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Information

Professional Practices Committee

One-Year Report Update to the BSA

Executive Summary: This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' Audit of the Division of Professional Practices (DPP); the Commission's one-year response to the Audit; and a report on DPP's current workload.

Recommended Action: For information only

Presenter: Nanette Rufo, Director, Division of Professional Practices

Strategic Plan Goal: 1

Promote educational excellence through the preparation and certification of professional educators

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

April 2012

One-Year Report Update to the BSA

Introduction

This agenda item provides an update to the Commission on the April 7, 2011 Bureau of State Audits' (BSA) audit of the Division of Professional Practices (DPP) and of the Office of Human Resources. Two important steps occurred since the last Commission meeting. In March 2012 the BSA released its assessment of the Commission's six-month report and on April 6, 2012, the Commission submitted its one-year response to BSA.

On April 7, 2011 the California State Auditor issued a report entitled "*Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs*". The audit included eleven recommendations to improve this area of the Commission's work. The initial update was presented to the Commission at the June 2011 Meeting.

On Monday, June 6, 2011 the required sixty day response was submitted to the BSA, followed by the six month report on October 5, 2011. On October 7, 2011, CTC management staff met with representatives of the BSA to discuss the report and to respond to any questions from the auditors. Based on the Commission's six-month-report, the BSA submitted a report to the Legislature in March 2012.

Also included in this agenda item is a report on DPP's current workload (Attachment A).

The One-Year Audit Response

While Commission staff has been reporting to the Commission on eleven recommendations, the BSA's March report reflected 22 separate subparts. In assessing the Commission's six-month response, the BSA determined the status of each recommendation subpart as either "fully implemented," "partially implemented," or "pending." Of the 22 items listed in the March 2012 BSA report, the BSA determined nine were fully implemented, three were partially implemented, and ten were pending. A copy of the March 2012 BSA report is included in this agenda item as Attachment B.

The Commission's one-year response to the BSA followed the structure of the Auditor's March 2012 report and responded to each of the 22 recommendations. A copy of the narrative sent to the State Auditor is included in this agenda item as Attachment C. The supporting documentation sent to the BSA for each response is available at: <http://www.ctc.ca.gov/audit/default.html>. Information from the one-year report that CTC submitted to the BSA on April 6, 2012 will be included in a BSA report to the Legislature in the fall of 2012.

The one-year response to BSA reflects the priority the Commission has given to implementing the Auditor's recommendations. It is also important to note that significant work remains to be done. For example, when the Commission receives the formal opinion it requested from the Office of the

Attorney General, the Commission will need to determine what action to take in response to that opinion. In addition, many of the BSA recommendations involved the creation of reports and procedures to assist the Commission in determining the timeliness of action by the Committee of Credentials and the Commission. While the Commission has worked hard to create the recommended systems and processes, the goal of timely and effective action on discipline cases is not yet fully achieved.

Update on Los Angeles Unified School District (LAUSD) Reports

A significant increase in the Division of Professional Practices workload continues to be the school district reports filed by the Los Angeles Unified School District (LAUSD). Under the Commission's regulations, a school district is required to report to the Commission whenever there is a substantial change in employment status as a result of an allegation of misconduct. On February 15, 2012, the Commission sent a letter reminding the Superintendent of LAUSD of his duty to report to the Commission whenever there is a substantial change in employment status as a result of an allegation of misconduct. According to press accounts, the Superintendent ordered his staff to locate and review all allegations of misconduct made against certificated staff and file any needed reports with the Commission. On February 22, 2012 the Commission began receiving a stream of reports from LAUSD. Last month staff reported to the Commission that 174 reports were received from LAUSD from February 22 to March 16, 2012. As of April 10, 2012 approximately 530 reports have been filed by LAUSD. For comparison, in fiscal year 2010-2011, the Commission received 270 school districts reports and opened 210 cases based on those reports.

School district reports are particularly challenging because of the nature and variety of information received by the Commission. Our more common criminal cases involve obtaining, reviewing, and summarizing arrest reports and court dockets. These documents are pretty similar throughout the state. However, school district reports have traditionally been assigned to the Commission investigative staff, along with cases opened after receipt of an affidavit. This was done based on the variety and extent of documentation sent by school districts. The complexity of the documentation and the issues presented make these more complex cases.

School district reports are also a type of report likely to lead to an adverse action. A review of the number of district cases opened in the last four years and the number of adverse actions on school district cases indicate that about 80% of district reports result in the Commission taking an adverse action. This means that district cases commonly go through the entire review and hearing process. The Commission uses a significant amount of DPP's resources on these cases.

