

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

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing has been scheduled.

Subject Matter of Proposed Regulations: Signature Requirements.

Sections Affected: Articles 1, 2, 6, and 7, of Chapter 2, of Division 7.5, of Title 5 of the California Code of Regulations¹; Amend sections 70000, 71100, 71380, 71390, 71395, 71396, 71475, 71480, 71500, 71550, 71630, 71640, 71650, 71652, and 71653.

Background/Problem Addressed:

The Bureau for Private Postsecondary Education (Bureau) protects students and consumers through the regulatory oversight of California’s private postsecondary educational institutions (“institutions”) pursuant to the California Private Postsecondary Education Act of 2009 (“Act” – Ed. Code, §§ 94800–94950), including conducting qualitative reviews of educational programs and operating standards.

Existing regulations at sections 70000, 71100, 71380, 71390, 71395, 71396, 71475, 71480, 71500, 71550, 71630, 71640, 71650, 71652, and 71653 outline definitions and relate to application forms for various types of institutions that the Bureau oversees, notices from exempt institutions, as well as renewals. Under existing regulations, nonprofit organizations are required to have signatures by every member of their Board of Directors. Organizations with dispersed Boards have found it difficult to acquire a wet signature from every Board member. The current requirement for multiple signatures also requires the Bureau to verify every signature as an authorized person, which increases the Bureau’s workload.

At the Bureau’s February 23, 2022 Advisory Committee meeting, Bureau staff outlined existing application signature requirements and solicited input from the public and stakeholders on whether existing applications warranted changes, while ensuring that applications are only submitted by the authorized owner or operator of the institution and are approved by an institution’s governing body.

The Bureau received Advisory Committee Member and public feedback that existing requirements, such as requiring signatures from each member of a nonprofit institution’s governing body, may be unnecessarily burdensome, and that the range of application types may warrant requirements that vary by application. Subsequently, Bureau staff have considered how to modify signature requirements to streamline approval processes without compromising their integrity or undermining the Bureau’s authority.

¹ Unless otherwise noted, all references to the CCR hereafter are to Title 5.

In addition, in 2022 the legislature adopted Senate Bill (SB) 1433 (Chapter 544, Statutes of 2022) which, among other things, expanded the Bureau's authority to grant an approval to an out-of-state public institution with a physical presence in California. It is necessary to consider these potential new applicants (public institutions under the Bureau's jurisdiction) in establishing who needs to be a signatory on an application for approval.

The Bureau has drafted the following proposed regulatory changes:

- Amend section 70000(j) to add a definition for “digital signature” to have the same meaning as that in Government Code section 16.5.
- Amend sections 71100, 71390, 71395, 71396, 71480, 71500, 71550, 71640, 71650, 71652, and 71653, to update form revision dates.
- Amend sections 71380, 71390, 71395, 71475, 71480, 71500, 71550, 71640, 71650, 71652, and 71653, to allow digital signatures, require each partner in a partnership to sign applications, add “president” as an alternative to “chief executive officer,” and delete the present requirement that an application from a non-profit corporation be signed by every member of its governing body and replacing it with the requirement that a nonprofit corporation's application can be signed by the chief executive officer or the president.
- Apply revision of dates and signatory requirements on 4 forms incorporated by reference:
 1. Form Application 94801.5 - Application for Registration or Re-Registration of Out of State Institutions - Application for Renewal of Approval to
 2. Form AID - Application for Authorization for Institution to Begin (rev. 8/24) Participation in Student Financial Aid Programs (Title IV of the Higher Education Act of 1965) (rev. 8/24)
 3. Form CREDIT - Application for Authorization to Change from Clock Hours to Credit Hours (rev. 8/24)
 4. Form OBJ - Application for Change in Educational Objectives or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease by 25% or More) (rev. 8/24)

Anticipated benefits from regulatory action:

This proposal benefits California consumers and students by ensuring that owners of private postsecondary institutions, especially non-profit corporations, still comply with application requirements that are less burdensome, which allows institutions the ability to devote resources to their educational programs. The proposed changes will still be substantial enough to assure that applications are legitimate and account for owners that can be identified and verified through the approval process. The proposed regulatory language will also reduce workload for Bureau staff when processing applications, allowing staff to process other submitted forms more quickly. The

proposed changes will also facilitate the Bureau’s new role in providing oversight for out-of-state public institutions that may now apply for Bureau approval.

Specific purpose of each adoption, amendment, or repeal:

1. Amend section 70000(j), renumber sections 70000(k)-70000(ac)

Proposed Change: In section 70000(j), add ““Digital signature” means a signature made pursuant to Government Code section 16.5.” Renumber subsequent sections 70000(k)-70000(ac).

