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Information

Professional Practices Committee

Division of Professional Practices Annual Workload Report Fiscal Year 2016-17

Executive Summary: This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year 2016-17.

Recommended Action: For information only

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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.

Division of Professional Practices Annual Workload Report Fiscal Year 2016-17

Introduction

This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year (FY) 2016-17.

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.

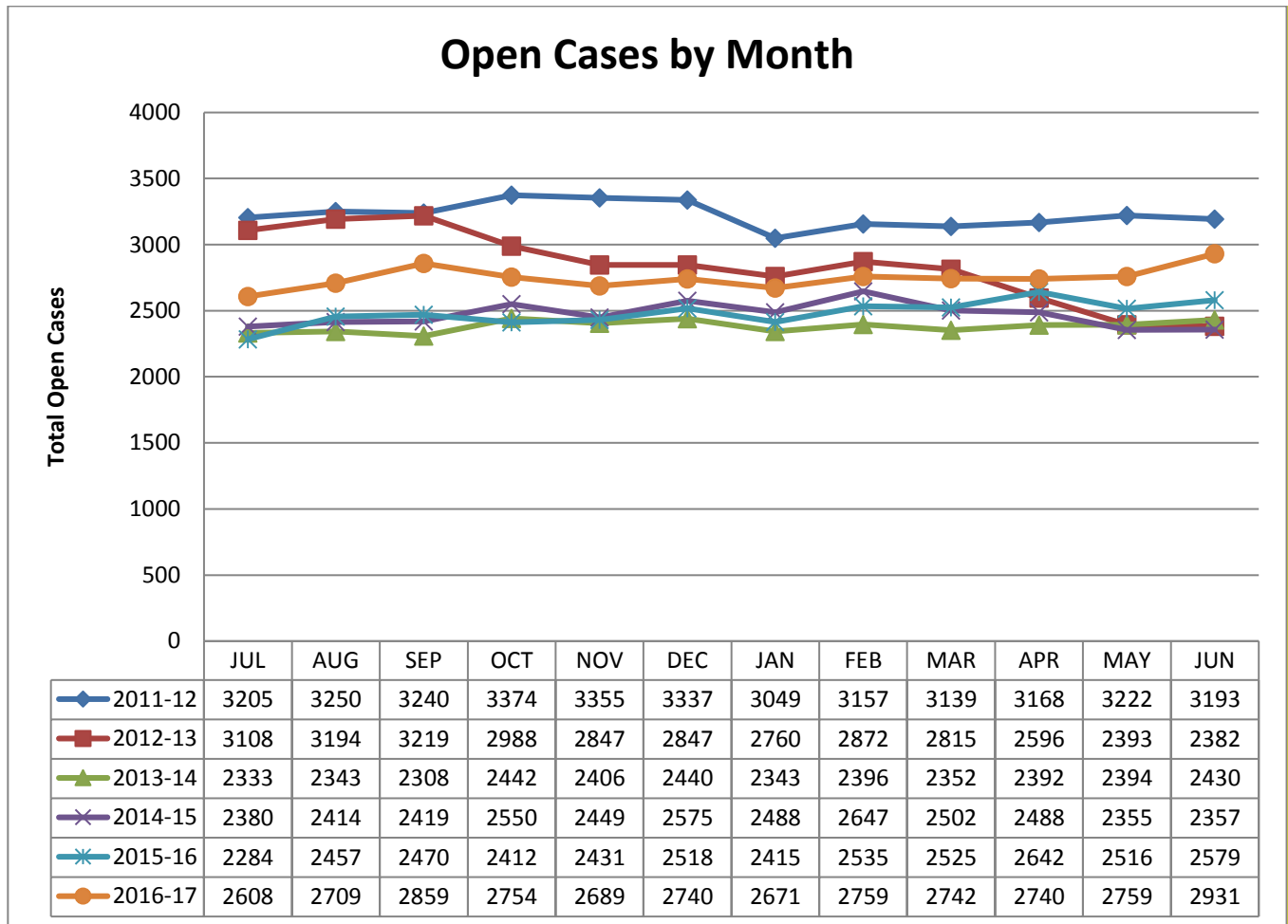
DPP obtains jurisdiction to initiate an investigation of misconduct and/or moral fitness when it receives: a report of an employment action taken by an employing school district as a result of misconduct or while allegations of misconduct are pending; a complaint made under penalty of perjury by someone 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 2016-17, DPP's monthly caseload range increased to 2,600 - 2,800 open cases. A majority of the case increase is as a result of a higher number of applications received, which includes first time applicants. Despite this increase, cases continue to be processed in a timely manner, which will be illustrated later in this report.

