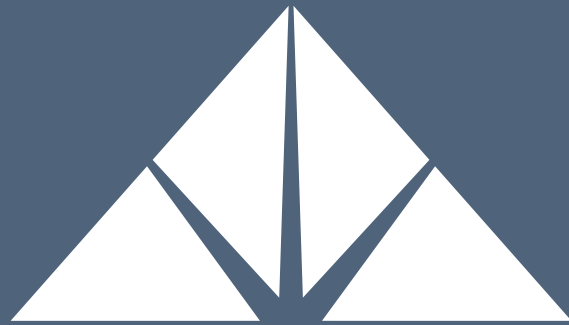


BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

SUNSET REVIEW REPORT 2019

PRESENTED TO THE SENATE COMMITTEE ON BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT AND THE ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS





BPPE

Bureau for Private Postsecondary Education

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Bureau for Private Postsecondary Education

Sunset Review Report 2019

TABLE OF CONTENTS

Section 1	
Background and Description of the Bureau and Regulated Profession	1
Section 2	
Performance Measures and Customer Satisfaction Surveys.....	17
Section 3	
Fiscal and Staff.....	17
Section 4	
Licensing Program.....	24
Section 5	
Enforcement Program.....	33
Section 6	
Public Information Policies.....	45
Section 7	
Online Practice Issues	47
Section 8	
Workforce Development and Job Creation.....	48
Section 9	
Current Issues	50
Section 10	
Bureau Action and Response to Prior Sunset Issues	51
Section 11	
New Issues.....	65
Section 12	
Attachments	83

INDEX OF ATTACHMENTS

Attachment A

Not applicable.

Attachment B

Bureau for Private Postsecondary Education Advisory Committee Handbook

Attachment C

Office of Student Assistance and Relief Activity Report

Attachment D

Major Studies Reports

- Increasing the Effectiveness of State Reporting Requirements and Student Disclosures for Private Postsecondary Institutions (November 2016)
- Fee Audit Report (Draft) (May 2016)

Attachment E

Quarterly Performance Measures

Attachment F

Bureau for Private Postsecondary Education Quarterly Customer Satisfaction Survey

Attachment G

Bureau for Private Postsecondary Education Organizational Charts

BUREAU FOR PRIVATE POSTSECONDARY EDUCATION BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM As of December 1, 2019

Section 1

Background and Description of the Bureau and Regulated Profession

On October 11, 2009, Governor Arnold Schwarzenegger signed Assembly Bill 48 (Portantino, Chapter 310, Statutes of 2009), which created the California Private Postsecondary Education Act of 2009 (Act). The bill resurrected an agency, the Bureau for Private Postsecondary Education (Bureau), under the California Department of Consumer Affairs (DCA) to regulate private postsecondary educational institutions in California. Prior to the creation of the Bureau there was a period between July 1, 2007 and December 31, 2009 where no regulatory agency in California existed for private postsecondary educational institutions.

Under AB 48, the Bureau was mandated to:

- Create a structure that provides an appropriate level of oversight, including approval, of private postsecondary educational institutions and programs.
- Establish minimum operating standards for California private postsecondary educational institutions to ensure quality education for students.
- Provide students a meaningful opportunity to have their complaints resolved.
- Ensure that private postsecondary educational institutions offer accurate information to prospective students on school and student performance, thereby promoting competition between institutions that rewards educational quality and employment success.
- Ensure that all stakeholders have a voice and are heard in the operations of and rulemaking process by the Bureau.
- Proactively combat unlicensed institutions.

Today, the Bureau licenses and regulates private postsecondary educational institutions, defined as a private entity with a physical presence in California that offers postsecondary education to the public for an institutional charge. The Bureau conducts comprehensive reviews of licensing applications, conducts compliance inspections and investigates complaints. The Bureau also has a \$25,000,000.00 Student Tuition Recovery Fund (STRF) that assists students that have suffered an economic loss due to a school closure or other factors affecting the education the student received.

The Bureau has the statutory authority to enforce the provisions of the California Private Postsecondary Education Act of 2009 and the California Code of Regulations, Division 7.5.

The Bureau's mission is to protect students and consumers through the oversight of California's private postsecondary educational institutions by conducting qualitative reviews of educational programs and operating standards, proactively combating unlicensed activity, impartially resolving student and consumer complaints and conducting outreach.

1. Describe the make-up and functions of each of the bureau’s committees (cf., Section 12, Attachment B).

In accordance with California Education Code section 94880, the Bureau established a 12-member advisory committee. There are no term limitations for members of the advisory committee.

The advisory committee was established to examine the oversight functions and operational policies of the Bureau and to advise the Bureau with respect to matters relating to private postsecondary education and the administration of the Act. The advisory committee is responsible for conducting an annual review of the fee schedule and the equity of the fee schedule relative to the way institutions are structured and the licensing and enforcement provisions of the Act. The advisory committee makes recommendations with respect to policies, practices, and regulations relating to private postsecondary education.

The advisory committee consists of:

- Three members that have a demonstrated record of advocacy on behalf of consumers. These three members are appointed by the Director of DCA (Director), the Senate Committee on Rules and the Speaker of the Assembly.
- Two members appointed by the Director that are current or past students of institutions.
- Three members appointed by the Director that are representatives of institutions.
- One public member appointed by the Senate Committee on Rules.
- One public member appointed by the Speaker of the Assembly.
- Two nonvoting *ex officio* members.

The two nonvoting *ex officio* members must be:

- The chair of a policy committee of the Assembly with jurisdiction over legislation relating to the Bureau, appointed by the Speaker of the Assembly.
- The chair of a policy committee of the Senate with jurisdiction over legislation relating to the Bureau, appointed by the Senate Committee on Rules.

Either chair may designate a representative for any meeting he or she is unable to attend.

Restrictions apply to members appointed as current or past students of institutions or as public members appointed by the Senate Committee on Rules and the Speaker of the Assembly.

Table 1a. Attendance		
2015 Advisory Committee Meetings		
Location: Sacramento		
Committee Member	8/19/15	11/10/15
Diana Amaya	Present	Present
Tamika Butler	Present	Present
Shawn Crawford	Present	Present
Marie De La Parra	Present	Present
Mitchell Fuerst	Present	Present
Senator Jerry Hill (or Representative)	Absent	Absent
Sylton Hurdle	Present	Present
Katherine Lee-Carey	Present	Present
Assembly Member Jose Medina	Present	Present

(or Representative)		
Ken McEldowney	Absent	Present
Margaret Reiter	Present	Present
Patrick Uetz	Present	Absent
David Wood	Absent	Absent

2016 Advisory Committee Meetings				
Location: Sacramento				
Committee Member	2/17/16	5/17/16	8/17/16*	11/16/16*
Diana Amaya	Present	Present	N/A	N/A
Tamika Butler	Present	Present	N/A	N/A
Shawn Crawford	Present	Present	N/A	N/A
Marie De La Parra	Present	Present	N/A	N/A
Mitchell Fuerst	Absent	Present	N/A	N/A
Senator Jerry Hill (or Representative)	Absent	Absent	N/A	N/A
Assembly Member Jose Medina (or Representative)	Present	Present	N/A	N/A
Katherine Lee-Carey	Present	Present	N/A	N/A
Ken McEldowney	Absent	Present	N/A	N/A
Margaret Reiter	Present	Present	N/A	N/A
Patrick Uetz	Present	Absent	N/A	N/A
David Wood	Absent	Absent	N/A	N/A
*Meeting cancelled due to no quorum (majority of voting members)				

2017 Advisory Committee Meetings				
Location: Sacramento				
Committee Member	2/15/17	5/17/17	8/15/17*	11/17/17*
Diana Amaya	Present	Present	N/A	N/A
Tamika Butler	Absent	Present	N/A	N/A
Gabrielle Elise Jimenez**	Present	Absent	N/A	N/A
Senator Jerry Hill (or Representative)	Absent	Absent	N/A	N/A
Joseph Holt	Present	Present	N/A	N/A
Assembly Member Jose Medina (or Representative)	Absent	Absent	N/A	N/A
Katherine Lee-Carey	Present	Present	N/A	N/A
Margaret Reiter	Present	Present	N/A	N/A
*Meeting cancelled due to no quorum (majority of voting members)				

2018 Advisory Committee Meetings				
Location: Sacramento				
Committee Member	2/13/18	5/15/18	8/16/18	11/7/18
Diana Amaya	Present	Absent	Present	Present
Tamika Butler	Present	Absent	Absent	Absent
Hanya Carbajal	Present	Absent	Absent	Absent
Gabrielle Elise Jimenez	Absent	Absent	N/A**	N/A**
Senator Jerry Hill (or Representative)	Absent	Present	Present	Present
Joseph Holt	Present	Present	Present	Present
Assembly Member Jose Medina (or Representative)	Absent	Present	Present	Present

Katherine Lee-Carey	Present	Present	Present	Present
Margaret Reiter	Present	Present	Present	Present
Megumi Tsutsui	Present	Present	Present	Absent
David Vice	Present	Absent	Present	Absent

**No longer a member of the advisory committee

2019 Advisory Committee Meetings

Location: Sacramento

Committee Member	2/13/19	5/14/19*	8/21/19	11/19/19
Diana Amaya	Present	N/A	Absent	N/A
Tamika Butler**	Present	N/A	N/A	N/A
Hanya Carbajal**	Absent	N/A	N/A	N/A
Senator Jerry Hill ** (or Representative)	Absent	N/A	N/A	N/A
Senator Steven Glazer (or Representative)	N/A	N/A	Present	N/A
Joseph Holt	Present	N/A	Present	N/A
Assembly Member Jose Medina (or Representative)	Present	Present	Present	N/A
Katherine Lee-Carey	Present	Present	Present	N/A
Natalie Lyons	N/A	N/A	Present	N/A
Margaret Reiter	Present	Present	Present	N/A
Dr. Robert Snowden	N/A	N/A	Present	N/A
Megumi Tsutsui**	Present	N/A	N/A	N/A
David Vice	Present	Present	Present	N/A

*Meeting cancelled due to no quorum (majority of voting members)

**No longer a member of the advisory committee

Table 1b. Board/Committee Member Roster

Member Name	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Diana Amaya <i>Public Member</i>	2/4/15	N/A	N/A	Senate Committee on Rules	public
Tamika Butler* <i>Public Member</i>	2/26/13	N/A	N/A	Speaker of the Assembly	public
Hanya Carbajal <i>Past Student of Institution</i>	8/21/17	N/A	N/A	DCA Director	past student
Sean Crawford* <i>Institutional Representative</i>	2/10/10	N/A	N/A	DCA Director	institutional representative
Marie De La Parra* <i>Past Student of Institution</i>	1/25/10	N/A	N/A	DCA Director	past student
Mitchell Fuerst* <i>Institutional Representative</i>	2/26/10	N/A	N/A	DCA Director	institutional representative
Senator Steven Glazer	3/13/19	N/A	N/A	Senate Committee on Rules	ex officio
Senator Jerry Hill <i>Non-voting Member</i>	6/17/15	N/A	N/A	Senate Committee on Rules	ex officio
Joseph Holt <i>Institutional Representative</i>	1/31/17	N/A	N/A	DCA Director	institutional representative
Sylton Hurdle*	2/18/15	N/A	N/A	DCA Director	employer member

<i>Employer Member</i>					
Gabrielle Elise Jimenez* <i>Past Student of Institution</i>	6/23/16	N/A	N/A	DCA Director	past student
Katherine Lee-Carey <i>Institutional Representative</i>	1/25/10	N/A	N/A	DCA Director	institutional representative
Natalie Lyons	8/16/19	N/A	N/A	DCA Director	consumer advocate
Ken McEldowney* <i>Consumer Advocate</i>	1/25/10	N/A	N/A	DCA Director	consumer advocate
Assembly Member Jose Medina <i>Non-voting Member</i>	2/4/15	N/A	N/A	Speaker of the Assembly	ex officio
Margaret Reiter <i>Consumer Advocate</i>	3/10/10	N/A	N/A	Senate Committee on Rules	consumer advocate
Dr. Robert Snowden	8/16/19	N/A	N/A	DCA Director	past student
Megumi Tsutsui* <i>Consumer Advocate</i>	2/2/18	N/A	N/A	Senate Committee on Rules	consumer advocate
Patrick Uetz* <i>Consumer Advocate</i>	2/26/13	N/A	N/A	Speaker of the Assembly	consumer advocate
David Vice <i>Institutional Representative</i>	1/31/17	N/A	N/A	DCA Director	institutional representative
David Wood* <i>Past Student of Institution</i>	2/18/15	N/A	N/A	DCA Director	past student
*no longer an active Advisory Committee Member					

Below is a list of the current Advisory Committee members and vacancies. The list includes the type of appointment and the appointing authority for each member.

Member Name	Type of Appointment	Appointing Authority
Diana Amaya	Public Member	Senate Committee on Rules
Hanya Carbajal	Past Student	DCA Director
Senator Steven Glazer	Ex Officio	Senate Committee on Rules
Joseph Holt	Institutional Representative	DCA Director
Katherine Lee-Carey, Chair	Institutional Representative	DCA Director
Natalie Lyons	Consumer Advocate	DCA Director
Assembly Member Jose Medina	ex officio	Speaker of the Assembly
Margaret Reiter, Vice Chair	consumer advocate	Senate Committee on Rules
Dr. Robert Snowden	past student	DCA Director
David Vice	Institutional Representative	DCA Director
<i>Vacant</i>	consumer advocate	Speaker of the Assembly
<i>Vacant</i>	public member	Speaker of the Assembly

2. In the past four years, was the bureau unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?

The Advisory Committee is subject to the Bagley-Keene Open Meeting Act (Article 9 [commencing with Section 11120] of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). In accordance with California Education Code Section 94880(i), a quorum is established when a majority of the voting members of the Advisory Committee are present.

The Advisory Committee consists of 12 members, 10 of which are voting members and two are nonvoting members. Prior to the passage of Senate Bill 1492 (Committee on Business,

Professions, and Economic Development, Chapter 422, Statutes of 2018) which was enacted on January 1, 2019, nonvoting members were included to establish a quorum. Prior to January 1, 2019, seven members were required, including nonvoting members to establish a quorum. Currently, six members of the Advisory Committee are required to be in attendance to establish a quorum, excluding nonvoting members.

In accordance with Government Code section 11123.5, unless previously noticed within a 24-hour period prior to the Advisory Committee meeting, all six voting members must be present at the physical location to establish a quorum.

In the past four years, the following five meetings were cancelled due to a lack of a quorum:

- August 17, 2016
- November 16, 2016
- August 15, 2017
- November 17, 2017
- May 14, 2019

Before scheduling Advisory Committee meetings, Bureau staff polled Committee members to establish dates. Unfortunately, due to one or two Committee members canceling at the last minute (the day before the meeting was to be held), a quorum was not able to be established and the meeting had to be canceled. In some instances of canceled meetings, the Bureau tried to work with the Committee members to reschedule but was unable to obtain consensus on alternate dates. As a result, agenda items were carried over to the next quarter's scheduled meeting.

Because the Advisory Committee is advisory in nature, the Bureau's operation was not interrupted.

3. Describe any major changes to the bureau since the last Sunset Review, including, but not limited to:

- **Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)**

Since the last Sunset Review in 2015, there have been changes to the executive staff of the Bureau. At the end of 2016 the Deputy Bureau Chief retired, and the position was immediately refilled. In July 2017, the Bureau Chief retired. The Bureau Chief position was filled in October 2017. Further changes to the Bureau's personnel and operations are described below.

Office of Student Assistance and Relief

Established through Senate Bill 1192 (Hill, Chapter 593, Statutes of 2016), the Bureau's Office of Student Assistance and Relief (OSAR) was created for the purposes of advancing and promoting the rights of students of private postsecondary educational institutions and assisting students who suffer economic loss due to the unlawful activities or closure of a private college. In collaboration with state and federal agencies including the California Student Aid Commission, the California Community Colleges Chancellor's Office, the United States Department of Veterans Affairs, the United States Department of Education and the federal Consumer Financial Protection Bureau, OSAR is committed to assisting California students attending private postsecondary educational institutions.

OSAR is comprised of one Career Executive Assignment (CEA), one Staff Services Manager (SSM I), four Associate Governmental Program Analysts (AGPA), one Staff Services Analyst (SSA) and two Office Technicians (OT).

OSAR conducts outreach to current and prospective students regarding making informed postsecondary education choices, and proactively researches industry trends and enforcement actions. OSAR has also developed social media campaigns in conjunction with the DCA Office of Public Affairs. OSAR has a presence on Twitter and Facebook and has created an instructional video that explains the STRF and assists students in completing the STRF application in cases where relief is needed. The social media campaigns and the instructional video have helped increase the awareness of the Bureau and OSAR.

In 2017, OSAR initiated a targeted outreach program for former students of Corinthian Colleges to inform students who may be eligible to receive economic relief under STRF.

Attachment C provides a summary of the outreach and student services provided by OSAR.

Annual Reports Unit

The Annual Reports Unit was formed in September 2015 to review reports and associated data required to be submitted every year by institutions to the Bureau. Prior to the establishment of this unit, annual reports were reviewed by the Bureau's Administration Unit.

The Annual Reports Unit is comprised of a Staff Services Manager I (SSMI), Associate Governmental Program Analyst (AGPA), three Staff Services Analysts (SSA), and an Office Technician (OT). Annual Reports staff provide outreach and technical assistance to institutions on matters relating to annual reports and reporting requirements, monitor institutional compliance with reporting requirements, and report instances of nonsubmission to the Bureau's Enforcement Unit for action.

Annual Reports Unit staff directly support the Bureau's Compliance Inspection, Complaint Investigation, and Licensing Units by performing reviews of annual report data, financial statements, School Performance Fact Sheets, catalogs, and enrollment agreements for statutory and regulatory compliance. In fiscal year 2017-2018, the Annual Reports Unit began an effort to increase the level of customer service and outreach to institutions by providing a central point of contact by assigning institutions to specific analysts.

During the second half of fiscal year 2017-2018, the Annual Reports Unit implemented a process whereby a specific analyst reached out to 24 newly approved institutions to acclimate them to the annual reporting process, statutes, and regulations. In fiscal year 2018-2019, this number increased to 62.

The Annual Reports Unit's outreach also includes statewide School Performance Fact Sheet (SPFS) workshops, implemented in fiscal year 2016-2017 to address new annual reporting regulations. These workshops are conducted on a regular basis to assist institutions in their compliance.

In March 2018, the Annual Reports Unit converted from a manual survey method to an electronic survey method for gathering feedback regarding the SPFS workshops. This data helps the Annual

Reports Unit focus on what matters most to the institutions attending the workshops with the intent of consistently improving the workshops.

In January 2019, the Bureau partnered with DCA's Office of Information Systems in leveraging available software to create a new annual reports portal. This software enables the Annual Reports Unit to progress from quantitative reviews to qualitative reviews. The qualitative reviews assist other units within the Bureau for inspections, investigations, and license renewals. Unlike the previous portal, the new portal allows institution representatives to save data entered at any point, exit the system, and go back at any time with no loss of data. Additionally, the new system allows for a more robust back-end reporting capability and greatly reduces the window between the final due date of the annual report and the point at which the Bureau confirms which institutions did not submit the report on-time.

Quality of Education Unit

The Quality of Education Unit is comprised of four Senior Education Specialists, one Education Specialist (currently vacant), and an Education Administrator. Quality of Education Unit staff serve as subject matter experts possessing knowledge and experience in areas such as instructional systems design and development, adult learning theories, tests and measurement, faculty qualifications, and accreditation matters. Quality of Education Unit staff review the qualitative components of educational programs associated with applications for approval and renewal of approval. The Quality of Education Unit also reviews applications for changes in educational objectives, and applications for changes in method of instructional delivery.

The Quality of Education Unit also assists the Complaint Investigations Unit in the investigation of complaints where education quality is identified as a factor and assists the Compliance Inspection Unit on inspections involving institutions with complex educational programs or when potential issues are identified concerning the quality of the institution's educational programs.

Additionally, the Quality of Education Unit is responsible for the implementation of SB 1247 (Lieu, Chapter 840, Statutes of 2014) concerning degree-granting institutions required to seek accreditation. Education Specialists review institutions' submitted accreditation plans and monitor institutions' progress and efforts made toward achieving accreditation candidacy and ultimately accreditation within time limits established by law. Education Specialists coordinate with accrediting agencies in the monitoring of progress toward accreditation, serve as chairs of Visiting Committees, draft Visiting Committee Reports. They also review institutions' requests for extensions of time as provided by law, recommend administrative actions for institutions not in compliance, serve as subject matter experts at administrative hearings, and review degree closure plans submitted from institutions surrendering degree programs or whose degree programs are suspended by the Bureau for failure to meet accreditation requirements.

The Bureau is currently monitoring the progress of 108 institutions toward achieving accreditation by the July 1, 2020 deadline imposed by statute. Additionally, the Bureau has issued Provisional Approvals to 50 institutions since January 2015.