To effectively deal with the LAUSD workload, DPP analyzed and revised the intake process for district reports. As the report is received, DPP staff determine if the report was previously filed by LAUSD with the Commission (a duplicate), or if it is a new report. If the report is a duplicate, it is logged into Intake. Staff will then send a request to retrieve the old file from the State Records Center and the documents will be added to the file. The new report will then be retained in the old file. Of the first 470 cases received by the Commission, staff determined that 87 were duplicates. If the report is new to the CTC, the file is routed to an attorney for review.

Until March, an attorney would review the file only after material was collected and necessary paperwork was already prepared to start review by the Committee of Credentials. With a large volume of cases, this process was not effective for two reasons. First, highly trained staff was not making a decision about when the statute of limitations would run on a specific case. This determination is critical because when the statute of limitations is triggered, the Commission can no longer take action on a credential. The statute of limitations is either one year from the date of discovery by the Commission, or four years from the date of misconduct, whichever is longer. Many of the LAUSD reports require that the case be presented to the Committee of Credentials within one year. In addition, it is important for professional staff to assess the severity of the alleged misconduct so that the case can be properly prioritized. These facts, and others, are added to a spreadsheet to enable management to effectively manage the workload. Of the 257 reports reviewed by the Commission's legal staff thus far, the Commission had no jurisdiction in 55 cases, or 22% of the cases.

In addition to the complexity of district cases, these cases require a significant amount of staff time because they frequently result in the imposition of discipline. A review of data for the last four years indicates approximately 80% of school district cases result in a disciplinary action by the Commission. That means the case must be reviewed at least twice by the Committee of Credentials, a Confidential Investigative Report must be prepared, findings for each case must be prepared, and the case may go to a formal administrative hearing, and must go to the Commission. The amount of staff time needed for an adverse action is considerably greater than the time it takes to add a matter to the Committee's Consent Calendar.

At the March Commission meeting staff presented a plan to handle this increased workload through the use of overtime in the Intake Unit and the hiring of law students to prepare draft documents for submission to the Committee of Credentials. Subsequently, the DOF reduced the Commission's budget for 2011-12 by approximately \$800,000, by reducing the loan from the Test Development and Administration Account to the Teacher Credentials Fund. This reduction significantly curtailed funds available for overtime and eliminated funds to hire law students to draft documents for the Committee.

The management team is assessing resources that may be available within the Commission's budget authority for the current fiscal year to enable DPP to handle these cases in a timely manner.

DPP Monthly Activity Summary

Activity During March 2012

Pre COC

Work Received in DPP

	Items Rec'd	Cases Opened
RAPs	611	159
Apps	1,148	119
SD Reports *	323	299
Misc *	7	4
Total	2,089	581

* Work related to cases opened may have been received in a prior period

Document Requests

Arrest	176
Court	411

COC Inventory

Initial Review	75
Formal Review	53
Consent Review	125

COC Work Completed (March 2012)