Number of Cases Opened

FY 2016-17 began the year with 2,579 cases and ended with 2,931, and a monthly average of 2,747 cases. Staff opened an average of 487 cases/month during FY 2016-17, which included 719 in June 2017 that contributed to the higher ending caseload of 2,931. In the past six 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 cases has increased during the past two years, as shown in the table below which reflects the number of open cases at year end over the last decade:

FISCAL YEAR	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
ENDING CASELOAD	3,206	3,280	3,455	4,133	3,271	2,382	2,430	2,357	2,579	2,931

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, with the exception of Application & Rap type reports, which have increased cases by 449 in 2015-16 and 559 in 2016-17, when compared to FY 2014-15.

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 2016-17, district reports (including breach of contract complaints) were 13% of all new cases and an increase of 133 cases, as shown below:

NEW CASES OPENED BY REPORT TYPE						
REPORT TYPE	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
APPLICATION	787	994	733	753	776	792
APPLICATION & RAP	1353	1701	1811	1964	2413	2523
RAP SHEET	2254	2200	1971	1757	1592	1433
SCHOOL DISTRICT/OFFICE OF ED	765	654	731	636	568	687
OTHER	64	88	81	72	88	108
ARRESTING AGENCY	0	3	2	1	2	5
AFFIDAVIT/COMPLAINT	107	194	147	133	198	242
BREACH OF CONTRACT	16	2	18	85	36	50
STATE TEST MISCONDUCT	14	5	2	0	0	0
WAIVER	16	8	18	3	5	0
TOTAL	5376	5849	5514	5404	5678	5840

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 2016-17 saw an increase in cases for First Time Applicants for the fifth consecutive year, with the last two being significant increases of 505 cases in FY 2015-16 and 422 in FY 2016-17, when compared to FY 2014-15. The “First Time Applicant” designation also replaced the “Holder” designation as the primary designation of cases being opened as shown in the table below:

NEW CASES OPENED BY DESIGNATION						
DESIGNATION	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
APPLICANTS	273	398	300	298	373	392
APPLICANTS/HOLDERS	318	308	283	321	320	332
FIRST TIME APPLICANTS	1560	1906	1953	2068	2490	2573
HOLDERS	3203	3227	2959	2708	2490	2538
WAIVERS	22	10	19	9	5	5
TOTAL	5376	5849	5514	5404	5678	5840

What types of misconduct were alleged?

During FY 2016-17, 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	2016-17
ALCOHOL	2016	2408	2409	2290	2531	2447
OTHER CRIMES	1420	1486	1085	1151	1338	1396
SERIOUS CRIMES/FELONIES	857	896	825	835	842	924
DRUGS	243	235	223	280	229	240
CHILD CRIME NON-SEXUAL	534	537	555	560	445	454
CHILD CRIME SEXUAL	208	194	328	216	216	306
ADULT-SEXUAL	98	93	89	72	77	73
TOTAL	5376	5849	5514	5404	5678	5840

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 90.5 cases were presented to the Committee during FY 2016-17 as shown below:

FY	INITIAL REVIEW CASES												TOTAL
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	
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
2013-14	91	93	90	84	90	91	88	90	89	90	86	83	1065
2014-15	89	93	93	95	91	93	91	88	89	89	92	94	1097
2015-16	92	90	91	89	90	89	88	90	94	92	90	93	1088
2016-17	88	91	89	91	92	93	93	88	91	88	91	91	1086

The goal for FY 2017-18 is to maintain a stable number of open cases in the range of 2,600 – 2,800 cases and continue to complete cases in a timely manner. Therefore, staff will continue to present an average of 90 cases a month to the Committee, but may consider a slight increase on a monthly basis if the overall number of open cases continues to rise.

