

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 5. EDUCATION
DIVISION 7.5. Private Postsecondary Education
Chapter 5. Enforcement and Discipline
Article 2. Citations and Fines
Section 75020
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Public Institutions

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary Education (hereafter Bureau) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, 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 no later than Tuesday, March 19, 2024 by 5:00 p.m.**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE Citation

Authority cited: Sections 94877 and 94936, Education Code. Reference: Section 149, Business and Professions Code; and Sections 94936, 94944, and 94948.5 Education Code.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Bureau for Private Postsecondary Education (Bureau) protects students and consumers through the regulatory oversight of California’s private postsecondary educational institutions (“institutions”) pursuant to the California Private Postsecondary

Education Act of 2009 (“Act” – Ed. Code, §§ 94800–94950), including conducting qualitative reviews of educational programs and operating standards.

Existing regulations at section 75020 authorize the Bureau to issue citations “against approved private, postsecondary institutions that have committed any acts or omissions that are in violation of the Act or any regulation adopted pursuant thereto.” Per section 75020(b), the Bureau is also authorized to issue citations containing orders of abatement or fines “against persons who are without proper approval to operate a private, postsecondary institution.”

In 2022, the legislature enacted Senate Bill (SB) 1433 (Chapter 544, Statutes of 2022), which adopted Education Code Section 94949.8 and expanded the Bureau’s jurisdiction to grant an approval to a public institution of higher education that is operated by another state and maintains a physical presence in the state of California. The legislature, in Education Code Section 94949.8(c), required that, “The bureau shall, on or before July 1, 2024, amend any regulations that conflict with this section.”

The Bureau currently does not have regulations implementing the requirements to issue citations against an approved public institution of higher education that is operated by another state and maintains a physical presence in the state of California. This regulatory proposal amends CCR section 75020 to authorize the Bureau to issue citations to approved public institutions. This proposal also includes technical, non-substantive amendments such as changing gendered pronouns and changing “and/or” to “or” and “both.” This proposal also adds “calendar” before the mention of “days.”

Anticipated Benefits of Proposal

The proposed regulatory language benefits the welfare of Californians because it grants the Bureau enforcement power over certain approved public institutions doing business in California, which protects students by ensuring fair treatment, and shielding students from fraudulent or exploitative practices. This regulation will allow the Bureau to enforce provisions of the Act and further the Bureau’s mission of consumer protection for students seeking educational services from postsecondary institutions by helping to ensure approved schools comply with all legal requirements for operating an approved institution in California.

This regulatory proposal does not affect the health of California residents, worker safety, or the state’s environment.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Bureau has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Fiscal impact to the state agency or other state agencies, and/or costs or savings in federal funding option: The proposed regulations expand the Bureau's citation and fine authority, but any fiscal impact is anticipated to be minimal. According to the Bureau's records, only one school is currently registered that would be subject to the expanded authority, but the number of institutions could increase in the future.

In the event an institution is issued a citation and fine resulting from the proposed regulations, the Bureau will incur enforcement-related workload and costs, including appeals, of approximately \$2,000 per occurrence.

Additionally, the Bureau would incur Attorney General costs of approximately \$5,000 per occurrence.

The Bureau indicates the average citation and fine amount would be \$5,000 per occurrence.

Because the number of future enforcement cases is currently unknown, the Bureau does not have a total fiscal estimate of costs or revenues at this time. Any workload and costs are anticipated to be absorbed within existing resources.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Cost to any Local Agency or School District for which Government Code Sections 17500 - 17630 Require Reimbursement: None

Mandate Imposed on Local Agencies or School Districts: None

Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard): None

BUSINESS IMPACT ESTIMATES

The Bureau has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following facts/evidence/documents or testimony:

The only impact of this proposed regulation is that it will authorize the Bureau to issue citations to out-of-state public institutions that have been approved to operate by the Bureau. This will have no impact on any private business operating in California.

Cost Impact on Representative Private Person or Business

The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The only impact of the proposed regulation would be on out-of-state public institutions approved to operate in California by the Bureau.

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

Impact on Jobs / Businesses

The Bureau for Private Postsecondary Education has determined that this regulatory proposal will have no 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. This proposal authorizes the Bureau to issue citations to out-of-state public institutions approved by the Bureau, which should have no impact on any businesses in California.

Benefits of Regulation:

This regulatory proposal benefits the health and welfare of California residents by allowing the Bureau to issue citations to public out-of-state institutions operating a physical facility in California, which will encourage them to comply with all legal requirements for operating an approved institution in California.

This regulatory proposal does not affect worker safety or the state's environment.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Bureau.

Effect on Small Business

The Bureau has determined that the proposed regulations will not affect small businesses. This proposal authorizes the Bureau to issue citations to out-of-state public institutions approved by the Bureau, which should have no impact on any businesses in California.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), 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 be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at P.O. Box 980818, West Sacramento, CA 95798-0818 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Bureau has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

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 upon request from the Bureau, at P.O. Box 980818, West Sacramento, CA 95798-0818.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Bureau, upon its own motion or at the request 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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 PERSONS

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

Name: David Dumble
Address: Bureau for Private Postsecondary Education
P.O. Box 980818, West Sacramento, CA 95798-0818.
Telephone No.: (279) 895-6091
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E-Mail Address: David.dumble@dca.ca.gov

The backup contact person is:

Name: Yvette Johnson
Address: P.O. Box 980818, West Sacramento, CA 95798-0818.
Telephone No.: (279) 895-6099
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AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Bureau's website at <http://bppe.ca.gov>. Materials regarding this proposal can be found at <http://bppe.ca.gov/lawsregs/current.shtml>. An archive of the Bureau's prior regulatory actions can be found at <http://bppe.ca.gov/lawsregs/archive.shtml>.