Cases to COC

Initial Review	61
Formal Review	49
Reconsideration	1
Consent Review	307

Cases Completed

Closed	105
Granted	203
Adverse Actions	43

Post COC

Settlement	2
AG	1
CTC	17

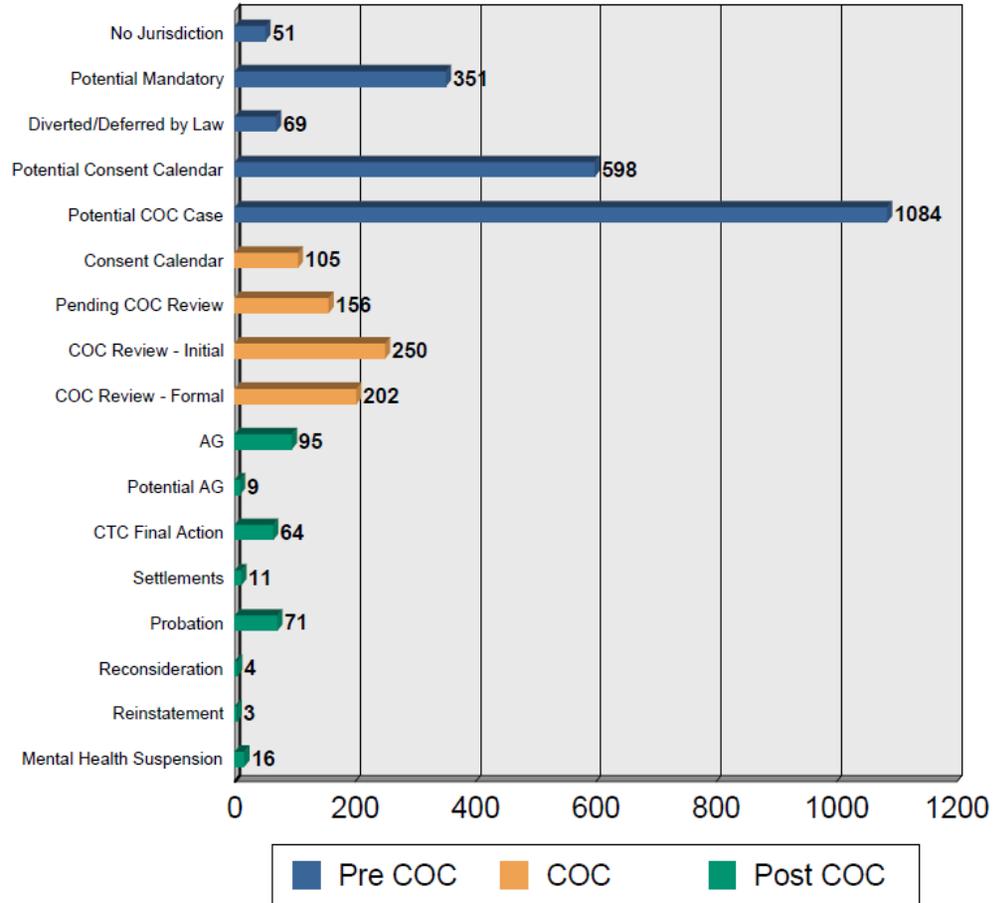
Mandatory Actions

Revocations	13
Denials	5
Automatic Suspensions	13

Inventory for March 2012

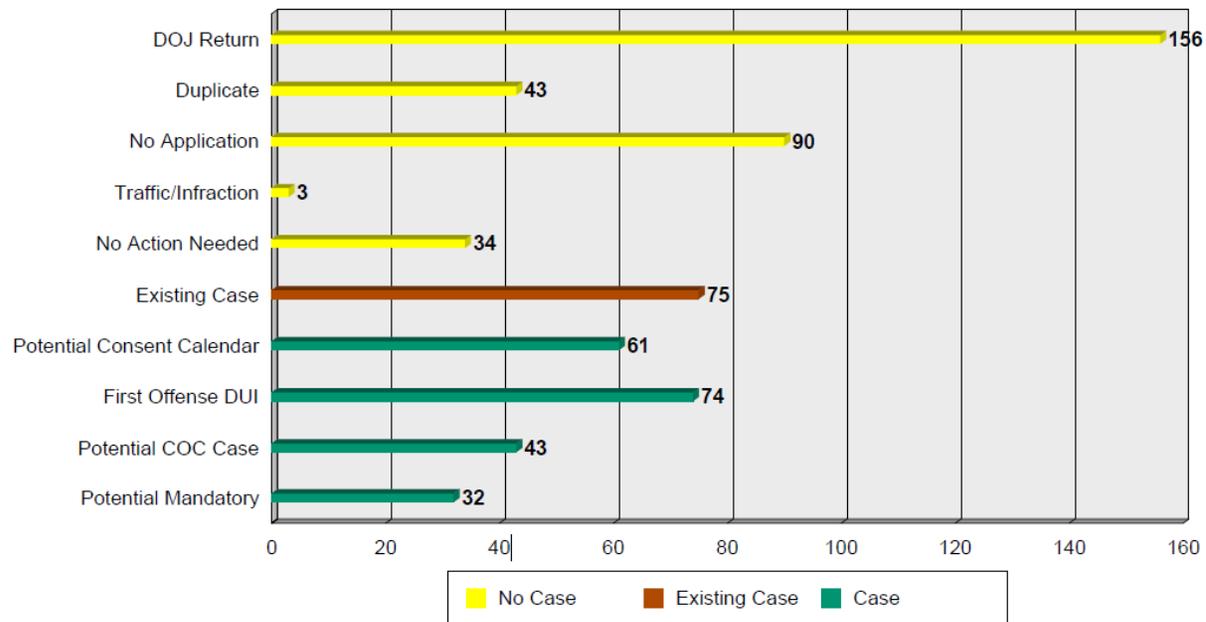
Starting Case Load	3,157
Cases Opened	581
Cases Closed	599
Ending Case Load	3,139

