

**DEPARTMENT OF CONSUMER AFFAIRS
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**

INITIAL STATEMENT OF REASONS

**SUBSTANTIVE CHANGE APPROVAL FOR METHOD OF INSTRUCTIONAL
DELIVERY**

Hearing Date: No hearing has been scheduled.

Subject Matter of Proposed Regulations: Substantive Change Approval for Method of Instructional Delivery.

Sections Affected: Division 7.5 of Title 5 of the California Code of Regulations; Amend section 71600.

Specific purpose of each adoption, amendment, or repeal:

1. 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.

In 2021 section 94894 of the Act was amended by Senate Bill (SB) 802 (Roth, Chapter 552, Statutes of 2021) to add four new categories to the list of substantive changes by an institution that require Bureau pre-approval before the changes were made. The new changes are 1) an increase or decrease of 25 percent or more in the number of clock hours or credit hours required for successful completion of the program; 2) 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.*); 3) a change in the academic measurement of an educational program from clock hours to credit hours; and 4) a change in the institution’s distance education learning management system.

Regulations are needed to implement these statutory provisions, as the law does not specify how institutions are supposed to notify the Bureau if they want to make any of these substantive changes. To implement the addition of “a change in the institution’s distance education learning management system” to the list of substantive changes that need to be reported, the Bureau is proposing this regulatory package to require institutions to report a change in their distance education learning management system

to the Bureau using the existing Application for Significant Change in the Method of Instructional Delivery form. The Bureau will also update information asked for on the Application for Significant Change in the Method of Instructional Delivery form in order to get more relevant information from institutions submitting the form.

When the Bureau evaluates an application for a substantive change, there are two distinct processes. If the institution is one that is approved to operate by the Bureau (as approximately 88% of institutions are), Education Code section 94893 requires that any substantive change must be pre-approved by the Bureau before it can be implemented. However, if an institution is approved on the basis of its accreditation by a national accrediting entity, then Education Code section 94896(a) provides that the institution only needs to inform the Bureau within 30 days of making the change, so long as the change is within the standards of the accreditor.

2. Anticipated benefits from regulatory action:

The proposed regulatory language will enable the legislative language added to section 94894(l) of the code by SB 802 to be implemented by clearly informing institutions how to contact the Bureau to either request pre-approval (if approved by the Bureau) or notify the Bureau of a change (if approved by means of accreditation) for a substantive change based on a change to an institution’s distance education learning management system, which will facilitate compliance with the statute. Revising other aspects of the Application for Substantive Change in Method of Instructional Delivery form will direct institutions to submit needed information that has been frequently left off of submissions from institutions in the past, which will reduce the need for the Bureau to send deficiency letters to applicants to ask for the missing information.

Factual Basis/Rationale:

The changes proposed by this regulatory package are as follows:

1. Amend Section 71600, Article 7, Chapter 2, Division 7.5 of Title 5 of the California Code of Regulations

71600. Application for Significant Change in Method of Instructional Delivery.

Proposed Change: Change the name of the section by adding, “or Change in Distance Education Learning Management System.”

Rationale: As described above, 2021’s SB 802 added Education Code section 94894(l), requiring institutions to report a change in their distance education learning management system as a substantive change. Instead of creating a new regulation to implement this new provision, the Bureau is adding the requirement to report a change

in distance education learning management system to the form for reporting a change in the method of instructional delivery, as a change in distance education learning management system is very similar to a change in the method of educational delivery. Because the Bureau is using one form for the reporting of the two different subsections of Education Code section 94894, it is changing the name of the section to reflect both sections being reported on the one form.

Proposed Change: In the first sentence add, “or a change of its distance education learning management system,” after, “An institution seeking to make a significant change in its method of instructional delivery” and add “or Change in Distance Education Learning Management System” to the reference to the form’s name.

Rationale: These changes are being made to make it clear that the reporting of a change in distance education learning management system is now being incorporated into the existing Application for Significant Change in Method of Instructional Delivery form, and that form should be used to report a change in distance education learning management system.

Proposed Change: Change the revision date of the form from “2/10” to “8/23” and add “hereby incorporated by reference” after the date reference.

Rationale: The Application for Significant Change in Method of Instructional Delivery form was adopted in 2010 and has not been changed since. As the form is being revised to incorporate the statutory changes in Education Code section 94894(I), the revision date is being updated to “8/23”. The new form INS, unlike the previous one, is being incorporated by reference, and that information is being added to the regulation.

Proposed Change: Add, “and a “change in distance education learning management system” is a change in the distance education learning management system other than either an upgrade or a renaming of the existing system” to the definition of a change to be reported on the form.

Rationale: The regulation that currently provides for the reporting of a significant change in the method of instruction begins with a definition of the kind of activity that needs to be reported as a “significant change in the method of instruction.” As the regulation is now being expended to also require the reporting of a change in distance education learning management system as a substantive change, a definition is being provided to give some direction to institutions as to when the form needs to be submitted to be in compliance with Education Code section 94894(I). The definition provides for two exemptions to the reporting requirement, when the current system is merely being upgraded, and when the current system is renamed but otherwise unchanged. This explanation is needed so that institutions will know when a report to the Bureau is required.

Proposed Change: Delete the language, “For an institution approved under section 94885 of the Code, it shall be signed and dated by the signatory(ies) required by section 71380, and 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).”

Rationale: The language in 5 CCR section 71600 that describes the signature requirements for the form are being deleted from the text of the regulation. As the form is being incorporated by reference, and the signature requirements are incorporated into the revised form, the contents of the form no longer need to be included in the text of the regulation.

Furthermore, the Bureau is in the process of revising the signature requirements in all of its various forms. As the Application for Significant Change in Method of Instructional Delivery form is being revised in this proposal, the signature block is being revised in this regulatory proposal in order to be consistent with signatory requirements in the Bureau’s other forms

Proposed Change: Delete the contents of section 71600(b) other than the “(b)”.

Rationale: The language of section 71600(b) contains a description of the contents that must be included in the form Application for Significant Change in the Method of Instructional Delivery in subdivisions (b)(1) through (b)(8).

These subdivisions are being deleted from the text of the regulation as the form is now being incorporated by reference and a detailed description of the form’s contents is no longer necessary or helpful.

Proposed Change: Delete the letter “(c)” and re-letter section 71600(c) as (b).

