

**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: 70000
Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

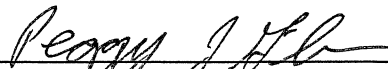
OAL Matter Number: 2020-1014-01

OAL Matter Type: Regular (S)

The Bureau for Private Postsecondary Education (Bureau) is amending the definition of education offered for personal entertainment, pleasure or enjoyment to clarify that Intensive English Language Programs that meet certain requirements are exempt from the Bureau's oversight. These requirements include not providing financial aid or loans to students as well as not offering any degree-granting programs.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2021.

Date: March 30, 2021



Peggy J. Gibson
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Joanne Wenzel, Chief
Copy: Yvette Johnson

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2019-1038-06	REGULATORY ACTION NUMBER 2020-1014-015	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Consumer Affairs/Bureau for Private Postsecondary Education			AGENCY FILE NUMBER (If any)

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

MAR 30 2021

2:45 PM

2020 OCT 14 P 12:43

OFFICE OF
ADMINISTRATIVE LAW**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE Intensive English Language Programs	TITLE(S) 5	FIRST SECTION AFFECTED 70000	2. REQUESTED PUBLICATION DATE October 18, 2019
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Kent Gray	TELEPHONE NUMBER (916) 246-3907	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Intensive English Language Programs	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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 70000
TITLE(S) 5	REPEAL
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"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<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"/> Emergency Readopt (Gov. Code, §11346.1(h))
	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
	<input type="checkbox"/> File & Print
	<input type="checkbox"/> Print Only
	<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"/> Other (Specify) _____	<input type="checkbox"/> State Fire Marshal
7. CONTACT PERSON Yvette Johnson	TELEPHONE NUMBER 916.574.8901
FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) yvette.johnson@dca.ca.gov

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

Kimberly Kirchmeyer

DATE

Sep 14, 2020

TYPED NAME AND TITLE OF SIGNATORY

Kimberly Kirchmeyer, Director, Department of Consumer Affairs

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAR 30 2021

Office of Administrative Law

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

ORDER OF ADOPTION

New language is underlined. Deleted language is ~~strikeout~~.

(1) Amend Section 70000 of Division 7.5 of Title 5 of the California Code of Regulations to read as follows:

§ 70000. Definitions.

[...]

(k)(1) “Education offered for the purpose of personal entertainment, pleasure or enjoyment” means education offered for purposes of play, amusement or relaxation, including education offered for the purpose of teaching the fundamentals, skills or techniques of a hobby or activity. It does not include education that in any manner does or is any of the following:

(A) Assists a student to prepare for a test administered in conjunction with, or for admission to, any undergraduate or graduate educational program, including the TOEFL[®] brand test, however, “education offered for the purpose of personal entertainment, pleasure, or enjoyment” does include education that assists a student to prepare for a test designed to measure English language proficiency for placing a student within an Intensive English Program, which is a program where English as a second language is the main subject being taught.

(B) Is an educational service offered to lead to any employment in any occupation or job title.

(C) Is represented to enable a student to use already existing knowledge, training, or skills, other than language skills, in pursuit of an occupation or to develop new or enhance existing knowledge, training, or skills, other than language skills, in connection with any occupation or job title.

~~(1) Enables a student to qualify for any immigration status, for which an institution is permitted to issue a Certificate of Eligibility for Nonimmigrant Student Status by the United States Immigration and Customs Enforcement.~~

~~(2) Facilitates the development of learning skills or language proficiency to assist a student to:~~

~~(A) learn English as a second language, unless the institution exclusively enrolls students for an intensive English program that is touristic in nature, and provides for transportation, housing, and cultural and recreational activities; or~~

~~(B) enhance language skills for any business or occupational purpose.~~

(2) Notwithstanding subparagraph (1) of this subsection, "Education offered for the purpose of personal entertainment, pleasure or enjoyment" includes education which facilitates the development of learning skills or language proficiency to assist a student to learn English as a second language, if the institution complies with all of the following requirements:

(A) Obtains and maintains compliance with mandatory accreditation with an accreditor recognized by the United States Department of Education;

(B) Maintains a refund policy, which at minimum, is consistent with the mandates of the institution's United States Department of Education-recognized accrediting body;

(C) Is certified by the federal Student and Exchange Visitor Program (SEVP);

(D) Provides only English language instruction and/or other education offered for the purpose of personal entertainment, pleasure or enjoyment;

(E) Does not receive any state or federal student financial aid;

(F) Does not provide any financial aid to students;

(G) Does not provide any institutional loans to students;

(H) Does not facilitate or broker any private loans with third parties for students;

(I) Does not offer any degree-granting programs;

(J) Does not make any promises or representations that courses lead to employment; and

(K) Does not represent that the institution is approved by the Bureau.

~~(3) Assists a student to prepare for a test administered in conjunction with any undergraduate or graduate educational program.~~

~~(4) Is an educational service offered to lead to any employment in any occupation or job title.~~

~~(5) Is represented to enable a student to use already existing knowledge, training, or skills in the pursuit of an occupation or to develop new or enhance existing knowledge, training, or skills in connection with any occupation or job title.~~

[...]

Note: Authority cited: Sections 94803, 94877, 94885, 94885.1 and 94885.5, Education Code.
Reference: Sections 94818, 94830, 94844, 94874, 94885, 94885.1, 94885.5 and 94923, Education Code.