Open Cases by Status and Type as of March 31, 2012



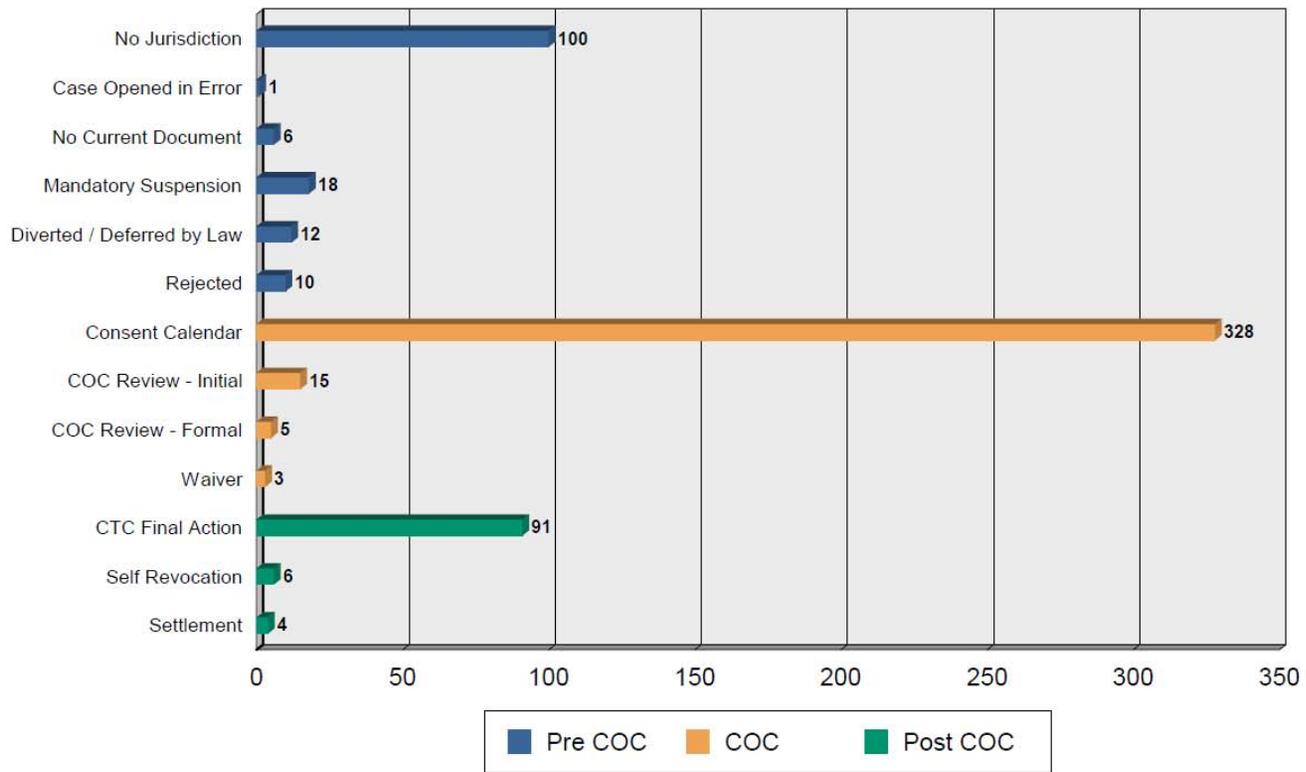
Pre COC	2,153
COC	713
Post COC	273
Total Open Cases	3,139