Rationale: After deleting the former section 71600(b), the next subdivision is re-lettered from subdivision (c) to (b) for consistency.

Proposed Change: Add the words, “or Change in Distance Education Learning Management System” to the reference to the name of the form.

Rationale: The name of the form is being changed to be consistent with new requirement that a substantive change in an institution’s distance education learning management system be reported using what was previously referred to as the Significant Change in Method of Instruction form.

Proposed Change: Delete the reference to section “(b)(1) and (b)(7)” of the regulation and replace it with a reference to the now plural “sections (1) and (2) of the form” referring to INS form rev. 8/23.

Rationale: As subdivision (b) is being deleted, and the form INS rev. 8/23 is being incorporated by reference, the reference to subdivision (b)(1) and subdivision (b)(7), which refer to the institution’s name, location, and contact information, and the name, location, and contact information for the institution’s contact person, are being replaced by references to the sections of INS rev. 8/23 that contain that information.

Proposed Change: Add subdivision 71600(c) which reads, ““Distance education learning management system” is defined as an online system designed or used for the facilitation of distance education to create, distribute, and manage the delivery of educational content.”

Rationale: Education Code 94894(l) was added to the Code by SB 802 (Roth, Chapter 552, Statutes of 2021) to add “A change in the distance education learning management system” to the list of changes that were deemed “Substantive” and therefore required Bureau pre-approval if the institution making the change was not approved by means of accreditation. To clarify what this change in the statutory text means, it is necessary to define the term being added.

There are a number of sources in this field that provide a variety of definitions for what constitutes a “learning management system.” Of the various definitions that can be found, the most common elements are those the Bureau chose to include in the definition, namely creating, distributing, and managing the delivery of educational content. Avoiding an overly elaborate definition helps assure that the definition will continue to be applicable as technological innovations allow for increasingly complex learning management systems in the future.

Some of the definitions of a learning management system explicitly or implicitly include the concept that it is primarily for distance education, but as Education Code section 94894(l) expressly calls for a change in “distance education” learning management system being considered a substantive change, the regulatory definition has added the phrase, “for the facilitation of distance education” to the definition to make explicit that changes of a learning management system that is not used for distance education programs would not have to be reported to the Bureau under Education Code section 94894(l).

2. Incorporate by reference Application for Significant Change in Method of Instructional Delivery form (INS rev. 8/23).

Proposed Change: The Bureau will discontinue using the form known as Application for Significant Change in Method of Instructional Delivery (INS rev. 2/10) and will create the new form called Application for Significant Change in Method of Instructional Delivery or Change in Distance Education Learning Management System (INS rev. 8/23), which is incorporated by reference into 5 CCR section 71600.

Rationale: The Bureau is deleting the text of 5 CCR section 71600 that describes the contents of the application form to be filed to report a Substantive Change in Method of Instructional Delivery and will create a new form that will now be incorporated by reference in section 71600 instead of having its contents described in the current subdivision (b) of section 71600. Because of the Bureau's experiences in analyzing applications submitted since the previous form was adopted, the form is being revised to require institutions to submit information that will allow the Bureau to process the form more expeditiously in the future.

Proposed Change: The Bureau is including a header on the proposed form containing the Bureau's logo and its mailing address.

Rationale: The header identifies the form as being produced by the Bureau for Private Postsecondary Education, to assure applicants that they are submitting a form to the correct entity. The mailing address is necessary to inform applicants where to submit the form to once it has been filled out.

Proposed Change: The form includes an "Office Use Only" Box containing a date stamp field, "SAIL application #", Application Fee field, date field, school code field, and Revenue Code field.

Rationale: The "Office Use Only" box is necessary for the Bureau to process the form quickly and correctly once it is received. The form is date stamped upon arrival to document when it was received. The "SAIL Application #" assigns a unique code to distinguish this application from all other applications. The sections for the Application Fee and Date note when the required fee was submitted; it may be different from the form submission date if the form was returned for inadequacies and subsequently re-submitted after the fee was paid. The School Code is needed to identify the school accurately, in case there is another institution with a similar name. The Revenue Code fields are used to specify the Bureau's account that the application fee money should be directed to.

Proposed Change: The form is titled "Application for Significant Change in Method of Instructional Delivery or Change in Distance Education Learning Management System."

Rationale: The form has a title that clearly indicates to institutions that this is the form to use to report to the Bureau either a significant change in method of instructional delivery or a change in distance education learning management system.

Proposed Change: The form contains a parenthetical citation to California Education Code and Code of Regulations sections beneath the title on page 1.

Rationale: Institutions might find it useful to know the statutory and regulatory source of the Bureau’s authority to ask for the information requested by the Application for Significant Change in Method of Instructional Delivery or Change in Distance Education Learning Management System. Providing the statutory and regulatory authority assures institutions that the Bureau is operating under California law.

Proposed Change: The form contains a box reading “Approved Institution \$500.00 non-refundable fee.”

Rationale: The form notifies the applicant that if it is an institution approved to operate by the Bureau, then a \$500 fee is required for the processing of the application per Education Code section 94930.5(c)(1). The fee is described as “non-refundable” as all lawfully collected fees are defined as non-refundable per 5 CCR 74000(b).

Proposed Change: The form contains a box reading “Institution Approved by means of Accreditation \$250.00 non-refundable fee.

Rationale: The form notifies the applicant that if it is an institution Approved by Means of Accreditation, then a \$250 fee is required for the processing of the application per Education Code section 94930.5(c)(2). The fee is described as “non-refundable” as all lawfully collected fees are defined as non-refundable per 5 CCR 74000(b).

Proposed Change: The form contains section 1 – Institution, and requires the name, address, city, state, zip code, phone number and fax number of the institution.

Rationale: This section of the Form requires the submission of information that was previously required under 5 CCR 71600(b)(1). As the form is now being incorporated by reference, section 71600(b)(1) is being deleted and its requirements are now located in section 1 of the form. The information requested in Section 1 is necessary for the Bureau to know the name of the institution submitting the form and their contact information.

The information asked for is basic information that identifies the school both by name and by the school’s unique school code issued by the Bureau, as well as basic contact information such as address, phone number, and fax number. All of this information is needed to identify what institution is submitting the application and how to respond to the school to tell them whether their application has been approved or not.

