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Information

Professional Practices Committee

Division of Professional Practices Annual Workload Report Fiscal Year 2022-23

Executive Summary: This agenda item presents the annual report on the discipline workload of the Division of Professional Practices for Fiscal Year 2022-23.

Recommended Action: For Information only

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Division of Professional Practices Annual Workload Report

Fiscal Year 2022-23

Introduction

This agenda item presents the annual report on the discipline workload of the Division of Professional Practices (DPP) for Fiscal Year (FY) 2022-23.

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 2022-23, the fiscal year began with 2,605 cases in July 2022 and steadily increased to 3,139 cases in April of 2023: before ending the fiscal year at 3,074 cases. DPP's monthly

caseload totals have increased but averaged just above the prior normal range of 2,600–2,800, with 2,886.

TOTAL CASELOAD BY MONTH

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	AVE
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
2022-23	2605	2689	2862	2794	2723	2898	2921	2942	3017	3139	2967	3074	2886

Number of Cases Opened

In FY 2022-23 DPP opened 5,740 cases or an average of 478 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 4,717 cases per fiscal year or an average of 393 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, and complaints from the public.

DPP opened more cases than the last four fiscal years, therefore, the number of cases opened by report type also increased. While FY 2020-21 was our lowest year, because of the lingering effects of school closures due to COVID-19, DPP watched a steady return of workload in the last two fiscal years. When comparing the numbers from FY 2022-23 to pre-COVID numbers from FY 2018-19, cases opened by applications declined by 64, however, cases opened per application with RAP notifications increased by 493 cases.

Breach of Contract cases also increased each of the past two fiscal years, however, the average over the past five fiscal years is only 68 cases out of the total average caseload of 4,717.

NEW CASES OPENED BY REPORT TYPE

REPORT TYPE	2018-19	2019-20	2020-21	2021-22	2022-23
APPLICATION	592	596	374	598	528
APPLICATION with RAP	2327	2255	1682	2417	2820
RAP SHEET	1456	1197	843	1057	1269
SCHOOL DISTRICT/OFFICE OF ED	598	581	274	433	531
OTHER	164	147	129	147	136
ARRESTING AGENCY	8	2	0	1	1
AFFIDAVIT/COMPLAINT	237	147	140	201	211
BREACH OF CONTRACT	47	26	34	96	138
STATE TEST MISCONDUCT	1	0	0	0	1
SUBPOENA	n/a	n/a	16	44	27
TOTAL	5430	4951	3492	4994	5740

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 2022-23 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 table below.

The Applicants category increased by 37 and the Applicant/holders category had the most sizable increase of 100% of 189 cases, when compared to FY 2021-22. First Time Applicants and Holders consist of the highest number of cases on an annual basis, which increased by 129 and 391 cases, respectively, compared to FY 2021-22.

NEW CASES OPENED BY DESIGNATION

DESIGNATION	2018-19	2019-20	2020-21	2021-22	2022-23
APPLICANTS	619	714	312	426	463
APPLICANTS/HOLDERS	250	287	154	189	378
FIRST TIME APPLICANTS	2077	1887	1589	2356	2485
HOLDERS	2484	2063	1437	2023	2414
TOTAL	5430	4951	3492	4994	5740

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 2022-23, 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 (219) from the prior fiscal year. All categories increased in the number of cases: other crimes (179), serious crimes/felonies (143), drugs (20), non-sexual child crimes (112), child crime sexual (61) and adult crime sexual (12).

NEW CASES OPENED BY TYPE OF MISCONDUCT

MISCONDUCT TYPE	2018-19	2019-20	2020-21	2021-22	2022-23
ALCOHOL	2248	1867	1352	1993	2212
OTHER CRIMES	1119	1168	800	1221	1400
SERIOUS CRIMES/FELONIES	944	992	790	1001	1144
DRUGS	231	220	112	187	207
CHILD CRIME NON-SEXUAL	465	359	209	292	404
CHILD CRIME SEXUAL	333	289	185	247	308
ADULT CRIME SEXUAL	90	56	44	53	65
TOTAL	5430	4951	3492	4994	5740

How Many Cases were Reviewed by the Committee of Credentials?

In FY 2022-23, DPP completed 1,051 Initial Review cases, which was the second lowest number of such cases completed in the last five fiscal years. This is due to the overall reduction of open

cases in the past three (3) fiscal years; however, the number of cases ready to proceed to initial review is expected to increase as the growing number of cases opened allows the workload pipeline to increase.

In June 2021, management previously reduced the monthly Initial Review cases assigned to the Committee to 81 (or as many cases as possible). This reduction in casework was due to school closures which caused the reduction of initial review cases from the normal goal of 90. 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 normal levels of workload returning, which has allowed the Committee to review an average of 87 cases per month for FY 2022-23.

