
6B

Information

Professional Practices Committee

Division of Professional Practices Annual Workload Report Fiscal Year 2018-19

Executive Summary: This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year 2018-19.

Recommended Action: For information only

Presenter: Gil Gonzalez, Manager, 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.

Division of Professional Practices Annual Workload Report Fiscal Year 2018-19

Introduction

This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year (FY) 2018-19.

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 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 certificated 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.

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 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 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 information including, but not limited to, the following: 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 from the Department of Justice (DOJ); or from self-disclosure on an application for a credential.

Division Workload

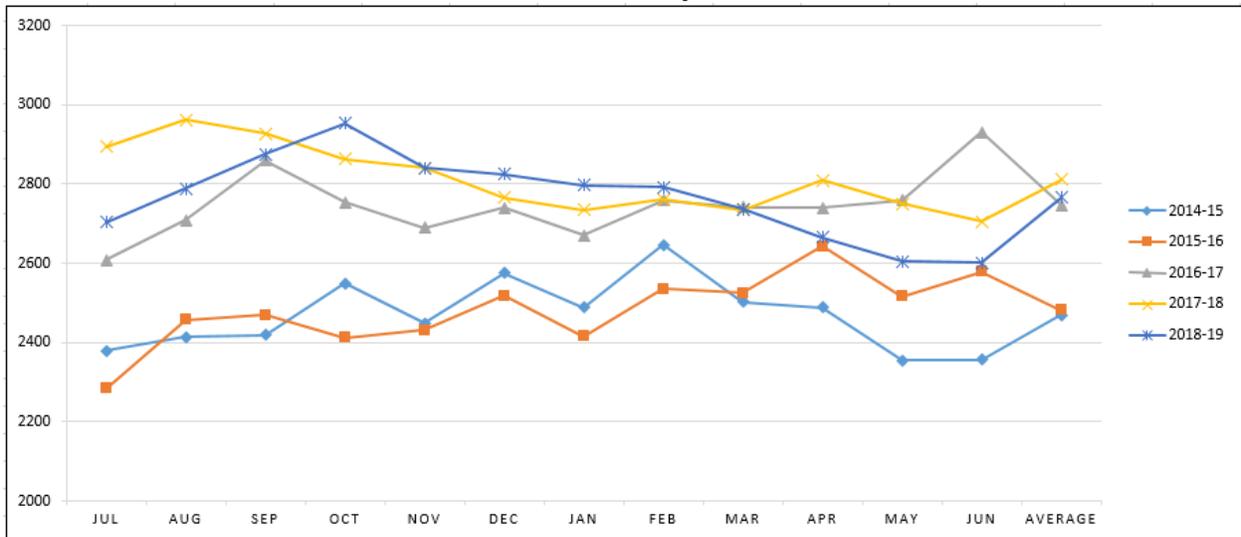
In FY 2018-19, DPP's monthly caseload remained in the new range of 2,600-2,800 cases and had monthly totals ranging between 2,601-2,954 open cases. The total number of open cases fell

below 2,700 as of April 2019 and remained that way until the end of the fiscal year, but remains above the previous normal range of 2,400-2,600 cases.

Number of Cases Opened

FY 2018-19 began with 2,706 open cases and ended with 2,601, and a monthly average of 2,766. Staff opened an average of 453 cases per month. Although the average number of open cases dropped from 2,812 in FY 2017-18, the 2018-19 average remains well above the average number of open cases of 2,382 in FY 2013-14, an increase of 384 cases.

Total Caseload by Month



Fiscal Year	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Average
2014-15	2380	2414	2419	2550	2449	2575	2488	2647	2502	2488	2355	2357	2469
2015-16	2284	2457	2470	2412	2431	2518	2415	2535	2525	2642	2516	2579	2482
2016-17	2608	2709	2859	2754	2689	2740	2671	2759	2742	2740	2759	2931	2747
2017-18	2894	2962	2927	2863	2841	2766	2735	2760	2734	2810	2750	2706	2812
2018-19	2703	2789	2876	2954	2841	2825	2797	2792	2737	2666	2605	2601	2766

Where did the cases come from?