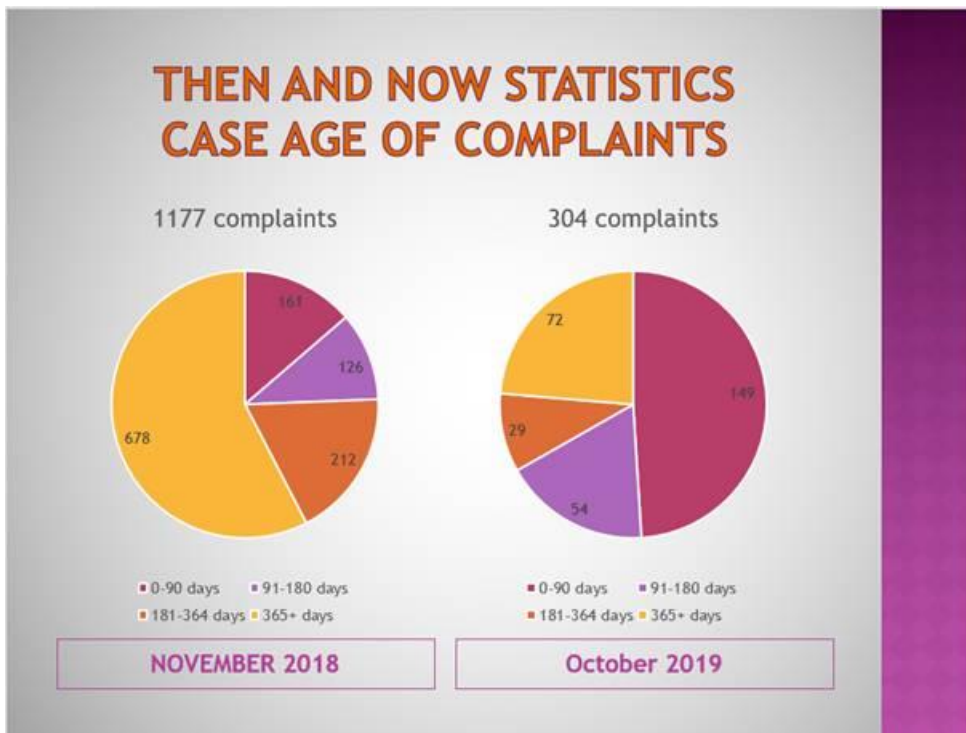
Enforcement

The Bureau has continued its efforts to improve enforcement processes. The Complaint Investigations Unit participated in the Business Process Mapping project with DCA's Strategic Organization, Leadership and Individual Development (SOLID) office to compare the existing complaint process to potential improved processes. In November 2018, the Bureau established a

dedicated Unlicensed/Unapproved Activity Unit that incorporated staff from the Licensing Unit to focus on complaints of this nature. By doing so, the Complaint Investigations Unit a was able to focus on other complaints.

In January 2019, the Bureau established an enforcement task force to tackle the rising number of complaints in the Complaint Investigations Unit. The task force made up of experienced investigators from the DCA Division of Investigations helped to create a more refined process from complaint intake through the investigation and processing of complaints to closure. With the task force in place, the Bureau was able to reduce the number of pending complaints by three-quarters. The task force also worked with management to establish processes to maintain a manageable workload for staff. Case management best practices were provided for managers and staff.

The chart below depicts the progress made toward decreasing the backlog of complaints in the Complaint Investigations Unit.



Bureau Move

The Bureau worked with the DCA Business Services Office Facilities Unit and the Department of General Services to locate a space large enough to accommodate the growth within the Bureau. The Bureau’s current location is unable to accommodate all units. The Administration, Enforcement, and Licensing units are in two suites at the Bureau’s headquarters. OSAR, the Quality of Education Unit and the Annual Reports Unit are housed at DCA headquarters. The new accommodations should be ready for the entire Bureau to move in no later than early 2020.

Strategic Plan

The Bureau's current Strategic Plan is effective for four years (2016-2020). The Bureau will begin working with the DCA's SOLID to complete a new Strategic Plan.

- **All legislation sponsored by the bureau and affecting the bureau since the last sunset review.**

The Bureau does not sponsor legislation. The following legislation may have or has had an impact on the Bureau and its operations:

2019 Legislation			
Year and Bill Number	Bill Author	Division Affected	Summary
2019 AB 1340 Ch. 519	Chiu	New Requirement	Requires the Bureau to collect loan data for all graduates and reconcile the information with wage data from the Employment Development Department (EDD). The Bureau would be required to post a Labor Market report of institutions and programs, on the Bureau website. At minimum, the report would include loan and income statistics at two and five years from graduation. The Bureau would also share data with EDD for the federal Workforce Innovation and Opportunity Act compliance.
2019 AB 1344 Ch. 520	Bauer-Kahan	Licensing Enforcement	Requires that out-of-state institutions registering with the Bureau, either at the time of registration, or within 30 days if currently registered, to notify the Bureau if specific actions are taken against the institution. Currently registered institutions will be required to submit a written statement as to why they should be allowed to continue enrolling California students. This bill allows the Bureau to take action against the institution based on consultation with the Attorney General.
2019 AB 1346 Ch. 521	Medina	Student Tuition Recovery Fund / Office of Student Assistance and Relief	Expands what is considered "economic loss" for the purposes of recovery through STRF, which would include all amounts paid directly to the institution and all amounts paid in connection with attending the institution. Additionally, it expands the students' eligibility period of the now defunct Corinthian institutions to include those who attended as far back as 2010.
2019 SB 75 Ch. 51	Senate Budget and Fiscal Review Committee	Chief	The budget trailer bill includes the creation of a public entity to begin creating a statewide longitudinal student database. This includes an advisory body which requires the inclusion of the Bureau Chief or the Chief's designee.

Previous Legislation			
Year and Bill Number	Bill Author	Division Affected	Summary of Impact on BPPE
2018 AB 1858 Ch. 697	Calderon	Enforcement	Requires that beginning January 1, 2020 each institution that participates in federal financial aid must provide prospective students with a financial aid shopping sheet based on the template published annually by the United States Department of Education. If the United States Department of Education ceases to provide a template, the California Student Aid Commission will develop a replacement in consultation with the Bureau.
2018 AB 1961 Ch. 314	Choi	Enforcement	Requires each postsecondary institution with a physical presence in California to list housing and meal plans of any institutionally operated housing.
2018 AB 2134 Ch. 387	Rubio	Licensing	Removes requirement that a barber or cosmetology externship program be approved by the BPPE and shifts it to the Board of Barbering and Cosmetology.
2018 AB 2138 Ch. 995	Chiu	Enforcement Licensing	Amended the use of criminal convictions and conduct as it can be used for denying, revoking, suspending, or placing on probation a licensee.
2018 SB 1348 Ch. 901	Pan	Annual Reports	Requires California Community Colleges and Private Postsecondary institutions overseen by the BPPE that have educational programs that offer certificates or degrees related to allied health professionals, as defined by 42 USC 295p, to include specific information regarding clinical training with the Annual Report.
2018 SB 1492 Ch. 422	Senate Business, Professions, and Economic Development Committee	Bureau-wide	This bill made technical clean up changes the agencies under the Department of Consumer Affairs, including changes to BPPE's authorizing Act. One of these technical changes included how to establish a quorum for the BPPE Advisory Committee.
2017 AB 868 Ch. 260	Berman	Licensing	Established a new and narrow exemption for certain job training institutions that meet six criteria and once exempt must continue to meet three other criteria to maintain the exemption.
2017 AB 1178 Ch. 448	Calderon	Enforcement	Requires postsecondary institutions, except for the California Community Colleges, to provide individualized letters to each current student

			summarizing the student's current debt and projected payoff costs.
2016 SB 1192 Ch. 593	Hill	Bureau-wide	<p>The sunset extension bill for the Bureau and made changes and additions including:</p> <ul style="list-style-type: none"> • Creation of an out-of-state registration system to allow California students in distance education to be eligible for STRF. • Removal of exemptions for the "good school exemption" and any schools participating in federal Title 38 veterans' financial aid. • Reduction of the period for verification of exemption to two years from an indefinite verification. • Elimination of two positions from the Bureau's advisory committee. • Granting to the Bureau the discretionary authority to extend the timelines for the accreditation requirement for degree programs. • Provision of authority for the Bureau to create an "inactive status." • Addition of requirements for disclosures regarding both voluntary and required licensure. • Changes to STRF eligibility and requirements. • Changes to the Bureau's annual fee rate and structure. • Modification of law to allow evidence from an inspection to be used as part of an enforcement action. • Creation of a reporting requirement from schools under investigation by "oversight authorities." • Increase of the fine for operating without approval from \$50,000 to \$100,000. • Creation of OSAR. • Extending of the Bureau's sunset date to January 1, 2021.

- All regulation changes approved by the bureau since the last sunset review. Include the status of each regulatory change approved by the bureau.

Bureau Regulations			
Year and File Number	Subject	Acts/Areas Affects	Summary / Status
2019 2019-1008-06 and will be Noticed October 18, 2019	Intensive English Language Programs	California Private Postsecondary Education Act of 2009/Intensive English Language Programs	The subsection provides for when a re-registration begins. To be noticed October 18, 2019
2019 2019-0206-02 Approved	Out-of-State Registration	California Private Postsecondary Education Act of 2009/Out-of-State Registration	This is the approval of the withdrawn portion of 2018-0521-02 5, CCR 71398 (c). Approved
2018 2018-0521-02 Approved/ Withdrawn	Out-of-State Registration	California Private Postsecondary Education Act of 2009/Out-of-State Registration	This was the regular rulemaking for the emergency regulations. In addition to the application form, this package included additional information for processing, appeals, re-registration, and reminders about required disclosures. Approved/Withdrawn
2018 2018-0405-02 Approved	Administrative Fines	California Private Postsecondary Education Act of 2009/ Fine for Unauthorized Activity	SB 1192 raised the maximum fine for unauthorized activity, this was a section 100 filing to adjust the regulations to match the statute. Approved
2018 2018-0215-01 Approved	Out-of-State Registration (Emergency)	California Private Postsecondary Education Act of 2009/ Out-of-State Registration	Readoption of Emergency Regulations. Approved
2017	Out-of-State	California	Readoption of Emergency Regulations.

2017-1113-02 Approved	Registration (Emergency)	Private Postsecondary Education Act of 2009/ Out-of-State Registration	Approved
2017-2017-0630-01 Approved	Student Tuition Recovery Fund	California Private Postsecondary Education Act of 2009/STRF	This package rewrote the STRF regulations to bring them into compliance with changes put in place by SB 1247 and SB 1192. It redefined economic loss, expanded the eligibility, updated the STRF application form, and added the processes for claims involving third party payers. Approved
2017-2017-0519-02 Approved	Out-of-State Registration (Emergency)	California Private Postsecondary Education Act of 2009/ Out-of-State Registration	This package was emergency regulations to create the Out-of-State Registration and Re-registration application form that was required by SB 1192. Approved
2017-2017-0221-04 Approved	Prioritization of Complaints and Compliance Investigations	California Private Postsecondary Education Act of 2009/ Enforcement	This package put in place a priority system for investigating complaints and for scheduling compliance inspections which includes factors required by statute which were added by SB 1247. Approved
2016-2016-0602-02 Approved	Uniform Reporting Requirements	California Private Postsecondary Education Act of 2009/ Annual Reports and Performance Fact Sheets	This package expanded and put into place statutory requirements for both the Annual Reports as well as the School Performance Fact Sheets. Approved

4. Describe any major studies conducted by the bureau (cf. Section 12, Attachment D).

In October 2015, the Bureau entered into a contract with California State University, Sacramento (CSUS). Under the contract, CSUS was to perform an analysis on the effectiveness of the Bureau's reporting requirements, including the School Performance Fact Sheet and to assess whether these requirements were effective at measuring the quality of a private postsecondary educational institution's education. The study resulted in a final report entitled, *"Increasing the Effectiveness of State Reporting Requirements and Student Disclosures for Private Postsecondary Institutions,"* released November 2016.

The author of the report made the following recommendations to the Bureau to improve institution reporting requirements:

- Collect student-level data from the schools and calculate key metrics which would allow the Bureau to match student-level data with that existing in other state databases.
- To provide useful context, the Bureau should publish benchmark information from similar institutions or programs alongside institutional and program data.
- Continue to make annual reports publicly available and in a format accessible to analysts
- Model financial indicator requirements after the U.S. Department of Education Integrated Postsecondary Education Data System requirements for Title IV compliance
- Require that institutions report legal, regulatory, and accreditor actions, audits and investigations.
- Collect comprehensive information on institutions' programs, such as credit hours, enrollment, tuition, and student performance
- Require disaggregated total costs borne by students.
- Gather a wider range of information on enrolled student characteristics.
- Due to the short length of most programs, do not require student retention or withdrawal rates.
- Require data about on-time graduation rates and require institutions to report why students do not finish.
- Continue the practice of requiring that institutions report licensure examination rates
- Work with the California Employment Development Department to obtain state unemployment insurance data for job placement and earnings.
- Obtain metrics on student debt levels, repayment rates and debt to earnings ratios for graduates and non-completers.
- Use an independent organization to survey students about their level of satisfaction with their program.
- Direct institutions to provide a narrative to explain substantive changes or issues not adequately captured in the metrics reported.

The report also recommended the following to improve student disclosure information:

- Include information beyond performance metrics, and provide program characteristics of importance to prospective students, such as length of program, cost to students, size of program, class size and course schedule.
- Present information about student outcomes, including job prospects and placement rates, licensure examination passage rates, graduation rates, why students do not complete programs, and former students' earnings and wages.
- Promote the use and usefulness of the School Performance Fact Sheet (SPFS) by making the information simpler and more compelling.
- Provide the information at the right time such as linking the SPFS to financial aid application and increasing connections with high schools.
- Provide options for students to reach Bureau staff with questions on selecting institutions
- Post SPFS immediately upon submission by the institution.
- Present the SPFS in multiple languages.
- Coordinate with other state higher education entities to create a single web portal for students seeking college information.
- Make the Bureau website a model of accessibility for students.

A copy of the report 'Draft Fee Audit Report: May 2016' is included in Section 12, Attachment D.

In May 2016, the Bureau received a draft Fee Audit report from Capital Accounting LLC. The auditor found that the Bureau would not be able to sustain operations in the long term due to operational costs exceeding revenue. According to the report, this is in part due to increasing regulatory requirements, fees have not been adjusted to keep up with normal inflationary pressures and institutional annual fees are inadequate to pay for the costs of compliance, inspections and enforcement.

Based on current budget projections, the Bureau has determined that another fee audit will need to be completed soon.

5. List the status of all national associations to which the bureau belongs.

The Bureau is a member of the National Association of State Administrators and Supervisors of Private Schools (NASASPS). NASASPS mission is to improve and promote effective state regulation of private postsecondary education. NASASPS provides the opportunity for state regulatory officials to collaborate and problem solve regarding issues related to private postsecondary education.

- **Does the bureau's membership include voting privileges?**

Yes, the Bureau Chief has voting privileges as a member of NASASPS.

- **List committees, workshops, working groups, task forces, etc., on which board participates.**

The former Bureau Chief was a member of the Board of Directors of NASASPS. The current Bureau Chief has also been appointed as a member of the Board of Directors. The Bureau Chief serves as the chair on the Distance Education Best Practices Committee and is a member of the NASASPS Planning Committee.

- **How many meetings did board representative(s) attend? When and where?**

Over the past four years the Bureau Chief has attended the following NASASPS meetings:

- April 25–29, 2016 Austin, Texas
- January 1–6, 2017 Lexington, Kentucky
- April 22–25, 2018 Portland, Oregon
- April 13–17, 2019 Jacksonville, Florida
- September 18–20, 2019 Minneapolis, Minnesota

- **If the bureau is using a national exam, how is the bureau involved in its development, scoring, analysis, and administration?**

The Bureau does not require any examinations for its licensees.

Section 2 Performance Measures and Customer Satisfaction Surveys

6. Provide each quarterly and annual performance measure report for the bureau as published on the DCA website

Copies of the quarterly performance measure reports are included in Section 12, Attachment E.

7. Provide results for each question in the bureau's customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

The Bureau includes a postage-paid customer satisfaction survey with every complaint closure letter and provides a website address where consumers can complete an online survey. The online survey allows the consumer to advance through the questions, only answering those they choose.

The survey's data is gathered and tabulated by the Department of Consumer Affairs. Copies of the quarterly Customer Satisfaction surveys are included in Section 12, Attachment F.

In fiscal years 2015-2016, 19 survey responses were received, and 23 survey responses were received in 2016-2017. Over 60 percent of the surveys received rated the Bureau's complaint process as either "very good" or "good." During those same years, approximately 36 percent of the surveys received indicated the consumer was not satisfied and gave a rating of "poor" or "very poor." In fiscal years 2017-2018 and 2018-2019, the Bureau received few responses to the survey (a total of eight survey responses). The Bureau does not know why a low response rate occurred in these fiscal years but will monitor this area and explore ways to improve the response rate. The Bureau is working the Department's Public Affairs Office on outreach strategies to students regarding responding to surveys to assist the Bureau in improving its customer service

Section 3 Fiscal and Staff

Fiscal Issues

8. Is the bureau's fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.

No, the Bureau's fund is not continuously appropriated.

9. Describe the bureau's current reserve level, spending, and if a statutory reserve level exists.

At the end of fiscal year 2018-2019, the Bureau had a reserve balance of 4.8 months. Pursuant to CEC section 94930(b), the reserve level shall not exceed six months. The Bureau is working with DCA to estimate future costs increases that apply across state government, which is expected to bring the Bureau closer to the statutory level.

10. Describe if/when a deficit is projected to occur and if/when fee increase, or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the bureau.

Based on the Bureau's projected revenue of \$16,771,000 and authorized expenditures of \$18,021,000 in 2019-2020, if revenue is realized and full expenditure authority is utilized, the fund would be insolvent in 2021-2022. Historically, the Bureau reverts a sizeable amount of its appropriation which has delayed fee increases, however with a planned facility relocation and IT project, the Bureau may utilize all its expenditure authority in upcoming years. The Bureau may be able to delay a fee increase beyond 2021-2022, however that determination cannot be made at the time this report is being prepared.

Table 2. Fund Condition (Bureau of Private Postsecondary Education)*					
(Dollars in Thousands)					
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Beginning Balance*	9,517	7,014	8,578	8,164	7,857
Revenues and Transfers	10,034	^11,991	14,881	15,171	16,771
Total Revenue	19,551	19,005	23,459	23,335	24,628
Budget Authority**	15,515	15,435	17,378	16,389	18,022
Expenditures***	12,647	12,403	14,177	16,389	18,022
Loans to General Fund	0	0	0	0	0
Accrued Interest, Loans to General Fund	0	0	0	0	0
Loans Repaid from General Fund	0	3,000	0	0	0
Fund Balance	6,884	8,578	8,164	7,857	5,102
Months in Reserve	6.2	6.7	6.3	4.8	3.1
*Includes prior year adjustments.					
**Expenditures do not include scheduled reimbursements.					
***Includes direct draws for FISCAL, Statewide Pro Rata, and Supplemental Pension Payments.					
Fiscal Year 2017-2018 & 2018-2019 budget information reflects the latest available estimates pending completion of the year-end financial reports for this department and/or fund(s).					
^Includes accrued interest for fiscal year 2016-2017.					

11. Describe the history of general fund loans. When were the loans made? When have payments been made to the bureau? Has interest been paid? What is the remaining balance?

In fiscal year 2011-2012, a loan in the amount of \$3.0 million was made to the general fund. The loan was repaid during fiscal year 2016-2017. A total of \$55,000.00 was paid in interest on the loan. The loan was paid in its entirety. There is no remaining balance.

12. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the bureau in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

Table 3. Expenditures by Program Component								
(Dollars in Thousands)								
	FY 2015-16		FY 2016-17		FY 2017-18		FY 2018-19**	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	3,726	1,733	4,247	1,270	4,380	1,571	5,059	1,568
Examination	0	0	0	0	0	0	0	0
Licensing	3,251	637	2,831	298	2,644	572	3,054	438
Administration*	1,151	202	1,288	124	1,840	375	2,141	409
DCA Pro Rata	0	1,947	0	2,346	0	2,795	0	3,204
Diversion (if applicable)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TOTALS	8,128	4,519	8,366	4,038	8,864	5,313	10,254	5,619

*Administration includes STRF/OSAR
 **Fiscal Year 2018-19 budget information reflects the latest available estimates pending completion of the year-end financial reports for this department and/or fund(s)

13. Describe the amount the bureau has contributed to the BreEZe program. What are the anticipated BreEZe costs the bureau has received from DCA?

The Bureau was slated to be a part of “Release 3” of BreEZe for DCA boards and bureaus. Through fiscal year 2017-2018, the Bureau was assessed \$9,970.00 for the implementation of BreEZe. As of fiscal year, 2018-2019, the Bureau is no longer being assessed any costs related to BreEZe.

14. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the bureau.

An Approval to Operate for Non-Accredited institutions is valid for a period of five years. The term of an Approval to Operate by Means of Accreditation is coterminous with the term of the accreditation.

The fees charged by the Bureau are established in Article 17 of the Private Postsecondary Education Act of 2009, California Education Code Section 94930.5 Fee Schedule:

SCHEDULE	FEE
(A)(1) Application fee for an approval to operate	\$5,000
(A)(2) Application fee for the approval to operate a new branch of the institution	\$3,000

(A)(3) Application fee for an approval to operate by means of accreditation	\$750
(B)(1) Renewal fee for the main campus of the institution	\$3,500
(B)(2) Renewal fee for a branch of the institution	\$3,000
(B)(3) Renewal fee for an institution that is approved to operate by means of accreditation: five hundred dollars	\$500
(C)(1) Processing fee for authorization of a substantive change to an approval to operate	\$500
(C)(2) Processing fee in connection with a substantive change to an approval to operate by means of accreditation	\$250
(D)(1)(A) An annual fee for each campus designated by the institution as a main campus location in California, in an amount equal to 0.45 percent of the campus' total gross revenue derived from students in California	Not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000).
(D)(1)(B) An annual campus fee for each branch of the institution in an amount equal to 0.45 percent of the branch's total gross revenue derived from students in California	Not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000).
(D)(2) The amount of the annual fees pursuant to paragraph (1)	Shall be proportional to the Bureau's cost of regulating institutions under this chapter but shall not exceed seven hundred fifty thousand dollars (\$750,000) for any institution.
(E)(1) An out-of-state institution registration fee	\$1,500
(E)(2) A request for inactive status fee	\$500
(G) Notwithstanding subdivision (d), effective July 1, 2018, the annual fee for each campus described in subparagraphs (A) and (B) of paragraph (1) of subdivision (d)	Shall be in an amount equal to 0.55 percent of that campus' total gross revenue derived from students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000) for each campus.