DPP RAPs Received and Processed March 2012



No Case	326
Existing Case	75
Case	210
Total RAPs	611

Cases Closed by Type During March 2012



Pre COC	147
COC	351
Post COC	101
Total Cases Closed	599

Open Cases Aged by Case Status, Case Type, and Offense as of March 31, 2012

Status	Case Type	Offense Code	0 - 90 Days	91 - 180 Days	181 - 270 Days	271 - 360 Days	361 - 450 Days	450 + Days	Total
Pre COC	No Jurisdiction	Child Crime - Sexual	2	0	0	0	0	1	3
		Child Crime - Non-sexual	2	0	0	1	0	0	3
		Adult - Sexual	0	0	0	1	0	0	1
		Serious Crimes/Felonies	1	3	2	2	4	1	13
		Alcohol	0	1	2	1	0	1	5
		Other Crimes/Misdemeanors	4	6	5	9	0	3	27
		Total	9	10	9	14	4	6	52
	Potential Mandatory	Child Crime - Sexual	32	20	13	7	6	29	107
		Child Crime - Non-sexual	25	13	3	2	7	4	54
		Adult - Sexual	12	5	3	2	0	1	23
		Drugs	17	9	9	3	4	6	48
		Serious Crimes/Felonies	31	18	22	10	8	16	105
		Alcohol	4	3	4	1	0	0	12
		Other Crimes/Misdemeanors	0	0	0	0	0	2	2
	Total	121	68	54	25	25	58	351	
	Diverted / Deferred by Law	Child Crime - Non-sexual	0	0	1	0	1	4	6
		Drugs	2	7	8	5	7	16	45
		Serious Crimes/Felonies	0	1	1	4	1	5	12
		Alcohol	1	0	0	0	0	2	3
		Other Crimes/Misdemeanors	0	0	0	1	1	1	3
	Total	3	8	10	10	10	28	69	
	Potential Consent Calendar	Child Crime - Sexual	1	0	0	0	0	0	1
		Child Crime - Non-sexual	3	3	0	4	0	1	11
		Adult - Sexual	3	1	2	0	0	1	7
		Drugs	5	2	2	1	0	1	11
		Serious Crimes/Felonies	28	22	6	2	2	2	62
		Alcohol	168	88	38	18	6	11	329
		Other Crimes/Misdemeanors	93	37	17	23	4	3	177
	Total	301	153	65	48	12	19	598	
	Potential COC Case	Child Crime - Sexual	17	2	2	0	1	3	25
		Child Crime - Non-sexual	93	25	5	8	0	3	134
		Adult - Sexual	7	4	1	4	0	3	19
		Drugs	15	6	10	5	3	5	44
Serious Crimes/Felonies		98	76	52	38	27	25	316	
Alcohol		68	59	47	40	20	30	264	
Other Crimes/Misdemeanors		78	85	45	37	18	18	281	
Total		376	257	162	132	69	87	1,083	
Total	810	496	300	229	120	198	2,153		
COC	All Case Types	All Offense Types	111	55	58	115	74	300	713
	Total	Total	111	55	58	115	74	300	713
Post COC	All Case Types	All Offense Types	3	2	2	1	12	253	273
	Total	Total	3	2	2	1	12	253	273
Total			924	553	360	345	206	751	3,139

Open Cases Aged by Case Status, Credential Status, and Offense - as of March 31, 2012

Case Status	Credential Status	Offense	0 - 90 Days	91 - 180 Days	181 - 270 Days	271 - 360 Days	361 - 450 Days	451 + Days	Total
Pre COC	Authorized	Child Crime - Sexual	21	5	3	0	1	3	33
		Child Crime - Non-sexual	102	33	6	13	5	10	169
		Adult - Sexual	11	7	5	7	0	2	32
		Drugs	28	17	25	12	12	26	120
		Serious Crimes/Felonies	109	96	69	46	36	41	397
		Alcohol	198	132	80	57	24	39	530
		Other Crimes/Misdemeanors	137	118	59	60	23	20	417
		Total	606	408	247	195	101	141	1,698
	Not Authorized - Docs Suspended	Child Crime - Sexual	22	16	10	6	6	28	88
		Child Crime - Non-sexual	1	2	0	0	0	0	3
		Adult - Sexual	5	1	1	0	0	1	8
		Serious Crimes/Felonies	0	0	0	1	0	1	2
		Total	28	19	11	7	6	30	101
	Not Authorized - App(s) Pending	Child Crime - Sexual	2	0	0	0	0	1	3
		Child Crime - Non-sexual	4	2	2	1	0	1	10
		Adult - Sexual	1	1	0	0	0	2	4
		Drugs	9	5	4	1	1	2	22
		Serious Crimes/Felonies	48	21	12	9	6	6	102
		Alcohol	37	14	7	1	0	2	61
		Other Crimes/Misdemeanors	31	10	7	9	0	6	63
		Total	132	53	32	21	7	20	265
	Not Authorized - No App(s) Pending	Child Crime - Sexual	7	1	2	1	0	1	12
		Child Crime - Non-sexual	16	4	1	1	3	1	26
		Adult - Sexual	5	1	0	0	0	0	6
		Drugs	2	2	0	1	1	0	6
		Serious Crimes/Felonies	1	3	2	0	0	1	7
		Alcohol	6	5	4	2	2	3	22
Other Crimes/Misdemeanors		7	0	1	1	0	1	10	
Total		44	16	10	6	6	7	89	
Total	810	496	300	229	120	198	2,153		
COC	Authorized	Child Crime - Sexual	9	2	2	1	2	5	21
		Child Crime - Non-sexual	27	8	12	14	12	34	107
		Adult - Sexual	1	0	3	6	0	2	12
		Drugs	0	4	1	3	1	16	25
		Serious Crimes/Felonies	3	5	13	13	19	51	104
		Alcohol	10	4	9	29	13	84	149
		Other Crimes/Misdemeanors	25	18	9	30	21	68	171
		Total	75	41	49	96	68	260	589
	Not Authorized - Docs Suspended	Child Crime - Sexual	0	1	0	0	0	0	1
		Child Crime - Non-sexual	1	0	0	3	0	4	8
		Serious Crimes/Felonies	0	0	0	0	0	2	2
		Other Crimes/Misdemeanors	0	0	0	0	0	1	1
		Total	1	1	0	3	0	7	12