Proposed Change: The form contains section 2: Institution’s Contact Person (for this application) and requires the name, email address, address, city, state, zip code, telephone number, and fax number of the contact person.

Rationale: This section of the Form requires the submission of information that was previously required under 5 CCR 71600(b)(7). As the form is now being incorporated by reference, section 71600(b)(7) is being deleted and its requirements are now located in section 2 of the form.

The information being asked for is contact information for the person that the institution is identifying as the contact person for purposes of this application. It asks for the name of the contact person as well as that individual’s address, email address, telephone number, and fax number. This information is necessary to allow the Bureau to contact a responsible party at the institution is a question or problem arises with the application.

Proposed Change: The form contains the following advisory: “If this institution is approved by means of accreditation skip to #9”.

Rationale: As noted above, the Bureau has two distinct processes for approving institutions. One, known as Approval by Means of Accreditation (ABMA), allows the institution to submit less information to the Bureau on the presumption that, as an accredited institution, the institution must answer to its accrediting agency’s oversight and the Bureau may take a less active role in monitoring the institution. The second is approval of unaccredited institutions, which requires the institution to submit more information to the Bureau because there is no other supervising entity.

At this point on the form, institutions that are ABMA need submit no additional information and may proceed to the signature block on the form. Unaccredited institutions must fill out the remaining sections of the form before the signature block.

During the process of revising the current Application for Significant Change in Method of Instructional Delivery form, three sections of the form are being eliminated. As a result, the signature section that this statement directs institutions approved by means of accreditation to is currently section #12, but it will now be section #9 on the form being incorporated by reference.

Proposed Change: The form contains a statement in section 2 reading “Attached is a certified copy of the current verification of accreditation granted by the accrediting agency” followed by a check box.

Rationale: As the form being incorporated by reference is now permitting institutions that are accredited to proceed without filling out the remainder of the form, the Bureau must verify that the institution is, in fact, accredited. To do this, the Bureau asks the

institution submitting the form to also submit a certified copy of its verification of accreditation status, and to check a box indicating they are attaching the verification. This is necessary to require the applicant to make the statement that the institution is accredited; if the institution checks the box but does not attach the accreditation verification, it will constitute a false statement permitting the Bureau to reject the application, as a false statement has been attested to under penalty of perjury as set out below. Otherwise, the institution can prolong the application process by “forgetting” to attach the accreditation verification, possibly in an attempt to delay a determination and continue operating while the application is processed.

Proposed Change: There is an advisory before section 3 reading “Note: If a question is not applicable to your circumstance, provide a brief description why.”

Rationale: For the remainder of the form (until the signature area in current section 12, new section 9) most questions about a substantive change in the method of instructional delivery are likely to be asking about changes to distance education programs, that is programs that, as defined in 5 CCR 71715(d), “provides for interaction between students and faculty by such means as telecommunication, correspondence, electronic and computer augmented educational services, postal service, and facsimile transmission.”

Recent experience with Applications for Significant Change in the Method of Instructional Delivery indicate that over 95% of applications relate to changes in the provision of distance education. Where the question pertains exclusively to distance education programs, schools applying for a change that is for direct, that is classroom-based, instruction are now being directed to explain why the question being asked does not apply to them. If not directed to explain why a question does not apply, schools making a change in the method of direct instructional delivery would have to attempt to answer a question that is inapplicable to the change they are seeking approval for.

Proposed Change: The form contains section 3 – Proposed New Method, reading as follows: “Provide a description of the proposed new method of delivery (for example: synchronous or asynchronous; hybrid, online, correspondence, or direct; lecture, lab, internship/externship, or practicum; or change of distance education learning management system). Identify the proposed distance education learning management system (if applicable) and provide log-in information for Bureau access.”

Rationale: The form is used for institutions to report a change in the method of instructional delivery to the Bureau, so the form begins by asking the applicant to describe the change they are reporting. This was previously required by 5 CCR section 71600(b)(3), which is being deleted to incorporate the new form by reference. The revised language is designed to assist the applicant in making the description by

offering several examples of changes in the method of instructional delivery that institutions might be reporting. The applicant, thus prompted, should then be better able to submit the required description to the Bureau.

One new aspect of submitting an application previously identified as Application for Substantive Change in Method of Instructional Delivery is the addition of having to report a change in an institution’s distance education learning management system, which was added to the list of substantive changes that must be reported to the Bureau by SB 802 (2021) at CEC section 94894(l). A learning management system is a software application for the administration, documentation, tracking, reporting, automation, and delivery of educational courses or programs. The form asks for the new method of instructional delivery being reported, and then lists a number of examples of possible changes, including distance education learning management systems.

If the application is about a change in distance education learning management system, then the instruction asks the applicant to provide log-in information for Bureau access so the Bureau can access the learning management software to assure that it is properly populated, functions adequately, maintains records accurately and generally operates within the software’s guidelines. The Bureau’s regulations, at 5 CCR section 71715(d)(3) require the Bureau to “Ensure that the materials and programs are current, well organized, designed by faculty competent in distance education techniques.” This portion of the form enables the Bureau to meet this requirement.

The prior language in the form that asked for the reasons for the change in the method of instructional delivery, as required by 5 CCR section 71600(b)(3), did not prompt institutions to provide the Bureau with any useful information regarding the change, as the reasons for the change were often not germane. Therefore, this question is not being included in the form being incorporated by reference, as well as the subsequent request for documentation. The revised language provides useful information to the Bureau, because if the change being reported is that of a change to the learning management system, then this part of the form instructs the applicant to identify the proposed learning management system being implemented and to provide log-in information. If a different change is being reported, this question indicates by the phrase “(if applicable)” that the applicant is not required to give an answer to this section but as directed above can explain why it is inapplicable.

Proposed Change: At the bottom of proposed section 3 there is a line reading “Document is attached” with spaces marked “Yes” and “No.”

Rationale: While there is some space on the form, it is likely to be inadequate for a complete answer to the question posed in Section 3. If the institution requires additional space, it may attach a document to the application. The Bureau needs to know if such a

document is attached when processing the form. Also, an institution may attempt to delay the Bureau’s disapproval by saying an answer is attached and then “forgetting” to attach the document, and then delaying the submission of the document indefinitely. If the institution commits to saying a document is attached and then does not attach the document, that would be a false statement made under penalty of perjury as set out below in the signature block, and that would be grounds for the Bureau denying the application immediately.

