

**BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: September 8, 2015

Subject Matter of Proposed Regulations: Accreditation of Degree Granting Institutions

(13) Section(s) Affected: Division 7.5 of Title 5 of the California Code of Regulations: Amend sections 70000, 71400, 71650, and 75150, and adopt sections 71105, 71105.5, 71410, 71471, 71775, 71775.5, 74240, 74250, and 75140.

Specific Purpose of each adoption, amendment, or repeal:

The purpose of the proposed language is to implement sections of The California Private Postsecondary Education Act of 2009 (Act) added by Senate Bill (SB) 1247, Chapter 840 Statutes of 2014, which went into effect on January 1, 2015. The Act requires all non-exempt institutions to be approved by the Bureau for Private Postsecondary Education (Bureau) to operate in California, and specifies that all institutions demonstrate minimum operating standards. SB 1247 amended the minimum operating standards to require all degree-granting institutions to be accredited by an accrediting agency recognized by the United States Department of Education. Specifically, institutions approved by the Bureau on or before January 1, 2015, must be accredited by July 1, 2020, achieve accreditation “candidacy or pre-accreditation” by July 1, 2017, and submit an accreditation plan by July 1, 2015. Institutions not approved by the Bureau on or before January 1, 2015, must seek “provisional approval” from the Bureau with an accreditation plan for no more than two degree programs, be accredited within five years of issuance of the provisional approval, and achieve accreditation “candidacy or pre-accreditation” within two years of the provisional approval. In all circumstances, institutions must notify students enrolling in these programs that the institution or program is not currently accredited. Failure to meet or comply with any of the requirements will result in an automatic suspension. The Act directs the Bureau to adopt emergency regulations and then permanent regulations through the regular rulemaking process to implement these sections of the Act added by SB 1247. The emergency regulations were filed on January 30, 2015 and became operational February 1, 2015.

Factual Basis/Rationale:

The changes proposed by this regulatory package are as follows:

(1) Amend Section 70000 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 70000(s): This text defines “pre-accreditation” or “candidacy” to mean that an institution has submitted a completed application for initial accreditation with the required fee, and that it was accepted by the accreditor.

Proposed Change: The text clarifies the meaning of “pre-accreditation” or “candidacy” used in sections 94885.1 and 94885.5 of the Code but not defined. Pre-accreditation or candidacy is a required milestone towards obtaining full accreditation added by SB 1247. The definition creates a standard for the Bureau to verify that an institution has met one of the statutory accreditation requirements.

Rationale: There is no definition for the terms “pre-accreditation” or “candidacy” in the statute or in the permanent regulations, and the terms are not common to all accreditation agencies.

Anticipated Benefits: The definition provides clarity for students, institutions, and the Bureau by defining the standard that the Bureau will use to determine whether an institution has reached a particular accreditation milestone. This will particularly help institutions avoid confusion regarding what is required to meet this milestone.

Section 70000(u): This new text defines the term “provisional approval” to mean an approval by the Bureau for no more than five years while the institution seeks to satisfy the requirements for accreditation.

Proposed Change: The proposal adds a definition for “provisional approval.” Education Code sections 94885 and 94885.5 as amended and adopted by SB 1247 use the term “provisional approval” for a specific purpose related to the accreditation standards. This regulation provides a necessary definition and interpretation of the phrase.

Rationale: There is no definition for the term “provisional approval” in the statute or permanent regulations.

Anticipated Benefit: This addition provides clarity for students, institutions and the Bureau by defining the temporary or “provisional” approval that the Bureau may issue while the institution seeks full accreditation.

Section 70000: Various subsections are re-lettered because of the proposed new definitions to section 70000. These are technical changes to maintain logic and clarity in the regulation:

1. Re-letter subsection 70000(s) as subsection 70000(t).
2. Re-letter subsection 70000(t) as subsection 70000(v) and amend (u) to (w) within.
3. Re-letter subsection 70000(u) as subsection 70000(w).
4. Re-letter subsection 70000(v) as subsection 70000(x).
5. Re-letter subsection 70000(w) as subsection 70000(y) and amend (x) to (z) within.
6. Re-letter subsection 70000(x) as subsection 70000(z).
7. Re-letter subsection 70000(y) as subsection 70000(aa).
8. Re-letter subsection 70000(z) as subsection 70000(ab).
9. Re-letter subsection 70000(aa) as subsection 70000(ac).

(2) Adopt Section 71105 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 71105(a): This text specifies that an unaccredited institution that is requesting provisional approval to offer a degree program must submit an accreditation plan with its application.

Proposed Change: The text specifies that an institution seeking provisional approval must include with its application for approval to operate, or application for a substantive change, an acceptable accreditation plan.

Rationale: SB 1247 created Education Code section 94885.5, which provides the framework for programs seeking to offer a degree program to become fully accredited, including the requirement of submission of an accreditation plan to the Bureau. The Bureau must adopt regulations to implement that statutory requirement. By requiring a plan to be submitted to the Bureau at the time of application for provisional approval, the Bureau can determine whether the institution has met one of the requirements for obtaining a provisional approval.

Anticipated Benefit: The proposal benefits students by implementing a statutory requirement created to benefit students. Specifically, institutions seeking to offer a degree program must submit an accreditation plan to the Bureau as a milestone toward full accreditation. The Bureau will be able monitor and verify that the institution has met the statutory requirement.

Section 71105(b): This text implements and makes specific the contents of the accreditation plan required by statute for the benefit of students. The necessity for each item follows:

Section 71105(b)(1): The proposal specifies that the accreditation plan must identify the accrediting agency from which accreditation is being sought. This will require the institution to choose the accreditation agency and allow confirmation by the Bureau that the agency is recognized by the United States Department of Education.

Section 71105(b)(2): The proposal specifies that the accreditation plan must identify the eligibility requirements of the accrediting agency. This will require the institution to become familiar with the eligibility requirements that are necessary for the institution to obtain full accreditation.

