



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

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Joint Committee on Finance

Paper #635

### Professional and Trade Regulation Staff (Safety and Professional Services)

[LFB 2019-21 Budget Summary: Page 373, #2]

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#### CURRENT LAW

The Department of Safety and Professional Services (DSPS) and its boards, councils and affiliated credentialing boards and examining boards are responsible for ensuring the safe and competent practices of a wide range of health, business, and building trades professions. Base funding for DSPS is approximately \$55.3 million, almost all of which is funded from program revenues, and which DSPS collects from fees it charges for credentials, examinations, building plan reviews, and inspections of construction activities. The agency is currently authorized 236.14 PR positions.

For state budgeting purposes, DSPS is divided into two programs: (a) professional regulation and administrative services, which includes staff that assist in the regulation of the health and business professions; and (b) regulation of industry, safety, and buildings. The two programs are supported by separate program revenue sources. Fees collected from health and business professions support regulatory functions related to those professions, while fees involved in buildings and safety support DSPS activities related to the regulation of the trades professions. A portion of departmental program revenue supports certain agency-wide services, including legal, fiscal, and management services.

#### GOVERNOR

Provide \$1,477,300 PR in 2019-20 and \$1,969,800 PR in 2020-21 and 20.0 PR positions, beginning in 2019-20, to investigate violations and decrease processing times for licenses.

The administration has recommended that the funding and position allocations between programs and functions in the bill be revised to reflect the Governor's intent. The following table

compares the funding and position allocations in the bill with the revisions recommended by the administration. The table shows that net funding in the bill could be reduced by \$2,900 PR in 2019-20 and \$3,900 PR in 2020-21 if these revisions were made. All of the alternatives presented in the paper reflect the revised recommendations.

### **DSPS Professional and Trade Regulation Staffing Additions**

	<u>Funding</u>		<u>Positions</u>	
	<u>2019-20</u>	<u>2020-21</u>	<u>2019-20</u>	<u>2020-21</u>
<b><i>Governor's Budget Bill</i></b>				
<b>Program 1</b>				
General Program Operations	\$506,300	\$675,000	7.0	7.0
Medical Examining Board Operations	0	0	0.0	0.0
Examinations; General Program Operations	65,500	87,400	1.0	1.0
Proprietary School Programs	<u>165,400</u>	<u>220,600</u>	<u>2.0</u>	<u>2.0</u>
Subtotal	\$737,200	\$983,000	10.0	10.0
<b>Program 2</b>				
Industry Services Operations	\$740,100	\$986,800	10.0	10.0
Total	\$1,477,300	\$1,969,800	20.0	20.0
<b><i>Revised Recommendation</i></b>				
<b>Program 1</b>				
General Program Operations	\$688,200	\$917,600	10.0	10.0
Medical Examining Board Operations	95,000	126,700	1.0	1.0
Examinations; General Program Operations	65,500	87,400	1.0	1.0
Proprietary School Programs	<u>165,400</u>	<u>220,500</u>	<u>2.0</u>	<u>2.0</u>
Subtotal	\$1,014,100	\$1,352,200	14.0	14.0
<b>Program 2</b>				
Industry Services Operations	\$460,300	\$613,700	6.0	6.0
Total	\$1,474,400	\$1,965,900	20.0	20.0
<b><i>Difference (Change to Bill)</i></b>				
<b>Program 1</b>				
General Program Operations	\$181,900	\$242,600	3.0	3.0
Medical Examining Board Operations	95,000	126,700	1.0	1.0
Examinations; General Program Operations	0	0	0.0	0.0
Proprietary School Programs	<u>0</u>	<u>-100</u>	<u>-0.0</u>	<u>-0.0</u>
Subtotal	\$276,900	\$369,200	4.0	4.0
<b>Program 2</b>				
Industry Services Operations	-\$279,800	-\$373,100	-4.0	-4.0
Total	-\$2,900	-\$3,900	0.0	0.0

## DISCUSSION POINTS

### Professional Regulation

1. Of the 14.0 additional positions the administration recommends be provided for the professional regulation and administration program, 9.0 positions would be provided for the Division of Legal Services and Compliance (DLSC), 3.0 positions would be provided for the Division of Policy Development (DPD), and 2.0 positions would be provided for the Division of Professional Credential Processing (DPCP).

