

December 18, 2023

Tad Egawa, Secretary
California Business, Consumer Services and Housing Agency
915 Capitol Mall, Suite 350-A
Sacramento, CA 95814

Dear Secretary Tad Egawa,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Cannabis Control Appeals Panel submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2023.

Should you have any questions please contact Anne Hawley, Executive Director, at (916) 322-6870, Anne.Hawley@ccap.ca.gov.

GOVERNANCE

Mission and Strategic Plan

The Cannabis Control Appeals Panel (Panel) provides quasi-judicial administrative review of licensing decisions and enforcement actions issued by the Department of Cannabis Control.

The Panel provides a forum of appeal for individuals to address licensing decisions made by the Department of Cannabis Control relating to any penalty assessment, denial, transfer, condition, suspension, revocation, or other disciplinary action of annual cannabis licenses. The Panel streamlines the appeals process and provides expertise and due process in the review of licensing decisions.

In 2022, the Panel adopted the mission, vision, values, goals and objectives for the Cannabis Control Appeals Panel's strategic plan.

Mission

The Cannabis Control Appeals Panel provides fair, accessible, and timely quasi-judicial resolution of appeals from the Department of Cannabis Control's licensing decisions.

Vision

Cultivating a transparent and respectful forum for cannabis businesses within all California communities.

Strategic Goals

1. **Decision Making:** Ensuring appeals from decisions of the Department of Cannabis Control are resolved in a fair and timely manner.
2. **Outreach and Education:** To provide education on the appeals process for cannabis stakeholders.
3. **Organizational Effectiveness:** To develop an effective and collaborative work

environment while maximizing resources.

The panel members and staff have developed specific objectives to fully implement the Panel's strategic goals by December 2024.

Control Environment

Management's Establishment and Demonstration of Integrity and Ethical Values

The Panel establishes and demonstrates integrity and ethical values in the following manner:

- The Panel has developed five core values which act as guiding principles for all aspects of the Panel's operations and decision-making by management. These five core values embrace the following objectives:
 - Fairness
 - Efficiency
 - Professionalism
 - Respect
 - Transparency
- The executive director (ED) has an open-door policy and encourages all members of the Panel and staff to share ideas and/or concerns. The ED works to foster a spirit of respect, fairness, and professionalism in all interactions between panel members, management, and staff to create a team-oriented atmosphere. The ED strives for transparency throughout all aspects of the Panel's operations to ensure that staff have a clear understanding of the Panel's goals and management's expectations.
- The Panel has developed a decision-making process for recusal to identify any potential conflicts of interest on a case-by-case basis for panel members and staff. This will ensure that individuals with appeals before the Panel are provided a fair and impartial hearing.
- All panel members and the ED are required to annually file the Form 700 with the California Fair Political Practices Commission (FPPC). Additionally, staff who serve in designated positions file the Form 700, which is required to be on file at the Panel's headquarters and are available for public inspection and reproduction. (Government Code Section 81008)
- Creating a work environment of professionalism and respect is a top priority for the Panel. Details of the Panel's Equal Employment Opportunity Policy (EEO) is provided in the "Information and Communication" section of this report.
- All panel members and employees receive annual notifications of their rights and protections under the California Whistleblower Protection Act on how to report improper activity to the California State Auditor and/or a retaliatory action to the State Personnel Board.

Oversight

The Cannabis Control Appeals Panel is established under the Business Consumer Services and Housing Agency (Agency). Management meets with the Agency's Secretary and executive team on a monthly basis. The ED also provides a "Week Ahead Report" when necessary, on high-level updates for the Agency and Governor's Office consideration.

Secondly, the panel members, whom three are appointed by the Governor, one appointed by the Senate Committee on Rules, and one appointed by the Speaker of the Assembly, provide oversight and direction to the ED and staff. The ED reports directly to the Panel's chair and panel members and serves at their pleasure.

Organizational Structure Ensures Appropriate Levels of Responsibility and Authority

Below is an overview of the organizational structure and key roles of the Panel, outlining levels of responsibility to ensure the Panel achieves its mission, goals, and objectives.

Panel Chair. The responsibilities of the chair include coordinating with the ED to exercise oversight of day-to-day operations; manage panel hearings to ensure orderly and efficient review of each agenda item; coordinate the annual review of the ED; represent the panel before external entities, as necessary; and serve as signatory on delegations made by the Panel to the ED. Election of the chair occurs annually at the first meeting of each year.