Purpose:

The purpose of this amendment/addition is to define “digital signature” as a signature made pursuant to Government Code section 16.5, which states in relevant parts:

“(a) In any written communication with a public entity, as defined in Section 811.2, in which a signature is required or used, any party to the communication may affix a signature by use of a digital signature that complies with the requirements of this section. If a public entity elects to use a digital signature, that digital signature shall have the same force and effect as the use of a manual signature if and only if it embodies all of the following attributes:

- (1) It is unique to the person using it.
- (2) It is capable of verification.
- (3) It is under the sole control of the person using it.
- (4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated.
- (5) It conforms to regulations adopted by the Secretary of State.

* * * *

(d) “Digital signature” means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature. For purposes of this section, a digital signature is a type of “electronic signature” as defined in subdivision (h) of Section 1633.2 of the Civil Code.

* * * *

The Bureau intends on using digital signatures in application forms for various types of institutions that the Bureau oversees, notices from exempt institutions, as well as renewals.

Rationale:

It is necessary to add a definition for “digital signature” because the Bureau intends on using the option for digital signatures in multiple forms, to allow applicants to submit a “digital signature” in lieu of a traditional “wet” signature, that meets the requirements of Government Code section 16.5. The Bureau plans to accept digital signatures as a secure means of authentication, while facilitating technological innovation and convenience to those in the education industry.

2. Amend Section 71100 of Article 1, of Chapter 2, of Division 7.5, of Title 5 of the California Code of Regulations

71100. Application Form.

Proposed Change: In section 71100(a), delete revision date “2/10” and add new revision date of “8/24”.

Rationale: The application form for unaccredited institutions to apply for Approval to Operate, which is designated in section 71100 as Form Application 94886 (rev. 2/10) (hereinafter, Form 94886), is being revised to update the required signatories. This requires amending section 71100 to update the revision date of the form from “2/10” to “8/24”.

3. Amend Section 71380, Article 1, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71380. Signatures and Certification.

Proposed Changes: In subdivision (a), add “with original or digital signature” after “shall be signed”. In subdivision (a)(1) add, “each partner in a partnership, or” after “or”. Add to (a)(2) “or president” after “chief executive officer”. In subdivision (a)(3) delete “Each member of the governing body of a nonprofit corporation.” and add, “If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”

Purpose²:

The purpose of these amendments is to permit digital signatures, clarify that all partners are to sign or just a CEO or president of a nonprofit or public institution when appropriate, and allow leaders with differing titles who have authorization to enter a signature on an institution’s behalf. CCR section 71380 specifies the signature requirements for the submission of an application for admission from institutions that are unaccredited (Form 94886). The Bureau has two separate processes for approving institutions, one for those that are unaccredited, and a separate process for institutions that are accredited and are said to be seeking Approval By Means of Accreditation

² This Purpose is essentially the same for the other section and form amendments relating to change in signature requirements.

(ABMA). For accredited institutions, the Bureau relies on the accrediting agency to provide substantial oversight and the application process is less involved.

There are currently three different forms of private business organization that might apply for an approval to operate: a sole proprietor, a partnership, or a corporation (either non-profit or for-profit). Additionally, as the Legislature recently granted the Bureau authority to approve public institutions from out-of-state if the institution has a physical presence in California, a public institution constitutes a fourth form of business organization that might apply.

Rationale³:

It is necessary to add “with original or digital signature” because the updated Form has a certification the applicant must sign, and so that institutions are aware digital signatures are an option, given compliance with CCR 70000(j) and Government Code section 16.5. A signature is an additional affirmation, that coupled with certification under penalty of perjury, helps to ensure that the documentation contains truthful, factual representations made in good faith. (See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [judicial explanation for the use of certifications under penalty of perjury: “The whole point of permitting a declaration under penalty of perjury, in lieu of a sworn statement, is to help ensure that declarations contain a truthful factual representation and are made in good faith.”].) Accordingly, the digital signature along with the certification under penalty of perjury in the form is necessary to ensure that complainants submit truthful and accurate information to the Bureau.

In (a)(1), it is necessary to add “each partner in a partnership, or” to clarify the signature requirement for partnerships, which is not explicitly set out under the current regulations. The regulation is currently unclear because members of a partnership could potentially interpret that only the majority or controlling interest partner needs to sign, while the intent is for all individual owners to sign. Ownership by a partnership is a legally distinct form of ownership and it is necessary to expressly state who is legally required to sign an official document on behalf of an institution owned by a partnership. The additions “each partner in a partnership” make it clearer that the signature is required of every owner, which could either be anyone having any interest in a sole proprietorship (either a lone owner, or multiple owners who have not formed a partnership), or each partner in a partnership.

Proposed text for (a)(2) specifies who must sign in the case of a business that is a for-profit corporation. The new signature requirement will be a signature by either the chief executive officer (CEO, as is currently the case) or the president of the corporation. The requirement of a signature of each individual with at least a 25% ownership interest in

³ This Rationale is essentially the same for the other section and form amendments relating to change in signature requirements.

the corporation will remain. The Bureau is adding “president” as an alternative to “chief executive officer,” as applicants may not have a CEO, and “president” is a commonly used title as the administrative head of a corporation that is just as acceptable to the Bureau.

