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Information

Professional Practices Committee

Division of Professional Practices Annual Workload Report Fiscal Year 2021-22

Executive Summary: This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year 2021-22.

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 2021-22

Introduction

This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year (FY) 2021-22.

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 2021-22, COVID-19 continued to impact DPP's overall workload. The fiscal year began with a low of 2,058 cases in July 2021 and steadily increased to a high of 2,685 in May 2022, before

ending the fiscal year at 2,681. DPP’s monthly caseload totals have increased and are currently in the pre-COVID normal range of 2,600 – 2,800.

TOTAL CASELOAD BY MONTH

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	AVE
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
2021-22	2058	2118	2103	2201	2220	2438	2403	2431	2423	2529	2685	2681	2358

Number of Cases Opened

In FY 2021-22 DPP opened 4,994 cases or an average of 416 cases per month, which meets the normal range of 400 – 500 cases opened per month. In comparison to the previous four fiscal years, DPP opened an average of 4,942 cases per fiscal year or an average of 412 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 DOJ.

DPP opened more cases than the last two fiscal years (COVID) but is still slightly below pre-Covid FYs 2017-18 and 2018-19 totals. Therefore, the number of cases opened by report type also increased from the prior two years. In comparison to FY 2020-21, increases by report types include 224 more cases involving applications, a more significant increase of 735 more Application & Rap cases, 214 more Rap cases, and 159 more school district cases. Affidavit/ Complaints and Breach of Contract reports also increased when compared to FY 2020-21, which is reflected in the overall increase of 1,502 cases for the FY 2021-22 caseload.

NEW CASES OPENED BY REPORT TYPE

REPORT TYPE	2017-18	2018-19	2019-20	2020-21	2021-22
APPLICATION	715	592	596	374	598
APPLICATION & RAP	2538	2327	2255	1682	2417
RAP SHEET	1484	1456	1197	843	1057
SCHOOL DISTRICT/OFFICE OF ED	650	598	581	274	433
OTHER	196	164	147	129	147
ARRESTING AGENCY	8	8	2	0	1
AFFIDAVIT/COMPLAINT	247	237	147	140	201
BREACH OF CONTRACT	53	47	26	34	96
STATE TEST MISCONDUCT	0	1	0	0	0
SUBPOENA	n/a	n/a	n/a	16	44
WAIVER	4	0	0	0	0
TOTAL	5895	5430	4951	3492	4994

School closures due to COVID-19 continued to have a significant impact on school district

reports received by DPP in FY 2020-21. As noted in last year’s report, school district reports have increased as schools and districts reopened.

What was the Credential Status of Persons Reported (Designation) 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 holds or held a valid credential. In FY 2021-22 the overall number of open cases by designations increased in each of the four categories when compared to the last fiscal year, as shown in the graph below.

The first two categories, Applicants and Applicant/Holders, increased by 114 and 35 cases respectively, when compared to FY 2020-21. First Time Applicants and Holders consist of the highest number of cases on an annual basis, which increased substantially by 767 and 586 cases this FY, respectively, compared to FY 2020-21.

NEW CASES OPENED BY DESIGNATION

DESIGNATION	2017-18	2018-19	2019-20	2020-21	2021-22
APPLICANTS	550	619	714	312	426
APPLICANTS/HOLDERS	358	250	287	154	189
FIRST TIME APPLICANTS	2384	2077	1887	1589	2356
HOLDERS	2603	2484	2063	1437	2023
TOTAL	5895	5430	4951	3492	4994

Applicant – subsequent application for credential(s) after an initial application may have been rejected or denied by the DPP and a credential has never been held.

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

First Time Applicant – initial credential application

Holder – held or holds credential(s)

What Types of Misconduct were Alleged?

During FY 2021-22, each type of misconduct category increased in comparison to the prior fiscal years. The number of alcohol related offenses remained the highest misconduct type, and included a significant increase of cases (641) from the prior fiscal year. All categories saw an increase in number of cases: other crimes (421), serious crimes/felonies (211), drugs (75), non-sexual child crimes (83), and child crime sexual (62) and adult crime sexual (9).

NEW CASES OPENED BY TYPE OF MISCONDUCT

MISCONDUCT TYPE	2017-18	2018-19	2019-20	2020-21	2021-22
ALCOHOL	2482	2248	1867	1352	1993
OTHER CRIMES	1332	1119	1168	800	1221
SERIOUS CRIMES/FELONIES	942	944	992	790	1001
DRUGS	251	231	220	112	187
CHILD CRIME NON-SEXUAL	447	465	359	209	292
CHILD CRIME SEXUAL	331	333	289	185	247
ADULT-SEXUAL	110	90	56	44	53
TOTAL	5895	5430	4951	3492	4994

How Many Cases were Reviewed by the Committee of Credentials?