Section 71105(b)(3): This proposal requires the accreditation plan to identify the chosen accreditor's minimum requirements and outline how and when it will have complied within the initial two year requirement of meeting the accreditor's requirements for submission for initial accreditation, thus meeting the pre-accreditation or candidacy requirement of the statute. This will help institutions identify how they will meet the necessary requirements within the required timeframe. This will also help the Bureau assess progress toward accreditation. Additionally, future policymakers will be able to assess whether the time requirements established by statute are reasonable and realistic.

Section 71105(b)(4): The proposal specifies that the accreditation plan shall include an outline of the process and timeline for the institution to achieve full accreditation within five years of

provisional approval. This subsection lists the following items that must be included in the outline for full accreditation, if applicable. In each case, the information will assist institutions and the Bureau to identify components for achieving full accreditation within the given timeframe:

Section 71105(b)(4)(A): The proposal specifies that the outline include attendance at an accrediting agency's required accreditation applicant workshop.

Section 71105(b)(4)(B): The proposal specifies that the outline include submission of financial statements required by the accrediting agency.

Section 71105(b)(4)(C): The proposal specifies that the outline include submission of a self-evaluation report.

Section 71105(b)(4)(D): The proposal specifies that the outline include hosting a site visit by the accrediting agency.

Rationale: SB 1247 requires that all degree-granting programs must be accredited within a certain time, and requires an accreditation plan to be submitted to the Bureau, but does not define the contents of the plan. The regulations are needed to implement the statute and make it specific.

Anticipated Benefits: The proposal implements and makes specific the contents of the accreditation plan required by statute for the protection of students. By knowing the specific required contents of the plan, institutions have clear guidance how to meet the statutory requirement. This will also allow institutions to be able to evaluate how they will meet the mandates within the necessary timeframes. Additionally, future policymakers will be able to assess whether the time requirements set forth in statute are reasonable and sufficient.

(3) Adopt Section 71105.5 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 71105.5(a): This text implements sections 94885.1 of the Act regarding degree-granting institutions approved prior to January 1, 2015.

Proposed Change: The text specifies that an institution that was approved to offer a degree program on or before January 1, 2015, must submit an accreditation plan by July 1, 2015 for achieving the requisite accreditation.

Rationale: SB 1247 added Education Code section 94885.1, which provides the mandates and deadlines for institutions approved by the Bureau prior to January 1, 2015, related to accreditation, including the requirement that such institutions must provide an accreditation plan by July 1, 2015. This text implements that statutory requirement.

Anticipated Benefit: The proposal benefits students by implementing a statutory requirement created to benefit students. Specifically, institutions offering degree programs approved by the Bureau prior to January 1, 2015 must submit an accreditation plan to the Bureau as a milestone

toward full accreditation. The Bureau will be able to monitor and verify that the institution has met the statutory requirement.

Section 71105.5(b): This text implements and makes specific the contents of the accreditation plan required by statute for the institutions to submit to the Bureau. The necessity for each item follows:

Section 71105.5(b)(1): The proposal specifies that the accreditation plan must identify the accrediting agency from which accreditation is being sought. This will require the institution to choose the accreditation agency and allow confirmation by the Bureau that the agency is recognized by the United States Department of Education.

Section 71105.5(b)(2): The proposal specifies that the accreditation plan must identify the eligibility requirements of the accrediting agency. This will require the institution to become familiar with the eligibility requirements that are necessary for the institution to obtain full accreditation.

Section 71105.5(b)(3): This proposal requires the institution's plan to identify the chosen accreditor's minimum requirements and outline how and when it will have complied by July 1, 2017 with the accreditor's requirements for submission for initial accreditation thus meeting the pre-accreditation or candidacy requirement of the statute. This will help institutions identify how they will meet the necessary requirements within the required timeframe. Additionally, future policymakers will be able to assess whether the time requirements established by statute are reasonable and realistic.

Section 71105.5(b)(4): The proposal specifies that the accreditation plan include an outline of the process and timeline for the institution to achieve full accreditation by July 1, 2020. This subsection lists the following items that must be included in the outline for full accreditation, if applicable. In each case, the information will assist institutions and the Bureau to identify components for achieving full accreditation within the given timeframe:

Section 71105.5(b)(4)(A): The proposal specifies that the outline include attendance at an accrediting agency's required accreditation applicant workshop.

Section 71105.5(b)(4)(B): The proposal specifies that the outline include submission of financial statements required by the accrediting agency.

Section 71105.5(b)(4)(C): The proposal specifies that the outline include submission of a self-evaluation report.

Section 71105.5(b)(4)(D): The proposal specifies that the outline include hosting a site visit by the accrediting agency.

Rationale: SB 1247 requires that all degree-granting programs must be accredited within a certain time, and requires an accreditation plan to be submitted to the Bureau but does not define the contents of the plan.

Anticipated Benefits: The proposal implements and makes specific the contents of the accreditation plan required by statute for the protection of students. By knowing the specific required contents of the plan, institutions have clear guidance how to meet the statutory requirement. This will also allow institutions to be able to evaluate how they will meet the mandates within the necessary timeframes. Additionally, future policymakers will be able to assess whether the time requirements set forth in statute are reasonable and sufficient.

(4) Amend Section 71400 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 71400(c): The proposal amends “Section” to “section.” This is a technical change to conform to generally acceptable style and usage.

Section 71400(d)(1): This proposal moves the original subsection (d) into new subsection (d)(1) and deletes “provisional” or replaces it with “conditional” as applicable.

Proposed Change: SB 1247 provides for the Bureau to grant “provisional approval” under the circumstance of an institution seeking to offer a degree program. This “provisional approval” exists as a mechanism to allow the institution to obtain the required accreditation and is not to be confused with the previously used “provisional approval” for short-term approval when minor deficiencies exist in an application for approval.

Rationale: Under the existing regulations, “provisional” is used to describe the granting of short-term approval when minor deficiencies exist in the application. This proposal deletes “provisional” as a term used in those circumstances and makes “conditional” the operative term so that “provisional approval” only means the approval granted by the Bureau when an institution seeks to offer a degree program without having obtained accreditation.

Anticipated Benefit: This benefits all stakeholders by removing ambiguity in the use of the term “provisional approval” in the regulations.