The Bureau is deleting the present requirement that an application from a non-profit corporation be signed by every member of its governing body and replacing it with the requirement that a nonprofit corporation’s application can be signed by the chief executive officer or the president. Interested parties expressed to the Bureau that requiring every member of a non-profit corporation’s governing body to sign an application is burdensome, particularly those with governing board members who do not participate in the daily administration of the corporation. Therefore, the Bureau is deleting this requirement in favor of the proposed language in (a)(3) that an application from a nonprofit corporation be signed by either its CEO or the president of the corporation, who are authorized to approve such a document.

4. Amend Section 71390, of Article 2, of Chapter 2, of Division 7.7 of Title 5 of the California Code of Regulations.

71390. Application Form.

Proposed Change: In subdivision (a), delete the revision date “2/10” and add the new revision date “8/24”.

Purpose: This amendment is to update the revision date of the form.

Rationale: The application form for accredited institutions to apply for Approval to Operate, designated as Form Application 94890 (rev. 2/10) (hereinafter, Form 94890), is being revised to update the required signatories. This requires amending section 71390(a) to update the revision date of the form from “2/10” to “8/24”.

Proposed Change: In subdivision (d), add “with original or digital signature” after, “shall be signed”. In subdivision (d)(1)(A), add, “each partner in a partnership, or” after “or”. In subdivision (d)(1)(B) add, “or president” after “chief executive officer”. In subdivision (d)(1)(C) delete, “Each member of the governing body of a nonprofit corporation.” and add, “If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”

Purpose:

The purpose of these amendments are the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2). CCR section 71390 specifies the signature requirements for the submission of an application for admission from institutions that are accredited (Form Application 94890).

Rationale:

These amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5-6 footnote 3).

5. Amend Section 71395, of Article 3, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71395. Application; Fees.

Proposed Change: Amend subdivision (a) to change the revision date of Form Application 94874 from “2/10” to 8/24”.

Rationale: Form Application 94874 is currently identified by a revision date of “2/10”. However, the Bureau is now updating the form to change the required signatories on the form. Therefore, the revision date is being updated from “2/10” to “8/24”. The revision date on the Bureau’s current form has a revision date of “7/10”. The Bureau believes this date is a typographic error as the form is identical to that labeled with a revision date of “2/10”. The Bureau proposes changing the revision date on the form to conform with the revision date in the regulation.

Proposed Change: In subdivision (c)(1) add, “to sign with original or digital signature” after “Signatories”. In subdivision (c)(1)(A), add, “each partner in a partnership, or” after “or”. In subdivision (c)(1)(B) add, “or president” after “chief executive officer”. Delete “Each member of the governing body of a nonprofit corporation.” In (c)(1)(C) and add, “If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”.

Purpose: The purpose of these amendments is the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2). CCR section 71395 specifies the signature requirements for the submission of an application for recognition of exempt status. (Form Application 94874 - Verification of Exempt Status.) Institutions may be exempt from Bureau oversight by operation of law, but in some cases the institution needs or wants a formal acknowledgement of its exempt status from the Bureau.

Rationale:

These amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5-6 footnote 3).

6. Amend Section 71396, of Article 3.5, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71396. Application Form; Immediate STRF Compliance.

Proposed Change: In section 71396(a), delete the current revision date of “8/22” of Form Application 94801.5 (hereinafter, Form 94801.5) and replace it with the revision date of “8/24”.

Rationale: The Bureau’s Application for Registration and Re-Registration of Out of State Institutions, designated Form 94801.5, currently has a reference date of 8/22, which is when the form was adopted and incorporated by reference into section 71396. At this time the Bureau is revising the signatories required on all of its forms, and as a result it will be adopting an updated version of the form. Therefore, the regulation is being amended to now refer to the new revision date of the form.

Form Application 94801.5 - Application for Registration or Re-Registration of Out of State Institutions

Proposed Change: On the Application for Registration and Re-Registration of Out of State Institutions, in the footer the revision date is being changed from “8/22” to “8/24”.

Rationale:

Form 94801.5 is currently identified by a revision date of “8/22”. However, the Bureau is now updating the form to change the required signatories on the form. Therefore, the revision date is being updated from “8/22” to “8/24”.

Proposed Change: In Section 10 of the Application for Registration and Re-Registration of Out of State Institutions form, above the signature block add, “This form should be signed as follows:

- (1) By each owner of the institution, or each partner in a partnership, or
- (2) If the institution is incorporated, by the chief executive officer or president of the corporation and each person who owns or controls 25 percent or more of the stock or interest in the institution, or
- (3) If the institution is a nonprofit corporation or a public institution, by the chief executive officer or the president.

Use additional pages if necessary.”

Rationale:

In (1), it is necessary to add “each partner in a partnership, or” to clarify the signature requirement for partnerships, which is not explicitly set out under the current regulations. Ownership by a partnership is a legally distinct form of ownership and it is necessary to expressly state who is legally required to sign an official document on behalf of an institution owned by a partnership.