#### *DLSC Positions*

2. DLSC provides legal services to professional boards and DSPS regarding the investigation and discipline of licensed credential holders for violations of professional regulations. The Division is also responsible for the complaint intake process, compliance monitoring and a confidential program for impaired professionals. In addition, the Division conducts business compliance inspections and financial audits.

3. DLSC is currently authorized 50.0 full-time equivalent (FTE) positions, including 44.0 who are assigned to investigate complaints. The 9.0 positions that would be provided for DLSC, under the administration's revised recommendations, include: (a) 2.0 attorneys; (b) 4.0 paralegals; (c) 2.0 consumer protection investigators; and (d) 1.0 operations program associate.

4. The additional staff is intended to meet increased workload resulting from an increase in the number of complaints DSPS has received during the past several years. In 2018, DSPS received 3,213 total complaints, covering all regulated professions, an increase from 3,085 complaints in 2017 and 2,913 complaints in 2016. Over the same period, the number of pending investigations has increased by 50%. According to the administration, DSPS has one of the highest turnover rates in state government, which the Department attributes to a high-volume workload.

5. The agency currently measures the performance of DLSC by measuring the percentage of complaints it resolves within 18 months of receiving the complaint. This percentage decreased from 94% in 2017 to 86% in 2018. DLSC does not maintain summarized information on the results of its investigations into these complaints.

6. In February, 2019, the Joint Committee on Finance approved a credential fee schedule recommended by DSPS that reduced initial and renewal credential fees for most non-trades professionals. Based on a review of projected program revenues and expenditure authority that would be provided in the administration's budget recommendations, there is sufficient revenue to support all of the additional positions that would be provided under the administration's revised recommendations.

#### *DPD Positions*

7. DPD is responsible for providing administrative support and policy guidance to the professional boards in the state by facilitating board meetings, serving as a liaison between the boards

and the Department, and managing the administrative rule promulgation process for self-regulated professions. The Division manages the administrative rule promulgation process for professions and technical programs that are directly regulated by the Department. The Division is also responsible for continuing education and examination requirements for regulated professions and administration of the Prescription Drug Monitoring Program (PDMP).

8. The administration recommends providing 2.0 additional positions (1.0 school administration consultant and 1.0 program and policy analyst) to increase oversight for the proprietary school program. 2017 Wisconsin Act 59 transferred the program responsibilities of the Educational Approval Board (EAB) to DSPS, beginning on July 1, 2018. The EAB had previously been an independent unit of state government with positions budgeted under the Technical College System. The retitled educational approval program (EAP) approves and supervises for-profit colleges, out-of-state nonprofit colleges and universities, and some in-state, nonprofit institutions, as well as solicitors that recruit students on behalf of an institution. Schools and solicitors representing schools reapply annually for approval from the EAP. Additionally, the EAP investigates student complaints, maintains student records following the closure of a school, and maintains a student protection fund comprised of fees collected from schools.

9. The proprietary school program is currently authorized 6.5 FTE positions. However, two positions (1.0 school administrative consultant position and 1.0 program and policy analyst position) have been vacant since August, 2018. The agency did not seek to fill these positions.

10. As a standard budget adjustment, agencies are required to reduce salary funding for all appropriations that fund more than 50.0 positions to reflect salary turnover savings as vacancies occur during the course of the year. Agencies may choose to reallocate this funding reduction to other appropriations of the same funding source. Rather than apply all of the required funding reduction to the agency's general program operations appropriation, the bill would delete \$92,400 PR in salary funding annually from the EAP, but retain all 6.5 FTE positions for the EAP. Under the Governor's recommended position request, funding would be restored for the EAP salaries, and 2.0 PR additional positions would be authorized, even though the turnover reduction in the bill would not delete the PR position authority. If the Committee wishes to fully fund the salary costs of the 6.5 current positions for the EAP, it could delete the 2.0 PR additional positions that would be authorized under this item.

