

**State of California
Office of Administrative Law**

In re:
Bureau for Private Postsecondary Education

Regulatory Action:

Title 05, California Code of Regulations

Adopt sections:

Amend sections: 71600

Repeal sections:

NOTICE OF APPROVAL OF REGULATORY
ACTION

Government Code Section 11349.3

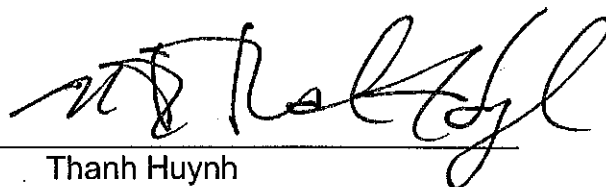
OAL Matter Number: 2024-0220-01

OAL Matter Type: Regular (S)

In this rulemaking action, the Bureau amends its regulation to incorporate by reference the *Significant Change in Method of Instructional Delivery or Change in Distance Education Learning Management System* form (INS rev. 8/23). The content of the form is deleted from the regulation and moved to the form with some added content.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2024.

Date: April 3, 2024



Thanh Huynh
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Deborah Cochrane, Chief

Copy: David Dumble

NOTICE PUBLICATION/REGULATIONS'S BY SECTION

STD. 400 (REV. 10/2019)

REGULAR

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2023-1205-01	REGULATORY ACTION NUMBER 2024-0220-015	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

APR 03 2024
3:13 PM

AGENCY WITH RULEMAKING AUTHORITY
Bureau for Private Postsecondary Education

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Substantive Change of Method	TITLE(S) 5	FIRST SECTION AFFECTED 71600	2. REQUESTED PUBLICATION DATE December 15, 2023
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON David Dumble	TELEPHONE NUMBER (279) 895-6091	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2023, 50-2	PUBLICATION DATE 12/15/23	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Substantive Change of Method	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT
AMEND
REPEAL
TITLE(S) 5

3. TYPE OF FILING
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> File & Print <input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Other (Specify) _____

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____

7. CONTACT PERSON David Dumble	TELEPHONE NUMBER (279) 895-6091	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Kimberly Kirchmeyer</i>	DATE February 17, 2024
TYPED NAME AND TITLE OF SIGNATORY Kimberly Kirchmeyer, Director, Department of Consumer Affairs	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

APR 03 2024

Office of Administrative Law

California Code of Regulations
Title 5. Education
Division 7.5. Private Postsecondary Education
Chapter 2. Applications
Article 7. Applications for a Substantive Change to an Approval to Operate

ORDER OF ADOPTION

SUBSTANTIVE CHANGE APPROVAL FOR METHOD OF INSTRUCTIONAL
DELIVERY

Legend—added text indicated by underline, deletion by strikethrough

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 or Change in Distance Education Learning Management System

(a) An institution seeking to make a significant change in its method of instructional delivery or a change of its distance education learning management system shall complete the “Significant Change in Method of Instructional Delivery or Change in Distance Education Learning Management System” form (INS rev. 2/108/23, hereby incorporated by reference) to obtain prior authorization. For the purposes of this section a “significant change in instructional delivery” is any change that alters the way students interact with faculty or access significant equipment, and a “change of its distance education learning management system” is a change in the distance education learning management system other than an upgrade of the existing software of the system, or a system that is renamed but otherwise unchanged from the previous system other than an upgrade. The form shall be submitted to the Bureau along with the appropriate fee as provided in Section 94930.5(c) of the Code. ~~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)

~~(b) The application shall establish that the institution, if making a significant change in its method of instructional delivery, can meet the minimum operating standards contained in Chapter 3, and shall include:~~

~~(1) The name, school code, address, and telephone and fax numbers of the institution;~~

~~(2) A description of the proposed new method of instructional delivery, and how the curriculum will be changed or adapted to meet the change in delivery method;~~

~~(3) A detailed explanation of the reasons for the proposed change;~~

~~(4) A description of how the change affects students, administration, and the institution's financial resources;~~

~~(5) If the proposed change will result in any significant changes in existing faculty, facilities, library or learning resources, the institution shall provide the applicable information required by Section 71250 through 71270, inclusive;~~

~~(6) A description of how the institution will phase in the new method of instructional delivery;~~

~~(7) The name, address, email address, and telephone and fax numbers of the institution's contact person for the purpose of this application; and~~

~~(8) Any additional information required by the Bureau pursuant to section 71340.~~

(e) An institution that has been granted an approval to operate by means of accreditation shall notify the Bureau of the substantive change within 30 days of that change on the Change of Instruction Application for Significant Change in Method of Instructional Delivery or Change in Distance Education Learning Management System form by providing the information required in sections (1) and (2) of the form ~~(b)(1) and (b)(7)~~, and shall attach certification from the institution's accreditation agency demonstrating that the substantive change was made in accordance with the institution's accreditation standards, and complies with the Act and this Division.