Proposed text for (2) specifies who must sign in the case of a business that is a for-profit corporation. The new signature requirement will be a signature by either the chief executive officer (as is currently the case) or the president of the corporation. The requirement of a signature of each individual with at least a 25% ownership interest in the corporation will remain. The Bureau is adding “president” as an alternative to “chief

executive officer” as it is a commonly used title as the administrative head of a corporation and would be just as acceptable to the Bureau.

The Bureau is deleting the present requirement that an application from a non-profit corporation be signed by every member of its governing body and replacing it with the requirement that a nonprofit corporation’s application can be signed by the chief executive officer or the president. The Bureau has heard from interested parties that this can be a burdensome requirement for nonprofit corporations that have large governing bodies, particularly those with governing board members who do not participate in the daily administration of the corporation. Therefore, the Bureau is deleting this requirement in favor of the proposed language in (3) that an application from a nonprofit corporation be signed by either its chief executive officer or the president of the corporation, who are authorized to approve such a document.

Proposed Change: In Section 10 of the Application for Registration and Re-Registration of Out of State Institutions form, delete the word, “Authorized” before the word, “Signature.”

Rationale: The current version of the Application for Registration and Re-Registration of Out of State Institutions requires that the form be signed by an authorized signatory. The Bureau is now changing this requirement and is requiring that the signatory meet one of several qualifications to sign, namely that the form be signed by all owners or partners, or for corporations, the CEO or the president.

Because the signatory is no longer being designated as being “authorized” the Bureau is deleting the word in the signature block and is merely asking for a signature, after explaining the qualified signatories above.

7. Amend Section 71475, Article 6, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71475. Renewal of an Approval to Operate for a Non-Accredited Institution; Cancellation of an Approval to Operate

Proposed Change: In section 71475(b), delete “2/10” and add, “8/24.”

Rationale: The Bureau is updating Form 94891 to change the signature requirements. Therefore, the revision date is being updated from “2/10” to “8/24”.

Proposed Change: In section 71475(gg)(1), add, “shall sign with original or digital signatures” after “Signatories”.

Purpose:

The purpose of these amendments is the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2). CCR section 71380 specifies the signature

requirements for the submission of an application for admission from institutions that are unaccredited.

Rationale:

These amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5-6 footnote 3).

Proposed Change: In subdivision (gg)(1)(A), add, “each partner in a partnership, or” after “or”. In subdivision (gg)(1)(B) add, “or president” after “chief executive officer”. In subdivision (gg)(1)(C) delete, “Each member of the governing body of a nonprofit corporation “ and add, “If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”

Purpose:

The purpose of these amendments are the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2). CCR section 71380 specifies the signature requirements for the submission of an application for admission from institutions that are unaccredited.

Rationale:

These amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5-6 footnote 3).

8. Amend Section 71480, or Article 6, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71480. Renewal of an Approval to Operate for Accredited Institutions

Proposed Change: In subdivision (b), add an “R” to the end of the form name, “Form Application 94890” to make the name of the form ““Form Application 94890R”, and delete the revision date of “2/10” and replace it with “8/24”.

Purpose:

The purpose of this change is to correct a typo and fix the form name to avoid confusion.

Rationale:

Due to an oversight, the identification of the form to apply for an approval to operate by an accredited institution, Form 94890 (rev. 2/10), is also the identification of the form to apply for a renewal of an approval to operate by an accredited institution, even though the forms are different. This discrepancy could lead to confusion.

Therefore, the Bureau is proposing to change the identification of the form to be filed by an accredited institution to apply for a renewal of its approval as “Form 94890R” and

changing its revision date from “2/10” to “8/24”. The form for the initial application by an accredited institution will remain “Form 94890”.

Proposed Change: In section 71480(e)(1), add, “shall sign with original or digital signatures” after “Signatories”.

Purpose:

The purpose of these amendments are the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2). CCR section 71480 specifies the signature requirements for the submission of an application for admission from institutions that are unaccredited (Form Application 94890R).

Rationale:

It is necessary to add “sign with original or digital signature” because the updated Form 94890R has a certification the applicant must sign, and these amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5 footnote 3).

Proposed Change: In subdivision (e)(1)(A), add, “each partner in a partnership, or” after “or”. In subdivision (e)(1)(B) add, “or president” after “chief executive officer”. In subdivision (e)(1)(C) delete, “Each member of the governing body of a nonprofit corporation” and add, “If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”.

Purpose:

The purpose of these amendments are the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2). CCR section 71390 specifies the signature requirements for the submission of an application for admission from institutions that are accredited (Form Application 94890).

Rationale:

These amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5-6 footnote 3).

9. Amend Section 71500, of Article 7, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71500. Application to Change Location.

Proposed Change: In subdivision (a), change the revision date from “2/10” to “8/24”.

Rationale: The form has a revision date of “2/10”. However, the Bureau is now updating the form to change the required signatories on the form. Therefore, the revision date is being updated from “2/10” to “8/24”.

