

DEPARTMENT OF CONSUMER AFFAIRS  
TITLE 5. Education  
DIVISION 7.5. Private Postsecondary Education  
CHAPTER 6. Student Tuition Recovery Fund  
Article 4. Orderly Closure and Teach-outs  
Sections 76240 and 76245  
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:  
**Date of Closure Selection**

**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 after considering all relevant 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 their 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 5:00 p.m. on Tuesday, June 4, 2024**, or must be received by the Bureau at the hearing should one be held.

**AUTHORITY AND REFERENCE**

Authority cited: Sections 94803, 94877, and 94885 of the Education Code.  
References cited: Sections 94874.5, 94909, 94911, 94923, 94926, 94926.5, 94927, 94927.5 and 94940 of the 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 law at Education Code section 94926 and 5 CCR<sup>1</sup> section 76240 requires institutions that are anticipating closure to provide notice to the Bureau and to supply both a date of closure and a last date of instruction. However, the statutes and regulations provide no guidance to the Bureau if an institution fails to comply. There have been many instances of an institution suddenly closing without providing any notice to the Bureau, and since the institution has ceased operating there is no way for the Bureau to sanction the institution's owners or operators for failing to comply with section 76240, because the institution is no longer within the Bureau's jurisdiction.

Establishing a date of closure for an institution is crucial for an impacted student to be eligible for compensation from the Student Tuition Recovery Fund (STRF), which the State of California created for students in the event of an institution closing before the student completing their educational program and the student suffering economic harm. Knowing an institution's date of closure is also critical for a student to apply for student loan relief under federal Student Financial Aid Programs authorized by Title IV of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070 et seq. – federal Higher Education Act of 1965).

In 2022 the legislature passed, and the Governor signed, Senate Bill (SB) 1433 (Roth, Chapter 544, Statutes of 2022), which added Education Code section 94926.5 to the Code. Section 94926.5 provides, "(a) An institution's approval to operate is automatically terminated on the date of closure or when its exemption from this chapter has been verified by the bureau.

(b) An institution that does not identify a date of closure shall have one selected by the bureau.

(c) A terminated license shall not be reinstated."

To address the problems stated above, the Bureau has drafted the following proposed regulatory changes:

Amending Section 76240 of the CCR to:

- Add "calendar" before the word "days"
- Add that "an authorized representative" shall notify the Bureau of an institution's intent to close in writing "at the email address BPPE.closedschools@dca.ca.gov or by mail to the mailing address per CCR section 70020"
- Add a definition for "authorized representative"
- Add additional clarifications to the information required to be included in the closure plan
- Add additional information that an institution shall provide the Bureau if any student will not complete their educational program as a result of closure

<sup>1</sup> Unless otherwise noted, all references to the CCR hereafter are to Title 5.

- Move and edit requirements pertaining to teach out plans and refunds, student records, and how an institution will notify students affected by closure
- Move and edit requirements pertaining to how institution will provide notice to students affected by closure
- Add additional information required for institutions to provide the Bureau regarding the written notice of closure provided by the institution to students

**Add Section 76245: Closure Date Selection and Automatic Termination of Approval to Operate**

- This section will require the Bureau to send a notice to institutions the Bureau believes has closed without notifying the Bureau of a date of closure.
- The notice will request a response from an authorized representative to confirm whether the institution is operating or closed, and that the Bureau will select a date of closure if the Bureau does not receive a response, as well as how an institution may appeal the selection of a date of closure.

The proposed regulations improve the institutional closure process in two ways. First, it provides guidance to institutions that do supply a date of closure to the Bureau by establishing that the date of closure should in most cases be the same as the last date of instruction. Second, when the Bureau believes that an institution has closed without notifying the Bureau, it provides the means for the Bureau to select a date of closure for the institution and terminate the institution’s approval to operate.

**Anticipated Benefits of Proposal**

The proposed regulatory language will allow the Bureau to designate a date of closure for institutions that close without providing one to the Bureau. This will benefit the welfare of students by enabling students enrolled at those institutions to establish eligibility for compensation from STRF as well as apply for student loan relief from the federal Title IV financial aid programs. The proposed regulatory language will also implement the statutory language of Education Code section 94926.5, which will help ensure that the will of the legislature is effective by reconciling statutory language and regulatory language. 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 that approved institutions 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.

**Consistency and Compatibility with Existing State Regulations**

During the process of developing this regulatory proposal, 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:**

The Bureau estimates 100 institutions will close per year of which 20 institutions will fail to fully comply with the notification requirements, as specified.

As a result, the proposed regulations are estimated to result in workload and costs ranging from approximately \$8,500 to 11,000 per year and up to \$97,000 over a ten-year period.

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

**Mandate Imposed on Local Agencies or School Districts:** None

**Cost to Any Local Agency or School District for Which section 17561 -17630 Require Reimbursement:** None

**Effect on Housing Costs:** 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 Bureau estimates 100 institutions will close per year of which 20 institutions will fail to fully comply with the notification requirements, as specified.

As a result, the proposed regulations are estimated to result in an economic impact to these institutions up to approximately \$9,300 per year and \$93,000 over a ten-year period.

### **RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

**Impact on Jobs/New Business:**

The Bureau has determined that this regulatory proposal will not have any 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.

**Benefits of Regulation:**

The regulatory proposal benefits the welfare of California residents by allowing students who enrolled at institutions that closed without providing a date of closure to the Bureau to more quickly apply for financial relief from the Student Tuition Recovery Fund and from federal student loan programs and therefore get their relief more quickly. This regulatory proposal does not affect the health of California residents, worker safety or the state's environment.

**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.

**Business Reporting Requirements:**

The regulatory action requires institutions in certain circumstances to file a closing plan with the Bureau along with related documents, and notice of closure with students. The Bureau has determined that it is necessary for the welfare of the people of the State that the regulation apply to institutions, as a closing plan and related documents will inform students of their options for completing their educational program after their institution's closure, and will help the Bureau contact students about possible relief they may be eligible for if an institution closed before the student completed their degree.

**Effect on Small Business**

The Bureau has determined that the proposed regulations will not affect small businesses. Businesses that will be affected will already be closed, which means they will not be affected by the regulation.

**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 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at Bureau for Private Postsecondary Education, 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 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, 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 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 can 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: David Dumble  
Address: P.O. Box 980818

West Sacramento, CA 95798-0818  
Telephone No.: (279) 895-6091 Fax: (916) 263-1897  
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 Fax: (916) 263-1897  
E-Mail Address: Yvette.Johnson@dca.ca.gov

**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/lawsregs/current.shtml>.