In FY 2021-22, DPP completed 851 Initial Review cases, which was the lowest number of such cases completed in the last five fiscal years. This is due to the overall reduction of open cases during the past two fiscal years, but this number is expected to increase as the growing number of cases opened this fiscal year will allow the workload pipeline to increase.

In March 2021, the overall and pending caseload had been reduced to a point where 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). DPP anticipated that when schools and school districts began to reopen and applications returned to normal levels, the overall workload would increase. DPP is starting to see more normal levels of workload returning, which will allow the Committee to review 80-90+ cases per month, above the FY 2021-22 average of 71 cases.

INITIAL REVIEW CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2021-22	82	73	67	60	69	64	66	74	71	72	70	83	851

The number of Initial Review cases directly impacts 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.

FORMAL REVIEW CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2021-22	51	60	74	70	62	61	66	63	65	72	70	72	786

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 2021-22 remains at COVID-19 levels, but as all workload is increasing, DPP expects Consent Calendar cases will also increase. There has been a slight increase this fiscal year compared to FY 2020-21. The Committee reviewed an average of 74 cases per month on the Consent Calendar, including a high of 96 cases during the June meeting.

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
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
2021-22	77	61	85	89	80	42	89	78	70	83	41	96	891

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 1,076 cases in FY 2021-22 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
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
2021-22	60	100	89	97	63	117	116	63	70	97	89	115	1076

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 522 cases in FY 2021-22 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
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
2021-22	48	47	56	45	34	40	50	41	41	45	32	44	522

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 when the violation involves a child, school property, or adverse publicity impacting the local community. Staff closed 64 cases in FY 2021-22 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
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
2021-22	3	7	7	6	5	6	9	3	4	3	7	4	64

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: 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
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
2021-22	10	5	7	7	6	6	7	8	6	8	2	5	77

The Single Alcohol Offense and Specified Vehicle Code Violations were the only categories which have returned to near pre-COVID-19 totals, with fiscal year increases of 295 and 27 cases, respectively. The other categories remain at lower-than-normal levels.

Adverse Actions

Adverse actions fall into two categories, mandatory and discretionary. Mandatory actions are actions required by statute. A criminal conviction for a specified sex offense, drug offense or certain other specified crime require the Commission to mandatorily revoke all credentials, and/or mandatorily deny any pending application. Mandatory actions are placed on the Commission’s Consent Calendar as an informational item at the next scheduled Commission meeting.

MANDATORY ACTIONS

ACTION TYPE	2017-18	2018-19	2019-20	2020-21	2021-22
MANDATORY REVOCATION	161	146	89	70	92
MANDATORY DENIAL	46	36	34	35	38
TOTAL	207	182	123	105	130

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	2017-18	2018-19	2019-20	2020-21	2021-22
REVOCATION	268	323	291	248	243
DENIAL	121	102	76	60	63
SUSPENSIONS	252	273	219	232	175
PRIVATE ADMONITION	1	0	1	0	6
PUBLIC REPROVAL	45	67	71	61	42
TOTAL	687	765	658	601	529

The total number of adverse actions decreased slightly in FY 2021-22, as shown below:

ADVERSE ACTIONS	2017-18	2018-19	2019-20	2020-21	2021-22
MANDATORY ACTIONS	207	182	123	105	130
DISCRETIONARY DECISIONS	687	765	658	601	529
TOTAL	894	947	781	706	659

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 average number of open cases assigned to the OAG for representation has remained steady over the last four fiscal years, as shown in the graph below:

OPEN CASES ASSIGNED TO OAG

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	AVE
2017-18	288	290	291	299	279	263	240	239	243	232	219	201	257
2018-19	194	179	174	165	169	157	152	149	145	133	129	126	156
2019-20	140	149	150	155	161	152	177	175	170	167	151	147	158
2020-21	143	134	134	141	136	154	150	151	159	170	165	162	150
2021-22	158	164	160	155	159	163	158	162	163	158	151	143	158

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 2021-22:

ADMINISTRATIVE ADJUDICATIVE	2017-18	2018-19	2019-20	2020-21	2021-22
DECLINE TO PROSECUTE	7	11	6	10	6
CONSENT DETERMINATION	74	107	64	66	52
DECEASED	2	1	1	0	0
PROPOSED ALJ DECISIONS	53	56	24	28	45
DEFAULT DECISION	26	15	14	14	7
WITHDRAW ADMIN HEARING	43	21	17	7	15
WITHDRAW SOI/ACC	6	2	1	4	1
RECALLED	1	2	3	1	1
OTHER	n/a	n/a	n/a	n/a	8
TOTAL	212	215	130	130	135