			0 - 90 Days	91 - 180 Days	181 - 270 Days	271 - 360 Days	361 - 450 Days	451 + Days	Total
COC	Not Authorized - App(s) Pending	Child Crime - Sexual	0	0	0	0	1	1	2
		Child Crime - Non-sexual	1	2	2	1	1	2	9
		Drugs	0	0	0	0	0	1	1
		Serious Crimes/Felonies	6	6	2	3	1	10	28
		Alcohol	10	0	2	7	1	6	26
		Other Crimes/Misdemeanors	6	4	2	1	0	2	15
		Total	23	12	8	12	4	22	81
	Not Authorized - No App(s) Pending	Child Crime - Sexual	1	0	0	0	0	1	2
		Child Crime - Non-sexual	7	0	1	0	0	3	11
		Drugs	0	1	0	0	0	0	1
		Serious Crimes/Felonies	0	0	0	0	0	3	3
		Alcohol	0	0	0	1	1	3	5
		Other Crimes/Misdemeanors	4	0	0	3	1	1	9
		Total	12	1	1	4	2	11	31
	Total			111	55	58	115	74	300
Post COC	Authorized	Child Crime - Sexual	0	0	0	0	0	18	18
		Child Crime - Non-sexual	0	0	0	0	4	28	32
		Adult - Sexual	0	0	0	0	1	7	8
		Drugs	0	0	0	0	1	5	6
		Serious Crimes/Felonies	0	0	0	0	1	20	21
		Alcohol	0	0	0	0	1	39	40
		Other Crimes/Misdemeanors	0	0	1	0	1	56	58
	Total	0	0	1	0	9	173	183	
	Not Authorized - Docs Suspended	Child Crime - Sexual	0	0	0	0	0	3	3
		Child Crime - Non-sexual	0	0	0	0	0	3	3
		Drugs	0	0	0	0	0	1	1
		Serious Crimes/Felonies	0	0	0	0	0	5	5
		Alcohol	0	0	0	0	0	2	2
		Other Crimes/Misdemeanors	0	0	0	0	0	11	11
	Total	0	0	0	0	0	25	25	
	Not Authorized - App(s) Pending	Child Crime - Sexual	1	0	0	0	0	6	7
		Child Crime - Non-sexual	0	0	0	0	1	4	5
		Adult - Sexual	0	0	0	0	1	1	2
		Drugs	0	1	0	0	0	2	3
		Serious Crimes/Felonies	0	0	1	0	1	8	10
Alcohol		1	0	0	0	0	5	6	
Other Crimes/Misdemeanors		1	1	0	1	0	7	10	
Total	3	2	1	1	3	33	43		
Not Authorized - No App(s) Pending	Child Crime - Sexual	0	0	0	0	0	2	2	
	Child Crime - Non-sexual	0	0	0	0	0	1	1	
	Adult - Sexual	0	0	0	0	0	2	2	
	Drugs	0	0	0	0	0	1	1	
	Serious Crimes/Felonies	0	0	0	0	0	5	5	
	Alcohol	0	0	0	0	0	2	2	
Other Crimes/Misdemeanors	0	0	0	0	0	9	9		

			0 - 90 Days	91 - 180 Days	181 - 270 Days	271 - 360 Days	361 - 450 Days	451 + Days	Total
Post COC	Not Authorized - No App(s) Pend	Total	0	0	0	0	0	22	22
	Total		3	2	2	1	12	253	273
Total			924	553	360	345	206	751	3,139

Commission on Teacher Credentialing

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

REPORT NUMBER 2010-119, ISSUED APRIL 2011

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

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

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

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

In the report, the California State Auditor (state auditor) made the following recommendations to the commission. The state auditor's determination regarding the current status of the recommendation is based on the commission's responses to the state auditor as of October 2011.