Section 71400(d)(2): The proposal adds subsection (d)(2) to specify that the Bureau will grant a provisional approval to institutions seeking to offer degree programs only, if they meet certain requirements. This proposal requires that an institution’s application demonstrate not only the standard requirements, but also an approved plan for obtaining the statutory requirement of accreditation.

Proposed Change: The proposed text specifies that a provisional approval will be granted if, in addition to all other requirements for approval to operate, the institution meets the requirements of Education Code section 94885.5 and has a plan approved pursuant to section 71105.

Rationale: The existing regulations did not have a category for the granting of provisional approval in the processing of completed applications. SB 1247 requires that institutions seeking to offer a degree obtain provisional approval to operate from the Bureau. The proposal creates a category for the granting of provisional approval for institutions that seek to offer degree programs only. This is the foundation of a provisional approval.

Anticipated Benefit: The proposal benefits students by implementing and making specific the statutory requirement that institutions seeking to offer a degree program must seek provisional approval as part of their application for approval submitted to the Bureau.

Section 71400(d)(3): The proposal adds subsection (d)(3) to specify that the Bureau will grant a provisional approval to operate no more than two degree programs to institutions seeking to offer both degree and non-degree programs, only if they meet certain requirements. This proposal requires that an institution's application demonstrate not only the standard requirements, but also an approved plan for obtaining the statutory requirement of accreditation.

Proposed Change: The text specifies that the Bureau may grant provisional approval to offer no more than two degree programs to an institution seeking to offer both degree and non-degree programs, if, in addition to all other requirements, the institution meets the requirements of Education Code section 94885.5 and has a plan approved pursuant to section 71105.

Rationale: The existing regulations did not have a category for the granting of a provisional approval in the processing of completed applications. The proposal creates a category for the granting of provisional approval for institutions that seek to offer both degree and non-degree programs. This distinguishes provisional approval from a full approval to operate.

Anticipated Benefit: The proposal benefits students by implementing and making specific the statutory requirement that institutions seeking to offer a degree program must seek provisional approval as part of their application for approval submitted to the Bureau.

(5) Adopt Section 71410 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 71410(a): This new text implements and makes specific the statutory requirement for automatic suspension of an approval to operate or a provisional approval to operate for an institution's failure to meet statutory accreditation requirements.

Proposed Change: The proposal adds that pursuant to the requirements in Education Code sections 94885.1 and 94885.5, the Bureau Chief, or his or her designee, may automatically suspend the approval if an institution fails to meet the requirements of sections 94885.1 or 94885.5 of the Code, or sections 71105 or 71105.5. The proposal specifies that notice of the order may be given personally, by telephone, email, fax, or mail, and that it shall inform the person approved to operate the institution of the automatic suspension and its effective date. It also specifies that the order will include the manner in which the person may appeal the automatic suspension.

Rationale: SB 1247 requires an automatic suspension for degree-granting programs that do not meet specific accreditation criteria or deadlines. Under existing regulations, there are no provisions for such an automatic suspension. The proposal provides for the manner and method in which the automatic suspension is to be issued.

Anticipated Benefits: The proposal benefits students by implementing the statutory requirement of automatic suspension for institutions that fail to meet accreditation mandates. It benefits

institutions by specifying a process that the Bureau will use related to automatic suspensions. This also benefits the Bureau as it provides a mechanism for immediate action if a program fails to meet one of the accreditation requirements as provided by the Act.

Section 71410(b): This text adds an appeal process related to an automatic suspension of an approval (or provisional approval) to operate.

Proposed Change: The proposal provides that within 30 days of the effective date of the automatic suspension, the person approved or provisionally approved to operate the institution may request in writing an opportunity to be heard before the Director, or his or her designee. It also provides that within 30 days from timely receipt of such a request, the Director, or his or her designee, shall hear the appeal by holding an informal office conference with the person approved or provisionally approved to operate the institution or an authorized representative. The proposal allows participation by the institution's representative(s) in the informal office conference by telephone, and provides that the time for hearing the appeal may be extended for good cause at the request of the institution or the Bureau.

Rationale: SB 1247 requires that degree programs not meeting certain deadlines in obtaining accreditation be automatically suspended. The existing regulations do not provide for an appeal of an automatic suspension. The proposed appeal process allows the institution to present an appeal to the Director, or his or her designee, rather than to the person that automatically suspended the institution (i.e., the Bureau Chief or his or her designee). The proposal also incorporates some flexibility in that it allows telephonic participation by institutions that would incur burdensome expense to travel to Sacramento to have their matters heard. In addition, there are occasions where unusual, unavoidable, or exigent circumstances prevent either the institution or the Director from being able to participate in the informal office conference on a date that is within 30 days after the request is made, and the proposal allows for extending the conference date beyond that timeframe.

Anticipated Benefit: This proposal benefits the institutions by providing due process and relatively quick access to be heard, thus minimizing any interruption in the program should the appeal provide a favorable result for the institution. This also benefits the institutions by allowing telephone participation, and benefits all participants by allowing the time for the appeal to be heard to be extended when good cause exists.

(6) Adopt Section 71471 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 71471(a): This text specifies the process and requirements for the mandated visiting committees related to the accreditation milestones.

Proposed Change: The proposal implements the Bureau's mandate to empanel a visiting committee to assess an unaccredited degree-granting program's progress toward achieving accreditation.

Rationale: Under the existing regulations, no language addresses the Bureau's empaneling of visiting committees to ascertain the progress of the institution or program toward meeting the accreditation requirements of the statute.

Anticipated Benefit: This benefits students and the Bureau as the visiting committees will be able to take a closer look at how well institutions are progressing towards the accreditation milestones. The Bureau may use the visiting committee's report in deciding to prohibit the institution from enrolling new students and requiring the execution of a teach-out plan for its enrolled students. Institutions may also benefit from this as the committee may provide recommendations to help it reach the accreditation goal.

Section 71471(b): The proposal adds the method an institution may use to challenge the visiting committee.