CEC Section 94931 establishes the fees for delinquent payment.

94931. Late Payment

(a) A fee that is not paid on or before the 30th calendar day after the due date for the payment of the fee shall be subject to a 25 percent late payment penalty fee.

(b) A fee that is not paid on or before the 90th calendar day after the due date for payment of the fee shall be subject to a 35 percent late payment penalty fee.

Added by Stats. 2009, Ch. 310, §6. (AB 48).

California Education Code section 94931.5 authorizes the Bureau to propose changes to the fees currently assessed.

94931.5. Proposed Modifications to Fees, Publishing Fee Schedule

(a) The Bureau may propose modifications to the fee schedule in Section 94930.5 to the Governor and the Legislature to add or delete categories of fees related to work performed by the Bureau and propose to the Governor and the Legislature the maximum amount to be charged for each fee category added to the fee schedule. The fee schedule shall provide adequate resources for the Bureau to effectively implement this chapter.

(b) The Bureau shall annually publish a schedule of the current fees to be charged pursuant to this article and shall make this schedule available to the public.

Added by Stats. 2009, Ch. 310, §6. (AB 48)

Table 4. Fee Schedule and Revenue							
(Revenue Dollars in Thousands)							
Fee	Current Fee Amount	Statutory Limit	FY 2015-16 Revenue	FY 2016-17 Revenue	FY 2017-18 Revenue	FY 2018-19 Revenue	*% of Total Revenue
New Institution	\$5000	\$5000	\$255.5	\$550	\$303.5	\$350	2.4%
New Branch-Non-Accredited	\$3000	\$3000	\$38	\$33	\$24.3	\$30	.21%
New Branch Accredited	\$750	\$750	\$53.3	\$49	\$31	\$31	.21%
Verification of Exemption	\$250	\$250	\$53.8	\$51.3	\$46.3	\$104.1	.72%
Change in Educational Objectives	\$500	\$500	\$25.3	\$22	\$39	\$21	.15%
Minor Change	\$500	\$500	\$19.5	\$25	\$25	\$14	.10%
Change in Location	\$500	\$500	\$21.3	\$12	\$11.3	\$9	.06%
Change of Name	\$500	\$500	\$8	\$9.8	\$12.5	\$7.5	.05%
Change in Approval -Accreditation	\$250	\$250	\$58	\$49.5	\$47.8	\$43.8	.30%
Change in Method	\$500	\$500	\$6.5	\$5.8	\$23	\$12	.08%
Renewal – Main Campus	\$3500	\$3500	\$127.5	\$234.5	\$173.5	\$119	.82%
Renewal – Branch	\$3000	\$3000	\$23	\$3	\$60	\$0	0
Renewal – Accredited	\$500	\$500	\$29.2	\$36.5	\$44	\$49.5	.34%
Annual Fee – Institution	Up to \$60,000	Up to \$60,000	\$8,050.1	\$8,431.7	\$8724.8	\$9,062	62.8%
Annual Fee Branch	Up to \$60,000	Up to \$60,000	\$453	\$1,689.4	\$4,513.3	\$4,420.1	30.6%
State Authorization Contract	\$1076	\$1076	\$125.9	\$126.9	\$131.3	\$130.2	.90%

Out-of-State Registration	\$1,500	\$1,500	N/A	\$48	\$55.5	\$27	.19%
*Percent of total revenue is based on 2018/19 total License fees.							

15. Describe Budget Change Proposals (BCPs) submitted by the bureau in the past four fiscal years.

Table 5. Budget Change Proposals (BCPs)								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Amount Requested	\$ Amount Approved	\$ Amount Requested	\$ Amount Approved
1111-046-BCP-2017-GB	2017/18	Budget and Staff Augment Implement Senate Bill 1192	1.0 CEA, A, 1.0 Research Program Specialist I, 1.0 Associate Information Systems Analyst, 3.0 Associate Governmental Program Analysts, 3.0 Staff Services Analysts, 1.0 Office Technician, Typing	1.0 CEA, A, 1.0 Research Program Specialist I, 1.0 Associate Information Systems Analyst, 3.0 Associate Governmental Program Analysts, 3.0 Staff Services Analysts, 1.0 Office Technician, Typing	\$1,008,000 (Fiscal Year 2017/18) \$928,000 annually	1.0 M	1.0 M	1.0 M

Staffing Issues

16. Describe any board staffing issues/challenges (i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.)

The Bureau has experienced staffing challenges since it was reestablished in 2010. After being reestablished, there was no appropriation to hire staff. Staff were loaned or provided to the Bureau from various boards and bureaus within DCA. Eventually the Bureau was able to hire new staff in October 2010.

Since Fiscal Year 2015/16 the Bureau staffing numbers have increased. The Bureau currently has 106 authorized positions, as compared to the five people that began working when the Bureau was established in 2010.

In Fiscal Year 2015/16, the Bureau was granted 17 permanent full-time positions in the Enforcement Units. The Bureau also received 10 positions to support the passage of SB 1247.

In 2016 DCA disbanded the Complaint Resolution Program, a centralized DCA service that processed a portion of complaints for the Bureau. When the Complaint Resolution Program was disbanded, the Bureau received two staff members to continue to process complaints. The employees the Bureau received from the Complaint Resolution Program continue to work in the Complaint and Investigations Unit.

In 2018 the Bureau's Enforcement Program was reorganized. The Bureau identified the need for a specialized enforcement unit to be headed by a Supervising Special Investigator II and consisting of a Special Investigator I to manage five Special Investigators. This unit was formed in 2019 and is responsible for conducting the more complex investigations.

The Bureau has also struggled with recruitment and hiring new staff. The vetting of applications and interviewing within the civil service process can be lengthy. The Bureau submits applications for approval to hire an employee to the DCA Office of Human Resources. Occasionally, by the time the Bureau has received approval from the DCA Office of Human Resources to make an offer of employment, the candidate has accepted a position elsewhere. Rarely, after vetting applications and interviewing candidates, the Bureau is informed by the DCA Office of Human Resources that a candidate is not eligible to be hired, which might result in the hiring process starting over. These challenges are not unique to the Bureau, but they do present challenges for the Bureau's important enforcement and licensing functions. The Bureau is working with DCA's Office of Human Resources to improve recruitment and hiring efforts.

17. Describe the bureau's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment F).

Staff development is crucial to the success of the Bureau. Upon hiring, all new staff members are provided with a training plan, created specifically for that employee and the classification and unit in which the employee will work. The training indicated in the plan, in conjunction with the manager, is to be completed, if practical, within the employee's probationary period. Probationary periods are from six months to one year, depending on classification.

The Bureau also conducts "All Staff" trainings one or two times a year. The "All Staff" trainings are designed to present information and materials that affect the entire Bureau. Subjects include: statute and regulations updates, how to access and navigate the Schools Automated Information Link Database, and discussions of what the Bureau does and how each unit of the Bureau is dependent upon the other. The training has also included guest speakers from Business, Consumer Services and Housing Agency, the Governor's Office, California Association of Private Postsecondary Schools, and DCA.

Staff are also encouraged to take advantage of DCA's Strategic Organization, Leadership and Individual Development (SOLID) training services. The training offered through SOLID is included in the pro-rata training costs with DCA. SOLID offers an Analyst Certification Training, a Leadership Academy, and an Enforcement Academy. Personal development courses such as communication, time management and project management are also offered.

In addition to utilizing the DCA training option, the Bureau contracts with outside vendors. Over the past four fiscal years the Bureau has averaged approximately \$3,000.00 in training costs.

The Bureau has also contracted with the Office of the Attorney General to provide training to staff. Training offered by the Attorney General includes:

- Report Writing
- Investigative Techniques
- Interviewing Witness Techniques
- Courtroom Testifying
- Grounds for Discipline

Enforcement staff, including analysts, investigators and inspectors also attend courses offered by:

- Council on Licensure, Enforcement and Regulation training. The training focuses on professional conduct, principles of administrative law and regulatory processes, and investigative techniques, including the collection of evidence.
- Los Rios Community College District.
 - Regulatory Investigations
- Department of Consumer Affairs Division of Investigations
 - Best Practices
 - Report Writing
 - Case Management

Each unit within the Bureau offers training specific to the job requirements. Units hold regular monthly staff meetings and managers conduct one-on-one meetings with staff.

Probationary reports and individual development plans are also used for staff development. These tools allow managers and staff to discuss and set goals and identify ways to achieve them.

Section 4 Licensing Program

18. What are the bureau’s performance targets/expectations for its licensing¹ program? Is the bureau meeting those expectations? If not, what is the bureau doing to improve performance?

The Bureau’s performance target is to have all complete and compliant applications reviewed and approved within 30 days of the application being deemed compliant by the Bureau. The Bureau is currently meeting this performance measure.

5 CCR section 71400(b) requires the Bureau to notify an institution applying for approval to operate as a non-accredited institution within 30 days of receipt of the application whether or not the application is complete. The Bureau is currently meeting this performance target.

As of October 31, 2015, there were approximately 140 applications pending assignment. These were applications that had been received but not yet assigned to an analyst. In order to address this issue, in late 2014, the Bureau began instituting significant internal changes in policy and process, such as limiting the number of application reviews conducted by staff to only two reviews before the application moves forward with the next step in the process, rather than conducting an unlimited number of reviews of subsequent materials submitted by the applicant, which could span months as the applicant tried to come into compliance. The Bureau also began conducting an initial review of renewal applications to determine eligibility pursuant to 5, CCR section 71475(kk), prior to reviewing the application for compliance. This ensured staff were reviewing complete renewal applications that were eligible for renewal rather than spending additional time on requesting missing documents from the applicant. By July 2018, the issue was eliminated.

¹ The term “license” in this document includes a license certificate or registration.

19. Describe any increase or decrease in the bureau's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the bureau to address them? What are the performance barriers and what improvement plans are in place? What has the bureau done and what is the bureau going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?

The average processing time for approval to operate non-accredited institutions applications decreased by 34 percent from Fiscal Year 2015/16 to Fiscal Year 2018/19 and continues to decrease. Average processing times for renewal applications and substantive change applications have also declined by 37.5 percent since Fiscal Year 2015/16.

Total pending applications have decreased by 38 percent since Fiscal Year 2015/16 while the number of approved applications has remained relatively consistent.

The Bureau's workshops on how to complete the approval to operate a non-accredited institution application continue to greatly assist applicants with submitting a complete application and contribute to declining processing times. The Bureau is continuing to implement new strategies on its outreach to applicants in order to provide more information on processes and licensing requirements. For example, the Bureau recently updated its application intake letters to inform applicants of each step of the licensure process. The Bureau is also currently developing a web tutorial to provide applicants with tips on how to ensure the submission of a complete application and how to avoid common mistakes.

In March 2018, the Licensing Unit completed a business process mapping as part of the BPPE Business Modernization project and were able to identify ways to improve process efficiency through an IT solution.

20. How many licenses or registrations does the bureau issue each year? How many renewals does the bureau issue each year?

As reflected in Table 7a the Bureau issues on average approximately 122 new institutional approvals each year. The Bureau also issues on average 133 renewals, 158 verifications of exemption, and 38 out-of-state institutional registrations each year.

21. How many licenses or registrations has the bureau denied over the past four years based on criminal history that is determined to be substantially related to the qualifications, functions, or duties of the profession, pursuant to BPC § 480? Please provide a breakdown of each instance of denial and the acts the bureau determined were substantially related.

The Bureau does not track license and registration denials resulting from criminal history that is determined to be substantially related to the qualifications, functions, or duties of the profession, pursuant to BPC § 480. The Bureau does not have the statutory authority to require applicants to be fingerprinted therefore we do not receive reports of any prior criminal history. All criminal history information provided on applications is self-reported. The Bureau recently began tracking these types of license and registration denials.

Although the Bureau is under the umbrella of the Department of Consumer Affairs, it is not regulated by the Business and Professions Code. The Bureau’s authorizing act is in the California Education Code. Business and Professions Code section 480 specifically states “[a] board may deny a license regulated by this **code**...” (emphasis added) which refers to the Business and Professions Code. The Bureau was specifically exempted from this section pursuant to AB 2138 (Chiu, Chapter 995, Statutes of 2018). Furthermore, the Bureau’s predecessor agency, the Bureau for Private Postsecondary and Vocational Education, had in its authorizing act a specific provision for that entity to use Business and Professions Code section 480 as appropriate. The Bureau’s current act contains no such provision.

Table 6. Licensee Population						
		Fiscal Year 2015/16	Fiscal Year 2016/17	Fiscal Year 2017/18	Fiscal Year 2018/19	Fiscal Year 2019/20
Approved Main Locations	Active	1,137	1,111	1,069	1,043	1043
Approved Branch Locations	Active	407	408	400	385	383
Approved Satellite	Active	423	190	496	522	533
Out-of-State Registration	Active	N/A	0	64	73	67

Note: 'Out-of-State' and 'Out of Country' are two mutually exclusive categories. A licensee should not be counted in both.

Table 7a. Licensing Data by Type											
Application Type		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of	Outside Board control	Within Board control	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2015/16	Initial Approval to Operate a Non-Accredited Institution	52	95	61	95	113	N/A	113	N/A	N/A	750 ^a
	Initial Approval to Operate an Accredited Institution	74	62	18	62	23	N/A	23	N/A	N/A	110
	Verification of Exemption	211	123	96	123	17	N/A	17	N/A	N/A	36
	Out of State Registration	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Renewals	85	136	64	136	160	N/A	160	N/A	N/A	594
	Substantive Changes	422	402	87	402	110	N/A	110	N/A	N/A	99
FY 2016/17	Initial Approval to Operate a Non-Accredited Institution	112	64	37	64	113	N/A	113	N/A	N/A	621 ^a
	Initial Approval to Operate an Accredited Institution	68	63	13	63	16	N/A	16	N/A	N/A	120
	Verification of Exemption	208	127	96	127	18	N/A	18	N/A	N/A	33

6	Out of State Registration	25	1	0	1	24	N/A	24	N/A	N/A	15
/											
2	Renewals	134	103	64	103	115	N/A	115	N/A	N/A	661
0											
1	Substantive Changes	358	325	67	325	75	N/A	75	N/A	N/A	67
7											
F	Initial Approval to Operate a Non-Accredited Institution	69	65	44	65	96	N/A	96	N/A	N/A	548 ^a
Y											
2	Initial Approval to Operate an Accredited Institution	46	38	14	38	9	N/A	9	N/A	N/A	103
0											
1	Verification of Exemption	191	128	67	128	12	N/A	12	N/A	N/A	31
7											
/	Out of State Registration	46	60	9	60	3	N/A	3	N/A	N/A	103
2											
0	Renewals	136	141	54	141	101	N/A	101	N/A	N/A	539
1											
8	Substantive Changes	400	326	58	326	60	N/A	60	N/A	N/A	63
F	Initial Approval to Operate a Non-Accredited Institution	71	75	29	75	66	N/A	66	N/A	N/A	492 ^a
Y											
2	Initial Approval to Operate an Accredited Institution	46	27	11	27	11	N/A	11	N/A	N/A	154
0											
1	Verification of Exemption	402	254	136	254	49	N/A	49	N/A	N/A	38
8											
/	Out of State Registration	16	16	1	16	6	N/A	6	N/A	N/A	50
2											
0	Renewals	131	153	23	153	74	N/A	74	N/A	N/A	375
1											
9	Substantive Changes	304	270	40	270	57	N/A	57	N/A	N/A	58
F	Initial Approval to Operate a Non-Accredited Institution	7	8	0	8	127	N/A	127	N/A	N/A	201
Y											
2	Initial Approval to Operate an Accredited Institution	8	9	1	9	18	N/A	18	N/A	N/A	97
0											
1	Verification of Exemption	50	38	27	38	83	N/A	83	N/A	N/A	45
9											
/	Out of State Registration	10	14	0	14	5	N/A	5	N/A	N/A	27
2											
0	Renewals	15	19	5	19	136	N/A	136	N/A	N/A	247
2											
0	Substantive Changes	72	51	6	51	139	N/A	139	N/A	N/A	75

^aCycle time includes incomplete applications received but were completed by the applicant within one year of receipt and processed accordingly. Per California Code of Regulations section 71401, applications that are not completed within one year of receipt of the application are deemed abandoned.

Note: "Closed" includes Withdrawn, Abandoned, and Denied Applications. Cycle times were calculated from the date the application was received by the Bureau to the date it was approved.

Table 7b. Total Licensing Data					
	Fiscal Year 2015/16	Fiscal Year 2016/17	Fiscal Year 2017/18	Fiscal Year 2018/19	Fiscal Year 2019/20
Initial Licensing Data					
Initial License/Initial Exam Applications Received	126	205	161	133	25
Initial License/Initial Exam Applications Approved	157	128	163	118	31
Initial License/Initial Exam Applications Closed	79	50	67	41	0
License Issued	157	128	163	118	31
Initial License/Initial Exam Pending Application Data					
Pending Applications (total at close of Fiscal Year)	136	153	108	83	N/A
Pending Applications (outside of board control) *	N/A	N/A	N/A	N/A	N/A
Pending Applications (within the board control) *	136	153	108	83	150
Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE)					
Average Days to Application Approval (All - Complete/Incomplete)	439	366	264	295	113
Average Days to Application Approval (incomplete applications) *	N/A	N/A	N/A	N/A	N/A
Average Days to Application Approval (complete applications) *	N/A	N/A	N/A	N/A	N/A
License Renewal Data					
License Renewed	136	103	141	153	19
Substantive Changes Approved	402	325	326	270	51
Note: The values in Table 7b are the aggregates of values contained in Table 7a. Initial License/Initial Exam Applications include Initial Approval to Operate a Non-Accredited Institution, Initial Approval to Operate an Accredited Institution, and out-of-state registration.					

22. How does the bureau verify information provided by the applicant?

The Bureau requires the applicant to provide documentation for each section of the application. Additional documentation is requested from the applicant when necessary. An analysis of the documents is performed to verify compliance with the minimum operating standards. In addition to internet searches, analysts independently verify the validity of the information contained in the application when there is uncertainty.

- a. What process does the bureau use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant? Has the bureau denied any licenses over the last four years based on the applicant's failure to disclose information on the application, including failure to self-disclose criminal history? If so, how many times and for what types of crimes (please be specific)?**

For all new applicants, the Bureau searches its internal database for all listed owners to determine prior ownerships and disciplinary actions. All applications are reviewed to ensure that the financial data was overseen by a Certified Public Accountant. Bureau staff conducts additional research into the background of owners via Lexis Nexis, if necessary. Owners must also disclose under penalty of perjury any information that would fall under 5 CCR section 71130 (b) and (d). The Bureau has not denied any licenses over the last four years based on the applicant's failure to disclose criminal history information or other disciplinary actions on the application. The Bureau

does not have the authority to fingerprint applicants therefore it is difficult to obtain criminal history information about the applicant.

b. Does the bureau fingerprint all applicants?

The Bureau does not have authority to fingerprint applicants. The Bureau approves applicants who can be either a natural person or a business organization, irrespective of its form, pursuant to CEC sections 94816 and 94855.

c. Have all current licensees been fingerprinted? If not, explain.

This is not applicable as the Bureau does not have the authority to fingerprint its applicants or licensees.

The Bureau approves applicants who can be either a natural person or a business organization, irrespective of its form, pursuant to California Education Code sections 94816 and 94855.

d. Is there a national databank relating to disciplinary actions? Does the bureau check the national databank prior to issuing a license? Renewing a license?

There is no national databank relating to disciplinary actions for institutions or owners. However, the Bureau conducts an internet search to determine if the institution is/was operating in any other state(s). If the institution is found to have operated, or is operating, in another state and there are questions about the validity of any information included with the application, the Bureau contacts the other state(s) to determine if any actions were taken. If the institution is accredited, the Bureau conducts a search on the accreditor's website for disciplinary actions. Additionally, accreditors send the Bureau notifications regarding disciplinary actions taken against schools and changes to a school's accreditation status.

e. Does the bureau require primary source documentation?

No, the Bureau does not require primary source documentation.

23. Describe the bureau's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.

An Out-of-State Private Postsecondary Educational Institution, as defined in California Education Code section 94850.5 is required to register with the Bureau. The institution shall provide evidence of accreditation, evidence of approval to operate in the state where the main administrative location is located, the agent for service of process in California, the institution's catalog and sample enrollment agreement, and the institution shall comply with the requirements of STRF. Registration is valid for two years. The Bureau does not license or register out-of-country applicants.

24. Describe the bureau’s process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.

a. Does the bureau identify or track applicants who are veterans? If not, when does the bureau expect to be compliant with BPC § 114.5?

The Bureau developed an optional form to allow applicants who are sole proprietors or individuals to provide information regarding their military status. In addition, the Bureau is in the process of updating its applications to incorporate this requirement.

b. How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the bureau?

Not Applicable. There are no experience or education requirements for an institution to be approved.

c. What regulatory changes has the bureau made to bring it into conformance with BPC § 35?

Not Applicable. There are no experience or education requirements for an institution to be approved.

d. How many licensees has the bureau waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on board revenues?

Not Applicable.

e. How many applications has the bureau expedited pursuant to BPC § 115.5?

Not Applicable.

25. Does the bureau send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

Not Applicable. The Bureau does not have the authority to fingerprint applicants; therefore “No Longer Interested Notifications” are not necessary.

Examinations

26. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English?

The Bureau does not require an examination for licensure and there is no California-specific examination. There is no national examination.

27. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data) Are pass rates collected for examinations offered in a language other than English?

Not Applicable. There is no examination for institution licensure.

