



COURT REPORTERS BOARD OF CALIFORNIA MINUTES OF OPEN SESSION FEBRUARY 19, 2010

CALL TO ORDER

Mr. Gregory Finch, Chair, called the meeting to order at 10:41 a.m. at the Sheraton Gateway Los Angeles Hotel, 6101 West Century Boulevard, Los Angeles, California.

ROLL CALL

Board Members Present: Gregory Finch, Public Member, Chair
Elizabeth Lasensky, Public Member, Vice Chair
Lori Gualco, Public Member

Staff Members Present: Yvonne K. Fenner, Executive Officer
Dianne R. Dobbs, Staff Counsel
Paula Bruning, Executive Analyst

A quorum was established, and the meeting continued.

1. MINUTES OF THE OCTOBER 16, 2009 MEETING

Ms. Gualco moved to approve the minutes and commented that they were well done. Second by Ms. Lasensky. **MOTION CARRIED.**

2. BOARD AND STAFF APPEARANCES

Ms. Lasensky and Ms. Fenner attended the Board Member Orientation Training at the Department of Consumer Affairs (DCA) on December 9, 2009.

Ms. Fenner and Ms. Conkle attended training on investigational subpoenas, which gave Ms. Fenner the delegation of authority from the Director to use on cases if necessary.

Ms. Fenner and Ms. Bruning attended the Advisory Committee meeting for Humphreys College on December 14, 2009, where they shared Board update information.

Ms. Lasensky received a letter from West Valley College forwarded to her by Stephanie Grossman, indicating that they are considering closing their court reporting school. A response was prepared under Chairperson Finch's signature outlining the importance to have the training to maintain a strong labor force. Ms. Fenner commented that a similar letter would be needed for Argonaut in Sacramento. The bulk of their adult education classes, including their court reporter program, are slated to be cut back.

3. EXECUTIVE OFFICER REPORT

Occupational Analysis and Exam Workshops

Ms. Fenner stated that the data analysis for the Occupational Analysis for the written examination has been completed. The report will be finalized by the Office of Professional Examination Services in approximately one month. The examination development for the new exam plan has already begun, including examination workshops. Ms. Fenner has been attending the workshops and has been able to cut two workshops utilizing staff expertise. The new exam is scheduled to be given in November 2010.

Enforcement Initiatives

Ms. Fenner introduced Kimberly Kirchmeyer, DCA Deputy Director, Board/Bureau Support, to report on the DCA Consumer Protection Enforcement Initiatives. Ms. Kirchmeyer expressed her appreciation for Ms. Fenner's time and effort with the Enforcement Initiatives planning and development. Ms. Kirchmeyer presented a summary of the information provided under Agenda Item 9. She indicated that the focus thus far has been on developing legislation to reduce the enforcement completion timeline for the healing arts boards. Some of the improvements will be department-wide.

Ms. Kirchmeyer further indicated that an Enforcement Academy has been developed. Also, a deputy director has been hired for Enforcement to review and monitor each board's enforcement performance and assess their improvements. A request for proposal is in process for a new licensing and enforcement database. The Department is also looking at ways to add non-sworn investigators to assist in enforcement for healing arts boards, followed by the non-healing arts boards.

In addition, DCA is seeking legislative changes. SB 1111 should be introduced today to make changes for the healing arts boards. In the next couple of weeks, legislation for the non-healing arts boards may be introduced. The new legislation would give boards the ability to suspend licenses in a timelier manner, delegate approval of stipulated surrender and default decision to the Executive Officer, and allow automatic suspension of a licensee who is incarcerated.

Once the bill is put forward, it is hoped that the Board will review it and provide support. Ms. Kirchmeyer requested a letter of support to the authors of the bills from the Board once they are introduced. She also encouraged the Board members to request from the Executive Officer and review statistics and timeframes for its enforcement processes. Ms. Fenner stated that the Board members would see approximately six months of new reports at the October 2010 meeting.

Ms. Lasensky inquired as to how much staff time is spent on enforcement activity. Ms. Fenner responded that one full-time staff member, Ms. Conkle, is dedicated to processing enforcement matters. In addition, other staff members field phone calls and process incoming correspondence.