Panel Members (4). The panel members, including the chair, are vested with issuing written decisions with orders affirming, reversing, or remanding the licensing and/or disciplinary decisions. The Panel works with staff to review appeals. The Panel holds hearings, reviews, and approves regulations, and works closely with the ED on the operations of the Panel.

Executive Director (ED). This position is responsible for oversight and general direction of the day-to-day operations of the Panel. The ED manages, at the direction of the Panel, on a wide variety of regulatory, legislative, appeal, and operational issues. This position is responsible for ensuring that the Panel's mission, goals, and objectives are accomplished by developing and interpreting broad policy into strategies and operational procedures to be implemented.

Assistant Chief Counsel (ACC). The ACC acts as the Panel's principal legal advisor, works with panel members and the ED in the formulation, administration, and implementation of departmental policies and procedures. The ACC serves as primary contact on all legal issues before the Governor's Office, the Legislature, control agencies and others. The ACC reviews attorneys' legal work, distributes assignments, and manages caseloads for legal staff.

Attorney III (2). Under the direction of the ACC, the Attorney III independently performs written analysis and summary of cases, peer review of legal documents prepared by staff attorneys, and legal counsel as requested by the Panel, ED and/or assistant chief counsel. In addition, this position will respond to public inquiries, promulgate revised or additional regulations, and develop and refine policies and procedures when necessary.

Associate Governmental Program Analyst (AGPA). Under the direction of the ED, this position is responsible for a variety of administrative functions related to the Panel's budget, accounting, procurement, contracts, human resources, and annual reports as required by the State. This position works closely with the Department of General Services' (DGS) Office of Contracted Fiscal Services (CFS), Office of Human Resources, and Procurement Division.

Documentation of Internal Control Systems

As stated earlier, the Panel is responsible for appeals from any decision by the Department of Cannabis Control; therefore, (1) it is essential that clear documentation is provided to ensure that the appeal process operates as efficiently and effectively as possible; (2) reliable

data is produced about the Panel's operations; and (3) the Panel is complying with all laws and regulations to ensure a fair process for all appellants and respondents.

Below is the documentation created for the appeal process. Processes have been identified and work-flow charts have been created to provide detailed, step-by-step procedures for staff.

- Intake of new cases.
- Intake of the administrative record.
- Filing of briefs and proofs of service.
- Motion to continue or change location.
- Request for continuance based on exigent circumstances.
- Decision making process for panel members.
- Disqualification of panel member (party initiated and panel member initiated).
- Motion to remand for new evidence.
- Motion to waive page limits.
- Reconsideration by licensing agency.
- Request for extension to file administrative record.
- Stipulation for truncated administrative record.
- Stipulated settlement.
- Motion to stay.
- Response to California Public Records Act requests.
- Issuance of final decisions.

Additionally, the Panel has developed a case management system utilizing Salesforce. Key performance indicators (KPI) have been identified, such as the age of cases, for example, to ensure "real time" reporting of Panel operation metrics to panel members, management, the Governor's Office, Legislature, and other stakeholders. This data will assist the Panel in achieving its strategic goals and objectives.

Establishing and Maintaining a Competent Workforce

The Panel contracts with Department of General Services (DGS), Office of Human Resources for personnel services. The Panel leverages DGS' resources to ensure that the Panel recruits, develops, and maintains the most competent and diverse staff.

- Recruitment:
 - The Panel works with DGS to conduct extensive advertising and outreach to prospective candidates through popular job-search platforms and social media.
 - For positions that require specific qualifications, for example a legal degree, outreach is conducted to diverse legal associations and their listservs.
 - For entry-level positions that do not require a college degree, the Panel advertises and conducts outreach to local high schools and community colleges through their career centers.
 - For all positions, the Panel conducts outreach to ensure that the candidate pool is representative of the State's diversity.
 - The Panel works with the Department of Rehabilitation (DOR) to leverage their

expertise in outreach to people with disabilities.