28. Is the bureau using computer-based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?

Not Applicable. There is no examination for institution licensure.

29. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

Within existing statutes which are specific to the Bureau, there are none which hinder the processing of applications. There is no examination required for licensure of an institution.

School approvals

30. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the bureau work with BPPE in the school approval process?

As the Bureau is BPPE, the Bureau licenses and regulates private postsecondary educational institutions, defined under CEC §94858 as a private entity with a physical presence in California that offers postsecondary education to the public for an institutional charge. Unless exempt as outlined in Article 4 of the Act (commencing with CEC §94874), an institution is prohibited from operating without Bureau approval (CEC §94886). Private postsecondary educational institutions may seek approval from the Bureau by submitting an approval to operate application. The Bureau reviews these applications to determine compliance with the California Private Postsecondary Education Act of 2009 and the California Code of Regulations, Division 7.5. Approved institutions must submit renewal applications in accordance with CEC §94893 and 5 CCR §§ 71475 and 71480. Substantive changes that fall under CEC §94894 must be approved by the Bureau. Approved institutions must also notify the Bureau of non-substantive changes per 5 CCR §71660. The Bureau has limited oversight of institutions that are exempt, pursuant to CEC §94874, and out-of-state institutions offering distance education to California students. Institutions may submit a verification of exempt status application to the Bureau to verify whether the institution meets one of the exemptions under CEC §94874. Institutions that meet the definition of an out-of-state private postsecondary educational institution per CEC §94850.5 must register with the Bureau by submitting an Application for Registration or Re-registration of Out-of-State Institutions, which are reviewed to determine compliance with CEC §94801.5.

31. How many schools are approved by the bureau? How often are approved schools reviewed? Can the bureau remove its approval of a school?

As of June 30, 2019, the Bureau has 1,043 approved institutional locations throughout California, comprised of 1,043 main campus locations, 385 branch locations, and 522 satellite locations.

The Bureau approves institutions in two different ways: approval by means of accreditation and approval of a non-accredited institution. Institutions approved as non-accredited must renew their approval with the Bureau to operate every five years. The application to renew an approval to operate must be reviewed for compliance with the statutes and regulations.

Institutions that are approved by means of their accreditation must renew their approval to operate in conjunction with their reaccreditation.

If, after an investigation by the Bureau, the Bureau determines the institution is not operating in compliance with the law, the Bureau may take disciplinary action against the institution, which may result in a revocation of the approval to operate.

32. What are the bureau's legal requirements regarding approval of international schools?

International schools are subject to the same requirements of all schools the Bureau approves to operate. The Bureau does not differentiate between domestic and international schools. If an international school offering private postsecondary education has a physical presence in California, the institution must comply with the California Education Code and associated regulations, and obtain and maintain an approval to operate, unless the institution meets one of the exemptions. Pursuant to California Education Code 94858, a private postsecondary educational institution is defined as a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge.

Continuing Education/Competency Requirements

33. Describe the bureau's continuing education/competency requirements, if any. Describe any changes made by the bureau since the last review.

Not applicable. There is no continuing education requirement for institutions approved by the Bureau, thus items 33(a) through 33(i) are not applicable.

a. How does the bureau verify CE or other competency requirements? Has the bureau worked with the Department to receive primary source verification of CE completion through the Department's cloud?

Not applicable.

b. Does the bureau conduct CE audits of licensees? Describe the bureau's policy on CE audits.

Not applicable.

c. What are consequences for failing a CE audit?

Not applicable.

d. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?

Not applicable.

e. What is the bureau's course approval policy?

Not applicable.

f. Who approves CE providers? Who approves CE courses? If the bureau approves them, what is the bureau application review process?

Not applicable.

g. How many applications for CE providers and CE courses were received? How many were approved?

Not applicable.

h. Does the bureau audit CE providers? If so, describe the bureau's policy and process.

Not applicable.

i. Describe the bureau's effort, if any, to review its CE policy for purpose of moving toward performance-based assessments of the licensee's continuing competence.

Not applicable.

Section 5 Enforcement Program

34. What are the bureau's performance targets/expectations for its enforcement program? Is the bureau meeting those expectations? If not, what is the bureau doing to improve performance?

The Bureau receives complaints filed online, via telephone and in writing. Complaints are prioritized based on the established prioritization methodology. California Education Code section 94941 provides guidance for establishing complaint prioritization. Prior to 2016, fewer complex complaints were handled by the DCA Complaint Resolution Program and Bureau enforcement analysts. When the Complaint Resolution Program was disbanded in 2016, its workload and one analyst were transferred to the Bureau. More complex cases are assigned to field analysts for processing.

The Bureau's performance measures for enforcement activities are based on the performance targets and expectations established by the Department of Consumer Affairs Consumer Protection Enforcement Initiative for fiscal years 2015-16 to current, as follows:

Performance Measure	Target Average (In Days)	Actual Average (In Days)
Intake Cycle Time	10	3
Investigation Cycle Time	180	517
Formal Discipline Cycle Time	540	524
Probation Intake Cycle Time	15	4

A copy of the Bureau's Quarterly Performance Measures is included in Attachment E.

In 2019, in order to improve the Enforcement Unit's overall performance, the Bureau implemented the following process improvements:

- Hired an Enforcement Chief and a Supervising Special Investigator I.
- Hired five Special Investigators.
- Implemented a new report template.
- Ceased peer reviews which slowed down the process and offered limited value.
- Implemented a new closure memo to streamline closures.
- Established a new criterion for intake and implemented a new intake process.
- Hired an intake analyst.
- Established an intake queue for non-urgent cases.
- Hired a dedicated Compliance Citation Analyst.
- Dedicated training for managers by DOI.
- Managers conduct regular case reviews with analysts.
- Enforcement Chief and DOI have worked together to implement new processes.
- AG provided training on Grounds for Discipline.
- Improved the inspection process.
- Increased collaboration with other Boards.

As a result of the above process improvements, the Bureau has made significant progress and achieved the following:

- 244 pending complaints (down from 1200+).
- Cases over 365 days are 22 percent of caseload (down from 55 percent).
- 15-25 average caseloads (down from 50-77).
- Increased completed inspections by 43% from the 2017/2018 fiscal year.
- Increased use of Emergency Decision authority by 500 percent from the 2017/2018 fiscal year.
- Increased use of citation and fine authority by 80 percent from the previous 2017/2018 year.

The Bureau continues to work toward improving its performance to increase consumer protection.

35. Explain trends in enforcement data and the bureau's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the bureau done and what is the bureau going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

The number of complaints the Bureau receives fluctuates. When there are school closures, the

number of incoming complaints increases. Over the past four fiscal years, the Bureau has experienced numerous school closures, including large institutions such as Education Corporation of America (ECA) (Brightwood), Dream Center (Argosy), Corinthian Colleges, ITT Technical Institute, and Marinello School of Beauty.

In 2018 and 2019, the Bureau enlisted the help of DCA’s DOI to help reduce the number of complaints pending investigation. For six months, DOI helped the Bureau establish best practices, and trained managers and staff on case review and monitoring of workload, the Bureau also implemented a Special Investigations Unit to investigate and process the more complex complaints.

The Bureau also conducts compliance workshops for approved institutions. The workshops are designed to help institutions understand and maintain compliance with the Act and associated regulations. The workshops help to prepare institutions for mandatory compliance inspections.

The number of compliance inspections conducted by the Bureau has also increased over the past four fiscal years. Process improvements have been made to the inspection process to increase the efficiency and accuracy of the inspections. Increasing the frequency of compliance inspections is one of the areas where the Bureau plans to prioritize in the next year. The Bureau is ensuring that staff has the tools and resources necessary to conduct thorough and timely investigations. The chart below reflects the Bureau’s enforcement activities.

Table 9a. Enforcement Statistics				
	Fiscal Year 2015/16	Fiscal Year 2016/17	Fiscal Year 2017/18	Fiscal Year 2018/19
COMPLAINT				
Intake				
Received	962	812	707	877
Closed	132	132	101	192
Referred to INV	830	680	606	684
Average Time to Close	3	1.4	2	5
Pending (close of Fiscal Year)	0	0	0	1
Source of Complaint^	N/A	N/A	N/A	N/A
Public	N/A	N/A	N/A	N/A
Licensee/Professional Groups	N/A	N/A	N/A	N/A
Governmental Agencies	N/A	N/A	N/A	N/A
Other	N/A	N/A	N/A	N/A
Conviction / Arrest	0	0	0	0
CONV Received	0	0	0	0
CONV Closed	0	0	0	0
Average Time to Close	N/A	N/A	N/A	N/A
CONV Pending (close of Fiscal Year)				
LICENSE DENIAL				
License Applications Denied	81	65	48	25
SOIs Filed	29	36	32	16
SOIs Withdrawn	24	39	22	11
SOIs Dismissed	0	0	0	0
SOIs Declined	0	0	0	0

Average Days SOI	613	186	246	266
ACCUSATION				
Accusations Filed	8	9	3	12
Accusations Withdrawn	2	2	2	5
Accusations Dismissed	0	0	0	0
Accusations Declined	0	1	0	2
Average Days Accusations	1023	630	831	782
Pending (close of Fiscal Year)	14	13	11	15
DISCIPLINE				
Disciplinary Actions				
Proposed/Default Decisions	8	10	13	9
Stipulations	2	4	5	4
Average Days to Complete	818	1080	759	794
AG Cases Initiated	71	47	27	33
AG Cases Pending (close of Fiscal Year)	72	62	41	39
Disciplinary Outcomes				
Revocation	3	4	3	1
Voluntary Surrender	2	3	2	4
Suspension	0	0	0	0
Probation with Suspension ¹	0	0	0	0
Probation ²	0	1	0	2
Probationary License Issued	N/A	N/A	N/A	N/A
Conditional Approval ^{^^}	0	0	1	0
PROBATION				
New Probationers	1	1	0	2
Probations Successfully Completed	0	0	0	0
Probationers (close of Fiscal Year)	1	2	1	4
Petitions to Revoke Probation	0	0	0	1
Probations Revoked	0	0	0	0
Probations Modified	0	0	0	0
Probations Extended	0	0	0	0
Probationers Subject to Drug Testing				
Drug Tests Ordered	N/A	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A	N/A
Petition for Reinstatement Granted	0	0	0	0
DIVERSION : Not Applicable				
New Participants	N/A	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A	N/A
Participants (close of Fiscal Year)	N/A	N/A	N/A	N/A
Terminations	N/A	N/A	N/A	N/A
Terminations for Public Threat	N/A	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A	N/A

Table 9b. Enforcement Statistics (continued)

	Fiscal Year 2015/16	Fiscal Year 2016/17	Fiscal Year 2017/18	Fiscal Year 2018/19 (as of 6/30/19)
INVESTIGATION				
All Investigations				
First Assigned	830	680	606	684
Closed	929	637	415	1482
Average Days To Close	495	427	544	602
Pending (close of Fiscal Year)	954	997	1188	391
Desk Investigations				
Closed	598	334	143	40
Average Days To Close	336	241	480	629
Pending (close of Fiscal Year)	267	232	328	76
Non-Sworn Investigation				
Closed	466	435	312	102
Average Days To Close	558	440	506	598
Pending (close of Fiscal Year)	687	765	860	314
Sworn Investigation				
Closed	6	3	4	0
Average days to close	197	312	166	
Pending (close of Fiscal Year)	2	5	5	2
COMPLIANCE ACTION				
*Emergency Decisions	2	1	0	5
ISO & TRO Issued	0	0	0	0
PC 23 Orders Requested	0	0	0	2
Other Suspension Orders	0	0	0	0
Public Letter of Reprimand	N/A	N/A	N/A	N/A
Cease & Desist/Warning	N/A	N/A	N/A	N/A
Referred for Diversion	N/A	N/A	N/A	N/A
Compel Examination	0	0	0	0
CITATION AND FINE				
Citations Issued	95	26	49	242
Average Days to Complete	376	621	209	250
Amount of Fines Assessed	\$807,910	\$496,456	\$1,156,202**	\$4,346,918
Reduced, Withdrawn, Dismissed	\$371,903	\$387,801	\$182,999	\$2,188,462
Amount Collected	\$235,568	\$107,217	\$109,437.46	\$188,173.64
CRIMINAL ACTION				
Referred for Criminal Prosecution	0	0	0	0
<p>*Pursuant to CEC 94938, the Bureau has the authority to make an emergency decision to protect students, prevent misrepresentation to the public, or prevent the loss of public funds or monies paid by students.</p> <p>** This number was previously reported incorrectly in the 2017/18 DCA Annual Report.</p> <p>^The Bureau began tracking the source of complaints in June 2019.</p> <p>^^Conditional approvals are granted for a period of six months to correct deficiencies.</p>				

Table 10. Enforcement Aging						
	Fiscal Year 2015/16	Fiscal Year 2016/17	Fiscal Year 2017/18	Fiscal Year 2018/19	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
0 - 1 Year	6	1	1	4	12	22%
1 - 2 Years	2	5	7	4	18	33%
2 - 3 Years	2	4	7	2	15	27%
3 - 4 Years	0	4	2	3	9	16%
Over 4 Years	1	0	0	0	1	2%
Total Attorney General Cases Closed	11	14	17	13	55	
Investigations (Average %)						
Closed Within:						
90 Days	202	165	59	237	663	19%
91 - 180 Days	145	111	47	132	435	12%
181 - 1 Year	145	118	86	255	604	17%
1 - 2 Years	173	104	113	360	750	22%
2 - 3 Years	130	76	51	246	503	15%
Over 3 Years	134	63	60	252	509	15%
Total Investigation Cases Closed	929	637	416	1482	3464	

36. What do overall statistics show as to increases or decreases in disciplinary action since last review?

Since the last sunset review, the Bureau has seen an increase in the total number of disciplinary actions taken. In the last sunset review, the Bureau reported a total of 10 disciplinary actions taken for fiscal years 2011-12 through 2014-15, compared to a total of 55 for fiscal years 2015-16 through 2018-19. In addition, the Bureau reported a total of 97 cases referred for disciplinary action for fiscal years 2011-12 through 2014-15, compared to a total of 178 for fiscal years 2015-16 through 2018-19.

Fiscal Year	Number of Disciplinary Cases Initiated	Number of Disciplinary Actions
2011-12	9	0
2012-13	20	2
2013-14	26	3
2014-15	42	5

The following chart depicts the number of disciplinary cases initiated and disciplinary actions taken beginning fiscal year 2015/2016 to current.

Fiscal Year	Number of Disciplinary Cases Initiated	Number of Disciplinary Actions
2015-16	71	10
2016-17	47	14
2017-18	27	18
2018-19	33	13

37. How are cases prioritized? What is the bureau’s complaint prioritization policy? Is it different from DCA’s *Complaint Prioritization Guidelines for Health Care Agencies (August 31, 2009)*? If so, explain why.

Complaints are assigned as they are received and prioritized based on DCA’s “Complaint Prioritization Guidelines” and California Education Code section 94941. Complaints of fraudulent business acts/practices, institutional financial instability and imminent student harm are of the highest priority. The Bureau also prioritizes complaints where multiple agencies (local, state or federal) may be included in the investigation.

38. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the bureau actions taken against a licensee. Are there problems with the bureau receiving the required reports? If so, what could be done to correct the problems?

There are no mandatory reporting requirements. However, the Bureau has established relationships with entities such as the U.S. Department of Education, accrediting agencies and licensing agencies so that information regarding Bureau approved institutions is shared.

Pursuant to California Education Code section 94934.5(a), an institution with an approval to operate that knows that it is being investigated by an oversight entity other than the Bureau shall report that investigation, including the nature of that investigation, to the Bureau within 30 days of the institution’s first knowledge of the investigation. An institution with an approval to operate that is the subject of a judgment by, a regulatory action by, increased oversight or monitoring by, or a settlement with, any oversight entity other than the Bureau shall report it to the Bureau within 30 days. Failure to comply with this section may subject the institution to an administrative citation, pursuant to California Education Code section 94936.

Institutions are required to self-report if they are being investigated. Because there is no mandatory reporting requirement for agencies, the Bureau may not be aware that an institution is being investigated if the institution does not self-report.

a. What is the dollar threshold for settlement reports received by the bureau?

Not Applicable.

b. What is the average dollar amount of settlements reported to the bureau?

Not Applicable.

39. Describe settlements the bureau, and Office of the Attorney General on behalf of the bureau, enter into with licensees.

a. What is the number of cases, pre-accusation, that the bureau settled for the past four years, compared to the number that resulted in a hearing?

The Bureau does not have statutory authority to settle pre-accusation.

b. What is the number of cases, post-accusation, that the bureau settled for the past four years, compared to the number that resulted in a hearing?

The Bureau settled 13 cases post-accusation, and nine cases where an accusation was served resulted in an administrative hearing.

c. What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?

The Bureau has settled 59 percent of its cases prior to an administrative hearing.

40. Does the bureau operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the bureau's policy on statute of limitations?

The Bureau does not have a statute of limitations.

41. Describe the bureau's efforts to address unlicensed activity and the underground economy.

The Bureau established an "Unlicensed Activity" sub unit to find unlicensed institutions and to investigate claims of unlicensed activity. The Bureau issues citations to private postsecondary educational institutions that are found operating without proper approval. Statutorily, the Bureau has the authority to issue a fine up to \$100,000 for unlicensed activity.

Fiscal Year	# of Citations issued for Unlicensed Activity
2015-16	11
2016-17	6
2017-18	10
2018-19	56
2019-current	22

In addition, when an institution loses its approval to operate or fails to renew the approval to operate in a timely manner, the Bureau takes the appropriate action to ensure the institution conducts a proper school closure.

Cite and Fine

42. Discuss the extent to which the bureau has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the bureau increased its maximum fines to the \$5,000 statutory limit?

As a result of an investigation or finding that an institution has committed a violation of statute or regulation, or if an institution has failed to comply with a Notice to Comply (NTC) issued after a compliance inspection, the Bureau has the authority to issue an administrative citation. The citation may include:

- An order of abatement that may require the institution to demonstrate how future compliance with the statute or regulations will be accomplished.
- An administrative fine, not to exceed \$5,000, for each violation (except for unlicensed activity where a fine may be assessed up to \$100,000).

Pursuant to California Education Code section 94936, the administrative fine is based on:

- The nature and seriousness of the violation.
- The persistence of the violation.
- The good faith of the institution.
- The history of previous violations.
- The potential harm to students.
- The purpose of the statute.

There are four categories that classify the violations listed in a citation. They are as follows:

- A "Class A" violation shall not be less than \$2,501 nor more than \$5,000. A Class A violation is one that the Bureau has, in its discretion, determined to be more serious in nature, deserving the maximum fine. A Class A violation may, in the Bureau's discretion, be issued to an institution that has committed one or more prior, separate Class B violations.
- A "Class B" violation shall not be less than \$1,001 nor more than \$2,500. A Class B violation is one that the Bureau has, in its discretion, determined to be less serious in nature and may include, but is not limited to, a violation that could have resulted in student harm. Typically, some degree of mitigation will exist. A Class B violation may be issued to an institution that has committed one or more prior, separate Class C violations.
- A "Class C" violation shall not be less than \$501 nor more than \$1,000. A Class C violation is one that the Bureau has, in its discretion, determined to be a minor or technical violation, which may be directly or potentially detrimental to students or potentially impacts their education.
- A "Class D" violation shall not be less than \$50 nor more than \$500. A Class D violation is one that the Bureau has, in its discretion, determined to be a minor or technical violation, which is neither directly or potentially detrimental to students nor potentially impacts their education.

Since the prior sunset, the maximum fine for unlicensed activity was increased from \$50,000 to \$100,000.

43. How is cite and fine used? What types of violations are the basis for citation and fine?

Citations are issued for violations of the statute and/or regulations that do not warrant formal discipline. The cite and fine is also used when there is a violation of the statute or regulation but there is no proven harm to students. The citation is a record of the violation and is posted to the Bureau’s website. The citation is a public record that students and/or potential students can use as a source of information regarding violations that occurred at the institution. Repeated violations of the law may warrant the issuance of a disciplinary action.

44. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?

For the past four fiscal years, a total of 263 informal conferences have been conducted and a total of seven administrative hearings have been held regarding issued citations.

	Fiscal Year 2015-16	Fiscal Year 2016-17	Fiscal Year 2017-18	Fiscal Year 2018-19
Informal Office Conference	83	28	16	136
Administrative Hearing	4	0	1	2

45. What are the 5 most common violations for which citations are issued?

For the past four fiscal years, the most common violations for which citations are issued are:

- Operating an unapproved institution (unlicensed activity).
- Failure to submit annual fee and/or Student Tuition Recovery Fund Assessment.
- Failure to maintain proper financial resources.
- Improper school closure.
- Failure to submit Annual Report and/or School Performance Fact Sheet.

46. What is average fine pre- and post- appeal?

The average fine pre-appeal is \$18,985.19. The average fine post appeal is: \$6,382.85

	Fiscal Year 2015-16	Fiscal Year 2016-17	Fiscal Year 2017-18	Fiscal Year 2018-19
Pre-Appeal	\$9,812.01	\$16,451.78	\$23,125.04	\$17,841.33
Post-Appeal	\$750.00	\$3,908.69	\$13,570.00	\$6,582.72

47. Describe the bureau’s use of Franchise Tax Board intercepts to collect outstanding fines.

When a fine is levied against an institution, the institution is provided 30 days to respond or pay. If payment is not received within the specified time, three demand letters are sent to the institution/owner in 30-day increments. If payment is not received after the third demand letter, the Bureau works with DCA Accounts Receivable to establish a Franchise Tax Board (FTB) account number and have the information submitted to FTB for collection. The FTB intercepts tax refunds and/or lottery winnings and forwards those funds to the Bureau. The Bureau must have a social

security number to use the FTB Intercept program. If there is no social security number (e.g. business corporation) the Bureau is unable to use this process.

