

TITLE 5. BUREAU FOR PRIVATE POSTSECONDARY EDUCATION DEPARTMENT OF CONSUMER AFFAIRS

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. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs hearing room, 1625 North Market Blvd, Sacramento, California, 95815, at 10:15 a.m., or as soon as practicable thereafter, on October 4, 2010. Written comments, 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 not later than 5:00 p.m. on October 4, 2010, or must be received by the Bureau at the hearing. The Bureau, upon its own motion or at the instance 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 will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 94877, 94929.8, 94932.5, 94936, and 94938, of the Education Code and Section 11460.20 of the Government Code, and to implement, interpret or make specific Sections 94928, 92929, 94929.5, 94929.7, 94929.8, 94932.5, 94936, 94938, and 94944 of the Education Code; and Sections 11460.20, 11460.30, 11460.40, 11460.50, and 11460.60, and 11460.80 of the Government Code, the Bureau is considering changes to Division 7.5 of Title 5 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AB 48 (Portantino), Chapter 310, Statutes of 2009, requires the newly reconstituted Bureau for Private Postsecondary Education ("Bureau" or "BPPE"), within the Department of Consumer Affairs, to adopt regulations to implement the chapter on or before January 1, 2011. The Proposed Regulations include issuing citations and assessing administrative fines. In addition, the Bureau is directed to prescribe the format and method of delivery of an institution's annual report, establish a uniform method of obtaining data, give effect to the emergency decision provisions of the Administrative Procedure Act (APA), and provide policies and practices for conducting compliance inspections.

The Bureau is proposing to make the following changes:

1. Amend section 74110.

This proposal would amend section 74110 to specify annual reports will be filed through the Bureau's website.

2. Adopt section 74112.

This section prescribes the time period covered by the annual report and the performance fact sheet, procedures when license exam passage rates are not available, and a general format for performance fact sheets.

3. Add Article 2 to Chapter 5 Titled: Citations and Fines.

4. Adopt section 75020.

This proposal designates who may issue a citation assessing fines or orders of abatement. This proposal also specifies the information included with the citation including the procedures for informal conferences, appeals, compliance and consequences of non-compliance.

5. Adopt section 75030.

This proposal specifies the categories of citations, and sets forth the fine amounts for each category.

6. Adopt section 75040.

The proposed regulations provide the process for appealing a citation, as well as requesting an informal conference for a more expedient review.

7. Adopt section 75050.

The proposed regulations provide for an extension of time for compliance with an order of abatement and consequences for non-compliance with an order of abatement.

8. Adopt sections 75150.

This proposal allows the Bureau to take emergency actions against a person approved to operate an institution pursuant to provisions under the APA.

9. Add Article 4 to Chapter 5 Titled: Compliance Inspections.

10. Adopt section 75200.

This proposal sets forth the process for the Bureau's conducting announced and unannounced compliance inspections.

11. Adopt section 75210.

This proposal provides how students will be notified of notices to comply issued to the institution.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None

Business Impact:

The Bureau has made an 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.

Impact on Jobs/New Businesses:

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

Cost Impact on Representative Private Person or Business:

Institutional costs for appealing a citation could be reduced by a significant amount of money when using an informal conference as part of the appeal process as opposed to a formal process under the Administrative Procedure Act.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations would affect small businesses by identifying fines against businesses that violate the California Private Postsecondary Education Act of 2009 and the supporting regulations; however, the fines are allowed by statute, the proposed regulations identify the amount of fine by type of violation.

These regulations would provide a lower cost alternative to an APA hearing by allowing institutions the option of an informal conference.

CONSIDERATION OF ALTERNATIVES

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.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau for Private Postsecondary Education, 1625 N. Market Blvd., Suite S 202, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

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| Name: | Joanne Wenzel Staff Services Manager III |
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The backup contact person is:

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| Name: | Diane McKernon |
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Website Access <http://bppe.ca.gov>: Materials regarding this proposal can be found at <http://bppe.ca.gov/>.