11. In addition to the two positions described above, the administration recommends that 1.0 additional position be provided for DPD to increase from the number of licensing examination specialist positions from 3.0 to 4.0 positions. This position is intended to meet increasing workload relating to preparing, administering, and grading examinations for professional licensure.

#### *DPCP Positions*

12. The administration recommends that 2.0 additional license-permit program associate positions be provided to increase staff for the Division of Professional Credential Processing (DPCP). DPCP is responsible for all credential application processing, including determination of credential eligibility and renewal. DPCP is also responsible for licensure, renewal and verification of health, business, trades and manufactured home owners' credentials, operation of the Department's customer service center and regulation of the state's mixed martial arts/boxing program. The Department cites

several factors that have increased workload for the Division during the past several years, including:

- 2017 Act 135 required licensed practical nurses and registered nurses who received a license after July 20, 2017, to meet additional requirements, including fingerprint FBI criminal background checks in order to receive multi-state licensing privileges. This required DSPS staff to review and process FBI criminal background checks for nurses who request multi-state privilege.
- 2017 Act 113 created a new license for appraisal management companies.
- 2017 Act 278 permits every license applicant to apply for a review of their past convictions prior to submitting a full credential application. This has resulted in staff processing application materials twice -- once for a predetermination, and once for the issuance of a credential.

13. The number of credentials DSPS issues each year continues to increase, but not significantly. For example, in October, 2012, the number of active (non-trade) credentials issued was 367,800, compared with 375,700 as of July, 2018.

14. In October, 2018, the Joint Committee on Finance approved a request by the Department of Administration to authorize 4.0 PR three-year project positions to assist in processing initial and renewal credential applications, including 3.0 PR positions for the DSPS Professional Regulation program. These positions were provided to enable DSPS meet increased workload relating to initial and renewal credentials, and reviewing initial or renewal applications, verifying information provided by the applicant.

#### *Summary and Options -- Professional Regulation*

15. The 14.0 additional positions recommended by the administration for the DSPS Professional Regulation program is based on the judgement of agency leadership that additional resources are needed for DSPS to provide more thorough investigations of complaints, and to more promptly review and process credential applications. As there is sufficient program revenue available to support these positions, the Committee could approve the administration's request [Alternatives A1, B1 and C1]. Under these alternatives, the bill would be modified to reflect the administration's proposed revisions to the bill for each of the three DSPS Divisions.

16. Alternatively, the Committee could determine that DSPS has current resources to meet at least some of the workload the agency cites in recommending the funding and position increase. Several options could be considered.

17. First, if the Committee determines that there is not sufficient documentation of increased workload for the Division of Legal Services and Compliance to justify all of the additional positions recommended by the Governor for DLSC, it could fund five of the nine positions recommended by the Governor (1.0 attorney, 2.0 paralegals, 1.0 consumer protection investigator and 1.0 operations program associate) [Alternative A2].

18. Second, as indicated in Discussion Point 10, the bill would authorize 2.0 PR additional positions for the EAP program, but provide funding only for the 6.5 current positions, due to the

deletion of funding under the standard budget adjustment (turnover) for these 2.0 positions. Consequently, the Committee could delete these 2.0 positions (but retain the funding for these positions, since they are not funded as a result of the turnover item) [Alternative B2], or delete all of the additional positions for Division of Policy Development and reallocate the turnover reduction to the agency's general program operations appropriation to maintain support for the current 6.5 EAP positions [Alternative B3].

19. Finally, in light of the 4.0 three-year project positions that were authorized in October, 2018 for the Division of Professional Credential Processing, the Committee could either: (a) delete the 1.0 position that would be budgeted to process license applications [Alternative C2]; or (b) delete the 1.0 position recommended for DPCP, but convert the 3.0 three-year project positions approved in October, 2018, to permanent positions [Alternative C3].

