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## Information

### *Professional Practices Committee*

### Division of Professional Practices Annual Workload Report Fiscal Year 2015-16

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**Executive Summary:** This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year 2015-16.

**Recommended Action:** For information only

**Presenter:** Vanessa Whitnell, Director, Division of Professional Practices

#### Strategic Plan Goal

##### *I. Educator Quality*

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

September 2016

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## **Division of Professional Practices**

### **Annual Workload Report Fiscal Year 2015-16**

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#### **Introduction**

This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year (FY) 2015-16.

#### **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 monitors the moral fitness and professional conduct of credential applicants and credential holders. The Commission has authority to discipline an applicant or holder for fitness-related misconduct.

Disciplinary action may be taken 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 DPP collects information concerning alleged misconduct and presents the information to the Committee of Credentials (COC). The seven members of the COC are appointed by the Commission to review the 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 shows probable cause to believe the allegations. All disciplinary recommendations made by the COC are subject to challenge and appeal by the credential applicant or holder and final approval by the Commission.

DPP obtains jurisdiction to initiate an investigation of misconduct and/or moral fitness when it receives: a report of an employment action taken by an employing school district as a result of misconduct or while allegations of misconduct are pending; a complaint made under penalty of perjury by someone with firsthand knowledge of misconduct; a report of criminal convictions (aka rap sheet) from the Department of Justice (DOJ); or from self-disclosure on an application for a credential.

