**COURT REPORTERS BOARD**
**OF CALIFORNIA**
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# COURT REPORTERS BOARD OF CALIFORNIA
# MINUTES OF OPEN SESSION
# NOVEMBER 19, 2013

CALL TO ORDER

Ms. Toni O'Neill, Chair, called the meeting to order at 2:15 p.m. at the Department of Consumer Affairs HQ2, 1747 North Market Boulevard, 1st Floor Hearing Room, Sacramento, California.

ROLL CALL

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| Board Members Present: | Toni O'Neill, Licensee Member, Chair<br>Davina Hurt, Public Member<br>Rosalie Kramm, Licensee Member<br>Elizabeth Lasensky, Public Member |
| Board Members Absent: | John K. Liu, Public Member |
| Staff Members Present: | Yvonne K. Fenner, Executive Officer<br>Angelique Scott, Staff Counsel<br>Connie Conkle, Enforcement Analyst<br>Paula Bruning, Executive Analyst<br>Melissa Davis, TRF Coordinator |

A quorum was established, and the meeting continued.

I. INTRODUCTION OF NEW BOARD MEMBERS, ROSALIE KRAMM and JOHN LIU

Ms. O'Neill introduced Rosalie Kramm, the Board's newest licensee member, and highlighted her background. Ms. Kramm is a deposition agency owner and reporter and is active with professional associations. She brings a stellar reputation, professionalism and wealth of knowledge to the Board. Ms. Kramm's term runs through June 1, 2017.

Ms. O'Neill provided background information about John Liu, the Board's new public member appointee. Mr. Liu, an attorney since 1997, practices corporate and securities law. Mr. Liu was unable to attend this meeting due to prior commitments. Mr. Liu's term runs through June 1, 2016.

Ms. O'Neill invited the public to view additional biographical information regarding both new members on the Board's Web site. She expressed her excitement about working with these impressive new appointees.

## II. MINUTES OF THE MARCH 29, 2013 MEETING

Ms. Lasensky requested the addition of the word "be" following the word "would" on the fourth line of the fourth paragraph from the bottom of page eight of the minutes.

Ms. Lasensky moved to approve the minutes as amended. Second by Ms. Hurt. **MOTION CARRIED**.

## III. REPORT OF THE EXECUTIVE OFFICER

### A. CRB Budget Report

Ms. Fenner referred to the Budget Report on page 16 of the Board agenda packet, which reflects that the budget had a small surplus at the end of the 2012/13 fiscal year.

Ms. Hurt inquired as to why line items such as "Exam Site Rental" and "Communication" were so much more than originally budgeted. Ms. Fenner explained that the "Budget Stone" column is used by the budget analysts and is meaningless for the purposes of the Board. She apologized for not removing from display that column.

Ms. Fenner expanded her explanation of "Exam Site Rental" on the current fiscal year budget, reflected on page 17 of the Board agenda packet. Last fiscal year, the Board spent $14,367 on that item; however, $36,500 is budgeted for this fiscal year. Typically there are three dictation examinations each fiscal year, but there were only two offered in the 2012/13 fiscal year as a result of the way the dates fell. This year, there are three examinations scheduled. Also, the budget analysts encumber the full amount of the contracts; however, there are clauses built into the contracts that reduce the price of the examination site based on how many sleeping rooms are booked under the group. As a result, the actual expenditures end up being less.

Ms. Fenner also pointed out that the costs for the "Attorney General" line item are very high due to the number of cases being sent over by enforcement. She indicated that staff is working with the Budget Office to explore all cost savings measures and options available to get the budget back into alignment.

Ms. Fenner referred to the "Months in Reserve" on the overall fund condition reflected on page 18 of the Board agenda packet. She then commented on the TRF fund condition on page 19 of the Board agenda packet, pointing out that it does not vary much from year to year.

### B. Transcript Reimbursement Fund

Ms. Fenner introduced Melissa Davis, a half-time staff services analyst hired to administer the Pro Per Program of the Transcript Reimbursement Fund (TRF).

Ms. Bruning reported that approximately $5,000 was remaining of the $30,000 allocated for 2013 calendar year for the Pro Per Program. At the time of the meeting, there were 107 applications pending review dating back to November 2012, totaling more than $44,000.

Ms. Bruning commented on the January 1, 2013, repeal of Business and Professions Code sections 8030.4, 8030.6, and 8030.8, the law that governs the TRF. Senate Bill (SB) 823 replaced the repealed language effective October 1, 2013. At the time of the meeting, 234 Pro Bono Program requests were pending, totaling $168,088. With the addition of Ms. Davis to the Pro Per Program, Ms. Bruning stated that she will be able to concentrate more fully on reducing the backlog created by the inadvertent repeal.

C. Exam

Ms. Fenner reported that 132 candidates attended the November 15, 2013, dictation examination in Sacramento. She also referred the Board to the historical information regarding each of the three examinations on pages 20 through 22 of the Board agenda packet.

D. School Updates

Ms. Fenner reported that court reporting programs are facing many challenges as a result of federal regulatory changes and the negative publicity backlash caused by the privatization of courts across the state. Ms. Fenner has offered to assist the schools in any way she can.

E. CRB Today Newsletter, Fall 2013

Ms. Fenner referred to the latest edition of the CRB Today newsletter, which was made available at the meeting. She expressed her appreciation to Ms. Bruning and the Board's editor, Laurel Goddard, for spending a lot of time and effort on the publication. She mentioned that the Board had already received a lot of positive feedback on the edition.

F. BreEZe

Ms. Fenner stated that the first group of boards and bureaus scheduled to go live with the BreEZe project was successful. The Board is included in group three, which does not have a firm release date.

## IV. ENFORCEMENT REPORT

Ms. Fenner referred to the statistics in the Board agenda packet. She indicated that the total number of cases referred to the Attorney General (AG) for the entire 2012/13 fiscal year totaled 11. However, 5 cases have already been referred to the AG in the first quarter of the 2013/14 fiscal year. To have 14 cases pending with the AG is extraordinary for this Board.

The Board commonly issues citations to licensees for delinquent transcripts and failure to produce transcripts. If the licensee doesn't comply with the citation issued, the case is referred to the AG. The Board also refers cases to the AG when an applicant or licensee does not disclose on the application that he or she has been convicted.

Ms. O'Neill added that Ms. Conkle works with many parties to resolve issues before they escalate. She indicated that compared to other years in her time at the Board, these

statistics appear really unusual. She asked Ms. Fenner if there is a need to request additional funding for the AG line time.

Ms. Fenner responded that research of historical trends is being conducted with the AG. If the trends point toward a permanent increase in cases, she will work with the Budget Office on what the next step will be.

