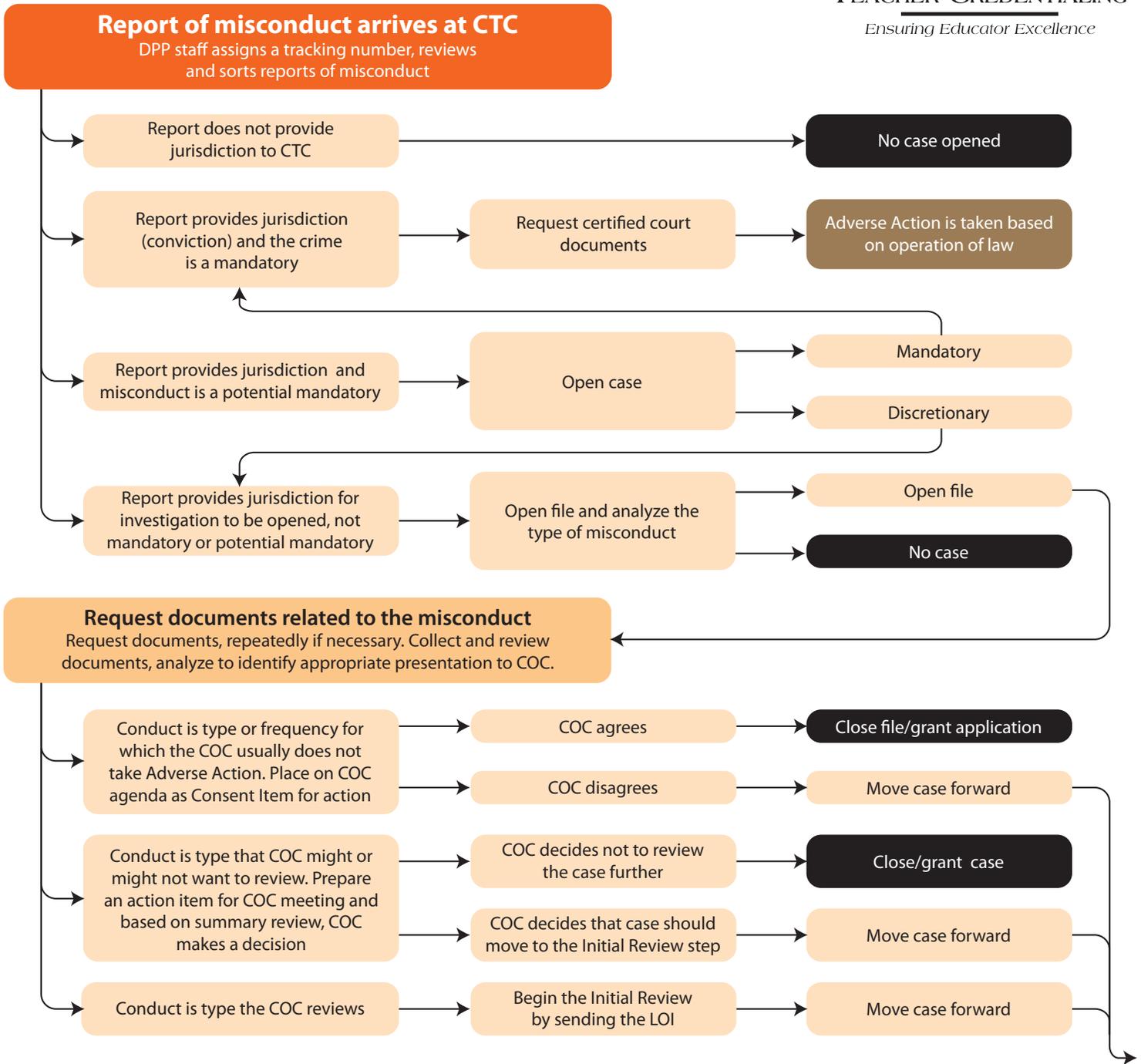
## **Appendix B**

### **Graphic Representation of the Current Educator Discipline Process**

# Educator Discipline Workflow



COMMISSION ON  
TEACHER CREDENTIALING  
*Ensuring Educator Excellence*



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**KEY TERMS:**

**CTC:** Commission on Teacher Credentialing

**DPP:** Division of Professional Practices

**COC:** Committee of Credentials

**LOI:** Letter of Inquiry

**CIR:** Confidential Investigative Report

**Applicant:** Individual applying for initial credential in California.

**Credential Holder:** Individual who holds credential in California, may be applying for an additional credential/authorization.

**Initial Review:** The COC reviews CIR to decide whether to move the case forward for Formal Review or can close/grant at this time.