Proposed Change: In subdivision (a), add “calendar” before “days”

Rationale: Adding “calendar” clarifies any confusion between calendar versus business days.

Proposed Change: In subdivision (a), delete, “It shall be signed by the signatory(ies) required by section 71380 and dated, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

“I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

(Date) (Signature)”. Add, “It shall be signed with original or digital signature and dated, and each fact stated therein, and each attachment thereto shall be declared to be true under penalty of perjury, as follows:

- (1) By each owner of the institution or each partner in a partnership, or
- (2) If the institution is incorporated, by the chief executive officer or president of the corporation, and each person who owns or controls 25 percent or more of the stock or interest in the institution, or
- (3) If the institution is a nonprofit corporation or a public institution, by the chief executive officer or the president.”

Purpose:

The purpose of these amendments are the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2).

Rationale:

This section originally referred back to CCR section 71380 to define who needed to sign the application to report a Substantive Change in Location. A “Substantive Change” is defined in Education Code section 94894 as a change in a factor of an institution’s operation that is significant enough to require prior authorization by the Bureau before the change may go into effect (although institutions approved by means of accreditation that make a change consistent with their accreditor’s standards need only report the change to the Bureau after it has been made).

It is necessary to add “signed with original or digital signature” because the updated Form LOC has a certification the applicant must sign, and these amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5 footnote 3).

Proposed Change: In subdivision (d), delete, “It shall be signed by the signatory(ies) required by section 71380 and dated, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

“I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

(Date) (Signature)”. Add, “It shall be signed with original or digital signature and dated, and each fact stated therein, and each attachment thereto shall be declared to be true under penalty of perjury, as follows:

- (1) By each owner of the institution or each partner in a partnership, or
- (2) If the institution is incorporated, by the chief executive officer or president of the corporation, and each person who owns or controls 25 percent or more of the stock or interest in the institution, or
- (3) If the institution is a nonprofit corporation or a public institution, by the chief executive officer or the president.”

Purpose:

The purpose of these amendments are the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2).

Rationale: This section originally referred back to CCR section 71380 to define who needed to sign the application to report a Substantive Change in Location. A “Substantive Change” is defined in Education Code section 94894 as a change in a factor of an institution’s operation that is significant enough to require prior authorization by the Bureau before the change may go into effect (although institutions approved by means of accreditation that make a change consistent with their accreditor’s standards need only report the change to the Bureau after it has been made).

It is necessary to add “signed with original or digital signature” because the updated Form LOC has a certification the applicant must sign, and these amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5-6 footnote 3).

10. Amend Section 71550, of Article 7, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71550. Application for Addition of a Separate Branch.

Proposed Change: change the revision date from “2/10” to “8/24”.

Rationale: The form has a revision date of “2/10”. However, the Bureau is now updating the form to change the required signatories on the form. Therefore, the revision date is being updated from “2/10” to “8/24”.

Proposed Change: In subdivision (a), delete, “It shall be signed and dated by the signatory(ies) required by section 71380 for an institution approved under section 94885 of the Code and section 71390 for an institution approved under section 94890 of the Code, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

“I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

(Date) (Signature)”. Add, “It shall be signed with original or digital signature and dated, and each fact stated therein, and each attachment thereto shall be declared to be true under penalty of perjury, as follows:

(1) By each owner of the institution or each partner in a partnership, or

(2) If the institution is incorporated by the chief executive officer or president of the corporation and each person who owns or controls 25 percent or more of the stock or interest in the institution, or

(3) If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”

Purpose:

The purpose of these amendments are the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2).

Rationale:

This section originally referred back to CCR section 71380 to define who needed to sign the application to report a Substantive Change in Location. A “Substantive Change” is defined in Education Code section 94894 as a change in a factor of an institution’s operation that is significant enough to require prior authorization by the Bureau before the change may go into effect (although institutions approved by means of accreditation that make a change consistent with their accreditor’s standards need only report the change to the Bureau after it has been made).

These amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5-6 footnote 3).

11. Amend Section 71630, of Article 7, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71630. Application for Change of Name.

Proposed Change: In subsection (a), delete “2/10” and add “8/24” after “rev.”.

Rationale: The Bureau will change the identities of the required signatories on form NAME, and now is also amending the revision date from “2/10” to “8/24” to reflect the changes being made.

Proposed Change: In subdivision (a), delete, “For an institution approved under section 94885 of the code it shall be signed and dated by the signatory(ies) required by section 71380, for an institution approved under section 94890 of the code it shall be signed and dated by the signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

“I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

(Date) (Signature)”. Add, “It shall be signed with original or digital signature and dated, and each fact stated therein, and each attachment thereto shall be declared to be true under penalty of perjury, as follows:

- (1) By each owner of the institution or each partner in a partnership, or
- (2) If the institution is incorporated by the chief executive officer or president of the corporation and each person who owns or controls 25 percent or more of the stock or interest in the institution, or
- (3) If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”

Purpose:

The purpose of these amendments are the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2).

