

Minutes of the Colorado Commission on Higher Education (CCHE) Meeting
Colorado Department of Education – State Board Meeting Room
April 5, 2013

Chairman Kaufman called the meeting to order at 1:55pm.

Chairman Richard Kaufman, Vice Chair Patty Pacey, Commissioners Luis Colon, Jeanette Garcia, Happy Haynes, Monte Moses, Hereford Percy and Jim Polsfut attended. Also in attendance were CCHE Advisory Committee members Senator Evie Hudak, Frank Novotny, Michael Mincic, Laura Rutz and Mark Superka.

Commissioner Percy moved to approve the minutes of the March 1, 2013 CCHE meeting. The motion was seconded by Vice Chair Pacey and passed unanimously.

Chairman Kaufman welcomed the new Commissioner from the 4th Congressional District, Mr. Luis Colon.

CHAIRMAN AND COMMISSIONER REPORTS

Chairman Kaufman testified to the Joint Legislative Committee, tasked with implementing Amendment 64, regarding the recommendation for a tax package to the voters. The Chairman wanted to ensure that if the tax doesn't add revenue for the regulation of Amendment 64, the money won't be taken from higher education funding.

Commissioner Percy addressed a group of young professionals at a Leadership Jefferson County class to talk about the challenges facing higher education in Colorado. Copies of the Colorado state master plan, Colorado Competes, demonstrated how these issues were being addressed by the Commission and the Department.

Commissioner Haynes proposed a resolution recognizing Metropolitan State University of Denver Roadrunners basketball team for advancing to the Division II NCAA National Championships.

Commissioner Haynes moved to adopt the resolution. The motion was seconded by Commissioner Percy and unanimously passed.

EXECUTIVE DIRECTOR REPORT

Lt. Governor Joe Garcia, Executive Director, reported that while the ASSET Bill has passed both Houses, the bill has not been signed into law by the Governor. All of the public institutions are working towards ensuring the bill will be implemented appropriately and consistently around the state. The Lt. Governor sent a memo to the colleges and universities informing them the Department is working with the Attorney General's office to ensure there is consistent guidance for the ASSET legislation.

PUBLIC COMMENT

Mr. George Walker, of Denver, discussed state funding for higher education. On March 6th, Mr. Walker quoted CSU President Tony Frank, as saying that in less than a decade the state's public universities could be private due to lack of state funding. The Council of Higher Education stated that state funding has been reduced by nearly 69.4 percent since 1980 and at that rate of decline, appropriations for public institutions will reach zero by 2022. Mr. Walker sees lack of state funding as de facto discrimination.

INFORMATION ITEM (taken out of order)

Legislative Update – Chad Marturano, Director of Legislative Affairs, informed the Commission on the status of higher education-related bills currently in the legislature.

HB13-1263 Private Occupational School Requirements - This bill modernizes the Division of Private Occupational School (DPOS) statute by repealing the exemption for nonprofit private occupational schools and makes them subject to authorization and regulation by the DPOS board. It also modifies criteria for certain DPOS board members and improves a student complaint procedure.

SB13-206 Direct Deposit Income Tax Refunds College Savings – This bill comes from the Department, originated in the CollegeInvest division, and would provide the option for a direct deposit into a 529 college savings account on an individual's state income tax return forms and would be included on the 2013 state tax return form.

SB13-218 CO Key Industries Workforce Grant Program – This bill will provide partnerships between institutions of higher education and key Colorado industries to target nontraditional students seeking bachelor degrees. The industries that anticipate hiring students with a degree would provide funding to the partnered state postsecondary institutions.

SB13-165 Community Colleges Limited Number Bachelor Degrees – This bill contemplates allowing community colleges to seek approval from CCHE to offer up to seven programs at the baccalaureate level and outlines guidelines for the Commission to consider. The bill made it out of the Senate with strong support. The same support in the House is not anticipated. Amendments may be added by the sponsors to make it more palatable as the bill is currently in jeopardy.

Commissioner Moses expressed the hope that it will be very clear in the bill as to how CCHE would handle the program applications in the future.

After further discussion by the Commissioners, Mr. Marturano suggested that if the bill is successful, there will be opportunities in the process to suggest changes to the bill to address the Commission's concerns.