Ms. Kramm inquired if there is data to determine if the delinquent or unproduced transcripts are coming from court or freelance. Ms. Fenner indicated that the information is not formally tracked. Ms. Conkle reported that she has seen more from court lately. Ms. Kramm asked if this appeared to a ramification of freelance reporters appearing as pro tem reporters. Ms. O'Neill responded that the effects of privatization have not been felt in this respect since they have not gone to the appeal level yet. Ms. Fenner stated that she would put a tracking measure in place.

Ms. Lasensky inquired if additional money for outreach could be allocated along with enforcement to educate licensees to avoid the problems so they don't reach the AG level. Ms. Fenner responded that staff is doing as much as possible through the newsletter. She added that the Governor's order does not allow for outreach expenditures.

Ms. O'Neill commented that the District Court of Appeals exhausts many avenues before issuing an order to show cause for transcripts not filed. If an order is issued, a copy automatically goes the Board. On the freelance side, parties may be more reluctant to file a complaint.

## V. STRATEGIC PLAN UPDATE

Ms. Fenner referred to pages 32 and 33 of the Board agenda packet which included the 2012 – 2014 Action Plan Timeline. She asked the members to let her know if they wanted anything moved up in respect to target date since this plan is due to expire at the end of 2014. She mentioned that a lot of regulations packages have been processed during this plan timeline, so fewer items were completed than desired. Ms. Fenner then began discussing the three strategic plan objectives before the Board for consideration as follows:

### A. Disciplinary Guidelines

Ms. Fenner referred to page 30 of the Board agenda packet for a brief summary of the disciplinary guidelines. She reported that the last guidelines were adopted by the Board in 1989, and there are significant changes in the 15-page document.

Ms. O'Neill called for questions or comments by the Board and public. Hearing none, she requested a motion.

Ms. Hurt moved to approve the amended Disciplinary Guidelines. Second by Ms. Kramm. **MOTION CARRIED.**

### B. Professional Oath

Ms. Fenner reported that the idea of a professional oath came from a prior strategic plan, with the thought of reinforcing the professionalism of the industry though a

voluntary oath. Through some research, Ms. Fenner found two professional oaths: Attorney's Oath and Hippocratic Oath (modern version). Both oaths are included on page 49 of the Board agenda packet. Ms. Fenner presented the Board with two proposed CSR oaths to consider on page 50.

Ms. Hurt preferred version one, but also offered information from the Veterinarian Oath, which includes language about being conscientious, and using dignity, and professional standards.

Ms. O'Neill preferred the timelessness of version one. Ms. Lasensky offered that most oaths are general instead of specific, which is why she suggested that version one be used.

Ms. Lasensky moved to adopt Proposed Court Reporter's Oath version one with additional wording including "with dignity, conscientiously, and keeping with the professional standards of court reporting". Second by Ms. Kramm. **MOTION CARRIED.**

Ms. O'Neill directed Ms. Fenner to prepare a final version of the oath for Board review.

C. Electronic Signatures

Ms. Fenner reported that the issue of electronic signatures had come before the Board a few times in the past. Staff believes appointment of a task force is the best way to gain industry input from working reporters.

Ms. O'Neill agreed the Board should form a task force to develop best practices. Ms. Kramm also concurred that it would be beneficial. Ms. O'Neill appointed herself to chair the task force.

Ms. Kramm moved to establish an Electronic Record/Signature Task Force. Second by Ms. Lasensky. **MOTION CARRIED.**

Ms. Hurt requested the Board provide feedback on other Action Plan items they would like to move forward with, such as best practices pointers or educating consumers on updated standards. Ms. O'Neill agreed that accomplishing action items is important, but also pointed out the budget constraints staff is dealing with.

Ms. Bruning shared that DCA uses Twitter and Facebook to send out updates for the boards, such as our newsletter.

Ms. Hurt believes the best practice pointers to licensees and consumers is an ongoing activity that should not be dropped and would like to assist in furthering that goal. Ms. Kramm indicated that she finds the FAQs in the newsletter and on the Web site to be extremely helpful. She encouraged the state associations to help educate the licensee base.

Ms. Fenner suggested the Board appoint a task force to take on best practice pointers. Ms. O'Neill called for a motion.

Ms. Hurt moved to establish a task force to develop content for Best Practice Pointers for consumers and licensees. Second by Ms. Lasensky. **MOTION CARRIED.**

Ms. Hurt volunteered to chair the task force, therefore, she was appointed as such by Ms. O'Neill.

Ms. Sandy Vanderpol requested the Board become more relevant to consumers by developing an education component for consumers and litigants. Ms. O'Neill directed staff to explore a task force for educating consumers.

VI. REPORT ON LEGISLATION

Ms. Fenner drew the attention of the Board to the summary of current legislation that may affect the court reporting industry or the Board starting on page 51 of the Board agenda packet. She indicated that those marked by two asterisks were directly related to the Board. Ms. Fenner highlighted SB 823, the bill that reinstated the TRF. Two letters of support regarding the bill were included in the agenda packet. She added that the letter of opposition regarding AB 251 was also included in the packet.

VII. UPDATE ON GIFT GIVING REGULATIONS
California Code of Regulations, Title 16, Section 2475 (a)(8)

Ms. Fenner reported that the Office of Administrative Law approved the regulation packet; therefore, it will become effective January 1, 2014. Information regarding the revised regulation is available on the Board's Web site.

The Board moved to Agenda Item XII, Certificate of Appreciation for Dianne Dobbs. The Board then took a break at 3:10 p.m. to review information provided by the Depositions Reporters Association (DRA) in reference to Agenda Item VIII, returning to open session at 3:33 p.m.

VIII. SCOPE OF PRACTICE REGULATION

Ms. O'Neill called the meeting back to order.

Ms. Fenner provided a brief summary of the history of this proposed regulatory change. She stated that the Board approved text for the scope of practice language at its meeting on March 29, 2013. Staff provided the amendments requested during the public comment period, which are in summary starting on page 60 of the Board agenda packet, as well as the full written comments starting on page 65. Ms. Fenner referred to the comments submitted by DRA on the date of the Board meeting (see Attachment 1) and inquired if the Board wanted to respond.

Ms. O'Neill called for public comment.

Mr. Howard, on behalf of DRA, welcomed the new Board members and Ms. Davis. He thanked staff for the work on the regulations, although he does not agree with the rejection and acceptance of some of the suggestions offered during the rulemaking process.

Mr. Howard indicated that he had proposed the addition of a subsection (c) of section 2403, however, staff had rejected that. The addition would capture within the scope of practice the court reporting work of licensees in quasi-judicial proceedings such as those against licensees. He believes quasi-judicial proceedings qualify as oral court proceedings or court-ordered hearings and would like the Board to embrace these proceedings within the scope of practice.

