DEPARTMENT OF CONSUMER AFFAIRS
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

MODIFIED TEXT

Changes to the originally proposed language are shown by double underline for new text, ~~double strikeout~~ for deleted text, and are highlighted for easy location.

(1) Amend Section 76000 of Division 7.5 of Title 5 of the California Code of Regulations to read as follows:

§ 76000. Definitions.

For purposes of this chapter, the following definitions apply:

(a) "California resident" means a person who resides in California at the time the enrollment agreement is signed or ~~when the~~ a person who receives lessons at a California mailing address from a~~n approved~~ qualifying institution offering distance education.

(b) "Closed institution" means an institution at which a closure has occurred.

(c) "Economic loss" means pecuniary loss, ~~which is the sum of the student's tuition, all other institutional charges~~ as defined in section ~~94844~~ 94923 of the Code.~~, cost of equipment and materials required for the educational program as defined in section 94837 of the Code,~~ and ~~interest, collection costs and penalties on any student loan used to pay for such charges~~ Economic loss also includes ~~, collection costs and penalties~~,~~. Economic loss shall also include the amount the institution collected and failed to pay to third parties on behalf of the student for license or exam fees or any other purpose, and the~~ any ~~loss of~~ educational opportunity loss provided by funds paid by a third-party payer. ~~Economic loss does not include Student Tuition Recovery Fund assessments, room and board, supplies, transportation, application fees, legal fees, attorney fees, court costs, arbitration fees or non-pecuniary damages such as inconvenience, aggravation, emotional distress, or punitive damages.~~

(d) "Educational opportunity loss" means ~~the~~ a loss of eligibility for third-party payer benefits that are suffered by a California resident or a person enrolled in a California residency program because they are unable to complete an educational program due to the institution's closure or due to the institution losing its eligibility to receive third-party payer benefits and no replacement of that benefit is available from the third-party payer.

(e) "Fund" means the Student Tuition Recovery Fund.

(f) "Prepaid" describes any amount of money that an institution accepts in advance of rendering educational services.

(g) "Qualifying institution" is an ~~approved institution or an~~ approved institution that is

subject to the provisions of Article 14, commencing with section 94923 of the Code~~, and section 94874.1 of the Code~~, including out-of-state institutions registered with the Bureau pursuant to section 94801.5 of the Code.

(h) "Residency Program" means an educational program as defined in section 94837 of the Code at a~~n approved~~ qualifying institution of which some portion of the instruction occurs as direct instruction as defined in section 71715(c).

(i) "STRF" means Student Tuition Recovery Fund.

(j) "Student Tuition Recovery Fund assessment" or "STRF assessment" means a state-imposed charge to fund this chapter that is required to be paid by a California resident student or a student enrolled in a residency program, who pays tuition to an institution.

(k) "Teach-out institution" means the institution offering a teach-out to a former student of an institution that has ceased to operate.

(l) "Third-party payer" means an employer, government program, or other entity that pays a student's ~~total~~ charges when no separate agreement for the repayment of the charges exists between the third-party payer and the student.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Sections 94874.1, 94923, 94926, 94927 and 94927.5, Education Code.

§ 76020. Student Tuition Recovery Fund (STRF).

(a) The fund exists to relieve or mitigate economic losses suffered by a student ~~in an~~while enrolled ~~educational program as defined in section 94837 of the Code~~ at a qualifying institution, who at the time of enrollment is or was a California resident or was enrolled in a California residency program, if the student enrolled in the institution and the student or a third-party payer ~~,~~prepaid tuition, paid ~~the~~ or is deemed to have paid the assessment ~~(or the tuition and assessment was paid on behalf of the student by a third-party payer),~~ and suffered economic loss as a result of any of the conditions specified in section 94923~~(b)~~ of the Code or due to an institution losing its eligibility to receive a third-party payer benefit such as Cal Grant, Pell Grant, or veterans' financial aid programs under Title 38 of the Code of Federal regulations. ~~following:~~
~~(1) The closure of the institution;~~
~~(2) The institution's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the institution;~~
~~(3) The institution's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the institution prior to closure in excess of tuition and other costs;~~
~~(4) A significant decline in the quality or value of the educational program within the 30-day period before the closure of the institution or, if the decline began before that period, the period of decline determined by the Bureau, to a degree that results in the institution's failure to meet minimum operating or academic standards; and~~