CONSENT ITEMS

Proposal to Offer a Master of Arts in Dance Education at University of Northern Colorado

Proposal to Offer a Bachelor of Arts in Early Childhood Liberal Arts and a Bachelor of Arts in Early Childhood Teacher Education (Birth – Grade 3) at University of Northern Colorado

Two-Year Cash Funded Capital Program List Amendment– Colorado State University

Commissioner Percy moved to approve the consent items. The motion was seconded by Commissioner Haynes and unanimously passed.

ACTION ITEMS

Financial Accountability Plan (FAP) for Ft. Lewis College – Mark Cavanaugh, Chief Academic Officer, presented the Financial Accountability Plan for Ft. Lewis. The FAP Subcommittee was asked for the final three years of tuition setting flexibility, although they are not looking to raise their tuition higher than nine percent. If their portion of the \$30 million in general funds, which the legislature is currently debating, are lower than the expected \$475,000, Ft. Lewis College is seeking the authority to set tuition at levels above a 9 percent increase over the prior year, if needed, through FY 2015-16.

Steve Schwartz, Chief Financial Officer at Ft. Lewis College, related that relatively small changes in state support also have a direct and material impact on Colorado resident tuition at Fort Lewis College. Fort Lewis' revised FAP shows that the proposed increase in state funding for FY 2013-14 will allow the institution to keep tuition levels at levels originally anticipated in the college's initial plan. Fort Lewis College sees the plan approval process as a way to highlight the strategies they have undertaken to protect low and middle income students and alignment with the recently approved statewide master plan and performance contracts. The institution has put in a considerable amount of money into financial aid and their merit model addresses both merit and need. And they have approximately \$7.2 million of institutional financial aid. Their belief is that they have been successful in addressing the needs of middle and low income students.

Acting on the recommendation from the Financial Accountability Plan Subcommittee, Commissioner Moses moved to approve authorization of tuition setting for Ft. Lewis College through FY 2015-16 and approval of requested tuition increase levels included in the FAP. The motion was seconded by Commissioner Haynes and passed unanimously.

Recommendation to Approve Statewide Transfer Articulation Agreements in Animal Science, Agriculture Business, and Soil & Crop Sciences – Dr. Ian Macgillivray, Assistant Deputy Director for Academic Affairs, presented this item to the Commission recommending three statewide transfer articulation agreements – Animal Science, Agriculture Business, and Soil & Crop Sciences. If approved, there will be total of 18 agreements; surpassing the statutory mandate of a minimum of 14 statewide articulation agreements by 2016.

Commissioner Garcia moved to approve the three new statewide transfer articulation agreements. The motion was seconded by Commissioner Haynes and unanimously passed.

Degree Authorization Act – Strayer University: Request for Provisional Authorization – Ian Macgillivray, on behalf of Heather Delange, recommended that provisional authorization be granted to Strayer University to operate as an authorized non-public, degree granting institution in Colorado, pursuant to the Degree Authorization Act. Strayer University is accredited by the Middle States Commission on Higher Education, a regional accrediting agency recognized by the U.S. Department of Education.

Strayer University is seeking to open two campuses in the Denver metro area in the next year and to also provide programs through an online global campus. The online and ground campus programs will be in the areas of business, information technology, accounting, management and criminal justice. Strayer University has submitted all required documentation, demonstrated their ability to provide appropriate student services and shown they have the financial ability to support all operations at the proposed Colorado site

Commissioner Polsfut expressed his concerns regarding whether or not for-profit institutions are in the best interest of students and whether the Commission is just allowing these institutions to come into the state. His concern revolves around the many different accrediting bodies that seem to “come and go,” as shown in the next agenda item concerning the changing of the American Pathways University status from full to probationary authorization due to loss of recognition by the U.S. Department of Education of their accrediting body.

Mr. Tracy Lachlin, from Strayer University, assured Commissioner Polsfut that the institution has been operating for 120 years and has been accredited by the Middle States Commission for over 32 years.

Commissioner Garcia asked whether one of our state’s authorization requirements is the presentation of graduation rates. Dr. Matt Gianneschi, Deputy Executive Director of DHE, replied that it is not, but that information can easily be made available to the Commission.

Commissioner Haynes moved to approve provisional authorization for Strayer University with the condition that the institution provides notification to its students that they have not been fully accredited as of yet. The motion was seconded by Commissioner Polsfut and unanimously passed.

