



**COURT REPORTERS BOARD OF CALIFORNIA
MINUTES OF OPEN SESSION
OCTOBER 15, 2010**

CALL TO ORDER

Mr. Gregory Finch, Chair, called the meeting to order at 2:06 p.m. at the Red Lion Hotel, 1401 Arden Way, Comstock Room, Sacramento, California.

ROLL CALL

Board Members Present:

Gregory Finch, Public Member, Chair
Elizabeth Lasensky, Public Member, Vice Chair
Reagan Evans, Licensee Member
Lori Gualco, Public Member
Toni O'Neill, Licensee Member

Staff Members Present:

Yvonne K. Fenner, Executive Officer
Dianne R. Dobbs, Staff Counsel
Paula Bruning, Executive Analyst
Connie Conkle, Enforcement Analyst
Julia Miranda-Bursell, TRF and School Compliance Coordinator

A quorum was established, and the meeting continued.

I. WELCOME OF NEW BOARD MEMBER TONI O'NEILL

Mr. Finch introduced and welcomed back licensee member Toni O'Neill. He stated that she has served as an official reporter for the Riverside Superior Courts since 1990. She is a former deposition firm owner and former member of the Court Reporters Board. In addition, Ms. O'Neill is a proponent of realtime technology, having been one of the first official reporters to provide realtime services to judges in the courtroom. He indicated that the Board looks forward to her expertise and knowledge.

II. MINUTES OF THE APRIL 30, 2010 MEETING

Ms. Lasensky requested a correction to Agenda Item 3, Board and Staff Appearances. She stated that she had conversations with staff and it was not noted in the minutes. Ms. Gualco moved to approve the minutes as corrected. Second by Ms. Lasensky. Ms. O'Neill abstained. **MOTION CARRIED.**

III. BOARD AND STAFF APPEARANCES

Ms. Lasensky and Mr. Finch each stated that they had conversations with staff. In addition, Mr. Finch participated in a Board Chair telephone conference with the Department of Consumer Affairs (DCA) on July 20th.

Ms. Evans indicated that she attended the Board Member Orientation Training and the DCA Board Training in Sacramento. In addition, she attended the June 25th dictation exam in Los Angeles. Ms. Evans also recently spoke at the student barbeque for the Deposition Reporters Association (DRA).

Ms. Fenner stated that she and Enforcement Analyst Connie Conkle completed the eight-day DCA Enforcement Academy. She also indicated that she and staff conducted on-site reviews of the court reporting programs of Argonaut Court Reporting, Tri Community Adult Education, and Downey Adult School.

In addition, Ms. Fenner spoke at California Official Court Reporters Association (COCRA) Conference. She also attended rulemaking training, the California Court Reporters Association (CCRA) Board Meeting in Sacramento, and multiple exam development workshops. Ms. Fenner also reported that she attended the June dictation exam which was held in Los Angeles.

IV. REPORT OF THE EXECUTIVE OFFICER

A. DCA Director's Report

Ms. Erica Cano appeared on behalf of Director Stiger to provide an update on matters within DCA. She stated that although a state budget has passed, the Governor's directive to cease hiring, which was implemented on August 31st, has not yet been lifted. The directive does allow for limited exceptions, which must go through State and Consumer Services Agency and then through the Governor's Cabinet Office. Only the most critical requests are being approved, for which DCA has only received two exemption approvals.

The Department has begun receiving data on the performance measurements for the Consumer Protection Enforcement Initiative (CPEI). These measures address cycle time, volume of complaints, cost, customer service, and probation monitoring. These will be placed on the Board's and DCA's Web sites the first week of November.

The BreEZE project is moving forward and is on target for completion. Debbie Balaam will be providing a presentation on this project. DCA has developed a Forms Revision Workgroup and Data Conversion Workgroup to assist in the process.

The Department is encouraging this Board to look at the legislation that was going to put forward to SB 1111 to determine if any could be put forward as regulations to allow the Board and its executive officer the ability to expedite the Board's investigation and prosecution processes. Ms. Fenner could work with legal counsel to determine what could be put into regulations.

Ms. Cano thanked staff for the enforcement statistics in the board agenda packet and indicated that they look great.

DCA has most recently begun the licensing reform project. Ms. Cano stated that it is important that individuals become licensed in a timely manner in order for them to join the workforce. She stated that the Department is understanding of each board's limited resources and time constraints due to furloughs and budget issues.