- Development of Staff:
 - It is important to assess the individual's core competencies and to identify areas for additional training to support achievement of the position's duties and responsibilities.
 - The Panel's goal is to provide multiple training opportunities each year that are tailored to the individual's needs.
 - The ED will provide timely feedback annually to employees and during the probationary period to ensure skills are aligned with the Panel's objectives.
- Retention
 - The ED and assistant chief counsel provide meaningful and ongoing mentorship for staff to have an opportunity to grow professionally in their roles.
 - The ED conducts annual reviews and goal setting with each staff member to provide motivation to hone their skills and support both their professional goals and the Panel's mission.
 - Management recognizes staff who have shown exemplary levels of performance.
 - The Panel has implemented the Statewide Telework Policy and offers hybrid work schedules for eligible positions. The retention rate for staff is 100% since the Panel's inception in 2018.

Evaluates Performance and Enforcement of Accountability

There are three levels of accountability for the Panel.

First, panel members serve at the pleasure of their appointing authority and can be removed at any time.

Second, panel members conduct an annual evaluation of the ED, who is responsible for the financial operations and integrity of the Panel and is the official custodian of records. Panel members provide information to the Panel's chair on the ED's performance in advance of this meeting. The findings are shared with the ED in closed session. The ED is an at-will employee, who serves at the pleasure of the panel members.

Third, employees of the Panel are civil service employees, and their employment, pay, benefits, discipline, termination, and conditions of employment are governed by civil service laws and regulations, and by collective bargaining agreements. The Panel delegates the authority and responsibility for management of the civil service staff to the ED. The ED provides feedback and assessment during probationary reports and annual reviews to ensure that the employee is meeting the requirements of their role as indicated in their duty statements. If an employee is not meeting the expectations of their position, the ED consults with the Department of General Services' Constructive Intervention Unit for guidance on addressing poor performance through the progressive discipline process.

Information and Communication

Information for Operational, Programmatic and Financial Decision Making

As stated earlier, key performance indicators (KPI) are identified in the Panel's case management system to report on the Panel's operations pertaining to the length of time to process each appeal.

Other metrics can be developed as needed to provide operational and programmatic information.

Financial information is provided by the Department of General Services' Contracted Financial Services Unit for budget and accounting reports. These reports are provided on an as needed basis to the Panel. Furthermore, reports are provided on a quarterly and end-of-the fiscal year basis as required by State control agencies. These reports ensure that the Panel is complying and within its appropriation for the fiscal year.

Channels for Communication

While the internal communications, facilitated by the Panel's small size (5 panel members and 6 staff), are direct and frequent, the Panel has instituted the following procedures to support regular communication.

- There is a weekly staff meeting, typically on Monday. This meeting provides an opportunity for the ED to check-in with staff, hear any questions or concerns they may have, and provide guidance on the upcoming priorities for the Panel.
- Often, there are one-on-one meetings with staff on special projects—such as the case management system, regulations, and developing policies and procedures, for example.
- The ED provides a Week Ahead Report to Agency, as needed, and briefs Agency leadership at a monthly meeting. When necessary, the ED elevates issues to Agency to ensure the Governor's Office is kept abreast of sensitive matters.
- The ED and legal staff conduct quarterly check-in calls with panel members.
- Communication with external stakeholders is through various avenues:
 - Legal staff provide presentations on the appeals process at stakeholder meetings and conferences.
 - All external stakeholders may sign-up for the Panel's listserv, which is used to update interested parties on upcoming panel meetings and other pertinent news.
 - Stakeholders can contact staff through info@ccap.ca.gov, which is posted on the Panel's website or the Panel's main phone number.
 - The Panel's website includes forms to initiate an appeal, frequently asked questions, glossary, appeal checklist, appeal process chart, and a "Your Appeal Rights" flyer. These materials have been translated into Spanish, traditional and simplified Chinese, Tagalog, Arabic, Armenian-Eastern, Armenian-Western, Farsi, Japanese, Korean, Russian, and Vietnamese.
 - The Panel's website is fully accessible and is designed, developed, and maintained to be in compliance with California Government Code Sections 7405 and 11135.
 - Panel meetings are conducted on the teleconference platform, Zoom, which

- allows easy access for the public.
- Finally, at panel meetings and per requirements of the Bagley-Keene Act, the public is provided an opportunity to comment on each agenda item in open session, whether through teleconference or in-person.