Cost Recovery and Restitution

48. Describe the bureau's efforts to obtain cost recovery. Discuss any changes from the last review.

It is standard procedure for the Bureau to request cost recovery for investigation and prosecution of disciplinary cases that are referred to the Office of the Attorney General. Business and Professions Code section 125.3 provides cost recovery authority to boards/bureaus within the DCA. All accusations referred to the Attorney General include a clause for cost recovery. Cost recovery may also be included in settlement conferences, and as a term of a stipulated settlement.

There have been no changes, since the last sunset review, that affect the Bureau's authority to seek cost recovery under Business and Professions Code section 125.3.

49. How many and how much is ordered by the bureau for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.

In the last four fiscal years there have been 31 cases referred to the AG for adjudication. Cost recovery for license revocations, surrenders and probationers was ordered for 14 of those cases in the amount of \$ 501,532.98. To date the Bureau has collected \$66,425.71 in cost recovery. The remaining balance of the cost recovery is potentially uncollectable unless the licensee applies for reinstatement of the approval to operate or submits a new application for approval to operate. Payment of the cost recovery would be required prior to the approval being issued.

50. Are there cases for which the bureau does not seek cost recovery? Why?

The only cases for which the Bureau does not seek cost recovery are application denials or Statement of Issues cases. The Statement of Issues is a legal charging document that denies an applicant licensure based on violation of the California Private Postsecondary Educational Act of 2009 and its associated regulations. There is no statute or regulation that allows the Bureau to seek cost recovery for Statement of Issues cases.

51. Describe the bureau's use of Franchise Tax Board intercepts to collect cost recovery.

The Bureau can utilize the FTB intercept program to collect cost recovery. The process is the same as that used to collect outstanding fines from individuals (see question 41). The use of the intercept program requires the Bureau to have a social security number for the submitted claim. If there is no social security number, the FTB cannot process the request.

52. Describe the bureau’s efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the bureau attempts to collect, i.e., monetary, services, etc. Describe the situation in which the bureau may seek restitution from the licensee to a harmed consumer.

During an investigation, if an institution is found to be in violation of the Act, the Bureau may seek restitution for individual or multiple students. Restitution may be in the form of a refund of a part of or total tuition, granting of grades, certificates or diplomas, and/or allowing the student to take or retake a course at no additional charge.

The Bureau has a Student Tuition Recovery Fund (STRF). The STRF was established to relieve or mitigate economic loss suffered by a student while enrolled in an institution approved to operate by the Bureau. Pursuant to California Education Code section 94923, the STRF is for students who at the time of enrollment were California residents, or enrolled in a California residency program, prepaid tuition, and suffered economic loss.

The following students, and any other students deemed appropriate, are eligible for payment from the STRF:

- A student to whom an institution has been ordered to pay a refund by the Bureau but has failed to do so.
- A student who has been awarded restitution, a refund, or other monetary award by an arbitrator or court, based on a violation of this chapter by an institution or representative of an institution, but who has been unable to collect the award from the institution. The Bureau shall review the award or judgment and shall ensure the amount to be paid from the fund does not exceed the student’s economic loss.

The Bureau also assists those students who have suffered educational opportunity losses, whose charges were paid by a third-party payer, to obtain educational credit under STRF.

Restitution to students may also be sought through an order of abatement for a citation issued to an institution.

Table 11. Cost Recovery (Dollars in Thousands)				
	Fiscal Year 2015-16	Fiscal Year 2016-17	Fiscal Year 2017-18	Fiscal Year 2018-19
Total Enforcement Expenditures	\$5,726	\$5,517	\$5,951	\$6,627
Potential Cases for Recovery *	8	9	3	11
Cases Recovery Ordered	1	2	3	8
Amount of Cost Recovery Ordered	\$310	\$33	\$78	\$80
Amount Collected	\$20	\$12	\$0	\$34
* “Potential Cases for Recovery” are those cases in which disciplinary action has been taken based on violation of the license practice act.				

Table 12. Restitution (Dollars in Thousands)				
	Fiscal Year 2015-16	Fiscal Year 2016-17	Fiscal Year 2017-18	Fiscal Year 2018-19
Amount Ordered	\$0	\$35	\$0	\$0
Amount Collected	\$0	\$35	\$0	\$0

53. How does the bureau use the internet to keep the public informed of bureau activities? Does the bureau post board meeting materials online? When are they posted? How long do they remain on the bureau's website? When are draft meeting minutes posted online? When does the bureau post final meeting minutes? How long do meeting minutes remain available online?

The Bureau utilizes its public website, www.bppe.ca.gov, to post a "Calendar of Events." The calendar of events includes information regarding Advisory Committee meetings, Licensing Workshops, Compliance Workshops and School Performance Fact Sheet Workshops. Advisory Committee meeting agendas and materials including draft minutes, are posted to the website at least two weeks prior to the actual meeting date. Final meeting minutes are posted after they are approved by the Advisory Committee. The meeting materials, including the approved meeting minutes remain on the website indefinitely.

As a part of the Bureau's consumer protection efforts, the Bureau's website includes information regarding disciplinary actions taken by the Bureau as well as enforcement actions taken by other governmental regulatory agencies.

Connected to the Bureau's website is the Office of Student Assistance and Relief website, www.osar.bppe.ca.gov/, which provides information to students regarding school closures and resources to assist students affected.

The Bureau also uses social media platforms such as Facebook and Twitter to communicate with the public.

54. Does the bureau webcast its meetings? What is the bureau's plan to webcast future board and committee meetings? How long do webcast meetings remain available online?

The Advisory Committee meetings have been conducted at DCA Headquarters, where the meetings are webcast. The webcasts are available indefinitely on the Bureau's website.

55. Does the bureau establish an annual meeting calendar, and post it on the bureau's web site?

Yes, the Bureau in conjunction with the Advisory Committee establishes the meeting dates for the quarterly meetings. All meeting dates, locations, agendas and meeting materials are posted on the Bureau's website www.bppe.ca.gov/about_us/meetings/index.shtml as well as on the Bureau's "Calendar of Events". The agendas are posted to the website approximately two weeks prior to the meeting. The posted agenda confirms the date, time and location of the meeting.

56. Is the bureau's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the bureau post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions (May 21, 2010)*?

The Bureau's complaint disclosure policy is consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*.

The Bureau posts accusations and disciplinary actions on its website. The information can be located on the Enforcement page. Accusations and administrative citations are posted once the action has been served to the respondent. The outcomes of the actions are also posted to the website once a final decision has been rendered.

57. What information does the bureau provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

The Bureau provides various information regarding its approved institutions on the website, www.bppe.ca.gov. The information regarding its licensees includes, but is not limited to:

- Institutions with an active approval to operate (Directory of Approved Schools)
 - Name of institution
 - Location of institution
 - Currently approved programs
- Disciplinary actions, including those taken by the Bureau, other governmental agencies and accrediting agencies
- Enforcement actions
- Application denials
- Compliance inspection results
- Annual Report information
- School Performance Fact Sheet
- School closure information

58. What methods are used by the bureau to provide consumer outreach and education?

The Bureau and OSAR have comprehensive websites, www.bppe.ca.gov, and www.osar.bppe.ca.gov that provide consumer outreach for students and the industry. Consumers are provided the opportunity to sign up for emails from the Bureau, so they can stay informed about news and upcoming events. The Bureau also uses Facebook and Twitter to provide information to consumers.

The Bureau conducts workshops for licensees and prospective licensees. For example, the Bureau's Application workshop focuses on assisting those interested in operating a private postsecondary educational institution in completing the initial application. Interested parties can register for a workshop through the Bureau's website. A calendar of scheduled workshops is provided.

Staff from the Licensing Unit can also guide participants through each section of the application. Staff explain the information required and covers the minimum operating standards an applicant must meet to receive approval.

After an application is approved, the Bureau offers in-person workshops to help the licensee maintain its approval to operate, including Compliance and School Performance Fact Sheet workshops. The Compliance workshop covers the compliance inspection process and minimum

operating requirements, in accordance with the Act and associated regulations. Every institution approved by the Bureau must provide a School Performance Fact Sheet for each approved program offered by the institution. The School Performance Fact Sheet workshop helps institutions navigate the process of collecting the appropriate data required for the School Performance Fact Sheet and how to complete the School Performance Fact Sheet template.

The Bureau also provides consumer outreach and education through a variety of efforts that are coordinated and facilitated through OSAR. The OSAR website, www.osar.bppe.ca.gov, includes beneficial information and resources that are readily available to consumers. OSAR also provides in-person and on-campus workshops for students.

OSAR has also created an instructional video related to STRF designed to proactively assist students to successfully file a completed STRF application. The video is posted on OSAR's website and is commonly shown during school outreach events. OSAR also conducts in-person outreach events throughout the state, providing instructional content and resources that helps consumers make informed decisions regarding postsecondary education. OSAR also utilizes Facebook, Twitter and Instagram to provide information on relevant topics. In addition, OSAR offers individualized assistance to students and other consumers.

Please see Attachment C for the OSAR Activities Report.

Section 7 Online Practice Issues

59. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the bureau regulate online practice? Does the bureau have any plans to regulate internet business practices or believe there is a need to do so?

Of the 1,043 active institutions currently approved by the Bureau, 243 are approved to offer distance education. Although the Bureau has not tracked changes in the percentage of institutions delivering online education over the last few years, anecdotally there has been an increase in the number of applications for approval from new institutions proposing to offer programs through distance education as well as an increase in the number of existing institutions submitting applications for a change in method of instructional delivery to add online programs.

Unlicensed activity continues to be an issue that is addressed by the Bureau's Enforcement Unit, as demonstrated in the Bureau's response to Question #41. However, unlicensed activity is not limited only to online institutions or programs. As stated in the Bureau's response to Question # 45, unlicensed activity is one of the most common violations for which citations are issued.

The Bureau regulates online practice through its application for approval to operate process. Institutions seeking to offer online distance education must inform the Bureau, during the application process, of the delivery method of instruction, and must receive approval from the Bureau to offer the educational program through distance education. Distance education is defined in California Education Code section 94834 as the transmission of instruction to students at a location separate from the institution. The Bureau reviews the distance education programs offered by institutions with a physical presence in California for compliance with minimum operating standards. Institutions that offer distance education programs are required to comply

with the California Private Postsecondary Education Act and associated regulations, the same as brick and mortar institutions.

The Bureau initiated a project in 2018 to review and update the minimum operating standards related to distance education, with the goal of submitting a regulatory change package to address contemporary standards, practices and requirements of distance education programs. The Bureau is currently drafting distance education regulations.

In addition, effective July 1, 2017, out-of-state institutions, defined as private entities without a physical presence in California that offer distance education to California students for an institutional charge, regardless whether the institution has affiliated institutions or institutional locations in California, are required to register with the Bureau. The registration is valid for two years. Out-of state institutions are required to re-register every two years. Since these institutions are not California-based, the Bureau has limited regulatory authority. California Education Code section 94801.5 provides the scope of the Bureau's authority. Out-of-state registered institutions must comply with the Student Tuition Recovery Fund requirements for their California-based students. Out-of-state institutions that fail to comply with all of the requirements for out-of-state institutions are prohibited from operating in California.

Section 8

Workforce Development and Job Creation

60. What actions has the bureau taken in terms of workforce development?

The Bureau works with the California Workforce Development Board, which are under the umbrella of the Labor and Workforce Development Agency. The Bureau collaborates with the CWDB and EDD to ensure institutions comply with the law. The Bureau also works with the Department of Industrial Relations regarding the approval of pre-apprenticeship programs. In addition, the Bureau has established relationships with the Department of Insurance regarding training vouchers and ensuring that students are provided the proper training to return to the workforce.

The Bureau has actively worked with EDD to ensure that the Eligible Training Providers List is kept current and that only Bureau approved, or exempt, institutions are included on the list. OSAR works directly with local workforce development boards when schools close to ensure that the rights of students whose tuition has been paid by Workforce Innovation and Opportunity Act funds are protected.

61. Describe any assessment the bureau has conducted on the impact of licensing delays.

In July 2018, the backlog of initial approval applications pending assignment was eliminated. The Bureau continues to evaluate and update procedures to create workload efficiencies and reduce processing times.

62. Describe the bureau's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.

In 2014 the Bureau introduced "Application Workshops." The workshops provide instruction on how to complete the "Application for Approval to Operate an Institution Not Accredited" and staff from the licensing unit provides instruction on how to best present application material for Bureau

review. Further, the workshops provide applicants an opportunity to ask licensing staff any specific questions regarding the application and licensure requirements.

The Bureau recently updated its application intake letters to inform applicants of each step of the licensure process. The Bureau is also currently developing a web tutorial to provide applicants with tips on how to ensure the submission of a complete application and how to avoid common mistakes.

The Bureau requires institutions that offer educational programs designed to lead to positions in a profession, occupation, trade or career field requiring licensure in California to obtain program approval from the appropriate state licensing agency. California Education Code section 94905 requires institutions to determine whether students enrolled in these programs will be eligible to obtain licensure in the profession, occupation, trade, or career field at the time of the student's graduation.

63. Describe any barriers to licensure and/or employment the bureau believes exist.

The Bureau is aware of issues that may delay processing of institutions' applications for approval to operate. For example, this includes the issue that institutions who seek approval to operate by means of accreditation may have their approval timeline extended due to the applicant accreditor's final accreditation determination, as the institution's Bureau approval is coterminous with the accreditation.

Further, depending on the time of the year, if audited or reviewed financials are required the review of the financials may be delayed due to tax season.

64. Provide any workforce development data collected by the bureau, such as:

- a. Workforce shortages
- b. Successful training programs.

The Bureau does not currently collect data on workforce shortages or successful training programs. The bureau collects data on training programs however it does not quantify whether a program is successful.

Every year, institutions must file their Annual Report with the Bureau. The Annual Report includes School Performance Fact Sheets for every program offered by the institution. The data in the School Performance Fact Sheet includes, but is not limited to:

- Type of program
- Program costs
- Number of graduates
- Examination passage rates
- Job placement rates
- Salary and wage data

The institutions self-report the information on the School Performance Fact Sheet. The information submitted by the institution is posted to the Bureau's website

65. What is the status of the bureau's implementation of the Uniform Standards for Substance Abusing Licensees?

Not Applicable. The Uniform Standards for Substance Abusing Licensees does not apply to the Bureau as the Bureau is not a healing arts program that deals with substance abusing licensees in the health care profession.

66. What is the status of the bureau's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

The Bureau reports, on a quarterly basis, data regarding the enforcement goals of CPEI.

67. Describe how the bureau is participating in development of BreEZe and any other secondary IT issues affecting the bureau.

a. Is the bureau utilizing BreEZe? What Release was the bureau included in? What is the status of the bureau's change requests?

The Bureau is not currently utilizing BreEZe. The Bureau was originally in Release 3 of the BreEZe Project, which has been canceled. The Bureau is in the middle of executing its business modernization initiative. The 2017 Business Modernization Plan and a 2018 update are available on the Department's website: <https://www.dca.ca.gov/publications/index.shtml>

b. If the bureau is not utilizing BreEZe, what is the bureau's plan for future IT needs? What discussions has the bureau had with DCA about IT needs and options? What is the bureau's understanding of Release 3 boards? Is the bureau currently using a bridge or workaround system?

The Bureau initially met with DCA's Office of Information Systems in October 2016 to discuss the process and requirements for replacing the Bureau's Schools Automated Information Link, which is an independent standalone IT system that is not used by any other board or bureau within DCA. The DCA Director subsequently authorized the Bureau to commit resources to the project. The Bureau then partnered with DCA's SOLID Organizational Change Management Unit to begin mapping each of the Bureau's business processes in "As-Is" state. The business process mapping began in September 2017 and concluded in February 2018 with the documentation of 74 individual business process maps representing the Bureau's business processes across all functional areas. SOLID and Bureau staff then began a second phase of business process mapping in February 2018 to produce "Could-Be" business process maps with consideration of potential gains in efficiencies and effectiveness if the Bureau possessed a robust IT support system. A total of 53 "Could-Be" business process maps were completed by March 2018.

The California Department of Technology mandates a four-stage Project Approval Lifecycle process for all IT projects to ensure that proposed projects are based on well-defined programmatic needs, consider feasible alternatives to address the identified needs, identify a sound technical solution, implement project management best practice, and comply with state

policies and procedures. Each stage requires California Department of Technology approval prior to moving to the next stage.

The Stage 1 Business Analysis evaluates completeness, the sufficiency of the business case and whether the concept aligns with the department and agency priorities. The Bureau completed a Stage 1 Business Analysis document and exhibits, which was accepted and approved by the California Department of Technology on May 10, 2018.

The Stage 2 Alternatives Analysis ensures sufficiency of planning, organizational readiness and good documentation resulting in sufficient market research, alternative analysis, and justification for the selected alternative. The Office of Information Systems and the Bureau completed a State 2 Alternatives Analysis document and exhibits, which were submitted to the California Department of Technology on March 8, 2019.

The Stage 3 Solution Development provides the basis to acquire a solution that best meets business objectives and yields the highest probability of success. The California Department of Technology held a Stage 3 Kickoff Meeting on April 24, 2019 to discuss Stage 3 deliverables and activities. The Bureau is currently working with the Office of Information Systems and other stakeholders on Stage 3 activities, including the drafting of Statements-of-Work and vendor solicitations.

Section 10 Board Action and Response to Prior Sunset Issues

Include the following:

1. Background information concerning the issue as it pertains to the Bureau.
2. Short discussion of recommendations made by the Committees during prior sunset review.
3. What action the Bureau took in response to the recommendation or findings made under prior sunset review.
4. Any recommendations the Bureau has for dealing with the issue, if appropriate.

Issue #1: Outdated Technology Systems and the implementation of BreEZe.

“The Bureau uses a woefully outdated data system and there are no solid plans to upgrade Bureau Information Technology (IT) systems. The DCA and Bureau have acknowledged that an interim plan is being designed, until long-term needs are identified and addressed, but the details of the plan are unclear.”

Staff Recommendation: DCA and Bureau should advise the Committees on the status of Bureau IT systems and upgrades, including any temporary workaround systems currently in place and the cost for these systems. The DCA and Bureau should advise the Committees on the status of the cost-benefit analysis for BreEZe feasibility for the Bureau and provide information about how the Bureau’s IT needs are being evaluated.

Please refer to the response provided question 67b above.

Issue #2: Outreach

“The Bureau has focused significant efforts to provide outreach to schools, including new workshops to assist with application completion and web-based tools to allow institutions to better understand how they can be compliant with the Act and Bureau regulations. The Bureau does not appear to focus similar efforts on student outreach to inform students about the Bureau’s work and available recourse for students.”

Staff Recommendation: The Bureau should advise the Committees how it balances the need to ensure schools are in compliance with its statutory responsibility to protect students and assist with student needs. The Bureau should provide an update on its plan to provide outreach to students pursuant to Education Code Section 94879 and what role the Advisory Committee can and should play in this plan. The Committees may wish to explore establishing a single point of contact for prospective and current students of private postsecondary education institutions.

Senate Bill 1192 (Hill, Chapter 593, 2016) established the Office of Student Assistance and Relief (OSAR). OSAR was created to advance and promote the rights of students at private postsecondary educational institutions and to assist students who have suffered economic loss due to unlawful activities or the closure of the private postsecondary educational institution.

OSAR provides individualized assistance to California residents attending private postsecondary educational institutions and provides counsel to students regarding financial aid and their options following a school closure. OSAR provides individual student assistance by engaging in case management style activities. Students are assigned to a specific OSAR staff who assist students by performing the following activities; informing students of their general rights and options when impacted by a school closure, directing students to state and federal tuition reimbursement and loan forgiveness programs and assisting them with applying for such relief, providing assistance in obtaining key academic and financial documents, connecting students with available transfer and teach-out opportunities and training students on how to best research colleges and in making informed decisions related to their higher education goals.

Since its inception, OSAR has conducted a total 55 closed school workshops. OSAR conducted 51 in-person workshops and four remote workshops that were conducted via phone.

OSAR collaborates with state and federal agencies to ensure that the needs of Californians attending private postsecondary educational institutions are addressed.

The OSAR website, www.osar.ca.gov, provides tools and resources to students regarding researching colleges, financial aid, student outreach events, school closures and the Student Tuition Recovery Fund.

See Attachment C.

Issue #3: Relationship of the Bureau to other regulatory entities.

“The Bureau has Memorandum of Understanding (MOU) with other licensing agencies aimed at ensuring communication about schools. Consumers and potential licensees of DCA and other certification entities may benefit from the Bureau’s formal partnership with these programs, particularly when institutions are approved by the Bureau, but specific programs offered at those institutions are intended to lead to licensure or certification by another agency. What is the status of Bureau MOUs? Should the Bureau enter into agreements with other agencies that may be able to provide assistance in the Bureau’s efforts to determine program quality?”

Staff Recommendation: The Bureau should advise the Committees on the formal working relationships it has with regulatory entities that rely on education, training and skills based work to be completed prior to recognition in a particular profession or vocation. The Bureau should advise the Committees how the QEU works with other regulatory agencies in its efforts to evaluate program quality and how the Bureau is making licensing boards aware of the QEU’s work. The Bureau should advise the Committees on the status of current MOUs, including whether updates are needed, barriers to completing MOUs and MOUs currently underway. The Bureau should update the Committees on how BPPE Enforcement staff prioritize reports of violation of law and documentation that comes from entities the Bureau has a MOU with and whether the relationships outlined in a MOU can lead to the Bureau having the investigative tools it needs to take swift disciplinary action against problem schools. The Committees may wish to amend the Act to clarify the definition of licensure and enhance disclosures to students regarding necessary requirements for training programs.