Mr. Howard then focused his comments to subsection (b)(3). He disagrees with staff on the characterization of the listed services as additional services instead of the mandatory obligation. He quoted from page 4 of his November 19, 2013, letter stating, "What the law requires of a licensee is ipso facto within the scope of the licensee's practice. Therefore, the scope of practice regulations should not omit this mandatory duty, as if it was not within a licensee's scope."

Mr. Howard added that the California Code of Civil Procedures (CCP) 2025.510(a) contains the noticing requirements. He paraphrased his proposed modified language as follows:

(b)(3) Notifying all parties attending the deposition of request made by other parties for ~~copies~~ the provision of instant visual display (or realtime), rough drafts, partial transcripts, or expedited transcripts and offering or providing to all parties any deposition product or service, **~~including but not limited to, any transcription or any product derived from that transcription~~ where such a product or service would be governed by California Code of Civil Procedure section 2025.510(d).**

Ms. Pulone added that the proposed modification of subsection (b)(3) is in conflict with the existing language in CCP 2025.510(d) in that there is no requirement at this point for the deposition officer to notify all parties attending the deposition of what copies are ordered by which parties. It is, however, required of the deposition officer to notify all parties if and when a rough draft or an expedite is requested. She believes the modified proposed language would sum up the code.

Mr. Howard pointed out that the proposed language to subsection (b)(10) may imply that a reporter's responsibilities end at providing a nonparty a copy of a transcript upon payment. If the Board intends to embrace the requirements in current law about when and what the procedures are for notifying the parties when a nonparty asks for a copy, he suggested that the Board include the other obligations of CCP 2025.570.

Ms. Kramm stated that deposition officers are often asked not to tell the other parties that they are providing instant visual display. Mr. Howard indicated that including the language regarding the provision of instant visual display (realtime) would afford the reporter the ability to be able to point counsel to the regulatory requirement to notify all parties.

Ms. Hurt inquired with DRA if their modification of the proposed language in subsection (b)(3) is an exhaustive list of the possibilities. Ms. Pulone responded that it is a fairly exhaustive list of means or forms of transcript delivery. Ms. Hurt stated that she gets worrisome when lists are created of scopes of practice versus having the flexibility of general definitions.

Ms. Lasensky asked what would happen if something is not included on the list. Ms. Pulone responded that the list was all-inclusive of the types of delivery, including electronic, therefore, she did not foresee anything needing to be added in the future.

Mr. Howard indicated that the first line of the scope of practice states, "The accurate transcription thereof includes, but is not limited to:". He indicated this preserves the Board's ability to fill in the interstices here with interpretations or additional grounds for discipline. He added that although the "not limited to" language is there, if a list is going to be included, it should be all-inclusive.

Ms. Kramm inquired with DRA how they envision the reporter notifying the participants in a deposition that there is visual display and instantaneous realtime. Ms. Pulone stated that the reporter would either notify the parties in advance or bring the necessary equipment and offer it to any other parties interested in receiving that product. Mr. Howard added that any issue related to discipline would go back to CCP 2025.510(d), which does not specifically say what type of notice is required. It simply says the deposition officer shall immediately notify all other parties attending the deposition of the request.

Ms. Cannariato, on behalf of the California Court Reporters Association (CCRA), thanked the Board and staff for making themselves available to answer questions. She referred to page 60 of the Board agenda packet, specifically items 1 and 3, which include CCRA's proposed amendments to the regulation. She requested the Board reconsider adding in the rejected modifications. She believes the consumer would benefit from knowing that there is a distinction between who is actually performing the services.

Ms. Cannariato further suggested that the word "reporter" in subsection (b)(10) is vague and could be interpreted as the firm who many times performs the duty of providing copies.

Ms. Hurt noted that subsections (b)(5) through (b)(9) are actions that could be completed by the firm instead of the court reporter. She requested clarification on how consumers would be made aware of who was completing each portion of the transcript.

Ms. Cannariato provided an example using the written notice to deponents to sign the deposition transcript (b)(5). She stated that in her 25 years of court reporting, she has never sent out these letters herself. She stated that she assumes the firm is doing it correctly and in the statutory period, and the consumer is dealing directly with the firm, not the reporter. She added that some firms will reformat transcripts without the reporter's knowledge. These duties are delegated in exchange for less pay. She suggested putting language in the regulation that the court reporter is responsible for delegating that duty in a clear way. This would enable the reporter to protect themselves by demonstrating to the Board that he or she had provided clear instructions and, therefore, relieving themselves of the responsibility of the firm not following the instructions.

Ms. Vanderpol expressed concern with the potential effects the regulation could have on the way she has practiced for 38 years. She believes there should be an option to have an agency relationship with firms that she trusts and is loyal to. She also indicated that introducing quasi-judicial proceedings into the regulation may create confusion since California reporters do not currently have to be licensed to report many of those proceedings. She stated that listing the duties of products and services may not be the

best idea since she can think of many more that were not listed in the proposed modified text.

Ms. Vanderpol added that other states, such as Texas and Arizona, have boards that are very proactive in going after their licensees. She is concerned that these changes will prove detrimental without the language that CCRA has suggested.

Ms. Fenner indicated that the Board has one year to complete the regulatory process. The Board can defer a decision until the next meeting; however, that does not allow much time for the public comment period and finalize the package. The Board may also approve the language they believe to be the best available at this time, which will go out to a 15-day public comment period. Each comment is addressed and the language is brought back to the Board.

Ms. Scott added that comments and staff recommendations are provided to the Board. The Board may adopt the proposed amended language, and then the language goes to public comment again.

Mr. Howard requested clarification regarding the proposed amended language provided by staff to the Board at this meeting. He asked if there will be a 15-day comment period because the language was changed from the initial comment period. Ms. Scott responded that it would because it was altered. In addition, comments provided at this meeting were received after the initial comment period so they would actually go to the next comment period. She also confirmed that only the changes since the last comment period should be commented on at the next comment period. However, the Board may consider information brought to them on the initial language, but they are not required to.

The Board members agreed it was advantageous to keep the ball moving with the regulatory process and accept further comment to consider at the next meeting.

Ms. Hurt moved to approve the proposed modified text for a 15-day comment period and delegate to the executive officer the authority to adopt the proposed regulatory changes as modified if there are no adverse comments received during the public comment period and also delegate to the executive officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. Second by Ms. Lasensky. **MOTION CARRIED.**

## IX. DRA RULEMAKING PETITION RELATED TO CLOCK HOURS FOR STUDENTS, TITLE 16, SECTION 2411

Ms. Bruning distributed copies of letters from Sage College and South Coast College (see Attachments 2 and 3) in response to the letter submitted to the Board by Sandy K. Finch of Golden State College of Court Reporting. The Sage College and South Coast College letters were e-mailed to the Board the day before the meeting, and the Golden State College letter was included in the Board agenda packet starting on page 86.

