

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

**INITIAL STATEMENT OF REASONS - ADDENDUM  
Minimum Operating Standards: Refund Policies**

**Subject Matter of Proposed Regulations:** Minimum Operating Standards: Refund Policies

**Sections Affected:** Division 7.5 of Title 5 of the California Code of Regulations (CCR)<sup>1</sup>; Amend sections 70000 and 71750 and add sections 71746 and 71751.

The Bureau for Private Postsecondary Education (Bureau) has proposed modifications made to proposed regulation CCR section 70000 related to Provisions, CCR section 71746 related to Collection of Tuition and Payment from Students, CCR section 71750 related to Cancellations and Refunds, and CCR section 71751 related to Withdrawals and Refunds, and as such provides this addendum to the Initial Statement of Reasons to clarify those changes.

**Summary of Modifications:**

Amending section 70000 of the CCR to:

- Update proposed definition of “Pro Rata Refund” in subsection (x) from “...based on the proportion of the educational program completed” to “...based on the completed proportion of the period of attendance.”
- Amend proposed definition of “Refund” in subsection (ac) to list the closure of the institution as the first factor listed instead of the last factor listed, so it is separately listed from the provision concerning the discontinuation or cancellation of the educational program.

Adding section 71746 of the CCR to:

- Split the proposed subsection (a) into (a) and (a)(1).
- Add required information that the institution provides to a student when the institution collects an amount greater than the total charges listed in the catalog and executed enrollment agreement, “...and the institution shall provide the student with a copy of the document from the student file described by section 71920(b)(10).”
- Add the words “within five (5) business days of receiving payment” to provide a timeline in which the institution must provide a receipt or updated ledger to a student when they make a payment or a payment is made on their behalf.
- Remove the words “collecting total charges” in 71746(b).
- Add “or updated student ledger” to subsection (b) to provide another option of acceptable documentation that an institution can provide to a student making payments.

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

- Change the word “all” to “any” in subsection (b).
- Add text to specify the required items that must be included on a receipt or updated ledger, “including the date of the payment(s), amount of the payment(s), description of the payment(s), and the payor(s).”
- Remove the words “and a” from the last sentence in 71746(b) as originally proposed. Instead, start a new sentence with the word “A.”
- Add “(s) or ledger” to specify that any receipts or student ledger shall be kept in the student’s records required under CCR 71920.

Amending section 71750 of the CCR to:

- Adds a notice to provide to a student who cancels their enrollment in an educational program, which contains the same requirements as the document described in section 71920(b)(10).
- Add subsection (c)(1) to state the requirements of a written notice provided to a student who cancels their enrollment in an educational program, who had a refund issued to a third party.

Adding section 71751 of the CCR to:

- Adds a notice to provide to a student who withdraws, or is withdrawn from, their enrollment in an educational program, which is described in section 71920(b)(10).
- Add subsection (c)(1) to state the requirements of a written notice provided to a student who withdraws, or is withdrawn from, their enrollment in an educational program, who had a refund issued to a third party.

### **Specific purpose of, and rationale for, each adoption, amendment, or repeal in the addendum:**

#### **1. Amend Section 70000, Article 1, Chapter 1, Division 7.5 of Title 5 of the California Code of Regulations:**

##### **70000. Provisions.**

**Proposed Change:** Modify the proposed definition in subsection (x) for “Pro Rata Refund” from a refund “...based on the proportion of the educational program completed” to “...based on the completed proportion of the period of attendance.”

**Purpose:** Align the regulatory definition of Pro Rata Refund with the language used in the statute to make the regulation consistent with the statutory language and clearer to understand.

**Rationale:** Feedback during the public comment period indicated that California Education Code Sections 94919(c) and 94920(d) require pro-rata refunds to be calculated based on the completed "period of attendance," rather than the entire program. Therefore, the Bureau’s originally proposed definition for Pro Rata Refund may have presented confusing situations in which there was a definition of Pro Rata Refund in regulations that used different language than the authorizing statutory language.

Commenters suggested aligning the proposed regulatory definition with this statutory language. The Bureau has agreed to make this change for clarity, ensuring the definition of “Pro Rata Refund” is consistent with the law. Additionally, the word “completed” has been moved before the word “proportion” instead of after the words “period of attendance,” for grammatical correctness.

**Proposed Change:** Modify the proposed definition in subsection (ac) for “Refund” to list “the closure of the institution” earlier in the definition. Adds the words “or the” before “discontinuation or cancellation of the educational program.”