Proposed Change: The form contains a section 4 – Curriculum, which reads as follows: “Explain how any educational program offered through distance education is appropriate for delivery through distance education methods, as described in 5 CCR section 71715(d)(1).”

Rationale: The Bureau requires institutions to demonstrate that the curriculum of a program meets standards for the educational program it is used in, per 5 CCR section 71710. The question of how the curriculum of an educational program would change after a change in the method of instructional delivery was previously required by 5 CCR section 71600(b)(2), which is being deleted as this new form is being incorporated by reference.

However, the Bureau’s experience has been that asking such an open-ended question leads to institutions failing to provide adequate details when submitting their answer. This leads to the Bureau issuing a deficiency notice asking the institution to provide more specificity in its answer. To avoid this cumbersome and time-consuming process in the future, the Bureau has revised this section to ask a series of more focused questions that will more clearly indicate to the institution precisely what information the Bureau is seeking to make a determination about the application.

The new language enables the Bureau to ensure that the institution meets the requirements in 5 CCR section 71715(d)(1) that an institution offering distance education shall, “Ensure that the educational program offered through distance education is appropriate for delivery through distance education methods.” If the institution is proposing to change the method of instructional delivery, the Bureau must consider whether the new method of instructional delivery is appropriate for identified programs. This question requires the applicant to address this issue by explaining why the new method of instructional delivery has not altered the appropriateness of using distance education for the educational program.

Proposed Change: In four places in proposed section 4, there is a line reading “Document is attached” with spaces marked “Yes” and “No.”

Rationale: While there is some space on the form, it is likely to be inadequate for a complete answer to the question posed in Section 4. If the institution requires additional

space, it may attach a document to the application. The Bureau needs to know if such a document is attached when processing the form. Also, an institution may attempt to delay the Bureau’s disapproval by saying an answer is attached and then “forgetting” to attach the document, and then delaying the submission of the document indefinitely. If the institution commits to saying a document is attached and then does not attach the document, that would be a false statement made under penalty of perjury as set out below in the signature block, and that would be grounds for the Bureau denying the application immediately.

Proposed Change: Section 4 contains a prompt to “Describe how the institution’s programs and materials are designed to be in compliance with section 71715(d)(3).”

Rationale: 5 CCR section 71715(d)(3) requires an institution offering distance education to, “Ensure that the materials and programs are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology.” If the change in the method of instructional delivery affects the materials and programs being used for distance education, then the institution should have a plan for adapting its materials and programs to the new method of instructional delivery that it can communicate to the Bureau.

Proposed Change: Section 4 contains a prompt to “Describe methods of evaluation of measurable student learning outcomes as described in section 71715(d)(6) and sections 71710(e) and (f).”

Rationale: 5 CCR section 70000(r) defines “objectives” as, “the goals and methods by which the institution fulfills its mission and transforms it into measurable student learning outcomes for each educational program.” Therefore, knowing how the institution evaluates measurable student learning outcomes is necessary to establish that an institution is meeting its objectives.

5 CCR section 71715(d)(6) requires institutions offering distance education to, “[t]imely complete student evaluations of learning outcomes by duly qualified faculty, which are appropriate for use with the distance education methods used, and evaluated by duly qualified faculty.” 5 CCR sections 71710 (e) and (f) require that a school’s curriculum include, “(e) Specific learning outcomes tied to the sequence of the presentation of the material to measure the students’ learning of the material; and (f) Evaluation by duly qualified faculty of those learning outcomes.”

If the change in the method of instructional delivery alters the methods by which the institution evaluates measurable student outcomes, then the institution should have a plan for adapting its evaluation methods to the new method of instructional delivery. The Bureau needs to know what the methods of assessment are to make sure the institution is still able to meet its objectives.

If the institution does not plan to alter its methods of evaluating student outcomes, then the institution should supply an explanation as to why this question does not apply to them.

Proposed Change: Section 4 contains a prompt to “Provide syllabi compliant with 71710(c) for each proposed program.”

Rationale: 5 CCR section 71710(c) provides that each educational program as defined in CEC section 94837 shall be comprised of a curriculum that includes (among other things):

“(c) Course or module materials that are designed or organized by duly qualified faculty. For each course or module, each student shall be provided with a syllabus or course outline that contains:

- (1) A short, descriptive title of the educational program;
- (2) A statement of educational objectives;
- (3) Length of the educational program;
- (4) Sequence and frequency of lessons or class sessions;
- (5) Complete citations of textbooks and other required written materials;
- (6) Sequential and detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured;
- (7) Instructional mode or methods.”

As 5 CCR section 71710(c)(7) expressly states that “Instructional mode or methods” is to be included in the syllabus, it is then necessary for an institution to revise the syllabus when there is a change in the method of instructional delivery as is being proposed by the applicant. To make sure that the applicant is aware of the requirement to revise the syllabi for its educational programs, the Bureau needs to ask for copies of the revised syllabi.

Proposed Change: The form contains a Section 5 – Faculty, beginning with a prompt as follows: “Provide a description of how the proposed change will result in any significant changes in existing faculty. Provide qualifications of any newly (tentatively) contracted faculty to instruct in their assigned subject areas, as described in section 71720.”

Rationale: The current regulation 5 CCR 71600, which is being revised, asks institutions to provide a description as to how the change in method of instructional delivery would affect the institution’s financial resources at section 71600(b)(4). However, the Bureau has discovered that it is unusual for a change in the method of instructional delivery to

have a significant impact on an institution's financial resources. Also, If the Bureau were to become concerned about the effect a change in the method of instructional delivery was having on an institution, it could request the institution to provide the Bureau with its most current financial statements, as provided in 5 CCR 71745(c). In addition, institutions are required to submit a statement that the institution can maintain the financial resources required by 5 CCR 71745 when it applies for a renewal to operate under 71475(w)(1).

Because a change in the method of instructional delivery has rarely had a significant impact on an institution's financial resources, and because the Bureau has access to an institution's financial resources if a cause for concern should arise, the Bureau has decided that after deleting section 71600(b)(4) from the regulation it is not necessary to ask about the impact a change in the method of instructional delivery will have on an institution's financial resources in the Application for a Substantive Change in the Method of Instructional Delivery form being incorporated by reference.