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 of those cases not closed during the Initial review. At the formal review stage an individual can request an opportunity to testify and answer questions before the COC members. In FY 2016-17, the number of formal review cases decreased by 51 from the prior year. A comparison of the formal review cases by FY are as follows:

FY	FORMAL REVIEW CASES												TOTAL
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	
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
2013-14	62	64	66	66	68	58	72	68	68	66	64	65	787
2014-15	70	61	61	71	73	72	68	66	63	62	56	56	779
2015-16	69	75	74	69	69	67	69	64	71	70	70	66	833
2016-17	73	72	56	66	61	65	65	56	67	69	72	60	782

Another factor that has helped reduce the caseload in the past is the number of Consent Calendar cases presented to the Committee on a monthly basis. Below is the number of Consent Calendar cases presented to the Committee during the past six years as shown in the table below:

FY	CONSENT CALENDAR CASES												
	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
2013-14	153	114	91	110	155	121	135	107	113	124	138	123	1484
2014-15	108	93	101	89	193	91	154	112	211	161	177	193	1683
2015-16	110	112	170	166	134	110	118	142	143	139	145	148	1637
2016-17	110	134	95	134	149	131	158	115	112	168	111	110	1527

The COC reviewed an average of 127.25 cases per month in 2016-17 and prepared 145 CC cases for the July 2017 COC meeting.

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 Offense cases, select Vehicle Code cases and cases with 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 2016-17, staff closed 1,440 cases as shown in the table below:

FY	SINGLE ALCOHOL OFFENSE												
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
2012-13	38	65	148	244	84	101	148	121	160	235	170	121	1635
2013-14	150	124	99	178	122	154	160	120	140	106	136	110	1599
2014-15	139	91	106	115	126	148	149	151	130	127	103	123	1508
2015-16	99	188	153	106	122	121	130	131	115	123	141	121	1550
2016-17	20	50	74	252	93	177	144	106	139	124	77	184	1440

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
2012-13	56	58	41	66	47	88	64	128	74	113	115	83	933
2013-14	57	52	62	52	62	86	59	44	43	51	43	46	657
2014-15	49	50	43	45	52	52	51	59	58	43	55	43	600

2015-16	54	65	45	54	38	58	69	34	53	47	56	72	645
2016-17	59	66	49	53	69	45	75	50	65	42	54	61	688

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
2012-13								12	20	16	18	12	78
2013-14	6	13	7	11	8	12	12	9	6	12	10	4	110
2014-15	8	5	12	13	8	6	9	12	6	11	7	11	108
2015-16	5	17	18	13	12	12	10	9	6	10	11	6	129
2016-17	4	5	5	13	8	15	16	7	8	9	1	18	109

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
2012-13	6	7	11	11	6	3	31	5	19	13	5	4	121
2013-14	5	5	4	10	10	16	7	7	9	11	7	2	93
2014-15	6	5	18	7	11	14	5	6	10	8	17	16	123
2015-16	10	8	8	12	6	9	11	5	7	2	7	4	89
2016-17	7	6	6	10	9	8	7	7	11	21	6	9	107

The Commission’s policy decisions resulted in 2,344 matters being closed pursuant to the Commission’s delegation, a slight decrease from last fiscal year (2015-16) of 2,413. These policies enabled both staff and the Committee to focus available resources on more significant allegations of misconduct.

DPP is considering adding a policy and/or amending current policies (previously approved by the Commission) to allow staff to close cases that are placed on the Committee’s Consent Calendar that are routinely closed by the COC. Adding or amending current policies to authorize staff to review and close these matters, will eliminate the time it takes to prep the cases for Committee review and instead allow staff to close these cases in a matter of days. This proposal will likely be brought to the Commission at the October 2017 meeting.

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 2016-17 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, two were removed as outliers, which included two school district cases that involved lengthy appeals processes, where the Office of the Attorney General was providing representation for the Commission.

