

**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, 1625 N. Market Blvd., Sacramento, CA 95834 in the Hearing Room (South #102) at 10am or as soon as practicable thereafter, September 8, 2015. Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office not later than 5pm on September 7, 2015, 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 94803, 94877, 94885, 94885.1, 94885.5, 94888, 94895, 94933 and 94938 of the Education Code; Section 11460.20 of the Government Code, and to implement, interpret or make specific Sections 94818, 94823.5, 94830, 94844, 94882, 94885, 94885.1, 94885.5, 94886, 94887, 94888, 94893, 94894, 94895, 94896, 94897, 94900, 94900.5, 94909, 94923, 94927, 94927.5, 94930.5, 94932, 94933 and 94935 of the Education Code; Sections 11460.20, 11460.30, 11460.40, 11460.50, 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 OVERVIEW

SB 1247, Chapter 840, Statutes of 2014 amended the minimum operating standards to include a requirement that institutions currently offering degree programs be accredited by July 1, 2020, receive pre-accreditation or accreditation candidacy status by July 1, 2017 and submit a plan for achieving the aforementioned timelines by July 1, 2015. Institutions that do not meet the required time frames will have to cease enrollment of new students and either find teach-out opportunities for existing students or provide a refund. The new provisions also require institutions that are not currently accredited and that offer degree programs to provide notice to potential new students that their approval to operate is contingent upon the institution becoming accredited. Additionally, requirements and time frames are provided for institutions which are not currently approved but wish to pursue approval as a new institution or approval of a new degree program.

The regulatory proposal is as follows:

1. Amend section 70000 of Division 7.5 of Title 5 of the California Code of Regulations

This adds needed definitions for new terms, including “pre-accreditation” or “candidacy” and “provisional approval.” It also renumbers other definitions to keep the list in alphabetical order.

2. Adopt section 71105 of Division 7.5 of Title 5 of the California Code of Regulations

This provides a guideline for institutions for submitting a plan for Provisional Approval to offer a degree program.

3. Adopt section 71105.5 of Division 7.5 of Title 5 of the California Code of Regulations

This provides the requirements and deadlines for institutions that are approved, but are not accredited for at least one of their degree programs.

4. Amend section 71400(c) of Division 7.5 of Title 5 of the California Code of Regulations

This corrects a grammatical error.

5. Amend section 71400(d) of Division 7.5 of Title 5 of the California Code of Regulations

This removes “provisional” and where necessary replaces it with “conditional” for approval based on minor application deficiencies. Additionally, it provides for provisional approval for degree granting programs based on statutory and regulatory requirements. Furthermore, it provides contingencies in the instance that an applicant is seeking to offer both degree and non-degree programs.

6. Adopt section 71410 of Division 7.5 of Title 5 of the California Code of Regulations

This provides the necessary framework for the statutory requirement of automatic suspension based on failure to meet statutory or regulatory requirements. Additionally, it provides an appeal process for this type of automatic suspension.

7. Adopt section 71471 of Division 7.5 of Title 5 of the California Code of Regulations

This provides for the empaneling of visiting committees to assess unaccredited degree-granting institutions progress toward gaining accreditation. In addition, it provides for the processes for the institution to challenge the committee and provides for the requirements, duties, and powers of the visiting committee in assessing the institution’s ability to meet required goals.

8. Amend section 71650(b) of Division 7.5 of Title 5 of the California Code of Regulations

This provides for the process of adding a degree program for approved institutions.

9. Adopt section 71775 of Division 7.5 of Title 5 of the California Code of Regulations

This provides a requirement for both a pre-enrollment disclosure and notice to prospective students in the institution’s catalog, website, and degree program brochures for provisionally approved degree programs.

10. Adopt section 71775.5 of Division 7.5 of Title 5 of the California Code of Regulations

This provides a requirement for both pre-enrollment disclosure and notice to prospective students in the institution’s catalog, website, and degree program brochures for unaccredited degree programs at approved institutions.

