

California Code of Regulations
Title 5. Education
Division 7.5. Private Postsecondary Education
Chapter 2. Applications
Article 3.5. Registration or Re-registration of Out-of-State Institutions

PROPOSED REGULATORY LANGUAGE CONCERNING: APPLICATION OF OUT-OF-STATE INSTITUTIONS

New language is underlined. Deleted language is ~~strikeout~~.

(1) Amend Section 71396 of Division 7.5 of Title 5 of the California Code of Regulation to read as follows:

§ 71396. Application Form; STRF Compliance.

(a) An applicant seeking to operate an out-of-state private postsecondary institution, as defined in Section 94850.5 of the Code, that is required to register with the Bureau pursuant to Section 94801.5 of the Code, shall complete the Bureau's Application for Registration or Re-Registration of Out-of-State Institutions [Form Application 94801.5 (rev. ~~4/17~~ 8/22)], which is hereby incorporated by reference. An applicant shall submit to the Bureau the completed form, the information and documentation required by Section 94801.5 of the Code, and the registration fee as provided in Section 94930.5 of the Code.

(b) An application that does not contain all the information required by this section or as applicable, section 71398, shall render it incomplete, and the applicant will not be eligible for registration or re-registration.

(c) Effective July 1, 2017, even if the out-of-state institution's application for registration is pending with the Bureau, the institution shall immediately comply with the requirements of the Student Tuition Recovery Fund established in the Code (commencing with Section 94923) and regulations adopted by the Bureau related to the fund for its California students. These requirements include the collection and submission of assessments and related record-keeping as required by sections 76120, 76130, and 76140, and providing student disclosures in the school catalog and enrollment agreement as required by sections 76215 and 71800(e)(11) and prior to closing as required by section 76240(b)(2).

Note: Authority cited: Sections 94801.5 and 94877, Education Code. References: Sections 94801.5, 94850.5, 94909(a)(14), 94911(b), 94923, 94924, 94930.5, 94923, 94924, 94909(a)(14), and 94911(b), Education Code.

(2) Amend Section 71397 of Division 7.5 of Title 5 of the California Code of Regulation to read as follows:

§ 71397. Processing of Completed Applications; Appeal of Denials, Conditional Registration and Grounds for Revocation.

(a) Pursuant to the requirements of section 94801.5 of the Code and this Article, the Bureau will either ~~grant~~ approve, condition registration upon meeting specified conditions or restrictions (“conditional registration”), or deny an application for registration approval to any applicant.

(1) Conditional registration shall be issued to those institutions which answer “yes” to any question in sections 7 or 9 of the Form Application 94801.5 referenced in section 71396 and for whom the Bureau determines that an unconditional registration is not in the public interest based on the criteria set forth in this section. For the purposes of this section, “action” shall include enforcement actions by state or federal authorities, civil actions, adverse action by an accreditor, borrower defense claim, or any other action as specified or disclosed in section 9 of Form Application 94801.5 referenced in section 71396. In determining if an unconditional registration is not in the public interest, the Bureau shall consider the following:

(A) Nature and severity of the act(s), demonstrated in the action under consideration.

(B) Actual or potential harm to any consumer, student or the general public.

(C) Prior record of any actions.

(D) Number and/or variety of current actions.

(E) Any explanation of the facts and circumstances surrounding the action(s) and any remediation efforts the institution undertook as a result of the action.

(F) In the case of any action involving a criminal conviction, compliance with terms of sentence and/or court ordered probation.

(G) Overall criminal record disclosed to the Bureau, if any.

(H) Time passed since the action(s) or offense(s) occurred.

(I) Whether or not the applicant cooperated with the Bureau’s investigation, other law enforcement or regulatory agencies, and/or the injured parties.

(J) Recognition by the applicant of its wrongdoing and demonstration of corrective action to prevent recurrence.

(2) Conditions placed upon the approval of an application include increased or more frequent reporting requirements on a regular basis or as requested by the Bureau, and limitations on enrollment of Californians in some or all programs.

(3) A denial shall be issued if the Bureau determines there is a substantial risk of harm posed to California residents by the institution if it were permitted to enroll California residents based on the criteria enumerated in subdivision (a)(1) or on the applicant's failure to comply with any requirements set forth in this Article or Section 94801.5 of the Code.

(4) An institution shall be registered in accordance with Section 94801.5 of the Code if it:

(A) meets all requirements of this Article and Section 94801.5 of the Code, and

(B) there are no grounds for denial as set forth in this section.

(5) Any registration subject to this section shall be made effective by the Bureau upon the applicant's meeting the requirements specified in subdivision (a)(4).

(b) (1) An applicant denied a registration or re-registration under this Article or issued a conditional registration shall be given written notice of the Bureau's decision to deny or condition registration, the reasons for the decision and the right to request an informal conference in accordance with this section.

(2) If a conditional registration is issued, the written notice shall also specify the restrictions or conditions placed on the institution's registration, and the factual basis for the restrictions or conditions.

(3) Failure to comply with any restriction or condition placed on a registration by the Bureau is grounds for revocation of the registration. Any institution determined to be in noncompliance with any restriction or condition of a conditional registration shall receive written notice of the Bureau's decision to revoke the registration, the reasons for the decision and the right to request an informal conference in accordance with this section. The written notice shall also contain a written finding that there is a substantial risk of harm posed to California residents by the institution continuing to enroll California residents and the reasons for that finding using the criteria set forth in subdivision (a)(1).

(c) The applicant may reapply if denied or may, within 30 days of service of the denial decision to deny, revoke or issue conditional registration, submit a written request to the Bureau for an informal conference with the Bureau Chief or his or her designee. Failure to request an informal conference within 30 days from service of the denial, revocation or conditional registration waives the right to the informal conference.

(ed) The Bureau Chief, or his or her designee, shall within 30 days from the Bureau's receipt of a written request for an informal conference, hold an informal conference with the applicant or out-of-state registered institution. The Bureau Chief, for good cause such as scheduling conflicts or medical emergencies, may extend the 30-day period. The informal conference may be by telephone.

(de) Prior to or at the informal conference, the applicant or out-of-state registered institution may submit to the Bureau Chief, or his or her designee, declarations or documents pertinent to the application for registration or re-registration, which shall be duly considered along with any other relevant documentation.

(ef) Following the informal conference, the Bureau Chief, or his or her designee, will affirm, modify, or reverse the denial, revocation, or issuance of a conditional registration. A written order affirming, modifying, or reversing the denial, revocation or conditional registration decision shall be served on the applicant within 30 days from the informal conference, unless extended for good cause, including allowing the applicant or out-of-state registered institution to submit, and the Bureau to consider, additional documentation.

Note: Authority cited: Sections 94801.5 and 94877, Education Code. Reference: Sections 94801.5, 94850.5 and 94930.5, Education Code; 480.2, Business and Professions Code.