The Bureau continues to build relationships with other regulatory agencies. Fostering productive relationships has provided the Bureau the opportunity to make these entities aware of the Bureau and has opened the door for the sharing of information.

The Bureau’s Quality of Education Unit meets on an ongoing basis with representatives from DCA boards and bureaus and other state entities to discuss each entity’s responsibility and authority for the review and approval of specific educational programs for which licensure exists that is overseen by that board/bureau. The Bureau has determined that, while MOUs have existed between some DCA boards/bureaus, the establishment of a MOU for others has not been necessary, as collaboration has occurred between the entities without the need for MOUs. Over the past 12 months, the Quality of Education Unit has met with representatives from the Board of Registered Nursing, Board of Vocational Nursing and Psychiatric Technicians, Board of Barbering and Cosmetology, Department of Industrial Relations, Board of Behavioral Sciences, and the Naturopathic Medicine Committee. The result of these meetings has been a deeper understanding of each other’s roles and responsibilities regarding the oversight of specific educational programs and licensure associated with those programs.

The Bureau currently has MOUs with the following agencies:

- California Acupuncture Board
- California Board of Barbering and Cosmetology
- California Board of Board of Registered Nursing
- California Board of Vocational Nursing and Psychiatric Technicians

- Respiratory Care Board of California

The Bureau is currently pursuing establishing MOUs with the following agencies:

- California Board of Behavioral Sciences
- California Massage Therapy Council
- Dental Hygiene Board of California

The Bureau has worked closely with the California Board of Barbering and Cosmetology (BBC) to ensure consumer protection by conducting joint investigations and inspections. As a result, the Bureau was able to issue an Emergency Decision that required a school to stop collecting tuition and providing instruction to students. The action ultimately resulted in the school closing and limiting any further harm to students.

Issue #4: Regulations

“The Bureau is also required to consult the Advisory Committee on rulemaking efforts. How are regulations prioritized? How does the Bureau work with the Advisory Committee members on regulations?”

Staff Recommendation: The Bureau should advise the Committees how it prioritizes regulation packages, when the Advisory Committee is provided draft rules and how Advisory Committee feedback is taken into consideration on regulations the Bureau is in the process of drafting. What is the status of current regulatory packages?

The Chief and the Bureau’s regulation team meet at the beginning of every year to establish the priority for regulations. Priorities are then adjusted as conditions warrant.

The Bureau drafts proposed regulations which are then reviewed at a meeting with the unit chiefs. Afterwards, another meeting is held with legal counsel to review the proposed language. The draft language is then set and included for the next Advisory Committee meeting.

At the Advisory Committee meeting, the members discuss, including questions and answers with Bureau and legal personnel, and comment on the proposed regulations. Following the Advisory Committee meeting, the regulations team will meet and go over each comment and question from the Advisory Committee, plus any new ideas which may have arisen. Depending on how substantive the changes to the proposed regulations are, they may be scheduled for a future Advisory Committee meeting to be discussed further. If changes are not overly substantive or do not significantly vary from what has been presented to the Advisory Committee, the Bureau proceeds with creating the noticing package that is necessary to obtain Department and Agency approval before the regulatory proposal can be submitted to the Office of Administrative Law for noticing.

Three regulation packages are currently being approved by the Department and Agency prior to being noticed. Currently, one package has final language completed and the noticing package is being developed. Another package is awaiting review by the Advisory Committee. Two packages are in the developmental stages within the Bureau.

Issue #5: Fund and Fees

“The Bureau is projected to face a deficit in 2017/18 and it is anticipated that the Bureau will request a fee increase. How are resources and needs evaluated on an ongoing basis? Given fluidity in the numbers of schools seeking approval and renewal to operate, how will the Bureau maintain a fair fee structure while meeting the needs of institutions and students?”

Staff Recommendation: The Bureau and DCA should report on the long-term resources necessary for the Bureau to effectively regulate institutions and protect students moving forward. Does the Bureau need a fee increase? Can resources be reallocated? Are some fee categories unnecessarily higher than others?

The Bureau conducted a fee audit in 2015. As a result, the legislature approved an increase in the annual fee. Prior to 2016, the fee structure for the annual fee was calculated by using the institution’s annual gross revenue multiplied by .75%, with a maximum amount of \$25,000.00. If there were no students and the institution reported \$0, no payment was required.

Between January 2017 and June 2018, the annual fee was calculated using the institution’s annual gross revenue, derived from students in California, multiplied by .45%. The maximum annual fee payment was \$60,000.00. If the institution reported no students and \$0, a minimum payment of \$2,500.00 was due. In addition, an annual fee was assessed for each branch campus of an institution.

Since July 2018, the annual fee is calculated using the annual gross revenue, derived from students in California, multiplied by .55%. The minimum annual fee is \$2,500.00 with a maximum of \$60,000.00 for each campus.

Based on budget projections the Bureau has determined that a new fee audit should be conducted soon.

Issue #6: Complaints for accredited non-profit institutions

“The Bureau has contracts with over 100 nonprofit independent higher education institutions to receive student complaints from students attending those institutions. What is the scope of the Bureau’s work related to these complaints?”

Staff Recommendation: The Bureau should update the Committees on the role it plays with respect to previously exempt independent institutions. What is the Bureau’s workload associated with receiving complaints from students of independent institutions? How does the Bureau process these complaints? Does the Bureau enter into one-time contracts or are these contracts renewed annually? What impact on other licensure applications does this new role have?

In 2015, SB 81 (Committee on Budget and Fiscal Review, Chapter 22, Statutes of 2015) allowed independent institutions, exempt from Bureau oversight, to enter into contract with the Bureau. Independent institutions are defined under CEC section 66010(b) as nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and are

formed as nonprofit corporations in this state and are accredited by an agency recognized by the United States Department of Education.

Independent institutions that enter into contract with the Bureau are required to pay \$1,076.00, annually. To continue receiving services from the Bureau, institutions must renew their contracts by June 30 of each year.

The contract gave the Bureau authority to receive, review and act on any complaint concerning the institution.

During the first year, the Bureau had 96 contracts with independent institutions. At the end of 2018 there were 113 contracts.

Complaints from independent institutions are assigned to an analyst designated to process such complaints. The analyst works with the complainant and the institution to find resolution. The complaint may also be referred to the accreditor or another entity that has jurisdiction regarding the allegations of the complaint.

Calendar Year 2015

Number of Complaints Received	11
Nature of Complaints	<ul style="list-style-type: none"> • Advertisement • Discrimination • Educational Program/Instructor • Termination • Tuition Refund • Termination
Number of Complaints Referred to Another Entity	11*
Entity to Which Complaints Were Referred (and the Number of Complaints Referred)	<ul style="list-style-type: none"> • Institution*(11) • Western Association of Schools and Colleges (WASC) (5)** • California Acupuncture Board (1)** • United States Department of Education, Office of Civil Rights (OCR) (1)**
Number of Complaints Resolved	5 <ul style="list-style-type: none"> • Institution (4) • California Acupuncture Board (1)
Number of Complaints Pending	6 <ul style="list-style-type: none"> • WASC (5) • OCR (1)

*Referrals to the institution include Bureau staff working with institutional staff to gather information to resolve the complaint.

**Complaints unable to be resolved at the institutional level, or that fall under the jurisdiction of another agency are also forwarded to that agency for review/resolution.

Calendar Year 2016

Number of Complaints Received	14
Nature of Complaints	<ul style="list-style-type: none"> • Tuition Refund • Advertising • Instruction • Administration
Number of Complaints Referred to Another Entity	14*
Entity to Which Complaints Were Referred	<ul style="list-style-type: none"> • Institution*(14)
Number of Complaints Resolved	14*
Number of Complaints Pending	0

*Referrals to the institution include Bureau staff working with institutional staff to gather information to resolve the complaint.

Calendar Year 2017

Number of Complaints Received	24
Nature of Complaints	<ul style="list-style-type: none"> • Admissions • Advertisement • Educational Program/Instructor • Fraud • Health and Safety • Tuition Refund • Termination
Number of Complaints Referred to Another Entity	24*
Entity to Which Complaints Were Referred (and the Number of Complaints Referred)	<ul style="list-style-type: none"> • Institution* (24) • United States Department of Education (USDOE) (1)** • United States Department of Education, Office of Civil Rights (OCR) (2)** • Western Association of Schools and Colleges (WASC) (1)**
Number of Complaints Resolved	8*
Number of Complaints Pending	16

*Referrals to the institution include Bureau staff working with institutional staff to gather information to resolve the complaint.

**Complaints unable to be resolved at the institutional level, or that fall under the jurisdiction of another agency, are also forwarded to that agency for review/resolution.

Calendar Year 2018

Number of Complaints Received	25
Nature of Complaints	<ul style="list-style-type: none"> • Contractual • Discrimination • Student loans • Unprofessional conduct
Number of Complaints Referred to Another Entity	8*
Entity to Which Complaints Were Referred (and the Number of Complaints Referred)	<ul style="list-style-type: none"> • Institution* (4) • United States Department of Education (USDOE) (1)** • United States Department of Education, Office of Civil Rights (OCR) ** (3)
Number of Complaints Resolved	4*
Number of Complaints Pending	8

*Referrals to the institution include Bureau staff working with institutional staff to gather information to resolve the complaint.

**Complaints unable to be resolved at the institutional level, or that fall under the jurisdiction of another agency, are also forwarded to that agency for review/resolution.

Issue #7: Oversight by BPPE of distance learning

“Institutions regulated by BPPE are required to have a physical presence in California. California students enrolled in out-of-state distance learning are not protected by Bureau oversight of the schools they attend. Should BPPE be responsible for regulating online institutions without a physical presence in California that are enrolling California students?”

Staff Recommendation: The Committees may wish to require out-of-state online institutions to participate in STRF while the issue of reciprocity agreements is further examined. The Committees may also wish to establish base consumer protections and institutional standards for reciprocity agreements prior to authorizing BPPE to enter into such an agreement.

Senate Bill 1192 (Hill, Chapter 593, Statutes of 2016) established requirements for out-of-state private postsecondary educational institutions to register with the Bureau effective July 1, 2017. This bill also established the definition of an “out-of-state private postsecondary educational institution” as a private entity without a physical presence in this state that offers distance education to California students for an institutional charge, regardless of whether the institution has affiliated institutions or institutional locations in California.”

Out-of-state institutions registered with the Bureau are required to comply with STRF requirements, established in Article 14, and Articles 2 and 3 of the California Code of Regulations, including the STRF disclosure requirements.

Out-of-state private postsecondary educational institutions that grant undergraduate or graduate degrees and are formed as a nonprofit corporation and accredited by an agency recognized by the United States Department of Education are not required to register with the Bureau.

The Bureau continues to monitor the State Authorization Reciprocity Agreement (SARA) and will carefully evaluate the rules of SARA to determine capability with the Bureau’s current laws and the continuance of consumer protection in the future.

Issue #8: Unaccredited degree granting programs

“Accreditation provides a basis for determining educational quality. Pursuant to SB 1247, institutions offering degrees must be accredited by 2020 in order to receive Bureau approval. What has been the Bureau’s experience with unaccredited institutions offering degrees?”

Staff Recommendation: The Bureau should provide an update on its efforts to implement SB 1247 and require institutions offering degrees to be recognized by an accrediting agency approved by the USDE. The Committees may wish to provide the Bureau discretionary authority, as outlined in previous versions of SB 1247, to extend the deadline by which a school must be accredited, according to certain measures showing meaningful progress toward accreditation. The Committees should work with the Bureau and unaccredited schools that are seeking exemptions from SB 1247 and seeking grandfathering provisions (in order to allow them to continue to operate without becoming accredited) to determine the number of California students being served by these schools, whether educational quality oversight is being provided by an entity other than an accrediting agency, and any consumer protection risks associated with allowing these institutions to continue to grant academic degrees without accreditation

Prior to July 1, 2015, the Bureau identified and contacted 142 institutions that had been approved to operate as of January 1, 2015 and were offering degree programs. The Bureau received accreditation plans from 108 of these institutions who chose to pursue accreditation. These institutions were required by law to achieve accreditation candidacy/pre-accreditation by July 1, 2017 and must achieve full accreditation by July 1, 2020, absent an approved extension. The following chart depicts the current status of the original 142 institutions:

Closed, Surrendered Approval, Expired Approval	Verified as Exempt Institutions	Surrendered Degree Programs	Degree Program(s) Suspended	Achieved Accreditation	Pursuing Full Accreditation
37	17	16	4	26	42

As indicated by the chart, just over a third (34%) of these institutions have closed, surrendered their approval to operate, or had their approval to operate expire, rather than continue to pursue accreditation. While some institutions’ approvals expired because they did not/were not able to renew their approval, others closed or surrendered their approval because it was apparent the schools would have an extremely difficult time achieving accreditation based on

their educational program offerings. Thus, the intent of the legislation would seem to have been accomplished.

The Bureau is currently monitoring the progress of the remaining 42 institutions that achieved pre-accreditation and are pursuing full accreditation. Again, these institutions must achieve accreditation by July 1, 2020 or be granted an extension of time by the Bureau, not to exceed two years. Although still a year away from the deadline, the Bureau predicts that some of these institutions will not meet the 2020 deadline and will likely not be approved for extensions because they will not demonstrate strong progress toward achieving accreditation. Thus, their approval to operate degree programs will be suspended.

Consistent with the provisions in statute created by SB 1247, between January 2015 and present, the Bureau has issued Provisional Approvals to 50 institutions offering degree programs that are not yet accredited. As required by law, these institutions must achieve accreditation candidacy/pre-accreditation within two years of provisional approval and full accreditation within five years of provisional approval. The following chart depicts the status of these 50 institutions:

Closed, Surrendered Approval, Expired Approval	Pursuing Candidacy	Surrendered Degree Programs	Degree Program(s) Suspended	Achieved Accreditation	Pursuing Full Accreditation
2	34	2	4	3	5

Of these 50 institutions, only three have achieved accreditation to date and five are pursuing full accreditation.

Issue #9: Exemptions

“The Act contains a number of exemptions for a variety of types of institutions. The Legislature is asked to expand exemptions through legislative proposals that aim to carve out one specific school or one type of educational entity. Are there too many exemptions in the Act? Should current exemptions in the Act be continued?”

Staff Recommendation: The Committees should work with the Bureau to evaluate whether current exemptions in the Act are necessary and what impact these exemptions have on students in the state. The Committees may wish to remove exemptions outlined in the Act.

Some of the exemptions under California Education Code (CEC) section 94874 may need further defining and clarification. Please see the current issues section for more information.

Issue #9: Task Force

“The BPPE Task Force on Innovative Subject Matters recommends actions to increase disclosures to students, modify student outcome reporting, and streamline and shorten application and approval timelines for high demand technology programs. Should the Legislature make statutory changes to implement one or more of the Task Force recommendations?”

Staff Recommendation: The Committees may wish to monitor the Advisory Committee review and action on the Task Force report and direct committee staff to further research and make recommendations regarding any Advisory Committee approved recommendations. The Committees may also wish to request BPPE comment on any administrative changes that will be considered or proposed due to the recommendations contained in the Task Force report.

Senate Bill 1247 (Lieu, Chapter 840, Statutes of 2014) required the Bureau to establish a task force that would review standards for educational and training programs specializing in innovative subject matters and instructing students in high-demand technology fields for which there is a demonstrated shortage of skilled employees.

The Task Force began meeting in April 2015. In 2016 the Task Force drafted a report to the Legislature, entitled “*Coding for the Future: Recommendations for Regulatory Oversight in the High Technology Education Field.*” The report included recommendations and findings regarding:

- Whether students attending institutions offering high technology programs should receive certain disclosures prior to enrolling in an educational program offered by those institutions.
- Whether the means of reporting student outcomes and the content of those reports are appropriate.
- The steps the state may take to promote the growth of high-quality training programs.

The Bureau submitted the completed report to the Legislature and presented the material to the Advisory Committee.

Issue #10: Ability to Benefit

“The Bureau is required to review examinations for ability-to-benefit students by July 1, 2016. What is the status of this effort?”

Staff Recommendation: The Bureau should provide the Committees with an update on the ATB report and whether the report will be finalized by July 1.

The Bureau reviewed the list of examinations prescribed by the United States Department of Education, and it was determined that additional exams are available that are appropriate for ability-to-benefit students with limited English proficiency. The Bureau reviewed and approved these exams:

Language Proficiency Assessment Test – Spanish
Language Proficiency Assessment Test – Vietnamese

These exams were developed by the Association of Classroom Teacher Testers.

A list of Bureau-approved ability-to-benefit examinations is posted on the Bureau’s website at this link: https://www.bppe.ca.gov/schools/usde_tests.pdf. The list includes those tests approved by DOE as well as the two LPAT tests noted above.

Issue #11: Compliance Inspections

“BPPE is mandated by law to perform compliance inspections to determine if institutions are in compliance with the Act. BPPE has been unable to meet the compliance inspection mandate. Compliance inspections primarily result in the identification of minor violations and issuance of a notice to comply (NTC). Material or non-minor violations are referred for investigation, a unit facing a significant backlog. Are changes necessary to ensure compliance inspections result in thorough enforcement of the Act and protection of students?”

Staff Recommendation: *To reduce the complaints backlog associated with internal referrals resulting from compliance inspections, the Committees may wish to amend the Act to authorize the Bureau, consistent with all due process requirements, to issue citations for non-minor violations detected during a compliance inspection. To ensure BPPE compliance inspections are properly identifying and responding to institutional violations of law, the Committees may wish to require an independent review and report on the adequacy of BPPE compliance inspections.*

Compliance Unit staff collaborated with the units within the Bureau to coordinate the review of institution’s compliance in each area concurrently. The revision to the compliance process has reduced the amount of time an inspector would normally spend on the review of each school and has resulted in a higher number of inspections being completed on a monthly basis. This process will allow the Bureau to meet the statutory mandate of completing compliance inspections.

Prior to the improvement in the compliance process, any non-minor violations were referred to the investigation unit for further review, thereby adding to a backlog. In 2019 the Compliance Unit hired a dedicated compliance citation analyst and redirected the Enforcement Referrals from the compliance inspection process directly to the citation desk if additional investigation is not necessary. This allows for the issuance of a citation in a timely manner and avoids creating a backlog in the investigation unit.

Issue #12: Unlicensed Activity

“Schools are required to be approved by the BPPE to operate in California and the Bureau is required to proactively identify unlicensed institutions. The Bureau historically struggled to comprehensively meet this requirement and the Auditor’s report in 2014, as well as prior sunset review of the Bureau, highlighted that there was no program within the BPPE’s organizational structure dedicated to unlicensed activity. While the Bureau is required to post denials on its website, it would be helpful for the Committee to understand if additional steps are necessary to assist BPPE in this important work.”

Staff Recommendation: *The Bureau should update the Committees on its unlicensed activity program, what coordination with other state agencies and partnerships might assist the Bureau in identifying unlicensed institutions and whether statutory changes are necessary to improve the Bureau’s efforts in this area. If necessary, the Committees may wish to amend the Act to provide the Bureau additional tools to combat unlicensed activity.*

In 2014, the Bureau established a team to seek out unlicensed institutions operating in California. The team proactively searches for unlicensed institutions as well as processes the complaints received regarding unlicensed activity. In 2018 the Bureau dedicated specific staff that processed unlicensed activity complaints solely. Institutions found to be operating without proper approval are cited. The maximum fine for unlicensed activity has increased from \$50,000 to \$100,000 since the last sunset.

Fiscal Year	# of Citations issued for Unlicensed Activity
2015-2016	11
2016-2017	6
2017-2018	10
2018-2019	56
2019-current	22

Issue #13: BPPE Investigations backlog and enforcement powers

“The Bureau continues to face a significant backlog of complaints and investigations. While authorized staffing has increased, the number of investigations resolved has not notably improved. Should the Legislature provide additional staffing to improve BPPE’s ability to investigate institutions? Does BPPE need additional authority to protect harmed students? Are additional reforms necessary to protect students?”

Staff Recommendation: The Committees may wish to require an independent review of complaint prioritization and investigation and resolution procedures to ensure BPPE is using all authorized tools to mitigate harm to students. The Committees may wish to ensure that the Bureau promptly adopts regulations and procedures regarding complaint prioritization by directing BPPE action by a date certain. The Committees may wish to ensure BPPE has clear authority to help students harmed by illegal or deceptive school practices; for example, to order institutional refunds/restitution to students who have been defrauded or to require institutions to cancel student loan debt when the institution operates as a private lender. The Bureau should provide the Committees information about barriers to efficient and effective complaint resolution.

The Bureau enlisted the assistance of DCA’s Division of Investigation (DOI) to help refine the investigative process and to help the Bureau get through the backlog of complaints. DOI provided additional training and resources to Enforcement staff regarding case management and investigation best practices.

The Bureau has also contracted with the Office of the Attorney General to provide investigative and report writing training, and the level of evidence required to support the findings of violations.

As a result of these efforts, the Bureau has realized a drastic reduction in the number of aging and pending complaints. For more detailed information, please see the response to Question 3 of this report.

Issue #14: School Closures and STRF

“The amount of funds in the STRF exceeds the statutory cap of \$25 million. Legislative efforts to ensure all aspects of student loss are covered by the STRF have not been implemented by BPPE. Not all students enrolled in California private colleges are protected by STRF. Few students affected by recent school closures have made claims to the STRF. BPPE outreach to inform students of their tuition recovery and loan forgiveness options appears insufficient. Are reforms necessary?”

Staff Recommendation: The Committees may wish to remove the requirements that BPPE establish regulations implementing the STRF reforms contained in SB 1247 in order to ensure these additional rights and protections are provided to students in the absence of new regulations. The Committees may wish to require BPPE to negotiate loan forgiveness, discharge or cancellation prior to reducing STRF eligibility. The Committees may wish to extend the timeframe in which a student may file a STRF claim. The Committees may wish to establish an independent student advocate to work with nonprofit community organizations, to provide outreach and support to students that may be eligible for state or federal relief, and to make recommendations to the DCA Director regarding improving student outreach and protection. The Committees may wish to require institutions (including exempt or online institutions) to participate in STRF and/or obtain a surety bond to protect against unlawful activities or closure.