Ms. Cano stated that Phase I of the licensing reform is gathering statistics, which is nearing completion. Phase II will mirror CPEI and will include review of licensing processes, establishment of performance measures, review of laws and regulations, and determination of best practices.

Ms. Cano thanked the Board for posting their meeting materials online, which allows for public access prior to meetings. In addition, she stated that the Department is encouraging Boards to webcast their meetings. This service can be provided by the Department.

Ms. Gualco asked if DCA views the hiring freeze as a negative item or a way to try to streamline and save money where necessary. Ms. Cano responded that the Department understands the reasons for the freeze; however, there were previously positions approved for CPEI. Therefore, exemption requests have been submitted for those positions. She stated that the Department wants to bring people on board to assist in enforcement, which is a big part of the Department's mission. However, the Department is accommodating boards by lending its resources where needed.

Ms. Fenner offered clarification that all the boards and bureaus under DCA are special funded. Although there are no General Fund dollars going out in the DCA programs, DCA is complying with the Governor's directive.

Ms. Evans asked if the meetings are required to be held at specific locations in order to be webcasted. Ms. Cano responded that the team can travel to any location. Ms. Balaam indicated that the hotel or meeting location must have an Internet connection to make it possible. Ms. Bruning commented that staff arranged to have this meeting webcast through DCA's Public Affairs Office, however, they were unable to pull staff together due to the furlough.

B. BreEZe Presentation

Debbie Balaam, Chief Information Officer for DCA, presented an overview for the BreEZe project, including concepts and benefits, transaction fee, key success factors, project leadership, schedule and business commitments.

Ms. Balaam stated that BreEZe is an integrated licensing and enforcement solution. She stated the current system is made up of two antiquated elements: Consumer Affairs System (CAS) was implemented in the mid-1980's, and the Applicant Tracking System (ATS) was deployed in the early 1990's. She stated DCA has tried many times to complete a new database project. The project has been approved for 27 million dollars and will cover 300 license types and 2.7 million licensees. BreEZe will also replace iLicensing, a Web system that was stopped for online applications and

payments using the old databases. State and Consumer Services Agency determined a new database was more cost-effective than attempting to work around the old system.

Ms. Balaam shared that BreEZe will incorporate many systems into one, which will allow online applications and renewals, payments via checking accounts and credit cards, real time license lookup, case management and work flow. The system will also tie together licensing and enforcement. A goal of the second phase of the project will be to integrate all schools that work with DCA in an automated fashion.

The vendor that is awarded the contract will bring in software that will have individual board configuration control. Ms. Balaam added that board and bureau staff will have control over which fields they want to add to the required information in the database.

She stated the benefits to the customers will include self-service via secure Internet interface, online applications and renewals, and expedited processing. The staff will benefit from the applications having been pre-screened online, automated routing, and a single system with DCA-wide view. Ms. Balaam indicated the BreEZe project will not be paid for by increasing fees, but through existing fees. Once the project goes live for the board, the vendor will begin charging transaction fees.

Ms. Balaam provided background and key success factors as to why this project will be successful when prior attempts at replacing the database have failed. She stated that she has been a project manager since the mid-1980's and loves projects. She provided an overview of the leadership and support being given to the project. She indicated that subject matter experts are going through the system requirements with vendors so the bids will include everything needed for the contract. The final proposals are due in January 2011.

Since BreEZe came about partially due to enforcement issues at the Nursing Board, the healing arts boards will be in the first phase of implementation. It is projected that the Court Reporters Board will be integrated in October 2013. Ms. Balaam concluded by saying she would be happy to return to a future meeting to provide an update on the status of the project.

Ms. Lasensky asked if this Board will have the opportunity to beta test the project. Ms. Balaam responded that there will be four areas of testing. The project team will be conducting system testing, performance testing, and testing with the converted data. Then the boards will test individual license databases before the system is deployed. She added that boards will be able to review the system as time goes on, as well as make changes as needed.

Ms. Gualco supported the plan of meeting with vendors face-to-face in the procurement phase, as well as not paying the vendor until the system is in place.

At this point in the meeting, the Board moved to Agenda Item V before continuing to Agenda Item IV.C.

C. Exam

Ms. Fenner reported that the examination being offered concurrent with the meeting included 110 candidates, including 21 first-time candidates.

Ms. Fenner referred to the examination statistics on page 14 of the Board agenda packet. She commented that the pass rate for first-time exam takers is considerably higher than repeat takers. She also stated that passing rates increased when the English and Professional Practice portions were converted to computer-based testing.