Rationale:

This section originally referred back to CCR sections 71380 and 71390 to define who needed to sign the application to report a Substantive Change in Location. A “Substantive Change” is defined in Education Code section 94894 as a change in a

factor of an institution's operation that is significant enough to require prior authorization by the Bureau before the change may go into effect (although institutions approved by means of accreditation that make a change consistent with their accreditor's standards need only report the change to the Bureau after it has been made).

These amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5-6 footnote 3).

12. Amend Section 71640, of Article 7, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71640. Application for Ownership, Control, or Business Organization Form.

Proposed Change: In subdivision (a), delete "2/10" after "OWN rev." and add "8/24". Delete, "An application under this section shall be signed by all signatories to the initial application, or the last approved application under this section, as well as the persons required to sign an application pursuant to section 71380 for institutions approved under section 94885 of the code and section 71390 for institutions approved under section 94890 of the code. Each signature shall be dated, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

"I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

(Date) (Signature)"

And add, "It shall be signed with original or digital signature and dated, and each fact stated therein, and each attachment thereto shall be declared to be true under penalty of perjury, as follows:

- (1) By each owner of the institution or each partner in a partnership, or
- (2) If the institution is incorporated by the chief executive officer or president of the corporation and each person who owns or controls 25 percent or more of the stock or interest in the institution, or
- (3) If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president."

Purpose:

The purpose of these amendments the same as those listed in CCR section 71380 (see supra, Purpose, pages 4-5 footnote 2).

Rationale:

This section originally referred back to CCR sections 71380 and 71390 to define who needed to sign the application to report a Substantive Change in Location. A “Substantive Change” is defined in Education Code section 94894 as a change in a factor of an institution’s operation that is significant enough to require prior authorization by the Bureau before the change may go into effect (although institutions approved by means of accreditation that make a change consistent with their accreditor’s standards need only report the change to the Bureau after it has been made).

It is necessary to add “signed with original or digital signature” because the updated Form OWN has a certification the applicant must sign, and these amendments are necessary for the same reasons listed in CCR section 71380 (see supra, Rationale, page 5-6 footnote 3).

13. Amend Section 71650, of Article 7, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71650. Application for a Change in Educational Objectives or Clock or Credit Hours Required to Complete a Program (An Increase or decrease by 25% or More).

Proposed Change: Amend the revision date of form OBJ referenced in subdivision (a) by changing “8/22” to “8/24.”

Rationale: The Bureau’s form to be filed to report a Substantive Change in Educational Objectives or Clock or Credit Hours Required to Complete a Program (an Increase or Decrease by 25% or More) is incorporated by reference into CCR section 71650. The Bureau will change the identities of the required signatories on the form, and now is amending the revision date from “8/22” to “8/24” to reflect the change being made.

Form OBJ - Application for Change in Educational Objectives or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease by 25% or More) (hereinafter, Form OBJ)

Proposed Change: In the footer of Form OBJ, the revision date is being changed from “8/22” to “8/24”.

Rationale:

The change being proposed by this rulemaking is altering the format of the form identified as OBJ. Therefore, the revised date of the form is being updated to “8/24” from “8/22”.

Proposed Change: In Section 11 of Form OBJ, add, “This application shall be signed with original or digital signature by the following:” after “Declaration under penalty of perjury”.

Rationale:

It is necessary to add “signed with original or digital signature” because Form OBJ has a certification the applicant must sign, and so that institutions are aware that digital signatures are an option, given compliance with Government Code section 16.5. A digital signature is an additional affirmation, that coupled with certification under penalty of perjury, helps to ensure that the documentation contains truthful, factual representations made in good faith.

Proposed Change: On Form OBJ rev. 8/22, section 11, Add, “each partner in a partnership or” after “Each owner of the institution, or”. Add “or is a public institution,” after “If the institution is incorporated”. Add “or president” after “chief executive officer”. Delete, “By each member of the governing body of a nonprofit corporation.” And add, “If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”

Rationale:

CCR section 71650 originally referred back to CCR sections 71380 and 71390 to define who needed to sign the application to report a Substantive Change in Educational Objectives, but this was deleted in amendments approved in February of 2023 and the form was incorporated by reference, but no change was made to the signature requirement.

It is necessary to add “each partner in a partnership, or” to clarify the signature requirement for partnerships, which is not explicitly set out under the current regulations. Ownership by a partnership is a legally distinct form of ownership and it is necessary to expressly state who is legally required to sign an official document on behalf of an institution owned by a partnership.

Proposed text now specifies who must sign in the case of a business that is a for-profit corporation. The new signature requirement will be a signature by either the chief executive officer (as is currently the case) or the president of the corporation. The requirement of a signature of each individual with at least a 25% ownership interest in the corporation will remain. The Bureau is adding “president” as an alternative to “chief executive officer” as it is a commonly used title as the administrative head of a corporation.