Proposed Change: SB 1247 requires that the Bureau empanel visiting committees to review the institution during the first two years of its seeking accreditation or by January 1, 2017 for institutions approved by the Bureau prior to January 1, 2015. This proposal provides the institution the opportunity to challenge a member of the committee through previously established regulatory procedures under section 71455 if there are any potential issues with a committee member.

Rationale: Under the existing regulations, the regulatory procedure under section 71455 for an institution to challenge a member of a visiting committee is not specifically tied to the visiting committee empaneled by the Bureau to review an institution's progress toward accreditation. The proposed text makes clear that the same regulatory procedure in section 71455 may be used by the schools to challenge a member of the accreditation visiting committee.

Anticipated Benefit: This benefits the institutions as it provides them an opportunity to challenge a member of a visiting committee via established regulatory procedures, for such reasons as inadequate qualifications, conflicts of interest, or bias.

Section 71471(c): This text states that the visiting committee must review the institution's accreditation plan and initial documentation related to accreditation.

Proposed Change: This proposal provides that the committee must review an institution's plan and documentation.

Rationale: SB 1247 requires the empanelment of a visiting committee for degree programs seeking accreditation. This proposal makes specific the tasks that the visiting committee must undertake; namely, to review the institution's plan and the initial documentation related to seeking accreditation.

Anticipated Benefit: This benefits the Bureau, students, and institutions by ensuring that the visiting committee is knowledgeable about the institution's accreditation plan and documentation and can effectively complete their tasks to access accreditation progress.

Section 71471(d): This text states that the visiting committee may request an update of documentation related to accreditation and may schedule and an on-site visit.

Proposed Change: The proposal allows the committee to request any updated documentation, as well as schedule a site visit should the committee choose.

Rationale: SB 1247 requires the empanelment of a visiting committee to review an institution's progress toward obtaining accreditation for degree programs. This allows the committee to update documentation and schedule a site visit. Visiting committees are likely to be reviewing an institution's progress more than a year after the original plan is submitted. It is reasonable that alterations may occur during the interim.

Anticipated Benefit: This benefits the Bureau as the visiting committee is acting as a monitor of the progress toward accreditation through updating documentation and potentially a site visit.

Section 71471(e): This text implements and makes specific the contents of the recommendations that the visiting committee is to submit to the Bureau.

Proposed Change: This proposal requires that the committee prepare a report upon conclusion of its work. This subsection lists the following items that must be included in the report:

Section 71471(e)(1): The proposal requires that as part of the committee's report it must include its findings regarding the institution's progress toward accreditation.

Section 71471(e)(2): The proposal requires that as part of the committee's report it must include its assessment of the institution's ability to meet its accreditation goals by the required deadlines.

Section 71471(e)(3): The proposal requires that as part of the committee's report it should include any suggested corrections for the institution to achieve accreditation.

Section 71471(e)(4): The proposal requires that as part of the committee's report it should include any recommended actions that the Bureau should take.

Rationale: As part of the accreditation requirement, SB 1247 mandates that visiting committees be empaneled to review institutional progress and assess the likelihood of the program reaching full accreditation. Under statute, the committee is required to make recommendations to the Bureau, but the content of these recommendations is not specified under existing regulations. This proposal requires the visiting committee to write a report at the conclusion of its work including the committee's findings regarding the institution's progress toward accreditation, an assessment of the institution's ability to meet requirements and deadlines for accreditation, any suggested corrections for achieving accreditation, and any recommendation for any action the Bureau should take.

Anticipated Benefit: This benefits students, the Bureau, and institutions. The committee's purpose is to review and assess the programs likelihood to obtain full accreditation by the required deadline. The report provides all stakeholders with a progress. It further benefits both

the Bureau and the institution by presenting any recommendations for any actions or changes that might be necessary or beneficial.

(7) Amend Section 71650 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 71650(b)(1): The proposal moves the original language in subsection (b) into new subsection (b)(1).

Proposed Change: SB 1247 requires that all degree-granting programs be accredited as part of the minimum operating requirements. The proposal relates to an application for a change in educational objections when an institution seeks to add a degree program. The proposal splits subsection (b) into three separate parts. The current subsection (b) will become subsection (b)(1). The original unaltered language makes up the content of this new subsection.

Rationale: SB 1247 adds accreditation to the list of minimum requirements for degree programs. No regulations exist to address institutions seeking to change their educational objections to add a degree program that is subject to accreditation requirements. Therefore, this proposal changes and expands current regulation 71650 to address this new requirement.

Anticipated Benefit: The benefit is clarity for all stakeholders. By breaking this section into smaller parts, each variation of the application is addressed separately and clearly and is easier to follow and understand. This benefits institutions by clearly setting forth what is required when an approved institution wishes to apply to add a degree program.

Section 71650(b)(2): This text specifies that 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.

Proposed Change: The proposal provides that an owner of an approved institution seeking to add a degree-granting program must either complete an accreditation plan per 71105 or provide proof of accreditation with the scope covering the institution and at least one degree program.

Rationale: This implements SB 1247 by providing that an owner wanting to add a degree-granting program must either complete an accreditation plan or provide proof of accreditation as part of the application. As all degree granting institutions will be required to be accredited, an approved institution adding a program is also subject to this requirement.

Anticipated Benefit: This benefits students, institutions, and the Bureau. Degree programs are required to be accredited for the protection of students. Those institutions seeking to add a new degree program must know that they are required to either show proof that they already meet the requirement or provide a plan for how they will obtain the required accreditation within the mandated timeframe.

Section 71650(b)(3): This provides that if an application is granted, the program will obtain provisional approval for the program, but for no more than two programs as limited by statute. This also allows the approval to run in conjunction with the existing approval to operate.

Proposed Change: The proposal provides that if an application is granted, the Bureau shall issue a provisional approval of no more than two degree programs and that such approval shall run in conjunction with any existing approval to operate.

Rationale: No regulations exist to address an application for change in educational objections to add a degree-granting program seeking accreditation. This covers the statutory requirement of accreditation for all degree granting programs. In this instance, this is an approved institution adding new programs, which are also subject to the requirement.

