
3B

Information

Professional Practices Committee

Division of Professional Practices Annual Workload Report Fiscal Year 2020-21

Executive Summary: This agenda item presents the annual report on the discipline workload of the Division of Professional Practices for Fiscal Year 2020-21.

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 2020-21

Introduction

This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year (FY) 2020-2021.

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 (Committee). The seven members of the Committee are appointed by the Commission to review alleged misconduct. The Committee 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 Committee 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 Committee 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 2020-21, COVID-19 continued to impact DPP's overall workload. The fiscal year began with a high of 2,568 cases in July 2020 and steadily decreased to a low of 2,018 in May 2021, before

ending the FY at 2,027. DPP's monthly caseload totals during the FY remained below the pre-COVID normal range of 2,600-2,800 cases.

TOTAL CASELOAD BY MONTH

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	AVG
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
2020-21	2568	2526	2410	2402	2289	2287	2210	2177	2097	2110	2018	2027	2260

Number of Cases Opened

In FY 2020-2021 DPP opened 3,492 cases or an average of 291 cases per month, which is well below the normal range of 400-500 cases opened per month. In comparison to the previous five fiscal years, DPP opened an average of 5,559 cases per FY or an average of 463 cases per month.

Where did the Cases come from?

DPP receives reports of misconduct from several sources including applicants who self-disclose, school district reports and records of arrest and prosecution (RAP sheets) from the Department of Justice.

DPP opened fewer cases for the third consecutive FY, which includes a significant decrease during FY 2020-21. Therefore, the number of cases opened by report type also decreased. In comparison to 2019-20, decreases by report types include 222 fewer cases involving applications, 573 fewer Application & rap cases, 354 fewer rap cases, and 307 fewer school district cases. Affidavit/Complaints and Breach of Contract report types were at somewhat normal levels when compared to FY 2019-20, but still considerably less than pre-COVID fiscal year totals.

NEW CASES OPENED BY REPORT TYPE

REPORT TYPE	2016-17	2017-18	2018-19	2019-20	2020-21
APPLICATION	792	715	592	596	374
APPLICATION & RAP	2523	2538	2327	2255	1682
RAP SHEET	1433	1484	1456	1197	843
SCHOOL DISTRICT/OFFICE OF ED	687	650	598	581	274
OTHER	108	196	164	147	129
ARRESTING AGENCY	5	8	8	2	0
AFFIDAVIT/COMPLAINT	242	247	237	147	140
BREACH OF CONTRACT	50	53	47	26	34
STATE TEST MISCONDUCT	0	0	1	0	0
SUBPOENA	N/A	N/A	N/A	N/A	16
WAIVER	0	4	0	0	0
TOTAL	5840	5895	5430	4951	3492

School closures due to COVID-19 had a significant impact on school district reports received by DPP. Unfortunately, it is expected that reports will increase as schools and districts begin to reopen.

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 2020-21 the overall number of open cases by designations decreased in each of the four categories when compared to the last four fiscal years shown in the graph below.

The first two categories, Applicants and Applicant/Holders decreased by 402 and 133 cases respectively, when compared to FY 2019-20. First Time Applicants and Holders consist of the highest number of cases on an annual basis decreased by 298 and 626 cases.

NEW CASES OPENED BY DESIGNATION

DESIGNATION	2016-17	2017-18	2018-19	2019-20	2020-21
APPLICANTS	392	550	619	714	312
APPLICANTS/HOLDERS	332	358	250	287	154
FIRST TIME APPLICANTS	2573	2384	2077	1887	1589
HOLDERS	2538	2603	2484	2063	1437
WAIVERS	5	0	0	0	0
TOTAL	5840	5895	5430	4951	3492

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 2020-21, each type of misconduct category declined in comparison to the prior FY. The number of alcohol related offenses remained the highest misconduct type, but also included a significant decrease of cases (515). Other welcome decreases regarding types of misconduct involved other crimes (368), serious crimes/felonies (202), non-sexual child crimes (150), and child crime sexual (104).

NEW CASES OPENED BY TYPE OF MISCONDUCT

MISCONDUCT TYPE	2016-17	2017-18	2018-19	2019-20	2020-21
ALCOHOL	2447	2482	2248	1867	1352
OTHER CRIMES	1396	1332	1119	1168	800
SERIOUS CRIMES/FELONIES	924	942	944	992	790
DRUGS	240	251	231	220	112
CHILD CRIME NON-SEXUAL	454	447	465	359	209
CHILD CRIME SEXUAL	306	331	333	289	185
ADULT-SEXUAL	73	110	90	56	44
TOTAL	5840	5895	5430	4951	3492

How Many Cases were Reviewed by the Committee of Credentials?

In FY 2020-21, DPP completed 1,074 Initial Review cases which was the lowest number of LOI's completed in the last five years and followed a low of 1,081 in 2019-20. This is due to the overall reduction of open cases during the past two fiscal years.

In March 2018, management had increased the number of initial review cases presented to the Committee 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 Committee. DPP achieved the goal as the overall caseload dropped to 2,601 cases. In October 2019, the average number of Initial Review cases presented to the Committee was reduced to approximately 90-95 cases per month for the indefinite future.

In March 2020, COVID-19 closures began, which resulted in the cancellation of the March Committee meeting and the reduction of the overall monthly caseload through FY 2020-21. Staff continued to process 90 Initial Review cases per month during the closures because it was unknown how long the closures would continue or how long the division workload would be impacted.

In March 2021, the overall and pending caseload had been reduced to a point that DPP had fewer than 90 cases pending by the Initial Review deadline. Therefore, in June 2021, management reduced the monthly Initial Review cases assigned to the Committee to 81 (or as many cases as possible). We anticipate when schools and school districts begin to reopen and applications return to normal levels, the overall workload will increase. Management will monitor the number of Initial Review cases assigned to the Committee and adjust as needed.

INITIAL REVIEW CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2020-21	93	90	92	89	92	90	90	93	88	89	86	82	1074

The number of Initial Review cases has a direct impact on the number of Formal Review cases placed on the agenda for Committee 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 appear and answer questions before the Committee members.

In FY 2020-21, the number of Formal Review cases increased due to the cancellation of the March 2020 Committee meeting and the cancellation of the monthly appearance cases through the end of FY 2019-20. The Committee reviewed only non-appearance cases because of COVID-19 travel restrictions during the April, May, and June meetings. The delayed appearance cases

were reviewed during the July – October 2021 additional 2-day Committee meetings. The increased number of cases reviewed are apparent in the following chart:

FORMAL REVIEW CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2020-21	82	82	98	94	67	63	77	66	70	66	68	56	889

One factor that continues to reduce the overall caseload is the number of Consent Calendar cases presented to the Committee monthly. The reduced caseload in FY 2020-2021 led to fewer cases that needed review by the Committee. Below is the number of Consent Calendar cases presented to the Committee during the past five fiscal years:

CONSENT CALENDAR CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2020-21	84	94	74	69	103	45	59	41	58	53	59	60	799

The Committee reviewed an average of approximately 67 cases per month on the Consent Calendar, including a high of 94 cases during the August 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 cases that involved a single alcohol-related offense that did not impact children or schools. Staff closed 781 cases in FY 2020-21 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
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
2020-21	85	69	82	64	42	73	38	77	42	81	50	78	781

No jurisdiction cases involve cases where the Commission is unable to obtain “formal jurisdiction.” By law, the Committee must have both initial and formal jurisdiction before the Committee 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 581 cases in FY 2020-21 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
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
2020-21	38	78	49	62	53	60	23	49	56	35	43	35	581

Vehicle Code violation cases involve 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 37 cases in FY 2020-21 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
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
2020-21	3	5	4	5	1	3	0	3	4	3	2	4	37

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
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
2020-21	7	10	9	6	9	11	4	14	12	14	10	7	113

As previously stated, the overall reduction of reports of misconduct received during the fiscal year also had a direct impact in the reduction of the number of cases that staff was required to process and closed where formal delegation was involved.

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	2016-17	2017-18	2018-19	2019-20	2020-21
MANDATORY REVOCATION	126	161	146	89	70
MANDATORY DENIAL	41	46	36	34	35
TOTAL	167	207	182	123	105

Discretionary actions are actions taken following an Order by the Commission 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. 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	2016-17	2017-18	2018-19	2019-20	2020-21
REVOCATION	242	268	323	291	248
DENIAL	105	121	102	76	60
SUSPENSIONS	255	252	273	219	232
PRIVATE ADMONITION	1	1	0	1	0
PUBLIC REPROVAL	50	45	67	71	61
TOTAL	653	687	765	658	601

The total number of adverse actions decreased in FY 2020-21, as shown below:

ADVERSE ACTIONS	2016-17	2017-18	2018-19	2019-20	2020-21
MANDATORY ACTIONS	167	207	182	123	105
DISCRETIONARY DECISIONS	653	687	765	658	601
TOTAL	820	894	947	781	706

Requests for an Administrative Hearing

At the Formal Review stage, the Committee 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 increased during the second half of FY 2020-21 as shown in the graph below:

OPEN CASES ASSIGNED TO OAG

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
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
2020-21	143	134	134	141	136	154	150	151	159	170	165	162

The 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 2020-21:

ADMINISTRATIVE ADJUDICATIVE	2017-18	2018-19	2019-20	2020-21
DECLINE TO PROSECUTE	7	11	6	10
CONSENT DETERMINATION	74	107	64	66
DECEASED	2	1	1	0
PROPOSED ALJ DECISIONS	53	56	24	28
DEFAULT DECISION	26	15	14	14
WITHDRAW ADMIN HEARING	43	21	17	7
WITHDRAW SOI/ACC	6	2	1	4
RECALLED	1	2	3	1
TOTAL	212	215	130	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 since 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 2020-21 with nineteen (19) pending OAG investigation requests from the previous fiscal year, received 62, completed 65 and ended the FY with 16 pending requests as shown below:

TOTAL NUMBER OF OAG INVESTIGATION REQUESTS 2020-21

2020-21	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTALS
Begin Balance	19	13	12	9	5	4	3	4	9	10	12	18	
Requests	5	3	1	2	1	3	2	9	5	8	12	11	62
Completed	11	4	4	6	2	4	1	4	4	6	6	13	65
End Balance	13	12	9	5	4	3	4	9	10	12	18	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 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 2020-21, the Commission granted 18 petitions and denied 17 as shown below.

PETITIONS FOR REINSTATEMENT

FISCAL YEAR	GRANT	DENY	TOTAL
2016-17	19	14	33
2017-18	18	17	35
2018-19	14	18	32
2019-20	9	18	27
2020-21	18	17	35

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 2020-21 fiscal year. While the auditor used a random sample of “cases closed by the division or reviewed by the Committee,” staff used a more rigorous sample using only cases reviewed by the Committee.

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 two (2). The average time it takes for the Division to take its first action on a case was also reduced from 103 to seven (7) days. The total average time for a case was reduced from 683 to 377 days, while the median time was reduced from 721 to 342 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 2020-21
Average	128	2
Median	38	1

Case Opened

	2011 BSA	FY 2020-21
Average	103	7
Median	69	5

DPP Requests court, law enforcement and other documents related to misconduct (first action)

	2011 BSA	FY 2020-21
Average	274	214
Median	209	194

Letter of Inquiry sent (beginning of investigation)

	2011 BSA	FY 2020-21
Average	85	87
Median	86	87

30 Day/Formal meeting letter sent

	2011 BSA	FY 2020-21
Average	62	67
Median	60	63

Date of COC Recommendation Action

	2011 BSA	FY 2020-21
Average	88	75
Median	76	77

Recommended COC Actions Moves to CTC Agenda (Commission Action) Total Time

	2011 BSA	FY 2020-21
Average	683	377
Median	721	342

Conclusion:

In FY 2020-21, the Division continued to process the caseload in a timely manner which was reduced significantly. Factors that caused the reduction included staff completing 90 Initial Review cases per month through the COC process and receipt of fewer reports of misconduct due to COVID-19 closures and travel restrictions that began in March 2020.

The year began with 2,568 total cases. The total number of cases decreased steadily during the year to a low of 2,018 cases in May before ending the fiscal year with 2,027 cases. The May 2021 total is the lowest number of open cases in any month during the past ten fiscal years. The reduction of the caseload and receipt of fewer reports of misconduct resulted in the following:

- A reduced number of cases were opened (3,492) during the fiscal year, which had averaged 5,559 cases opened in the last five fiscal years. The average of 291 cases

opened per month, is significantly less than the pre-COVID normal range of 400-500 cases.

- Fewer cases required processing in which the Commission delegated staff to close, including Single Alcohol Offense, No Jurisdiction, and Vehicle Code cases.
- Fewer Consent Calendar cases were processed when compared to prior fiscal years.
- An average of 343 cases were closed per month, which is also below the pre-COVID normal range of 400-500 cases.

The 2020-21 highlights include the following:

- As stated above, DPP's monthly caseload ended the fiscal year at 2,027 open cases, well below the normal range of 2,600-2,800 open cases and May's total of 2,018 surpassed the previous low of 2,284 open cases in July 2015.
- Division staff completed 1,078 Initial Review cases or approximately 90 cases per month.
- The normal 2-3 month pending initial review workload was eliminated, which are cases ready for Committee of Credentials review.
- Staff processed an increased number of formal review cases, which included the delayed 2019-20 appearance cases.
- The investigative team completed 65 investigative requests for OAG in partnership with the Commission's in-house OAG liaison attorney and had an ending balance of 16 requests.
- DPP maintained its significant improvements in timeliness when compared to the 2011-2012 BSA audit.
- The Committee continued to review cases remotely in FY 2020-21, which may change in FY 2021-2022.

Despite the ongoing issues and disruptions COVID-19 has caused, Commission staff is pleased to report that DPP continues to fulfill its statutory responsibilities of protecting the safety of school children and the due process of California educators. In addition, Commission staff continued its seamless transition of telecommuting and reduced the overall caseload significantly.

Therefore, the number of Initial Review cases presented to the Committee will fluctuate at least during the first half of FY 2021-22 due to the elimination of pending cases ready for Committee review. Management anticipates the overall caseload will increase when schools/districts begin to reopen, and submission of applications and reports of misconduct return to normal levels.