The Bureau is deleting the present requirement that an application from a non-profit corporation be signed by every member of its governing body and replacing it with the requirement that a nonprofit corporation’s application can be signed by the chief

executive officer or the president. The Bureau has heard from interested parties that this can be a burdensome requirement for nonprofit corporations that have large governing bodies, particularly those with governing board members who do not participate in the daily administration of the corporation. Therefore, the Bureau is deleting this requirement in favor of the proposed language that an application from a nonprofit corporation be signed by either its chief executive officer or the president of the corporation, who are authorized to approve such a document.

14. Amend Section 71652, of Article 7, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71652. Application for a Change to Begin Participation in Federal Student Financial Aid Programs Authorized by Title IV of the Federal Higher Education Act of 1965, as Amended (20 U.S.C. Sec. 1070 et seq.)

Proposed Change: Amend the revision date of form AID New. referenced in subdivision (a) by changing “8/22” to “8/24.”

Rationale: The Bureau’s form to be filed to report a Substantive Change to Begin Participation in Federal Student Financial Aid Programs Authorized by Title IV of the Federal Higher Education Act of 1965, as Amended (20 U.S.C. Sec. 1070 et seq.) is incorporated by reference into CCR section 71652. The Bureau will change the identities of the required signatories on the form, and now is amending the revision date from “8/22” to “8/24” to reflect the change being made.

Form AID - Application for Authorization for Institution to Begin Participation in Student Financial Aid Programs (Title IV of the Higher Education Act of 1965)

Proposed Change: In the footer of Form AID, the revision date is being changed from “8/22” to “8/24”.

Rationale:

The change being proposed by this rulemaking is altering the format of the form identified as AID. Therefore, the revised date of the form is being updated to “8/24” from “8/22”.

Proposed Change: In Section 7 of Form AID, add, “with original or digital signature” after “This application shall be signed”.

Rationale:

It is necessary to add “with original or digital signature” because Form AID has a certification the applicant must sign, and so that institutions are aware that digital signatures are an option, given compliance with Government Code section 16.5. A digital signature is an additional affirmation, that coupled with certification under penalty

of perjury, helps to ensure that the documentation contains truthful, factual representations made in good faith.

Proposed Change: On Form AID New, section 7, add, “each partner in a partnership or” after “Each owner of the institution, or”. Add “or president” after “chief executive officer”. Delete, “By each member of the governing body of a nonprofit corporation.” and add, “If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”

Rationale:

The form AID New rev. 8/22 was incorporated by reference into CCR section 71652 in regulations that were approved in February of 2023. The signature requirements matched those in the Bureau’s approval to operate forms, but the Bureau has subsequently decided that forms requesting approval of a Substantive Change can have a wider number of individuals authorized to sign on behalf of the institution.

It is necessary to add “each partner in a partnership, or” to clarify the signature requirement for partnerships, which is not explicitly set out under the current regulations. Ownership by a partnership is a legally distinct form of ownership and it is necessary to expressly state who is legally required to sign an official document on behalf of an institution owned by a partnership.

Proposed text now specifies who must sign in the case of a business that is a for-profit corporation. The new signature requirement will be a signature by either the chief executive officer (as is currently the case) or the president of the corporation. The requirement of a signature of each individual with at least a 25% ownership interest in the corporation will remain. The Bureau is adding “president” as an alternative to “chief executive officer” as it is a commonly used title as the administrative head of a corporation.

The Bureau is deleting the present requirement that an application from a non-profit corporation be signed by every member of its governing body and replacing it with the requirement that a nonprofit corporation’s application can be signed by the chief executive officer or the president. Interested parties expressed to the Bureau that requiring every member of a non-profit corporation’s governing body to sign an application is burdensome, particularly those with governing board members who do not participate in the daily administration of the corporation. Therefore, the Bureau is deleting this requirement in favor of the proposed language that an application from a nonprofit corporation be signed by either its chief executive officer or the president of the corporation, who are authorized to approve such a document.

15. Amend Section 71653, of Article 7, of Chapter 2, of Division 7.5 of Title 5 of the California Code of Regulations

71653. Application for Authorization for a Change in Academic Measurement of an Educational Program from Clock Hours to Credit Hours.

Proposed Change: Amend the revision date of form CREDIT New. referenced in subdivision (a) by changing “8/22” to “8/24.”

Rationale: The Bureau’s form to be filed to report a Substantive Change for Authorization to Change from Clock Hours to Credit Hours is incorporated by reference into CCR section 71653. The Bureau will change the identities of the required signatories on the form, and now is amending the revision date from “8/22” to “8/24” to reflect the change being made.

Form CREDIT - Application for Authorization to Change from Clock Hours to Credit Hours

Proposed Change: In the footer of Form CREDIT, the revision date is being changed from “8/22” to “8/24”.

Rationale:

The change being proposed by this rulemaking is altering the format of the form identified as CREDIT. Therefore, the revised date of the form is being updated to “8/24” from “8/22”.

Proposed Change: In Section 9 of Form CREDIT, add, “with original or digital signature” after “This application shall be signed”.