Ms. Fenner indicated that the Board has 30 days to respond to the petition as presented by DRA.

Mr. Howard, on behalf of DRA, stated that before the Board is DRA's petition to address a particular problem when it comes to ensuring that court reporting students can obtain financial aid. The Government Code requires that proposed regulatory language be included in the petition presented to the Board. That regulatory language is not the end of the discussion, but the very beginning of the discussion that is allowed to take place once the Board grants a petition. The Board has enormous legal flexibility during the rulemaking process to change its mind about both the breadth and the merits of any regulation that is before it. The Board not only has the discretion under law to change the regulation quite dramatically as they move through the process, they are also free at the end of the process to not adopt them. DRA is very conscious of colleagues and friends in the community of schools and is in no way attempting to provide an advantage or disadvantage to one kind of school or another. DRA accepted the request for help from the two colleges out of a concern for the ability of court reporting students to obtain federal student assistance. Mr. Howard stated that court reporting is a gateway profession for people who may not come from wealth or means to be able to get a professional license and climb up the ladder. He respectfully urged the Board to grant the petition knowing that this is simply a beginning point for discussion about how the Board can make sure that every student that wants to go to any court reporting school is not excluded from the profession.

Ms. Finch, CSR and owner of Golden State College of Court Reporting, commented that the kind words expressed about the schools by Ms. Fenner is heartwarming. She indicated that she is delighted that South Coast and Sage have initiated the discussion because the schools do need help from the Board. She then provided background information to aid the Board's understanding of the problem.

Ms. Finch stated that the Department of Education (DOE) passed a law effective July 2011, which can be found in the Federal Student Aid (FSA) Handbook (June 2013). Program eligibility is clearly stated, "There are three types of eligible programs at a proprietary institution or a post-secondary vocational institution. All of these programs must have a specified number of weeks of instruction and must provide training that prepares for gainful employment in a recognized occupation. The program provides at least 600 clock hours, 16 semester or trimester hours, or 24 quarter hours of undergraduate instruction, offered during a minimum of 15 weeks of instruction. The program may admit as regular students persons who have not completed the equivalent of an associate degree." She went on to add, "Note that all degree and non-degree programs at a proprietary institution are subject to the rules for a gainful employment program."

The law goes on to describe domestic proprietary institutions and domestic post-secondary vocational institutions as undergraduate and graduate degree programs or certificate programs. Ms. Finch indicated that all the schools are included in this description, except for domestic non-profit institutions. The whole issue is about how to get students financial aid so they can go to school. Effective July 2011, credit hours and repeatability were changed so the FSA and DOE could target the trillion dollar problem that they call financial aid debt. She stated that it has been really difficult for Golden State and the public schools; however, each must divide and conquer changing credit hours to clock hours. It can be called credit but it has to be converted to clock to meet the state regulatory requirements.

Ms. Finch added that each student is given a length of time. At Golden State, the academic year is considered 900 hours, and students have 38 weeks. The students have to reach a successful completion of 900 clock hours before the nine and half months

finishes. They also have to complete their speed levels and academics within a certain amount of time. Many do not have problems with this until they reach higher speed levels, and then they need more time in those speeds. Unfortunately, DOE requires that the school run the time against the clock hours. If the student doesn't pass a speed level and they haven't met the clock hour requirement for financial aid, they may have to borrow money to pay tuition because they will not receive FSA disbursement. This makes sense to FSA because the student is not going to get into a huge financial debt if they cannot complete a program.

Ms. Finch concluded by stating that the battle is not with the Board. She appreciates the language proposed by Ms. Fenner, however, does not see it changing anything with DOE. She stated that the letter issued by ACICS follows right along with the DOE and they will require institutions offering vocation training programs to apply new formulas in converting clock hours to credit hours equivalents in undergraduate programs. She indicated that she would be happy to meet with representatives of all the court reporting programs, along with a representative from FSA, such as Julie Arthur who is incredibly knowledgeable about court reporting schools.

Ms. Hurt asked Mr. Howard if DRA had spoken to the DOE and if DOE had suggested to them that they start with the Board for going to the next level with them. He responded that he had not spoken with DOE. He indicated that DRA ran the proposed language by counsel from one of the two schools that is very knowledgeable about federal student aid. That counsel stated that it would be helpful because the language reflected in the FSA Handbook, quoted on page 2 of the petition, would require something in black and white that is official, like a statute or a regulation, that the degree-granting schools can point to that allows them to change credit hours to clock hours. Mr. Howard expressed hopes that the conversation continues. He continued by committing to the Board that he and DRA would talk with DOE to gain as much clarity as possible about what the Board could do to be the most helpful legally and to actually be helpful to students.

Ms. O'Neill inquired if the first step is to have a vote on whether or not the Board accepts the petition or not. Ms. Scott indicated that the Board had the option to accept, deny, accept in part, or deny in part. She added that the Board should consider that regulatory changes must have a necessity to effectuate the Board's goal. The staff will have to prove to OAL that it is necessary when putting forth a regulatory package. Ms. O'Neill asked Ms. Scott if, from a legal standpoint, there is a necessity. Ms. Scott responded that her review of the statute and the petition did not reveal a necessity for the Board to put language in regulation that allows schools and/or programs to be able to convert hours. B&P Code section 8027(b) states in part, "The record shall indicate positive daily and clock-hour attendance of each student for all classes, apprenticeship and graduation reports, high school transcripts or the equivalent or self-certification of high school graduation or the equivalent, transcripts of other education, and student progress to date, including all progress and counseling reports."

Ms. Kramm inquired if the petition gives some schools power or reason to go to DOE to argue that court reporting is different and, therefore, they need more time to get through certain classes. She asked if this is an advisory petition for the DOE or if the Board even has a right to change what affects who gets public aid and who does not. Mr. Howard responded that California law cannot change federal law. He indicated that the federal law requirement looks to state law to determine whether or not students are eligible for federal

student aid. In this case, California's statutes mentions clock hours exclusively, and the degree-granting institutions do not track in clock hours, they track in credits. The petition is a means for the degree-granting schools to say there is a space for them under California law to be eligible for FSA.

Ms. Fenner clarified that the Board has to look at whether or not the regulation is necessary for the Board to carry out its legislative mandate, not whether the regulation is necessary for the students. Mr. Howard commented that the Board's legislative mandate is quite broad and goes beyond public protection. He asserted that if a foundation were made that the regulation is important for the fostering of the profession and ensuring that students are not burdened by their choice of attending a degree-granting institution, that it would easily satisfy the necessity test.