DPP opened fewer cases (5,430) in 2018-19, which the total was comparable in recent years to FY 2014-15. The number of cases opened by report type remained fairly consistent over the past five years, with the notable exception of Application & Rap type reports. Application & Rap cases increased by 449 cases in 2015-16, 559 cases in 2016-17, 574 cases in 2017-18, and 363 in 2018-19. Cases involving just an “application” had remained above 700 for several years, but declined to 592 in 2018-19. Despite the decrease of open cases, the overall caseload in 2018-19 remained in the new “normal range” as noted above.

NEW CASES OPENED BY REPORT TYPE

REPORT TYPE	2014-15	2015-16	2016-17	2017-18	2018-19
APPLICATION	753	776	792	715	592
APPLICATION & RAP	1964	2413	2523	2538	2327
RAP SHEET	1757	1592	1433	1484	1456
SCHOOL DISTRICT/OFFICE OF ED	636	568	687	650	598
OTHER	72	88	108	196	164
ARRESTING AGENCY	1	2	5	8	8
AFFIDAVIT/COMPLAINT	133	198	242	247	237
BREACH OF CONTRACT	85	36	50	53	47
STATE TEST MISCONDUCT	0	0	0	0	1
WAIVER	3	5	0	4	0
TOTAL	5404	5678	5840	5895	5430

School districts continued to report an increased number of cases (598) when compared to early 2012 and prior, when the Commission received between 200-250 district reports annually. 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 three percent of new cases. In FY 2018-19, district reports, including breach of contract complaints, remained at 12 percent of all new cases.

Finally, the table indicates that affidavit cases submitted by members of the public has remained consistent the last three fiscal years. This may be attributable to the Commission's user-friendly website. The public can now easily access complaint forms under the Educator Discipline tab.

What was the credential status of persons reported to the Commission?

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. In FY 2018-19 the overall number of open cases by designation decreased in three of the four categories when compared to 2017-18. However, when compared to 2014-15, First Time Applicants was fairly consistent; cases involving Applicant and Applicant/holders increased by 250 cases, while Holder cases decreased by 224 cases.

NEW CASES OPENED BY DESIGNATION

DESIGNATION	2014-15	2015-16	2016-17	2017-18	2018-19
APPLICANTS	298	373	392	550	619
APPLICANTS/HOLDERS	321	320	332	358	250
FIRST TIME APPLICANTS	2068	2490	2573	2384	2077
HOLDERS	2708	2490	2538	2603	2484
WAIVERS	9	5	5	0	0
TOTAL	5404	5678	5840	5895	5430

What types of misconduct were alleged?

During FY 2018-19, the number of new cases opened by offense type remained relatively consistent with previous years, with the exception of cases classified as “alcohol” and “other” crimes, which had decreases of 234 and 213, respectively, as shown below:

NEW CASES OPENED BY TYPE OF MISCONDUCT

MISCONDUCT TYPE	2014-15	2015-16	2016-17	2017-18	2018-19
ALCOHOL	2290	2531	2447	2482	2248
OTHER CRIMES	1151	1338	1396	1332	1119
SERIOUS CRIMES/FELONIES	835	842	924	942	944
DRUGS	280	229	240	251	231
CHILD CRIME NON-SEXUAL	560	445	454	447	465
CHILD CRIME SEXUAL	216	216	306	331	333
ADULT-SEXUAL	72	77	73	110	90
TOTAL	5404	5678	5840	5895	5430

How Many Cases were Reviewed by the Committee of Credentials?