Mr. Finch inquired about the current processing time for this Board. Ms. Fenner indicated that the average timeline fits within the 12 to 18 months goal. She stated that she and Ms. Conkle are going to attend the Enforcement Academy.

2010 Regulatory Next Practices

Ms. Fenner reported that DCA has canceled the 2010 Regulatory Next Practices meeting that was scheduled for July 26, 2010. However, there will be a board member training day on July 27, 2010, in Sacramento that may be beneficial for the Board members to attend. Ms. Kirchmeyer added that the Director is encouraging attendance. Ms. Gualco indicated that she is set for trial and will be unavailable for two weeks starting July 26, 2010.

TRF Pilot Project

Ms. Fenner provided an overview of the Transcript Reimbursement Fund (TRF), indicating that \$300,000 is set aside from licensee fees each year to administer the fund. She stated that the TRF is restricted to indigent clients represented by a qualifying non-profit entity or a pro bono attorney referred by a qualifying non-profit entity. Pro per litigants are not allowed to apply for the TRF under the current law.

Ms. Fenner referred to Attachment 1 of Agenda Item 3, stating that not all the funds are currently being utilized and there has been an excess each fiscal year. The California Court Reporters Association has sponsored a bill (SB 1181 – Cedillo) to create a pilot project to allow a small portion of the TRF to be allotted for pro per litigants. The proposal would cap the pilot project to \$30,000 of the TRF, with a maximum of \$2,500 per case so that one litigant does not use the entire allowance.

Ms. Gualco inquired as to the source of the funds. Ms. Fenner reiterated that the TRF is funded by licensee fees per statute and has a separate budget. She stated that it is licensee fees going back to licensees when they prepare transcripts for indigent litigants.

Mr. Finch inquired as to where the remaining fees go. Ms. Fenner indicated that she has been unable to get an answer to that question. She stated that since the money does not go back into the Court Reporters Board budget, allowing pro per litigants to access the TRF would help utilize the funds so that they don't disappear. The pilot project would last one year and could be extended twice for 12 months.

Ms. Fenner stated that the bill is being introduced no later than today. Once available, the language will be forwarded to the Board members for review. Whether or not the Board supports the bill can make an impact on where it goes.

The Board members requested an accounting of the excess fees and requested that the Department assist in locating the approximate 1.8 million dollars. Ms. Kirchmeyer clarified that the money cannot go anywhere else or be used by another board or department. She stated that it is either used by the Court Reporters Board or goes back into its fund. She indicated that she will look into this matter further.

CRB Budget

Ms. Fenner referred to Attachment 2 of Agenda Item 3, Expenditure Projection. She stated that the "DOF 15% Reduction Plan" line item refers to the requirement of the Governor's Executive Order to reduce expenditures from non-mission critical functions.

4. LICENSE FEE INCREASE

Ms. Fenner provided an overview of the options to address the waning budget reserve. The Board's fund should contain a maximum of 24 months in reserve and a minimum of two months. Under the current license fee, it is anticipated that the budget will experience a negative condition by the 2012-13 fiscal year. She stated it is too late to introduce legislation for the current year. However, if the Board wants to increase the statutory limit for the future, the staff needs time to find an author, draft language and make the change.

Mr. Finch stated that he is hesitant to raise fees without the accounting of the unused TRF money. Ms. Gualco stated that she supports raising the fee to the current statutory limit of \$125, but did not support changing legislation for the future.

From the audience, Ms. O'Neill, licensee and former Board member, stated she supports a renewal fee increase to \$125, as fees have not been raised in the 19 years she has been reporting. She recommended the Board consider the processing time for raising fees for the future since the process may take two years. Ms. Fenner further stated that gaining the authority to raise the fees to \$150 does not mean the Board would have to charge that fee as long as the lower fee is sufficient to meet the budgetary needs.

Ms. Fenner stated that raising the fee to \$125 would give the budget a reserve of three months in the 2015-16 fiscal year, which is minimal.

Ms. Gualco moved to adopt Resolution 10-2: The Court Reporters Board finds it necessary to increase the renewal fee to \$125 pursuant to Business and Professions Code 8031 (d), effective July 1, 2010. Second by Ms. Lasensky. **MOTION CARRIED.**

Mr. Finch would like to revisit the possibility of changing the statutory fee limit at the next Board meeting after more information is received regarding the TRF money. Ms. Fenner encouraged the Board to plan ahead due to the extensive legislative processing time.