With the establishment of the OSAR, the Bureau has been able to assist students faced with school closures or the decline in education. OSAR provides individualized assistance to California residents selecting a private college, and counsels California students as they navigate their financial and academic future following the closure or unlawful activities of the private college they attended. OSAR helps students research colleges and helps students identify, obtain, complete, and submit financial relief documents through on-site or remote outreach.

Issue #15: Disclosures, data, student outcomes and measuring student performance

“The Act requires institutions to provide prospective students, the public, and BPPE with information regarding performance and student outcomes. Concerns over the accuracy of information and the possible duplication with data required by other oversight entities lead to some statutory changes in 2013 and 2014. New lawsuits regarding falsification of student outcome data and the delays in BPPE regulations to implement statutory changes may indicate the need for additional reforms.”

Staff Recommendation: The Committees may wish to review the adequacy of the proposed BPPE definition of “gainful employment” and determine if statutory changes are necessary. The Committees may wish to review the Bureau’s capacity to partner with EDD to gain access to wage data, to supplement or substitute the salary disclosure currently contained on the Fact Sheet.

AB 1340 (Chiu, Chapter 519, Statutes of 2019), requires the Bureau to collect loan data for all graduates and match with wage data from the Employment Development Department. The bill requires the Bureau to publish a Labor Market Report on its website reporting the information by program and institution.

Section 11 New Issues

This is the opportunity for the Bureau to inform the Committees of solutions to issues identified by the Bureau and by the Committees. Provide a short discussion of each of the outstanding issues, and the Bureau's recommendation for action that could be taken by the Bureau, by DCA or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:

1. Issues that were raised under prior Sunset Review that have not been addressed.
2. New issues that are identified by the Bureau in this report.
3. New issues not previously discussed in this report.
4. New issues raised by the Committees.

Issue #1: Student Harm

Issue: CEC section 94937 provides that the Bureau can take formal disciplinary action to place an institution on probation or suspend or revoke the institution's approval to operate if violation of the law has "resulted" in harm to students.

Background: CEC section 94801 (d)(6) provides that the intent of the Legislature is to ensure the prevention of harm to students and the deception of the public that results from fraudulent or substandard educational programs and degrees. The Bureau has attempted to bring accusations against institutions for violation of the Act where there was potential harm to students. The goal was to take formal disciplinary action to prevent students from being harmed. The Office of the Attorney General returned the accusation with the opinion that the Bureau could not file an accusation because there was no demonstration of actual student harm as required by the statute.

Recommended Solution: Amend CEC section 94937 to add language that allows the Bureau to take disciplinary action if there is potential harm to students in order to provide student and public protection.

Issue #2(a): Unrealistic Timeline for Achieving Accreditation per California Education Code (CEC) section 94885.5.

Issue: Senate Bill (SB) 1247, chaptered in 2014, resulted in the requirement for California private postsecondary educational institutions offering degree programs to be accredited by an accrediting agency recognized by the United States Department of Education. CEC sections 94885.1 and 94885.5 were added to address this requirement.

Background: CEC section 94885.1 applies to degree-granting institutions that were approved to operate on or before January 1, 2015. In 2014, the Bureau identified 141 institutions in this category, of which 34 are currently pursuing accreditation by July 1, 2020.

CEC section 94885.5 applies to all institutions that have never been accredited but were/are seeking to offer one or more degree programs, after January 1, 2015. Under the provisions of this section, an institution must submit an accreditation plan with its application for approval to operate and must achieve pre-accreditation or accreditation candidacy within two years of its provisional approval, and full accreditation within five years of its provisional approval.

Pursuant to 5 CCR section 70000(s), “Pre-accreditation” or “Candidacy” as used in sections 94885.1 and 94885.5 of the Code means that an institution has submitted a completed application for initial accreditation with the required fee, which was accepted by the accreditor.

Unlike the provisions of section 94885.1, which applies to institutions already operating since 2015, the challenge for some institutions in complying with the accreditation requirements of CEC section 94885.5 is that some accreditors require that institutions have either enrolled students over a specified period of time or have graduated students from at least one of its programs.

Examples: The Distance Education Accrediting Commission requires, at the time of its initial application for accreditation, that an institution has been enrolling students in the current programs for two consecutive years and under the present ownership.

The Accrediting Commission of Career Schools and Colleges requires, at the time of initial application for accreditation, that an institution must have graduated at least one class of students from the longest program(s) offered during the two-year period preceding its application for accreditation. If the program is a bachelor’s-level degree, this would be four years.

In both of the examples, it is not possible for new institutions given a provisional approval to operate by the Bureau, to achieve pre-accreditation or accreditation candidacy within the two years as required by CEC section 94885.5, as they are restricted from applying for accreditation until they meet the accreditor’s conditions for student enrollment/graduation.

SB 1192, chaptered in 2016, resulted in a provision added to CEC sections 94885.1 and 94885.5 to allow the Bureau to approve an extension of time, not to exceed two years, to meet the requirements of CEC sections 94885.1 or 94885.5. However, the institution’s request must demonstrate active steps the institution is taking to comply with the section and must include documentation from an accrediting agency, recognized by the United States Department of Education, demonstrating the institution’s likely ability to meet the requirements of CEC section 94885.5. It has been the Bureau’s experience that accrediting agencies will not provide this documentation for institutions that have not yet applied, regardless of whether or not they are eligible based on the accreditor’s requirements for enrollment or graduates.

Recommended Solution: The two-year timeline for achieving pre-accreditation or accreditation candidacy as part of the provisions of CEC section 94885.5 should account for differences in accreditation eligibility requirements. The two-year requirement is not practical and presents an impossible scenario for institutions opting for some accreditors and desiring to comply with state law.

Issue #2(b): Current law is silent on institutions achieving accreditation as required by CEC sections 94885.1 and 94885.5 and subsequently losing such accreditation.

Issue: SB 1247, chaptered in 2014, resulted in the requirement of California private postsecondary educational institutions offering degree programs to be accredited by an accrediting agency recognized by the United States Department of Education. CEC sections 94885.1 and 94885.5 were added to address this requirement.

Background: Provisions in both sections include requirements and timelines for institutions to actively pursue accreditation, but the statute is silent regarding institutions that comply with the provisions, ultimately achieve accreditation, and subsequently have their accreditation withdrawn by the institution's accreditor. In fact, the statute does not address a situation in which any degree-granting institution loses its accreditation, irrespective of CEC sections 94885.1 or 94885.5.

CEC section 94885(b) requires that an institution offering a degree must either be accredited or be seeking accreditation as a provisionally-approved institution. Institutions already approved and offering degree programs are not provisionally-approved. Therefore, the provisions of CEC section 94885.5 do not apply.

Recommended Solution: Amend the statute to address approved institutions offering degree programs that surrender their accreditation or for which accreditation is removed or revoked by the accreditor. Institutions in those situations should surrender the degree programs and provide the Bureau with a teach-out plan or degree closure plan to protect students.

Issue #2(c): Restriction on Changing Ownership While Pursuing Accreditation as a Provisionally-Approved Institution

Issue: Some institutions issued a provisional approval to operate up to two degree programs while pursuing accreditation pursuant to CEC section 94885.5 are selling the institutions shortly after receiving a provisional approval. The problem this presents is that since accrediting agencies prohibit institutions from making certain substantive changes, such as a change in ownership or control, institutions that change ownership while provisionally-approved by the Bureau and seeking accreditation jeopardize their ability to meet the pre-accreditation and accreditation deadlines imposed by CEC section 94885.5 in that the accreditation process is halted when an institution changes ownership. This results in direct student harm.

Background: SB 1247 (Lieu, Chapter 840, Statutes of 2014) resulted in the requirement of California private postsecondary institutions offering degree programs to be accredited by an accrediting agency recognized by the United States Department of Education. CEC section 94885.5 provides the Bureau with the authority to issue a provisional approval to operate to unaccredited institutions proposing to offer up to two degree programs. Pursuant to requirements prescribed by CEC section 94885.5, provisionally-approved institutions must achieve accreditation candidacy or pre-accreditation status within two years of provisional approval and full accreditation within five years of provisional approval. Most accrediting agencies restrict institutions from making substantive changes during the period in which the institution is pursuing accreditation.

A change of ownership is considered by accreditors and the Bureau to be a substantive change, pursuant to CEC section 94894. When an institution's owner sells the institution and a change of ownership, control, or change in business organization form occurs, the accreditation process is halted, as the institution's eligibility for accreditation was based on an evaluation and approval of the previous ownership and control structure and no longer applies. When a provisionally-approved institution cannot continue with the pursuit of accreditation, it is in jeopardy in failing to meet the two- and five-year milestones for achieving pre-accreditation and accreditation, respectfully. The institution is then subject to automatic suspension of its degree programs and all enrolled students are harmed. Additionally, it appears that institutions are, in effect, selling their approvals to offer degree programs.

The Bureau's laws have no restrictions on provisionally-approved institutions making substantive changes during the term or period of provisional approval.

Recommended Solution: Amend the statute to restrict institutions operating under a provisional approval pursuant to CEC section 94885.5 from changing ownership or control during the term of provisional approval, or until the institution achieves full accreditation.

Issue #2(d:) Unclear Intent of the Impact to an Institution's Non-Degree Programs when an Institution's Provisional Approval to Operate is Suspended.

Issue: The statute is unclear on what happens to non-degree programs offered by a non-accredited institution granted a provisional approval to operate, that has its provisional approval automatically suspended for failing to comply with the requirements of CEC section 94885.5 pertaining to the pursuit of accreditation. It is unclear whether a provisional approval to operate means a provisional approval to operate degree programs and excludes non-degree programs.

Background: CEC section 94885.5 provides for the provisional approval of non-accredited institutions wishing to offer no more than two degree programs, as well as for the suspension of the institution's provisional approval should the institution fail to achieve the milestones for pre-accreditation and accreditation set forth in CEC section 94885.5.

Some institutions applying for provisional approval of degree programs also propose to offer, and are approved to offer, non-degree programs, since the statute does not prohibit non-degree programs with a provisional approval. The statute (CEC section 94885.5) is silent, however, on the intended impact of a suspension on an institution's non-degree programs.

CEC section 94885.5(c) states in relevant part, "A suspended institution shall not enroll new students in any of its *degree programs* and shall execute a teach-out plan for its enrolled students." Here the statute speaks only to degree programs. Therefore, it is unclear whether a provisionally-approved institution offering both degree and non-degree programs may be allowed to operate its non-degree programs while its provisional approval to operate is suspended, since the intent of the statute appears to apply specifically to an unaccredited institution's degree programs.

Recommended Solution: Amend the statute to address the intent of the statute as applied to non-degree programs offered by provisionally-approved institutions that are suspended for failure to meet accreditation milestones. Alternatively, the committee may wish to amend the

statute to make clear whether the intent of the statute is to restrict institutions applying for provisional approval to only offering degree programs.

Issue #3: Approval by Means of Accreditation

Issue: AB 48 (Portantino, Chapter 310, Statutes of 2009) established CEC section 94890, which provides that the Bureau shall grant an institution that is accredited an approval to operate by means of its accreditation, and that the term of such approval to operate shall be coterminous with the term of accreditation. This provision has shown to be problematic.

Background: The Bureau grants institutions one of two types of approvals to operate: an approval to operate (informally regarded as a “full” approval), and an approval to operate by means of accreditation. The type of approval for which an institution applies is dependent upon whether the institution is accredited and, if accredited, is based on an accredited institution’s application option.

As provided by CEC section 94887, an approval to operate is granted after an applicant has presented sufficient evidence to the Bureau, and the Bureau has independently verified the information provided by the applicant through site visits or other methods deemed appropriate by the Bureau, that the applicant has the capacity to satisfy the minimum operating standards. Conversely, CEC section 94890 provides that the Bureau shall grant an institution that is accredited an approval to operate by means of its accreditation. The intent of this provision is interpreted to mean that the Bureau will rely on the institution’s accreditor to ensure the institution has the capacity to satisfy the minimum operating standards and to ensure the institution is offering quality educational programs.

Thus, a “fast track” application was developed by regulation to facilitate the application review and processing goals provided for in CEC 94890(a)(2). The Application for Approval to Operate for an Accredited Institution is completed and submitted to the Bureau by accredited institutions seeking approval by means of its accreditation. Since the intent of the provision was to allow for an abbreviated review and approval timeline, as well as a reliance on the institutions’ accreditor to ensure compliance with minimum operating standards, the Bureau has found that institutions approved by means of accreditation often have compliance issues related to the catalog, enrollment agreement, website requirements, financial responsibility, and educational quality, despite the oversight of the accrediting agencies in tandem with that of the Bureau.

Additionally, serious issues have surfaced over the last few years challenging the levels and quality of oversight by at least one accreditor. In December 2016, the United States Department of Education withdrew recognition from the Accrediting Council for Independent Colleges and Schools. This resulted in a situation in which some degree-granting institutions approved to operate by means of accreditation suddenly lost their basis for approval to operate in California and the students enrolled in these institutions were harmed, as the institution was no longer accredited.

For institutions that are awarded an approval to operate (full approval) the period of approval is five (5) years. For institutions that are approved to operate by means of accreditation the approval period can be up to 10 years, because the law provides that the approval is

conterminous with the accreditor's period of accreditation, and accrediting agencies grant terms of accreditation in various lengths.

The U.S Department of Education has proposed regulations (Federal Register Vol. 84, No. 113 / Wednesday, June 12, 2019 / Proposed Rules) that, among other things, would revise the requirements for accrediting agencies in their oversight of member institutions and programs to be less prescriptive and provide greater autonomy and flexibility.

Lastly, a review of precipitous institutional closures over the last several years reveals that of the five largest closures in terms of number of students impacted, four had been approved by means of accreditation: Argosy/Art Institute, Brightwood Colleges, ITT Technical Institute, and WyoTech (Corinthian).

Recommended Solution: Amend the statute to remove the provision for institutions to seek approval by means of their accreditation and allow only a single application for approval for all institutions regardless of accreditation status, implemented on a phase-out schedule whereby institutions—for which their term of approval by means of accreditation is expiring—would be required to submit an application for approval (full approval) in order to remain approved to operate. This would not impact the institutions' accredited status but would provide a clear separation between the Bureau's approval to operate and the institutions' accreditation.

Issue #4: California Law Does Not Require Private Postsecondary Institutions to Post a Surety Bond.

Issue: The precipitous closures of several large private postsecondary education institutions in California over the last several years has resulted in direct and devastating harm to thousands of students who invested significant time and money but were not able to complete their programs of study as promised by the institutions. While STRF exists in California to mitigate economic loss suffered by a California resident who was enrolled in a California residency program and who prepaid tuition, the statutory limitations on the utilization of STRF funds fail to allow for a broader range of economic relief that may be in the best interest of the students. Additionally, the direct costs to the Bureau are proportional to the size of the institution with large-scale closures using significant financial and personnel resources.

Background: Several states require private postsecondary institutions to post a surety bond as part of the states' process for submission of an application for approval to operate. States such as Arizona, Alaska, Florida, Georgia, Maryland, Nebraska, New Mexico, South Carolina, Tennessee, Texas, and Utah all require postsecondary school bonds. In the event of a precipitous school closure, the funds may be used for several purposes, including but not limited to, the compensation of students or students' parents for lost prepaid tuition, payment of reasonable expenses related to the storage, maintenance and availability of student records, compensation for faculty to remain on a temporary basis to complete instruction through the end of a term or course, and reimbursement of former students of the closed institution for the cost of obtaining academic records.

Over the past several years, the Bureau has experienced several precipitous closures of large institutions having significant student populations, such as Marinello Schools of Beauty, ITT Technical Institute, ECA (Brightwood), Dream Center (Argosy), and Corinthian Colleges. Although STRF funds were used to compensate students and graduates of these institutions

after-the-fact, funds from a surety bond could have been used in some cases for the temporary continuity of instruction for students near the completion of their programs to finish or to fund the storage and maintenance of student records, or to provide the funding for school staff to remain on temporarily to assist students in transferring to other institutions.

The closure of these larger institutions requires the Bureau to send its personnel throughout the state to assist the students. These unforeseen closures cannot be predicted in the Bureau's budget forecasting. These costs range from travel and lodging for the personnel going to the sites to assist students, to lost personnel hours because the larger closures require additional personnel to be pulled away from their regular duties for days or weeks leaving other divisions temporarily shorthanded and resulting in temporary backlogs in these other divisions.

It is worth noting that other DCA boards and bureaus have specific statutory authority to require a bond as part of the licensure requirement. For example, The Board of Pharmacy, Contractors State Licensing Board, Bureau of Cannabis Control, and the Cemetery and Funeral Bureau all require surety bonds.

Although the cost for institutions to obtain surety bonds varies, research into a number of companies offering surety bonds has revealed that the premiums paid by institutions for surety bonds typically depend upon the institution's gross tuition or projected gross tuition. Additionally, as with other types of insurance, premium costs are affected by the institution's financial health.

Recommended Solution: Amend the statute to provide the Bureau with the authority to require surety bonds as part of the application process for an approval to operate. The amount of the surety bond would be based on a number of factors such as, the number of students enrolled and/or the institution's financial health.

Issue #5: Institutions often fail to identify a Custodian of Records and/or submit their plan for the disposition of student records to the Bureau, prior to precipitous school closures.

Issue: CEC section 94926 requires institutions to follow an orderly closure process that is often not adhered to by schools when they cease operations. This often leaves impacted students with significant challenges in obtaining their educational and academic records to which they are entitled, and that may be necessary to successfully take the next step in their lives. Those possible next steps include transferring to another institution, seeking relief for the economic loss the student has just suffered, or pursuing a professional certification or license. All these very common next steps for students who are affected by precipitous closures may require the student to obtain copies of his or her school records to provide to a third party.

Background: Schools often close without complying with the orderly closure procedures, do not identify a Custodian of Records, and do not notify students how to access their transcripts and other records, after a closure. The Bureau's Closed Schools Unit works directly with schools that are closing to obtain a complete closed school packet, and to obtain the school's plan for the disposition of their students' academic and financial records. However, the leverage the Bureau holds in enforcing these requirements and to discipline schools and owners for failing to comply with these provisions is greatly minimized because the only option is to take an administrative action against a school that is already closed and often has no

intention of operating another licensed school in the future. The Bureau's Office of Student Assistance and Relief (OSAR) works with students who have been negatively affected by abrupt closures as an advocate, and specifically is charged with assisting students by providing information on how to obtain their records. However, when a clear plan was not put in place prior to the closure, it can be frustrating and problematic to students, but also to Bureau/OSAR staff, as they are unable to fulfil this this key OSAR duty.

Examples: Three recent examples are as follows:

School #1 closed on December 1, 2018. The owner notified the Bureau that he would not designate a custodian of records due to the cost it would take to hire someone to serve in this role. This is a common reason that owners share with the Bureau as to why they have not identified a Custodian of Records. As a result, students have been unable to obtain their records.

School #2 and School #2b closed on March 1, 2019 and March 28, 2019 respectively, and both schools failed to identify a Custodian of Records. As a result, students have been unable to obtain their records.

School #3 closed on November 6, 2017 and did designate a Custodian of Records; however, the custodian has been non-responsive to date, and the students have to find alternative ways to obtain their records.

Student Impact: Students are negatively impacted when they cannot obtain their records. Specifically, the records students often need are; official transcripts, individual course completion documents, or certificates of completion (program) / diplomas / proof of training documents. Many students cannot benefit from their completed education to obtain a job or further pursue a higher degree because they do not have proof of their completed education. Those students have suffered both an economic loss and an educational loss. Currently, students have few options in how they can obtain their records when a school closes and/or when a school refuses to provide students with their records.

As an example, students at School #1, have completed their terminal (doctorate) degree, yet have no proof of completion of their degree. Many of those students need proof of their education so they can sit for an exam and obtain licensure. In other cases, students have a strong, specific job prospect lined up or in some cases even a tentative offer, where it is a necessity to provide proof of completion of their doctorate degree to the employer's Human Resources office to be deemed eligible for employment in those positions. The students have requested their transcripts; however, the school has not provided their records to them.

Recommended Solution: Expand the use of the STRF fund to internally build the capacity of the Bureau to serve, at least temporarily, as the keeper of records for schools that fail to provide a feasible plan for the disposition of the records and/or fail to notify students how to obtain those records. This would entail approval of an expanded use of the STRF (possible statute or regulatory changes) and then hiring additional positions whose duties would entail obtaining, storing, organizing, and managing student records and student records requests, on behalf of schools who have failed to comply with these provisions. The implementation of this recommendation would allow the Bureau to more proactively ensure the protection of students' rights, as they relate to access to academic and financial records.

Issue #6: Definition of Educational Programs pursuant to Statute

The Bureau approves California private postsecondary educational institutions to operate and offer educational programs. As defined by CEC section 94837, *Educational Program* means “a planned sequence composed of a single course or module, or set of related courses or modules, that provides education, training, skills, or experience, or a combination of these.”

The problem created by the blanket definition of educational program is the lack of differentiation between bona fide educational programs, *i.e.*, those resulting in a diploma/certificate/degree, and those short-term workshops, courses, seminars, and similar offerings, including those offered for continuing education purposes, that do not result in the award of a certificate, diploma, or degree, are typically non-credit-bearing, and are not designed to lead to employment, but are offered to, and taken by, individuals who typically already have a certificate, diploma, or degree for the purpose of continuing education in their respective fields or for personal or professional growth or development.