Ms. Lasensky asked if there were other avenues for the schools to pursue to gain resolution. Ms. Fenner suggested that instead of starting the regulatory clock, staff meet with schools and DOE to ensure the language would help everyone. Ms. O'Neill gained clarification that the Board would first have to deny the petition before directing staff to hold stakeholder meetings.

Mr. Howard indicated that this is a real problem occurring now. If the Board rejects the petition and waits until its next meeting, there would be time lost to address the problem of access to the profession. He suggested that the Board start the regulatory clock and conduct meetings and research simultaneously.

Ms. Hurt asked if the Board can accept the petition but deny the language and then come back to it at the next meeting with a clearer understanding. Ms. Fenner responded that the Board cannot start a regulatory package without language; therefore, some language would have to be approved.

Ms. Finch commented that counting coursework in credits is a thing of the past. Schools can count the coursework in credit hours, but effective July 1, 2011, they must be converted to clock hours when the program is set out by the state. To be eligible for funding under FSA, virtually all programs, degree and non-degree, offered by proprietary institutions must be to prepare students for gainful employment in a recognized occupation. All the schools have been thrown into the same even playing field, and that is difficult for schools who have been counting hours in credits for so long.

Mr. Howard believes DRA presented a way for the Board to be able to improve the situation by regulation. If the regulation process does not improve the problem, there may be a need for a statutory change.

Ms. Finch added that through discussions with Julie Arthur of FSA, she learned that they look at the number of required clock hours set forth by the State, and then they apply that number of hours to their maximums. If the Board changed the number of required hours, the FSA would allow more time. It would be imperative for the Board to include the number of required hours and language such as "but can be completed sooner."

Ms. Lasensky inquired who accredits the schools. Ms. Fenner responded that the Board grants recognition to the schools; however, there is an approval level above the Board. Schools must be approved by the Bureau for Private Postsecondary Education (BPPE) or

the Western Association of Schools and Colleges. Ms. Lasensky asked how the schools' accreditation is affected by the change to the credit hours. Ms. Finch responded that the private schools are approved by ACICS, who abides by the DOE mandate.

Mr. Howard believes the latter part of staff's proposed language would invoke the methodology of the accrediting entities. He said he confirmed there are formulas to convert credit hours to clock hours.

Ms. O'Neill expressed her hesitance to take on the regulatory process if it was likely to be rejected by OAL. She asked if the petition is approved, can the regulation be abandoned if research reveals that it is moot. Ms. Fenner responded that it can be abandoned, but there will be a lot of staff time involved. Staff wants to support the schools, but also has to keep the necessity requirement in mind. She indicated that the Board can still task staff with holding stakeholder meetings, researching the matter, and drafting language.

Mr. Howard indicated that DRA would be pleased with a commitment from the Board to address the issue, but continued to urge the Board to approve the petition to start the regulatory process.

Ms. Hurt asked Mr. Howard if he still believes that the Board's current regulations unwittingly make it harder for student to attend schools as indicated in the DRA petition. Mr. Howard stated that the absence of there being a regulation is unintentionally hurting the students.

Ms. Finch added that this is a federal law; therefore, there are schools in other states going through this same issue. She would hope for some general education on the topic from FSA so that everyone could be on the same page.

Christine Lally, Deputy Director of Board and Bureau Relations at the Department of Consumer Affairs, inquired if any schools brought their concerns to BPPE for assistance. Ms. Finch responded that BPPE's governance is a separate matter, and they refer schools back to DOE's requirements. Mr. Howard stated that the problem is in the Board's code, not BPPE's code.

Ms. Scott reiterated that B&P Code 8027 will still require the schools to maintain records in clock hours. The Board desiring to assist the students in that option is a reason staff attempted to compose alternative regulation language; however, there is still concern whether it is going to fit the necessity requirement. She indicated the petition needs to set out clearly why it is necessary before staff moves forward. Mr. Howard stated that if the petition in its current form is not persuasive to this Board, then he would withdraw the petition and submit a new one at the next Board meeting. He requested that the Board appoint a task force to address the issue between meetings.

Ms. Lasensky asked if the Board can direct staff to put together stakeholder meetings before the next Board meeting. Mr. Howard said that it is common to do so. Ms. Kramm inquired if it would be appropriate to ask the schools to suggest language and to work with DCA.

Ms. O'Neill stated that the Board needed to make a decision about the petition and called for a motion to adopt or deny.

Ms. Lasensky moved to adopt the DRA rulemaking petition related to clock hours for students, Title 16 of California Code of Regulations, section 2411, and to approve the modified text for a 45-day comment period and delegate to the executive officer the authority to adopt the proposed regulatory changes as modified if there are no adverse comments received during the public comment period and also delegate to the executive officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. Second by Ms. Hurt.

Ms. Fenner clarified that approving the petition would be requesting staff to move forward with a regulatory package now. Ms. Scott reiterated that the Board had to respond to the petition within 30 days and could, therefore, adopt, deny, adopt in part or deny in part.

Ms. Hurt withdrew her second to the motion.

Mr. Howard withdrew the petition from DRA so that the Board did not have to take a vote and thanked everyone for the discussion.

Ms. Lasensky withdrew her motion.

Ms. O'Neill requested that stakeholders conduct more research and present a package to the Board at another meeting. Mr. Howard requested the Board put this matter on the agenda for the next Board meeting. Ms. O'Neill agreed.

## X. REQUEST FOR BEST PRACTICES

Ms. Fenner stated that the Office of Professional Examination Services, the sister agency within DCA that assists in examination development, has requested best practices for use in tying test questions to a resource that makes it legally defensible. Specifically, the only thing in statute regarding exhibits states that the reporter must put in a parenthetical when an exhibit is marked. There are no documents for handling exhibits; it is by practice only. This would be similar to the Best Practices for Backup Audio Media.

Ms. O'Neill called for questions and comments. She stated that best methodology would be to establish a task force to generate best practices for interpreted depositions and another task force to generate best practices for exhibit handling during depositions.

Ms. Kramm moved that that the chair create a task force for interpreted depositions. Second by Ms. Lasensky. **MOTION CARRIED.**

Ms. Kramm moved that that the chair create a task force for exhibit handling at depositions. Second by Ms. Lasensky. **MOTION CARRIED.**

Ms. O'Neill requested volunteers for chairing the task forces. Ms. Kramm volunteered to chair both task forces. Ms. O'Neill appointed Ms. Kramm to chair both.

## XI. RESOLUTION FOR GREG FINCH

Ms. O'Neill referred to the resolution for Mr. Finch as presented on page 91 of the Board agenda packet and read it into the record. Unfortunately, Mr. Finch was unable to attend the Board meeting to receive the plaque.

Ms. Lasensky moved to adopt the resolution on behalf of Greg Finch. Second by Ms. Hurt.