Effective May 2013, DPP management set a target for the number of Initial Review cases to 90 cases per month. Due to the increased number of cases opened in FY’s 2016-17 and 2017-18, an average of 95 Initial Review cases were presented to the COC each month and an average of 104 in 2018-19, as shown below, with a high of 107 cases in December 2018:

INITIAL REVIEW CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2017-18	91	93	93	92	96	97	88	91	98	99	98	100	1136
2018-19	100	100	100	106	105	107	105	106	104	106	105	104	1248

The increased number of cases presented to the COC each month was intended to limit the growth of the overall caseload as well as limit the number of cases pending before the COC. DPP achieved the goal set for FY 2018-19 as the overall caseload dropped to 2,601 in June 2018 and at the lower end of the 2,600-2,800 case range. Therefore, the average number of LOI’s presented to the COC will be reduced to 95 cases per month beginning in October 2019. Management will monitor the total caseload on a monthly basis and determine whether to increase or decrease the number of Initial Review cases presented to the COC in the future.

The number of Initial Review cases has a direct impact on the number of Formal Review cases placed on the agenda for COC review. Formal Review is the second stage in the review process of those cases not closed during Initial Review. At the Formal Review stage, an individual can request an opportunity to testify and answer questions before the COC members. In FY 2018-

19, the number of Formal Review cases increased slightly when compared to the previous two fiscal years. A comparison of the Formal Review cases by FY are as follows:

FORMAL REVIEW CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2017-18	69	51	67	68	63	63	71	66	61	55	72	74	780
2018-19	66	67	75	68	67	76	73	80	70	81	83	71	877

One factor that has helped reduce the caseload in the past is the number of Consent Calendar cases presented to the COC on a monthly basis. Below is the number of Consent Calendar cases presented to the COC during the past five years:

CONSENT CALENDAR CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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	109	134	95	134	149	131	158	115	112	168	111	110	1526
2017-18	145	125	154	163	148	97	127	108	114	133	96	156	1566
2018-19	83	79	77	122	120	94	96	118	77	109	123	123	1221

The COC reviewed an average of 102 cases per month on the Consent Calendar in FY 2018-19, including a high of 123 cases for the May and June 2019 COC meetings.

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

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. Staff closed 1,256 cases in FY 2018-19 based on this delegation, as shown in the table below:

SINGLE ALCOHOL OFFENSE

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2017-18	124	150	129	104	98	114	132	114	152	78	116	91	1402
2018-19	104	125	97	131	124	93	77	101	102	106	102	94	1256

No jurisdiction cases involve cases where the Commission is unable to obtain “formal jurisdiction.” By law, COC must have both initial and formal jurisdiction before the COC can make a recommendation for discipline. These types of cases typically involve an arrest with no charges filed or an arrest with charges dismissed. Staff closed 682 cases in FY 2018-19 based on this delegation, as shown in the table below:

NO JURISDICTION FOR FORMAL REVIEW

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2017-18	34	82	72	75	62	43	33	68	74	34	89	60	726
2018-19	46	63	67	54	65	52	50	60	52	75	45	53	682

Vehicle Code violation cases involving specific minor infractions or misdemeanors under the Vehicle Code. Violations of this type include driving without a license and driving on a suspended license. The exceptions to this policy include the involvement of a child, school property, or adverse publicity impacting the local community. Staff closed 62 cases in FY 2018-19 based on the Commission’s Vehicle Code delegation, as shown in the table below:

SPECIFIED VEHICLE CODE VIOLATIONS

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2017-18	7	12	7	7	7	3	6	3	14	7	2	7	82
2018-19	5	7	5	4	3	2	7	3	7	9	5	5	62

Expired credential cases involve cases where the educator 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 contains four exceptions, which include allegations of sexual misconduct, crimes against children, reports filed by school districts, and actions taken by other licensing agencies. Below are the number of cases closed based on the Commission’s expired credential policy:

EXPIRED CREDENTIALS

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2017-18	10	5	8	11	8	18	17	20	19	9	16	19	157
2018-19	8	9	7	7	46	9	7	14	10	18	15	5	155

Timeliness of Action on Cases

In response to the 2011 Bureau of State Audits (BSA) report, staff followed a methodology used by the State Auditor to measure the timeliness of 30 random cases completed during the FY 2018-19 fiscal year. While the auditor used a random sample of “cases closed by the division or reviewed by the COC” ([April 2011 Audit, page 25](#)), staff used a more rigorous sample using only cases reviewed by the COC. Of the 30 random sample cases, one case was removed as an outlier that involved a delay in receiving criminal records.