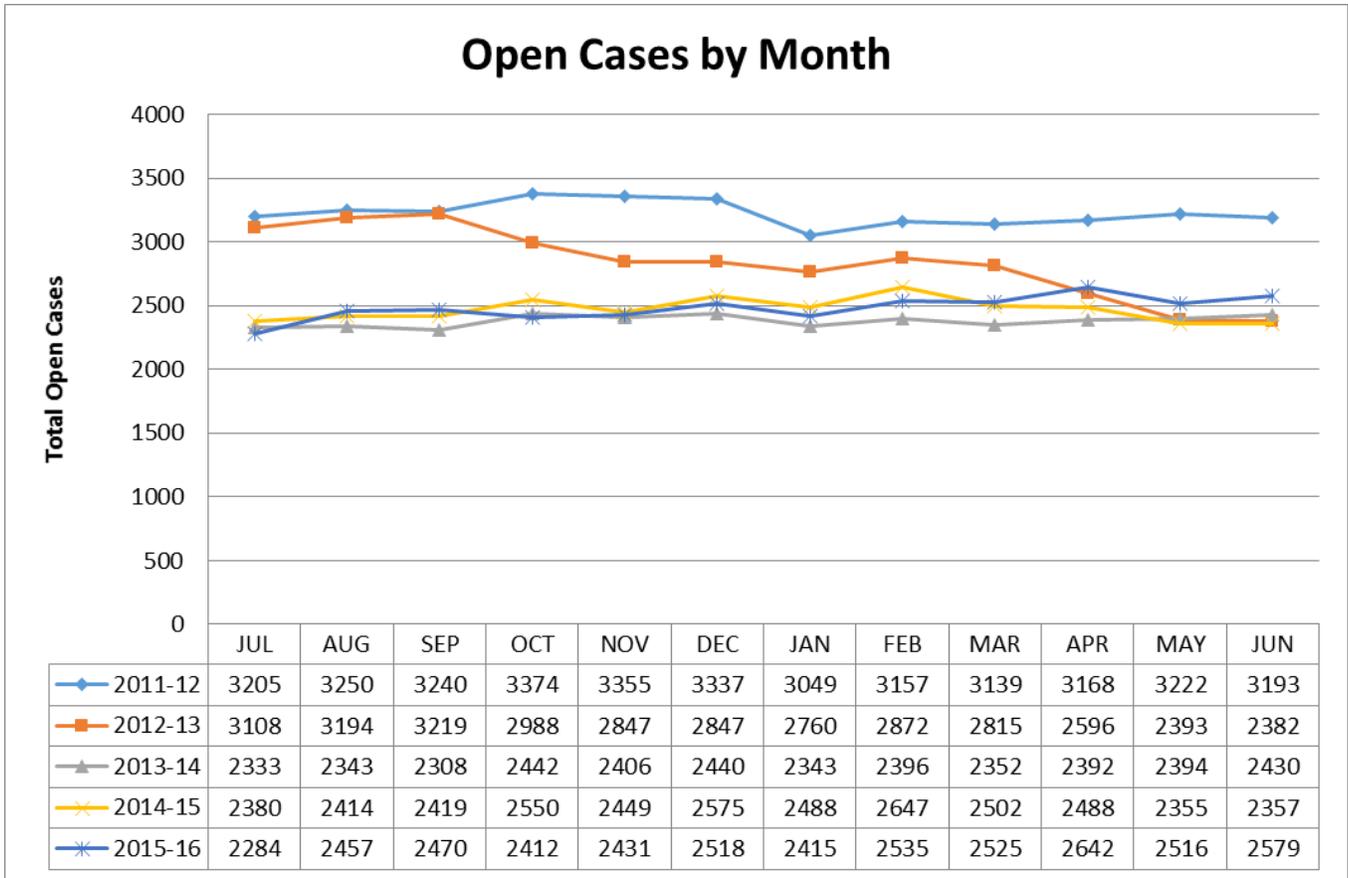
#### **Division Workload**

In FY 2015-16, DPP's caseload remained in the 2,300-2,600 range. As stated in last year's Annual Workload Report, DPP eliminated a backlog of cases in 2012 by increasing the number of cases

submitted to the COC for consideration. Beginning in 2011, this required two plus years of hard work and dedication by the DPP staff; temporary assistance from staff in other divisions; the implementation of new processes and procedures; and the adoption of new policies by the Commission.

*Number of Cases Opened*

FY 2015-16 began the year with 2,284 cases and ended with 2,579, and a monthly average of 2,482 cases. In the past four FY's, open cases were as high as 3,374 cases in October 2011, and declined to a low of 2,284 cases in July 2015, as shown in the chart below:



The number of open cases was held at a stable level over the last four years, as shown in the table below which reflects the number of open cases at year end over the last decade:

FISCAL YEAR	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
ENDING CASELOAD	2825	3206	3280	3455	4133	3271	2382	2430	2357	2579

The workload in DPP and whether it stays at a “stable level” depends on several factors outside the control of the Commission, including the number of reports received from outside sources such as applicants, school districts, complainants and rap sheets from the DOJ.

*Where did the cases come from?*

The number of cases opened by report type has remained fairly consistent over the past five years. The number of new cases in FY 2015-16 was 5,678.

A continuing trend has been the number of reports made by school districts. Until early 2012, the Commission received 200-250 district reports every year. Starting in February 2012, due to some highly publicized cases of misconduct, the number of school district reports dramatically increased. In FY 2010-11, district reports were about 3% of new cases. In FY 2015-16, district reports (including breach of contract complaints) were 11% of all new cases, as shown below:

NEW CASES OPENED BY REPORT TYPE					
REPORT TYPE	2011-12	2012-13	2013-14	2014-15	2015-16
APPLICATION	787	994	733	753	776
APPLICATION & RAP	1353	1701	1811	1964	2413
RAP SHEET	2254	2200	1971	1757	1592
SCHOOL DISTRICT/OFFICE OF ED	765	654	731	636	568
OTHER	64	88	81	72	88
ARRESTING AGENCY	0	3	2	1	2
AFFIDAVIT/COMPLAINT	107	194	147	133	198
BREACH OF CONTRACT	16	2	18	85	36
STATE TEST MISCONDUCT	14	5	2	0	0
WAIVER	16	8	18	3	5
<b>TOTAL</b>	<b>5376</b>	<b>5849</b>	<b>5514</b>	<b>5404</b>	<b>5678</b>