5. STRATEGIC PLAN UPDATE

Ms. Fenner referred to Attachment 1 of Agenda Item 5, 2009-2011 Strategic Plan Objectives. She stated that the status of item 12 should state October 2010. Ms. Fenner clarified that "Budget-delayed" is an indication of a loss of staff time.

Mr. Finch suggested that staff utilize assistance from the associations or other resources to complete items 20 and 21. Ms. Fenner replied that the associations have their own set of practices, and they are requesting these items to be completed by the Board since the practices are not standard. These objectives may require the assembly of a task force.

Mr. Finch stated that it is clear that staff is doing the best they can with less time. Ms. Fenner further indicated that the timelines of the objectives are proposals and staff is open to redirection if the Board sees the need. Ms. Lasensky commented that she is impressed with the accomplishments of the staff considering the furloughs. Ms. Gualco agreed.

6. GOVERNMENT CODE SECTION 68561 (e) – INTERPRETER CERTIFICATION AT DEPOSITIONS

Ms. Fenner referred to Attachment 1 of Agenda Item 6, letter of complaint submitted by Kee Kim, PhD. She pointed out that there is law behind his complaint that many interpreters being used at depositions are not certified court interpreters.

Ms. Gualco stated that as an attorney who always utilizes certified court interpreters, she has had problems in the past locating a Korean interpreter in Northern California and went to Southern California in order to use a certified court interpreter. She agreed that everyone should be educated on the use of interpreters in court proceedings.

Ms. Fenner suggested that court reporters be educated regarding the law when hiring interpreters for depositions. Ms. Gualco agreed that if the court reporter is responsible for retaining an interpreter, they should know they need a certified court interpreter. However, she did not think it was the responsibility of the court reporter to police the interpreters brought in by attorneys. Mr. Finch agreed that it is the responsibility of the attorneys to adhere to the law or stipulate between parties to allow for a non-certified court interpreter.

Ms. Fenner noted that the staff could include an education campaign in the next edition of the newsletter utilizing the information discussed at this meeting. The Board members supported that idea.

7. SCHOOL CURRICULUM REVIEW TASK FORCE

Ms. Fenner indicated the chair of the task force, Ms. O'Neill, would report on the status and recommendations. She stated that Ms. O'Neill ran efficient meetings filled with good discussions. Ms. Lasensky stated the work completed was impressive.

Ms. Gualco stated she wanted to make sure the system did not tend toward mediocrity in order to absorb more people, and the standards need to be kept high. She indicated that she is concerned that an increase in Internet classes and a reduction in classroom time would mean the students are not as focused and would not benefit from classroom discussion. She complimented the task force on the quality of work done in the remainder of the regulations.

Ms. O'Neill reported that it had been ten years since the regulations had been reviewed and revised. She stated that it was evident that the regulations were out-of-date and not in keeping with technology and the profession. The task force thought it was important to look not only at what was happening today, but also the needs of the future. In addition, the task force worked to make the regulations consistent throughout.

Ms. O'Neill then addressed Ms. Gualco's concern regarding online schooling, stating that she and the task force agree that California should not move toward mediocrity. She stated that California is geographically a large state and enrollment today is miniscule compared to the 1980's. The draft regulation changes open up the possibility of online education, but do not mandate it. The schools still have to meet all the same criteria as a physical site school. Ms. O'Neill does not foresee schools eliminating the physical site, but instead, complementing their program with online options. There is a need to have options for students that cannot physically attend a school due to geographical constraints. She expressed a concern that the Board would be doing a disservice to the consumers by not allowing the possibility of online schooling.

Ms. Gualco validated the points made by Ms. O'Neill. Mr. Finch stated there is constant change in education to meet the needs of students and commented that the students still need to pass the CSR exam to become licensed.

Ms. Fenner commented on the regulatory process necessary to implement the recommendations presented by the task force. She stated the language would be published in June, with a tentative July 26, 2010 hearing date for public comment. The comments would then be addressed by the Board at its subsequent meeting, then be forwarded to the Office of Administrative Law.

