
5B

Information

Professional Practices Committee

Division of Professional Practices Annual Workload Report for Fiscal Year 2012-13

Executive Summary: This agenda item provides a report on the Division of Professional Practices' workload over the past year and provides comparison data from prior years.

Recommended Action: For information only

Presenter: Nanette Rufo, Director, Division of Professional Practices

Strategic Plan Goal

I. Educator Quality

- ◆ Effectively, efficiently, and fairly monitor the fitness of all applicants and credential holders to work with California students.

Division of Professional Practices

Annual Workload Report for Fiscal Year 2012-13

Introduction

This agenda item is a report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year 2012-13.

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 (COC), 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 COC to review alleged misconduct. The COC 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 COC meets once each month, for three days, at the Commission's office in Sacramento. It has the legal 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 COC 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, although the Commission's final adoption of a disciplinary action is public information.

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 2012-13, the DPP received and opened more new cases than in the prior four years as seen in the chart below:

| REPORT TYPE | *NEW CASES OPENED BY REPORT TYPE | | | | |
|--------------------------------------|----------------------------------|-------------|-------------|-------------|-------------|
| | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
| APPLICATION | 1748 | 1221 | 1003 | 787 | 994 |
| APPLICATION & RAP | 1728 | 1913 | 1921 | 1353 | 1701 |
| RAP SHEET | 256 | 2115 | 2081 | 2254 | 2200 |
| SCHOOL DISTRICT/ OFFICE OF EDUCATION | 221 | 241 | 210 | 765 | 654 |
| WAIVER/APP/RAP SHEET | 54 | 5 | N/A | N/A | N/A |
| OTHER | 49 | 126 | 103 | 64 | 88 |
| WAIVER/APPLICATION | 32 | 8 | N/A | N/A | N/A |
| ARRESTING AGENCY | 17 | 9 | 9 | 0 | 3 |
| AFFIDAVIT/COMPLAINT | 15 | 27 | 43 | 107 | 194 |
| BREACH OF CONTRACT | 8 | 21 | 12 | 16 | 2 |
| WAIVER/RAP SHEET | 7 | 27 | N/A | N/A | N/A |
| STATE TEST MISCONDUCT | 2 | 10 | 4 | 14 | 5 |
| WAIVER | 2 | 6 | 14 | 16 | 8 |
| TOTAL | 4139 | 5729 | 5400 | 5376 | 5849 |

The number of cases opened by report type has remained fairly consistent over the last three years, except for school district notifications which eclipsed the 650 mark for a second consecutive fiscal year. Because of concern that some school districts failed to properly report when a credentialed employee left employment as a result of allegations of misconduct, the Commission took action in FY 2012-13 to better inform superintendents of the duty to make such reports. The success of that initiative can be seen by the 654 school district reports received.

As the Commission is well aware, the number of applications submitted to the Commission has steadily declined over the last several years. In addition, the number of educators employed in the public schools has also shrunk by almost 30,000. With the shrinking pool of educators, it was reasonably expected that the number of cases opened by DPP would also shrink. However, this is not the case, as shown below:

| DESIGNATION | NEW CASES OPENED BY DESIGNATION | | | | |
|-----------------------|---------------------------------|-------------|--------------|-------------|-------------|
| | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
| APPLICANTS | 409 | 360 | 421 | 273 | 398 |
| APPLICANTS/HOLDERS | 561 | 558 | 446 | 318 | 308 |
| FIRST TIME APPLICANTS | 2404 | 2074 | 2,094 | 1560 | 1906 |
| HOLDERS | 820 | 2624 | 2,423 | 3203 | 3227 |
| WAIVERS | 94 | 46 | 16 | 22 | 10 |
| TOTAL | 4288 | 5662 | 5,400 | 5376 | 5849 |

* All data from FY 08-09 and FY 09-10 is from a less robust data system. The data from these years does not reconcile.

Given the high number of new cases received, a critical issue is how the overall size of the caseload is faring. To handle this large number of incoming cases, FY 2012-13 was a year of staff training, implementing new processes and procedures, and executing policies adopted by the Commission. This effort was very successful. The year began with a caseload of 3,108 cases and was reduced to a caseload of 2,382. This reduction is shown in the chart below:

| OPEN CASES BY CASE STATUS - FY 2012-13 | | | | | | | | | | | | |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | JUL | AUG | SEP | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN |
| PRE COC | 1668 | 1954 | 1879 | 1717 | 1678 | 1618 | 1637 | 1805 | 1786 | 1484 | 1261 | 1214 |
| COC | 1181 | 984 | 1012 | 937 | 721 | 802 | 717 | 663 | 669 | 718 | 757 | 692 |
| POST COC | 259 | 256 | 328 | 334 | 448 | 427 | 406 | 404 | 360 | 394 | 375 | 476 |
| TOTALS: | 3108 | 3194 | 3219 | 2988 | 2847 | 2847 | 2760 | 2872 | 2815 | 2596 | 2393 | 2382 |