As indicated in the chart below, DPP has made significant improvements in timeliness when compared to the findings of the BSA audit. The average time it takes to open a case was reduced from 128 to 6 days. The average time it takes for the Division to take its first action on a case was also reduced from 103 to 11 days. The total average time for a case was reduced from 683 to 375 days, while the median time was reduced from 721 to 359 days. The “Educator Discipline Timeliness” chart shown below details all of the current milestones compared to the 2011 audit.

Educator Discipline – Timeliness Report		
Receive a Report of Misconduct		
	2011 BSA	FY 2018-19
Average	128	6
Median	38	3
Case Opened		
	2011 BSA	FY 2018-19
Average	103	11
Median	69	7
DPP Requests court, law enforcement and other documents related to misconduct (first action)		
	2011 BSA	FY 2018-19
Average	274	205
Median	209	191
Letter of Inquiry sent (beginning of investigation)		
	2011 BSA	FY 2018-19
Average	85	77
Median	86	77
30 Day/Formal meeting letter sent		
	2011 BSA	FY 2018-19
Average	62	68
Median	60	63
Date of COC Recommendation Action		
	2011 BSA	FY 2018-19
Average	88	93
Median	76	84
Recommended COC Actions Moves to CTC Agenda (Commission Action)		
	Total Time	
	2011 BSA	FY 2018-19
Average	683	375
Median	721	359

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 crime requires the Commission to mandatorily revoke all credentials. Mandatory revocations are placed on the Commission's Consent Calendar for information at the next scheduled Commission meeting.

MANDATORY ACTIONS

ACTION TYPE	2014-15	2015-16	2016-17	2017-18	2018-19
MANDATORY REVOCATION	134	146	126	161	146
MANDATORY DENIAL	30	42	41	46	36
TOTAL	164	188	167	207	182

Discretionary actions are actions taken following an Order by the Commission in cases where the COC recommended an adverse action. The COC's recommendation may be accepted by the credential holder or applicant, or it may be appealed. On appeal, an administrative hearing is held before a final action is taken by the Commission. A comparison of the number of discretionary adverse actions is shown in the table below:

DISCRETIONARY ACTIONS

ACTION TYPE	2014-15	2015-16	2016-17	2017-18	2018-19
REVOCATION	266	276	242	268	323
DENIAL	92	75	105	121	102
SUSPENSIONS	267	224	255	252	273
PRIVATE ADMONITION	6	1	1	1	0
PUBLIC REPROVAL	40	32	50	45	67
TOTAL	671	608	653	687	765

The total number of adverse actions has increased for the third FY year, as shown below:

ADVERSE ACTIONS	2014-15	2015-16	2016-17	2017-18	2018-19
MANDATORY ACTIONS	164	188	167	207	182
DISCRETIONARY DECISIONS	671	608	653	687	765
TOTAL	835	796	820	894	947

Requests for an Administrative Hearing

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

If the person requests an administrative hearing, the Commission is represented by the Office of the Attorney General (OAG) 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 OAG for representation continued to decline in FY 2018-19 as shown below:

OPEN CASES ASSIGNED TO OAG

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
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
2017-18	288	290	291	299	279	263	240	239	243	232	219	201
2018-19	194	179	174	165	169	157	152	149	145	133	129	126

OAG adjudicates the Commission’s cases by administrative hearing, default, withdrawal by the educator, settlement, or declining to prosecute. The chart below summarizes the OAG’s adjudication of cases for the Commission in FY 2018-19:

