

**MINUTES
SCHOLARSHARE INVESTMENT BOARD**

**December 16, 2002– 2:30 PM – 5:04 PM
Teleconference**

The meeting was called to order at 2:41 PM by Chair Anne Stausboll.

Present: Anne Stausboll for Philip Angelides, State Treasurer
Jay Schenirer for Kerry Mazzoni, Office of the Secretary for Education
Sean Miller for Kerry Mazzoni, Office of the Secretary for Education
Annette Porini for Tim Gage, Department of Finance
Allison Jones
Allison Okyle
Sabrina Kay

Staff: Carrie Douglas Fong, Executive Director, ScholarShare Investment Board
Carla Raffin, TIAA-CREF, Tuition Financing, Inc. (TFI)
Tim Lane, TFI
John Middlebrook, TFI
Yvonne Hernandez, TFI
Tom Noguera, State Treasurer's Office Legal Counsel

The Chair declared a quorum present.

**Board Agenda Item Number One
Approval of Minutes of the October 18, 2002 Meeting**

The minutes from the ScholarShare Investment Board October 18, 2002 meeting were approved as submitted.

**Board Agenda Item Number Two
Executive Director's Report**

Update on ScholarShare Program:

Ms. Douglas Fong provided updated program totals for the ScholarShare Program. The total number of accounts opened since inception is 94,649 and the average account balance is \$5,354.00. The total net asset value is approximately \$501.1 million. Approximately 2,100 of 2,300 new accounts opened during the week of December 9 were opened online which indicated the

online gift card promotion was successful. Mr. Lane announced that TFI had achieved their benchmark of 32,000 new accounts set by the Board.

Ms. Douglas Fong noted that the amount of the contract with the State Treasurer's Office for administrative services was increased to \$123,979.

Update on Governor's Scholarship Program:

Ms. Douglas Fong updated Governor's Scholarship Program statistics. As of December 13, 2002, 87,135 Governor's Scholars Awards and 418 Math and Science awards for Test Year 2000 had been claimed bringing the claim rate for that Test Year to 82 percent. For Test Year 2001, 91,489 Governor's Scholars Awards and 1,323 Math and Science awards had been claimed, bringing the claim rate for that Test Year to 81 percent.

Ms. Douglas Fong updated the Board on the Physics C issue that had been discussed at previous meetings and with former Board Member Spurlock. SIB's legal counsel reviewed the issue and concluded that students who took one exam in 2001 may claim an award. Legislative action would be required for students that took exams in 2002 and beyond.

Deficiency Letter:

Member Porini reported that a deficiency letter was sent to the legislature regarding the scholarships to be awarded for Test Year 2002. She noted the letter had not been acted on and that there appeared to be confusion regarding the Department of Finance's authority over continuously appropriated funds. Member Porini stated she was confident that the matter would be resolved soon. Staff will notify the Board when the issue is resolved.

Member Kay recommended that the 2003 marketing plan contain more Internet advertising. Mr. Lane concurred and stated that TFI is working towards linking with "validator" Web sites like Joe Hurley's, www.savingforcollege.com.

**Board Agenda Item Number Three and Number Four
Permanent Regulations for the Governor's Scholarship Programs to Allow
Additional Electronic Communications and Clarify Existing Regulations
And
Permanent Regulations for the ScholarShare Trust to Remove Cancellation
Penalty**

Governor's Scholarship Program Regulations:

Marian Cohen, Manager, Governor's Scholarship Programs, presented the permanent regulations for GSP. She stated that there had been no changes to these regulations since they were presented to the Board in November 2001.

Member Okyle inquired about the recently passed statute (AB 1381 Florez) that allows students that have been enrolled in a public school for 110 days in both the year they took the exam and the year before that to be eligible for an award. Ms. Cohen stated that the updated provisions would be addressed in the next set of regulations. The Board asked why that provision could not be included in this set of regulations and it was explained that since this set was in process, staff should move forward. Also, since the provision was in statute, it is not urgent to update the regulations.

ScholarShare Regulations:

Ms. Douglas Fong presented the permanent regulation for the ScholarShare Trust to remove the 1 percent penalty upon cancellation of a participation agreement. Prior to the passage of AB 3045 last fall, Education Code Section 69983 (g) required the Board to impose a payment penalty upon the cancellation of a participation agreement. In order to satisfy the payment penalty requirement, the Board voted to collect a de minimus penalty of 1 percent. The passage of AB 3045 removes that requirement.

Member Okyle asked if it would be possible to change the regulations to eliminate the requirement that students fill out multiple requests for distribution. It was explained that the law requires that a student submit a request for each distribution for monitoring purposes. Member Okyle also asked if there had been students who had been identified erroneously. Ms. Douglas Fong stated that there had not been students who had been identified as recipients incorrectly, but some students had claimed erroneously.

Board Action:

Member Porini moved that the Board approve the regulations for the Governor's Scholarship Programs and the ScholarShare Trust. Member Schenirer seconded. The motion was approved unanimously.