The “significant improvements” we made the previous fiscal years when compared to the BSA Audit continued during the 2016-17 fiscal-year, which included the average time it took to open a case, which was reduced from 128 days to 8. 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 8 days. The total average time for a case was reduced from 683 days to 387 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.

EDUCATOR DISCIPLINE – TIMELINESS		
Receive a report of Misconduct		
	2011 BSA	FY 2016-17
Average	128	8
Median	38	7
↓		
Case Opened		
Average	103	8
Median	69	7
↓		
DPP Requests court, law enforcement and other documents related to the misconduct (first action)		
Average	274	186
Median	209	181
↓		
Letter of Inquiry sent (beginning of investigation)		
Average	85	80
Median	86	79
↓		
30 Day/Formal meeting letter sent		
Average	62	62
Median	60	63
↓		
Date of COC Recommendation Action		
Average	88	88
Median	76	77
↓		
RECOMMENDED COC ACTION MOVES TO CTC AGENDA (COMMISSION ACTION)		
TOTAL TIME		
Average	683	387
Median	721	433

Additional (2016-17) timeliness statistics include closing the following case types: Consent Calendar cases took an average of 105 days to close up from an average of 91 in 2015-16; Single Alcohol Offenses took an average of 7 days, down from 9; and an average of 6 days to close Vehicle Code cases, down from an average of 7.

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.

Mandatory revocations are placed on the Commission’s Consent Calendar for information only at the next scheduled Commission meeting.

MANDATORY ACTIONS							
ACTION TYPE	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
MANDATORY REVOCATION	192	163	150	173	134	146	126
MANDATORY DENIAL	75	30	36	46	30	42	41
TOTAL	267	193	186	219	164	188	167

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:

DISCRETIONARY DECISIONS							
ACTION TYPE	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
REVOCATION	174	150	209	222	266	276	242
DENIAL	40	87	24	67	92	75	105
SUSPENSIONS	243	293	340	320	267	224	255
PRIVATE ADMONITION	8	2	9	4	6	1	1
PUBLIC REPROVAL	72	108	104	32	40	32	50
TOTAL	537	640	686	645	671	608	653

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

ADVERSE ACTIONS	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
DISCRETIONARY DECISIONS	537	640	686	645	671	608	653
MANDATORY ACTIONS	267	193	186	219	164	188	167
TOTAL	804	833	872	864	835	796	820

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 appears to have stabilized as shown below. The AG has

indicated that its case backlog will be eliminated by the end of next fiscal year.

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
2016-17	282	283	283	287	290	286	297	292	306	307	289	294

ADMINISTRATIVE ADJUDICATION WORKLOAD						
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
APPEALS REQUESTED	60	123	142	199	185	147
SETTLEMENTS (NON-SPECIFIED)	17	18	0	0	3	15
SETTLEMENTS (COMMISSION STAFF)	29	48	58	51	33	27
SETTLEMENTS (ATTORNEY GENERAL)	22	17	13	29	23	42
PROPOSED ALJ DECISIONS ADOPTED BY CTC	10	19	8	7	16	21

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 has 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 2016-17, the Commission granted more petitions than it denied 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
2016-17	19	14	33

Conclusion

Although FY 2016-17 ended with a higher than normal caseload of 2,931 cases, the monthly caseload average was 2,747 and within the 2,600 to 2,800 range that the Division would like to maintain. As stated in the report above, the ending caseload and the overall average were higher in FY 2016-17, due

in part to the following:

- Staff opened an average of 487 cases per month during the FY 2016-17, including 719 cases in June 2017, or 232 cases above the monthly average.
- The Division received, opened and processed a higher number of first time applications for the fifth consecutive year, including the last two being significant increases of 422 cases in 2015-16 and 505 cases in 2016-17, when compared to 2014-15. This may be attributed to the teacher shortage.

DPP continues to maintain its goal of case equilibrium as we open and close between 5,500 – 6,000 cases annually. The number of cases opened per year are roughly equivalent to the number of cases closed per year.

In FY 2017-18, the DPP management team 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.”