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Information

Professional Practices Committee

Division of Professional Practices Annual Workload Report Fiscal Year 2019-20

Executive Summary: This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year 2019-20.

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.

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Division of Professional Practices Annual Workload Report Fiscal Year 2019-20

Introduction

This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year (FY) 2019-20.

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. 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.

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Division Workload

In FY 2019-20, COVID-19 had a notable impact on DPP's workload. DPP's monthly caseload began and ended within the current caseload range of 2,600-2,800 cases. The fiscal year began with a low of 2,629 cases in July 2019 and increased to a high of 2,951 in March 2020 before decreasing during the last quarter of the FY due to COVID-19. The fiscal year ended with 2,647 total cases.

TOTAL CASELOAD BY MONTH

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Average
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
2019-20	2629	2753	2748	2811	2824	2912	2865	2912	2951	2830	2649	2647	2794

Number of Cases Opened

In FY 2019-20 DPP opened 4,951 cases which is considerably fewer than the average of 5,649 cases opened during the previous five fiscal years. DPP was on pace to open approximately 5,784 cases during FY 2019-20 based on an average of 482 cases opened at the beginning of the fiscal year through February 2020. During the last quarter, an average of 241 cases were opened per month, which is significantly below the normal range of 400-500 cases.

Where did the Cases come from?

The number of cases opened by report type have remained consistent over the prior fiscal years as noted in the graph below. FY 2019-20 had an overall decrease of 479 cases when compared to 2018-19. The main decreases by report types include 259 fewer rap sheets; 90 affidavit complaints; and 72 cases involving application and rap sheets. Despite the overall decrease of open cases, the monthly average of 412 cases opened per month remained in the lower range of the normal 400-500 cases opened per month.

NEW CASES OPENED BY REPORT TYPE

REPORT TYPE	2015-16	2016-17	2017-18	2018-19	2019-20
APPLICATION	776	792	715	592	596
APPLICATION & RAP	2413	2523	2538	2327	2255
RAP SHEET	1592	1433	1484	1456	1197
SCHOOL DISTRICT/OFFICE OF ED	568	687	650	598	581
OTHER	88	108	196	164	147
ARRESTING AGENCY	2	5	8	8	2
AFFIDAVIT/COMPLAINT	198	242	247	237	147
BREACH OF CONTRACT	36	50	53	47	26
STATE TEST MISCONDUCT	0	0	0	1	0
WAIVER	5	0	4	0	0
TOTAL	5678	5840	5895	5430	4951

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School districts continued to report an increased number of cases (581) 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 2019-20, district reports, including breach of contract complaints, remained at approximately 12 percent of all new cases.

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 2019-20 the overall number of open cases by designation surprisingly increased in two of the four categories when compared to the last four fiscal years. This included applicant cases that increased by 95 and Applicant/Holder cases that increased by a nominal 37 cases when compared to 2018-19.

The two categories that decreased and was expected given the significant overall reduction of cases included 421 holder cases and 190 first time applicant cases. Again, prior to February, DPP was on pace to open 2,436 holder cases and 2,196 first time applicant cases which is comparable to the most current fiscal years.

NEW CASES OPENED BY DESIGNATION

DESIGNATION	2015-16	2016-17	2017-18	2018-19	2019-20
APPLICANTS	373	392	550	619	714
APPLICANTS/HOLDERS	320	332	358	250	287
FIRST TIME APPLICANTS	2490	2573	2384	2077	1887
HOLDERS	2490	2538	2603	2484	2063
WAIVERS	5	5	0	0	0
TOTAL	5678	5840	5895	5430	4951

Applicant – applying for new credential(s), previous credential(s) expired

Applicant/Holder – applying for new credential(s), held or holds current credential(s)

First Time Applicant – initial credential application

What Types of Misconduct were Alleged?

During FY 2019-20, as in years past, the number of alcohol related offenses remained the highest misconduct type, but also included a significant decrease of cases (381) when compared to 2018-19. Other welcome decreases regarding types of misconduct involved non-sexual child crimes (106), child crime sexual (44) and adult sexual cases (34).

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NEW CASES OPENED BY TYPE OF MISCONDUCT

MISCONDUCT TYPE	2015-16	2016-17	2017-18	2018-19	2019-20
ALCOHOL	2531	2447	2482	2248	1867
OTHER CRIMES	1338	1396	1332	1119	1168
SERIOUS CRIMES/FELONIES	842	924	942	944	992
DRUGS	229	240	251	231	220
CHILD CRIME NON-SEXUAL	445	454	447	465	359
CHILD CRIME SEXUAL	216	306	331	333	289
ADULT-SEXUAL	77	73	110	90	56
TOTAL	5678	5840	5895	5430	4951

How Many Cases were Reviewed by the Committee of Credentials?

