

Motorcycle Safety Education Commission Meeting

**Kentucky Justice and Public Safety Cabinet
First Floor Conference Room
State Office Building Annex
125 Holmes Street
Frankfort, Kentucky 40601**

**10:00am-12:00pm
June 13, 2016**

Commission members present: Jay Huber, Rick Schad, Jeannie Petty, Dean Broaddus, Glenda Hobbic
Not present: Steve Hanlon, KSP representative

Commission Guests: Evelyn Mynes, David Newman, Mike Schrivner, Chris Millard, Bruce Young, Gary Lial, Bob Heckel, Bill Meister, Dr. Jerry Pogatshnik, Jake Huber

Justice and Public Safety Cabinet Staff Present: Diane Marcus, Donna Jones – Grants Management Branch, and Elzie Burgher – Office of Administrative Services

• Greetings and Introductions

The June 13, 2016, meeting of the Kentucky Motorcycle Safety Education Commission (KMSEC) was called to order by Vice Chair Jay Huber since Chair Hanlon could not make today's meeting. An agenda and supporting materials were distributed for review and discussion. Vice Chair stated the Commission has five (5) members in attendance, therefore we have a quorum. He recognized a few new faces and requested each person identify themselves and who/what they represent.

• Prior Meeting Minutes and Reports

The minutes for the March 14, 2016 KMSEC were distributed for review and discussion. Vice Chair Huber asked if members had any questions, concerns, additions, deletions or clarifications. With no questions, comments or concerns, Jeanie moved to accept the March meeting minutes with Dean seconding the motion. Motion carried; all were in favor.

• Financial report

The financial report was distributed for review and discussion. Vice Chair Huber identified the report showing expenditures through February and inquired if March through May were pending. Donna confirmed March through May is pending. He went on to address the balance of a little over \$650,000 less what was spent in March through May. Vice Chair Huber asked Chris if the expenditures as reported and approved to date are in line with what was spent last year. Chris stated he wasn't sure as he didn't have the time to review prior to today's meeting. With no further discussion, Vice Chair Huber asked for a motion to accept the financial report. Glenda moved to accept the financial report with Jeanie seconding the motion. Motion carried; all were in favor.

• Request For Proposal and Discussion

Knowing the mainstream discussion would be on the Request for Proposal (RFP), it was decided to address other issues at this time and finish up with the RFP. Vice Chair Huber began this portion of

today's meeting with his disappointment of not being present at the last Commission meeting and requested an update from Chris Millard from the Kentucky Motorcycle Program (KMP). Chris cited 928 participants have been trained up til June 1st. Stated Big Sandy Technical College due to budget cuts have not been able to train on weekends and attended the promotional safety days at Ft. Knox. He also mentioned as a result of attending promotional days, they had received requested for future participation dates. Vice Chair Huber mentioned there were a lot of events in April and asked if KMP had been represented. Chris confirmed they only attended the event at Ft. Knox. The discussion moved to whether or not the Kentucky State Police had held their motorcycle event. Mike Scrivner stated that event will be combined in August with their Trooper Island event.

Dean requested to return to the subject of not having the training data available from last year as a means to compare to the current data to see how KMP is growing the program. Chris reiterated if he had received an e-mail requesting said information he would've come prepared to discuss the success of growing the program. Dean couldn't understand why ECU would not know the number of students in April and May of both 2015 and 2016 and asked if that information could be included in future reports. He went on to request having at least 2 years of historical data to compare to current data. He mentioned he doesn't see any reporting requirements in the contract. Elzie said it's not that we don't have that requirement but it is a matter of having a template that is part of the memorandum of agreement that would be sufficient for the Commission. Dr. Pogatshnik stated that is the reason ECU is here today to discuss exactly what the Commission needs.

Elzie apologized to Vice Chair Huber on not getting back due to the reorganization after Governor Bevin was elected. He went on to state Secretary Tilley is going to meet with the Transportation Cabinet to have the contract moved over there, therefore they made the decision to extend their current contract until September 30, 2016. This date was chosen as a means to keep the current program going without any disruptions. Vice Chair Huber mentioned the Commission had tried the reorganization from the Justice Cabinet back to the Transportation Cabinet and it didn't work. He explained the Transportation Cabinet stole \$5 million dollars and then returned to the Justice Cabinet. He stated he would meet with Secretary Tilley of the Justice Cabinet and Secretary Thomas of the Transportation Cabinet making sure they understand some of the past issues. He went on to say the Commission will be administered through the Justice and Public Safety Cabinet. He noted the purpose of having a representative from Kentucky State Police would mean less of an incentive of borrowing motorcycle funds to repave roads.

Vice Chair Huber asked what authority does the Justice and Public Safety Cabinet have in extending the program? He pointed out the budget goes through the Commission and not the cabinet; ECU has wasted resources the past 20 years; ECU was supposed to train 4% of students per year and hasn't come close since 2007/8 with a continuous steady decline and they engage in predatory practices. The Rainbow Bikes are going back to Honda? They were to be retired from the field and placed in classrooms for training purposes.