Reporting for Employees to Report Inefficiencies & Inappropriate Actions

As stated earlier, creating a work environment of professionalism and respect is a top priority for the Panel. As set forth in the Panel's Equal Employment Opportunity Policy (EEO), the Panel ensures a work environment free of all forms of unlawful discrimination, harassment, intimidation, or coercion, and establishes and maintains an effective EEO Program and Discrimination Compliant Process (DCP). All employees are encouraged to identify, prevent, and report any inappropriate conduct either to the ED and/or the Panel's equal employment opportunity officer (EEOO). Because the Panel is a small agency, the EEOO for the Panel is the manager for administrative operations at the Business, Consumer Services and Housing Agency (Agency).

MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the Cannabis Control Appeals Panel monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Anne Hawley, Executive Director.

The Panel anticipates use of the following processes to ensure the effectiveness of internal control systems, identify potential problems, and respond to vulnerabilities.

- The ED analyzes reports on key performance indicators, for example a case's age, generated by the case management system, to identify work processes that should be streamlined.
- The ED conducts check-in meetings to assess the caseload for the assistant chief counsel and staff attorneys to verify that workloads are fairly distributed.
- Because of the Panel's small size, all staff, including the ED, are generally knowledgeable about the day-to-day operations; however, the Panel's chair could review and compare the output number of the Panel's decisions to expectations and determine if change is needed.
- If change is necessary to address internal control systems, the ED would report to the Panel's chair the necessary adjustments to streamline work processes. These adjustments would be reported to Agency as well.

The Panel is awaiting its first appeal case. Once appeals are received, a baseline can be created and used in monitoring activities to evaluate whether corrective measures are having the intended impact. The ED will document and track the progress of addressing the Panel's vulnerabilities and report to the panel members and Agency.

RISK ASSESSMENT PROCESS

The following personnel were involved in the Cannabis Control Appeals Panel risk assessment process: executive management, middle management, front line management, and staff.

The following methods were used to identify risks: brainstorming meetings, ongoing monitoring activities, and other/prior risk assessments.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, timing of potential event, potential impact of remediation efforts, and tolerance level for the type of risk.

RISKS AND CONTROLS

Risk: Case Management System

The Panel's electronic case management system addresses document management processes, provides streamlined workflow, and increases efficiencies.

The system was designed and developed by external, information technology (IT) consultants; however, because the Panel has a small number of staff (six employees), the agency does not have subject-matter expertise to support ongoing maintenance of the case management system, nor the proficiency to provide technical support to staff.

If the Panel does not address this risk, it could impede its ability to process appeals in a timely manner.

Control: Maintenance and Support Services Contract

Within the confines of the Panel's tier-one purchasing authority, the agency will execute a contract with an external, information technology vendor for ongoing technical support and maintenance of the case management system. This will ensure that staff, who are the end users of the system, have the necessary technical support. Additionally, if the system requires modification of an existing configuration to maintain and/or increase efficiencies, an IT technician will be readily available to address the issue and minimize disruptions to workflows.

Risk: Leave Balance Liabilities

Staff with leave balances over the allowed maximum 640 hours present a significant financial risk to the Panel should the employees separate from State service. If the Panel had to pay out lump sum payments to multiple employees, this would create a financial burden to the agency's operating budget.

Control: Leave Reduction Plan

Starting December 2023, all staff near or above the maximum of their vacation/annual leave balances, is required to prepare a leave reduction plan to reduce leave balances. Plans shall be submitted by February 1, 2024. The executive director is responsible to

ensure that staff with excess leave balances—in accordance with bargaining unit's Memorandum of Understanding (MOU)—meet the reduction requirements. By reducing future financial liability of leave balances, this action will assure effective resource management.

Risk: Disseminate Information to Stakeholders

The Panel has updated its website with newly translated materials into twelve languages to assist and educate appellants on the appeals process. Those materials include the "Appeals Process Chart," "Your Appeal Rights" flyer, and the forms required to initiate an appeal; however, stakeholders are unaware that these tools exist. This could lead to potential appellants and licensees not being informed of their due process rights if the Department of Cannabis Control issues an adverse decision against their annual license or application.

Control: Implement Outreach and Education Action Plan

The Panel is implementing its action plan to provide information on the appeals process and expand accessibility through engagement with stakeholders. These outreach and education efforts include: 1) educational videos; 2) presentations at stakeholder meetings and conferences; 3) public service announcements for YouTube and social media channels; and 4) quarterly newsletter delivered through an automated email platform.

CONCLUSION

The Cannabis Control Appeals Panel strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Anne Hawley, Executive Director

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency