



Bureau for Private Postsecondary Education
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Advisory Committee Meeting Minutes
Wednesday, February 17, 2016

Department of Consumer Affairs
First Floor Hearing Room
1625 North Market Blvd.
Sacramento, CA 95834

Advisory Committee Members in Attendance

Ken McEldowney
Katherine Lee-Carey
Shawn Crawford
Marie Roberts De La Parra
Patrick Uetz
Diana Amaya
Tamika Butler
Laura Metune (for Assemblymember Jose Medina)

Committee Members Absent

David Wood
Margaret Reiter
Mitchell Fuerst
Senator Jerry Hill (Appointed by the Senate Committee on Rules)

Bureau for Private Postsecondary Education (Bureau) and DCA Staff in Attendance

Joanne Wenzel, Bureau Chief
Alyson Cooney, Deputy Bureau Chief
Norine Marks, Legal Counsel, Department of Consumer Affairs
Mina Hamilton, Legal Counsel, Department of Consumer Affairs
Leeza Rifredi, Licensing Chief
Robert Bayles, Enforcement Chief
April Oakley, Outreach Coordinator
Benjamin Triffo, Legislative Analyst, Department of Consumer Affairs
Kent Gray, Legislative/Regulatory Analyst
Nicole Principe, Personnel Liaison

Call to Order

Mr. Crawford called the meeting to order at 9:40 am.

Agenda #1-Welcome Introductions and Establishments of a Quorum

Mr. Crawford welcomed the Advisory Committee, BPPE staff, DCA staff, and the public to the meeting. Staff Counsel noted as present. A quorum was established.

Agenda #2-Public Comments for Items not on the Agenda

Liz Guillen noted concern from Public Advocates regarding the recent Sunset Review Report posted on the Bureau's website. The Report is too voluminous to be useful; there are no table of contents, no page numbers, and no executive summary. She is concerned that this shows a lack of candor and transparency by the Bureau. She also complained about the Bureau's most recent modifications to the Reporting regulations, which removed the "reasonable time" language, was troubling and that it appeared that the Bureau gave in to industry pressure. She stated that she was appearing at the meeting on behalf of Angela Perry.

Robert Johnson with CAPPs noted that in previous meetings, the student advocates browbeat the Bureau for more information. It is disingenuous to say that there is too much information with regard to the Sunset Review Report. Regarding the Reporting regulations, he stated that the Bureau responded to public comments and that is what the comment period is for; he complimented the Bureau's modifications.

Ed Howard, with Public Advocates, stated that the Sunset Review Report should be easier to read. He also expressed concern about the recent changes to the Reporting regulations, stating that he had never seen regulations changes that so closely mirror comments by only one member of the industry.

Agenda #3-Approval of Minutes-November 10, 2015

Mr. McEldowney moved to approve the minutes; Ms. Butler seconded the motion. (Mr. McEldowney: Aye; Ms. Lee-Carey: Aye; Mr. Crawford: Aye; Ms. Roberts De La Parra: Aye; Mr. Uetz: Abstained; Ms. Amaya: Aye). The motion passed.

Agenda #4-Remarks by Awet Kidane, Director, Department of Consumer Affairs

Mr. Kidane thanked the Bureau for its response to the closure of 40 Marinello Schools of Beauty in California. Going back to the Corinthian closure, he is looking into technology to allow the Bureau to better access closed schools' vital records.

The Bureau's sunset hearing is currently set for March 2, 2016 at 10:00 a. m. He is looking forward to working with the Legislature on continuing to improve the Bureau.

The Task Force Report draft is finished and he looks forward to the Advisory Committee's recommendations. He thanked the Task Force and the Advisory Committee members for having the discussion.

There has been progress made on regulations. The key regulations and status for each are as follows: (1) Uniform Reporting Requirements (15-day modification to end February 28, 2016); (2) Accreditation of Degree Granting (adopted); (3) Prioritization of Complaints (internal review process); and (4) STRF (internal review process).

Mr. Kidane addressed questions from the Advisory Committee:

Mr. McEldowney asked if Mr. Kidane had requested a larger budget for the Bureau in connection with the Sunset review process. Mr. Kidane noted that the Sunset review is a process for the Legislature to determine if the Bureau is adhering to the current laws and for the Bureau to proposed ideas to make the Bureau more effective. Rather, the Bureau has put fourth Budget Change Proposals (BCP) to hire more staff to decrease the Bureau's backlogs.