The form being incorporated by reference has a Section 5 that is labeled "Faculty" as Section 6 of the previous form was. For the first question the word "Describe" is being replaced with "Provide a description of" to be consistent with other questions on the form that are being added with that syntax. The Bureau believes it is more straightforward to ask an applicant to "provide" information rather than asking an applicant to "describe" something.

The form asks the applicant to describe any changes in faculty due to the proposed changes and for the qualifications of any newly contracted faculty, even if the contract is tentative. 5 CCR section 71720(a)(1) requires, "An institution offering an educational program that leads to a degree shall employ duly qualified faculty sufficient in number to provide the instruction, student advisement, and learning outcomes evaluation necessary for the institution to document its achievement of its stated mission and objectives, and for students to achieve the specific learning objectives of each course offered."

The proposed change in the method of instructional delivery might result in a change in the number of faculty required, or it might change what is considered a "duly qualified faculty" member based on the new delivery method. If the change in method of instructional delivery has any impact on the faculty of an institution, it is necessary for the Bureau to know what the qualifications of any newly contracted faculty are to make sure the institution is maintaining compliance with 5 CCR section 71720.

Proposed Change: After each prompt in Section 5 there is a line reading "Document is attached" with a space for "Yes" and "No."

Rationale: While there is some space on the form, it is likely to be inadequate for a complete answer to the question posed in Section 4. If the institution requires additional space, it may attach a document to the application. The Bureau needs to know if such a document is attached when processing the form. Also, an institution may attempt to delay the Bureau’s disapproval by saying an answer is attached and then “forgetting” to attach the document, and then delaying the submission of the document indefinitely. If the institution commits to saying a document is attached and then does not attach the document, that would be a false statement made under penalty of perjury as set out below in the signature block, and that would be grounds for the Bureau denying the application immediately.

Proposed Change: In section 5 there is a prompt reading “Describe how the institution will provide students with meaningful faculty interaction, as described in section 71715(d)(4).”

Rationale: An institution must provide for meaningful interaction with and evaluation of students by duly qualified faculty per 5 CCR 71715(d)(4) & (6), as well as employ enough faculty to ensure student assessments are responded to within a specified amount of time per 5 CCR 71715(d)(7).

If the proposed change in the method of instructional delivery will affect how students interact with instructors, including how the faculty provide evaluations to their students, then the institution must provide the Bureau with an explanation as to how it intends to maintain compliance with their regulatory obligations. If there will be no effect, then the institution should provide the Bureau with an explanation as to how this section is inapplicable to the change in method of instructional delivery that is being proposed.

Proposed Change: In section 5 there is a prompt reading “Describe how the institution ensures that faculty are qualified to teach using distance education methods, as required in section 71715(d)(4).”

Rationale: 5 CCR section 71715(d)(4) requires that institutions providing distance education must not only provide for meaningful interaction with faculty, as established above, but also that the faculty be qualified to teach using distance education methods. The change in the method of instructional delivery might result in changes as to whether faculty members are still deemed “qualified to teach using distance education methods” using the new method.

The Bureau needs to know how the institution plans to comply with 5 CCR section 71715(d)(4) under the changed method of instructional delivery by asking what the institution’s plans are regarding faculty qualifications specific to distance education.

Proposed Change: In the form, there is a section 6 called “Facilities and Equipment” beginning with a prompt reading: “Provide a description of changes made to facilities and equipment as a result of the proposed change in Method of Instructional Delivery.”

Rationale: Current 5 CCR section 71600(b)(5), which is being deleted as the form is being incorporated by reference, requires that institutions be asked if the proposed change will result in any significant changes in, among other things, facilities. The Bureau is incorporating the request for information about changes in facilities due to the proposed substantive change in this section of the form.

5 CCR section 71735 establishes the requirements for an institution’s facilities and equipment, which generally states that, “An institution shall have sufficient facilities and necessary equipment to support the achievement of the educational objectives of all of the courses and educational programs in which students are enrolled.” To assure that an institution is in compliance with the requirements in section 71735, the Bureau must ask the institution submitting the application for a change in the method of instructional delivery if they have considered how the change will impact its facilities and equipment. Because there are now questions expressly asking about equipment as well as facilities, the word “Equipment” is added to the section label.

If the institution believes the proposed change in the method of instructional delivery or change in distance education learning method will not impact facilities and equipment, the institution may explain why this question does not apply to it. If this occurs, the Bureau will then be able to evaluate whether the institution has considered all aspects of the change, and if it is possibly overlooking possible effects that would put it out of compliance with 5 CCR section 71735.

Proposed Change: After each prompt in Section 6 there is a line reading “Document is attached” with a space for “Yes” and “No.”

Rationale: While there is some space on the form, it is likely to be inadequate for a complete answer to the question posed in Section 4. If the institution requires additional space, it may attach a document to the application. The Bureau needs to know if such a document is attached when processing the form. Also, an institution may attempt to delay the Bureau’s disapproval by saying an answer is attached and then “forgetting” to attach the document, and then delaying the submission of the document indefinitely. If the institution commits to saying a document is attached and then does not attach the document, that would be a false statement made under penalty of perjury as set out below in the signature block, and that would be grounds for the Bureau denying the application immediately.

Proposed Change: The form is not carrying over the provisions of existing 5 CCR section 71600(b)(5), relating to an institution’s library and learning resources.

Rationale: The current regulation 5 CCR 71600(b)(5), which is being deleted, asks institutions to provide a description as to how the reported change in method of instructional delivery would affect, among other things, the institution’s library and learning resources. However, the Bureau has discovered that it is unusual for a change in the method of instructional delivery to have a significant impact on an institution’s libraries and other learning resources.

In addition, 5 CCR section 71475, the regulation pertaining to applications for the renewal of an approval for non-accredited institutions, requires institutions to describe their library and other learning resources, and describe how they are sufficient to support the instructional needs of the students, at 5 CCR section 71475(z). Therefore, the institution will have to provide the Bureau with a description of its library and other learning resources, and justify their adequacy, during its next renewal application process.

Because a change in the method of instructional delivery has rarely had a significant impact on an institution’s library and other learning resources, and because the Bureau will be informed about the institution’s library and other learning resources during the institution’s next renewal of its approval to operate, the Bureau has decided it is not necessary to ask about the impact a change in the method of instructional delivery will have on an institution’s library and other learning resources in the Application for a Substantive Change in the Method of Instructional Delivery form.