(c) "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.

Note: Authority cited: Sections 94803 and 94895, Education Code. Reference: Sections 94893, 94894, 94895, 94896 and 94930.5, Education Code.



Bureau for Private Postsecondary Education
P.O. Box 980818
West Sacramento, CA 95798-0818

OFFICE USE ONLY	
Date Stamp	_____
SAIL application #	_____
Application fee	_____ Date _____
School Code	_____
Revenue Code	1257009W / 1257009V

Application for Significant Change in Method of Instructional Delivery or Change in Distance Education Learning Management System

(California Education Code §§ 94894, 94896; Title 5, California Code of Regulations § 71600)

- Approved Institution \$500.00 non-refundable fee**
 Institution Approved by means of Accreditation \$250.00 non-refundable fee

1. INSTITUTION

Name: _____

School Code: _____

Address _____

City _____

State _____

Zip _____

Phone Number _____

Fax Number _____

2. INSTITUTION'S CONTACT PERSON (for this application)

Name _____

Email Address _____

Address _____

City _____

State _____

Zip _____

Telephone Number _____

Fax Number _____

If this institution is approved by means of accreditation skip to #9.

Attached is a certified copy of the current verification of accreditation granted by the accrediting agency.

Note: If a question is not applicable to your circumstance, provide a brief description why.

3. PROPOSED NEW METHOD

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.

Document is attached: ____ Yes ____ No

4. CURRICULUM

Explain how any educational program offered through distance education is appropriate for delivery through distance education methods, pursuant to 5 CCR section 71715(d)(1).

Document is attached: Yes No

Describe how the institution's programs and materials are designed to be in compliance with section 71715(d)(3).

Document is attached: Yes No

Describe methods of evaluation of measurable student learning outcomes, as described in section 71715(d)(6) and sections 71710(a)(5) and (6).

Document is attached: Yes No

Provide syllabi compliant with section 71710(a)(3) for each proposed program.

Document is attached: Yes No

5. FACULTY

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.

Document is attached: Yes No

Describe how the institution will provide students with meaningful faculty interaction, as described in section 71715(d)(4).

Document is attached: Yes No

Describe how the institution ensures that faculty are qualified to teach using distance education methods, as described in section 71715(d)(4).

Document is attached: Yes No

6. FACILITIES & EQUIPMENT

Provide a description of changes made to facilities and equipment as a result of the proposed change in Method of Instructional Delivery.

Document is attached: Yes No

7. IMPLEMENTATION

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).

Document is attached: Yes No

Provide the proposed catalog disclosure outlining the timeframe for faculty evaluation of student submissions as required by 71715(d)(7).

Document is attached: Yes No

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).

Document is attached: Yes No

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).

Document is attached: Yes No

8. ADDITIONAL INFORMATION

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.

Document is attached: Yes No

9. DECLARATION UNDER PENALTY OF PERJURY

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.
-

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

Signature _____

Date _____

Name

Address

City

State

Zip

Owning _____% of Ownership

Chief Executive Officer _____

Member, Board of Directors _____

General Partner _____

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

Signature

Date

Name

Address

City

State

Zip

Owning _____% of Ownership

Chief Executive Officer _____

Member, Board of Directors _____

General Partner _____

Attach Additional Sheet(s) if Necessary

Document is attached: _____ Yes _____ No

NOTICE ON COLLECTION OF PERSONAL INFORMATION

The information requested on this application is mandatory pursuant to CEC sections 94894, 94896 and Title 5 CCR section 71600. Failure to provide all of the information requested will result in the application being ineligible for processing, or subject to denial (Title 5 CCR section 71655). The information provided will be used to determine qualification of the applicant for authorization to make a substantive change to its approval to operate by the Bureau for Private Postsecondary Education (Bureau). The information may be provided to other governmental agencies, or in response to a court order, subpoena, or public records request. You have a right of access to records containing personal information maintained by the Bureau unless the records are exempted from disclosure by law. For questions about this notice or access to your records, you may contact the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818, by phone at (916) 574-8900, or by email at bppe@dca.ca.gov.