Laura Metune raised the Public Advocate's issue regarding the lack of student advocate representation on the Task Force. She also referenced the letter dated December 15, 2015, in which the Public Advocates asked the Director to include a minority report with the Task Force report to be sent to the Legislature and questioned why the Department did not respond. She agreed with Public Advocates that the Advisory Committee should delay taking action on the Task Force report. Mr. Kidane responded that he will have to get back to her on the response to the December 15, 2015 letter but noted that there was plenty of time during the process of the Task Force for public comments.

Ms. De La Parra responded that she considered her presence on the Task Force to be from a student advocate position. She noted that the Task Force looked at all aspects of the industry, community leadership, and student and consumer protection in creating the Task Force report.

Ms. Butler asked what harm could come from waiting to approve the Task Force report. Mr. Kidane responded that the Department is mandated to send the Legislature the report by July 1 of 2016 and that he believed that there was proper representation on the Task Force. He would like the Advisory Committee to comment on the report. Mr. Crawford reminded the Advisory Committee that the discussion of the Task Force report is not on the agenda yet.

Mr. Uetz stated that the Public Advocates were a very interested party and he did not understand why the Public Advocates did not get a response to their December 15, 2015, letter.

Agenda #5-Presentation of the Task Force Report

Mr. Crawford welcomed Task Force representatives, Ms. Liz Simon and Mr. John Carreon.

Ms. Lee-Carey requested that the Task Force representatives first discuss the background for the report.

Ms. Simon discussed the three primary questions the Legislature asked the Task Force to consider. First, whether students attending these institutions should receive certain disclosures prior to enrolling in an educational program offered by those institutions; second, whether the means of reporting student outcomes and the content of those reports are appropriate; and third, the steps the state may take to promote the growth of high-quality training programs in skills for high technology occupations.

Ms. Simon noted that there was plenty of feedback and comments from students and Public Advocates around these questions. Due to student concern regarding the time intensive nature of these programs, she noted that one of the recommendations is to include in the schools' catalog and enrollment agreements statements regarding the rigor involved. She also discussed how the Task Force recommended adding a detailed section in the catalog regarding the school's career guidance services.

Mr. Carreon noted that these institutions would benefit from help from the Bureau regarding the licensing process.

Mr. McEldowney noted that the report appears to be centered on only two schools, and does not describe the industry as a whole, or the bad schools. Ms. Wenzel noted that the reason for the narrow focus is because of the assumption that the report applies to approved institutions. At the time of the creation of the report, there were only the two institutions that were approved by the Bureau. Other institutions had the opportunity to speak at public meetings but they were unapproved schools.

Ms. Lee-Carey noted that these unapproved schools were not necessarily bad; they just were not aware of the requirements of the Bureau and most are seeking to become approved. She would like to make sure the institutions are aware of what they need to do to get approved. Ms. Simon noted that the unapproved institutions have been going to mandatory workshops and they are starting to understand the requirements and guidelines that are needed. Mr. Carreon noted that if unapproved schools did not present the correct financial documents, the Bureau would not approve them.

Mr. Crawford noted that the Task Force was to look at the uniqueness of the high technology programs; the differences in the nature of these programs from traditional Bureau approved institutions.

Mr. Carreon addressed the subject of reporting student outcomes. He discussed how “Salary Surfer” was an alternative to getting employment data from the institutions. He discussed modifications to the Student Performance Fact Sheet (SPFS); and that the Task Force eliminated items from the SPFS that would confuse students, specifically financial aid disclosures since most students pay for the program in full.

Ms. Lee-Carey inquired about Salary Surfer. Mr. Carreon stated it would be based on students’ SSN numbers given to California’s Employment Development Department (EDD). It would record the salary from the two years prior to the student’s enrollment to the two years after graduation, however, it may report employment to the program, which was a concern, but the prospective student would get more reliable reporting. The data would be coming from the Bureau after the Bureau was provided access to it through EDD.

Mr. McEldowney questioned the dropout rates for these schools and whether the training the schools provide are what employers need. Ms. Simon postponed answers to these issues for later.

Ms. Amaya questioned whether the students who do not receive financial aid and attend unaccredited schools should have to report their income with social security numbers. Ms. Simon answered that the students are already required to give social security numbers for specific purposes, such as submitting an enrollment agreement. Ms. Metune asked how students that are undocumented and do not have social security would be tracked. Ms. Simon stated that the school documents them with zeros. Mr. Carreon stated that there would be no discrimination.