With the question required by former section 5 CCR section 71600(b)(5) not being included on the form, there is no need for the request to indicate if a document supporting the answer is attached.

Proposed Change: The form is not carrying over the provisions of existing 5 CCR section 71600(b)(4) relating to effects on students and administration.

Rationale: The language in what currently is 5 CCR section 71600(b)(4) requires asking about how the proposed change in the method of instructional delivery will affect students and administration, but that regulatory language is not being included in the form is being incorporated by reference. The Bureau has decided, upon review of responses to this question, that it is too open ended to elicit the information the Bureau needs to evaluate the application. The Bureau is revising the Application for Substantive Change in Method of Instructional Delivery form to ask more narrowly focused questions to elicit more specific answers from institutions.

Therefore, the Bureau is eliminating the section in the current Application for Significant Change in Method of Instructional Delivery labeled, “Affects.” With the question in section 9 not being included, there is no need for the request to indicate if a document supporting the answer is attached.

Proposed Change: The form is not carrying over the provisions of 5 CCR 71600(b)(6), as reflected in the existing form’s requirement of a “description of how the institution will phase in the new method of instructional delivery.”

Rationale: Former section 10 of the form, labeled “Implementation,” is now being numbered as 7 to maintain sequential coherence as the previous sections 5, 8, and 9 are no longer being included in the form now being incorporated by reference.

The Bureau is deleting the current question asked in this section, which was previously required by 5 CCR 71600(b)(6), because upon review of the answers the Bureau has received it appears that the question is too open-ended to elicit the specific information the Bureau needs to evaluate an institution’s response. Now that the requirements of 5 CCR 71600(b) are being deleted and the form is incorporated by reference, the Bureau is instead adding the more narrowly tailored questions described below, which should provide the Bureau with the information it needs.

With the question in section 9 not being included, there is no need for the request to indicate if a document supporting the answer is attached.

Proposed Change: In the form, there is a section 7 called “Implementation” beginning with a prompt reading: “Provide a description of how the institution assesses students (prior to admission) for skills and competencies to succeed in a distance education environment as described in section 71715(d)(2).”

Rationale: 5 CCR section 71715(d)(2) requires institutions to, “Assess each student, prior to admission, in order to determine whether each student has the skills and competencies to succeed in a distance education environment.” For the Bureau to ensure that institutions are in compliance with this subdivision after the substantive change in the method of instructional delivery, the institution must be asked about how they will be maintaining compliance after the change.

Proposed Change: After each prompt in Section 7 there is a line reading “Document is attached” with a space for “Yes” and “No.”

Rationale: While there is some space on the form, it is likely to be inadequate for a complete answer to the question posed in Section 4. If the institution requires additional space, it may attach a document to the application. The Bureau needs to know if such a document is attached when processing the form. Also, an institution may attempt to delay the Bureau’s disapproval by saying an answer is attached and then “forgetting” to attach the document, and then delaying the submission of the document indefinitely. If the institution commits to saying a document is attached and then does not attach the document, that would be a false statement made under penalty of perjury as set out

below in the signature block, and that would be grounds for the Bureau denying the application immediately.

Proposed Change: In section 7 of the form there is a prompt reading “Provide the proposed catalog disclosure outlining the timeframe for faculty evaluation of student submissions as required by 71715(d)(7).”

Rationale: 5 CCR section 71715(d)(7) requires institutions to, “Employ a sufficient number of faculty to assure that (A) the institution's response to, or evaluation of, each student lesson is returned to the student within 10 days after the lesson is received by the institution; and (B) the institution's response to, or evaluation of, each student project or dissertation is returned to the student within the time disclosed in the catalog.” To ensure that an institution is in compliance with this requirement after making a substantive change in the method of instructional delivery, the Bureau must ask the institution how it plans on meeting this regulatory requirement. Asking for the institution’s catalog disclosure imposes a smaller burden on the institution submitting the form than having to prepare an answer solely for the application.

Proposed Change: In section 7 of the form there is a prompt reading “If the institution is proposing asynchronous (not-in-real time) instruction, provide the enrollment agreement and catalog disclosures describing any proposed changes to the institution’s refund policy as described in 71716(d) and 71750(b).”

Rationale: 5 CCR section 71716 provides for protections for students who are taking classes asynchronously, that is not offered in real time. These protections include requiring that the first lesson be sent to the student within seven days after the student is accepted, the right to cancel before the first lesson is received, conditions when the student must be sent all lessons and other materials for the educational program and when the student who has received all of the lessons is no longer eligible for a refund. 5 CCR section 71716(d) provides that, “The enrollment agreement shall disclose the institution's and student's rights and duties under this section.”

5 CCR section 71750(b) states that an institution may not enforce any refund policy that is not specified in its catalog, a provision required by CEC section 94909(a)(8)(B).

To make sure that the substantive change in the method of instructional delivery does not interfere with the institution’s ability to comply with sections 71716 and 71750, it is necessary for the Bureau to ask the institution to provide the enrollment agreement and catalog disclosures that describe any changes to the refund policy due to the substantive change in the method of instructional delivery.

Proposed Change: In section 7 of the form there is a prompt reading “Provide a description of how the institution will maintain a record of the dates on which lessons,

projects, and dissertations were received and responses were returned to each student as described in 71715(d)(8).”

Rationale: 5 CCR section 71715(d)(8) requires that institutions, “Shall maintain a record of the dates on which lessons, projects, and dissertations were received and responses were returned to each student.” To make sure that institutions will comply with this requirement after the substantive change in the method of instructional delivery, the Bureau must ask the institution to provide a description of how it will maintain compliance with this regulatory provision.

Proposed Change: In the form there is a section 8 entitled “Additional Information” that begins with the prompt “Provide any material facts, as defined in section 71340(a), which have not otherwise been disclosed in the application that might reasonably affect the Bureau’s decisions to grant an approval.”

Rationale: Former section 11 of the form, labeled “Additional Information” is being renumbered as 8 to maintain sequential coherence as the previous sections 5, 8, and 9 are being deleted.

As the Bureau cannot anticipate every factual circumstance that may be relevant when considering an application, it is necessary to ask the applicant if they are aware of any facts not asked about on the form that are relevant. “Material facts” is defined in 5 CCR section 71340(a) as “a fact would be ‘material’ if it would alter the Bureau’s determination concerning the institution’s ability to comply with any applicable provisions of the Act.”

