**BOARD MEETING MINUTES**

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| **DATE:** | Tuesday, March 26, 2019 |
| **TIME:** | 10:00 A.M. |
| **LOCATION:** | Via Teleconference, GNPEC,  Tucker, GA |



**Georgia Nonpublic Postsecondary**

**Education Commission**

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| **MEETING CHAIR:** | Holly Kirbo |  |  |
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| **MEETING TITLE:** | Special Called Commission Meeting – SIFT Appeal Discussion Continued | | |

**MEMBERS PRESENT:**

Holly Kirbo, **Chair**

Mollie Cohen, **Vice Chair**

Lee Todd

Victoria Agyekum

Amanda Shailendra

Toby Hinton

Ryan Blythe

Karen Gilbert

**VACANT**

**MEMBERS ABSENT:**

Dr. Arthur Vaughn

Norma Nunez-Cortes

**STAFF PRESENT:**

Kirk Shook Executive Director

Dr. Laura Vieth Deputy Director

Shirlene Mitchell Office Manager

**VISITORS:**

Susan Haynes Assistant Attorney General

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1. **CALL TO ORDER**Chair, Holly Kirbo called the meeting to order at 10:00A.M.
2. **Executive Director’s Report**

Executive Director, Kirk Shook presented the following:

1. **SB 91 Update**

* Passed the House 170 – 0
* Will go back to the Senate for review
* Explicit language of the bill will be discussed during April’s Commission Meeting in Savannah

1. **Argosy University School Closure Update**

* GNPEC has received to date, 37 student inquires and 11 student refund requests with five (5) students who seems to be eligible, totaling around $30,000
* GNPEC continues to collect student inquires and assist students
* AG’s office submitted a bond surrender request to Argosy
* Argosy has two (2) $200,000 bonds that GNPEC can cash in
* Further update to follow during April’s Commission Meeting in Savannah

1. **Schedule of Fees to Post for Public Comment**

* GNPEC will be posting information in reference to the Schedule of Fines this week
* Schedule of Fines involve fees to be collected for violations and non-compliance issues
* The fee write-up has been submitted to the AG’s office for review prior to posting
* Commission will have the opportunity to approve these Schedule of Fines during April’s Commission Meeting in Savannah

Executive Director Shook asked the Commission if there were any questions.

There were none.

1. **APPROVAL OF AGENDA**

Karen Gilbert made a motion to **ADOPT** the Agenda for the March 26, 2019 Special Called Commission Meeting of the Georgia Nonpublic Postsecondary Education Commission. Mollie Cohen seconded the motion.

Upon unanimous vote it was **RESOLVED** that the Agenda for the March 26, 2019 Special Called Meeting be adopted.

1. **APPROVAL OF MINUTES**

Mollie Cohen made a motion to **ADOPT** the minutes from March 6, 2019 Special Called Meeting of the Georgia Nonpublic Postsecondary Education Commission. Toby Hinton seconded the motion.

Upon unanimous vote it was **RESOLVED** that the minutes from the March 6, 2019 Special Called Meeting of the Georgia Nonpublic Postsecondary Education Commission be adopted.

1. **DISCUSSION AND APRROVAL of SIFT APPEAL/ADMINISTRATIVE LAW JUDGE PROCESS/MODIFIY OSHA RULES**

Chair Kirbo open with the introduction of Attorney General, Susan Haynes. Chair Kirbo asked Attorney General Haynes to the special called meeting so that she may be a part of the discussion and make herself available to answer additional questions concerning the ALJ process and OSHA rules.

The following was discussed:

* SIFT Institute appeal date is June 13, 2019
* A Hearing Officer was used for the last appeal hearing; it was a costly process
* Can control cost better by using an ALJ
* OSAH will have uniform billing starting July 1, 2019 which proves to be cost effective
* Commission had more flexibility with a Hearing Officer; able to ask questions and make comments
* In utilizing the ALJ process, the Commission is not allowed to participate at all during the hearing
* ALJ will focus only on the issue
* Because ALJ’s is an initial decision, the Commission can structure the rules to adequately protect the Commission
* There will be a court reporter. Court reporter will provide the transcript of the hearing within a couple weeks after the hearing
* The AG’s office will get a copy of the transcript for review as well
* The Commission can have a rule that allows the Commission to ask for additional information of evidence before the final decision is voted on by the Commission
* Two options of rules:
  + Let the ALJ decision stand as the final decision and appeal to the ALJ if the Commission does not agree with the ALJ decision
  + Make the ALJ the initial decision maker, but subject to the Commission approval
* The requirement of three Commission members attend the hearing is not necessary, but can attend at their own discretion

**The following Approvals transpired**:

1. Toby Hinton motioned for the Commission to **ALLOW** the Administrative Law Judge to make the initial decision of SIFT Institute’s appeal, but subject to the Commission’s approval for the final decision. Amanda Shailendra seconded the motion.

Upon unanimous vote it was **RESOLVED** that the Administrative Law Judge will make the initial decision of SIFT Institute’s appeal, but subject to the Commission’s approval for the final decision, **be adopted**.

1. Karen Gilbert motioned for the Commission to have the option to request additional information of evidence, subject to OSAH rules, after reviewing the ALJ’s initial decision. Victoria Agyekum seconded the motion.

Upon unanimous vote it was **RESOLVED** that the Commission have the option to ask the ALJ for additional information of evidence, subject to OSAH rules, after reviewing the ALJ’s initial decision, **be adopted**.

1. Toby Hinton motioned that the requirement of three Commission members attend the ALJ hearing, **NOT BE ENFORCED**. Commissioners can attend at their own discretion. Mollie Cohen seconded the motion.

Upon unanimous vote it was **RESOLVED** that the requirement of three Commission members attend the ALJ hearing, not be enforced, **be adopted**.

1. Chair Kirbo motioned that the Commission **MODIFY** OSAH rules to similarly read, “Upon the ALJ issuing an opinion, the Commission must schedule a Special Called Meeting within 30 days or next scheduled Commission meeting to discuss ALJ’s initial decision.” Lee Todd seconded the motion.

Upon unanimous vote it was **RESOLVED** that the Commission modify OSAH rules to similarly read, “Upon the ALJ issuing an opinion, the Commission must schedule a Special Called Meeting within 30 days or next scheduled Commission meeting to discuss ALJ’s initial decision,” **be adopted**.

1. Holly Kirbo motioned that the Commission move to **ADOPT** this “Future Process” of an ALJ hearing as an initial decision, subject to the Commission final approval for the final decision as the “Future Process”, unless the Commission decide to change at any time.

Upon unanimous vote it was **RESOLVED** that the Commission adopt this “Future Process” of an ALJ hearing as an initial decision, subject to the Commission final approval for the final decision as the “Future Process”, unless the Commission decide to change at any time, **be adopted**.

1. **OTHER BUSINESS**

There was none.

1. **ADJOURN**

Toby Hinton made a motion to adjourn the meeting. Karen Gilbert seconded the motion.

There being no further business, the meeting adjourned at 10:35 a.m.

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| **BOARD CHAIR APPROVAL:** *(Signature & Date)* |  |
| **BOARD SECRETARY APPROVAL:** *(Signature & Date)* |  |