Anticipated Benefit: This benefits institutions as it provides for a provisional approval by the Bureau. Further, the provisional approval runs in conjunction with the already existing approval to operate so that if the institution elects to stop pursuing the program or fails to meet a deadline, its original approval to operate would be unaffected, only the provisional approval for the program would be affected allowing the other programs to continue uninterrupted.

(8) Adopt Section 71775 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 71775(a): This text provides 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).

Proposed Change: The proposal requires that an unaccredited degree-granting program with provisional approval provide an enrolling student with a specific written notice. The proposal provides a minimum font size along with the exact language of the notice.

Rationale: The proposal adopts regulations to implement the statutory notice. Under existing regulations and laws, institutions are not required to notify enrolling students that the degree-granting program is unaccredited. SB 1247 requires all students enrolling in a degree-granting program that is not fully accredited be notified in writing prior to executing an enrollment agreement. This disclosure is to clearly articulate the program's current status and possible consequences should the institution not meet its obligations. This provides the format and exact language of the notice.

Anticipated Benefits: This benefits prospective students with transparency by providing written notification that the program is currently unaccredited, that the program is seeking accreditation, and what the consequences will be should the program not obtain accreditation, thus affording the prospective student the opportunity to make an informed decision about enrolling.

Section 71775(b): This section provides the procedures for the initialing of the disclosure and the distribution of copies.

Proposed Change: The proposal requires that prior to executing an enrollment agreement the student and a representative of the institution must initial and date the notice. The institution must also retain the original in the student's records, while a copy of the executed notice must be given to the student.

Rationale: No regulations exist relating to the accreditation notice required by SB 1247. This implements the law and would be helpful should a future dispute arise regarding whether a student was provided with the disclosure.

Anticipated Benefit: This benefits the students by requiring special attention be brought to the notice by requiring the initialing and dating so a student can make an informed decision. It also benefits the institution because by maintaining the original they can verify that the student was properly notified should the question arise. It also benefits the Bureau in verifying the institution is in compliance by maintaining the document with the student's records.

Section 71775(c): This section provides clarification regarding where the notice must appear as well as the size and type of the font.

Proposed Change: The proposal requires that the notice appear in conjunction with the description of unaccredited degree-granting programs, including in the catalog, on the website, and in brochures.

Rationale: No regulations exist relating to the accreditation notice required by SB 1247. This implements the law and provides that the notice appear with descriptions of the degree program, including in the catalog, on the website, and in the course brochure. Experience has shown that providing such a disclosure as soon as possible and as often as possible provides potential students with necessary information regarding the program in question.

Anticipated Benefit: This benefits prospective students who are made aware of the circumstances surrounding the program early in their exploration process of educational opportunities, which allows them to make an informed decision whether to pursue the particular program. This transparency gives prospective students the opportunity to ask questions and research the program to make an informed decision.

(9) Adopt Section 71775.5 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 71775.5(a): This text provides specific language to be used in the notification to prospective students prior to enrolling in an approved unaccredited degree-granting institution as required by California Education Code section 94885.1(c)(1).

Proposed Change: The proposal requires that an approved unaccredited degree-granting institution provide an enrolling student with a specific written notice. The proposal provides a minimum font size along with the exact language of the notice.

Rationale: The proposal implements the statutorily required notice in writing to students enrolling in degree-granting programs that are not fully accredited. Under current regulations

and laws, institutions are not required to notify enrolling students that the degree-granting program is unaccredited. SB 1247 requires all students enrolling in a degree-granting program that is not fully accredited be notified in writing prior to executing an enrollment agreement. This notice must be provided to the student prior to executing an enrollment agreement. This disclosure is to clearly articulate the program's current status and possible consequences should the institution not meet its obligations. This provides the format and exact language of the notice.

Anticipated Benefits: This benefits prospective students with transparency by providing written notification that the program is currently unaccredited, that the program is seeking accreditation, and what the consequences will be should the program not obtain accreditation, thus affording the prospective student the opportunity to make an informed decision about enrolling.

Section 71775.5(b): This section provides procedures for the initialing of the disclosure and the distribution of copies.

Proposed Change: The proposal requires that prior to executing an enrollment agreement the student and a representative of the institution must initial and date the notice. Furthermore, the institution must retain the original in the student's records, while a copy of the executed notice must be given to the student.

Rationale: SB 1247 requires that accreditation is a minimum requirement for degree-granting programs. Additionally, it requires that students enrolling in an unaccredited degree program be notified in writing prior to executing an enrollment agreement. This provides that the notice be initialed and dated by both the student and an institutional representative. Furthermore, it requires that the original be maintained with student records and that the student receive a copy. This is helpful should a future dispute arise regarding whether the notice was provided.

Anticipated Benefit: This benefits students by requiring special attention be brought to the notice by requiring the initialing and dating so a student can make an informed decision. Additionally, it benefits the institution because by maintaining the original they can verify that the student was properly notified should the question arise. Furthermore, it benefits the Bureau in verifying the institution is in compliance by maintaining the document with the student's records.

Section 71775.5(c): This section provides clarification regarding where the notice must appear as well as the size and type of the font.

Proposed Change: The proposal requires that the notice appear in conjunction with the description of unaccredited degree-granting programs, including in the catalog, on the website, and in brochures.

Rationale: SB 1247 requires that accreditation is a minimum requirement for degree-granting programs. Additionally, it requires that students enrolling in an unaccredited degree program must be notified in writing prior to executing an enrollment agreement. This provides that the notice appear with descriptions of the degree program, including in the catalog, on the website, and in the course brochure. Experience has shown that providing such a disclosure as soon as

possible and as often as possible provides potential students with necessary information regarding the program in question.

Anticipated Benefit: This benefits prospective students who are made aware of the circumstances surrounding the program early in their exploration process of educational opportunities, which allows them to make an informed decision whether to pursue the particular program. This transparency gives prospective students the opportunity to ask questions and research the program to make an informed decision.

(10) Adopt Section 74240 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 74240(a): The proposal adopts regulations to provide required steps to be taken for closing the program should an institution voluntarily choose to stop pursuing accreditation for a currently unaccredited degree-granting program.