*What types of misconduct were alleged?*

During FY 2015-16, the number of new cases opened by offense type also remained relatively consistent with previous years, as shown below:

NEW CASES OPENED BY TYPE OF MISCONDUCT					
MISCONDUCT TYPE	2011-12	2012-13	2013-14	2014-15	2015-16
ALCOHOL	2016	2408	2409	2290	2531
OTHER CRIMES	1420	1486	1085	1151	1338
SERIOUS CRIMES/FELONIES	857	896	825	835	842
DRUGS	243	235	223	280	229
CHILD CRIME NON-SEXUAL	534	537	555	560	445
CHILD CRIME SEXUAL	208	194	328	216	216
ADULT-SEXUAL	98	93	89	72	77
<b>TOTAL</b>	<b>5376</b>	<b>5849</b>	<b>5514</b>	<b>5404</b>	<b>5678</b>

*What was the credential status of persons reported to the CTC?*

New cases opened by designation indicate whether an individual under review is a new or current applicant and/or whether the person currently holds a credential. FY 2015-16 saw an increase in cases for First Time Applicants for the third consecutive year. The “Holder” designation had the largest decline of cases, but continues to be the primary designation of cases being opened during the past five years as shown in the table below:

<b>NEW CASES OPENED BY DESIGNATION</b>					
<b>DESIGNATION</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
APPLICANTS	273	398	300	298	373
APPLICANTS/HOLDERS	318	308	283	321	320
FIRST TIME APPLICANTS	1560	1906	1953	2068	2490
HOLDERS	3203	3227	2959	2708	2490
WAIVERS	22	10	19	9	5
<b>TOTAL</b>	<b>5376</b>	<b>5849</b>	<b>5514</b>	<b>5404</b>	<b>5678</b>

It is important to note that simply because most cases involve credential holders, this does not mean that credential holders are more likely to engage in misconduct than applicants. The pool of credential holders greatly out-numbers the pool of first time applicants.

*How Many Cases were Reviewed by the Committee of Credentials?*

Effective in May 2013, DPP management set a target for the number of Initial Review cases to 90 cases per month. An average of 90.6 cases were presented to the Committee during FY 2015-16 as shown below:

<b>FY</b>	<b>INITIAL REVIEW CASES</b>												
	<b>JUL</b>	<b>AUG</b>	<b>SEP</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>JUN</b>	<b>TOTAL</b>
<b>2011-12</b>	85	82	60	53	50	59	64	65	61	74	100	110	<b>863</b>
<b>2012-13</b>	112	102	104	98	100	113	111	109	102	106	90	94	<b>1241</b>
<b>2013-14</b>	91	93	90	84	90	91	88	90	89	90	86	83	<b>1065</b>
<b>2014-15</b>	89	93	93	95	91	93	91	88	89	89	92	94	<b>1097</b>
<b>2015-16</b>	92	90	91	89	90	89	88	90	94	92	90	93	<b>1088</b>

The goal for FY 2016-17 is to maintain a stable number of open cases, so cases can be completed in a timely manner. Therefore, staff will continue to present an average of 90 cases a month to the Committee at the Initial Review stage.

The number of Initial Review cases reviewed on a monthly basis has a direct impact on the number of Formal Review cases submitted for Committee review. Formal review is the second stage in the review process. At the formal review stage an individual can request an opportunity to testify and answer questions before the COC members. In FY 2015-16, the number of formal review cases increased by 54 from the prior year. A comparison of the formal review cases by FY are as follows:

FY	FORMAL REVIEW CASES												
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
<b>2011-12</b>	44	50	64	58	45	45	45	42	49	53	46	65	<b>606</b>
<b>2012-13</b>	76	85	75	73	74	61	65	77	87	81	86	81	<b>921</b>
<b>2013-14</b>	62	64	66	66	68	58	72	68	68	66	64	65	<b>787</b>
<b>2014-15</b>	70	61	61	71	73	72	68	66	63	62	56	56	<b>779</b>
<b>2015-16</b>	69	75	74	69	69	67	69	64	71	70	70	66	<b>833</b>

