

DEPARTMENT OF CONSUMER AFFAIRS  
**TITLE 5. EDUCATION**  
**DIVISION 7.5 Private Postsecondary Education.**  
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:  
**Minimum Operating Standards: Refund Policies**

**NOTICE IS HEREBY GIVEN** that the Bureau for Private Postsecondary Education (hereafter referred to as “Bureau”) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

**WRITTEN COMMENT PERIOD**

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Bureau at its office no later than April 1, 2025**, or must be received by the Bureau at the hearing, should one be scheduled.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by section(s) 94877 and 94885, 94885.5, and 94927 of the California Education Code (CEC), and to implement, interpret, or make specific CEC section(s) 94885, 94899.5, 94909, 94919, 94920, and 94924 the Bureau is considering amending section(s) 70000 and 71750, and adding section(s) 71746 and 71751, of title 5 of Division 7.5 of the California Code of Regulations (CCR)<sup>1</sup>.

**INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW**

Existing law found in Education Code (CEC or “Code”) section 94885 requires the Bureau to adopt by regulation, minimum operating standards for institutions under the Bureau’s authority, including requiring institutions to maintain cancellation and withdrawal policies and provide refunds. CEC sections 94919 and 94920 establish

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<sup>1</sup> Unless otherwise noted, all references to the CCR hereafter are to Title 5.

cancellation, withdrawal, and refund policies that institutions must follow when a student is withdrawn from their program or cancels their enrollment agreement within the cancellation period. CEC Section 94909 establishes the catalog requirements for institutions, which includes cancellation, withdrawal, and refund policies at section 94909(a)(8)(B). CEC Section 94927 lists requirements for institutions to follow due to the cancellation of an educational program or institutional closure, resulting in the default of an enrollment agreement, and lists applicable refund policies for institutions that Section applies to. Throughout the Code, there are clear distinctions between cancellations and withdrawals, and the refunds associated with them.

CCR 71750 establishes the Bureau’s current standards for student withdrawal from an educational program and associated refunds but does not differentiate clearly between cancellations (generally, where the student decides not to participate in the educational program prior to the cancellation deadline) and withdrawals (generally, where the student decides not to participate in the educational program after the cancellation deadline has passed). This has resulted in problems for the Bureau in determining whether the proper refund policy has been followed.

Additionally, Bureau regulations require institutions to keep a document of the total amount of money received from or on behalf of a student and the date or dates the money was received but does not require institutions to provide receipts to students either when students are issued a refund for a payment, or when the institution issues a refund for a payment received on behalf of a student. Consequently, students are often confused about any refund they may be entitled to when they cancel or withdraw from their program. Finally, the current method of calculating pro-rata refunds is written in a confusing manner that results in instances in which non-refundable charges can have a disproportionate effect on an institution’s refund made to a student. Therefore, the Bureau has revised the pro-rata formula to appropriately factor in non-refundable charges by clarifying language to better align with existing statute.

At the February 7, 2024, meeting of the Bureau’s Advisory Committee, Bureau staff outlined existing regulatory issues and solicited input on whether the proposed changes to cancellations and withdrawals warranted such changes, while ensuring that institutions follow the correct cancellation or withdrawal policy.

This regulatory proposal will:

- 1) Amend existing section 70000 to define “Cancellation,” “Cancellation Period,” “Pro-Rata Refund,” “Refund,” and “Withdrawal.”

2) Add to the CCR Section 71746: Collection of Tuition and Payment From Students:

- Add that institutions shall not charge or collect from, or on behalf of, students an amount for total charges that exceeds the amount listed in the institution's catalog and the student's enrollment agreement regardless of the payment source, and if it collects an amount in excess of a student's total charges, it shall issue a refund for the account balance within 45 days after the completion of the educational program.
- Add a requirement that institutions shall issue a receipt to students, either in hard copy or electronically, for all payments received on behalf of the student from all sources, and to maintain a copy of the receipt in the student records required to be kept under CCR Section 71920.

3) Amend existing Section 71750 to:

- Rename the section by deleting the current name "Withdrawals and Refunds" and replace it with "Cancellations."
- Delete references in 71750 to the refund process after a withdrawal and move those provisions to the new Section 71751.
- Specify that after a student's cancellation of their enrollment in an educational program an institution shall not enforce a refund policy not specified in their catalog, and that the student's notice of cancellation be submitted in writing, which are required by the Code.
- Establish that the amount to be refunded after a student cancellation shall be 100 percent of the amount paid, less a reasonable application fee not to exceed \$250, so long as cancellation is made during the "cancellation period."
- Specify that after the cancellation of an educational program or closure resulting in the default of an enrollment agreement, an institution shall follow the applicable refund requirements of CEC Section 94927.
- Adds that an institution shall provide a refund within 45 days of a student's cancellation, and requirements regarding refunds for funds collected for transmittal to a third-party.
- Add that an institution shall maintain a log with required student-level information, kept current on a monthly basis, either electronically or in hard copy, of all student cancellations.
- Updates the Authority of the section to include CEC Section 94927.

4) Add Section 71751: Withdrawals.