Proposed Change: The text provides that if an unaccredited degree-granting program that is provisionally approved or approved via an accepted plan under section 71105.5 chooses to stop offering degree programs, the institution must notify the Bureau in writing and provide a degree program closure plan, which includes specific information. The necessity for each item required to be included in the degree program is stated below for subsections (a)(1) through (a)(4).

Rationale: No existing regulations address the situation where an institution chooses to stop pursuing accreditation of degree-granting programs after obtaining provisional approval or having submitted an approved accreditation plan. This text makes specific the requirements when such an institution decides to cease pursuing accreditation.

Anticipated Benefit: This benefits institutions by clearly providing what steps are required for the institution if it elects to stop pursuing degree program accreditation. It benefits students in that institutions are required to provide a complete degree closure plan for the orderly closure of the institution or degree program.

Section 74240(a)(1): The proposal requires that as part of its closure plan the institution must notify the Bureau of the exact date it stopped enrolling new students in its degree programs, which cannot be more than five business days before or after the post-mark date of the Bureau notification. This benefits the Bureau by providing verifiable data that can be used to ensure compliance.

Section 74240(a)(2): The proposal provides that the institution must provide as part of its closure plan the contact information for all currently enrolled students in each degree program. This benefits the Bureau by obtaining the needed contact information and list of students affected by the closure. This makes verifying and contacting the students easier, which enables better verification of compliance. Likewise, it benefits students as it is easier for the Bureau to verify that a student is one of those affected by the closure.

Section 74240(a)(3): The proposal requires that the institution as part of its closure plan must provide a teach-out plan including a plan for the disposition of student records. The plan must be

compliant with Education Code section 94927. This benefits the students by providing for any potential teach-out plan and the maintaining of their student records so that the students will continue to be able to have access to them regardless of whatever else might happen. This benefits the Bureau by providing vital information about the disposition of student records and aids in the Bureau's ability to monitor the institutions compliance with both the closure and the Act as a whole.

Section 74240(a)(4): The proposal requires that the institution as part of its closure plan provide a copy of the notification it must provide to students. This benefits both the institution and the Bureau. By providing a copy of this notification with the closure plan, the Bureau can quickly ascertain if there are any deficiencies in the notice and they can be quickly corrected as to avoid having to send multiple notices. It also benefits the Bureau in verifying that the program is being properly closed and students are properly notified of what is happening and their options.

Section 74240(b): This text requires the institution that elects to cease pursuing accreditation to provide written notification to all currently enrolled students.

Proposed Change: The proposal requires that within five days of notifying the Bureau of its intentions to cease pursuing program accreditation, the institution must provide written notification to all currently enrolled students of certain facts. The necessity for each item follows:

Section 74240(b)(1): The proposal provides that as part of the written notice to current students the institution must inform the students that it is no longer pursuing accreditation and that it is immediately surrendering its provisional approval. This benefits students by keeping them informed of what has happened and that the program is no longer available at the institution.

Section 74240(b)(2): The proposal provides that as part of the written notice to current students the institution must inform the students of any teach-out plan with certain information. This benefits students as it provides information about possible future options for pursuing their program of study. This also benefits students by providing them with vital information regarding the teach-out so that they know when and where to go, and to whom they can communicate with about the new institution and its programs:

Section 74240(b)(2)(A): The proposal requires that as part of the notification to students regarding any teach-out plan the institution must provide the name and location of any institutions providing teach-out.

Section 74240(b)(2)(B): The proposal requires that as part of the notifications to students regarding any teach-out plan the institution must provide the last date of instruction for each program at the current institution and the date when the teach-out institution will begin.

Section 74240(b)(2)(C): The proposal requires that as part of the notification to students regarding any teach-out plan the institution provide a contact at the teach-out institution(s).

Rationale: No existing regulations address the situation where an institution chooses to stop pursuing accreditation of degree-granting programs after obtaining provisional approval or having submitted an approved accreditation plan. This text makes specific the disclosure requirements when such an institution decides to cease pursuing accreditation.

Anticipated benefit: This benefits students by providing them with vital information regarding the teach-out so students know when and where to go, and to whom they can communicate with about the new institution(s) and its programs.

Section 74240(b)(3): The text provides that as part of the written notice to current students the institution must inform students that they have the right not to participate in the teach-out and may alternatively seek a refund.

Rationale: No existing regulations address the situation where an institution chooses to stop pursuing accreditation of degree-granting programs after obtaining provisional approval or having submitted an approved accreditation plan. This text makes specific the requirements that institutions must offer a refund to students when such an institution decides to cease pursuing accreditation.

Anticipated Benefit: This benefits the student by informing the student of the option to either participate in a teach-out or seek a refund.

Section 74240(c): This text clarifies that a student may ask for a refund rather than participate in a teach-out plan and that any refund must be given within 45 days.

Proposed Change: The proposal provides that a student may ask for a refund rather than participate in any teach-out plan and that the refund must be made within 45 days of the request.

Rationale: No existing regulations address the situation where an institution chooses to stop pursuing accreditation of degree-granting programs after obtaining provisional approval or having submitted an approved accreditation plan. This text clarifies that the student has the choice of participating in a teach-out program or seeking a refund, and that should the student request a refund, it must be provided within 45 days.

Anticipated Benefit: This benefits the students by not only giving the student the choice of participating in the teach-out program or seeking a refund, but also requiring that the refund be made within 45 days, providing an expectation of when the student will receive the refund if that is the student's choice.

Section 74240(d): This text clarifies that failure to comply with this section is a violation subject to Bureau action.

Proposed Change: This proposal adds that failure to comply with this section is a violation and subject to Bureau action.

Rationale: Existing regulations do not address what happens when institutions choose to stop pursuing accreditation of degree-granting programs after obtaining provisional approval or having submitted an approved accreditation plan. This section clarifies that failure by the institution to comply with these requirements is its own separate violation in addition to any others and subject to Bureau action.

Anticipated Benefit: This benefits the Bureau and institutions in making clear that in addition to any other violations, institutions not complying with this section is a separate violation subject to possible additional Bureau action. This also benefits prospective students as a matter of consumer protection.

