

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

Notice of Regulatory Action Concerning

**CALIFORNIA CODE OF REGULATIONS
TITLE 5. Education
DIVISION 7.5. Private Postsecondary Education
CHAPTER 3. Institutional Operating Standards
Sections 71710 and 71810**

Educational Programs Under 32 Hours in Length

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary Education (hereinafter “Bureau”), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest. The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this Notice.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office no later than **Tuesday, December 27, 2022**, or must be received by the Bureau at the hearing, if one is held. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE CITATION

Authority cited: Sections 94803, 94877, and 94885, Education Code. Reference: Sections 94837, 94885, and 94909, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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 the legislature passed, and the Governor signed, SB 802 (Chapter 552, Statutes of 2021) which, among other things, amended section 94837 Education Code to revise the statutory definition of “Educational program.” One key definitional change was to create an exception from the definition of “educational program” for “a single course, workshop, seminar, continuing education course, or other instruction that consists of 32 hours of instruction or less that is not designed to lead to employment.”

Because of the need to specify what is meant by a course that is “not designed to lead to employment,” the Bureau is proposing to amend its regulation on educational programs in 5 CCR section 71710 to include a list of programs that will be presumed to be “designed to lead to employment.” In addition, the Bureau proposes amending 5 CCR section 71810 to require institutions offering both educational programs under the Bureau’s oversight as well as programs exempted from oversight because they are less than 32 hours in length and not designed to lead to employment to make a specified disclosure in their catalog informing students and prospective students of the distinction between the two and providing a list of all educational programs being offered that are under the Bureau’s authority.

Anticipated Benefits of Proposal

The specific benefit anticipated from the proposed regulation is to avoid any confusion over which programs of less than 32 hours will not be considered educational programs and which will be considered educational programs because they are designed to lead to employment. Institutions need to know which of their programs are regulated by the Bureau and which are exempt because of their short duration, and without regulatory guidance institutions will be uncertain whether a program under 32 hours is or is not considered an educational program and therefore subject to oversight.

Consistency and Compatibility with Existing State Regulations

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

Fiscal Impact Estimates

Fiscal impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Costs: The Bureau estimates 4,057 programs would be exempt under this proposal. These programs would no longer be required to report information, as specified, which is included in the educational institution’s Annual Reports submitted to the Bureau each year.

The Bureau indicates each submission of information requires approximately 90 seconds per report for staff to process, which would result in cost savings of approximately \$2.25 per report or \$9,128 in year-one of implementation and up to \$104,645 over a ten-year period.

Revenues: The regulations are projected to result in a decrease of approximately \$17,100 per year in annual institution fee revenues and up to \$171,000 over a ten-year period.

The Bureau indicates four educational institutions will be completely exempt from the Bureau's oversight. These four schools currently pay \$2,500 each per year in annual institutions fees or \$10,000 total.

The Bureau further indicates 19 programs operating in other educational institutions would be exempt, which would result in approximately \$7,100 lower annual institution fees collected from these institutions.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which section 17561 -17630 Require Reimbursement: None

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

A representative business may have a cost impact in reasonable compliance with the proposed action, as the proposed regulation eliminates the requirement for approximately 4,057 educational programs at 250 educational institutions to submit information on certain programs under 32 hours in length in their Annual Reports.

According to these institutions, each report requires approximately 7 hours of workload with total cost of \$350 per report, which results in total costs savings of approximately \$1.42 million per year and up to \$14.2 million over a ten-year period.

Additionally, these institutions will no longer pay annual institution fees of approximately \$17,100 per year and up to \$171,000 over a ten-year period.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

This proposal will reduce oversight and fees for affected small businesses.

Business Reporting: The proposed regulations do not require a report to be made.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the state of California.

Benefits to Health and Welfare of California Residents, Worker Safety, and the State's Environment:

None.

Benefits of Regulation:

The proposed regulation will allow the Bureau to implement section 94837 of the Education Code as amended by the legislature in 2021, by defining what programs under 32 hours in length are considered "educational programs" because they are "designed to lead to employment." Without regulatory guidance the statutory provisions are unclear and susceptible to misinterpretation.

Economic Impact Declaration

The Bureau for Private Postsecondary Education declares that this regulation proposal 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.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of reasons for the proposed action and has available all information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818.

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

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

You can obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: David Dumble
Address: P.O. Box 980818
West Sacramento, CA 95798-0818
Telephone No.: (279) 895-6091 Fax: (916) 263-1897
E-Mail Address: David.Dumble@dca.ca.gov

The backup contact person is:

Name: Yvette Johnson
Address: P.O. Box 980818
West Sacramento, CA 95798-0818
Telephone No.: (279) 895-6099 Fax: (916) 263-1897
E-Mail Address: Yvette.Johnson@dca.ca.gov

Website Access:

The Bureau's website is: <http://bppe.ca.gov>. Materials regarding this proposal can be found at <http://bppe.ca.gov/lawsregs/current.shtml>. An archive of the Bureau's prior regulatory actions can be found at <http://bppe.ca.gov/lawsregs/archive.shtml>.