### **Trade Regulation**

20. Program revenue for the recommended Industry Services positions would be provided from the division operations appropriation, which receives revenues from building plan reviews and inspections for several building construction types, and from credentials issued to people who work in the building trades, such as dwelling contractors, electricians, and plumbers. Under the bill, the appropriation would be authorized \$17,985,000 PR in 2019-20 and \$17,283,100 PR in 2020-21 with 115.64 positions. This funding includes the recommended provision of the 10.0 positions and the \$2,995,000 PR in 2019-20 and \$2,030,000 PR in 2020-21 for information technology funding from the appropriation. It is anticipated that the appropriation would have an estimated June 30, 2021, closing balance of \$15.3 million under the bill as introduced. Thus, the appropriation would have a sufficient balance to pay for the funding proposed. The estimated condition of the appropriation under the bill is shown in a separate paper.

21. Under 2017 Act 59, \$543,000 annually and 9.0 positions that the Department had been holding vacant were deleted from the Industry Services appropriation, including an elevator inspector, plumbing consultant, electrical systems consultant, boiler inspector, field operations section chief, program and policy supervisor, program and policy analyst, and two executive staff assistants. The three biennial budget acts prior to 2017 deleted a total of 39.66 vacant positions from the appropriation, including 25.66 in 2011-13, 9.0 in 2013-15, and 5.0 in 2015-17. Some of the positions deleted in 2011-13 had been held vacant to hold expenditures within available revenues during and after construction slowdowns in 2007-08 and 2008-09.

22. In October, 2018, the Joint Committee on Finance approved a DSPS request under ss. 16.505 and 16.515 of the statutes to add 1.0 license and permit program associate project position through June 30, 2022. The position was filled after it was authorized, but became vacant in February, 2019, and was filled in mid-April, 2019. DSPS indicates it has not collected data on the impact of the position on processing times.

23. Subsequent to introduction of the budget, DSPS indicated that it preferred to add 6.0 positions funded from the Industry Services operations appropriation, with funding of \$460,300 PR in 2019-20 and \$613,700 PR in 2020-21. DSPS suggested that the 6.0 new positions include 2.0 section chiefs, 2.0 building systems consultants, and 2.0 licensing and permit program associates. The

administration indicates it agrees with providing 6.0 positions to Industry Services instead of 10.0.

24. Under the 2017 Act 59 deletion of 9.0 vacant positions, DSPS deleted one field operations section chief position. Currently, the Division of Industry Services has six section chief positions, all of which are filled. This includes three in the Bureau of Technical Services, which primarily handles plan reviews, and three in the Bureau of Field Services, which primarily handles safety-related inspections. Section chiefs supervise plan review and inspection staff located throughout the state. Of the six current section chiefs, one each are located in Madison and Hayward, while two are in Waukesha, and two are in Green Bay. DSPS indicates that adding 2.0 section chiefs would lower the average ratio of employees from approximately 12 or 13 staff per supervisor to approximately eight or nine staff per supervisor. In addition, the Department expects adding the section chiefs would improve supervision, employee professional development, staff retention, and career progression. DSPS has not determined to which bureau the section chiefs would be assigned, or which positions would be supervised by the section chiefs. The Department indicates that the average ratio of staff per supervisor in other divisions ranged from 11-to-1 to 5-to-1.

25. The Industry Services operations appropriation currently funds 16.0 building systems consultants, who primarily perform plan reviews, such as for commercial building construction. As of late March, 2019, three of the positions were vacant but were either in the process of being filled or were recently filled with a future start date. DSPS indicates it needs 2.0 additional building systems consultants. The Department indicates its goal is to process plan reviews within two weeks, but some reviews currently take longer. For example, commercial building plan reviews can take up to 12 weeks. DSPS indicates that it does not have information about the current average processing times because of limitations of its information technology system. The Department's stated need for 2.0 additional building systems consultants was based on the current and projected workload, and assumes the three vacant building system consultant positions being filled. Further, the Department indicates that plan review times vary by project, and the Department is not able to project an estimated impact on the processing times of plan reviews if the additional 2.0 building systems consultants are approved.