INITIAL REVIEW CASES

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
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
2022-23	82	75	71	88	96	90	91	94	94	92	88	90	1051

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
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
2022-23	58	67	72	60	54	60	76	60	70	84	81	82	824

Committee Consent Calendar

As expected, the increase in Consent Calendar cases presented to the Committee was the highest in FY 2022-23 than the past four FY years, including 2018-19, just prior to COVID-19 school closures. DPP expects the annual average of cases to continue to increase, as the overall Educator applications continues to rise due to the highly publicized teacher shortage. The Committee reviewed an average of 104 cases per month on the Consent Calendar, including a high of 177 cases during the October 2022 meeting. The 104 cases per month average is an increase of 30 cases per month on average from the 2021-22 FY average of 74 cases.

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
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
2022-23	81	81	95	177	116	79	80	93	107	53	162	120	1244

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 the highest number of these cases over the past five years, a total of 1,342 cases in FY 2022-23 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
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
2022-23	72	104	115	119	148	108	111	90	108	132	118	117	1342

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. Based on this delegation, staff closed 807 cases in FY 2022-23, an increase of 285 cases from the 2021-22 FY total of 522, 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
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
2022-23	40	79	68	74	83	55	73	52	101	38	83	61	807

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 102 cases in FY 2022-23 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
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
2022-23	5	2	9	8	12	12	8	9	9	6	10	12	102

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
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
2022-23	6	5	10	7	6	8	29	9	9	7	14	11	121

All four categories, Single Offense Alcohol, No Jurisdiction for Formal Review, Specified Vehicle Code Violations and Expired Credential case types, have increased to levels prior to the decreased levels noted due to COVID-19.

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	2018-19	2019-20	2020-21	2021-22	2022-23
MANDATORY REVOCATION	146	89	70	92	87
MANDATORY DENIAL	36	34	35	38	41
TOTAL	182	123	105	130	128

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	2018-19	2019-20	2020-21	2021-22	2022-23
REVOCACTION	323	291	248	243	217
DENIAL	102	76	60	63	54
SUSPENSIONS	273	219	232	175	235
PRIVATE ADMONITION	0	1	0	6	23
PUBLIC REPROVAL	67	71	61	42	42
TOTAL	765	658	601	529	571

The total number of adverse actions increased slightly in FY 2022-23, as shown below:

ADVERSE ACTIONS	2018-19	2019-20	2020-21	2021-22	2022-23
MANDATORY ACTIONS	182	123	105	130	128
DISCRETIONARY DECISIONS	765	658	601	529	571
TOTAL	947	781	706	659	699

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 with 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 reviewing the transcript, the Commission can adopt the Proposed Decision or issue its own decision. The average number of open cases assigned to OAG for representation has remained steady over the last five fiscal years, as shown in the table below:

OPEN CASES ASSIGNED TO OAG

FY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	AVE
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
2022-23	141	152	145	143	143	143	141	140	148	160	161	167	149

The OAG adjudicates the Commission's cases by administrative hearing, default, withdrawal by the educator, settlement, or declining to prosecute. The table below summarizes the OAG's adjudication of cases for the Commission in FY 2022-23.

ADMINISTRATIVE ADJUDICATIVE	2018-19	2019-20	2020-21	2021-22	2022-23
DECLINE TO PROSECUTE	11	6	10	6	19
CONSENT DETERMINATION	107	64	66	52	36
DECEASED	1	1	0	0	1
PROPOSED ALJ DECISIONS	56	24	28	45	41
DEFAULT DECISION	15	14	14	7	8
WITHDRAW ADMIN HEARING	21	17	7	15	8
WITHDRAW SOI/ACC	2	1	4	1	2
RECALLED	2	3	1	1	0
OTHER	n/a	n/a	n/a	8	0
TOTAL	215	130	130	135	115

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 2022-23 with eight (8) pending OAG investigation requests from the previous fiscal year, received 52, completed 52 and ended the fiscal year with eight (8) pending requests as shown below.

TOTAL NUMBER OF OAG (DAG) INVESTIGATION REQUESTS 2022-23

2022-23	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTALS
Begin Balance	8	6	6	7	9	11	11	9	8	9	7	3	
Requests	4	6	2	5	8	3	3	6	6	1	3	5	52
Completed	6	6	1	3	6	3	5	7	5	3	7	0	52
End Balance	6	6	7	9	11	11	9	8	9	7	3	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 2022-23, the Commission granted seven (7) petitions and denied 19 as shown below.