(11) Adopt Section 74250 of Division 7.5 of Title 5 of the California Code of Regulations to read as follows:

Section 74250(a): This text provides 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.

Proposed Change: The proposal provides that if an unaccredited degree program fails to meet any requirements that it will be notified by the Bureau that the approval or provisional approval to offer unaccredited degree programs is automatically suspended. Furthermore, the institution must cease enrolling students and within 30 days provide a closure plan to the Bureau. The necessity for each item required to be included in the closure plan is stated below for subsections (a)(1) through (a)(4).

Rationale: Pursuant to SB 1247, unaccredited degree programs seeking accreditation, must meet certain requirements and deadlines. If they do not, the program is automatically suspended as required by statute. This text makes specific the procedures that an institution must adhere to once suspended by the Bureau, including that the institution must cease enrolling students and provide a closure program to the Bureau within 30 days.

Anticipated Benefit: This benefits institutions by clearly providing what steps are required for the institution if it is automatically suspended. It benefits students in that institutions are required to provide a complete degree closure plan for the orderly closure of the institution or degree program.

Section 74250(a)(1): The proposal requires that as part of its closure plan the institution must notify the Bureau of the exact date it stopped enrolling new students in its degree programs. This benefits the Bureau by providing verifiable data that can be used to ensure compliance.

Section 74250(a)(2): The proposal provides that the institution must provide as part of its closure plan the contact information for all currently enrolled students in each degree program. This benefits the Bureau by obtaining the needed contact information and list of students affected by the closure. This makes verifying and contacting the students easier, which enables better verification of compliance. Likewise, it benefits students as it is easier for the Bureau to verify that a student is one of those affected by the closure.

Section 74250(a)(3): The proposal requires that the institution as part of its closure plan must provide a teach-out plan including a plan for the disposition of student records. The plan must be compliant with Education Code section 94927. This benefits the students by providing for any potential teach-out plan and the maintaining of their student records so that the students will continue to be able to have access to them regardless of whatever else might happen. This benefits the Bureau by providing vital information about the disposition of student records and aids in the Bureau's ability to monitor the institutions compliance with both the closure and the Act as a whole.

Section 74250(a)(4): The proposal requires that the institution as part of its closure plan provide a copy of the notification it must provide to students. This benefits both the institution and the Bureau. By providing a copy of this notification with the closure plan, the Bureau can quickly ascertain if there are any deficiencies in the notice and they can be quickly corrected as to avoid having to send multiple notices. It also benefits the Bureau in verifying that the program is being properly closed and students are properly notified of what is happening and their options.

Section 74250(b): This text requires the institution that is automatically suspended to provide written notification to all currently enrolled students.

Proposed Change: The proposal requires that upon within five business days of an automatic suspension, the institution must provide written notification to all currently enrolled students of certain facts. The necessity for each item follows:

Section 74250(b)(1): The proposal provides that as part of the written notice to current students the institution must inform the students that it has been automatically suspended. This benefits students by keeping them informed of what has happened and that the program is no longer available at the institution.

Section 74250(b)(2): The proposal provides that as part of the written notice to current students the institution must inform the students of any teach-out plan with the following information. This benefits students as it provides information about possible future options for pursuing their program of study. This also benefits students by providing them with vital information regarding the teach-out so that students know when and where to go, and to whom they can communicate with about the new institution and its programs:

Section 74250(b)(2)(A): The proposal requires that as part of the notification to students regarding any teach-out plan the institution must provide the name and location of any institutions providing teach-out.

Section 74250(b)(2)(B): The proposal requires that as part of the notifications to students regarding any teach-out plan the institution must provide the date when instruction at the teach-out institution will begin.

Section 74250(b)(2)(C): The proposal requires that as part of the notification to students regarding any teach-out plan the institution provide a contact at the teach-out institution(s).

Rationale: No existing regulations address the situation where an institution is automatically suspended after obtaining provisional approval or having submitted an approved accreditation plan. This text makes specific the disclosure requirements when such an institution decides to cease pursuing accreditation.

Anticipated benefit: This benefits students by providing them with vital information regarding the teach-out so students know when and where to go, and to whom they can communicate with about the new institution(s) and its programs.

Section 74250(b)(3): The text provides that as part of the written notice to current students the institution must inform students that they have the right not to participate in the teach-out and may alternatively seek a refund.

Rationale: No existing regulations address the situation where an institution chooses to stop pursuing accreditation of degree-granting programs after obtaining provisional approval or having submitted an approved accreditation plan. This text makes specific the requirements that institutions must offer a refund to students when such an institution is automatically suspended.

Anticipated Benefit: This benefits the student by informing the student of the option to either participate in a teach-out or seek a refund.

Section 74250(c): The proposal provides that a student may ask for a refund rather than participate in any teach-out plan and that the refund must be made within 45 days of the request.

Proposed Change: The proposal provides that a student may ask for a refund rather than participate in any teach-out plan and that the refund must be made within 45 days of the request.

Rationale: No existing regulations address the situation where an institution is automatically suspended after obtaining provisional approval or having submitted an approved accreditation plan. This text clarifies that the student has the choice of participating in a teach-out program or seeking a refund, and that should the student request a refund, it must be provided within 45 days.

Anticipated Benefit: This benefits the students by not only giving the student the choice of participating in the teach-out program or seeking a refund, but also requiring that the refund be made within 45 days, providing an expectation of when the student will receive the refund if that is the student's choice.

Section 74250(d): This text clarifies that failure to comply with this section is a violation subject to Bureau action.

Proposed Change: This proposal adds that failure to comply with this section is a violation and subject to Bureau action.

Rationale: No existing regulations address the situation where an institution is automatically suspended after obtaining provisional approval or having submitted an approved accreditation plan. This section clarifies that failure by the institution to comply with these requirements is its own separate violation in addition to any others and subject to Bureau action.

Anticipated Benefit: This benefits the Bureau and institutions in making clear that in addition to any other violations, institutions not complying with this section is a separate violation subject to possible additional Bureau action. This also benefits prospective students as a matter of consumer protection.