Board Agenda Item Number Five
Appointment of Acting Executive Director for the ScholarShare Investment Board

Ms. Douglas Fong announced that she would be taking a leave of absence. The Chair of the ScholarShare Investment Board, Treasurer Angelides,

recommended Jennifer DuCray-Morrill as Acting Executive Director in Ms. Douglas Fong's absence.

Board Action:

Member Okyle moved that the Board appoint Jennifer DuCray-Morrill as the Acting Executive Director for the ScholarShare Investment Board. Member Jones seconded. The motion was approved unanimously.

Board Agenda Item Number Six
Asset Allocation for Age-Based Investment Options for 2003

Asset Allocation Changes:

Ms. Douglas Fong presented two changes to the Investment Policy to clarify when the asset allocation changes become effective.

Mr. Allan Emkin, Pension Consulting Alliance (PCA), presented the recommended changes to the strategic allocation by TIAA-CREF. These changes will enhance the diversification of the equity component, which, over the long term, should create a better rate of return with a similar or lower risk. PCA concurs with these changes.

Ms. Douglas Fong noted that the changes affect both the Age-Based Asset Allocation and the Aggressive Age-Based Asset Allocation options.

Board Action:

Member Porini moved that the Board approve the asset allocation for the Age-Based Investment Options. Member Jones seconded. The motion was approved unanimously.

Board Agenda Item Number Seven
Investment Benchmarks for Program Manager

New Investment Benchmarks:

Ms. Douglas Fong announced some changes for this item. For the Institutional Social Choice Option, the benchmark is the Russell 3000 Index. She noted the addition of the two indexes added with the adoption of the Age-Based Asset Allocation: the Institutional Large-Cap Value Index, benchmarked to the Russell 1000 Value Index, and the Institutional Small-Cap Blend Index Fund, benchmarked to the Russell 2000 Index. Also, at a the October 2002 meeting,

the benchmark for the Institutional Growth Equity fund was changed to the Russell 1000 Growth Index.

Ms. Douglas Fong noted that TFI had sent a letter to staff regarding their concerns with the investment benchmarks. Allan Emkin, PCA, presented the investment benchmarks and noted that these benchmarks are solely the result of the Board fulfilling their fiduciary responsibilities and are not intended to be punitive. It was noted that the document had been designed with ScholarShare's unique characteristics and structure in mind and was not a document cloned from another agency, department, or company.

Discussion:

Performance Criteria:

Member Jones asked if the performance criteria were considered industry standards. Ms. Douglas Fong replied that, although they are specific to ScholarShare, they are industry standards.

Member Okyle asked if these criteria had been in place over the past three years, what would the consequences have been. Mr. Emkin replied that staff had reviewed the past three years, and under the criteria, none of the funds would have a probationary status. Mr. Emkin also noted that some of the funds' performance may have warranted probation at one time, however the performance had improved enough that they would have been removed from probation.

Performance Evaluations:

Chair Stausboll asked how the Board would be notified if funds were under-performing. Mr. Emkin suggested a regular quarterly update in addition to an exception report in those circumstances when there was a trigger and that staff would alert the Board and the program manager immediately.

Mr. Tim Lane, TFI, noted that TFI's security attorneys had concerns related to selected disclosures. He also stated that TFI needed a bit more time to respond fully to the investment criteria. Staff proposed that the Board move forward with the criteria as presented and that TFI notify staff in writing of their concerns by January 7, 2003. Staff will review concerns with PCA, discuss them with TFI, and bring any changes back to the Board if necessary.

Member Okyle asked which entity would be completing the performance evaluation. Mr. Emkin explained that there would be two levels of review. Level one would be SIB staff and level two would be PCA, SIB's investment consultant. TFI reports investment performance on a monthly basis and that performance is verified by independent third parties and is publicly available.

Ms. Douglas Fong stated that these guidelines would be effective immediately and the first report to the Board would be available in Mid-January with information from a report dated December 31, 2002. If TFI has any concerns that need to be addressed, they will work with PCA to make necessary changes.

Member Porini asked if an open or closed session would be held in the event a fund was placed on probation. Mr. Emkin stated that since these funds are public vehicles, there would not be a concern if these discussions were held in open session. Mr. Lane agreed that there would be no need for a closed session in such a situation.

Board Action:

Member Porini moved that the Board adopt the proposed investment benchmarks. Member Schenirer seconded. The motion was approved unanimously.

Board Agenda Item Number Eight
Marketing and Outreach in Languages other than English

Lack of Spanish Enrollment Materials:

At past Board meetings, several members inquired about the marketing efforts TFI made regarding languages other than English. Ms. Douglas Fong stated that currently TFI is not marketing in any other language than English. However, until May 2002 when the disclosure booklet became outdated, TFI had been marketing in Spanish.

Although Yvonne Jimenez, TFI Field Representative, does still offer outreach in Spanish by visiting employers and working with the Spanish-speaking press, she has been unable to provide enrollment materials. Ms. Jimenez is limited in what types of outreach she can provide because of an Securities and Exchange Commission's (SEC) rule that mandates that mutual fund companies provide written materials, specifically disclosure materials, in the languages that they market in. TFI's contract does contain language that states that the Board can require that TFI market in other languages. Staff was extremely concerned to discover that there have not been any Spanish-language enrollment kits since May 2002. Staff is working with TFI to find a faster, less expensive translation service. Staff believes that, with 25 percent of the population speaking Spanish, it is crucial to have a Spanish-language kit available and it is unacceptable to not have one for any length of time.