She added that the English portion tends to be difficult for many candidates, possibly as a result of poor access to training in high school. Also, many software applications automatically correct grammar and spelling as you type.

She stated the Board has a two-year contract for the Sacramento location of the dictation examination at the Sacramento Red Lion Hotel. There is not currently a contract in place for the Southern California examination location; however, staff is looking to contract for February and June of the upcoming years.

Ms. Fenner indicated there would be a delay in grading the dictation examinations due to overtime limitations in the hiring freeze. Exemption requests were denied at the Governor's Office. Due to limited staff, the goal for sending out examination results is December 3, 2010.

D. Exam Workshops

Ms. Fenner reported that staff submitted a Budget Change Proposal (BCP) for the exam development workshops. New examination questions are needed on a continuous basis in order to have fresh material for offering the test three times each year. DCA has put forth a group BCP for many of the boards and Bureaus, including CRB, to allow more of each board's budget to be used toward their examination development.

The Board continued to hold examination development workshops through the Office of Professional Examination Services through the first part of the fiscal year; however, due to the delayed budget, reimbursement of the subject matter experts (SMEs) was also delayed. Therefore, it became more difficult to recruit SMEs, and one workshop was canceled. With a budget in place, staff anticipates recruitment will resume and workshops will now continue on a regular schedule starting in November.

Mr. Finch inquired how the attendees at the current dictation examination compare to the average. Ms. Fenner responded that there are generally less candidates at the Sacramento examination compared to the Los Angeles venue; however, it is not a considerable amount.

E. OAL Rulemaking Training

Ms. Bruning indicated that she and Ms. Fenner attended a comprehensive three-day rulemaking workshop at the Office of Administrative Law (OAL) at the end of July 2010. The training included information on how laws are made, the regulatory process, and

underground regulations. In addition, they attended training at DCA regarding the internal rulemaking process for pre-approval prior to submission to OAL.

F. School Compliance Reviews

Ms. Miranda-Bursell reported that the review team visited the last campuses needed to complete the 2-phase school oversight program which began in 2007. After each onsite visit, schools were provided with a written report outlining strengths and suggestions for improvement. She indicated that staff is beginning to plan for the next cycle of school oversight activities.

G. CRB Today Newsletter, Fall 2010

Ms. Bruning referred to the latest edition of CRB Today newsletter in the Board agenda packet. She indicated that the Fall 2010 version would be uploaded to the Board's Web site in the near future, as it is exclusively distributed in electronic copy.

Mr. Finch commented that the newsletter really reads well and that he is proud to be associated with it. Ms. O'Neill stated that reporters are reading and talking about the newsletters and gaining valuable information. She said it is apparent that the newsletter is a great protection to the consumers because it is educating the reporters.

Ms. Fenner responded that she appreciates the feedback that the newsletter is beneficial since it is a tremendous amount of work. She welcomed ideas and articles from the Board members for future editions.

H. Strategic Plan

Ms. Fenner noted there are some items listed on the Strategic Plan Objectives that are delayed due to the budget; however, staff has accomplished a lot within the constraints of the current economic climate. Ms. Fenner asked the Board members to let her know if there is anything they would like to see focused on. Mr. Finch recognized the efforts that are being made by staff with the fiscal limitations.

I. CRB Budget Report

Ms. Miranda-Bursell indicated that the Transcript Reimbursement Fund (TRF) ended the year on a good note. The TRF remains fully funded and was able to continue reimbursing reporters and pro bono attorneys during the period California was without a budget.

Ms. Miranda-Bursell stated that staff was directed at the April 2010 Board meeting to reconcile funding levels in the budget report with the internal records. Research showed several factors that account for the differences. There were several years in which the TRF was not fully funded for unknown reasons; however, the fund has traditionally under spent the \$300,000 allocation, so it may have carried over. Other reasons the fund may not seem to balance included the various pro rata charges from DCA, as well as reimbursement to the fund from awards of court costs that flow back to the fund are not always tallied timely. She concluded that research allowed staff to reconcile the two amounts previously in disproportion and added that the fund is

currently healthy. She referred to the 2009/10 TRF Fund Condition Statement on page 18 of the Board agenda packet.

Mr. Finch inquired if the inability to readily access this information previously meant that staff wasn't keeping accurate information as events were happening. Ms. Fenner responded that since staff does not have internal accounting capabilities to transfer funds, a false assumption was made that the TRF was being funded at \$300,000 and therefore, there was an amount left over in excess of payments made out of the fund. However, as a result of the probe of the Board members, accurate information has been accessed at DCA to resolve the discrepancies.