Recommendation 1.1—See pages 38 and 39 of the audit report for information on the related finding.

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

Commission's Action: Fully implemented.

The commission has continued to notify Justice of the RAP sheets it no longer is interested in receiving. The commission also stated it is developing an automated system that it expects to deploy by November 1, 2011, that will notify Justice on a daily basis of the RAP sheets the commission is no longer interested in receiving.

Recommendation 2.1—See pages 48 and 49 of the audit report for information on the related finding.

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

Commission's Action: Pending.

The commission stated that, because the executive director plays a critical role in the development and implementation of the commission's strategic plan, it will revise the plan after the newly appointed executive director begins work at the commission on or before November 1, 2011. It also indicated that the commission's quarterly agenda calls for the new executive director to present a plan for revising the strategic plan to the commission at its meeting to be held in January 2012.

Recommendation 2.2—See page 50 of the audit report for information on the related finding.

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.

Commission's Action: Pending.

According to the commission, it is collecting, organizing, analyzing, and using data to identify staffing levels necessary to accommodate its workload. The commission also stated that, to address critical need for staffing in the near term, it adjusted management and staffing in the division and received approval for a freeze-exemption request from the Department of Finance to fill existing vacancies. It indicated that the commission's general counsel will, as part of the annual budget development process, review workload data for the purpose of identifying staffing levels needed to accommodate its workload.

Recommendation 2.3—See page 51 of the audit report for information on the related finding.

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.

Commission's Action: Partially implemented.

The commission submitted a request to the attorney general on May 2, 2011, and the commission indicated it expects to receive the opinion in early 2012. According to the commission, until it receives the opinion, the commission's staff are no longer closing investigations of alleged misconduct prior to the committee's review and action. The commission stated that all cases are being presented to the committee on either a consent or a discuss calendar, which provides a brief description of the offense. According to the commission, cases can be taken off the consent or discuss calendar at the request of any member of the committee for further discussion.

Recommendation 2.4—See pages 49 and 50 of the audit report for information on the related finding.

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.

Commission's Action: Pending.

The commission indicated that once it receives the attorney general's opinion, it will work with the Legislature to address needed statutory changes and it will move forward in adopting any needed policy, regulatory, or procedural changes.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

Recommendation 2.5—See pages 51—54 of the audit report for information on the related finding.

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.

Commission's Action: Fully implemented.

The commission developed and posted on its intranet a procedures manual that generally indicates revised dates of April and May 2011. According to the commission, it plans to update the procedures manual as the procedures are fine tuned or new rules are developed. It also indicated that the new general counsel will initiate a review of the current manual and establish time frames for annually reviewing and updating the manual to ensure it remains current.

Recommendation 2.6—See pages 54 and 55 of the audit report for information on the related finding.

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

Commission's Action: Partially implemented.

The commission provided training to its staff to ensure that they consistently and accurately enter information into the database. According to the commission, the new general counsel, who was hired in September 2011, will implement a new oversight system that includes establishing performance standards and expectations for timely processing and accurate work, as well as implement procedures to audit and monitor work to ensure prompt and accurate case management.

Recommendation 2.7—See pages 55 and 56 of the audit report for information on the related finding.

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

Commission's Action: Partially implemented.

The commission developed and implemented procedures related to managing deletions to its database. However, according to the commission, it has not yet had the time to develop and implement policies and procedures related to managing changes, but it plans to address this area in the one-year response.

Recommendation 2.8—See pages 56—59 of the audit report for information on the related finding.

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

Commission's Action: Fully implemented.

The commission has developed and implemented an intake document database to ensure that staff promptly log-in and assign a number to all reports of educator misconduct, such as school reports, affidavits, and self-disclosures, it receives. The commission indicated that the intake system allows the division to track complaints that do not become cases, link complaints to a case and an individual, and can generate reports that assist management to monitor the status of the complaints.

Recommendation 2.9.a—See pages 59—62 of the audit report for information on the related finding.