**Purpose:** Improve the clarity of the regulation by listing the various circumstances in which a refund may be owed to a student or third-party payer by restructuring the subsection.

**Rationale:** The initially proposed text contained confusing language listing the scenarios in which a refund is owed, but the scenario where an institution closes was awkwardly attached as the last factor, stating “or closure of the institution” immediately after the proposed text stating “discontinuation or cancellation of the educational program.” This language may have confused some readers into believing that the closure of an institution is the same as the discontinuation or cancellation of an educational program. While the two are not mutually exclusive, they are distinct and separate concepts, one where a single program is discontinued, and another where all programs at the institution are stopped due to the institution’s closure. Listing each circumstance in which a refund is owed clearly and distinctly will allow schools to better understand the types of scenarios in which a refund will possibly be owed to a student.

## **2. Add Section 71746, Article 1 of Chapter 3 of Division 7.5 of Title 5 of the California Code of Regulations**

### **71746. Collection of Tuition and Payment from Students.**

**Proposed Change:** Create new subsection 71746 (a)(1) to describe the steps an institution must follow to provide a refund to a student when overpayment or overcollection occurs.

**Purpose:** The modifications move the initially proposed requirement of what to do in the event that an institution mistakenly collects an amount greater than the total charges listed (refund the account balance within 45 calendar days) from subsection (a) into a new subsection (a)(1), and add additional documentation that needs to be provided to students who are provided refunds under this section.

**Rationale:** This is a technical change so the Bureau does not have a single subsection (a) containing two requirements – one requirement to not collect any amount greater than the total charges listed on the enrollment agreement or catalog, and a second requirement to refund the account balance and provide documentation to the student, if

for whatever reason the institution mistakenly collects an amount greater than the total charges listed. The new subsection is added because the Bureau has also added documentation that institutions shall provide to a student if an amount greater than the total charges is collected, as described below. The proposed regulations are clearer if a separate subsection is added to specify the refund timeline and documentation that must be provided to a student.

**Proposed Change:** Add to subsection (a)(1) at the end of the subsection “and the institution shall provide the student with a copy of the document described by section 71920(b)(10).”

**Purpose:** Require that a copy of the document that is already required by regulation to be maintained in a student’s file be provided to the student in the event that a refund is issued to a student as a result of an institution collecting an amount greater than the total charges of the educational program.

**Rationale:** If a student has charges collected from them or on their behalf that exceed the amount listed as the educational program’s total charges per the enrollment agreement or catalog, then that student is owed a refund. However, as currently drafted, the text contains no provision to ensure refunds are issued accurately. The only way to ensure that refunds are not only issued but also issued accurately is to have documentation to support them. If a requirement to refund a student exists, but no documentation is required, then the student has no recourse if they believe their refund was calculated incorrectly. They would not have documentation to inquire about their account balance with the school or to file a complaint with the Bureau. The Bureau looked to existing regulatory requirements for student record maintenance to see if any records for student refunds required to be maintained by the institution would be necessary for an institution to provide to the student. Upon reviewing CCR section 71920(b)(10), requiring a copy of this document described by this subsection would minimize the impact on institutions by not requiring a new form of documentation to be given to the student, and provide the student with the needed information concerning their refund.

**Proposed Change:** Modify subsection 71746(b) to add the words “Within five (5) business days of receiving payment...” at the beginning of the subsection.

**Purpose:** Clarify the timeframe in which institutions have to provide a copy of documentation for any payments received from or on behalf of a student.

**Rationale:** Public comments proposed adding “within five days” to the beginning of section 71746(b). The Bureau believes that five business days is the more appropriate term to use because it provides the same amount of time for an institution to provide a copy of a receipt to a student. It is necessary to specify the timeframe in which to provide a receipt for payments made, or students may have no way of knowing how much of their program has been paid for, who has paid the charges (if financial aid or third-party payers are involved). This significantly hinders their ability to know if, based on the

amounts they have paid, they are owed a refund from the institution. Furthermore, the Bureau has added “of receiving payment” to clarify the action that triggers the start of the five business days in which an institution has to provide a student with documentation about payments they make or are made on their behalf. This makes the requirement clear for institutions about what exactly is required of them when receiving payment.

**Proposed Change:** Amend section 71746(b) to remove the words “collecting total charges.”

**Purpose:** Remove superfluous language from the proposed regulatory text, as the requirement to provide a receipt for payments received from or on behalf of a student applies to all institutions.