Mr. Uetz asked what discussion the Task Force had about schools that do not rise to the same standards of the schools associated with Ms. Simon and Mr. Carreon. Mr. Crawford stated that the next recommendation is relevant to how the Bureau would review and improve these types of programs to ensure similar quality standards exist across the board.

Ms. Simon noted that there is high demand for people that have the skills to work in high technology. She talked about the application and screening process of how students are chosen to be part of the program at her school.

-BREAK IN MEETING-

Mr. Crawford noted that the incorrect draft of the Task Force Report was placed on the Bureau's website prior to the meeting. Ms. Wenzel clarified that the Advisory Committee was provided with the correct draft report in December 2015, and that report was posted on the Bureau's website initially but was inadvertently switched 10 days ago when the agenda was posted. Copies of the correct draft report will be distributed at this meeting. She stated that legal counsel recommends that the Advisory Committee do not vote on approving the draft report because the correct version was not available to the public in association with this meeting, but that the Advisory Committee may still discuss recommendations. Ms. Wenzel noted that there are only a couple substantive changes in regards to the comparison of the December 2015 correct draft copy and the copy posted on the Bureau's website for this meeting. Mr. Crawford noted that the discussion that has taken place prior to the discovery of the clerical error is still relevant to the Advisory Committee's recommendations.

Ms. Marks reiterated what Mr. Crawford said, noting that the Advisory Committee will finish up with the presentation of the Task Force report and move into Agenda Item #6 to discuss what recommendations or revisions are needed or wanted. The Committee can then decide if they want to refer the matter back to the Task Force to meet again to incorporate the revisions and/or suggestions.

Mr. Crawford continued the agenda with the Task Force recommendations in the draft report.

Ms. Simon summarized recommendation #6, which is the approval process in conjunction with evaluator reports and a program advisory committee to obtain continuous feedback.

Ms. Simon indicated that recommendation #7 encourages the state to have access to high technology programs. She noted that the state can do increased outreach from workforce development programs, and other state programs and resources.

Mr. Crawford indicated that the Task Force asked for feedback from government representatives on the state steps issue, but did not ultimately hear from guest speakers.

Mr. Carreon reviewed recommendation #8, which addresses community colleges participation with these programs. He noted that it would give persons within communities the opportunity to participate in high-technology programs.

Public comments:

Liz Guillen with Public Advocates asked to delay approval of the Task Force report. She is concerned about the report omitting potential dangers of high tech programs, for example, high interest private loans, lack of experienced faculty, lack of reliable data to report, misleading programs, predatory practices, and new issues related to federal aid to programs. Ms. De La Parra understands the need for representation and not being in alignment but it is vital to attend meetings and be heard; if you do not participate, that stops the process.

Mr. Johnson with CAPPs stated he has followed the Task Force, listened to the webcasts and appreciates the draft report. He feels that it is a complete report. The Legislature got it right by seeking to study how high-tech programs can help California grow its labor force, and commends the Task Force and the expedited licensing recommendation.

Agenda #6-Review and Approve, Modify or Reject Report Provided by Task Force on High Demand Technology Fields Established Pursuant to California Education Code Section 94880.1

The Advisory Committee further conversed about various items related to the draft Task Force Report and potential revisions:

Mr. McEldowney expressed concerned about the expedited process for licensing and the advisory committees that are formed by and used by the schools and whether the backgrounds of the evaluators will be sufficient.

Mr. Crawford asked for discussion on specific revisions that the Task Force should make other than the selective admission criteria, such as an age requirement. Ms. Wenzel noted that regulations already require a high school diploma or GED.

Mr. McEldowney inquired if the recommendations are all additional requirements to those currently existing in law and regulations.

Ms. Butler inquired if the student advocates could create/provide a minority report to the Legislature.

Ms. Simon and Mr. Carreon noted that the Task Force had seven (7) public meetings; noted Ms. Angela Perry's presence.

Mr. Uetz inquired about the response to the research referenced in the Public Advocates December 15, 2015 letter.

Ms. Simon and Mr. Carreon stated that those issues were raised and addressed at the time of the public meetings and documented.

Mr. Uetz stated that the report was not available; Mr. Carreon stated that it was, as of late October, and the Task Force discussed the draft almost line for line.

Mr. Crawford noted the recommendations thus far from the Advisory Committee regarding the report.

Mr. McEldowney inquired about refund policy disclosures and other disclosure recommendations.