Ms. Fenner added that from staff's point of view, Greg was the ideal Board member. He came to the Board with no hidden agenda, merely a concern for the importance of holding people accountable for what they say via an independent neutral court reporter. He came on during very turbulent times when there were plans to dissolve the Board itself as well as great upheaval in the court reporting industry. Through it all, he became the face of the Board to the Legislature as well as to the Governor's Office. Wherever the Board needed to be heard, without making a huge production of anything, he simply moved forward with integrity, always doing what was right and not what was easy. The Board was extremely lucky to have such a well-spoken, passionate spokesperson. Ms. Fenner indicated that she truly misses his quiet humor and unfailing professionalism.

Ms. Lasensky expressed her appreciation for Greg's time on the Board, adding that he always gave a legal point of view. It helped her focus and deal with the real issues.

Ms. O'Neill echoed Ms. Fenner and Ms. Lasensky. In working with Greg, Ms. O'Neill believes she became a better Board person. She values the six years she had to work with him.

**MOTION CARRIED.**

XII. CERTIFICATE OF APPRECIATION FOR DIANNE DOBBS

Ms. O'Neill recognized Dianne Dobbs for her years of service as staff counsel for the Board. She stated that her knowledge, along with her ability to be gracious, informative, and diplomatic were so appreciated. Ms. O'Neill presented Ms. Dobbs with the Certificate of Appreciation.

Ms. Fenner added that having such a hard-working individual assisting the Board has been truly amazing. Ms. Dobbs spent countless hours helping the Board through unchartered waters. In addition to her professionalism, she has a lovely sense of humor and warm, giving spirit.

Ms. Dobbs expressed her sorrow to no longer be working directly with the Board.

Mr. Howard stated that his interactions with Ms. Dobbs have always been top of the shelf. He added that she is a phenomenal attorney and great person.

XIII. ELECTION OF OFFICERS

Ms. O'Neill called for election of officers. Ms. Lasensky inquired if Ms. O'Neill would be interested in continuing as Chair for another term. Ms. O'Neill agreed she would be willing to do so.
Ms. Lasensky nominated Ms. O'Neill as Chair. Second by Ms. Kramm. **MOTION CARRIED.**

Ms. O'Neill nominated Ms. Hurt as Vice-Chair. Second by Ms. Kramm. **MOTION CARRIED.**

XIV. FUTURE MEETING DATES

Ms. Fenner inquired with the Board if they would prefer to hold the next meeting on a Thursday or Friday at the next dictation examination in Los Angeles in March.

Ms. Hurt preferred to hold the meeting after the examination so that students could attend if they desired to do so. Ms. O'Neill indicated that the students tend to not attend Board meetings because they are preoccupied with the exam. The schools, however, attend the meeting when held in conjunction with the examination.

Ms. O'Neill suggested that staff poll the Board via email.

XV. PUBLIC COMMENT

No comments were offered.

The Board took a break at 5:53 p.m. and returned to open session at 6:04 p.m.

XVI. CLOSED SESSION

The Board convened in to Closed Session pursuant to Government Code sections 11126(a) and 11126(e)(2)(C) at 6:04 p.m.

Upon returning to Open Session at 6:22 p.m., Ms. O'Neill indicated that there was nothing to report from Closed Session.

XVII. ADJOURNMENT

Ms. O'Neill adjourned the meeting at 6:22 p.m.

Toni O'Neill — TONI O'NEILL, Board Chair — 3/4/14 DATE

Yvonne K. Fenner — YVONNE K. FENNER, Executive Officer — 3.14.14 DATE

DEPOSITION
REPORTERS ASSOCIATION
OF CALIFORNIA, INC.

November 19, 2013

Ms. Toni O'Neill
Chair, Court Reporters Board of California
2535 Capitol Oaks Drive, Suite 230
Sacramento, CA 95833

Re: **Second Set of Comments Related To Proposed Regulations: Scope of Practice**

Dear Chair O'Neill:

The Deposition Reporters Association of California ("DRA") respectfully submits these comments in response to the Board's rejection and acceptance of some of the suggestions offered by the public during the rulemaking process.

**DRA's Responses to Staff Comments**

At the most general level, the beginning point of a discussion about the scope of practice of shorthand reporters is why their transcripts enjoy the legal dignity they do.

It is not intuitive that transcripts of what individuals say in depositions or prior court hearings would be admissible in court. Typically, writings reflecting out-of-court statements made by witnesses would be insufficiently reliable to be admitted as evidence and would be deemed to be inadmissible hearsay.

But, depositions (for example) are not out-of-court statements because depositions are not out-of-court proceedings. What makes what is said in a deposition a statement in a judicial proceeding is that they are reported not by an interested party or even a lay neutral one but by licensed court reporters who are. "ministerial officers of the court" meaning officers charged with non-discretionary, *inherently judicial* duties. *Serrano v. Stefan Merli Plastering Co.* (2011) 52 Cal.4th 1018, 1021.

This is why the many court rules and statutes governing the licensure of certified reporters exist -- to ensure the inherent reliability of what would otherwise be inadmissible hearsay.

Thus, California Code of Civil Procedure ("CCP") section 273 provides that official court transcripts done by official reporters are those that qualify as *prima facie* evidence not just of what occurred at a proceeding but evidence "of the testimony and the proceeding" itself.

> 273(a) The report of the official reporter, or official reporter pro tempore, of any court, duly appointed and sworn, when transcribed and certified as being a correct transcript of the testimony and proceedings in the case, is prima facie evidence of that testimony and proceedings.

Said another way, transcripts that *are not* prepared in a fashion consistent with CCP section 273 (not prepared by official reporters or official reporters pro tempore) *are not* prima facie evidence of the "testimony and proceeding." *See also*, CCP section 2025.620 (use of depositions at trial).

And, this is why the state regulation of shorthand reporting is critical to the functioning of every state's judiciary, including California's. Depositions and other licensee-generated transcripts are a way for the court to weigh testimony without having to consume hearing time in an actual courtroom.

**The Role in Regulations In Clarifying Scope of Practice**

Throughout the Board staff's responses to DRA's public comment, there appears a reluctance to have the Board address matters that are not already expressly defined in statute. (*See, e.g.*, Response to DRA comment number 1, at p. 61).

The Government Code and case authority clarify, however, that the Board in promulgating regulations is not restrained to repeating the text of statutes. Indeed, such regulations are redundant. Rather, the Legislature has embraced a definition of "regulation," and thus a role for the Board, that seeks to invoke the Board's expertise in addressing the gaps or ambiguities in state statutes. For this reason, the Legislature defines "regulation" as

> [E]very rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to **implement, interpret, or make specific** the law enforced or administered by it, or to govern its procedure.

Government Code section 11342.600 (emphasis supplied) *See also, Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 571.