CEC section 94885(a)(2) requires all institutions to maintain specific written standards for each educational program. Because of the blanket definition of educational program, the standards and requirements must be applied equally to a wide range of educational offerings, from a one-hour seminar to a doctorate-level degree program. As such, institutions offering short-term or continuing education courses are needlessly made to comply with certain requirements that should not apply to short-term or continuing education courses. Some of these requirements include the following:

School Performance Fact Sheets

CEC section 94910 requires institutions to provide to students, prior to enrollment, a School Performance Fact Sheet that includes, but is not limited to, the following information as related to the educational program:

- Student completion rates.
- Graduate employment rates.
- Licensee examination pass rates.
- Salary or wage information for graduates employed in the field of instruction.
- Description of how the previous data was calculated.
- A statement informing the reader of where he or she may obtain a list of employment positions within the field.
- A statement informing the reader of where he or she may obtain a list of the objective sources of information used to substantiate the salary disclosures.

While required for all educational programs, the information contained within the School Performance Fact Sheet is not applicable to continuing education and short-term workshops, seminars, or courses not designed to lead to employment. However, existing law requires institutions to create and maintain a School Performance Fact Sheet for each educational program, as well as provide a School Performance Fact Sheet to every student prior to enrollment. This requirement includes short-term and continuing education programs. As previously indicated, with the sole exception of completion rates, the information made available on a School Performance Fact Sheet is relevant only to educational programs that are designed to lead to an employment-related outcome. Thus, institutions are required to

develop and provide to prospective students, documents that have no value to the students/consumers.

Enrollment Agreement

CEC section 94902 provides that a student shall enroll solely by means of executing an enrollment agreement. CEC section 94911 includes minimum requirements for an enrollment agreement that, while applicable to a degree or diploma program, do not apply to continuing education or short-term workshops, seminars, or courses. For example, the required cancellation disclosure does not apply to programs having only one class session. Another required disclosure speaks to financial aid, which is not applicable to short courses.

Another transferability disclosure speaks to the transfer of credits, which does not apply to short, non-credit-bearing courses that do not result in the award of academic credit. Institutions consistently and formally complain to the Bureau that prospective attendees interested in taking continuing education or single-day courses are irritated by having to sign a multipage enrollment agreement containing elements that are not applicable to them, in order to be permitted to complete the class.

Refund Policy

CEC section 94920(b) requires institutions to refund 100% of the amount paid for institutional charges, less a reasonable deposit or application fee not to exceed two hundred fifty dollars, if notice of cancellation is made through attendance at the first class session, or the seventh day after enrollment, whichever is later. For continuing education or short-term courses completed within a single day, the requirement of the section cannot be reasonably met by institutions offering these types of courses without creating an economic disadvantage to schools.

Admissions Requirement

CEC section 94904 requires that, before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take and pass an independently administered examination from the list of examinations prescribed by the United States Department of Education. While it can be easily argued that this requirement should indeed apply to diploma and degree programs, it is not reasonable to require a prospective student be a high school graduate or pass an ability-to-benefit exam in order to enroll in, as an example, a four-hour workshop in animation arts or a CPR course.

Institutions that offer a number of continuing education-type courses/programs remain at a disadvantage and are unnecessarily burdened by requirements not applicable to those types of courses. Additionally, the Bureau commits and expends limited resources on the review, approval, inspection, *etc.*, of these short-term courses when those resources would be better served reviewing diploma and degree programs that represent an investment of students' time and money.

Recommended Solution: The first element of the proposed solution is to simply revise the definition of educational program in statute to extract short courses by making it clear that a single course or module that is part of a set of courses or modules does not, in itself, constitute an educational program, and to provide for a minimum number of hours of instruction at which a short course qualifies as an educational program, thus excluding from the definition those courses comprised of less than the minimum number of hours of instruction. The suggested revised language follows:

94837. Educational Program

“Educational program” means a planned sequence composed of a set of related courses or modules, or single course or module when not offered as a component of a set of related courses or modules, that provides education, training, skills, or experience, or a combination of these. Short courses and continuing education courses consisting of 32 hours of instruction or less that are not designed to lead to employment, are excluded from this definition.”

This proposed definition excludes short-duration courses, workshops, seminars, etc. from being labeled as educational programs and therefore from being subject to the requirements of the School Performance Fact Sheet, enrollment agreements, refund policy, and requirement for students to have a high school diploma or equivalent prior to being permitted to take the course.

Issue #7: Inactive Status CEC section 94889

Issue: CEC section 94889 provides the Bureau with the authority to adopt regulations for a process by which an institution with an approval to operate may request, and be approved by the Bureau for, an inactive status. However, in order to regain an active approval status with the Bureau, the institution shall apply for an approval to operate.

Background: SB 1247 (Lieu, Chapter 840, Statutes of 2014) resulted in the revision of CEC section 94889 providing the Bureau the option of adopting by regulation a process whereby an institution with an approval to operate may request an inactive status. CEC section 94889 also requires that an institution in inactive status must apply for an approval to operate in order to return to an active approval status. This provision is problematic in several ways:

First, if an institution that is approved for an inactive status is required to complete and submit an application for approval in order to return to an active approval status, there is no benefit to an inactive status, as currently institutions can simply surrender their approval to operate and thus remain “inactive” by not having an approval to operate.

Second, the Bureau is unclear of the intent of the statute in terms of whether an institution in inactive status would be expected to submit annual reports, make available School Performance Fact Sheets on its website, continue to submit Student Tuition Refund assessments, or submit payments for annual fees or other fees as required by the Bureau.

Third, The Bureau is unclear of the intent of the statute in terms of whether an institution on inactive status would remain responsible/accountable to the Bureau’s laws and regulations and would be required to respond to Bureau staff regarding complaint investigations, compliance issues, or requests for information.

Lastly, the Bureau is concerned that institutions that are denied renewal of approval or for which administrative action is pending or likely, may use inactive status as a means to avoid responsibility/culpability for violations or deficiencies.

Recommended Solution: Amend the statute to remove the reference to inactive status. Alternatively, the statute can clarify the intent and circumstances under which an institution

may be granted inactive status and amend the statute to provide institutions with an inactive status to regain active status through an application designed specifically for that purpose, rather than requiring institutions to submit an application for approval, which would be required of any institution that surrendered its approval.

Issue #8: Postsecondary Education Definition

Issue: CEC section 94857 defines “postsecondary education” as “a formal institutional educational program whose curriculum is designed primarily for students...” CEC section 94828 defines “curriculum” as “an organized set of courses or modules or instruction that are prerequisites to the award of a degree or diploma.” Including the word “curriculum” in the definition of “postsecondary education” causes confusion over whether or not educational programs that do not lead to a degree or diploma fall under the scope of the Bureau. Postsecondary education is not limited to the awarding of a degree or diploma, therefore, removing the word “curriculum” from CEC section 94857 would remove the possibility of any misunderstanding of the types of programs that are considered postsecondary education.

Background: CEC sections 94857 and 94828 were created with the establishment of the Bureau for Private Postsecondary Education.

Recommended Solution: Amend the definition of “postsecondary education” as follows:

“...a formal institutional education program whose ~~curriculum~~ instruction is designed primarily for students...

Issue #9: Continuing Education Definition

Issue: CEC section 94827 defines “Continuing Education” but does not address the possibility of continuing education courses leading to a degree. The Bureau believes the intent of CEC section 94827 was to exclude degree programs.

Background: Some institutions that offer continuing education courses also offer the same courses as a degree program. The degree program is separate from the continuing education program (students are either enrolled to take one or more continuing education courses to satisfy continuing education requirements for the professional license they hold, or, the student is enrolled in a series of classes to earn a degree) but offers the same courses. As defined under CEC section 94827, continuing education courses are offered solely for the purpose of continued licensure or to enhance one’s skills and knowledge within a particular profession. A degree program is offered to achieve an additional educational certification that is not required for continued licensure.

Recommended Solution: Amend the definition of “Continuing Education” under CEC section 94827, as follows:

“‘Continuing Education’ means instruction that does not lead to a degree in subjects that licensees are required to take solely for the purpose of continued professional licensure, or to enhance ~~their~~ the licensee’s skills and knowledge within their particular profession, occupation, trade, or career field, or to maintain employment

Issue #10: Dual-Enrollment of High School Students in Postsecondary Education Programs

Issue: The statute does not address situations in which private postsecondary education institutions partner with high schools to permit qualified high school students to take postsecondary-level (college) courses.

Background: Some private postsecondary institutions have partnered with high schools to allow high school students meeting certain criteria the opportunity to enroll in and complete courses at the postsecondary institution. These selected courses satisfy requirements for completion of secondary education while at the same awarding college-level credit. Provisions for the allowance of this dual-enrollment status are common in public postsecondary institutions and can be a benefit to high school students in that they receive both high school and college credit for courses completed, which may reduce the number of courses needed to earn a college degree, thus reducing the overall cost of the degree as well.

Currently the statute is silent on dual-enrollment situations, which results in several challenges for institutions wishing to accept high school students. Additionally, the statute contains provisions that, by their nature, prohibit such dual-enrollment scenarios as explained in the following examples:

CEC section 94811 defines an *ability-to-benefit* student as a student who does not have a certificate of graduation from a school providing secondary education, or a recognized equivalent of that certificate. This definition includes students pursuing completion of high school. CEC section 94904 requires ability-to-benefit students to take and pass an independently-administered ability-to-benefit exam before being permitted to execute an enrollment agreement with a postsecondary institution. This is an unnecessary requirement for dual-enrollment students, as the partnering high school is in the best position to make a recommendation and determination of whether the student may possess the ability to benefit from postsecondary education.

CEC section 94934 requires institutions to submit an annual report and School Performance Fact Sheet, which include the number of graduates from an educational program, and the number of graduates employed as a result of the education, measured by graduation rates and placement rates, respectively. No provisions exist for students taking individual courses of an educational program, even one leading to employment, to be identified and reported on a School Performance Fact Sheet. Likewise, no provisions allow for the discounting of such students from reporting requirements.

Recommended Solution: Amend the statute to create unique provisions for the dual enrollment of high school students into postsecondary education courses of study separate from the requirements for enrollment into complete educational programs.

Issue #11: Consumer Information Required to be Disclosed to the Student Pursuant to Applicable Federal and State Financial Aid Programs

Issue: CEC Section 94909(a)(10) requires a statement in an institution's catalog reporting whether the institution participates in federal and state financial aid programs, and if so, all consumer information that is required to be disclosed to the student pursuant to the applicable

federal and state financial aid programs. It is not reasonable to require “all consumer information” be included in an institution’s catalog.

Background: The U.S. Department of Education requires institutions participating in federal student aid programs provide consumer information disclosures to prospective and current students. U.S. Department of Education publishes a document titled, Consumer Information Disclosures At-A-Glance, which provides a summary, in chart form, of school disclosure requirements for schools participating in Title IV programs. This 41-page document notes the required information with regulatory references, as well as the required method(s) of disclosure of the information. U.S. Department of Education does not require all disclosures to be made available in the institution’s catalog. In fact, the methods for disclosure of the information include, but are not limited to, the following, dependent upon the type of information disclosed:

- A notice distributed to each enrolled student
- Made available through appropriate publications, mailing, or electronic media
- Must be made available on the school’s website
- Information provided to each student in a separate written notice

The U.S. Department of Education, as part of its annual compliance audit, requires institutions to inform it how and where each required consumer information disclosure as applicable is made available to students/prospective students, but does not require all disclosures to be made available in a catalog, as it would be impractical to require such a large volume of information, and because some types of information are required to be delivered via other means, as previously noted. Therefore, in complying with the U.S. Department of Education disclosure requirements, an institution cannot possibly comply with this subsection of the statute:

CEC section 94909(a)(10) A statement reporting whether the institution participates in federal and state financial aid programs, and if so, all consumer information that is required to be disclosed to the student pursuant to the applicable federal and state financial aid programs.

Recommended Solution: Amend this subsection of the statute to require the disclosure of consumer information by institutions participating in federal and state financial aid programs, by the method required by the U.S. Department of Education and the California Student Aid Commission, rather than by including all consumer information in the institution’s catalog.

Issue #12: No Standard Exists for Determining/Establishing an Institution’s “Physical Presence.”

Issue: CEC section 94858 defines a “Private Postsecondary Educational Institution” as a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge. The statute, however, is silent on what constitutes a *physical presence*.

Background: The Bureau has struggled with understanding and applying the intent of the legislation in determining whether an institution has a physical presence, under certain circumstances, since the statute does not define physical presence. In some instances, private postsecondary institutions operating in other states have offered externships or similar learning opportunities in California, sometimes partnering with other California public or private

postsecondary institutions. In other instances, students have enrolled at institutions in other states but attend portions of their educational programs/courses in California, at facilities that may be owned or rented by the out-of-state institution, or the out-of-state institution has an agreement with another non-institution entity to rent, lease, or use the facilities in California. In the examples above, the faculty providing instruction may belong to the out-of-state institution, may travel from the out-of-state institution's home state, or the institution may contract with local faculty residing in California to deliver the instruction.

The Bureau must have the statutory or regulatory ability to determine under which conditions an out-of-state institution offering a portion of its educational program in California constitutes a physical presence, which would require an approval to operate in California.

New York State Education Department's Bureau of Proprietary School Supervision considers an institution to have a physical presence in New York State if it does one of the following things:

- Operates an instructional site (a physical site at which instruction is given by a faculty member to a group of students) in New York State. The fact that the instruction at that site is given through an electronic medium (e.g., satellite delivery, videotape) rather than through an instructor physically present in the room, does not change the fact that it is an instructional site.
- Sponsors organized activities within the State that are related to the program of study (e.g., advising, mentoring, study groups, examination administration).
- Has a representative, whether paid or not, acting on its behalf within the state to conduct instructional or academic support activities. This would include a commercial vendor acting on behalf of the out-of-state institution providing services to students of that institution.

Additionally, the National Council for State Authorization Reciprocity Agreements has developed detailed standards for physical presence, found at <https://www.nc-sara.org/files/docs/FINAL%20SARA%20General%20Policies%20released.pdf> standard for determining physical presence for an out-of-state institution offering a component of its educational program in California. Alternatively, the committee may wish to amend the statute to provide the Bureau with the authority to establish, by regulation, the standard for determining physical presence.

Recommended Solution: Establish a definition for "physical presence".

Issue #13: Educational Program Sponsors

Issue: CEC section 94874(b)(1) does not specify whether or not an institution can sponsor its own educational programs. Many schools submit a verification of exemption application under CEC section 94874(b)(1) that offer educational programs to their own members. If this was allowed under CEC section 94874(b)(1), any institution could require its students to pay a nominal membership fee and the school would be exempt from Bureau oversight.

Background: CEC section 94874(b)(1) states: "An institution offering educational programs sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership." An institution that sponsors its own educational programs and requires its students to be members of the institution does not qualify under this exemption.

Recommended Solution: A statutory change to the law that would require institutions to be sponsored by a separate and distinct entity in order to qualify under this exemption. The Bureau recommends the following change:

- *“An institution offering educational programs sponsored by a **separate and distinct** bona fide trade, business, professional, or fraternal organization.....”
An institution that sponsors its own educational programs and requires its students to be members of the institution does not qualify under this exemption*

Issue #14: Minimum Operating Standards

Issue: Existing statutory authority requires the Bureau to adopt by regulation minimum operating standards for institutions. This limits the Bureau to adopting regulations addressing only those requirement areas addressed in statute.

Background: CEC section 94885(a) requires the Bureau to adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur:

- (1) The content of each educational program can achieve its stated objective.*
- (2) The institution maintains specific written standards for student admissions for each educational program and those standards are related to the particular educational program.*
- (3) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program’s goals.*
- (4) The institution maintains a withdrawal policy and provides refunds.*
- (5) The directors, administrators, and faculty are properly qualified.*
- (6) The institution is financially sound and capable of fulfilling its commitments to students.*
- (7) That, upon satisfactory completion of an educational program, the institution gives students a document signifying the degree or diploma awarded.*
- (8) Adequate records and standard transcripts are maintained and are available to students.*
- (9) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws.*

Notwithstanding subsection (a)(9) as a “catch-all” provision, the Bureau proposes additional minimum operating standard areas, to address the cost of an educational program, student outcomes, institutional improvement, and educational quality, all of which are worthy of inclusion as minimum operating standards.

Recommended Solution: A statutory change to provide the Bureau with authority to adopt by regulation, the following additional minimum operating standards:

- The institution’s charges for its educational programs are fair and reasonable as compared with the average cost of similar educational programs offered by other private postsecondary education institutions.
- An acceptable number of students who enroll in the institution’s educational programs complete those programs, obtain licensure, and obtain gainful employment in the field of training, as applicable.
- The institution periodically evaluates its educational program offerings and institutional effectiveness and takes active measures to make improvements where warranted.

- The level of quality and academic rigor of an institution's educational programs is that which is expected of a postsecondary educational institution.

Issue #15: Recommended Additions to the List of Substantive Changes to an Approval to Operate Pursuant to Statute.

Issue: The list of changes to an institution's approval to operate, which are considered by statute to be substantive changes and thus require prior authorization from the Bureau, needs to be updated to include additional substantive changes that should also require prior approval before institutions are permitted to make the change(s).

Background: CEC section 94894 lacks a specific definition of a substantive change, but instead provides a list of the following changes to an approval to operate, that are considered substantive changes:

- (a) A change in educational objectives, including the addition of a new diploma or degree educational program unrelated to the approved educational programs offered by the institution
- (b) A change in ownership
- (c) A change in control
- (d) A change in business organization form
- (e) A change of location
- (f) A change of name
- (g) A significant change in the method of instructional delivery
- (h) An addition of a separate branch more than five miles from the main or branch campus

This list does not include other changes that are considered by accrediting agencies and other state postsecondary education oversight agencies to be substantive in nature and that require prior approval from those agencies. These changes are outlined as follows:

- (a) An increase or decrease of 25% or more in the number of clock hours of or credit hours required for successful completion of the program.

Reason: The alteration of a course or educational program that represents significant modification in the objectives or content should be considered a substantive change. As a rule, this means any increase or decrease in clock or credit hours of an existing program since the program was last approved. The 25% threshold is consistent with the percentage of change considered by accrediting agencies to be substantive and requires a review and approval of the proposed change before an institution may implement the change.

(b) Participation in Federal Student Assistance Title IV Programs

Reason: The level of accountability for institutions participating in Title IV programs is far greater than that of non-Title IV institutions, as the U.S. Department of Education applies specific requirements on Title IV institutions that do not apply to non-Title IV institutions. The transition from a non-Title IV institution to an institution participating in Title IV funds absolutely represents a substantive change to an institution's approval to operate and requires the institution to revise its catalog, enrollment agreements, School Performance Fact Sheets, Annual Report, as well as make available to students and prospective students, many other disclosures and consumer information required by federal and state law. This change should require the prior approval of the Bureau

through the institution's submission of an application, to facilitate the Bureau's review of all documents and policies that will be impacted by this change.

(c) A change in the academic measurement of an educational program from clock hours to credit hours

Reason: A change in an educational program from clock hours to credit hours is considered substantive by accrediting agencies, as institutions typically make this change to allow for the transferability of courses or credits to a degree program. The change is significant in that programs measured in credit hours typically require the documentation of additional out-of-class work, whereas clock hour programs typically do not. The conversion from clock hours to credit hours requires the separate calculation of lecture/didactic hours, lab hours, and externship/internship hours within a specific course or program, to arrive at the appropriate number of credit hours to award upon completion.

(d) A change in distance education learning management system

Reason: Institutions proposing to offer instruction through distance education may request to do so in their initial application for approval to operate, or through the submission of an application for the change in method of instructional delivery. As part of the application review process, the institution's proposed learning management system or distance learning platform is reviewed for compliance with the Bureau's minimum operating standards. After the institution's learning management system and application is approved, there is no provision in statute or regulation that requires the institution, after approval, from notifying the Bureau of a change in learning management systems, or for requiring the Bureau's approval of such change.

Recommended Solution: Amend the statute to include these four additional changes to the list of substantive changes pursuant to CEC section 94894, which require Bureau approval prior to the institution making the changes.

Issue #16: Religious Exemption

Issue: CEC section 94874(e)(1)(A) does not specify how much of the instruction must be limited to the principles of the religious organization. This allows a religious organization that qualifies for exemption under CEC section 94874(e) to offer instruction covering any and all areas of knowledge with very limited reference to the principles of the religious organization. Therefore, students may receive instruction in any subject with barely a mention of the principles of that religious organization.

Background: CEC section 94874(e) lists several criteria for meeting this exemption, including specific requirements for the subject areas of the degrees and diplomas awarded and the name of a degree awarded. An institution must also be a nonprofit religious corporation pursuant to Part 4 of Division 2 of Title 1 of the Corporations Code in order to qualify for exemption under this statute.

Recommended Solution: In order to ensure these institutions are actually providing instruction in the principles of the religious organization, the Bureau proposes the following statutory change:

- 94874(e)(1)(A):
 - “~~The~~ All instruction provided is limited to either of the following:
 - (i) The principles of that religious organization. More than 50% of each course must be focused on the religious principles of that religious organization, or
 - (ii) The courses offered pursuant to Section 2789 of the Business and Professions Code.

Section 12 Attachments

Please provide the following attachments:

- A. Bureau for Private Postsecondary Education Administrative Manual
- B. Bureau for Private Postsecondary Education Advisory Committee Handbook
- C. Office of Student Assistance and Relief Activity Report
- D. Major Studies Reports
 - Increasing the Effectiveness of State Reporting Requirements and Student Disclosures for Private Postsecondary Institutions (November 2016)
 - Fee Audit Report (Draft) (May 2016)
- E. Quarterly Performance Measures
- F. Bureau for Private Postsecondary Education Quarterly Customer Satisfaction Survey
- G. Bureau for Private Postsecondary Education Organizational Charts