

## **FINDING OF EMERGENCY**

The Bureau for Private Postsecondary Education (Bureau) hereby finds that the adoption of regulations on an emergency basis is required to regulate private postsecondary institutions in California. The Bureau specifically finds that these emergency regulations are necessary for the immediate preservation of public health and safety, and general welfare of the citizens of California, and that Senate Bill (SB) 1247, Chapter 840 Statutes of 2014, requires the Bureau for Private Postsecondary Education (“Bureau” or “BPPE”), within the Department of Consumer Affairs (“DCA”), to adopt these proposed regulations as emergency regulations.

### **AUTHORITY AND REFERENCE CITATION**

Authority cited: Sections 94803, 94877, 94882, 94885, 94885.5, 94885.5, 94888, 94895, and 94938, Education Code.

Reference: Sections 94818, 94823.5, 94830, 94844, 94882, 94885, 94885.1, 94885.5, 94886, 94887, 94888, 94893, 94894, 94895, 94896, 94897, 94900, 94900.5, 94909, 94923, 94927.5, 94930.5, 94932, and 94938, Education Code; Sections 11460.20, 11460.30, 11460.40, 11460.50, 11460.60, and 11460.80, Government Code.

### **SPECIFIC FACTS DEMONSTRATING THE NEED FOR IMMEDIATE ACTION**

These regulations are being submitted as Emergency Regulations pursuant to a statutory emergency. Senate Bill 1247 mandates that approved postsecondary institutions offering degrees be accredited by an accrediting agency recognized by the United States Department of Education and that the Bureau notify in writing those approved postsecondary institutions currently offering degree programs of the accreditation requirements by February 1, 2015. These Emergency Regulations would establish procedures that will permit the Bureau to: Define key phrases; identify information that is required to be in the accreditation plan that must be submitted by July 1, 2015 for existing institutions; identify information that is required to be in the accreditation plan for unaccredited institutions applying for approval to offer degree programs; specify specific language to be used in required student disclosure statements; create procedures for institutions to follow if they choose not to continue to offer degree programs; and to describe procedures for taking action against institutions that do not comply with the requirements.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The California Private Postsecondary Education Act of 2009 (Act) requires all private postsecondary educational institutions to be approved or otherwise exempt in order to legally operate in California. The Act also specifies that all institutions must demonstrate the capacity to meet the minimum operating standards in order to be approved to operate. SB 1247, which goes into effect on January 1, 2015, amends the minimum operating standards to include a requirement that institutions currently offering

degree programs be accredited by July 1, 2020, receive pre-accreditation or accreditation candidacy status by July 1, 2017, submit a plan for achieving the aforementioned timelines by July 1, 2015 and be notified in writing, by the Bureau, of the accreditation requirements by **February 1, 2015**. Institutions that do not meet the required time frames will have their approval to operate in California suspended and will be required to cease enrollment of new students and either find teach-out opportunities for existing students or provide a refund. The new provisions also require institutions that are not currently accredited and that offer degree programs to provide notice to potential new students that their approval to operate is contingent upon the institution becoming accredited.

More specifically, the proposed regulations would:

- Provide a definition for “pre-accreditation” or “candidacy” as those terms are not common to all accreditation agencies.
- Provide a definition for “provisional approval” which is used in statute but not defined.
- Establish the plan for achieving accreditation that is required to be submitted along with the appropriate application for institutions that are not approved to offer degree programs on or before January 1, 2015.
- Establish the requirements of the plan for achieving accreditation that non-accredited degree granting institutions must submit by July 1, 2015.
- Change the name of an approval given to institutions when specific minor deficiencies are identified during the application review process from “provisional approval” to “conditional approval” as the term “provisional approval” as used in the section currently is an approval limited to six months and the term “provisional approval” has a different meaning in California Education Code sections 94885, 94885.1 and 94885.5. This section would also clarify that an applicant seeking to offer degree programs who was not previously approved to offer degree programs must complete the plan for accreditation in addition to the appropriate application. In addition, this section clarifies that the applicant is limited to two degree programs during the period of provisional approval. Finally, this section also clarifies that the Bureau will only require a provisional approval to operate non-accredited degree granting institutions.
- Specify the process required for an automatic suspension of an approved or a provisional approval to operate or a provisional approval to offer degree programs. This section would also provide that an owner of an institution may request an informal conference with the Director of the Department of Consumer Affairs within 30 days of the suspension.

