

Information Item

California Student Aid Commission Workshop

Governance of Commission

- A. Discussion of Commission's Policies and Procedures, including Structure of Meetings
- B. Discussion of Roles and Responsibilities of Officers of the Commission
- C. Discussion of Commission Standing Committee Descriptions and Responsibilities

Enclosures

Enclosures for Item A include current policies and procedures adopted by the Commission.

A draft of proposed revisions to the duties of the Commission officers is provided for Item B. During last year's nomination process, Commissioners expressed the need to develop better descriptions of the duties for each of the officer positions. A preliminary draft of revised duties was developed by Commission staff. The draft was presented at a meeting of the Personnel, Nominations and Evaluation (PEN) Committee. Members were asked to review the draft in anticipation of the discussion at the Commission workshop.

The enclosures for Item C are a description of the Commission's standing committees and a copy of the Audit Committee charter. None of the standing committees except the Audit Committee has a charter.

Framework for Analysis of Commission Responsibilities

Consideration of the different types of responsibility placed on the Commission may assist in the Commission's consideration of governance, particularly the discussion of standing committee responsibilities.

The Commission is responsible for the operations of, policy setting for, and regulation of participants in, its programs.

Responsibility for Operations

State law places responsibility on the Commission to operate, or administer, a number of programs. The Cal Grant program and specialized programs, including the Assumption

Program of Loans for Education (APLE), Graduate Assumption Program of Loans for Education (Grad APLE), State Nursing Assumption Program of Loans for Education (SNAPLE), the National Guard Assumption Program of Loans for Education, and the Law Enforcement Personnel Dependents Grant Program are examples of programs authorized by State law. (See Educ. Code, §§ 69430 et seq., 69580 et seq., 69618 et seq., 69616 et seq., 69750 et seq.; Labor Code, §§ 4709, 4728.)

The Commission also has operational responsibility for a number of programs through agreements with other State or federal departments. For example, the Commission administers the California Chafee Grant Program for foster youth through an agreement with the California Department of Social Services, the Robert C. Byrd Honors Scholarship Program through an agreement with the United States Department of Education, and the Child Development Grant Program through an agreement with the California Department of Education.

The Commission's responsibility for program operations undertaken by EdFund, the Commission's auxiliary nonprofit organization, in furtherance of the State's participation in the Federal Family Education Loan Program (FFEL Program), is mandated by federal regulations and State law. Federal regulations require the Commission to have full responsibility for the operation of the FFEL Program. Those regulations provide, in relevant part:

Guaranty agency administration. In the case of a State loan guarantee program administered by a State government, the program must be administered by a single State agency, or by one or more private nonprofit institutions or organizations **under the supervision of a single State agency.** For this purpose, **"supervision" includes, but is not limited to, setting policies and procedures, and having full responsibility for the operation of the program.**

(34 CFR 682.401(b)(16) [emphasis added].)

State law also designates the Commission as a state student loan guarantee agency in the Federal Family Education Loan Program (FFEL Program) and authorizes the Commission to guarantee student loans under the FFEL Program. (Educ. Code, §§ 69761.5, 69765.)

Responsibility for policy setting may accompany responsibility for operations, but not in all programs.

Policy Responsibility

State law places policy responsibility on the Commission for programs that State law requires the Commission to administer, e.g., the Cal Grant Program, APLE, SNAPLE. However, the Commission does not have policy responsibility for programs that the Commission administers through agreements with State or federal agencies. Thus, the Commission's responsibility for the Chafee, Byrd and Child Development programs is limited to responsibility for operations.

In contrast, the Commission's statutory responsibility for the Student Opportunity and Access Program (Cal-SOAP) is, primarily, a policy responsibility. (Educ. Code, is § 69560 et seq.) The Commission administers Cal-SOAP by providing funding to consortia that pursue projects designed to increase the availability of information for low-income elementary and secondary students on the existence of postsecondary schooling and work opportunities, and raise the achievement levels of these students to increase the number of high school graduates eligible to pursue postsecondary learning opportunities. The Commission approves the projects, enters into agreements with the consortia, and provides guidance on the standards by which the consortia are to administer the projects, but the day-to-day operations and administration of the projects and the consortia are the responsibilities of the consortia.