Elzie stated today would be a great opportunity for mediation. Vice Chair Huber countered the Commission has already done mediation with Dr. Pogatshnik, Dr. Kline, Chair Steve Hanlon and Tanya Dickinson and nothing has changed. When the Commission wrote the RFP it showed 4% training. Elzie had a copy of the most current Special Conditions and said the 4% is not in there but that doesn't mean it wasn't in the RFP but it's clearly not in the contract. He clarified the difference between the contract and the RFP. He suggested a Grant Adjustment Notice (GAN) could be done to include changes the Commission would like to require of ECU for the additional three (3) months if the grant/contract is extended to September 30th.

Discussion included the following:

Policy and Procedure Manual

Elzie stated he believes most if not everything lies within EKU's Policy and Procedure Manual. It doesn't mean EKU has to write it. Vice Chair Huber commented he had re-written it and handed it to Dr. Terry Kline. It went from 50 pages to 120 pages. It's been 7 years and the policy and procedure manual still hasn't been changed. EKU provided their manual and the Commission made changes but hasn't seen the updated version to date. Elzie stated the policy and procedure manual is the core of the day to day operations and it would clear up a lot of issues including accountability and responsibility. He noted it appears EKU is operating on what they believe is the approved policy and procedure manual and the Commission is operating based on their changes. As a result, mediation is necessary because it drives the program. He suggested a policy and procedure be a priority and is willing to work with EKU and the Commission. He requested both the Commission and EKU to send him what they have on the policy and procedures offering to clean it up and would negotiate between both legal departments in order to get the RFP out there. Once it's cleaned up, Chris would have it 7 to 14 days to mark it up and get it back to the Commission. The Commission would have 7 days to respond; the Justice and Public Safety Cabinet would review, clean it up and send it back to EKU for their legal department for review. Dr. Pogatshnik said they could get it done in 7 days from the day they receive it and have legal sign off on the document.

It was discussed whoever the provider for the motorcycle program is; the policy and procedure manual must be approved by the Commission. Number of pages should be minimal with no legal language. And rider coaches can train in the rain. Elzie highlighted the concept that any changes to the policy and procedure manual would become part of the negotiation process. All parties should negotiate in good faith and believes that is what is hindering the process now. He went on to say the Justice & Public Safety Cabinet was wrong, the Commission was wrong and EKU was wrong. Instead of operating in the past he encouraged everyone present today to move forward. If we don't resolve this today, we will always have this problem. He noted EKU is operating in good faith based on the manual.

Dean questioned why we are waiting for the very last meeting of the grant year to get this information. He stated the RFP should've been done in December 2015 and wanted to know why it hadn't been done. Elzie replied he didn't know the answer as he was not with the cabinet at that time. Donna stated the reason the RFP was not decided upon in December was due to administrative changes with the Justice Cabinet and the fact that our office did not have an opportunity to review the RFP as submitted by Vice Chair Huber before the December meeting. It was not in the best interest of the cabinet to move forward without a thorough review of the RFP. The subject of voting to end the program effective July 1, 2016 was brought up. Elzie commented this is a valid program and saw no point in ending the program. Vice Chair Huber replied asking the question if the Commission had any say and went on to ask if an extension for three (3) months was granted, could the RFP be ready by then. Elzie replied, "yes".

Elzie asked the Commission if they were ready to move forward. If so, he would need a vote on what they needed; reinstating his belief the policy and procedure should be priority. When asked how long it would take, he explained it needs to go through Secretary Tilley. He can have it out in 7 to 10 days and then it can be done within 30 days.

Percentage of permit holders. Currently there are approximately 16,000 permit holders in Kentucky. If they can train 20 to 25 percent, that would be close to training 3,500 students. This percentage would be a good place to start and then raise the bar later. Rick expressed his concerns about future success if

EKU can't meet the 20%. He suggested the possibility of lowering the goal to a more achievable level or have the Commission do a trend line from historical data to establish an achievable goal. Dr. Pogatshnik said he would not sign a contract knowing EKU can't meet it and went on to say there is nothing in the contract saying they must grow the program by four percent. His comment was countered with "that's what the RFP is for and should be awarded on who has the best program not on the numbers. Elzie mentioned if they put the word "shall" into the contract, they would have to deliver whatever is established. If we peg a goal at 25%, it would mean the vendor would have to train 3,975 students.

Cost per student. Vice Chair Huber cited he prefers the method used in Indiana. At one time Indiana was paying \$120 per student before they began using MSF. Currently Kentucky is paying \$300 dollars per student. If the vendor doesn't promote and get customers in, they don't get paid. Glenda agreed with this concept. Vice Chair Huber suggested starting at \$200, which is a cost savings and cuts the current expenses by a third. Dean liked the motivation behind this concept. The question was raised if it is feasible to separate the start-up costs and capital costs; Elzie responded affirmatively.