Proposed Change: After the prompt in Section 8 there is a line reading “Document is attached” with a space for “Yes” and “No.”

Rationale: While there is some space on the form, it is likely to be inadequate for a complete answer to the question posed in Section 4. If the institution requires additional space, it may attach a document to the application. The Bureau needs to know if such a document is attached when processing the form. Also, an institution may attempt to delay the Bureau’s disapproval by saying an answer is attached and then “forgetting” to attach the document, and then delaying the submission of the document indefinitely. If the institution commits to saying a document is attached and then does not attach the document, that would be a false statement made under penalty of perjury as set out below in the signature block, and that would be grounds for the Bureau denying the application immediately.

Proposed Change: In the form there is a section 9 entitled “Declaration Under Penalty of Perjury” and an advisory stating

“This application shall be signed with original or digital signature by the following:

- Each owner of the institution, or each partner in a partnership, or
- If the institution is incorporated, by the chief executive officer or president of the corporation and each owner of 25 percent or more of the stock, or interest in the institution, or
- If the institution is a nonprofit corporation or a public institution, by the chief executive officer or president.”

Rationale: After a review of the signature requirements of all of the Bureau’s applications, the decision was made that the current requirements place too onerous a burden on applicants, and were causing excessive workload on Bureau staff. Therefore, in a separate regulatory proposal, the Bureau is simplifying the signature requirements for applications for applications to report a Substantive Change. The changes to the signature requirements for the Application for Substantive Change of Method of Instructional Delivery or Change in Distance Education Learning Management System form are being made in the current proposal.

There are currently three different forms of private business organization that might submit an application for a Substantive Change; a sole proprietor, a partnership, or a corporation (either non-profit or for-profit). Additionally, as the Bureau recently was granted 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 be applicable.

The first change to the signature requirement is the addition of overt language that states that the Bureau will accept either original (or “wet”) signatures and digital signatures. All digital signatures will be expected to comply with Government Code section 16.5.

In the first category of signatures, 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, which is being added to the existing signature requirement. The current signature requirement does not provide for signatures by a partnership, so adding this option clarifies the application process for partnerships.

Proposed text for the next category specifies who must sign in the case of a business that is a for-profit corporation. If an applying institution is incorporated, the signature requirement will be a signature by either the chief executive officer (as is currently the case for all Bureau forms) or the president of the corporation. The application must also

be signed by every person with more than a 25% interest in the corporation, who have been required to be identified as an owner by 5 CCR section 71130 and who have been required to be included on application signatures in 5 CCR section 71380 and 71390. 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 nonprofit corporation must be signed by every member of its governing body, and is 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 the current requirement can be a burdensome 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 revising this requirement in favor of the proposed language in the third category that an application from a nonprofit corporation be signed by either its chief executive officer or the president of the corporation, who should be familiar with the nonprofit corporation’s operations. The Bureau is also applying this requirement to public institutions, which it now has authority over due to the adoption of Education Code section 94949.8 in SB 1433 (Chapter 544, Statutes of 2022).

Proposed Change: In section 9 of the form, there are two signature blocks, beginning with an advisory reading “I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct”, followed by spaces for a signature, date, name, address, city, state, zip code, and lines for “Owning ___% of Ownership,” “Chief Executive Officer,” “Member, Board of Directors” and “General Partner.”

Rationale: Former section 12 of the form, labeled “Declaration Under Penalty of Perjury” is being renumbered as 9 to maintain sequential coherence as the previous sections 5, 8, and 9 are being deleted.

The current regulation 5 CCR section 71600(a) requires the application for Substantive Change in Method of Instructional Delivery to have a statement before the signature space that says, “I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.” The form referenced in the current regulation is not incorporated by reference; however, the regulation is being amended to incorporate the form by reference and delete the text that states what should be in the form. Therefore, the Bureau is retaining the requirement that the signatory of the form attest under penalty of perjury that the submitted form is true and correct by putting it in the new form and duly deleting the requirement from the text of the regulation.

It is necessary to ask if additional forms are attached for this section because, unlike the various sections of the form, here additional sheets may not be needed if the two signature blocks on the form were enough to include all the required signatories.

Proposed Change: In section 9 of the form there is a line reading “Attach additional Sheet(s) if Necessary” and another line reading “Document is Attached” with spaces for “Yes” and “No.”

Rationale: If the institution requires additional space for signatures, it may attach a document to the application. The Bureau needs to know if such a document is attached when processing the form. Also, an institution may attempt to delay the Bureau’s disapproval by saying an answer is attached and then “forgetting” to attach the document, and then delaying the submission of the document indefinitely. If the institution commits to saying a document is attached and then does not attach the document, that would be a false statement made under penalty of perjury as set out below in the signature block, and that would be grounds for the Bureau denying the application immediately.

Proposed Change: Following section 9 of the form there is a Notice on Collection of Personal Information.

Rationale: The Information Practices Act of 1977, California Civil Code section 1798 et seq., provides that state agencies collecting personal information must make specified disclosures on forms being used to collect such information. Specifically, California Civil Code section 1798.17 specifies that each form used to collect personal information must include the following:

(a) The name of the agency and the division within the agency that is requesting the information.

(b) The title, business address, and telephone number of the agency official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.

(c) The authority, whether granted by statute, regulation, or executive order which authorizes the maintenance of the information.

(d) With respect to each item of information, whether submission of such information is mandatory or voluntary.

(e) The consequences, if any, of not providing all or any part of the requested information.

(f) The principal purpose or purposes within the agency for which the information is to be used.

(g) Any known or foreseeable disclosures which may be made of the information pursuant to subdivision (e) or (f) of Section 1798.24.

(h) The individual's right of access to records containing personal information which are maintained by the agency.

To meet the requirements of California Civil Code section 1798.17, the Bureau is adding the proposed text at the end of the form. The Notice lays out the purpose for collection of the information, the consequences of not providing the information, under what circumstances the information will be shared, and how to contact the Bureau if there are any questions about its policies.

Proposed Change: In the form's footer, identify the form as "Form INS rev. 8/23".