**Rationale:** The initially proposed text that specified “institutions collecting total charges” could potentially be made clearer by simply saying the requirement applies to “institutions.” Collecting total charges” creates the possibility for confusion, as “total charges” is the sum of institutional and non-institutional charges. However, non-institutional charges are paid to an entity *other* than the institution, so the institution may not have a way to provide a student with a receipt within five business days when the student pays a non-institutional charge. A clearer requirement can simply be applied to “institutions” when they receive a payment from or on behalf of a student, making the modified regulations clearer than the initially proposed regulations, and easily applicable to all institutions.

**Proposed Change:** Amend subsection 71746(b) to add “or updated student ledger” as a type of document that an institution can provide as a receipt to document payments received from or on behalf of a student.

**Purpose:** Specify a common type of file that many institutions use to track student payments as an acceptable form of documentation that can be provided to a student to document when a payment is received from a student or on their behalf. This change is intended to improve the clarity of the regulations and provide flexible options to institutions providing students with documentation of payments received.

**Rationale:** The addition of an “updated student ledger” was made to address institutions that utilize a ledger card system to document payments from students. Comments received during the public comment period noted that many institutions use a ledger card system to track payment information. To address this, the Bureau has included a provision so that institutions using ledgers can comply with the regulatory requirement, and students will have records of the payments they make, by adding an “updated student ledger” as another option for an institution to provide records of payments made by or on behalf of a student. The use of the word “updated” in the modified text ensures that the regulatory standard the Bureau is proposing to implement will guarantee that students receive the most current information documenting the payments they have made or have been made on their behalf, and not an outdated copy.

**Proposed Change:** Amend proposed subsection 71746(b) to provide a receipt or updated student ledger for “any payments...” instead of “all payments...”

**Purpose:** The Bureau’s intent in requiring a receipt for payments received from or on behalf of a student be provided to that student was for transparency and greater clarity and documentation on a per-transaction basis for students in the event that they need to know whether they are owed a refund or not. Providing a receipt for "any payments received" ensures that each payment is individually documented, which can enhance transparency and accuracy in financial records, and can be particularly beneficial in complex financial situations or where precise tracking of each transaction is required, such as in the case of potentially multiple payors for an expensive educational program.

**Rationale:** The initially proposed text stating that an institution shall provide students with a receipt for “all payments made” was potentially confusing because it could imply a more collective approach to payment documentation, where one single receipt might be issued summarizing multiple payments. While this can be efficient, it is not the intent of the proposed regulation because it might not provide the same level of detail for each individual transaction. This approach could be less useful in scenarios where detailed tracking of each payment is necessary, such as for compliant resolution purposes or when dealing with multiple payors. Using the language “for any payments received...” emphasizes the requirement that a receipt should be issued for each individual payment as it is received. It emphasizes the need for documentation of every single transaction, regardless of the amount or frequency. This is particularly important in situations where payments are made in installments or where there might be multiple small payments over time, such as in an educational program. It ensures that each payment is acknowledged and recorded separately, and the student has been provided a complete record of the payments they make or are made on their behalf.

**Proposed Change:** Amend section 71746(b) to specify certain mandated items that must be included on a receipt, including the date of the payment(s), amount of the payment(s), description of the payment(s), and the payor(s). Adjust the sentence structure for the requirement to maintain a copy of the receipt(s) or ledger in the student file into a new sentence at the end of the subsection, and add the option to keep a ledger in the student file to demonstrate compliance with the standard.

**Purpose:** Specify the necessary items to be included on a receipt provided to a student to make the regulatory requirement clear as to what needs to be on the receipt.

**Rationale:** If the Bureau mandates a requirement to provide a receipt or updated student ledger to a student within five business days of receiving a payment from or on behalf of them, it is necessary to specify what items must be shown on the receipt or updated ledger to prevent occurrences where a receipt is lacking in some essential information that the student might need. Comments received during the public comment period suggested a requirement to specify which items must be included on a receipt, including

the date and amount of the payment, and the payor. These suggestions are necessary for consumer protection and would improve the clarity of the proposed regulations because if the regulations do not specify what must be included on a receipt, then there is the potential that crucial information, such as a date, could be missing. Ultimately, this can have negative impacts on a student, such as the amount they paid for education, the length it takes to fully process a complaint, or inaccurate or incomplete student records. The Bureau added the suggested items from the comments received, and also included “description of the payment(s)” to address scenarios in which one payment may be for tuition, but another may be for fees, housing, equipment, or other institutional charges. The “(s)” is necessary in case multiple payments are received simultaneously or on the same day, or when multiple payors pay the same charge.