~~(5) The student's inability to collect a judgment entered against a qualifying institution for a violation of the Act, subject to all of the following:~~
~~(A) The student has reasonably tried, and failed, to collect on the judgment. The Bureau will determine the reasonableness of the effort on a case-by-case basis;~~
~~(B) The Bureau receives the student's application within 4 years from the school's closure;~~
~~(C) The student has not received reimbursement or forgiveness from any other source.~~

~~(b) A student whose total charges were paid by a third-party payer is not eligible to make a claim.~~

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Sections 94874.1, 94923, 94926, 94927 and 94927.5, Education Code.

§ 76120. Amount of STRF Assessment.

(a) Each qualifying institution shall collect an assessment of zero dollars ($0) per one thousand dollars ($1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident or is enrolled in a residency program. For institutional charges of one thousand dollars ($1,000) or less, the assessment is zero dollars ($0).

~~(b) Unless a student has a separate agreement to repay the third party, a student whose costs are paid to the institution by third-party payer shall not pay the STRF assessment to the qualifying institution.~~

~~(c) Except when an institution provides a 100% refund pursuant to section 94919(d) or section 94920(b) of the Code, the assessment is non-refundable.~~

Note: Authority cited: Sections 94803, 94877, ~~and~~ 94923 and 94924, Education Code. Reference: Sections ~~94923,~~ 94843, ~~and~~ 94911(b), 94923, and 94924, Education Code.

§ 76130. Collection and Submission of Assessments.

(a)(1) A qualifying institution shall collect the assessment from each student in an educational program at the time it collects the first payment from or on behalf of the student at or after enrollment. The assessment shall be collected for the entire period of enrollment, regardless of whether the student pays the institutional charges in increments.

(2) The assessment to be collected from a re-enrolling student shall be limited to any amount that is due after crediting any prior assessment amount paid by the student. The enrollment agreement shall clearly identify any prior STRF assessment paid by the student.

(b) A qualifying institution shall complete the STRF Assessment Reporting Form ~~(Rev. 2/10)~~ and remit it with the STRF assessments collected from students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:

(1) April 30 for the first quarter,
(2) July 31 for the second quarter,
(3) October 31 for the third quarter, and
(4) January 31 for the fourth quarter. ~~If the due date falls on a Saturday, Sunday or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.~~

If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.

(c) The STRF Assessment Reporting Form shall contain the following information:

(1) Total number of students who signed enrollment agreements for educational programs during the reporting period; and

(2) Total number of students eligible for STRF who signed enrollment agreements for educational programs during the reporting period; and

(3) The total number of students who signed their enrollment agreement during the reporting period, were eligible for STRF, and who made their first payment during the reporting period; and

(4) The total number of students who signed their enrollment agreement in a previous reporting period, were eligible for STRF, and who made their first payment during the current reporting period; and

(5) Total amount of institutional charges after rounding each student's institutional charges to the nearest $1,000, for all eligible STRF students whose STRF assessment was collected in the reporting period; and

(6) Current contact telephone number of the person preparing the form; and

(7) A declaration dated and signed under penalty of perjury by the person preparing the form that the form and any attachments are true and correct.

(d) In the event of a school closure, any collected assessments shall be remitted to the Bureau within seven days following the cessation of instruction.

(e) Submission of all prior reports and assessments required by this section is a condition of renewal.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, Education Code.

§ 76200. Application for Payment.

(a) A student seeking reimbursement under the Fund shall submit an application to the

Bureau on the Application for Student Tuition Recovery Fund (STRF App. Rev. 1/17) which is hereby incorporated by reference. ~~file a written application on the Bureau's Student Tuition Recovery Fund Application Form (STRF App Rev. 2/10),~~ This Application is signed under penalty of perjury that the statements the applicant makes in the application are true and correct ~~form~~ and all ~~attachments~~ submitted supporting documents are true and correct copies of originals. ~~, which includes the following information:~~

~~(1) The student's name, address, telephone number, email address, and social security number or taxpayer identification number;~~

~~(2) If any portion of the total charges were paid from the proceeds of a loan, the name of the lender, and any state or federal agency that guaranteed or reinsured the loan, and the most current loan statement;~~