In FY 2019-20, DPP completed 1,081 Initial Review cases despite the cancellation of the March 2020 COC meeting due to COVID-19. This was the lowest number of LOI's completed in the last five years but was still an average of 90 cases per month, which was a prior goal set in May 2013.

In March 2018, management had increased the number of initial review cases presented to the COC for approximately 18 months which 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 cases in June 2019, which is at the lower end of the 2,600-2,800 overall case range.

Therefore, in October 2019 the average number of Initial Review cases presented to the COC was reduced to approximately 95 cases per month. DPP will continue to present 90-95 cases per month through FY 2020-21. Management will continue to monitor the overall caseload and determine if any adjustments are necessary.

INITIAL REVIEW CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2019-20	105	106	107	94	92	96	99	97	0	93	96	96	1081

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 2019-20, the number of Formal Review cases had a significant drop beginning with the cancellation

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of the March 2020 COC meeting and through the end of the quarter. The COC reviewed only non-appearance cases due to COVID-19 travel restrictions during the April, May, and June meetings. This resulted in the lower total number of formal cases reviewed in FY 2019-20 as can be seen in the following chart:

FORMAL REVIEW CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2019-20	78	76	75	71	80	74	62	74	0	41	46	47	724

As noted in the October Workload Report, the COC began reviewing an increased number of formal cases in July during one- or two-day meetings in addition to their normal monthly three-day meetings. The additional meetings are to complete the delayed appearance cases from the April-June meetings and are scheduled to be completed by the COC during a final two-day meeting in October.

One factor that continues to reduce the overall caseload is the number of Consent Calendar cases presented to the COC monthly. 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
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
2019-20	120	116	106	122	85	62	80	111	0	188	74	72	1136

The COC reviewed an average of approximately 95 cases per month on the Consent Calendar in FY 2019-20, including a high of 188 cases for the April meeting that included cases from the cancelled March COC meeting.

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 973 cases in FY 2019-20 based on this delegation, as shown in the table below:

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SINGLE ALCOHOL OFFENSE

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2019-20	117	81	82	121	71	105	105	71	70	61	41	48	973

No jurisdiction cases involve cases where the Commission is unable to obtain “formal jurisdiction.” By law, the 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 650 cases in FY 2019-20 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
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
2019-20	57	36	79	69	56	51	63	61	47	58	47	26	650

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 60 cases in FY 2019-20 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
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
2019-20	6	5	7	4	5	8	7	2	7	5	3	1	60

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:

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EXPIRED CREDENTIALS

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2019-20	8	10	15	11	7	6	11	13	11	7	2	6	107

Adverse Actions

Adverse actions fall into two categories, mandatory 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	2015-16	2016-17	2017-18	2018-19	2019-20
MANDATORY REVOCATION	146	126	161	146	89
MANDATORY DENIAL	42	41	46	36	34
TOTAL	188	167	207	182	123

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	2015-16	2016-17	2017-18	2018-19	2019-20
REVOCATION	276	242	268	323	291
DENIAL	75	105	121	102	76
SUSPENSIONS	224	255	252	273	219
PRIVATE ADMONITION	1	1	1	0	1
PUBLIC REPROVAL	32	50	45	67	71
TOTAL	608	653	687	765	658

The total number of adverse actions decreased in FY 2019-20, as shown below:

ADVERSE ACTIONS	2015-16	2016-17	2017-18	2018-19	2019-20
MANDATORY ACTIONS	188	167	207	182	123
DISCRETIONARY DECISIONS	608	653	687	765	658
TOTAL	796	820	894	947	781

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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 2019-20 as shown below:

OPEN CASES ASSIGNED TO OAG

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
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
2019-20	140	149	150	155	161	152	177	175	170	167	151	147

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 2019-20:

ADMINISTRATIVE ADJUDICATIVE	2017-18	2018-19	2019-20
DECLINE TO PROSECUTE	7	11	6
CONSENT DETERMINATION	74	107	64
DECEASED	2	1	1
PROPOSED ALJ DECISIONS	53	56	24
DEFAULT DECISION	26	15	14
WITHDRAW ADMIN HEARING	43	21	17
WITHDRAW SOI/ACC	6	2	1
RECALLED	1	2	3
TOTALS:	212	215	130

Deputy Attorney General (DAG) Requests:

DPP's Investigation Unit (IU) was expanded during the 2016-17 fiscal year 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

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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 2019-20 with five (5) pending OAG investigation requests leftover from the previous fiscal year, completed 40 and ended with 19 pending requests as shown below:

TOTAL NUMBER OF OAG INVESTIGATION REQUESTS 2019-20

2019-20	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals
Begin Balance	5	5	6	9	8	8	8	14	17	20	21	20	
Requests	4	4	3	3	3	6	6	9	5	5	2	4	54
Completed	4	3	0	4	3	6	0	6	2	4	3	5	40
End Balance	5	6	9	8	8	8	14	17	20	21	20	19	

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 consistent. During FY 2019-20, the Commission denied more petitions than it granted as shown below:

PETITIONS FOR REINSTATEMENT

FISCAL YEAR	GRANT	DENY	TOTAL
2015-16	7	13	20
2016-17	19	14	33
2017-18	18	17	35
2018-19	14	18	32
2019-20	9	18	27

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 2019-20 fiscal year. While the auditor used a random sample of “cases closed by the division or reviewed by the COC,” 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 days to one (1). The average time it takes for the Division to take its first action on a case was also reduced from 103 to ten (10) days. The total average time for a case

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was reduced from 683 to 394 days, while the median time was reduced from 721 to 425 days. The “Educator Discipline Timeliness” chart shown below details all the current milestones compared to the 2011 audit.

Educator Discipline – Timeliness Report		
Receive a Report of Misconduct		
	2011 BSA	FY 2019-20
Average	128	1
Median	38	1
Case Opened		
	2011 BSA	FY 2019-20
Average	103	10
Median	69	7
DPP Requests court, law enforcement and other documents related to misconduct (first action)		
	2011 BSA	FY 2019-20
Average	274	198
Median	209	201
Letter of Inquiry sent (beginning of investigation)		
	2011 BSA	FY 2019-20
Average	85	75
Median	86	74
30 Day/Formal meeting letter sent		
	2011 BSA	FY 2019-20
Average	62	72
Median	60	68
Date of COC Recommendation Action		
	2011 BSA	FY 2019-20
Average	88	104
Median	76	91
Recommended COC Actions Moves to CTC Agenda (Commission Action)		
Total Time		
	2011 BSA	FY 2019-20
Average	683	394
Median	721	425

Conclusion

FY 2019-20 was shaping up to include an equal, if not higher number of total cases processed in many of the categories mentioned above, based on the overall totals as of February 2020. In March, COVID-19 became an unexpected factor that caused various disruptions, which included the following:

- A majority of Commission staff began telecommuting in March 2020, which required adjustments to Commission processes.
- Fewer reports of misconduct were received by DPP to include First Time Applicant cases with self-disclosure; school district reports; and cases involving Rap Sheets from the Department of Justice.

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- There was a significant decrease in the number of cases opened and closed during the last quarter of the fiscal year.
- The March 2020 COC meeting was cancelled which included Initial, Formal and Consent Calendar cases.
- Travel restrictions required appearance cases to be cancelled during the April, May, and June 2020 COC meetings, which resulted in approximately 85 to 90 cases being delayed.
- School districts, law enforcement, courts and other agencies were temporarily closed and/or staff reduced, which caused a delay in obtaining records and thus delaying processing of DPP cases.

Despite COVID-19 and the issues noted above, the 2019-20 highlights include the following:

- DPP's monthly caseload ended the fiscal year at 2,647 cases, well within the normal range of 2,600 – 2,800 open cases.
- The division goal to reduce the overall caseload was reached in October 2019 and allowed management to reduce the number of Initial Review cases presented to the COC from approximately 105 to 95 cases per month.
- Commission staff completed 1,081 Initial Review cases or an average of 90 cases per month despite the cancellation of the March COC meeting.
- The number of open cases assigned to OAG continued to decline and is currently at equilibrium or better.
- The investigative team completed 81 investigative requests for OAG in partnership with the Commission's in-house OAG liaison attorney and had an ending balance of 19 requests.
- DPP maintained its significant improvements in timeliness when compared to the 2011-12 BSA audit.
- Division staff transitioned to telecommuting with little disruption in processing of the workload.
- The COC team adjusted their normal meeting process and began reviewing cases remotely beginning with the April 2020 COC meeting and will continue this process during the 2020-21 fiscal year.

Despite COVID-19 and the issues and disruptions it caused, Commission staff is pleased to report that DPP continues to fulfill its statutory responsibilities of protecting the safety of schoolchildren and the due process of California educators. In addition, Commission staff made a seamless transition to telecommuting and maintained caseload processing in the same manner and at the same level as prior to COVID-19. Therefore, the number of Initial Review cases presented to the COC will remain in the 90-95 monthly case range. Management will monitor the overall caseload and determine whether to implement a change in the number of monthly Initial Review cases.