Another factor in the reduction of the caseload during the past two fiscal years has been the number of cases staff placed on the COC's Consent Calendar (CC) as shown in the table below:

FY	CONSENT CALENDAR CASES												
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
<b>2011-12</b>	306	247	171	210	331	251	286	266	286	164	167	146	<b>2831</b>
<b>2012-13</b>	184	236	150	330	203	94	128	117	202	198	186	167	<b>2195</b>
<b>2013-14</b>	153	114	91	110	155	121	135	107	113	124	138	123	<b>1484</b>
<b>2014-15</b>	108	93	101	89	193	91	154	112	211	161	177	193	<b>1683</b>
<b>2015-16</b>	110	112	170	166	134	110	118	142	143	139	145	148	<b>1637</b>

The reduction of Consent Calendar cases starting in FY 2012-13 was due in large part to policies approved by the Commission, which delegated its authority to DPP staff to close cases meeting specific criteria for single alcohol cases, select Vehicle Code cases and cases involving expired credentials.

*How Many Cases were Closed by the Commission's Delegation to Staff?*

A major factor in the reduction of the caseload is the effectiveness of policies adopted by the Commission. In 2012 and 2013 the Commission adopted policies that delegated authority to staff to close cases that met very specific criteria. For example, the Commission adopted a policy that allowed staff to close a case that involved a single alcohol related offense that did not impact children or schools. In 2015-16, staff closed 1550 cases following that policy.

FY	SINGLE ALCOHOL OFFENSE												
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
<b>2012-13</b>	38	65	148	244	84	101	148	121	160	235	170	121	<b>1635</b>
<b>2013-14</b>	150	124	99	178	122	154	160	120	140	106	136	110	<b>1599</b>
<b>2014-15</b>	139	91	106	115	126	148	149	151	130	127	103	123	<b>1508</b>
<b>2015-16</b>	99	188	153	106	122	121	130	131	115	123	141	121	<b>1550</b>

Other types of delegated authority resulted in the following matters being closed:

No jurisdiction cases involve cases where CTC is unable to obtain "formal jurisdiction." By law, COC must have both initial and formal jurisdiction before the COC can make a recommended action. These types of cases typically involve an arrest with no charges filed or an arrest with charges dismissed.

FY	NO JURISDICTION FOR FORMAL REVIEW												
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
<b>2012-13</b>	56	58	41	66	47	88	64	128	74	113	115	83	<b>933</b>
<b>2013-14</b>	57	52	62	52	62	86	59	44	43	51	43	46	<b>657</b>
<b>2014-15</b>	49	50	43	45	52	52	51	59	58	43	55	43	<b>600</b>
<b>2015-16</b>	54	65	45	54	38	58	69	34	53	47	56	72	<b>645</b>

Vehicle Code violation cases involve specific minor infractions or misdemeanors of the vehicle code. Violations of this type include driving without a license and driving on a suspended license. The exception to this policy is where staff is aware of the involvement of a child, a school or school property in the alcohol offense, or where adverse publicity impacts the local community.

FY	SPECIFIED VEHICLE CODE VIOLATIONS												
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
<b>2012-13</b>								12	20	16	18	12	<b>78</b>
<b>2013-14</b>	6	13	7	11	8	12	12	9	6	12	10	4	<b>110</b>
<b>2014-15</b>	8	5	12	13	8	6	9	12	6	11	7	11	<b>108</b>
<b>2015-16</b>	5	17	18	13	12	12	10	9	6	10	11	6	<b>129</b>

Expired credential cases involve cases where the Respondent no longer holds a valid credential and has no application(s) pending. Cases of this type are flagged in the system and reviewed if the individual submits a new application. The expired credential policy includes four exceptions, which include allegations of sexual misconduct, crimes against children, reports filed by school districts and actions taken by other licensing agencies.