Requiring the date of the payment(s) is necessary because this information indicates when the transaction took place. It's crucial for record-keeping, tracking financial transactions, and resolving any disputes that may arise regarding the timing of the payment. The requirement to show how much was paid by or on behalf of the student is necessary to track the amount of the payments made towards a student's educational program. The amount of the payment is critical as it ensures transparency and clarity in the financial transaction, helping both the service provider and the payor keep accurate financial records. A description of the payment provides details about what the payment was for, which is necessary so that each party involved in the financial transaction, as it pertains to the student, can understand the nature of the service provided. The information can be needed if there are multiple services or items involved, such as if a student is paying for their education or receiving financial aid from multiple sources, including the federal government, the state government, a private scholarship, and making payments themselves. The payor identifies who made the payment, which is necessary not only for accountability for who makes the payment, but also for informational purposes if the student, the Bureau, or another government agency needs to contact a payor or if there are any issues or follow-up needed regarding the payment. Including these items on a receipt helps ensure clear communication, accurate record-keeping, and can prevent misunderstandings or disputes.

**Proposed Change:** Amend subsection 71746(b) to make the last clause of the proposed regulations into a separate sentence. Adds the words “(s) or ledger” types of documentation that an institution can maintain to show payments received from or on behalf of a student, and that a receipt or ledger was provided.

**Purpose:** Specify a common type of file that many institutions use to track student payments as an acceptable form of documentation that can be provided to a student to document when a payment is received from a student or on their behalf. This change is intended to improve the clarity of the regulations and provide flexible options to institutions providing students with documentation of payments received.

**Rationale:** An “updated student ledger” was added to the modified regulations to add an option for institutions to provide documentation to a student showing payments received,

and addresses institutions that utilize a ledger card system to document payments from students. The Bureau proposed maintaining a copy of the receipt in a student's file required under CCR 71920. To be consistent in the regulatory requirement, if the Bureau allows an institution to provide an updated student ledger to document that a payment has been received, then a copy of the student's ledger should be kept in the student file, ensuring that the standard of maintaining the required documentation applies regardless of which method the institution uses to provide documentation to students showing payments made.

### **3. Amend Section 71750, Article 1 of Chapter 3 of Division 7.5 of Title 5 of the California Code of Regulations**

#### **71750. ~~Withdrawals~~ Cancellations and Refunds.**

**Proposed Change:** Amend the originally proposed subsection 71750(c) to add language following the text "An institution shall provide a refund within 45 calendar days after the date of cancellation of a student's enrollment from the educational program in which the student was enrolled..." The added language states, "and shall provide the student with documentation specifying the amount of a refund, the method of calculating the refund, the date the refund was made, and the name and address of the person or entity to which the refund was sent, as described in section 71920(b)(10)."

**Purpose:** Require that a document containing the information described in section 71920(b)(10) be provided to the student in the event that a student cancels their enrollment in an educational program prior to the end of the cancellation period.

**Rationale:** If a student cancels their enrollment in an educational program prior to the end of the cancellation period, then that student is owed a full refund, less any reasonable deposit not to exceed \$250. However, as currently drafted, the text contains no provision to ensure refunds are issued accurately. The only way to ensure that refunds are not only issued but also issued accurately is to have documentation to support them. If a requirement to refund a student exists, but no documentation is required, then the student has no recourse if they believe their refund was calculated incorrectly. They would not have documentation to inquire about their account balance with the school or to file a complaint with the Bureau.

The Bureau looked to existing regulatory requirements for student record maintenance to see if any records for student refunds required to be maintained by the institution would be necessary for an institution to provide to the student. Upon reviewing CCR section 71920(b)(10), requiring a document described by this subsection would minimize the impact on institutions by not requiring a new form of documentation to be given to the student, and it would provide the student with the needed information concerning their refund. An institution must maintain a student file for any student who enrolls at an institution under section 71920, regardless of whether the student completes the

program. The Bureau aims to minimize confusion as to whether a student who cancels their enrollment should be provided with a document containing the information described by section 71920(b)(10). To address this, the Bureau has listed the same textual requirements from section 71920(b)(10) as well as a reference to the regulatory subsection so that it is clear that a student who cancels their enrollment agreement should still be made aware of the refund issued to them.

**Proposed Change:** Add subsection 71750 (c)(1), which states, “If a refund is made to a third party on behalf of a student who has cancelled their enrollment in an educational program, the institution shall provide the student, within 45 calendar days after the date of cancellation, a written notice, as described in section 71920(b)(10), in hard-copy or electronic format, itemizing the amount refunded to each third party, the name of the third party, and the date of each refund, as applicable.”

