

Notes
PCC Member Strategy Call
Wednesday, September 4, 2024
12:00 pm ET

I. Welcome

- a. Thank you as always for your participation in the PCC.
- b. If you do not have a copy of the invoice that was sent to you in July, please let us know and we'll be sure to get you a copy.
- c. As a reminder, please follow and engage with the PCC's LinkedIn page (if you haven't already).
- d. PCC Website Password Change
 - i. As we do every year, we will be changing the password for the "For Members" section of the PCC website, which has a large repository of information that we only share with our members.
 - ii. Effective October 1, 2024, we will use a new password. Members who have paid all or part of their dues for this fiscal year (or members who indicate to us that their dues are coming) will receive the new password.

II. Sytease Geib, National Governors' Association: The Public Sector's Shift to Skills-Based Hiring & Talent Management

- a. *Background:* The PCC has been engaged with the National Governors' Association (NGA) since the PCC's inception. As many of you know, NGA is the primary association for governors to get together and work on policy issues that are percolating in their states and that have a national impact. Sytease Geib, Program Manager for Skills-Based Hiring at NGA's Center for Best Practices, joined us on the call. She is helping to lead an initiative to develop a community of practice focused on skills-based hiring in the public sector.
- b. Skills in the States Community of Practice: Overview¹
 - i. This body of work sits within NGA's postsecondary hub, which focuses on policy and actions to support governors' offices on any topics around postsecondary education. NGA also closely collaborates with its workforce and economic development hub.
 - ii. This program was built in response to governors across the country issuing executive orders to remove degree requirements for certain public sector

¹ For more detailed information, please refer to the presentation circulated by the PCC via email on September 16, 2024.

roles, particularly for job applications that did not require a degree for licensure. This was an opportunity for states to look at roles and classifications that may have experienced “degree inflation” where historically those roles did not require a four-year degree, but post-pandemic that changed.

- iii. With a tight labor market and staffing crisis across the country, the public sector is getting creative with regard to how to best source, recruit, and retain top talent.

c. Purpose & Vision

- i. Community of Practice brings together teams from 23 states and territories.
- ii. The program provides peer and expert learning opportunities, including building action plans regarding implementing skills-driven practices and overhauling existing programs.
- iii. The state teams are comprised of a variety of individuals representing various state agencies.

d. Project Reflections & Best Practices

- i. Skills-based hiring means different things to different people—and states are in various places along the continuum.
- ii. This is complicated; progress doesn’t happen overnight, and it’s difficult to measure progress. This project is technically slotted to end by the end of 2025, but this is likely going to be a broader, ongoing shift.

e. Emerging Best Practices

- i. Aiming to expand partnerships and opportunities, which also means greater connectivity to providers.

f. Opportunities for Engagement

- i. Join monthly newsletter distribution list; attend a project update stakeholder brief meeting; submit to share information/program to a work group; submit a tool or resources for states to our website.
- ii. Email: sgeib@nga.org

g. Q&A

- i. Q: How is skills-based hiring relevant to the healthcare sector?

A: Healthcare has come up a lot. It depends on the role, but a lot of what states have focused on is looking at roles that support licensed practitioners that have to have the degree requirement and understanding: what are the skills we are asking for? How can we better recruit, source, and upskill individuals into healthcare roles? Many states are interested in creating pilots within their Departments of Health & Human Services (e.g., case managers), which are positions that more often experience burnout.

- ii. Q: How do you see states that recognize they have to fund these initiatives, whether it's new assessments, upskills or reskills? Has that been tricky from a funding perspective?

A: It has been. Most states that have issued executive orders have not had funding attached. This is asking a lot of individuals who are already spread pretty thin. Some states are looking at where they can invest by leveraging what NGA is doing in the Community Practice program, then going back to the respective governor's office and presenting findings. The only exception is Colorado – they had funding for training and workplace programs, so NGA has been paying close attention to how the state has leveraged funding.

III. Federal Legislative Updates

- a. When we last spoke, we provided an update that a version of the primary federal bill that we've been working on, the *Freedom to Invest in Tomorrow's Workforce Act*, which would allow people to use tax-favored 529 savings plans to cover the costs associated with obtaining and maintaining postsecondary credentials. That bill was marked up in the House Ways and Means Committee, attached to another 529 bill that would allow beneficiaries to use 529 plans for homeschooling. As we discussed, the 529-for-homeschooling provisions are a non-starter for Democrats, and, as a result, while we're happy that we've seen our bill advance and prioritized by committee leaders, we are continuing our efforts to develop support for our bill either on a standalone basis or as part of the massive tax package Congress will consider next year.
- b. If our bill, as a standalone bill without other provisions attached to it, were to reach the House floor, it would very likely get a large majority of the House voting for it; the same would likely be the case in the Senate. But nothing is ever that simple in Washington, unfortunately. Our best bet for now is to continue to build support for the bill, primarily by growing our bipartisan and our bicameral list of cosponsors, so that, whenever the opportunity arises, our bill is immediately moved to that top of the heap.

IV. State Legislative Updates

- a. The New Hampshire Review & Repeal bill (HB 1676) has been scheduled for executive session in the House Committee on Executive Departments and Administration. We are engaging on and opposing this bill, and given what happened in Texas on a similar bill, which led to the inadvertent dissolution of the state's plumbing board.
- b. The only other bill of high priority is Ohio's House Bill 238, which would prohibit recognition of CLE credits that touch on any topic that they consider to be "DEI." We are keeping a close eye on that bill, which did pass the first chamber back in February.

V. *FTC v. Grand Canyon Education, Inc.*, No. 2:23-cv-02711-DWL (D. Ariz. Aug. 15, 2024)

- a. The FTC brought claims against Grand Canyon University, alleging that the university was engaging in various fraudulent and deceptive practices. The university challenged the FTC's authority to assert jurisdiction over the university, arguing that, unlike the Sherman Act (general anti-trust laws), the FTC authorizing statute gives the Commission authority only under a certain definition of "Corporation," which includes that the corporation carries on business for its own profit or that of its members.
- b. The issue for the court was whether a non-profit that is: (i) not for profit; and (ii) does not have members, is subject to the FTC's authority. The court held no: "if Congress had intended for [FTC Act] Section 4 to encompass nonprofit entities organized to carry on business for the profit of non-member 'insiders,' 'related businesses,' and 'officers,' it could have said so." The court distinguished cases that have held that the "FTC [has] authority to pursue claims against a particular type of nonprofit entity—a nonprofit corporation with profit-seeking members that was expressly organized to benefit those members."
- c. Why do we care? Because many certification organizations are non-profits that do not actually have "members." This raises a substantial question as to whether the FTC would have authority over certain organizations – especially 501(c)(3) organizations.

VI. *FTC Healthy Competition Website*

- a. As a reminder, we have sent FOIA requests and a letter requesting a meeting to the Federal Trade Commission (FTC) and the Department of Justice (DOJ) in response to the DOJ Antitrust Division's "Healthy Competition" website. The website solicits complaints from the public about potential antitrust violations in the healthcare field and lists "unnecessary recertification requirements" among the "examples of conduct that can harm competition in healthcare."
- a. We mounted a response on the merits suggesting that what DOJ and FTC put forward in that inquiry is bad policy. We have reiterated our request for a meeting

over the past few days and will keep you updated as we continue to engage on this issue.

VII. Concluding Remarks & Thank You