Deputy Attorney General (DAG) Requests

In providing support to the OAG, DPP’s Investigative Unit (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 evidentiary standard. The IU began FY 2021-22 with 16 pending OAG investigation requests from the previous fiscal year, received 68, completed 76 and ended the fiscal year with eight (8) pending requests as shown below:

TOTAL NUMBER OF OAG (DAG) INVESTIGATION REQUESTS 2021-22

2021-22	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTALS
Begin Balance	16	9	11	10	8	5	8	10	14	19	18	11	
Requests	4	9	4	4	5	5	5	11	9	5	4	3	68
Completed	11	7	5	6	8	2	3	7	4	6	11	6	76
End Balance	9	11	10	8	5	8	10	14	19	18	11	8	

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 2021-22, the Commission granted 12 petitions and denied 22 as shown below.

PETITIONS FOR REINSTATEMENT

FISCAL YEAR	GRANT	DENY	TOTAL
2017-18	18	17	35
2018-19	14	18	32
2019-20	9	18	27
2020-21	18	17	35
2021-22	12	22	34

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 FY 2021-22. While the auditor used a random sample of “cases closed by the division or reviewed by the Committee,” staff used a more rigorous sample by 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 four (4). The average time it takes for the Division to take its first action on a case was also reduced from 103 to fourteen (14) days. The total average time for a case to process was reduced from 683 to 366 days, while the median time was reduced from 721 to 337 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**

<i>Cases Opened</i>		
	2011 BSA	FY 2021-22
Average	128	4
Median	38	3
<i>DPP Requests Court, Law Enforcement and other Documents related to Misconduct (First Action)</i>		
	2011 BSA	FY 2021-22
Average	103	14
Median	69	8
<i>Letter of Inquiry sent (Beginning of Investigation)</i>		
	2011 BSA	FY 2021-22
Average	274	178
Median	209	109
<i>30 Day/Formal meeting letter sent</i>		
	2011 BSA	FY 2021-22
Average	85	83
Median	86	84
<i>Date of COC Recommendation Action</i>		
	2011 BSA	FY 2021-22
Average	62	63
Median	60	61
<i>Recommended COC Actions Move to CTC Agenda (Commission Action Total Time)</i>		
	2011 BSA	FY 2021-22
Average	683	366
Median	721	337

Conclusion

In FY 2021-22, DPP continued to process the caseload in a timely manner. Factors that caused a lower level of overall workload as compared to pre-COVID-19 totals, included staff completing less than the normal 90 Initial Review cases per month to present to the Committee and DPP

having received fewer reports of misconduct.

The year began with 2,058 total cases. The total number of cases increased steadily during the year to a high 2,685 cases in May before ending the fiscal year with 2,681 cases. The return of a normal caseload and receipt of slightly fewer reports of misconduct resulted in the following:

- The number of cases opened (4,994) during the fiscal year, which had averaged 4,942 cases opened over the last four fiscal years, is returning to normal. The average of 416 cases opened per month, is also reaching the pre-COVID-19 normal range of 500 cases.
- Single Alcohol Offense and Vehicle Code violation cases, which are two of the three categories of cases that the Commission has delegated staff to close (the other being No Jurisdiction cases) have increased.
- Consent Calendar cases increased by 92 when compared to last fiscal year.

The 2021-22 highlights include the following:

- As stated above, DPP's monthly caseload ended the fiscal year at 2,681 open cases, within the normal range of 2,600 – 2,800.
- Division staff completed 851 Initial Review cases or approximately 71 cases per month.
- The normal two to three month pending initial review workload remained reduced, which are cases ready for the Committee's review. This workload is expected to reach and remain at normal levels by mid FY 2022-23.
- Staff processed a significant increase of 1,502 cases from last fiscal year.
- The Investigative Unit completed 76 investigative requests for OAG in partnership with the Commission's in-house OAG liaison attorney and had an ending balance of eight requests.
- DPP maintained its significant improvements in timeliness when compared to the 2011-2012 BSA audit.

DPP expects the number of Initial Review cases presented to the Committee to fluctuate at least during the first half of FY 2022-23 but return to a consistent number of cases in the second half of the fiscal year. Management anticipates the overall caseload will increase and fluctuate during peak times of the school year, in line historical trends of when educators have typically submitted their applications for credentials and when classes are in session.

Despite the previous 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's educators.