

**Executive Office**

1625 N. Market Boulevard, Suite S-308, Sacramento, CA 95834  
P (916) 574-8200 | F(916) 574-8613 | [www.dca.ca.gov](http://www.dca.ca.gov)



June 10, 2013

Ms. Sophia McArdle  
United States Department of Education  
1990 K Street NW., Room 8019  
Washington, DC 20006-8542

Re: State Authorization under 34 CFR § 600.9

Dear Ms. McArdle:

This correspondence is in response to the May 17, 2013, United States Department of Education (USDE) notification that the implementation date of the changes to 34 CFR § 600.9(a) and (b) (State authorization regulations) published in the Federal Register on October 29, 2010, (75 FR 66833) would be delayed until July 1, 2014, in cases where an institution's State authorization will not meet the requirements of these regulations by July 1, 2013.

By way of background, in June 2011, the Department of Consumer Affairs (DCA) supported an initial one-year extension of the effective date of the regulations to allow time for the State of California to explore options to provide a means for institutions exempt from regulatory oversight by the Bureau for Private Postsecondary Education (Bureau) to comply with the State authorization regulations. In 2012, DCA issued guidance to exempt institutions informing those institutions of the available pathway to achieve state authorization through the Bureau. DCA informed exempt institutions of the option to choose to submit to the Bureau's jurisdiction by seeking approval to operate from the Bureau. As with any institution granted an approval to operate, the institution would be required to comply with all applicable laws and regulations. In June 2012, DCA supported an additional one-year extension to allow exempt institutions time to pursue action to ensure compliance with federal standards. The Bureau is currently working with several exempt institutions that have chosen to relinquish their exempt status and seek approval from the Bureau to operate.

In May 2013, the Bureau was made aware of USDE concerns that approvals obtained "by means of accreditation" (pursuant to California Education Code § 94890) may not satisfy the requirement that, to qualify, an institution cannot "be exempt from the State's approval or licensure requirements" as described in the State authorization regulations. (34 CFR § 600.9(a)(1)(ii)(B).) Specifically, USDE informed the Bureau that an institution

Ms. Sophia McArdle

June 10, 2013

Page 2

approved by means of the institution's accreditation may not meet the requirements of 34 CFR § 600.9(a)(1)(ii)(B) unless the Bureau has conducted a compliance inspection pursuant to California Education Code § 94932.5 and the institution's ownership has not changed since the completion of that compliance inspection. The announced compliance inspection review is an approximately four and a half month process, from start to finish; regardless of a final position from USDE, to address the concerns, the Bureau is now in the process of calendaring compliance inspections for institutions that are approved by the Bureau "by means of accreditation".

Although it does not appear to have been a concern, once an institution is under the jurisdiction of the Bureau, including any institution approved by means of accreditation, the institution also satisfies the requirement of 34 CFR § 600.9(a)(1) regarding a complaint process. The Bureau, pursuant to California Education Code § 94941, has the clear authority to review and appropriately act on complaints concerning the institution, including the authority to enforce applicable state laws.

Please allow this letter to serve as support for an additional one-year extension for the purpose of allowing the Bureau to review licensing applications for otherwise exempt institutions and to conduct compliance inspections on institutions approved by means of accreditation. Based on the information provided by USDE, California believes these actions will enable institutions that choose to utilize the Bureau process to satisfy the State authorization regulations.

Sincerely,



Denise D. Brown  
Director