

TITLE 5. BUREAU FOR PRIVATE POSTSECONDARY EDUCATION DEPARTMENT OF CONSUMER AFFAIRS

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary Education (hereinafter "Bureau"), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, 2005 Evergreen Street, Sacramento, California, 95815, at 10 a.m., or as soon as practicable thereafter, on June 7, 2010. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on June 7, 2010, or must be received by the Bureau at the hearing. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 94803, 94874.7, 94877, 94885, 94888, 94890, 94891, 94895, 94923, 94932, and 94934 of the Education Code, and to implement, interpret or make specific Sections 94801, 94802, 94809, 94818, 94821, 94822, 94823, 94823.5, 94830, 94834, 94837, 94843, 94844, 94851, 94870, 94874.1, 94874.7, 94875, 94877, 94882, 94885, 94886, 94887, 94888, 94889, 94890, 94891, 94893, 94894, 94895, 94896, 94897, 94898, 94899, 94900, 94900.5, 94902, 94904, 94905, 94908, 94909, 94911, 94919, 94920, 94923, 94926, 94927, 94927.5, 94930.5, 94931, 94931.5, 94932, 94933, 94937, and 94943.5 of said Code; and Sections 118 and 480 of the Business and Professions Code, the Bureau is considering changes to Division 7.5 of Title 5 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AB 48, Chapter 310, Statutes of 2009, authorized the newly reconstituted Bureau for Private Postsecondary Education ("Bureau" or "BPPE"), within the Department of Consumer Affairs, to adopt emergency regulations to amend the regulations, as they read on June 30, 2007, so they conform to the California Private Postsecondary Education Act of 2009 (Act). The Bureau is proposing the following changes:

Chapter 1, Article 1: amend the existing regulations to define terms used in the Act

Chapter 1, Article 2: define the process to be used for the period during which Bureau is able to review applications that have been pending since the former Bureau sunset.

Chapter 2, Article 1: define the process by which a non-accredited institution can apply for approval to operate from the Bureau.

Chapter 2, Article 2: define the process by which an accredited institution can apply for approval to operate from the Bureau.

Chapter 2, Article 3: define the process by which an institution exempt from regulation can apply for verification of exempt status from the Bureau.

Chapter 2, Article 4: define the process by which the Bureau processes and denies an application, including provisions for abandonment of an application.

Chapter 2, Article 5: define the process for convening a visiting committee to assist the Bureau in reviewing applications.

Chapter 2, Article 6: define the process by which an institution can apply for renewal of its approval to operate from the Bureau.

Chapter 2, Article 7: define the process by which an institution can apply for a substantive change to its approval to operate from the Bureau.

Chapter 3, Article 1: define the minimum operating standards for an institution applying for approval to operate, which must be established in its application.

Chapter 3, Article 2: define the minimum academic achievement and admissions standards for an institution applying for approval to operate, which must be established in its application.

Chapter 3, Article 3: define the minimum standards for maintaining student and institutional records for an institution applying for approval to operate, which must be established in its application.

Chapter 4, Article 1: establish the required fees and payment schedules.

Chapter 4, Article 2: establish the standards for the statutory reporting requirements.

Chapter 4, Article 3: establish the standards for general provisions for compliance with the Act, including criteria for what is a substantially related conviction, rehabilitation criteria, advertising requirements, and provisions for stipulations.

Chapter 5, Article 1: establish the general provisions for the Student Tuition Recovery Fund (STRF).

Chapter 5, Article 2: establish the provisions for the calculating the amount of the required STRF assessments.

Chapter 5, Article 3: outline the process for seeking recovery from STRF.

Chapter 5, Article 4: outline the general process for continued instruction upon closure of an institution.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None

Business Impact:

The Bureau has made an initial determination that the proposed regulatory action may have significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Bureau has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

Business Reporting Requirement

The Bureau finds that it is necessary for the health, safety, or welfare of the people of this state that the proposed regulations which require a report apply to businesses.

Impact on Jobs/New Businesses:

The Bureau has determined that this regulatory proposal may have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The total statewide costs that businesses and individuals may incur to comply with this regulation over its lifetime is as follows:

- The following fee schedule has been proposed, and may be changed by regulation:
 - \$5,000 for a main campus application for initial approval to operate
 - \$3,000 for a new branch application for an initial approval to operate
 - \$750 for an application for an initial approval by means of accreditation
 - \$3,500 for a main campus renewal application
 - \$3,000 for a branch renewal application
 - \$500 for a renewal by means of accreditation
 - \$500 for an application for a substantive change to an approval
 - \$250 for a substantive change to an approval by means of accreditation
- Establish an annual institutional fee, equal to 0.75% of an institution's total annual revenue derived from students in California, but no more than a total of \$25,000 annually; establish an annual branch fee of \$1,000 for each branch or campus operating in this state.
- Individual costs will vary greatly depending on the profession being pursued, e.g., law vs. cosmetology vs. veterinary technician vs. computer software specialist vs. sale clerks, etc. The costs can obviously run the gamut give the ultimate professional objective.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau for Private Postsecondary Education, 1625 N. Market Blvd., Suite S 202, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below **[or by accessing the website listed below]**.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Joanne Wenzel
Staff Services Manager III
Address: 1625 N. Market Blvd., Suite S 202
Sacramento, California 95834
Telephone No.: (916) 574-7784
Fax No.: (916) 574-8652
E-Mail Address: Joanne_Wenzel@dca.ca.gov

The backup contact person is:

Name: Diane McKernon
Address: 1625 N. Market Blvd., Suite S 202
Sacramento, California 95834
Telephone No.: (916) 574-7792
Fax No.: (916) 574-8652
E-Mail Address: Diane_McKernon@dca.ca.gov

Website Access <http://bppe.ca.gov>: Materials regarding this proposal can be found at <http://bppe.ca.gov/>.