~~(3) Proof of the amount and description of the student's economic loss for the educational program, and the amount of the student's claim;~~

~~(4) Proof of the date the student started and ceased attending the institution;~~

~~(5) A description of the reasons the student ceased attending the institution, or if the student graduated, date of graduation;~~

~~(6) The student's or borrower's signed authorization to allow the Bureau to negotiate with any lender, holder, guarantee agency, or the U.S. Department of Education on the student's behalf to reduce the loan obligation;~~

~~(7) The student's authorization to allow the Bureau to issue a payment directly to any lender, holder, guarantee agency, or the U.S. Department of Education on the student's behalf; and~~

~~(8) An assignment to the Fund and the Bureau of the student's rights to collect those funds against the institution if any payment issues as a result of the application;~~

~~(9) The institution name, address and phone number where the student attended;~~

~~(10) Proof that the student was a California resident at time of enrollment, or was enrolled in a residency program;~~

~~(11) Proof that the student paid into the STRF Whether the student has received reimbursement or forgiveness from any source related to the economic loss;~~

~~(12) If the student took an approved leave of absence, documentation of the approval;~~

~~(13) Whether the student has previously applied for STRF reimbursement;~~

~~(14) Whether the course of study or portion completed prepared the student to take a state or national licensure exam, and if so, the licensure exam title; and~~

~~(15) If the student transferred to another school, a copy of the enrollment agreement from the new school and a list of all classes or units transferred.;~~

~~(16) If any portion of the total charges were paid by a third party payer, the name of the third party payer and proof of payment;~~

~~(17) If the student has been awarded restitution, a refund, or other monetary award by an arbitrator or court, a copy of the order;~~

~~(18) Evidence to substantiate enrollment (for example, an enrollment agreement or transcripts);~~

~~(19) Proof of economic loss, such as copies of receipts, promissory notes or loan documents, and all other documents to substantiate the student's recoverable expenses; and~~

~~(20) If the application includes student loan(s) as part of the claim, documentation of the response by the loan holder(s) to the student's request to have the student loan(s) discharged.~~

(b) The application must be ~~fully~~ completed and received by the Bureau, with sufficient supporting documents ~~that include, but need not be limited to, the enrollment agreement, promissory notes, if any, and any receipts~~.

(1) ~~For closure of an institution, the application must be received, within two (2) years from date of the closure notice explaining the student's rights under STRF, whether provided by the institution or the Bureau, or a maximum of four (4) years from the date of closure if the student received no closure notice~~ The application must be received within four (4) years from the date of the action or event that made the student eligible for recovery from STRF.

(2) ~~For discontinuation of a program, refund award ordered by the Bureau, failure to pay or reimburse loan proceeds, or an award ordered by an arbitrator or court based on a violation of the Act, the application must be received within 2 years from the award order, failure to pay or reimburse loan proceeds, or program closure~~ A student whose loan is revived by a loan holder or debt collector after a period of noncollection may, at any time, file a written application for recovery from STRF for the debt that would have otherwise been eligible for recovery. If it has been more than four (4) years since the action or event that made the student eligible, the student must have filed a written application for recovery within the original four (4) year period, unless the period has been extended by another act of law.

~~(c) Students whose total charges are paid by a third party payer are not eligible to apply for payment by the Fund.~~

~~(d)~~(c) The Bureau may conduct an investigation to verify whether to grant or deny a claim, and may request any additional information or supporting documentation~~ to supplement the aforementioned requirements~~.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Sections 94870 and 94923, Education Code.

§ 76210. Claims Amount, Payment and Denial.

(a) A student seeking reimbursement under the Fund that includes student loans as part of the claim shall make reasonable attempts to obtain a loan discharge directly from the loan holder before the Bureau ~~can~~ will complete the processing of the student's application for payment under section 76200.

~~(a)~~(b) The Bureau may negotiate with a lender, holder, guarantee agency, or the U.S. Department of Education for the full compromise or write-off of student loan obligations to relieve students of economic loss and, if possible, to reduce the liability of the Fund for the payment of claims.

~~(b)~~(c) The Bureau may pay a student's claim directly to the lender, holder, guarantee agency, or U.S. Department of Education as permitted by law.