Degree Authorization Act: American Pathways University - Request to Change Authorization Level from Full to Probationary - Ian Macgillivray, on behalf of Heather Delange, recommended an authorization change for American Pathways University, from full to probationary, based upon the institution’s accrediting agency’s loss of status with the United States Department of Education. American Pathways University (APU), located in Denver, is a not-for-profit, postsecondary institution authorized by the Colorado Commission on Higher Education to offer baccalaureate and master’s degrees in career-oriented studies, including business, counseling, leadership and management, ministerial studies, and psychology.

In August 2010, the CCHE authorized APU with full authorization. APU’s original accrediting body, the American Academy of Liberal Education (AALE), ceased to be recognized by the U.S.

Department of Education in December 2010. The department was notified in August 2011. When the USDOE no longer recognizes an accrediting agency, an 18-month grace period is granted to the affected institutions to seek accreditation from another accrediting agency. The institution has reached out to the Accrediting Commission of Career Schools and Colleges (ACCSC) as well as the Accrediting Council for Independent Colleges and Schools (ACICS) to begin the accreditation process. The U.S. Department of Education recognizes both of these accrediting agencies. APU also sought accreditation from the Higher Learning Commission, but recently withdrew its application. CCHE policy states that the Commission may revoke the private college or university's authorization or place the private college or university on probationary status if the United States Department of Education ceases to recognize the institution's accrediting body. If APU is not able to demonstrate satisfactory progress toward accreditation from an accrediting body recognized by the U.S. Department of Education on or before June 6, 2013, Department staff shall recommend revocation of APU's authorization to operate in Colorado effective June 7, 2013.

Vice Chair Pacey inquired if it was reasonable to assume that if the federal government has revoked the accrediting body, there is a reason they are not meeting the standard of accrediting and shouldn't that be a red flag for the Commission. Dr. Gianneschi replied that the department has insufficient information to be able to judge whether the federal government's determination should lead the department to believe that the institution or the accrediting body is meeting our minimum expectations of an institution. The CCHE policy simply states that accrediting agencies recognized by the federal government will be recognized by the Commission.

Chairman Kaufman responded that it could be that the accrediting body failed and has nothing to do with the institution. Dr. Gianneschi stated that was the case in this instance. The institution was in good standing with the accrediting body.

Commissioner Polsfut asked if the 18 month grace period granted APU to find another accrediting agency was up in June of 2012, does it mean that the institution is not accredited today. Dr. Gianneschi stated that APU still has AALE accreditation status.

Mr. Gene Marlatt, Vice President of Academic Affairs at APU introduced Lawrence Marlatt, President of APU. They explained that at the time of the grace period ending they were applying for accreditation by the Higher Learning Commission (HLC). They worked with the HLC until February of 2013. At that time, the APU board decided to withdraw for the process with HLC and to pursue accreditation with either the ACCSC or the ACICS. Chairman Kaufman asked if they would be accredited within 90 days. Mr. Marlatt replied they wouldn't be accredited because of all the procedures but will know if they were accepted into the accreditation track within 90 days.

Commissioner Pacey asked if the students who are graduating or may have graduated realize they have a degree from a non-accredited institution. As the institution still has AALE accreditation status, Mr. Marlatt says the students have been notified of APU's status with AALE on their website and have given the students the option of continuing with their degree or not.

Commissioner Moses moved to approve the staff recommendation to change American Pathways University's authorization status to "probationary" for 90 days. Two amendments were added: notification of the institution's probationary status is clearly posted on the front page of APU's website; and the institution should submit a 90-day plan to obtain their accreditation to allow the Commission to come back in 90 days to see what has been done. The motion was seconded by Commissioner Percy and passed unanimously.

Proposal to Offer a Master of Arts in Dance Education at University of Northern Colorado – Dr. Ian Macgillivray recommended approval for UNC to offer a Master of Arts in Dance Education. UNC is offering the program based on faculty feedback from teachers they work with and the relatively low risk to students and the University. If the target enrollments are not met, UNC will close the program to new admissions.

Commissioner Garcia moved to approve the Master of Arts Dance Education program at UNC. The motion was seconded by Commissioner Polsfut and unanimously passed.

INFORMATION ITEMS

Report of the WICHE Professional Student Exchange Program (PSEP) 10 Year Return Rates – Jennah Kitchell, Student Services Officer, presented this item to the Commission. In 1978 the Colorado State Legislature appropriated funds to assist Colorado residents studying optometry at schools participating in the WICHE student exchange program. Although Colorado does not have any institutions that provide optometry programs, there continues to be a recognized need for professionals in this field. The annual appropriation for PSEP is \$399,000 and PSEP beneficiaries are expected to return to Colorado and set up practice within one year of graduation. WICHE was asked to collect the return rate data over a 10 year period to determine the return on the investment dollars. In the past ten years, 62 Colorado students participated in PSEP, with 54 of those students returning to Colorado to practice, yielding an 87% return rate. Notably, Colorado has the second highest return rate of PSEP students in participating WICHE states.