(12) Adopt Section 75140 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 75140: This text specifies that the Bureau may take an action against a provisional approval to operate or a provisional 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.

Proposed Change: The text clarifies that the Bureau may take any action against an institution or program operating under provisional approval as it would if the institution or program had a regular approval to operate.

Rationale: No regulations specified that the Bureau could take action against an institution or program with provisional approval. SB 1247 creates a new category of provisional approval for institutions or programs that need such approval in order to pursue accreditation. The text makes clear that the Bureau can take action against an institution or program that is provisionally approved. This also makes clear that a provisional approval is subject to the Bureau's authority and the requirements made of all approved institutions.

Anticipated Benefit: This benefits all stakeholders by clarifying that institutions or programs operating under provisional approval are subject to the same actions as permitted by the Bureau against an approval to operate.

(13) Amend Section 75150 of Division 7.5 of Title 5 of the California Code of Regulations:

Section 75150(b): This text amends the regulations to add as a basis for an emergency decision failure to meet statutory and regulatory requirements for accreditation.

Proposed Change: The proposal adds the failure to meet statutory and regulatory requirements for accreditation to the list of reasons that the Bureau can make an emergency decision.

Rationale: The existing regulations do not list failure to meet accreditation requirements as a basis for an emergency decision by the Bureau. SB 1247 requires that all degree programs be accredited as part of the operating standards. This adds the failure to meet statutory and regulatory requirements for accreditation as grounds for emergency decisions.

Anticipated Benefit: This benefits students from future harm by allowing the Bureau to take emergency action against an institution for violating the accreditation requirements.

Section 75150(c)(1): This text adds the limitation of enrollment of new students as a possible emergency measure.

Proposed Change: The proposal adds limiting enrollment of new students as a possible emergency decision measure.

Rationale: Previously, the Bureau could order the institution to cease enrollment of new students when making an emergency decision. The text adds the ability to order a limitation of new enrollment as part of an emergency decision rather than a full cessation of enrollment. In some cases, limiting enrollment may be more appropriate than completely ceasing enrollment. The proposal would allow the institution to continue enrolling at a limited number.

Anticipated Benefit: This benefits all stakeholders by allowing for a wider range of options by the Bureau for emergency decisions while still providing the required protection to students and prospective students.

Section 75150(c)(4): This text adds suspending approval or provisional approval to operate or offer a degree program as a possible emergency decision measure.

Proposed Change: The proposal adds suspending approval or provisional approval to operate or offer a degree as a possible emergency decision measure.

Rationale: Previously, the Bureau's emergency decision options only included ceasing enrollment, ceasing part or all instruction, or ceasing the ability to collect tuition or fees for some or all programs. As part of the addition of the accreditation requirement for all degree-granting programs, SB 1247 requires that any program that fails to meet a statutory requirement related to accreditation shall be automatically suspended. The text adds suspending approval or provisional approval to operate or offer any degree programs to the Bureau's emergency decision options.

Anticipated Benefit: This benefits students by specifying in regulations that the Bureau may order the suspension of an approval or provisional approval to operate or offer any degree programs for failure to meet requirements for accreditation, which is statutorily required with the enactment of SB 1247.

Underlying Data

None

Business Impact

This regulation will not have a significant adverse economic impact on businesses. The requirement for degree granting institutions to be accredited has been added to the

minimum operating requirements. This change simply provides guidelines for reaching the new minimum requirement of accreditation for degree granting programs for those institutions which do not yet meet the requirement.

Economic Impact Assessment

The regulatory proposal will have the following effect:

- It will not create or eliminate jobs within the State of California because most institutions are already accredited or do not offer degree programs.
- It will not create new businesses or eliminate existing businesses within the State of California because the accreditation requirement are now a part of the minimum operating requirements, which most institutions already meet. For those institutions which do not meet the new statutory requirement, the regulations lay out the process required to meet the new minimum requirement.
- It will not affect the expansion of businesses currently doing business within the State of California because most institutions are already accredited or do not offer degree programs and these regulations provide no restrictions for institutions already meeting the minimum requirements.
- The regulatory proposal would benefit California consumers by clarifying and providing guidelines for programs to meet the statutory requirement of accreditation, raising the minimum operating standards for all degree programs.
- The regulatory proposal does not affect the state's environment because an institutions accreditation status does not itself impact the environment.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected:

The alternative is to do nothing and leave institutions unclear about the process and the Bureau at risk of inconsistent application of the law. The Bureau will be applying these regulations to currently approved but unaccredited degree granting schools and future schools seeking approval

to offer degree programs. The number of cases that would require further interpretation of the law may lead to allegations of underground regulations as the Bureau moves to implement the statutory requirement of accreditation for degree granting institutions.

Notice to prospective students: Statute requires that students be notified in writing before executing an enrollment agreement that the program is unaccredited and the consequences should the program not meet its requirements in obtaining accreditation. The proposal includes that at a minimum the notice appear in conjunction with the description of the degree program in the catalog or on the website or with a degree program brochure. Originally, the Bureau also required notice to be included with any advertising of the degree program, but this requirement was removed. An alternative to removing the notice from the other locations was rejected in the interest of the prospective students. A prospective student faced with a notice just prior to executing an enrollment agreement may not be afforded the opportunity to inquire as to the true nature of the notice, particularly the consequences. Having the notice appear in other locations provides a prospective student with time to ask questions, either of the institution or to the Bureau, and seek clarification in a neutral environment. Additionally, this removes the element of surprise when the notice is unexpectedly placed in front of the prospective student. Through providing early notice, the prospective student can ask questions and make an informed choice prior to arriving at the institution to execute an enrollment agreement.

Extensions for Deadlines: The alternative of having short-term extensions for deadlines was discussed. A scenario, in which a program was very close, but not quite to the stated goal, was envisioned, where the parties could easily agree that the program would meet the requirement, but it needed a couple more months. In short, substantial performance could be demonstrated. However, extensions were rejected as the statute states that programs failing to meet the deadlines must be automatically suspended, which allows for no other alternatives.