~~(c)~~(d) If the Bureau grants the claim, the amount of the payment is measured by the total amount of the student's economic loss, as defined in Section 76000, less the amount of any refund, reimbursement, indemnification, restitution, compensatory damages, settlement, debt forgiveness, discharge, cancellation, compromise or any other benefit received by, or on behalf of, the student that ~~was~~ is related to the economic loss. The amount of the payment is not dependent on, or necessarily limited to, the amount of refund the student would have received from the institution if the student had voluntarily withdrawn. The Bureau cannot pay any claim to or for a student without a social security number or a taxpayer identification number.

~~(d)~~(e) In addition to the reductions in ~~(c)~~(d) above, the Bureau may reduce the amount of the payment by the value of the benefit, if any, of the education obtained by the student before the closure of the institution.

(f) For a student that suffers educational opportunity loss whose charges were paid by a third-party payer, the Bureau will pay the student's charges at a subsequent institution up to the original third-party payer benefit once the student has exhausted his or her eligibility with the original third party-payer benefit. The subsequent institution must be eligible to receive the same third-party payer benefit as the original institution or program, and the Bureau must have evidence of the student's enrollment at the subsequent institution.

~~(e)~~(g) If a student participated in a teach-out, the following conditions also apply:

(1) If the student withdraws from the teach-out institution within the first two weeks of enrollment, the student's economic ~~losses are~~ loss is calculated as though the student never received the teach-out.

(2) If the student withdraws from the teach-out institution after the first two weeks of enrollment, the student's economic loss includes only a pro rata portion of charges for the hours of the education service paid for, but not received from, either institution.

(3) If the teach-out institution provides all of the remaining instruction that the closed institution had represented it would provide, the student's economic loss shall not include any amount the student paid to the closed institution specifically for instruction.

(4) Regardless of participation in a teach-out, a student may recover economic losses other than those specifically related to the instruction.

~~(f)~~(h) Upon payment of the claim, all of the student's rights against the institution for that amount of payment shall be deemed assigned to the Bureau.

~~(g)~~(i) If the Bureau denies the claim, or reduces the amount of the claim, the Bureau may informally consider a written appeal and modify its decision.

~~(h)~~(j) If a written appeal is not received by the Bureau within 60 ~~30~~ calendar days from the date of the decision, the Bureau's decision shall be final.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, 92924 and 94925, Education Code.

§ 76212. Claims by Government Agency on Behalf of Students.

If the Bureau, the Attorney General, or any other law enforcement agency obtains a judgment or administrative order against an institution on behalf of one or more students pursuant to Section 17200 of the Business and Professions Code or similar authority, ~~that law enforcement agency~~ the student(s) for which the judgment was obtained may ~~shall~~ be entitled to payment from the Fund under the following conditions:

(a) The institution was ~~qualified~~ a qualifying institution and is now closed;

(b) A remedy cannot be obtained despite diligent efforts to prosecute, prove, and collect a judgment or administrative order;

(c) The Bureau, the Attorney General, or other law enforcement agency filed a ~~A~~ claim ~~is filed~~ within two years after the judgment or administrative order became final;

(d) ~~A claim indicating~~ The claim indicates the ~~total~~ amount of the judgment allocable to each student ~~is filed~~; ~~and~~

(e) The total amount paid to each student does not exceed the total amount of the student's economic loss, as defined in Section 76000, less the amount of any prior payment from the STRF for related economic loss ~~amount that the student would have been entitled to receive if the student had obtained a judgment for the amount allocable to the student~~; and

(f) The claim is subject to the additional limitations and rights set forth in Section 76210.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, Education Code.

§ 76215. Student Tuition Recovery Fund Disclosures.