ADMINISTRATIVE ADJUDICATIVE	2017-18	2018-19
DECLINE TO PROSECUTE	7	11
CONSENT DETERMINATION	74	107
DECEASED	2	1
PROPOSED ALJ DECISIONS	53	56
DEFAULT DECISION	26	15
WITHDRAW ADMIN HEARING	43	21
WITHDRAW SOI/ACC	6	2
RECALLED	1	2
TOTALS:	212	215

Deputy Attorney General (DAG) Requests:

DPP’s Investigation Unit (IU) was expanded during the 2016-17 FY and assigned a new task of assisting the OAG in clearing its backlog of Commission cases, which has been accomplished. In providing this support to OAG, the IU locates victims and witnesses, as well as obtains affidavits and other types of documents to assist DAGs in preparation for hearing to the clear and convincing evidence standard. The IU began FY 2018-19 with 19 pending OAG investigation requests leftover from the previous FY, completed 81 and ended with five pending requests as shown below:

TOTAL NUMBER OF OAG INVESTIGATION REQUESTS 2018-19

2018-19	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals
Begin Balance	19	16	7	9	14	10	17	18	11	9	9	8	
Requests	10	3	4	15	4	10	5	3	5	5	2	1	67
Completed	13	12	2	10	8	3	4	10	7	5	3	4	81
End Balance	16	7	9	14	10	17	18	11	9	9	8	5	

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 2018-19, the Commission denied more petitions than it granted as shown below:

PETITIONS FOR REINSTATEMENT

FISCAL YEAR	GRANT	DENY	TOTAL
2014-15	13	11	24
2015-16	7	13	20
2016-17	19	14	33
2017-18	18	17	35
2018-19	14	18	32

Conclusion

In FY 2018-19 DPP reached its goal to reduce the number of open cases to ensure cases remain in DPP’s new “normal range” of 2,600-2,800 cases and continued to complete cases in a timely manner. DPP reached the goal by increasing the number of Initial Review cases completed on a monthly basis and received on average 39 fewer cases per month to open during the FY when compared to FY 2017-18.

2018-19 Highlights include the following:

- DPP’s monthly caseload ended the FY at 2,601 cases and averaged 2,766 open cases, which is within the “new normal” of 2,600 – 2,800 open cases, but remained above the prior normal range of 2,400 – 2,600 cases. The changes are attributed to DPP processing a higher number of cases through the COC/OAG processes and receiving fewer cases to open during the FY.
- Due to the increased number of cases in 2016-17 and 2017-18, management increased the number of Initial Review cases presented to the COC beginning in March 2018 and again in October 2018. This resulted in a monthly average of 104 Initial Review cases per month during FY 2018-19. The COC will continue to hear a higher number of cases during the first quarter of FY 2019-20 and reduce the average to 95 cases per month in October

2019.

- DPP's total number of open cases had risen steadily from 5,404 in 2014-15 to 5,895 in 2017-18, but declined to 5,430 in 2018-19 or 465 fewer cases when compared to 2017-18.
- The number of open cases assigned to OAG continued to decline during the FY and is at equilibrium or better. This resulted in a higher number of probation cases, which increased from 17 cases at the beginning of FY 2017-18 to 72 at the end of 2018-19, and an increased workload for the investigation unit.
- The investigative team completed 81 investigative requests for OAG this FY in partnership with the Commission's in-house OAG liaison attorney and had an ending balance of five requests.
- DPP maintained its significant improvements in timeliness when compared to the 2011-12 BSA audit.

Despite the increased COC workload completed by staff, DPP continued to fulfill its statutory responsibilities of protecting the safety of schoolchildren and the due process of California educators. Management addressed staffing issues in the investigation unit, which resulted in the support required of OAG requests and contributed to the reduction of the rising workload. Therefore, the number of Initial Review cases presented to the COC will be reduced to 95 beginning in October 2019 through early 2020. Management will monitor the workload and determine whether the Initial Review cases should be reduced to the original caseload of 90 cases per month, remain at 95 or implement a new increase.