Commission Haynes suggested that it would be worthwhile to see if there are other gaps for students for services Colorado residents need that cannot be fulfilled in this state. Ms. Kitchell said the statute does not specify that the program has to be optometry so it would be beneficial to look into adding additional programs.

Senate Bill 10-003 Tuition Flexibility Update and FY2013-14 Budget Update – Mark Cavanaugh, summarized that since tuition authority via SB10-003 came into effect, the process is working as it was intended. Although there are a lot of different tuition rates, the state is recovering a bit and tuition rates are actually being mitigated by the institutions. The Colorado Community College System and the University of Northern Colorado are both submitting letters stating that they don't need additional tuition flexibility over the next three years and there might be rates that are under nine percent going forward.

The FY2014 budget is not completed and the Long Bill will be signed soon by the Joint Budget Committee (JBC). JBC staff recommended and the committee approve the Governor's recommendation to increase General Fund support by \$30 million, or 5.8 percent, over FY 2012-

13 levels for Colorado's public colleges and universities. This brings the level of state support funding to \$543 million. Need-based financial aid will be increased by \$5.3 million in FY2013-14. The JBC took final action on the proposed \$9.3 million one-time increase for the current fiscal year. The committee opted to pull the proportionate financial aid increase from the total making the operating increase \$7.9 million and the financial aid increase \$1.4 million. A total of \$102 million in Capital funding is planned for higher education with about three quarters of that amount going to projects as opposed to COP payments. Almost \$29 million in controlled maintenance will flow to higher education allowing 49 projects to be undertaken.

Degree Authorization Act – Update on Action Taken by the Private Occupational School Board Regarding College America – Fort Collins Campus – Lorna Candler, Executive Director of the Division of Private Occupational Schools (DPOS), informed the Commission that at the June 2012 DPOS Board meeting, the Board unanimously moved to direct its legal counsel to file a notice of charges (Notice of Adjudicatory Proceedings) seeking revocation of CollegeAmerica's certificate to operate as a private occupational school in Colorado. The actions taken by the Private Occupational School Board are concerned with deceptive sales and trade in marketing, advertising, recruitment practices and statements made to three students during their tenure at both the Colorado Springs campus and the Ft. Collins campus. The students who filed the administrative complaints were part of the allied health program. Through advertising and representations, the students believed they could receive certification to sit for state examination in an EMT program. When the students finished the program, they learned they were not eligible for this certification. The Board directed DPOS to take action. The Colorado Springs campus complainant received a 100% refund. At the February 2013 Board meeting, the Ft. Collins campus offered the complainants a 25% refund and 100% tuition at a school of their choosing. Specifically, CollegeAmerica refused to provide 100% refund of all payment or outstanding student loans to the remaining complainants and since all three cases were substantially similar, on June 26, 2012, the DPOS Board unanimously voted to file a Notices of Charges with the office of Administrative Courts.

At the February 2013 meeting, the Division Director, Board Chair and legal counsel attended mediation with CollegeAmerica representatives and counsel. CollegeAmerica offered to pay each of the underlying complainants 25% cash refund for their CollegeAmerica program costs, as well as finance full tuition, fees, and books necessary for each student to attend a similar program at another school of her choosing. The Board is further negotiating the terms and conditions of this agreement.

In monitoring advertising and marketing pursuant to the stipulation reached in the CollegeAmerica Colorado Springs complaint, the Division identified further violations in advertising and the Board concurred that CollegeAmerica's advertising campaign inappropriately used student aid as an inducement to enroll in violation of the deceptive sales and trade provision of the Act. DPOS issued a Notice of Non-Compliance in October of 2012 but ultimately approved a stipulated agreement and final order that redressed the noticed violations of deceptive sales and trade provisions. Specifically, the agreement required CollegeAmerica to modify its advertising language to clearly state or reference a proximate link to all qualifying criteria and further ordered the school to cease using misleading language that explicitly or implicitly uses aid as inducement in any other advertising or marketing through any media

Having no further Commission business, the meeting was adjourned at 5:10 pm.