PETITIONS FOR REINSTATEMENT

FISCAL YEAR	GRANT	DENY	TOTAL
2018-19	14	18	32
2019-20	9	18	27
2020-21	18	17	35
2021-22	12	22	34
2022-23	7	19	26

Timeliness of Action on Cases

To measure the timeliness of its cases, DPP selects 30 random cases completed during the fiscal year. Compared to last fiscal year, 2021-22, and indicated in the chart below, the average time it took to open a case in FY 2022-23, increased slightly from four (4) days to seven (7). This increase was expected due to the increase in total cases. The average time it took for the Division to take its first action on a case was reduced from 14 to 12 days. The total average time for a case to process from the initial report of misconduct through a fully adjudicated case was reduced from 366 to 349 days. The chart shown below details all the milestones from the past three fiscal years.

Educator Discipline – Timeliness Report

Process Type	Average # of Days			Process Description
	2020-21	2021-22	2022-23	
Case Opened	2	4	7	This represents the average time it takes Commission staff to open an investigatory case once an initial report of misconduct is received.
Document Procurement	7	14	12	This represents the average time it takes for Commission staff to request investigatory records from applicable entities.
Issuance of Letter of Inquiry	214	178	152	This represents the average time it takes to issue the Letter of Inquiry, after investigatory records have been obtained, and informs the educator/applicant that he/she is scheduled for Initial Review by the Committee of Credentials (COC).
Issuance of the Notice of Formal Review	87	83	79	This represents the average time it takes to issue the Notice of Formal Review after the Letter of Inquiry was sent, informing the educator/applicant that the COC has pursued its investigation to Formal Review.
Issuance of the Notice of Committee Recommendation	67	63	59	This represents the average time it takes from the issuance of the Notice of Formal Review to the issuance of the Notice of COC Recommendation, should the COC recommend an adverse action to the Commission.
Commission Review and Adoption of Adverse Action	377	366	349	This represents the average time it takes from an initial report of misconduct received by the Commission to the effective date of the adverse action. The case has now been fully adjudicated.

Conclusion

In FY 2022-23, the DPP continued to process the caseload in a timely manner. While the information provided in this report shows an overall increase in workload, the factors include the return of California school children to classrooms across the State, and the increase in overall applications to the Commission. The continued publicity both locally and nationwide regarding teacher shortages is reflected in the tables above. The DPP also expects increased totals in all areas of workload due to the needed growth of Pre-K and TK educators over the next few school years, as children three (3) to six (6) begin their educational preparation for kindergarten.

The year began with 2,605 total cases. The total number of cases increased steadily during the year to a high 3,139 cases in April before ending the fiscal year with 3,074 cases. The return of a normal caseload and slightly higher receipt of reports of misconduct resulted in the following:

- The number of cases opened (5,740) during the fiscal year, which had averaged 4,717 cases opened over the last four fiscal years, reflects an increase this year of 1,023 cases. The average of 478 cases opened per month, is also reaching the pre-COVID-19 normal range of 400-500 cases.
- Single Alcohol Offense, Vehicle Code violation cases, and No Jurisdiction cases which are all three of the categories of cases the Commission has delegated staff to close have increased.
- Consent Calendar cases increased by 92 annually when compared to last fiscal year. The 2022-23 highlights include the following:
 - o As stated above, DPP's monthly caseload ended the fiscal year at 3,074 open cases, which is slightly above the previous normal range of 2600-2800. DPP anticipates that with the new teacher initiatives indicated above, a new normal will begin to present itself at the end of the current FY 2023-24 and through FY 2024-25.
 - o Division staff completed 1,051 Initial Review cases or approximately 88 cases per month.
 - o The three (3) to four (4) month pending initial review workload remains steady, which are cases ready for the Committee's review. This workload is expected to remain at these levels through FY 2023-24.
 - o Staff processed an increase of 1,502 cases opened in FY 2021-22, with an additional 746 cases opened in 2022-23, reflecting a significant workload increase of 2,248 cases opened over the past two fiscal years.
 - o The Investigative Unit completed 52 investigative requests for OAG in partnership with the Commission's in-house OAG liaison attorney and had an ending balance of eight (8) requests.
 - o DPP maintained its timeliness in reviewing misconduct, when compared to the prior two fiscal years.
 - o While DPP acknowledges an increase in Breach of Contract cases, the overall number of cases is only 2.4% of the overall number of cases opened this past FY.

DPP expects the number of Initial Review cases presented to the Committee to return to a consistent number of cases this fiscal year, and the general goal of 90 per month. Management continues to anticipate the overall caseload will increase and fluctuate during peak times of the

school year, in line with historical trends of educator application submissions and when student classes are in session.

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.