The Commission has policy responsibility for the FFEL Program in addition to responsibility for operations. Title 34, Code of Federal Regulations, § 682.401(b)(16), quoted above, expressly places policy responsibility for the FFEL Program on the guarantee agency, even if it operates through a nonprofit organization such as EdFund. Further, State law requires the Commission to maintain responsibility and policy leadership of the FFEL Program. (Educ. Code, § 69522(c)(1).)

Policy and operational responsibility are accompanied, in some programs, by regulatory responsibility.

Regulatory Responsibility

Programs in which the Commission acts through intermediaries or partners to provide student financial aid generally involve regulatory responsibility by the Commission. This regulatory responsibility requires a significantly different relationship between the Commission and its partners from the relationship that exists in programs for which the Commission has only policy setting and operational responsibilities.

In a program requiring regulatory responsibility, the Commission must work closely and cooperatively with its institutional partners to achieve the goals of the program, but must also ensure that the desire for cooperation does not interfere with the Commission's obligation to ensure that administration of the program protects the State's interests and is consistent with State law. The Commission's exercise of its regulatory responsibility requires the Commission to assume a regulator's perspective with respect to its institutional partners. At times, the Commission may find its relationship with its institutional partners to be adversarial, since they may be advocating actions that are inconsistent with the Commission's regulatory obligation, even if those actions may be viewed by some as furthering the goals of the program.

For example, Cal-SOAP, in which consortia deliver services to students, requires the Commission to exercise regulatory responsibility to ensure that the projects and the consortia operate according to standards set in law. Thus, while the Commission works with the consortia as partners in serving students through the Cal-SOAP projects, the Commission must regulate the consortia by applying State law standards by which the

projects and consortia are to comply and holding them accountable for compliance with those standards.

The Cal Grant Program similarly involves regulatory responsibility. The Commission provides Cal Grant award funds directly to the postsecondary institutions, rather than the students enrolled in those institutions. The Commission enters into an Institutional Participation Agreement (IPA) with each institution receiving Cal Grant funds. The IPA, State law, regulations adopted by the Commission, and policy and operations memo issued by the Commission set forth the standards that institutions must follow for the Cal Grant Program. The Commission must ensure that these standards are enforced, and, in that sense, the Commission regulates the institutions.

Thus, while the institutions receiving Cal Grant funds are partners with the Commission in serving students through the operations of the Cal Grant Program, they are also entities that the Commission is responsible for regulating to ensure program compliance with State law. It is important, therefore, for Commissioners to identify the particular responsibility they are exercising as they confront the various issues involving the institutions.

Finally, the Commission's participation in the FFEL Program also involves a regulatory function. Title 34, Code of Federal Regulations § 682.401(b)(16), quoted above, expressly requires a state student loan guarantee agency such as the Commission, to supervise the nonprofit organization through which the state guarantee agency administers the FFEL Program. EdFund, the Commission's auxiliary organization, is the nonprofit organization through which the Commission administers the FFEL Program.

Further, state law imposes responsibilities on the Commission to oversee its auxiliary organization, EdFund. (E.g., Educ. Code, §§ 69522(c)(2) ["The commission shall conduct regular performance evaluations of the operations of auxiliary organizations in the furtherance of its fiscal and fiduciary responsibilities for approved programs."], 69526 [Commission required to institution a standard accounting and reporting system for the management and operations of the auxiliary, implement financial standards that will ensure the fiscal viability of the auxiliary, institute procedures to ensure tha transactions of the auxiliary are consistent with the mission of the Commission].)

Again, it is important for Commissioners to identify the particular responsibility they are exercising as they confront the various issues involving EdFund.