

## **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 August 23, 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 August 23, 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 94803, 94877, 94855, 94932, 94935, and 94937 of the Education Code, and to implement, interpret or make specific Sections 118, 480, 481, and 482 of the Business and Professions Code; Sections 94885, 94887, 94933, 94933.5, 94935, 94936, 94937, and 94940 of the Education Code; and Section 11425.50(e) 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, 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 in order to establish a voluntary informal appeal process for institutions receiving a notice to comply, and regulations governing placing an institution on probation, or suspending or revoking an approval to operate.

Government Code Section 11425.50(e) provides that a penalty in any administrative disciplinary action may not be based on a guideline unless it has been adopted as a regulation in accordance with the Administrative Procedure Act.

The Bureau is proposing to make the following changes:

1. Amend title of Chapter 5.

This proposal would amend the title of Chapter 5 to read: Enforcement and Discipline.

2. Add Article 1 Titled: Notices to Comply commencing with section 75010.
3. Adopt Sections 75010.

The proposed regulations would specify that the Bureau staff may issue a notice to comply to an institution for minor violations of the Act or Chapter 5.

4. Add Article 3 Titled: Standards Related to Denial, Discipline, and Reinstatement of Approvals to Operate commencing with section 75060 (Article 2 reserved for Citation and Fine)

5. Renumber the following sections:

<u>Existing Section</u>	<u>New Section</u>
74120	75060
74130	75070
74160	75080
74170	75090

6. Adopt Sections 75100.

The proposed regulations would specify that the Bureau may suspend, revoke or place on probation an institution’s approval to operate.

7. Adopt Sections 75500.

The proposed regulations would adopt the Bureau’s Disciplinary Guidelines (August 2010), which are incorporated by reference.

6. Add new chapter title, Chapter 6, entitled “Student Tuition Recovery Fund” commencing with section 76000.

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 notice to comply could be reduced by a significant amount of money when using an informal 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.

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:

Name: Joanne Wenzel  
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The backup contact person is:

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/>.