26. Currently, the Industry Services operations appropriation funds 12.89 permanent licensing and permit program associates, all of which are filled, plus the 1.0 project position approved in October, 2018. The positions are located in the Division of Professional Credential Processing, which processes all credential applications for the Department. The 13.89 positions process license and permit applications for trades-related activities administered by the Division of Industry Services. DSPS indicates it needs 2.0 additional license and permit program associates for trades-related activities. DSPS indicates that current credentials processing times range from six to 34 business days, and vary by type of credential and time of year, based on renewal cycles and graduation time for various professions. However, the Department has not estimated the impact of adding license and permit program associates for trades-related credentials on the length of time it takes to process credentials.

27. It could be argued that adding 6.0 staff to administer trade regulation activities for the Division of Industry Services, and reduce processing times for plan reviews and credential processing by some amount, is appropriate. The Committee could choose to approve providing \$460,300 PR in

2019-20 and \$613,700 PR in 2020-21 with 6.0 positions funded from the Industry Services operations appropriation [Alternative D1].

28. The Committee could consider addressing the time needed to review plans and process licenses and permits, but not the ratio of staff to supervisors, by providing 4.0 positions, including the recommended 2.0 building systems consultants and 2.0 license and permit program associates. This would be expected to decrease by some amount the time it takes for applicants to obtain approval of plan reviews, licenses and permits. The two additional building system consultants would be supervised by one or two of the existing six section chiefs, and the two license and permit program associates would be located in the Division of Professional Credential Processing. Under this alternative, \$260,600 could be provided in 2019-20 and \$347,500 in 2020-21 for the 4.0 positions [Alternative D2].

29. The Committee could consider providing 3.0 positions instead of 6.0, to include 1.0 section chief, 1.0 building systems consultant, and 1.0 license and permit program associate. This would be expected to decrease the ratio of staff to supervisors, and decrease somewhat the amount of time it takes to process plan reviews, licenses and permits. Under this alternative, \$230,200 PR could be provided in 2019-20 and \$306,900 PR in 2020-21 for the 3.0 positions [Alternative D3].

30. Finally, the Committee could consider providing 2.0 positions instead of 6.0, to include 1.0 building systems consultant and 1.0 license and permit program associate. This would be expected to decrease somewhat the amount of time it takes to process plan reviews, licenses and permits, but not the ratio of staff to supervisors. Under this alternative, \$130,300 PR could be provided in 2019-20 and \$173,700 PR in 2020-21 for the 2.0 positions [Alternative D4].

31. It could be argued that because DSPS is not able to estimate the impact of the proposed positions on processing times for plan reviews and credentials, DSPS should continue with the current levels of staffing and processing times for plan reviews, licenses and permits. If the Committee took no action, the Division of Industry Services would continue to have the current ratio of staff to section chiefs, and might continue to experience processing times for building plan reviews, licenses, and credentials that are slower than preferred by the trades professions [Alternative D5]. DSPS would remain authorized to request additional positions under a 14-day passive review at a later time.

## ALTERNATIVES

### A. Professional Regulation -- DLSC Positions

1. Approve the administration's revised proposal to provide \$693,400 PR in 2019-20 and \$924,500 PR in 2020-21 to fund 9.0 additional positions for the Division of Legal Services and Compliance, beginning in 2019-20. Increase funding in the bill by \$187,100 PR in 2019-20 and \$249,500 PR in 2020-21 and provide 2.0 additional PR positions, beginning in 2019-20.

ALT A1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$1,617,900	9.00	\$436,600	2.00

2. Modify the administration's revised proposal to provide \$364,400 PR in 2019-20 and \$485,900 to fund 5.0 additional positions for the Division of Legal Services and Compliance, beginning in 2019-20. Reduce funding in the bill by \$141,900 PR in 2019-20 and by \$189,100 PR in 2020-21 and delete 2.0 PR positions, beginning in 2019-20.