A key factor in reducing the caseload was the Commission's adoption of several policies providing staff direction and delegating authority to act in specific types of cases. These Commission policies included: delegating staff authority to close first time alcohol offenses, with limited, specified exceptions; policy on expired credentials; direction to staff about the appropriate action if an applicant failed to disclose information on an application; and delegating authority to staff to close cases that involved infractions or single misdemeanor cases relating to specific Vehicle Code sections. These policies allowed the COC and staff to process cases in a more timely fashion. It also allowed the Commission, the COC and staff to focus on the more serious allegations of misconduct.

These changes had a substantial impact on DPP's caseload. A major accomplishment is the reduction of the total number of open cases from 3,108 on July 1, 2012 to 2,382 by June 30, 2013. This represents a case reduction of 23%. The size of the current caseload indicates the chronic backlog of cases is resolved, since this is the lowest number of open cases in a decade, as shown below:

| FY | 2003-04 | 2004-05 | 2005-06 | 2006-07 | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
|------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| ENDING CASELOAD | 3322 | 4611 | 3063 | 2825 | 3206 | 3280 | 3455 | 4133 | 3271 | 2382 |

Another area of interest is the type of conduct that causes the Commission to open a potential discipline case. The types of offenses are shown in the chart below:

| NEW CASES OPENED BY OFFENSE TYPE | | | | | |
|----------------------------------|---------|---------|---------|---------|---------|
| OFFENSE TYPE | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
| ALCOHOL | 1927 | 2136 | 1447 | 2016 | 2408 |
| OTHER CRIMES | 1118 | 1446 | 2028 | 1420 | 1486 |
| SERIOUS CRIMES/FELONIES | 626 | 1174 | 1128 | 857 | 896 |
| DRUGS | 257 | 473 | 335 | 243 | 235 |
| CHILD CRIME-NON-SEXUAL | 173 | 234 | 254 | 534 | 537 |

| | | | | | |
|--------------------|-------------|-------------|-------------|-------------|-------------|
| CHILD CRIME-SEXUAL | 126 | 112 | 129 | 208 | 194 |
| ADULT-SEXUAL | 61 | 87 | 79 | 98 | 93 |
| TOTAL | 4288 | 5662 | 5400 | 5376 | 5849 |

Alcohol offenses continue to be the most common reason for opening a case. Substance abuse, of either alcohol or drugs, constituted 45% of the cases opened in FY 2012-13. Sex offenses (against either an adult or child) were 5% of new cases, and other crimes against a child were 9% of the new cases.

The elimination of the backlog and handling the increased number of new cases meant that more investigations were submitted to the COC for consideration. The increase in the number of investigations commenced and considered by the COC at the informal review stage are as follows:

| INITIAL REVIEW CASES | | | | | | | | | | | | | |
|----------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------------|
| FY | JUL | AUG | SEP | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN | TOTAL |
| 2010-11 | 49 | 48 | 44 | 61 | 54 | 55 | 51 | 52 | 56 | 62 | 53 | 65 | 650 |
| 2011-12 | 85 | 82 | 60 | 53 | 50 | 59 | 64 | 65 | 61 | 74 | 100 | 110 | 863 |
| 2012-13 | 112 | 102 | 104 | 98 | 100 | 113 | 111 | 109 | 102 | 106 | 90 | 94 | 1241 |

From FY 2010-11 to FY 2011-12 the number of cases increased 33% and continued to climb an additional 44% in FY 2012-13.

As expected, the increase of Initial Review cases caused a natural increase of Formal Review cases because of the two-stage review process required by law. The number of Formal Review cases increased by 52% in 2012-2013, which is detailed below:

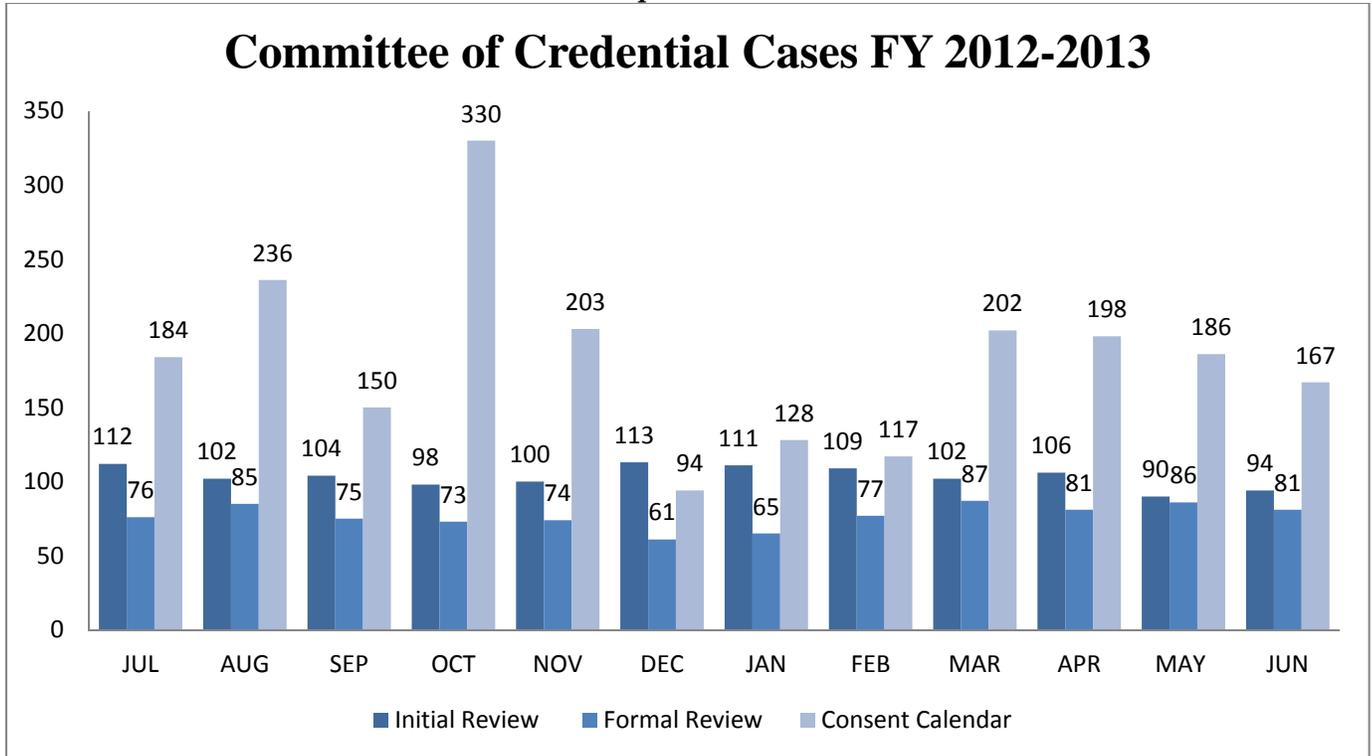
| FORMAL REVIEW CASES | | | | | | | | | | | | | |
|---------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|------------|
| FY | JUL | AUG | SEP | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN | TOTAL |
| 2011-12 | 44 | 50 | 64 | 58 | 45 | 45 | 45 | 42 | 49 | 53 | 46 | 65 | 606 |
| 2012-13 | 76 | 85 | 75 | 73 | 74 | 61 | 65 | 77 | 87 | 81 | 86 | 81 | 921 |

The COC also reviews a substantial number of matters on the Consent Calendar. There was a 22% decrease in the number of Consent Calendar cases submitted to the COC for review. The decrease was caused by the Commission's formal action to delegate authority to staff to close some specific types of cases. As noted earlier, this enabled the COC and staff to spend more time on more serious matters.

| CONSENT CALENDAR CASES | | | | | | | | | | | | | |
|------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------------|
| FY | JUL | AUG | SEP | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN | TOTAL |
| 2011-12 | 306 | 247 | 171 | 210 | 331 | 251 | 286 | 266 | 286 | 164 | 167 | 146 | 2831 |
| 2012-13 | 184 | 236 | 150 | 330 | 203 | 94 | 128 | 117 | 202 | 198 | 186 | 167 | 2195 |

Graph 2 below also provides a visual illustration of the number of cases reviewed by the COC during the 2012-2013 fiscal year.

Graph 2



The COC reviewed 2,195 Consent Calendar cases and closed 2,182. The COC also reviewed 1,241 Initial Review cases and 921 Formal Review Cases, while closing 341 and 167, respectively.

A vivid example of the strong impact of the Commission’s policy decisions is shown in the chart below. The Commission’s decision to delegate authority to staff to close most cases involving a single alcohol offense resulted in 1,635 cases that did not need to be prepared for, and considered by, the COC as shown below:

| ALCOHOL OFFENSE CASES CLOSED: FY 2012-13 | | | | | | | | | | | | |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------|
| JUL | AUG | SEP | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN | TOTAL |
| 38 | 65 | 148 | 244 | 84 | 101 | 148 | 121 | 160 | 235 | 170 | 121 | 1635 |

Final Adverse Actions

Final adverse actions fall into two categories, mandatory actions and discretionary actions. Mandatory actions are required by statute. The mandatory actions were delegated by the Commission to the Executive Director and are noticed on the Commission’s Consent Calendar at the next scheduled meeting. Discretionary actions are delegated by statute to the COC for review and then the COC’s recommendation is sent to the Commission for final action. The COC’s

recommendation may be appealed and an administrative hearing is then held before a final action is taken.