Ms. O'Neill asked if the reporting is now set up for continued updates. Ms. Fenner indicated that the fund condition is usually presented annually; however, the information can be provided to the Board as often as they like. The Board members requested that the information be presented at the semi-annual Board meetings.

Stephanie Grossman, Deposition Reporters Association, inquired if there will be regulations to govern eligibility for the pro per litigant program. Ms. Fenner addressed her inquiry under Agenda Item VI.B.

Ms. Fenner referred to the Budget Report on page 16 of the Board agenda packet. She stated the Board finished the fiscal year with a 2.96% surplus. She then pointed the members toward the Fund Condition Statement for the Board on page 17, which reflects a balance of \$1.2 million.

1. Furloughs

Ms. Fenner stated that furloughs are still in place and it is not known when they will end. The Department of Finance has issued budget letters; however, the Board has not received theirs as of yet.

2. Hiring Freeze

Nothing to report.

3. Licensing BCP

This item was reported on during Agenda Item IV.D.

J. Sunset Review

Ms. Fenner indicated that sunset review has been reconstituted and will be conducted by the Joint Legislative Sunset Review Committee (Committee). The initial group of boards to be reviewed by the Committee has been delayed for hearings until February 2011. This Board is scheduled to go before the Committee in the Fall of 2011. She referred to the report provided to the prior Sunset Review Committee in the Board agenda packet.

She stated that there will be some time-consuming preparation involved in producing the report; however, the Board has been acting as if they are ready for a review at any

time by having a strategic plan in place and moving forward on it, as well as addressing industry issues.

Ed Howard, Deposition Reporters Association, suggested the Board include details on how well it is doing on its own. He mentioned the Strategic Plan is an important aspect of the Board's commitment. Mr. Howard further suggested the Board explain in the report why it is worthy of continuing its mission, especially since the Board has been on the chopping block in the past. He encouraged the Board to assume the reviewers have no knowledge of what the Board does.

Ms. Gualco suggested the report include an illustration or demonstration of what the professional licensees do and the importance of their presence in legal proceedings. Mr. Howard indicated the Board can submit a video or PowerPoint presentation, possibly even sending the Committee a link to such a production on YouTube. Mr. Finch stated such a production would be nice to have as an explanation of what court reporters do, for outreach purposes. Ms. Gualco added that inclusion of the presentation could be added to the Board's Web site, as well as add it to the report. Ms. Fenner reported that DCA has the ability to produce videos for the boards through the Office of Public Affairs. She indicated that she will move forward with the suggestions made.

V. ENFORCEMENT REPORT

Ms. Conkle indicated that as part of the Consumer Protection Enforcement Initiative (CPEI), DCA has requested the Board provide statistical information regarding enforcement activity on a monthly basis. She provided an overview of the statistics included in the board agenda packet.

Stephanie Grossman inquired about a statistic listed for April, which indicates the average days to close a case was 184 days. Ms. Conkle responded that in the beginning some numbers are a little off since it is a new reporting process.

Ms. Fenner invited the Board members to ask for any other information they would like to see included in the reports.

VI. REPORT ON LEGISLATION

A. SB 294 – Professions and Vocations: Regulation (Negrete McLeod)

As reported under Agenda Item IV. J, the Sunset Review Committee has been reconstituted.

B. SB 1181 – Shorthand Reporters: Transcript Reimbursement Fund (Cedillo)

Ms. Fenner reported that the SB 1181 bill was signed by the Governor and chaptered into law. This law, which staff refers to as the Pro Per Pilot Project, will allow indigent applicants appearing pro se to apply for funds from the Transcript Reimbursement Fund.

In response to Ms. Grossman's previous inquiry under Agenda Item IV.I, Ms. Fenner stated the Pilot Project is set up to require litigants to provide an approved fee waiver from the court to qualify for the program.

Ms. O'Neill added that the fee waiver issued by the court waives things such as filing fees and jury fees for indigent litigants, but not fees for court reporter transcripts. Now that the pilot project is in place, she can refer such pro per litigants to the Board to apply for assistance through the TRF. Once an applicant is approved and has been granted use of the funds, the court reporters will be able to process the transcripts.

Ms. Fenner commented that the legislation has recently been approved and the application process is in the development phase.

C. AB 2130 – Professions and Vocations: Sunset Review (Huber)

As reported under Agenda Item IV. J, the Sunset Review Committee has been reconstituted.