Currently, Business & Professions Code (with emphasis added) broadly defines the scope of practice of a shorthand reporter as follows:

> 8017. The practice of shorthand reporting is defined as the making, by means of written symbols or abbreviations in shorthand or machine shorthand writing, of a verbatim record of **any oral court proceeding, deposition, court ordered hearing or arbitration, or proceeding before any grand jury, referee, or court commissioner and the accurate transcription thereof.** Nothing in this section shall require the use of a certified shorthand reporter when not otherwise required by law.

Against this summary backdrop, DRA would like to turn to staff's responses to DRA's comments regarding proposed regulation 2403(b).

**Comment 1**

Staff staff suggests rejecting DRA's request to include within the regulations references to administrative hearings. Currently, administrative hearings are often transcribed and, indeed, the Office of Administrative Hearings through a competitive bidding process awards contracts to court reporting firms for this purpose. (http://www.dgs.ca.gov/oah/GeneralJurisdiction/CourtReporter.aspx)

A licensed court reporter transcribing a quasi-judicial disciplinary hearing (for example) before an administrative law judge is indisputably "making, by means of written symbols or abbreviations in shorthand or machine shorthand writing, of a verbatim record". The only question is whether the Board has the discretion to interpret "any oral court proceeding" or "court ordered hearing" as including quasi-judicial proceedings.

DRA believes the Board clearly has this discretion and would be wise to use it in this fashion.

First, quasi-adjudicatory proceedings are similar to judicial proceedings. *Strumsky v. San Diego County Employees Retirement Assn.*, (1974) 11 Cal. 3d 28, 35, fn. 2 ("[g]enerally speaking, ... an adjudicatory act involves the actual application of ... a rule to a specific set of existing facts"); *Wilson v. Hidden Valley Mun. Water Dist.* (1967) 256 Cal. App. 2d 271, 279-280 ("quasi-judicial ... action ... 'determines what the law is, and what the rights of parties are, with reference to transactions already had'")

Second, California's courts recognize that the "right to practice one's profession is sufficiently precious to surround it with a panoply of legal protection." (*Yakov v. Board of Medical Examiners* (1968) 68 Cal. 2d 67, 75.) A major portion of that protection stems from the federal Due Process and Equal Protection clauses of the 5th and 14th Amendments, and it extends to almost any time a government agency seeks to deny someone a government-entitlement. In the sense that the quasi-judicial proceedings under the Administrative Procedures Act are the means by which court-imposed Due Process rights are protected, they can be said to be both an "oral court proceeding" and "court ordered."

Indeed, challenges to quasi-adjudicatory decisions are under a distinct statute – CCP section 1094.5. That statute, in turn (in subdivision (a)), applies only to writs that challenge "the result of a proceeding in which by law a hearing is required to be given [and] evidence is required to be taken" The same statute also specifically mentions transcripts and does so in a way that underscores that sometimes the need for transcripts is critical: "where the transcript is necessary to a proper review of the administrative proceedings"[.]

Third, administrative agencies are given significant leeway in interpreting phrases like the ones in Business & Professions Code section 8017. In *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal. 4th 216, to take just one famous example, the California Supreme Court upheld an extremely complex rate setting regime based in part upon the Insurance Commissioner's authority to interpret Insurance Code section 1861.05, which provided that no rate "shall be approved or remain in effect that is excessive[.]"

Fourth, when a licensee of this Board before an Administrative Law Judge "mak[es], by means of written symbols or abbreviations in shorthand or machine shorthand writing, of a verbatim record" of such a proceeding, it is challenging to imagine that the licensee doing the transcribing is not engaged in the practice of shorthand reporting such that, were the reporter to act incompetently or unethically, the Board would not in the interests of consumers want to consider acting on the reporter's license – something the Board cannot do if transcribing quasi-judicial proceedings is not within the scope of practice of the profession this Board regulates.

**Comment 2**

Staff agrees with DRA's suggestion.

**Comment 3**

Staff suggests rejecting DRA's suggestion to add other transcript-related services to the notice provision of (b)(3) as being without legal authority because the scope of practice regulations are supposed to "identi[fy] duties, not additional services." The staff also comments that this requirement is in the Professional Standards of Practice and so does not need to be reflected within these regulations laying out a reporter's scope of practice.

DRA respectfully disagrees.

First, the statute relied upon by DRA for its suggestion about notice going to all the parties is about ***notice of services provided*** not the provision of the services themselves.

CCP section 2025.510(d) currently and broadly requires ***notification*** by reporters when "any portion" of a transcript could be provided to one party before another. That statute (with emphasis supplied) provides:

> (d) If the deposition officer receives a request from a party for an original or a copy of the deposition transcript, **or any portion thereof, and the full or partial transcript will be available to that party prior to the time the original or copy would be available to any other party**, the deposition officer shall **immediately notify all other parties** attending the deposition of the request, and shall, upon request by any party other than the party making the original request, **make that copy of the full or partial deposition transcript available to all parties at the same time**.

Thus, DRA suggested and staff suggests rejecting the following language:

> (b)(3) Notifying all parties attending the deposition of requests made by other parties for ~~copies~~ the provision of instant visual display (or realtime hookup), rough drafts, partial transcripts, or expedited transcripts and offering or providing to all parties any deposition product or service, including but not limited to, any transcription or any product derived from that transcription .

Observe the proposed regulatory language is about ***notice***. Expedited transcripts are those that could be available before the original would be available, and a reporter under current law is therefore obligated to notify all the parties if an expedite is ordered; hence, DRA's suggestion reflecting the reporter's obligation ***to notify*** the parties is a mandatory legal "duty" properly invoked in these scope of practice regulations and is not notice of an "additional service."

The reference in DRA's suggestion to notice of "partial" transcripts being ordered is verbatim from statute. Rough drafts and real-time are both forms of transcripts that are possibly made available to one party before another and, for that reason, are likewise "duties" not additional services.

Second, this notice requirement properly resides within regulations explaining a reporter's scope of practice. State law specifically commands that a shorthand reporter provide this notice. What the law requires of a licensee is *ipso facto* within the scope of the licensee's practice. Therefore, the scope of practice regulations should not omit this mandatory duty, as if it was not within a licensee's scope.

Moreover, the proposed modified text here at (b)(3) is contrary to existing Code. The CCP contains no requirement for the deposition officer to notify a party when another party orders a copy by a standard delivery time, and since the CCP calls for the original transcript to be prepared by the reporter, there is no need to notify any party when the original is ordered for standard delivery, per 2025.510(a).

In sum, these identified services when it comes to notifying the parties are not "additional services." Under current law the licensee must notify all the parties if any one of them is requested. For these reasons, they are clearly within the scope of practice of a licensee and should not be omitted from regulations intending to capture the scope.