Ms. Douglas Fong noted that the number of Spanish enrollment kits distributed had increased every year, until 2002. Staff believes that the decrease in 2002 is due to the lack of current Spanish language enrollment materials.

Member Schenirer asked why the Spanish-language kits had taken much longer to update than the English language kits. Ms. Douglas Fong replied that the kit is first updated in its English version, reviewed, and sent for translation to Spanish. It is then sent for legal review in Spanish, which is provided by outside counsel. Mr. Schenirer inquired about the quantity of the last set of revisions and if they were precipitated by changes in the law. Mr. Lane explained that the revisions are driven by changes in the law, regulations, or other program changes. There were major revisions necessary due to the Economic Growth and Tax Relief Reconciliation Act of 2001.

TFI Response:

Ms. Douglas Fong also noted that the number of kits printed might need to be changed. At this time, TFI only has the ability to print 10,000 kits or more, which is a lengthy process. Staff proposed printing a smaller quantity of kits to reduce production time. Member Schenirer asked if the documents could be available for download on the Internet, instead of going through the printing process. Christine Doyle, TFI Counsel, replied that the disclosure booklet still needs to be printed and available due to SEC laws.

Mr. Lane explained that the largest issue is the legal review and the fact that there are not many securities attorneys with specialized knowledge of 529 plans who are also qualified to complete a review in Spanish. Ms. Doyle reiterated the importance of providing the legal documents with the marketing materials because of the SEC rules.

Mr. Lane stated that TFI is absolutely capable of distributing a Spanish-language kit and streamlining the process to do so. Member Schenirer asked if TFI had a legal firm retained to complete the Spanish language review. Mr. Lane stated that they work with two firms. Ms. Doyle stated that TFI is open to working with any reputable firm to make the process more efficient. Member Schenirer requested a matrix and timeline describing the steps that must be taken in producing an enrollment kit in a language other than English. Member Porini would like to see a timeline as well, and offered to assist in finding another reputable firm to do the Spanish language review. She reiterated how important it is to have the Spanish language kit because a significant percentage of California's residents speak the language.

Discussion:

Marketing Strategies for Minority Outreach

Ms. Douglas Fong discussed some of the marketing strategies that the State of New York employed and noted that there had not been a great response. Outreach and public relations, which ScholarShare emphasizes, seem to have a much greater affect. Ms. Jimenez highlighted the types of outreach she does with the Spanish speaking community.

Member Jones stated that the Board has an obligation to provide information in Spanish and he did not feel that TFI has made an effort to fulfill this obligation. He asked for a date when the Spanish language materials would be available. Member Okyle inquired about the marketing budget. Ms. Douglas Fong explained that the Spanish materials have always been a part of the ScholarShare marketing budget and assured Member Jones that the completion of the fulfillment materials was a high priority for staff. Mr. Lane and Ms. Doyle said that a Spanish language kit could be available in March 2003 and a timeline would be sent to staff by December 23, 2002. Chair Stausboll asked that TFI make it a goal to have the materials by February 15.

Chair Stausboll asked if the next marketing plan would include a Spanish outreach component. Mr. Lane replied yes and reminded the Board that analysis shows that the outreach that works best are face-to-face events and such, and if the Board wanted to move forward with promotions, such as the gift card online promotion, they should consider the cost factor. It was noted that TFI has clear direction from the Board on this issue and will present a Spanish outreach component in the marketing plan in February.

Ms. Douglas Fong discussed issues with marketing in other languages, such as Asian languages. She noted that there are not a lot of requests for materials in other languages, however, that may be as a result of no marketing. She also noted that TFI has the ability to translate many languages through the call center. If outreach and advertising is done, TFI must print disclosure booklets in those languages and the marketing budget does not include printing costs for other languages. It is estimated that the translation, legal review and printing of the disclosure booklet alone would cost \$39,000 or more. It would cost additional monies to have the marketing kit translated and printed. Ms. Douglas Fong noted that there are no states marketing their college savings plans in any languages other than English and Spanish.

Member Kay asked if there is any data from other states that suggests that marketing in Spanish or any other language is a good use of marketing funds from a business standpoint because of the time and money associated with it. Staff replied that there was not really any data on this issue and Member Jones suggested that the Board continue to market in Spanish but that more research

needs to be done on the Asian languages. Ms. Douglas Fong noted staff's agreement with Member Jones and suggested that TFI focus on marketing Spanish better and that other languages be reviewed periodically. Chair Stausboll asked staff to research ways to conduct outreach and that staff come back in June 2003 with options for addressing other languages.

Other Business

Chair Stausboll called for public comment. There was none. There being no further business before the Board, the Chair adjourned the meeting at 5:04 PM.

Respectfully submitted by,

Jennifer DuCray-Morrill, Acting Executive Director
ScholarShare Investment Board