FY	EXPIRED CREDENTIALS												
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
<b>2012-13</b>	6	7	11	11	6	3	31	5	19	13	5	4	<b>121</b>
<b>2013-14</b>	5	5	4	10	10	16	7	7	9	11	7	2	<b>93</b>
<b>2014-15</b>	6	5	18	7	11	14	5	6	10	8	17	16	<b>123</b>
<b>2015-16</b>	10	8	8	12	6	9	11	5	7	2	7	4	<b>89</b>

The Commission's policy decisions resulted in 2,413 matters being closed pursuant to the Commission's delegation, a slight increase from last fiscal year (2014-15) of 2,339. These policies enabled both staff and the Committee to focus available resources on more significant allegations of misconduct.

#### Timeliness of Action on Cases

In a follow-up to the 2011 Bureau of State Audit report, staff followed a methodology used by the auditor to measure the timeliness of 30 random cases completed during the 2015-16 fiscal year. While the auditor used a random sample of "cases closed by the division or reviewed by the committee" (April 2011 Audit, page 25), staff used a more rigorous sample using only cases investigated by the Committee of Credentials.

Of the 30 random sample cases, three were removed as outliers, which included a mandatory case that involved a lengthy criminal appeals process; a matter where the Office of the Attorney General was providing representation; and the third was closed in FY 2015-16 after completion of a four-year disciplinary probation period.

The “significant improvements” we made last fiscal year when compared to the BSA Audit continued this fiscal year, which included the average time it took to open a case, which was reduced from 128 days to 10. In a similar fashion, the average time it took for the Division to take its first action on a case was reduced from 103 days to 9 days. The total average time for a case was reduced from 683 days to 429 days, while the median time was reduced from 721 days to 433 days. The “Educator Discipline Timeliness” chart shown below details all of the current milestones compared to the 2011 audit.

<b>EDUCATOR DISCIPLINE – TIMELINESS</b>			
<b>Receive a report of Misconduct</b>			
	<b>2011 BSA</b>	↓	
<b>Average</b>	128		<b>FY 2014-15</b>
<b>Median</b>	38		<b>FY 2015-16</b>
		↓	
<b>Average</b>	103		11
<b>Median</b>	69		9
		↓	
<b>Case Opened</b>			
<b>Average</b>	103		11
<b>Median</b>	69		9
		↓	
<b>DPP requests court, law enforcement and other documents related to the misconduct (first action)</b>			
<b>Average</b>	274		192
<b>Median</b>	209		181
		↓	
<b>Letter of Inquiry sent (beginning of investigation)</b>			
<b>Average</b>	85		77
<b>Median</b>	86		77
		↓	
<b>30 Day/Formal meeting letter sent</b>			
<b>Average</b>	62		65
<b>Median</b>	60		65
		↓	
<b>Date of COC Recommended Action</b>			
<b>Average</b>	88		144
<b>Median</b>	76		99
		↓	
<b>RECOMMENDED COC ACTION MOVES TO CTC AGENDA (COMMISSION ACTION)</b>			
<b>TOTAL TIME</b>			
<b>Average</b>	683		392
<b>Median</b>	721		383

Additional (2015-16) timeliness statistics include closing the following types of cases in a more timely fashion: Consent Calendar cases improved to an average of 91 days to close, down from an average of 99 days in 2014-15; Single Alcohol Offenses took an average of nine days, down from 12; and an average of 7 days to close Vehicle Code cases, down from an average of 10 days.

### Adverse Actions

Adverse actions fall into two categories, mandatory actions and discretionary actions. Mandatory actions are actions required by statute. A criminal conviction for a specified sex offense, drug offense or certain other specified crimes all require the Commission to mandatorily revoke all credentials. The ability to implement mandatory actions was delegated by the Commission to the Executive Director. Mandatory revocations are placed on the Commission’s Consent Calendar at the next

scheduled Commission meeting.