If what staff believes is objectionably over-broad is the final reference to any deposition product or service, including but not limited to, any transcription or any product derived from that transcription

then that phrase can modified as follows:

> (b)(3) Notifying all parties attending the deposition of requests made by other parties for ~~copies~~ the provision of instant visual display (or realtime hookup), rough drafts, partial transcripts, or expedited transcripts and offering or providing to all parties any deposition product or service~~, including but not limited to, any transcription or any product derived from that transcription~~ **where such a product or service would be governed by California Code of Civil Procedure section 2025.510(d).**

**Comment number 4**

Staff agrees with DRA's proposed suggestion.

**Comment number 5**

DRA respectfully requests that staff modestly re-consider the proposed language to (b)(10). As the language reads now, it misleadingly implies that the reporter's obligations end at providing a person a copy upon payment of a reasonable charge. However, CCP section 2025.570(b) imposes many additional obligations upon the reporter when copies by nonparties are requested.[1] If staff is intending to embrace section 2025.570 governing nonparties, then the concomitant obligations should be included. If, however, staff is intending to invoke section 2025.560, then "person" should be changed to "party."

**Conclusion**

DRA thanks the Board and its excellent staff for the opportunity to address these important issues and again congratulates the Board for seeking to promulgate these regulations.

Sincerely,

*Ed Howard*

Howard Advocacy, Inc.
On behalf of DRA

[1] "(b) If a copy is requested from the deposition officer, the deposition officer shall mail a notice to all parties attending the deposition and to the deponent at the deponent's last known address advising them of all of the following:
(1) The copy is being sought.
(2) The name of the person requesting the copy.
(3) The right to seek a protective order under Section 2025.420.
(c) If a protective order is not served on the deposition officer within 30 days of the mailing of the notice, the deposition officer shall make the copy available to the person requesting the copy."

SAGE COLLEGE
SINCE 1973

Ms. Toni O'Neil
Chair, California Court Reporters Board
2535 Capitol Oaks
Suite 230
Sacramento, CA 95833

In response to Sandy Finch's letter, I would simply like to say the following:

The effort to reach out to DRA for help was in no way intended to offend or exclude anyone in our very small community of schools. We are all facing very challenging times, and it is imperative that we work together to address and resolve challenges the very best we can.

The problem we asked DRA to address only affects degree-granting institutions, and this is the reason Golden State was not contacted and included along the way.

The issue that was trying to be addressed is simply this:

Court reporting is not a true "clock hour" program as defined by the DOE for the processing of financial aid because, whether a student completes 2300 hours or 5000 hours, either way at the completion of the hours, they are not a court reporter.

In actuality, court reporting is a competency-based program and should not be compared or treated like a program such as cosmetology; wherein, once one completes a said number of prescribed hours, he/she has successfully completed regardless of how talented a person may or may not be.

The effort being set forth was to simply and clearly demonstrate that court reporting IS NOT a true clock-hour program because completion of any number of hours does not produce a court reporter; regardless of what that number would be.

At this point, I would propose a committee be created to address and understand the full scope of the issues. I would like to be on this committee should this be a direction that is taken.

With regard to the hours, the DOE does say that the student does have one and a half times to complete them. If we attempt to change that number, which is already frowned

upon, accrediting bodies will have to get involved and that can create another set of problems for all of us.

Again, our goal was to simply clarify that the court reporting program is not a true clock-hour program as defined by the DOE for processing financial aid purposes.

Sincerely,

Lauren Somma, CSR, B.A.
Executive Director

South Coast College
2011 W. Chapman Avenue
Orange, CA 92868
(714) 867-5007 (714) 867-5026 FAX
www.southcoastcollege.com

Paula,

Please forward this letter to Yvonne Fenne and to Toni O'Neill.. I did discuss the contents of it with Sandy Finch at the CSR Examination.

As I discussed with Sandy, the issue that credit hour schools are facing is that we have suddenly been confronted with having to switch gears into a different system from what we had been using for over 20 years. It is like having to measure in metrics after having everything in your whole world measured in feet and inches, and only for one entity – the federal government. In fact, we were told to keep our students who started before July 2011 on the credit system and have everyone after July 2011 be on the clock-hour system. So we have to treat students differently based upon when they started.

In her letter, Sandy was making a lot of unfortunate assumptions. We are not self-serving, only wanting the ability to maintain doing things as we had always done for ourselves but for any degree-granting program that exists. As I explained to Sandy, when our students want to transfer to another institution to continue their education, that institution will expect to receive a transcript in credits, not in clock hours. Our accrediting commission (ACICS) gives us the ability to choose whether to express our programs in clock hours or in credit hours, Credit hours are weighted as follows: 1 lecture hour constitutes one credit; 2 laboratory hours constitutes one credit; and 3 apprenticeship hours constitutes one credit. If the program is considered a clock-hour program, it is based upon actual clock hours.

Another misconception that Sandy may have had is that a student is able to receive more financial aid if they are in a credit-hour program. The amount that students can borrow from financial aid is the same regardless of what type of program they are enrolled in. The difficulty for court reporting being clock-hour based is that it is more burdensome for a court reporting student because, as we all know, everyone does not progress uniformly through the program. Some students progress faster at the beginning and slower at the end and vice versa. With clock-hour based programs, they can only use financial aid only for the courses that they successfully complete.

Sandy's issues and ours are the same in many other respects. Students receive a certain amount of financial aid allocation. However, they may use a portion of that allocation for living expenses. The government gives that right and enforces that right with the schools. However, that does not change the total allocation. If they are in school longer than they anticipated, their allocation runs out sooner than others who do not take monies out for living expenses. All schools who have court reporting programs face this challenge. South Coast College, Sage, and Sandy are all facing this challenge because we feel morally responsible for seeing them complete their goal of becoming court reporters. However, financially, it is becoming more and more difficult for us to keep our schools going without their tuition and without the tuition of others coming into the program who can defray expenses that they incur while in school. We all have to pay teachers' salaries, rent, and so on, for these students. And, now, the enrollments have drastically decreased, threatening the existence of all the schools.

Another assumption on Sandy's part was that the changes applied to all court reporting programs nationwide. She did not understand that these changes apply only to the programs in California, only as a result of legislation in California.

Sandy was also under the impression that a loss of South Coast College and Sage College would not hurt the court reporting profession. I believe it would. South Coast College produced 24 CSRs last year. And, although there is no way for me to know how many CSRs Sage produced last year, I am sure that the number is relatively close, as the two schools have consistently produced the largest number of reporters in the state over the past decade.

All court reporting programs are struggling right now. As I explained to Sandy, we all have to work together to find a solution to a problem that is far greater than the one introduced in our request to the Board..

Sincerely,

Jean Gonzalez
President , South Coast College