(a) A qualifying institution shall include the following statement on both its enrollment agreement ~~for an educational program~~ and ~~its current schedule of student charges~~ school catalog:
"The State of California established the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic loss suffered by a student in an educational program at a qualifying institution, who is or was a California resident while enrolled, or was enrolled in a residency program, if the student enrolled in the institution, prepaid tuition, and suffered an economic loss. Unless relieved of the obligation to do so, ~~"You must~~ you must pay the state-imposed assessment for the ~~Student Tuition Recovery Fund~~ (STRF), or it must be paid on your behalf, if ~~all of the following applies to you:1. You~~ you are a student in an educational program, who is a California resident, or are enrolled in a residency program, and prepay all or part of your tuition.
~~either by cash, guaranteed student loans, or personal loans, and 2. Your total charges are not paid by any third-party payer such as an employer, government program or other payer unless you have a separate agreement to repay the third party.~~
You are not eligible for protection from the STRF and you are not required to pay the STRF assessment, if ~~either of the following applies:1. You~~ you are not a California resident, or are not enrolled in a residency program."~~, or 2. Your total charges are paid by a third party, such as an employer, government program or other payer, and you have no separate agreement to repay the third party."~~

(b) In addition to the statement ~~described~~ required under subdivision (a) of this section, a qualifying institution shall include the following statement ~~on~~ in its ~~current schedule of student charges~~ school catalog:
~~"The State of California created the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic losses suffered by students in educational programs who are California residents, or are enrolled in a residency programs attending certain schools regulated by the Bureau for Private Postsecondary and Vocational Education.~~
"It is important that you keep copies of your enrollment agreement, financial aid documents, receipts, or any other information that documents the amount paid to the school. Questions regarding the STRF may be directed to the Bureau for Private Postsecondary Education, 2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833, (916) 431-6959 or (888) 370-7589.

~~You may~~ To be eligible for STRF, you must be ~~if you are~~ a California resident or ~~are~~ enrolled in a residency program, prepaid tuition, paid or deemed to have paid the STRF assessment, and suffered an economic loss as a result of any of the following:

1. The institution, a location of the institution, or an educational program offered by the institution was closed or discontinued, and you did not choose to participate in a teach-out plan approved by the Bureau or did not complete a chosen teach-out plan approved by the Bureau.
2. You were enrolled at an institution or a location of the institution within the 120 day period before the closure of the institution or location of the institution, or were enrolled in an educational program within the 120 day period before the program was discontinued~~, if the Bureau determined there was a significant decline in the quality or value of that educational program during that time period~~.
3. You were enrolled at an institution or a location of the institution more than 120 days before the closure of the institution or location of the institution, in an educational program offered by the institution as to which the Bureau determined there was a significant decline in the quality or value of the program more than 120 days before closure.
4. The institution has been ordered to pay a refund by the Bureau but has failed to do so.
5. The institution has failed to pay or reimburse loan proceeds under a federal student loan program as required by law, or has failed to pay or reimburse proceeds received by the institution in excess of tuition and other costs.
6. You have 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 have been unable to collect the award from the institution.
7. You sought legal counsel that resulted in the cancellation of one or more of your student loans and have an invoice for services rendered and evidence of the cancellation of the student loan or loans.

~~1. The school closed before the course of instruction was completed.~~
~~2. The school's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purpose, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the school.~~
~~3. The school's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the school prior to closure in excess of tuition and other costs.~~
~~4. There was a material failure to comply with the Act or this Division within 30 days before the school closed or, if the material failure began earlier than 30 days prior to closure, the period determined by the Bureau.~~
~~5. An inability after diligent efforts to prosecute, prove, and collect on a judgment against the institution for a violation of the Act."~~

~~In the event of an institutional closure, to qualify for STRF reimbursement, you must file a STRF application with the Bureau within two (2) years of receiving notice of the closure of the institution. If you do not receive notice, you have four (4) years from the date of the closure to file a STRF application.~~

~~For STRF reimbursement based on discontinuation of a program, refund award ordered by the Bureau, failure to pay or reimburse loan proceeds, or an award ordered by an arbitrator or court~~

~~based on a violation of the Act,, you must file a STRF application within 2 years of the award order, failure to pay or reimburse loan proceeds, or program closure.~~

To qualify for STRF reimbursement, the application must be received within four (4) years from the date of the action or event that made the student eligible for recovery from STRF.

A student whose loan is revived by a loan holder or debt collector after a period of noncollection may, at any time, file a written application for recovery from STRF for the debt that would have otherwise been eligible for recovery. If it has been more than four (4) years since the action or event that made the student eligible, the student must have filed a written application for recovery within the original four (4) year period, unless the period has been extended by another act of law

However, no claim can be paid to any student without a social security number or a taxpayer identification number."

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, 94924 and 94925, Education Code.