

DEPARTMENT OF CONSUMER AFFAIRS  
TITLE 5. EDUCATION.  
DIVISION 7.5.

BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:  
**Signature Requirements**

**NOTICE IS HEREBY GIVEN** that the Bureau for Private Postsecondary Education (hereinafter “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, 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 5:00 pm on Wednesday, May 29, 2024**, or must be received by the Bureau at the hearing, should one be scheduled. The Bureau, upon its own motion or at the instance 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.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by sections 94801, 94801.5, 94803, 94873, 94877, 94885, 94885.5, 94888, 94890, 94891 and 94895 of the Education Code (Ed. Code), and to implement, interpret, or make specific Ed. Code sections 94801.5, 94802, 94821, 94822, 94823, 94823.5, 94850.5, 94874.1, 94874.7, 94886, 94887, 94888, 94889, 94890, 94893, 94894, 94895, 94896, 94898, 94909, 94911, 94923, 94924, 94930.5 and 94931 and Section 2015.5 of the Code of Civil Procedure, the Bureau is considering amending sections 70000, 71100, 71380, 71390, 71395, 71396, 71475, 71480, 71500, 71550, 71630, 71640, 71650, 71652, and 71653 of Title 5 of the California Code of Regulations (CCR).

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations at sections 70000, 71100, 71380, 71390, 71395, 71396, 71475, 71480, 71500, 71550, 71630, 71640, 71650, 71652, and 71653 outline definitions and relate to application forms for various types of institutions that the Bureau oversees, notices from exempt institutions, as well as renewals. Under existing regulations, nonprofit organizations are required to have signatures by every member of their Board of Directors. Organizations with dispersed Boards have found it difficult to acquire a wet signature from every Board member. The current requirement for multiple signatures also requires the Bureau to verify every signature as an authorized person, which increases the Bureau's workload.

At the February 23, 2022, meeting of the Bureau's Advisory Committee, Bureau staff outlined existing application signature requirements and solicited input on whether existing applications warranted changes, while ensuring that applications are only submitted by the authorized owner or operator of the institution and are approved by an institution's governing body.

The Bureau received Advisory Committee Member and public feedback that existing requirements, such as requiring signatures from each member of a nonprofit institution's governing body, may be unnecessarily burdensome, and that the range of application types may warrant requirements that vary by application. Subsequently, Bureau staff have considered how to modify signature requirements to streamline approval processes without compromising their integrity or undermining the Bureau's authority.

In addition, in 2022 the legislature adopted Senate Bill (SB) 1433 (Chapter 544, Statutes of 2022) which, among other things, expanded the Bureau's authority to grant an approval to an out-of-state public institution with a physical presence in California. It is necessary to consider these potential new applicants (public institutions under the Bureau's jurisdiction) in establishing who needs to be a signatory on an application for approval.

The Bureau has drafted the following proposed regulatory changes:

- Amend section 70000(j) to add a definition for "digital signature" to have the same meaning as that in Government Code section 16.5.
- Amend sections 71100, 71390, 71395, 71396, 71480, 71500, 71550, 71640, 71650, 71652, and 71653, to update form revision dates.
- Amend sections 71380, 71390, 71395, 71475, 71480, 71500, 71550, 71640, 71650, 71652, and 71653, to allow digital signatures, require each partner in a partnership to sign applications, add "president" as an alternative to "chief executive officer," and delete the present requirement that an application from a non-profit corporation be signed by every member of its governing body and

replacing it with the requirement that a nonprofit corporation's application can be signed by the chief executive officer or the president.

- Apply revision of dates and signatory requirements on 4 forms, which are all previously incorporated by reference:
  - Form Application 94801.5 - Application for Registration or Re-Registration of Out of State Institutions - Application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions (rev. 8/24)
  - Form AID - Application for Authorization for Institution to Begin (rev. 8/24) Participation in Student Financial Aid Programs (Title IV of the Higher Education Act of 1965) (rev. 8/24)
  - Form CREDIT - Application for Authorization to Change from Clock Hours to Credit Hours (rev. 8/24)
  - Form OBJ - Application for Change in Educational Objectives or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease by 25% or More) (rev. 8/24)

This proposed rulemaking intends to allow digital signatures on certain forms and applications, clarify that all partners are to sign or just a Chief Executive Officer (CEO) or president of a nonprofit or public institution when appropriate, and allow leaders with differing titles (who have authorization) to enter a signature on an institution's behalf. These amendments benefit consumer protection by ensuring that owners of private postsecondary institutions, especially non-profit corporations, still comply with application requirements that are less burdensome, which allows institutions the ability to devote resources to their educational programs.