- Specify the process for the mandated visiting committees and requirements of the visiting committee.
- Specify that in addition to an application, when an applicant submits an application for change in educational program requesting to add a degree program to an institution that was not previously approved to offer degree programs, the applicant must also submit a plan to achieve accreditation or proof of accreditation. This section also provides that the approval of such an application shall be provisional and limited to two degree programs.
- Provide specific language to be used in the notification to prospective students prior to enrolling in a degree granting institution operating under a provisional approval as is required by California Education Code section 94885.5(b)(1). This section provides clarification regarding where the notice must appear as well as the size and type of the font. This section also provides procedures for initialing the disclosure and distribution of copies.
- Provide specific language to be used in the notification to prospective students prior to enrolling in a degree granting institution that was approved to offer degree programs on or before January 1, 2015. This section provides clarification on where the notice must appear as well as the size and type of the font. This section would also provide procedures for acknowledgement of the disclosure by initialing the disclosure and the distribution of the original and copies. This section also includes a provision for repeal of the section on July 1, 2021.
- Provide procedures for owners of institutions that elect to stop pursuing accreditation.
- Provide procedures for institutions failing to meet the statutory and regulatory benchmarks that have their approval to operate or their approval to offer degree programs automatically suspended.
- Specify that the Bureau may take an action against a provisional approval to operate and an approval to offer a degree program in addition to any action that may be taken against an approval to operate pursuant to Article 3 of Chapter 5 of Division 7.5 of California Code of Regulations.
- Add suspension of an approval or provisional approval to operate or offer degree programs for failing to meet the requirements for accreditation.

### **Anticipated Benefits of the Proposal**

Institutions that are currently approved to offer degree programs in California and are not accredited, and institutions seeking to offer degree programs in California that are not accredited, will have sufficient guidance to comply with the new statutory requirements of accreditation for degree granting institutions in California. Additionally,

institutional owners will have the necessary information to forego accreditation and surrender their approval to offer degree programs. Finally, this proposal outlines the consequences of non-compliance and procedures for a teach-out.

### **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.

### **Fiscal Impact Estimates**

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

Cost: The Bureau anticipates the need to hire 5 additional Education Specialist positions (4 two-year limited term and 1 permanent) to process the accreditation plans expected from the approximately 150 existing degree granting institutions and the approximately 50 new applications for degree granting programs that are anticipated every year. The cost of those positions is \$565,000 in 2015-16, \$525,000 in 2016-17, and \$107,000 ongoing.

Revenue: The anticipated revenue from the anticipated applications to offer degree programs is \$150,000 in 2015-16 and \$100,000 ongoing for application for approval by means of accreditation.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

#### Business Impact:

The Bureau has determined that there are no costs directly associated with this regulatory proposal. The costs of accreditation were created in Chapter 840, Statutes of 2014. The initial cost for accreditation may range between \$8,000.00 and \$30,000.00 depending on the choice of accrediting agency and condition of the institution prior to beginning the accrediting process. The ongoing costs are projected to be between \$900.00 and \$15,000.00 annually depending on the choice of accreditor.

#### Impact on Jobs/New Business:

The Bureau has determined that there are costs directly associated with institutional accreditation however, that requirement is in statute and not in the clarifying regulations. While the statute may have impact on the continuation of business, the regulations will not. If institutions are unable to comply with the statutory requirements they will have to

either change their course offerings or close. Either pathway would have an adverse impact on jobs.

Cost Impact on Private Person or Business: None

Effect on Housing Costs: None