<b>MANDATORY ACTIONS</b>						
<b>ACTION TYPE</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
MANDATORY REVOCATION	192	163	150	173	134	146
MANDATORY DENIAL	75	30	36	46	30	42
<b>TOTAL</b>	<b>267</b>	<b>193</b>	<b>186</b>	<b>219</b>	<b>164</b>	<b>188</b>

Discretionary actions are action taken following review by the COC in cases where the Committee recommended an adverse action. The Committee’s recommendation may be accepted by the credential holder or applicant, or it may be appealed and an administrative hearing is held before a final action is taken. Discretionary actions require final approval by the Commission.

A comparison of the number of discretionary adverse actions taken over the past five years is shown in the table below:

<b>DISCRETIONARY DECISIONS</b>						
<b>ACTION TYPE</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
REVOCATION	174	150	209	222	266	276
DENIAL	40	87	24	67	92	75
SUSPENSIONS	243	293	340	320	267	224
PRIVATE ADMONITION	8	2	9	4	6	1
PUBLIC REPROVAL	72	108	104	32	40	32
<b>TOTAL</b>	<b>537</b>	<b>640</b>	<b>686</b>	<b>645</b>	<b>671</b>	<b>608</b>

The total number of adverse actions has remained fairly consistent over the last few fiscal years, as shown below:

<b>ADVERSE ACTIONS</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
DISCRETIONARY DECISIONS	537	640	686	645	671	608
MANDATORY ACTIONS	267	193	186	219	164	188
<b>TOTAL</b>	<b>804</b>	<b>833</b>	<b>872</b>	<b>864</b>	<b>835</b>	<b>796</b>

### **Requests for an Administrative Hearing**

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.

If the person requests an administrative hearing, the Commission is represented by the Attorney General’s Office (AG) and the matter is heard by an Administrative Law Judge (ALJ) 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. The number of open cases assigned to the AG’s office for representation has continued to increase as shown below:

OPEN CASES ASSIGNED TO AG												
FY	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
2013-14	126	134	141	145	147	147	151	156	159	166	169	179
2014-15	182	185	194	215	210	223	215	230	228	219	228	229
2015-16	238	238	244	249	250	254	266	265	280	281	279	278

ADMINISTRATIVE ADJUDICATION WORKLOAD					
	2011-12	2012-13	2013-14	2014-15	2015-16
APPEALS REQUESTED	60	123	142	199	185
SETTLEMENTS (NON-SPECIFIED)	17	18	0	0	3
SETTLEMENTS (COMMISSION STAFF)	29	48	58	51	33
SETTLEMENTS (ATTORNEY GENERAL)	22	17	13	29	23
PROPOSED ALJ DECISIONS ADOPTED BY CTC	10	19	8	7	16

### Reinstatement of a Previously Revoked Credential

The Commission hears petitions for reinstatement, as required by the Administrative Procedures Act, in Closed Session to determine whether petitioners whose credentials were revoked are now fit to hold a credential. In a petition for reinstatement, the petitioner has the burden of proof to show that he or she is rehabilitated from the misconduct that led to the revocation.

During the past five years, the number of Petitions for Reinstatement per year has remained fairly consistent. During FY 2015-16, the Commission denied more petitions than it granted as shown below:

PETITIONS FOR REINSTATEMENT			
FISCAL YEAR	GRANT	DENY	TOTAL
2010-11	12	13	25
2011-12	10	12	22
2012-13	15	10	25
2013-14	9	16	25
2014-15	13	11	24
2015-16	7	13	20

### Conclusion

The Commission was able to maintain a stable and consistent workload during FY 2015-16. The management team in DPP will continue to monitor the caseload to ensure that cases are completed in a timely manner and will continue to improve policies and procedures, as needed, to ensure the safety of students and fulfill its statutory responsibilities. This will enable the Commission to carry out its goal to “effectively, efficiently, and fairly monitor the fitness of all applicants and credential holders to work with California students.”