ALT A2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$850,300	5.00	- \$331,000	- 2.00

3. Take no action by providing no additional positions for the Division of Legal Services and Compliance. Reduce funding in the bill by \$506,300 PR in 2019-20 and by \$675,000 PR in 2020-21 and delete 7.0 PR positions, beginning in 2019-20.

ALT A3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$0	0.00	- \$1,181,300	- 7.00

**B. Professional Regulation -- Division of Policy Development**

1. Approve the administration's revised proposal to provide \$230,900 PR in 2019-20 and \$307,900 PR in 2020-21 to fund 3.0 PR additional positions for the Division of Policy Development, beginning in 2019-20.

ALT B1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$538,800	3.00	\$0	0.00

2. Approve the administration's revised proposal to provide \$230,900 PR in 2019-20 and \$307,900 PR in 2020-21, but delete 2.0 PR positions that would be provided for the EAP, so that the current 6.5 EAP positions would be fully funded in the 2019-21 biennium.

ALT B2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$538,800	3.00	\$0	- 2.00

3. Modify the administration's revised proposal to provide \$157,900 PR in 2019-20 and \$179,800 PR in 2020-21 to: (a) fund 1.0 PR additional position for the Division of Policy Development, beginning in 2019-20 (\$65,500 PR in 2019-20 and \$87,400 PR in 2020-21); and (b) fund 2.0 current positions for EAP, since funding for these current positions is deleted in the turnover

standard budget adjustment (\$92,400 PR annually).

ALT B3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$337,700	1.00	- \$201,100	- 2.00

4. Provide no additional staff for the Division of Policy Development. Reduce funding in the bill by \$230,900 PR in 2019-20 and \$307,900 PR in 2020-21 and delete 3.0 PR positions for the Division of Policy Development, beginning in 2019-20. In addition, increase funding for EAP by \$92,400 PR annually to restore funding for 2.0 current positions, and reduce funding for the agency's general program operation by \$92,400 PR to reallocate the agency's turnover reduction.

ALT B4	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$0	0.00	- \$538,800	- 3.00

### C. Professional Regulation -- Division of Professional Credential Processing

1. Approve the administration's revised proposal to provide \$89,800 in 2019-20 and \$119,800 PR in 2020-21 to fund 2.0 PR additional positions for the Division of Credential Processing, beginning in 2019-20.

ALT C1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$209,600	2.00	\$209,600	2.00

2. Take no action, by providing no additional positions for the Division of Professional Credential Processing.

ALT C2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$0	0.00	\$0	0.00

### D. Trade Regulation

1. Approve the Governor's revised recommendation to provide \$460,300 PR in 2019-20 and \$613,700 PR in 2020-21 with 6.0 PR positions beginning in 2019-20 for trade regulation. (This is the DSPS-recommended alternative to the bill.)

ALT D1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$1,074,000	6.00	- \$652,900	- 4.00

2. Modify the Governor's recommendation to provide \$260,600 PR in 2019-20 and \$347,500 PR in 2020-21 with 4.0 PR positions beginning in 2019-20 for trade regulation, including 2.0 building systems consultants and 2.0 license and permit program associates.

ALT D2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$608,100	4.00	- \$1,118,800	- 6.00

3. Modify the Governor's recommendation to provide \$230,200 PR in 2019-20 and \$306,900 PR in 2020-21 with 3.0 PR positions beginning in 2019-20 for trade regulation, including 1.0 section chief, 1.0 building systems consultant and 1.0 license and permit program associate.

ALT D3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$537,100	3.00	- \$1,189,800	- 7.00

4. Modify the Governor's recommendation to provide \$130,300 PR in 2019-20 and \$173,700 PR in 2020-21 with 2.0 PR positions beginning in 2019-20 for trade regulation, including 1.0 building systems consultant and 1.0 license and permit program associate.

ALT D4	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$304,000	2.00	- \$1,422,900	- 8.00

5. Take no action.

ALT D5	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$0	0.00	- \$1,726,900	- 10.00

Prepared by: Kendra Bonderud and Aaron Whitaker