VII. UPDATE ON SCHOOL CURRICULUM REGULATIONS

Ms. Fenner provided a brief history of the pending changes to the regulations governing school curriculum. The language approved by the Board went through the rulemaking process, including public comment, which ended September 27, 2010. The oral comments received at the public hearing were transcribed and included in the Board agenda packet along with the written comments received. Ms. Fenner indicated the Board may make changes to the language; however, any substantive changes would require a new public comment period.

Ms. Gualco restated her reluctance for allowing online qualifiers. She did, however, read the comments received from the many students and realizes the need for advancing technology. She stated that she does not want to reduce the quality of education and is concerned that removing students from the school environment will remove criteria necessary for the learning process. She inquired of the licensee Board members if they believed the changes will dilute the education or if it is acceptable in their industry.

Ms. Reagan responded that online services are a necessity for many people who may not be able to leave the home for various reasons, but still want to complete a professional program. She also commented that it was reported earlier in the meeting that the pass rates increased once the Board switched to computer-based testing.

Ms. Lasensky commented that students want new options and in order to stay competitive, schools must stay current with technology.

Ms. O'Neill indicated that she has confidence in the ability of Board staff to oversee the program. She added that in her experience as a supervisor of newly licensed individuals, their success many times is dependent on their personality.

Belen Silvas, Sage College, inquired how the Board would keep the qualifier process and examinations ethical. Ms. Fenner responded that the Board will not set up how the online

qualifiers are offered any more than it would tell the school how to offer English in the program. The Board reviews the program to ensure it meets the regulatory requirements.

Sandy Bunch Vanderpol inquired if the regulations under consideration were for allowing schools to offer online courses or online qualifiers. Ms. O'Neill responded that there are already schools that offer online courses up to the qualifiers; therefore, the pending changes include the allowance of online qualifiers. Ms. Vanderpol stated that she believes qualifiers should only be offered on campus just as reporters are required to appear in court or at depositions instead of via the Internet.

Sue Coleman, Linda Lawson, and Margaret Ortiz of West Valley College shared their concerns about security of the qualifier and feared that it would become compromised over the Internet. Ms. Gualco stated her concern of allowing more and more curriculum outside the school environment.

Ms. O'Neill indicated that the regulations still require internship hours of court and deposition hours.

Carolyn Dasher, CCRA, offered support of offering online qualifiers, stating that a person still needs to pass the Board's examination prior to becoming licensed.

Ms. O'Neill moved to direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed regulation at California Code of Regulations, Title 16, Division 24, Article 2, Sections 2411 and 2414 as filed or described in the Modified Text Notice. Second by Ms. Lasensky. **MOTION CARRIED.**

VIII. UPDATE ON EXAM FEE REGULATIONS

Ms. Fenner reported the changes to the exam fee regulations are being held until more staff time is available. She indicated that these regulations were non-controversial and the Board has until June 3, 2011 to complete the process on the submission without the need for a new notice and public comment period.

IX. CLOSED SESSION

Item deferred. There were no disciplinary matters for closed session.

X. ELECTION OF OFFICERS

Mr. Finch opened nominations for the position of chair. Ms. Lasensky moved to elect Ms. O'Neill as chair. Second by Ms. Gualco. **MOTION CARRIED.**

Mr. Finch opened nominations for the position of vice chair. Ms. O'Neill nominated Mr. Finch as vice chair. Second by Ms. Gualco. **MOTION CARRIED.**

XI. PUBLIC COMMENT

Ms. Grossman requested the Board meeting room be equipped with more microphones and speakers as she has had a difficult time hearing the meeting.

Ms. Vanderpol requested the Board address at a future meeting the \$100 gift giving limit in the Standards of Professional Conduct.

XII. FUTURE MEETING DATES

Ms. Fenner mentioned that the Board typically meets in conjunction with the dictation examination. The next examinations will most likely be held in February and June in Los Angeles; however, as previously mentioned there is not a contract in place yet for the dates. The Board is required to meet at least once annually in Southern California. The Board agreed that it would be better to meet at the February examination to address the upcoming sunset review.

Staff will notify Board members of the examination date once finalized to request availability.

XIII. ADJOURNMENT

The meeting was adjourned at 4:07 p.m.

		
GREGORY FINCH, Board Chair	YVONNE K. FENNER, Executive Officer	
<u>6/16/11</u>	<u>6/16/11</u>	DATE