Mr. Finch then requested comment from the public.

Ms. Lauren Somma, Executive Officer of Sage College, stated that she was part of the task force, but was unable to attend the January 30, 2010 meeting for medical reasons. She shared that she and her colleagues are concerned that the changes are premature and not thought out thoroughly. She indicated that the changes would serve her online program well; however, her concerns are for the profession. The changes suggested for Section 2411 (a)(2) involve the tests that qualify student to sit for the state CSR exam. She fears the students will jump from program to program looking for an easy way to qualify for the CSR exam, resulting in repeated failures.

Ms. Gualco shared a concern that there would be a higher fail rate for the CSR exam, resulting in complaints received by the Board requesting an easier exam. She further stated that "under supervision" is too broad.

Ms. Somma stated that there is another way of graduating students. She said that students can qualify for the CSR exam by passing the RPR exam (offered by the National Court Reporter Association). She fears students will drop out of school as soon as they qualify online and will no longer be attached to the school. She doesn't want to see the pass rates and reputations of schools drop off.

Mr. Eric Evans, President of Bryan College Los Angeles, differed in opinion with Ms. Somma. He stated that fundamentally the difference is with how the test is administered, not whether it is on campus versus distance education. There are a lot of security mechanisms available to allow the quality of the qualifier to remain intact. Without the online option, there is a problem with access to education. A student who enrolls in an online program then has to commute to the campus to take the qualifier test. The qualifier test is not a one-time test, but may take 12 to 24 weeks to pass.

Ms. Gualco inquired about the process of the qualifier exam. Ms. Somma responded that each school offers a different amount of qualifiers, varying on average from three to five each week. The student is only mandated to pass one qualifier, which simulates the CSR exam.

Ms. Gualco indicated that court reporters are required to travel to take the CSR and once licensed must travel to depositions or court.

Mr. Evans continued, stating that although a student can qualify by taking the RPR as previously mentioned, for-profit schools are overseen by accreditation agencies. These agencies utilize the school's pass rate as an indicator of how well the program was delivered. Students who take the RPR are not reflected in the school's statistics, which could cause a program to be closed.

Mr. Evans further stated that quality administration of the test is the real challenge, not whether or not it is on campus. He commented that working court reporters that travel to jobs are reimbursed for those costs; however, students are not. With the limited number of schools still in existence, it becomes more difficult for students to travel to a campus.

Ms. Fenner commented that “under supervision” was retained in the language.

Mr. Finch requested further comments for the purpose of educating the Board members on the process. He indicated the regulation changes would go through public comment, but he didn’t expect the Board to rewrite anything at this meeting.

Mr. Stuart Rice, Bryan College Gold River, stated the regulations would benefit from more clarification of “under supervision”. He stated that it is not in the best interest of any school to send under-qualified students to the CSR exam. By regulation, the CSR passing rate statistics are published by each school and may be utilized by students in their assessment of a school’s process and quality.

Ms. Somma stated concern that once a student is qualified for the CSR, they no longer have to stay enrolled in school.

Ms. O’Neill requested that Ms. Fenner comment as to the requirements a school would need to meet if they want to offer online qualifiers. Ms. Fenner responded the school would need to meet the same requirements the on-campus school meets. The regulations are a framework, and schools develop programs within them. The Board staff conducts onsite inspections of schools and requests information on a variety of components such as their process, statistics, attendance records, and security measures.

Ms. O’Neill indicated that the task force also recognized that the regulations are to establish the framework and not the day-to-day operations. Each school varies as to how they create their structure and put these regulations into effect. She stated that under current regulation, the on-campus schools are not being told how to conduct the qualifier exams. The term “under supervision” is broad because it allows schools to come up with their own criteria as to how they will meet the regulations. She recognized that this is a new frontier, just as realtime was in 1991. At that time, it was so new that many reporters were worried. Ms. O’Neill stated that she has confidence that the talented schools in California will develop the methodology and safeguards that will meet what the Board mandates. She stated that the regulations are not the place to address “under supervision”.

Ms. Sandy Finch, CEO of Golden State College, stated that her school requires that students take all tests on campus. She shared concern that students would find a way to cheat, and the integrity of tests offered online would suffer.