**Formal Review:** The COC reviews CIR and additional information submitted by the respondent. Respondent may appear before the COC. The COC can either close the case, credential, or recommend an adverse action to the CTC.

**Adverse Action:** Disciplinary actions ranging from private admonition to credential revocation or denial.

**Credential:** A credential, certificate, life diploma, permit, certificate of clearance or waiver issued by the Commission.

# Educator Discipline Workflow

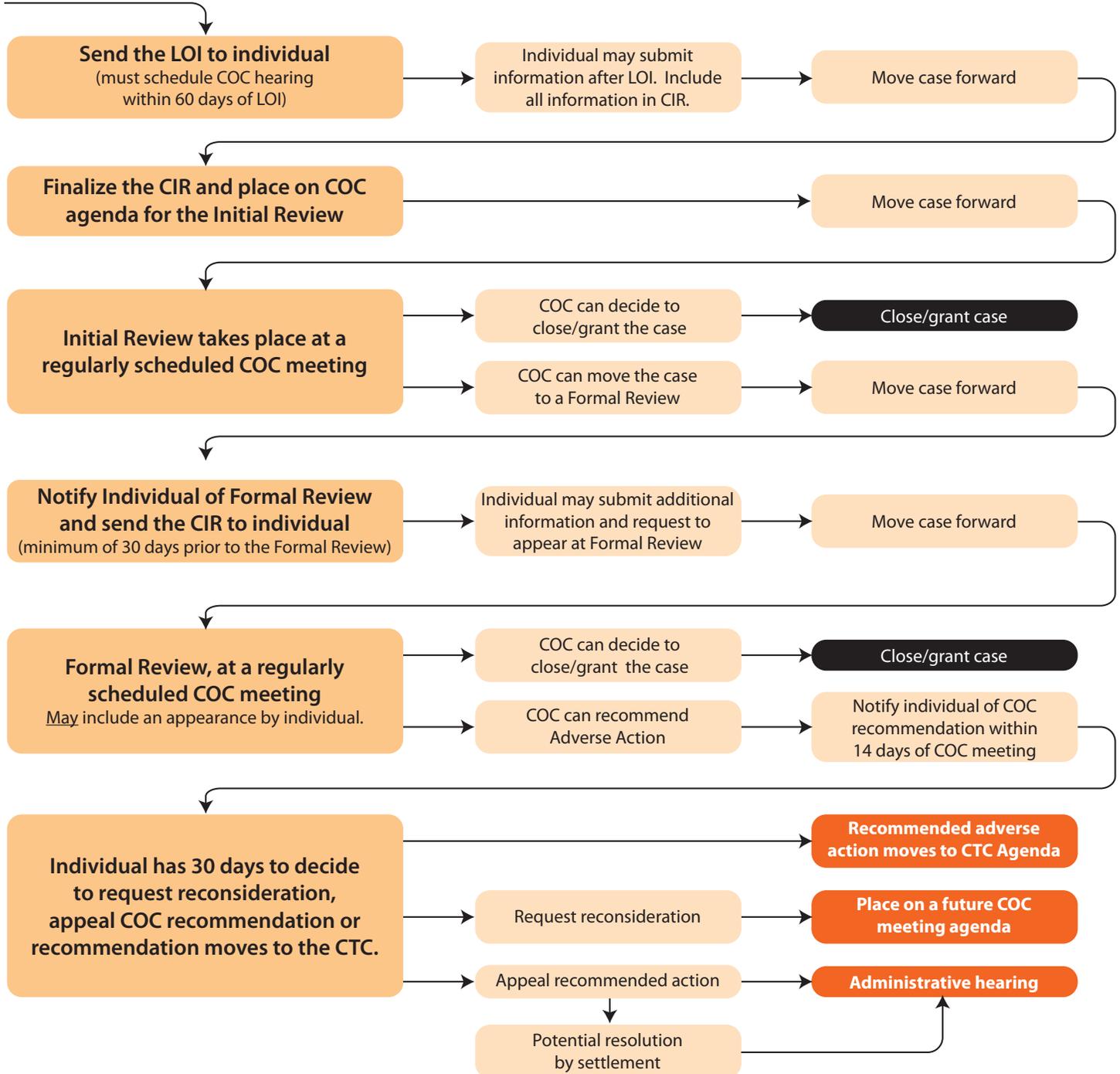
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**COC Actions or possible Adverse Actions:**

**Applicant:** "Grant" or "Deny the Credential"

**Holder:** "Close Case", "Private Admonition", "Public Reproval", "Suspend" (1-365 days), or "Revoke" all Credentials

**NOTE:**

Applicants have the burden of proof — they are applying for a license. Actions are to "Grant the credential" or "Deny the credential." Credential holders hold a credential and the Commission has the burden of proof because the Commission would be taking away the individual's property right to that credential.