Mr. Crawford summarized the four specific areas for modifications in the Task Force Report:

1. Clarification that the Task Force's recommendations supplement the current requirements for all schools under Bureau oversight. Give examples of scope of existing regulations.
2. Provide additional guidance around the admissions process, including sample or best practices sample language.
3. General reconsideration of comments received both by members of the Advisory Committee and public comments, including the Public Advocates relating to consumer protection.
4. General guidelines related to the program evaluators to make sure they are qualified individuals.

The vote on the Task Force Report will be delayed for the next Advisory Committee meeting, dated May 17, 2016.

Public comments:

Ed Howard, Center for Public Interest Law, endorsed the Advisory Committee's approach for revisions to the Task Force Report and requested that any additional comments by Public Advocates also be considered in the revisions and will be provided by March 15, 2016.

Mr. McEldowney moved to refer the matter back to the Task Force with the four specific areas of recommendations for review and revisions with the report then coming back to the Advisory Committee. Mr. Uetz seconded the motion. (Mr. McEldowney: Aye; Ms. Lee-Carey: Aye; Mr. Crawford: Aye; Ms. Roberts De La Parra: Aye; Mr. Uetz: Aye; Ms. Amaya: Aye; Ms. Butler: Aye.) The motion passed.

Agenda Items #7 through #11-(Bureau Operations Update, Update on Possible Amendment of Fee Schedule, Update on Completion of Recommendations Presented in March 2014 California State Auditor Report, Regulatory Status Update, and Future Agenda Items).

Agenda #7: Ms. Wenzel noted that the meeting will forego the Bureau Operations Update and the majority of the rest of the agenda due to a member's present illness and potential loss of a quorum, but she would like to discuss briefly the following before adjournment:

Agenda #8: The Bureau has contracted to have a fee audit conducted and hopes to have it completed by May 1, 2016.

Agenda #9: All but one of the recommendations has been implemented according to the State Auditor. The recommendation that has not been implemented is the Information Technology (IT) project. The Bureau is working on the IT to prioritize compliance inspections.

Agenda #10/Item d.-“Upcoming Rulemaking Packages”: The Bureau is considering three upcoming rulemaking packages: (1) English as a Second Language (ESL); (2) Changes to the operating standards; and (3) Changes to applications. Ms. Wenzel noted that there will be a stakeholder meeting regarding operating standards and applications on March 9, 2016.

Mr. Crawford asked if there were any questions from the Advisory Committee before opening the floor to public comments.

Laura Metune inquired about the participants in the stakeholder meeting. Ms. Wenzel replied that it is open to any interested person. The Bureau will send out an email blast, post notice on social media, and send notice to anyone that has previously commented on regulations.

Ms. Amaya questioned if the strategic plan will be completed for the next Advisory Committee meeting. Ms. Wenzel responded that it will be completed, and thanked everyone that took the survey, including all Advisory Committee members that gave feedback.

Public comments:

Ed Howard had questions related to the Bureau’s enforcement data included with the meeting materials. He is unable to make the calculations of the complaint numbers 2014 and 2015 add up. He noted the charts are unclear from the missing complaints in the calculations. Why is the percentage of closed complaints in 2015 compared to 2014 greater? Why are the citations from 2014 to 2015 dramatically different? Looking at the Statement of Issues pending and those withdrawn, there is a high number of cases being withdrawn. Why? For Statement of Issues that are pending at the AG’s office, he would like to know why they are pending and how long they are pending. For the STRF numbers: how many students, from which schools, and how many times has the Bureau found eligibility by looking back on quality to 120 days prior to closure? It would be helpful to have a narrative of how the numbers are benchmarked.

Attorney with Housing of Economic Rights Advocates (HERA): She appreciated the Bureau’s reports being made public but finds the information confusing. What is the difference between the citations and discipline buckets? It would be helpful to have a breakdown of the number of complaints received, the nature of the complaints, how the cases were closed, and the resolution. A definition sheet would be helpful. For the licensing report, why is there only a backlog and not total numbers? Why is data indicated for only non-accredited schools and not accredited schools? For the STRF report, why is there is only backlog data and not completes totals. How much has been paid out from the STRF fund?

Robert Johnson had questions regarding Marinello students’ transfer eligibility and the issue of the legitimacy of their high school diploma. Would the student need to get another GED independently? Is there guidance from the Bureau? Ms. Wenzel responded that if a student is eligible for further aid, that is up to the Department of Education to make that determination. Ms. Wenzel wants to make it clear that the Bureau does not regulate high schools.

Agenda #12- Adjournment

Meeting adjourned at 1:45 p.m.