Mr. Finch again requested that additional comments add to the education of the Board to prepare for the public hearing portion of the process, but pointed out that no changes would be made at this meeting.

Ms. Gualco stated that change is good, but not when it slides toward mediocrity.

Ms. Mary Balmages, Cerritos College, stated that public colleges are required by the Chancellor’s Office to verify that students enrolled in online classes are the ones actually participating and taking tests. Development is underway for a system to verify the identity of online participants.

Mr. Evans stated that online course models could be either asynchronous or synchronous. Technology exists for synchronous models that replicate the traditional classroom very closely. This allows live multi-voice dictation with readback and interaction with other students and the instructor.

Ms. O'Neill stated that she has seen many schools come and go. The concerns shared regarding oversight remind her of the concerns she has heard over the years about the on-campus schools. She sees a great opportunity to reach people that cannot travel to a physical school that could be great court reporters.

Mr. Finch acknowledged that the comments shared at this meeting were concerning supervision and not wanting to diminish current standards. He also indicated that it is a natural response to look for faults when something new is introduced; however, room needs to be made to allow for the growing avenue of online education. Wordsmithing could be completed after the public comment period.

Ms. Fenner stated that the public hearing will most likely be held in Sacramento tentatively on July 26, 2010, at the earliest.

Mr. Evans stated that online oversight is governed by BPPE (Bureau for Private Postsecondary Education), accreditation agencies and the Department of Education.

Ms. Somma recommended "from stenographic notes" be added to Section 2411 (a)(3). Ms. O'Neill agreed that was a good suggestion and could be added during the regulatory hearings.

Mr. Finch closed the discussion for additional public comments, and the Board requested information on how to proceed.

Ms. Fenner stated that if the Board adopted the proposed changes, staff would start the regulatory process to make the changes as drafted. There would still be opportunity for changes during the public comment period which would be brought back to the Board for review at the succeeding Board meeting.

Ms. Lasensky moved to accept the regulations as presented. Having heard no second, the motion failed.

Ms. Fenner asked the Board if they wanted the task force to reconvene.

Ms. Lasensky moved to give the regulations back to the task force to be reworked. Having heard no second, the motion failed.

Mr. Finch asked Ms. Gualco for specific areas of concern to have the task force revise. Ms. Gualco indicated that there was not enough discussion of the remainder of the regulations for her to formulate a direction to the task force. She stated that the issue of supervision needs to be better thought out before a change is made.

The Board directed the task force, should they choose to take on this mission, to look at the terminology of the supervision in the context of the comments that have been made.

8. BRYAN COLLEGE SACRAMENTO REQUEST FOR EXTENSION OF PROVISIONAL RECOGNITION

Ms. Fenner introduced Stuart Rice of Bryan College Gold River to make a statement regarding his school's request. Mr. Rice stated his school is requesting an additional year of provisional approval, as permissible under B&P Code 8027 (d), to graduate a student from its court reporting program. He further stated that his school anticipates that up to four students will be ready for the June 2010 CSR exam.

Ms. Gualco moved that the Board grant the one-year provisional approval extension. Second by Ms. Lasensky. **MOTION CARRIED.**

9. DCA DIRECTOR'S REPORT

Having provided her report on the Enforcement Initiative under Agenda Item 3, Ms. Kirchmeyer stated the Department is encouraging all Boards to webcast their meetings, which is funded through DCA. Webcasting gives transparency and allows meetings to be archived on the Board's Web site. She clarified there would be no interaction due to the Bagley Keene Open Meeting Act; however, video conference is being researched for the future.

10. PUBLIC COMMENT

No comments received.

11. FUTURE MEETING DATES

Ms. Fenner stated there are currently no contracts in place for exams after the June 2010. The Board is not required to meet in conjunction with the exam. The Board chose to wait until the contract for the succeeding exam is in place before deciding to set a date for the next meeting.

12. ADJOURNMENT

Ms. Lasensky moved to adjourn the meeting. Second by Ms. Gualco. **MOTION CARRIED.** The meeting was adjourned at 12:37 p.m.



GREGORY FINCH, Board Chair

4/30/10

DATE



YVONNE K. FENNER, Executive Officer

5/17/10

DATE