A comparison of the number of discretionary, mandatory and total number of adverse actions during the past fiscal year is shown below. The overall number of discretionary adverse actions increased by 46 during FY 2012-2013. The increase is attributed to the increased number of cases considered by the COC and the Commission.

| ADVERSE ACTIONS | DISCIPLINARY ACTIONS BY FISCAL YEAR | | | | |
|--------------------------------------|-------------------------------------|------------|------------|------------|------------|
| | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
| REVOCATION | 131 | 104 | 174 | 150 | 209 |
| DENIAL | 44 | 49 | 40 | 87 | 24 |
| SUSPENSIONS | 194 | 207 | 243 | 293 | 340 |
| PUBLIC REPROVAL | 66 | 55 | 72 | 108 | 104 |
| PRIVATE ADMONITION | 20 | 19 | 8 | 2 | 9 |
| TOTAL DISCRETIONARY DECISIONS | 455 | 434 | 537 | 640 | 686 |
| MANDATORY REVOCATION | 90 | 202 | 192 | 163 | 150 |
| MANDATORY DENIAL | 29 | 64 | 75 | 30 | 36 |
| TOTAL MANDATORY DECISIONS | 119 | 266 | 267 | 193 | 186 |
| TOTAL ADVERSE ACTIONS | 574 | 700 | 804 | 833 | 872 |

Administrative Adjudication

At the Formal Review stage, the COC may close its investigation or make a recommendation for an adverse action. The person under review for misconduct is provided notice of the recommendation and has the right to request an administrative appeal.

The Commission is represented by the Attorney General’s Office (AG) 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, reduce the penalty, or reject the Proposed Decision and call for the transcript. After review of the transcript, the Commission can adopt the Proposed Decision or issue its own decision. Open cases at the AG’s office for representation in the administrative hearing significantly increased in FY 2012-13, as shown below:

| FY | OPEN AG CASES | | | | | | | | | | | |
|---------|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| | JUL | AUG | SEP | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN |
| 2011-12 | 114 | 110 | 107 | 106 | 106 | 110 | 102 | 100 | 95 | 90 | 86 | 89 |
| 2012-13 | 82 | 81 | 82 | 82 | 85 | 87 | 91 | 92 | 97 | 97 | 104 | 127 |

The increase in the number of cases where the Commission is represented by the AG’s office is likely to have an impact on the Commission budget since the Commission pays the AG’s office for its legal services. To help mitigate that impact, the Commission’s legal staff made a priority of attempting to settle cases after the Committee’s recommendation but before the case was transferred to the AG’s office. The increase in the number of cases negotiated for settlement by Commission staff (with all settlements approved by the Committee) is shown in the chart below:

| ADMINISTRATIVE ADJUDICATION WORKLOAD | | | | | |
|---|----------------|----------------|----------------|----------------|----------------|
| | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
| APPEALS REQUESTED | 161 | 159 | 104 | 60 | 123 |
| SETTLEMENTS (NON-SPECIFIED) | 66 | 63 | 35 | 17 | 18 |
| SETTLEMENTS (COMMISSION STAFF) | 0 | 46 | 23 | 29 | 48 |
| SETTLEMENTS (ATTORNEY GENERAL) | 0 | 11 | 17 | 22 | 17 |
| PROPOSED DECISIONS ADOPTED BY CTC | 10 | 12 | 5 | 10 | 19 |

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 now fit to hold a credential.

| PETITIONS FOR REINSTATEMENT | | | |
|------------------------------------|--------------|-------------|--------------|
| FY | GRANT | DENY | TOTAL |
| 2012-13 | 15 | 10 | 25 |
| 2011-12 | 10 | 12 | 22 |
| 2010-11 | 12 | 13 | 25 |
| 2009-10 | 09 | 15 | 24 |
| 2008-09 | 09 | 14 | 23 |

Over the last five years the Commission has shifted from denying most petitions for reinstatement to grant most petitions. This shift could be caused by a change in the type of information provided by petitioners or a change in the Commission's view of rehabilitation.

Conclusion

There is a strong public awareness of the need to effectively monitor the fitness-related conduct of both applicants and credential holders serving in California's public schools. We are proud to report that the California Commission on Teacher Credentialing continues to exercise a leadership role in this aspect of its statutory responsibilities and to respond in a very meaningful fashion to concerns in this most critical area of the Commission's business.