11. Adopt section 74240 of Division 7.5 of Title 5 of the California Code of Regulations

This provides for the procedures for an unaccredited degree-granting institution that elects to stop pursuing accreditation, including requirements for a degree program closure plan, notification requirements to students, that students may seek a refund rather than participate in a proposed teach-out program, and that failure by the institution to comply is a violation and subject to Bureau action.

12. Adopt section 74250 of Division 7.5 of Title 5 of the California Code of Regulations

This provides for the procedures for an unaccredited degree-granting institution that is automatically suspended, including requirements for a degree program closure plan, notification requirements to students, that students may seek a refund rather than participate in a proposed teach-out program, and that failure by the institution to comply is a violation and subject to Bureau action.

13. Adopt section 75140 of Division 7.5 of Title 5 of the California Code of Regulations

This provides that the Bureau may take action against a provisional approval to operate, or provisional approval to offer a degree program.

14. Amend section 75150(b) of Division 7.5 of Title 5 of the California Code of Regulations

This adds failure to meet statutory and regulatory requirements for accreditation conditions under which the Bureau may make an emergency decision.

15. Amend section 75150(c) of Division 7.5 of Title 5 of the California Code of Regulations

This adds limiting enrollment and suspending approval or provisional approval to operate or offer a degree programs to the list of temporary, interim relief that the Bureau may order.

Anticipated Benefits of the Proposal

Institutions that are currently approved to offer degree programs in California and are not accredited, and institutions seeking to offer degree programs in California that are not accredited, will have sufficient guidance to comply with the statutory requirements of accreditation for degree granting institutions in California. Additionally, institutional owners will have the necessary information to forego accreditation and surrender their approval to offer degrees programs. Finally, this proposal outlines the consequences of non-compliance and procedures for closure of the program.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Bureau has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding:

The Bureau does not anticipate any extra costs, savings, or revenue from these regulations. Rather, it is the statute which created the accreditation requirement and thus any extra costs. Additionally, long term this may reduce Bureau revenue as the fee for renewal by accreditation is \$3000 less than the renewal fee without accreditation.

Cost: The Bureau included the need to hire 5 additional Education Specialist positions (4 two-year limited term and 1 permanent) in the legislative BCP for 2015-16 to process the accreditation plans expected from the approximately 150 existing degree granting institutions and the approximately 50 new applications for degree granting programs that are anticipated every year. The cost of these positions is \$565,000 in 2015-16, \$525,000 in 2016-17, and \$107,000 ongoing. This cost is necessitated by the statute, not the regulations.

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 proposed regulations will not have a significant, statewide adverse 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 there are costs directly associated with institutional accreditation; however, that requirement is in statute and not in the clarifying regulations. While the statute may have impact on the continuation of business, the regulations will not. If institutions are unable to comply with the statutory requirements they will have to either change their course or close. Either pathway would have an adverse impact on jobs.

Cost Impact on Representative Private Person or Business: The Bureau is not aware of any cost impact that a representative private person would necessarily incur in reasonable compliance with the proposed regulations.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

While some of the institutions affected may be considered small businesses, the requirement to have all degree programs be accredited comes from statute. The regulations merely clarify and provide guidance to institutions for meeting the new statutory requirement.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/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.

Benefits of Regulation:

The Bureau has determined that this regulatory proposal will benefit the health and welfare of California residents by providing clarification and guidance for unaccredited degree granting programs or new degree granting programs to comply with current law. The proposal will have no effect on worker safety or the State's environment.

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 be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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 at P.O. Box 980818, West Sacramento, CA 95798-0818.

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

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

You 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:

Name: Kent Gray
Legislative/Regulatory Analyst
Address: P.O. Box 980818
West Sacramento, CA 95798-0818
Telephone No.: (916) 246-3907
Fax No.: (916) 263-1897
E-Mail Address: Kent.Gray@dca.ca.gov

The backup contact person is:

Name: Joanne Wenzel
Address: P.O. Box 980818
West Sacramento, CA 95798-0818
Telephone No.: (916) 431-6905
Fax No.: (916) 263-1897
E-Mail Address: Joanne.Wenzel@dca.ca.gov

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