**Purpose:** Clarify that if a refund is issued to a third party, the student should still be provided a written notice describing the refund that was issued to the third party.

**Rationale:** If a student uses a third party to pay for their educational program, then a refund may be issued to a third party, but the student still needs documentation that the refund was calculated and issued correctly. Refunds issued to third parties need additional specificity to clarify that the substantiation of the refund issued to a third party should be sent to the student, similar to the change being proposed in (c). Upon reviewing CCR section 71920(b)(10), requiring a document described by this subsection would minimize the impact on institutions by not requiring a new form of documentation to be given to the student. An institution is required to record a document specifying this information, including whether a refund was issued to an “entity.” This information provides the student with the needed information concerning their refund.

Comments received during the public comment period suggested adding a new subsection (e), to require that, within five days of making any refund to a third party on behalf of a student who has cancelled their enrollment in an educational program, the institution provide the student a written notice, in hard copy or electronic format, itemizing the amounts refunded to each third party and the dates of each refund. The Bureau proposes adding (c)(1) instead of (e) because the requirement is related to documenting a refund issued to a student, and the substantial difference is that the refund is issued to the third-party, but the student is the person who should receive the written notice itemizing the amount of the refund and other details. Requiring that both a refund be issued and the documentation for it be provided within 45 days minimizes the possibility that an institution issues a refund on day 45, then takes another 5 days to provide the substantiation. With the modified text, a student should have both the refund and the written notice substantiating that refund within 45 days of their cancellation.

#### **4. Add Section 71751, Article 1 of Chapter 3 of Division 7.5 of Title 5 of the California Code of Regulations**

##### **71751. Withdrawals and Refunds**

**Proposed Change:** Amend the originally proposed subsection 71751(c) to add language following the text “An institution shall refund any credit balance on the student's account within 45 calendar days after the date of the student or institution withdrawal...” The added language states, “and shall provide the student with a copy of the document described by section 71920(b)(10).”

**Purpose:** Require that a document containing the information described in section 71920(b)(10) be provided to the student in the event that a student withdraws from, or is withdrawn from their enrollment in an educational program prior and they are owed a pro rata refund.

**Rationale:** Similar to the changes proposed at 71750(c), the Bureau proposes this modification because the proposed regulations require a refund to be issued to a student within 45 days after the date of a student withdrawing or being withdrawn from their program, but do not require that a student receive any proof of their calculated refund from the institution. Modifying the proposed text of the regulations to include that a document to specify the amount of a refund, method of calculation, date of the refund, and the person or entity to which the refund was sent are essential to allow students to know their refunds were issued correctly, and have the substantiation to know whether or not they need to work further with their institution, dispute the refund amount, and if necessary, file a complaint. All this information is contained in the document required to be in the student's file under section 71920(b)(10), so the Bureau has required that a copy of this document be provided to the student. This minimizes the impact on institutions by not requiring a new form of documentation to be given to the student, and it would provide the student with the needed information concerning their refund.

**Proposed Change:** Add subsection 71751 (c)(1), which states, “If a refund is made to a third party on behalf of a student who has withdrawn or been withdrawn from an educational program, the institution shall provide the student, within 45 calendar days after the date of the student or institution withdrawal, a written notice as described in section 71920(b)(10), in hard-copy or electronic format, itemizing the amount refunded to each third party, the name of the third party, and the date of each refund, as applicable.

**Purpose:** Clarify that if a refund is issued to a third party, the student should still be provided a written notice describing the refund that was issued to the third party.

**Rationale:** If a student uses a third party to pay for their educational program, then a refund may be issued to a third party, but the student still needs documentation that the refund was calculated and issued correctly. Refunds issued to third parties need additional specificity to clarify that the substantiation of the refund issued to a third party

should be sent to the student, similar to the change being proposed in 71750(c). Upon reviewing CCR section 71920(b)(10), requiring a document described by this subsection would minimize the impact on institutions by not requiring a new form of documentation to be given to the student. An institution is required to record a document specifying this information, including whether a refund was issued to an “entity.” This information provides the student with the needed information concerning their refund.

Comments received during the public comment period suggested adding a new subsection 71751(e), to require that, within five days of making any refund to a third party on behalf of a student who has withdrawn, or been withdrawn, from an educational program, the institution provide the student a written notice, in hard copy or electronic format, itemizing the amounts refunded to each third party and the dates of each refund. The Bureau proposes adding section 71751(c)(1) instead of (e) for the same reasons described above in section 71750(c)(1).