- Adds that the policies and procedures for determining the amount of a refund after a withdrawal are to be stated in the institution’s catalog pursuant to section 94909(a)(8)(B) of the Code.
- Adds that refund policies and procedures where the student initiates the withdrawal shall include that the notice from the student be in writing; the acceptable method of delivery of the notice; the person to whom the notice shall be delivered; and the date the notice shall be considered effective, which is to be no later than the date it is received by the institution.
- Adds that refund policies and procedures where the institution initiates the withdrawal shall include a statement that withdrawal may be effectuated by the institution for reason concerning the student’s conduct, including but not limited to lack of attendance; the conditions for which the institution may be withdraw the student; the maximum number of consecutive class days a student may miss before being deemed withdrawn by the institution; and the date that a notice of withdrawal effectuated by an institution shall be considered effective.
- Adds the process for calculating the refund amount which shall be the total charges less any non-refundable charges times a pro rata amount of the unattended classes and aligns the regulatory language with statute.
- Adds that an institution shall provide a refund within 45 days of a student’s withdrawal, and requirements regarding refunds for funds collected for transmittal to a third-party.
- Add that an institution shall maintain a log with required student-level information, kept current on a monthly basis, either electronically or in hard copy, of all student withdrawals.

These regulations aim to help the Bureau in its mission of consumer protection in overseeing institutions by clarifying processes surrounding operating standards.

**Anticipated Benefits of Proposal**

The proposed regulatory language will clarify the Bureau’s existing regulations by clearly establishing the different processes for students and institutions to follow for a cancellation or a withdrawal. Students attending California private postsecondary educational institutions will benefit from being better protected by clear regulations establishing the proper refund policies institutions must implement when a student cancels, withdraws, or is withdrawn from their educational program.

The proposed regulatory language further benefits students by requiring they be provided with a receipt for payments made by them or received by the institution on the

student's behalf, allowing students to have documentation which can help students filing either complaints or STRF claims with the Bureau. The proposed regulatory language benefits institutions by clarifying the information that should be included in an institution's withdrawal policy in their catalog.

Finally, the proposed regulatory language will also benefit the Bureau more effectively implementing the statutory language of Education Code sections 94919 and 94920, ensuring that the will of the legislature is implemented.

This regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state's environment.

### **Evaluation of Consistency and Compatibility with Existing State Regulations**

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

### **INCORPORATION BY REFERENCE**

The proposed regulation does not incorporate any forms by reference.

### **DISCLOSURES REGARDING THIS PROPOSED ACTION**

#### **FISCAL IMPACT ESTIMATES**

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

The regulations do not result in a fiscal impact to the state.

This proposal better aligns the Bureau's provisions with current law and does not result in a fiscal impact to the state. The Bureau does not anticipate additional workload or costs resulting from the proposed regulations and any workload and costs of implementation are a result of current law.

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

**Nondiscretionary Costs/Savings to Local Agencies: None**

**Cost to any Local Agency or School District for which Government Code Sections 17500 - 17630 Require Reimbursement: None**

**Mandate Imposed on Local Agencies or School Districts: None**

**Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard):** None

### **BUSINESS IMPACT ESTIMATES**

The Bureau has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the fact that this proposal is intended to better align the Bureau's regulations with standard operations and current law.

### **Cost Impact on Representative Private Person or Business**

The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS**

#### **Impact on Jobs / Businesses**

The Bureau has determined that this regulatory proposal will not have any impact on the following:

- 1) the creation or elimination of jobs within the state,
- 2) the creation of new businesses or the elimination of existing businesses within the state, or,
- 3) the expansion of businesses currently doing business within the state.

This proposal would not have any of the above-referenced impacts because this proposal better aligns the Bureau's student refund regulations with current law and standard practice.

#### **Benefits of Regulation:**

This regulatory proposal promotes the welfare of California residents who are attending a private postsecondary educational institution approved under the Act and may wish to cancel or withdraw from their program. In the instance that an institution takes steps to withdraw a student, students benefit from clear regulations with exact standards regarding a student's withdrawal from an institution.

Students further benefit from improved regulations regarding the provision of receipts for payments made to an institution, allowing students to have better documentation for the amounts paid to the institution.

This regulatory proposal does not affect the health of California residents, worker safety, or the state's environment as this proposal is not related to any of those issues.

### **Business Reporting Requirements**

The regulatory action does not require businesses to file a report with the Bureau.

### **Effect on Small Business**

The Bureau has determined that the proposed regulations may affect small businesses. If an institution is a small business, and was previously incorrectly applying the refund policies, it would be required to comply with the updated refund policies.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 1747 N. Market Blvd. Ste. 225, Sacramento, CA 95834 during the written comment period, or at the hearing if one is scheduled or requested.

### **AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE**

The Bureau has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

### **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau, at 1747 N. Market Blvd. Ste. 225, Sacramento, CA 95834.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments, the Bureau, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently



related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the persons designated in this Notice as the Contact Persons and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Persons named below or by accessing the website listed below.

## **CONTACT PERSONS**

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

Name: Parker Strohmeyer  
Address: Bureau for Private Postsecondary Education  
1747 N. Market Blvd. Ste. 225, Sacramento, CA 95834  
Telephone No.: (279) 666-5844  
E-Mail Address: [Parker.Strohmeyer@dca.ca.gov](mailto:Parker.Strohmeyer@dca.ca.gov)

The backup contact person is:

Name: Manila Vongmany  
Address: Bureau for Private Postsecondary Education  
1747 N. Market Blvd. Ste. 225, Sacramento, CA 95834  
Telephone No.: (279) 345-9636  
E-Mail Address: [Manila.Vongmany@dca.ca.gov](mailto:Manila.Vongmany@dca.ca.gov)

## **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Bureau's website at <https://www.bppe.ca.gov/lawsregs/index.shtml>.