To adequately address the weaknesses we discuss in its processing of reports of misconduct, the division should revisit management's reports and processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate reduction of the time elapsed to perform critical steps in the review process.

Commission's Action: Pending.

According to the commission, it has implemented a number of workload and management reports that will help management monitor the volume of work. The commission indicated that staff have conducted a preliminary analysis of the process for tracking the reviews of misconduct that may require mandatory action and requests for information surrounding misconduct reports. It also stated that the commission's next steps to fully meet this recommendation include the new general counsel analyzing and determining whether additional reports are necessary to ensure proper handling and monitoring of the case files. The commission plans to fully address each of the bullets under this recommendation by the April 2012 progress report.

Recommendation 2.9.b—See pages 59—62 of the audit report for information on the related finding.

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

Commission's Action: Pending.

See the commission's response under recommendation 2.9.a.

Recommendation 2.9.c—See pages 59—62 of the audit report for information on the related finding.

The division should ensure that its reports and practices provide adequate information to facilitate prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.

Commission's Action: Pending.

See the commission's response under recommendation 2.9.a.

Recommendation 2.9.d—See page 60 of the audit report for information on the related finding.

The division should ensure that its reports and practices provide adequate information to facilitate an understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases.

Commission's Action: Pending.

See the commission's response under recommendation 2.9.a.

Recommendation 2.9.e—See page 61 of the audit report for information on the related finding.

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

Commission's Action: Pending.

See the commission's response under recommendation 2.9.a.

Recommendation 2.9.f—See page 62 of the audit report for information on the related finding.

The division should clearly track the dates at which the commission will lose its jurisdiction over the case as a result of the expiration of statute-based time frames for investigating the misconduct.

Commission's Action: Pending.

See the commission's response under recommendation 2.9.a.

Recommendation 2.10—See page 61 of the audit report for information on the related finding.

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

Commission's Action: Pending.

See the commission's response under recommendation 2.9.a.

Recommendation 3.1.a—See pages 67 and 68 of the audit report for information on the related finding.

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

Commission's Action: Fully implemented.

The commission developed and adopted a hiring handbook in June 2011, which identifies the hiring process and the parties responsible for each stage in the hiring process. The commission indicated that the State Personnel Board provided assistance in the development of the handbook and its senior managers reviewed and approved the handbook. The commission also indicated that it is consulting with the State Personnel Board to develop best practices in the commission's office of human resources, including developing and publishing an annual examination plan.

Recommendation 3.1.b—See pages 68—70 of the audit report for information on the related finding.

To better ensure that its hiring decisions are fair and that employment opportunities are equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.

Commission's Action: Fully implemented.

According to the commission, it held a training session for all supervisors and managers on June 22, 2011. The training included an overview of the documentation that managers and supervisors must submit to the commission's office of human resources for each step in the hiring process.

Recommendation 3.1.c—See pages 68—70 of the audit report for information on the related finding.

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

Commission's Action: Fully implemented.

The commission indicated that its office of human resources monitors all hiring processes and maintains documentation for each hiring and examination process, including applications received, notes related to interviews, reference checks, and hiring justification.

Recommendation 3.2.a—See pages 70—73 of the audit report for information on the related finding.

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

Commission's Action: Fully implemented.

On May 9, 2011, the commission provided its staff an updated EEO policy, which states that employees may make complaints without fear of reprisal. In addition, the commission's EEO handbook informs staff that retaliation and intimidation is not allowed.

Recommendation 3.2.b—See pages 70—73 of the audit report for information on the related finding.

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

Commission's Action: Fully implemented.

The commission stated that it plans to remind all staff members annually of the EEO and Sexual Harassment Prevention Policy and that staff will be required to certify that they have reviewed the policy.

Recommendation 3.2.c—See pages 70—73 of the audit report for information on the related finding.

The commission should conduct training on its EEO complaint process on a periodic basis.

Commission's Action: Fully implemented.

According to the commission, as of August 25, 2011, all managers and supervisors participated in a training workshop on workplace retaliation provided by the Department of Fair Employment and Housing. The commission also provided EEO training to the rank and file employees and a separate training for all supervisors and managers during September and October 2011. According to the commission, it plans to continue to provide this training on a biennial basis.



Commission on Teacher Credentialing

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Office of the Executive Director

April 5, 2012

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

Dear Ms. Howle:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,



Charles Gahagan, Chair
Commission on Teacher Credentialing

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