Rationale:

It is necessary to add “with original or digital signature” because Form CREDIT has a certification the applicant must sign, and so that institutions are aware that digital signatures are an option, given compliance with Government Code section 16.5. A digital signature is an additional affirmation, that coupled with certification under penalty of perjury, helps to ensure that the documentation contains truthful, factual representations made in good faith.

Proposed Change: In Section 9 of Form CREDIT, in the first bulleted point add, “each partner in a partnership, or”; add to the second bulleted point “or president” after “chief executive officer.” Delete the third bulleted point that says, “By each member of the governing body of a nonprofit corporation.” And add, “If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”.

Rationale:

It is necessary to add “each partner in a partnership, or” to clarify the signature requirement for partnerships, which is not explicitly set out under the current regulations. Ownership by a partnership is a legally distinct form of ownership and it is

necessary to expressly state who is legally required to sign an official document on behalf of an institution owned by a partnership.

Proposed text now specifies who must sign in the case of a business that is a for-profit corporation. The new signature requirement will be a signature by either the chief executive officer (as is currently the case) or the president of the corporation. The requirement of a signature of each individual with at least a 25% ownership interest in the corporation will remain. The Bureau is adding “president” as an alternative to “chief executive officer” as it is a commonly used title as the administrative head of a corporation.

The Bureau is deleting the present requirement that an application from a non-profit corporation be signed by every member of its governing body and replacing it with the requirement that a nonprofit corporation’s application can be signed by the chief executive officer or the president. The Bureau has heard from interested parties that this can be a burdensome requirement for nonprofit corporations that have large governing bodies, particularly those with governing board members who do not participate in the daily administration of the corporation. Therefore, the Bureau is deleting this requirement in favor of the proposed language that an application from a nonprofit corporation be signed by either its chief executive officer or the president of the corporation, who are authorized to approve such a document.

Underlying Data (Technical, Theoretical, and/or Empirical Studies, Reports or Documents)

1. Bureau’s Advisory Committee meeting, meeting agenda, materials, and minutes excerpts, May 24, 2023 – Agenda Item 6c. (pages 96-99)
2. Bureau’s Advisory Committee meeting, meeting agenda, materials, and minutes excerpts, August 16, 2023 – Agenda Item 3.
3. Senate Bill (SB) 1433 (Roth, Chapter 544, Statutes of 2022)

Business Impact

The Bureau has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following facts:

Changing the required signatories for Bureau forms will not have any adverse impact on businesses in California. The changes for institutions that are owned by individuals, partnerships, or for-profit corporations merely clarify the signature requirements and do not add any additional cost to the signature process. The signature requirements for nonprofit corporations are being made significantly less burdensome, as the forms now

require the signature of either a chief executive officer or a president instead of every member of the governing board, as is now the case. As the proposed regulations do not add to the compliance costs for any institution submitting an application to the Bureau, there should be no adverse economic impact on California businesses.

Economic Impact/Assessment analysis

The regulatory proposal will have the following effects:

- It will not create or eliminate any jobs within the State of California because the new signature requirements will have no significant impact on the cost of institutions submitting forms to the Bureau. This should not cause either the creation or elimination of any jobs within California.
- It will not create new businesses or eliminate businesses in the State of California because the new signature requirements will have no significant impact on the cost of institutions submitting forms to the Bureau. Any cost impacts would be so minor as to not affect the creation or elimination of new businesses in California.
- It will not affect the expansion of businesses currently doing business in the State of California because the proposed regulations will have no significant impact on institutional costs and will not affect the expansion of businesses into California.
- The regulatory proposal benefits the health and welfare of California residents by simplifying the signature requirements for submitting applications to the Bureau, which will encourage compliance by affected institutions.
- The regulatory proposal does not affect the state's environment because it affects who is required to sign documents submitted to the Bureau, which should not affect the state's environment.
- The regulatory proposal would not affect worker safety because these regulations are not relevant to the enhancement of worker safety and are to simplify the Bureau's regulatory processes.

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 as 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 which were considered and the reasons each alternative was rejected.

1. Not adopt the regulations. This alternative was rejected because the proposed regulations simplify the application process for institutions while imposing no additional workload on the Bureau.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed, however, the Bureau welcomes comments from the public.

Fiscal Impact

The Bureau does not anticipate any fiscal impact from adoption of the proposed regulations. The proposed regulations simplify the signature requirements for forms submitted to the Bureau by institutions. The proposed regulations clarify the requirements of who is to sign applications submitted to the Bureau, whether the institution is owned by individuals, a partnership, a for-profit corporation, a nonprofit corporation, or an out-of-state public institution.

While these changes may or may not provide some minor savings to institutions submitting an application, there should be no fiscal impact on the Bureau. The new signature requirements will not affect the length of the Bureau's review process in evaluating the applications, nor make the review process more difficult. As the new signature requirements will have no impact on the Bureau's workload, there will be no fiscal impact.