Rationale: The text of 5 CCR section 71600 is being amended to refer to the form needed to be submitted by institutions as INS rev. 8/23, which is a change from the current form identified as "Form INS rev. 2/10" because it was last revised in February of 2010. The new form being incorporated by reference has a new designation; therefore, the footer contains a reference to the new designation which indicates the form should be effective sometime around August of 2023.

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

1. The provisions of this proposed regulation were discussed at the Bureau for Private Postsecondary Education's Advisory Committee meeting on November 16, 2022. The text of what was presented is at pages 76-83 of the meeting materials located at https://www.bppe.ca.gov/about_us/meetings/materials_11162022acm.pdf. The discussion of the proposal can be found in the meeting materials of the Advisory Committee's meeting on February 16, 2023, located at: https://www.bppe.ca.gov/about_us/meetings/materials/20230216_acm.pdf.
2. Application for Significant Change in Method of Instructional Delivery, Form INS rev. 2/10.

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:

Based on recent experience, the Bureau does not believe that there will be many institutions submitting applications for the substantive change due to a change in their distance education learning management system. The other changes to the form for applying for a Substantive Change in the Method of Instructional Delivery should not have a significant impact on California businesses, as they will not increase the number of institutions applying for such a change, and they will not increase the costs for institutions applying for a Substantive Change in the Method of Instructional Delivery.

Further, the proposed regulation should make applying easier by clarifying the information and materials that need to be provided to the Bureau. Given the small number of institutions that will need to submit applications under the proposed regulations, the proposed regulation should not adversely affect the ability of California businesses to compete against businesses in other states.

The Bureau estimates 14 institutions will file an application for a Substantive Change in Distance Education Learning Management System per year. An estimated six accredited institutions will submit an application each year, with workload costs of \$75 (one and a half hours of workload at \$50 per hour) and an application fee of \$250 for a total economic impact of \$325 per institution. An estimated 8 unaccredited institutions will submit an application each year, with workload costs of \$400 (8 hours of work at \$50 per hour) and an application fee of \$500 for a total economic impact of \$900 per institution.

The Bureau estimates total costs of \$9,150 per year and up to \$91,500 over a ten-year period as follows:

Bureau for Private Postsecondary Education															
Substantive Changes Accredited and Non-Accredited - Economic Impact (Costs)															
Institution Type	Apps Per Yr	Workload Costs	Costs	Years Ongoing											
				1	2	3	4	5	6	7	8	9	10	Total	
Accredited Institution	6	\$75	\$250	\$1,950	\$1,950	\$1,950	\$1,950	\$1,950	\$1,950	\$1,950	\$1,950	\$1,950	\$1,950	\$1,950	\$19,500
Non-Accredited Institution	8	\$400	\$500	\$7,200	\$7,200	\$7,200	\$7,200	\$7,200	\$7,200	\$7,200	\$7,200	\$7,200	\$7,200	\$7,200	\$72,000
Total Costs:				\$9,150	\$9,150	\$9,150	\$9,150	\$9,150	\$9,150	\$9,150	\$9,150	\$9,150	\$9,150	\$91,500	

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 institutions rarely make the substantive changes that are now being required to be reported, so the impact should be very small. Additionally, having the Bureau review the proposed substantive change before the institution implements it should not have a significant financial impact any institution, which 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 requirement to report the substantive changes being regulated to the Bureau should rarely happen, and when they do happen the cost of reporting the change to the bureau should be small, which should not create or eliminate any businesses in California.
- It will not affect the expansion of businesses currently doing business in the State of California because the proposed regulations will rarely require institutions to submit a reported change to the Bureau, which has a very small fiscal impact and should not affect the decision of any business to expand in California.
- The regulatory proposal benefits the health and welfare of California residents by requiring institutions making certain substantive changes to their operations to have those changes reviewed by the Bureau before they are made, allowing institutions to operate as intended by the legislature.
- The regulatory proposal does not affect the state's environment because it requires institutions making certain significant changes to their operations to have those changes reviewed by the Bureau before they are made, 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 conform the Bureau's regulations to statutory language.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

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 it is necessary to implement the statutory changes made by the legislature by adopting regulations providing for the reporting of substantive changes as defined by statute.
2. Adopt only regulatory changes required by the statutory change. This alternative was rejected because the Bureau responds to several Substantive Change applications every year with a Deficiency Notice that the Application lacks critical information; specifying what information needs to be provided on the form means that fewer Deficiency Notices will need to be sent in the future.

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

There are no reasonable alternatives that would lessen any adverse impact on small businesses, as the proposal does not impose any adverse impacts on small businesses.

Fiscal Impact

The Bureau estimates 14 applications per year (six from accredited institutions and eight from unaccredited institutions). The Bureau estimates (absorbable) workload costs ranging from \$8,977 to \$10,033 per year and up to \$88,150 over a ten-year period as follows:

Bureau for Private Postsecondary Education Substantive Changes Accredited and Unaccredited - Fiscal Impact (Costs)													
Institution Type	Apps Per Yr	Workload Costs	Years Ongoing*										Total
			1	2	3	4	5	6	7	8	9	10	
Accredited Institution	6	\$297	\$1,784	\$1,838	\$1,893	\$1,949	\$2,008	\$2,068	\$2,130	\$2,194	\$2,260	\$2,328	\$20,452
Non-Accredited Institution	8	\$738	\$5,905	\$6,082	\$6,265	\$6,453	\$6,647	\$6,846	\$7,051	\$7,263	\$7,481	\$7,705	\$67,698
Implementation costs (year 1)			\$1,288										
Total Costs:			\$8,977	\$7,920	\$8,158	\$8,402	\$8,654	\$8,914	\$9,181	\$9,457	\$9,741	\$10,033	\$88,150

*Includes 3 percent annual growth factor

The Bureau notes, year-one includes one-time implementation workload costs to update the notification forms and post them on the Bureau's website.

The Bureau estimates fee application revenues of \$5,500 per year and up to \$55,000 over a ten-year period as follows:

Bureau for Private Postsecondary Education Substantive Changes Accredited and Non-Accredited - Fiscal Impact (Revenues)														
Institution Type	Apps Per Yr	Fee Amts	Years Ongoing										Total	
			1	2	3	4	5	6	7	8	9	10		
Accredited Institution	6	\$250	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$15,000
Non-Accredited Institution	8	\$500	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$40,000
Total Revenues:			\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$55,000