### **Anticipated Benefits of Proposal**

The Bureau has determined that this regulatory proposal will have the following benefits to welfare of California residents:

This proposal benefits California consumers and students by ensuring that owners of private postsecondary institutions, especially non-profit corporations, still comply with application requirements that are less burdensome, which allows institutions the ability to devote resources to their educational programs. The proposed changes will still be substantial enough to assure that applications are legitimate and account for owners that can be identified and verified through the approval process. The proposed regulatory language will also reduce workload for Bureau staff when processing applications, allowing staff to process other submitted forms more quickly. The proposed changes will also facilitate the Bureau's new role in providing oversight for out-of-state public institutions that may now apply for Bureau approval.

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

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

### **INCORPORATION BY REFERENCE**

- Form Application 94801.5 - Application for Registration or Re-Registration of Out of State Institutions - Application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions (rev. 8/24)
- Form AID - Application for Authorization for Institution to Begin (rev. 8/24) Participation in Student Financial Aid Programs (Title IV of the Higher Education Act of 1965) (rev. 8/24)
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### **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 result in one-time (absorbable) workload and costs of approximately \$3,500 for the Bureau to update and post the application forms on its website.

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

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

**Local Mandate:** None

**Cost to any local agency or school district requiring reimbursement pursuant to section 17500 et seq.:** None

**Effect on Housing Costs:** None.

## **BUSINESS IMPACT ESTIMATES**

**Business Impact:** The Bureau has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are intended to simplify the application process for private postsecondary educational institutions and are not anticipated to result in any economic impacts to businesses in the state.

**Impact on Jobs/New Business:** None. The proposed regulations are intended to simplify the application process for private postsecondary educational institutions and are not anticipated to result in the creation or loss of jobs or businesses in the state.

**Cost Impact on Private Person or Business:** The proposed regulations are not anticipated to result in additional costs to individuals or business. The regulations are intended clarify application signature requirements, as specified.

**Business Reporting:** The proposed regulations do not require a report to be made.

## **EFFECT ON SMALL BUSINESS**

The Bureau has determined that the proposed regulations will not affect small businesses. The regulations clarify who is authorized to sign an application submitted to the Bureau, and not anticipated to result in economic impacts on small businesses.

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

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

The Bureau has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in California because businesses are required to submit the current version of application forms. This proposal is intended to simplify the application process.

### **Benefits of Regulation:**

The proposed regulation will benefit the welfare of California residents by clarifying the process for determining who needs to sign an application submitted to the Bureau. This proposal is not anticipated to benefit health, worker safety or the state's environment.

## **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 either 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 provisions of law.

Any interested person may submit comments to the Bureau writing relevant to the above determinations at: Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818 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 the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818.

### **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 person designated in this Notice as the Contact Person 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 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 person named below or by accessing the website listed below.

### **CONTACT PERSONS**

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Bureau of Private  
Postsecondary Education  
5 CCR 70000, 71100, et. seq.

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

Name: David Dumble  
Address: P.O. Box 980818  
West Sacramento, CA 95798-0818  
Telephone No.: (279) 895-6091 Fax: (916) 263-1897  
E-Mail Address: David.Dumble@dca.ca.gov

The backup contact person is:

Name: Yvette Johnson  
Address: P.O. Box 980818  
West Sacramento, CA 95798-0818  
Telephone No.: (279) 895-6099 Fax: (916) 263-1897  
E-Mail Address: Yvette.Johnson@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 <http://bppe.ca.gov/lawsregs/current.shtml>. An archive of the Bureau's prior regulatory actions can be found at <http://bppe.ca.gov/lawsregs/archive.shtml>.