Goals:

Goals should be prorated. Last year they had 800 students. Elzie inquired if there was a per month goal. Vice Chair Huber said goal has always been around 4,500 which equate to about 500 per month. If the new baseline is 3,975 for the 9 month riding season, that would be 441 students per month which is reasonable.

Instructors

Instructors must meet the criteria based on the Kentucky Revised Statutes; having their motorcycle endorsement, active rider, no driving under the influence in past 5 years, etc. It was suggested they must have 2 instructors per class. Bill Meister noted the 2 instructors per class is wearing out some of the instructors. He identified there are some who wish to teach all the time while others only wish to teach enough to maintain their certification. It was suggested that Chris should go to the instructors and ask what they prefer as far as teaching. Some wish to teach only in their locations and not travel too far. It was decided this may be difficult to put in writing. It was then suggested they should have two instructors for every 10 classes scheduled as a base and if it's not working, can revisit it later.

The subject of single rider coach online exam was raised. It was said once you're approved by MSF, there is no additional test. Meaning you can teach singly or co-teach. Chris said, "even though MSF no longer requires MSF, it's still within the policy and procedure manual. It's for quality assurance." When asked what difference it makes, he replied it changes the liability. He went on to say at one point the Commission inquired of quality assurance and this online requirement is considered part of quality assurance. Several members and guests were in agreement they would prefer removing this requirement. Chris requested Dr. Pogatshnik to develop a waiver to terminate the online testing. Dr. Pogatshnik said yes as long as it releases the university from liability.

Training Sites:

Commission would like to identify certain cities by class. Example Louisville would be considered Class 1, Lexington, Owensboro considered Class 2. Elzie asked if this was already established. Vice Chair Huber replied, "no, not now." He went on to say about 4 years ago, EKU had 18 sites but they've declined and he would like to see it increase. Each full time site should schedule 3 classes per month. Chris mentioned they are having a difficult time looking for new sites. When asked if it was due to liability or availability, Chris replied availability. He is constantly looking for sites in Lexington. Lexington schools will only allow you to use their parking lots if you're a non-profit and with the new

laws of how parking lots are designed, there's not enough room to have a course. It was suggested to try Lexington Police Department or where Kentucky State Police hold their skills tests.

Rider Prep Course

Chris to schedule a rider prep course between July 16 – 31, 2016.

Marketing Campaign

- ✓ Must have a centralized website for registration which directs them to individual site providers. It must also include the ability to pay for any registered course. Allow Commission to have oversight and the ability to see reports, number of students signed up for courses, etc. Vendor will also be responsible for paying the site providers.
- ✓ Must have a presence in at least three (3) media outlets, such as Facebook, Twitter, Instagram, etc. with active participation.
- ✓ Give funds to the site providers where they can advertise to specific groups.
- ✓ Billboards in every county specifically closer to larger cities. They should have local site information available.
- ✓ Have sign up opportunities at testing centers and county clerk offices.
- ✓ Brochures and information to be available in county clerk offices.
- ✓ Target various groups such as new riders, women, etc. The Commission was advised to be careful on having a class dedicated to women because they could face strong opposition such as discrimination. It was suggested if you want a class dedicated for women, just separate the men from the women after they're registered.

Equipment

All equipment must be returned within a reasonable timeline. The suggested timeframe was 30 days. Elzie stated 30 days may not be enough. Dr. Pogatshnik said it was okay to return the equipment from this day forward but will not be based on retro-activity. Per Vice Chair Jay, he says it's in the contract. Elzie agreed to look into it.

Curriculum

The question was asked what binds the Commission to using MSF curriculum. Since the time of the statute where it specifically references Motorcycle Safety Foundation other curriculums have been developed. Commission wishes to open it up to other programs besides MSF. Elzie stated this should be tabled until the RFP.

Reporting

The Commission wished to know the number of riders who signed up for the course verses the number of riders who took the course. It was stated if a student signed up for a course and didn't show up to take the course; ECU wouldn't have that information. ECU reports only on those who took the course. They also wish to have a look back of at least 2 years to compare with current training progress.

Partnerships

- ✓ Needs to partner with Office of Highway Safety and the Kentucky State Police.
- ✓ Partner with dealers – if they sign people up, then possibly reward the dealership with money, promotional or some other form of reward. Elzie requested this be tabled until for the RFP.

• Other

Vice Chair Huber asked if there was any other business that needed to be addressed. Donna reminded the Commission that there are 3 appointments expiring on June 30, 2016. Vice Chair acknowledged he and Glenda Hobbic would be re-appointed. The Boards and Commission are working on filling the representative of the Rider Coaches.

Dean commented he didn't believe ECU will follow through with this since their numbers in the past don't reflect a proactive program.

When it came time to make a motion to accept the changes, Vice Chair Huber realized they no longer had a quorum. Attendees were in agreement of the criteria to adopt the subcommittee changes.

Adjourn

Motion to adjourn today's meeting was made by Dean and seconded by Glenda. Motion carried; all in favor.