

**DEPARTMENT OF CONSUMER AFFAIRS  
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**

**INITIAL STATEMENT OF REASONS**

**SUBSTANTIVE CHANGE APPROVAL**

**Hearing Date:** No hearing has been scheduled.

**Subject Matter of Proposed Regulations:** Substantive Change Approval.

**Sections Affected:** Division 7.5 of Title 5 of the California Code of Regulations; Amend section 71650; Add sections 71652 and 71653.

**Specific purpose of each adoption, amendment, or repeal:**

**I. Background/Problem Addressed:**

The Bureau for Private Postsecondary Education (Bureau) protects students and consumers through the regulatory oversight of California’s private postsecondary educational institutions (“institutions”) pursuant to the California Private Postsecondary Education Act of 2009 (“Act” – Ed. Code, sections 94800–94950), including conducting qualitative reviews of educational programs and operating standards.

In 2021, section 94894 of the Act was amended by Senate Bill (SB) 802 (Roth, Chapter 552, Statutes of 2021) to add four new categories to the list of substantive changes by an institution that required Bureau pre-approval before the change could be made. The new substantive changes are 1) an increase or decrease of 25 percent or more in the number of clock hours or credit hours required for successful completion of an educational program; 2) participation in federal student financial aid programs authorized by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 *et seq.*); 3) a change in the academic measurement of an educational program from clock hours to credit hours; and 4) a change in the institution’s distance education learning management system.

Regulations are needed to implement this statutory provision, as the law does not specify how institutions are supposed to notify the Bureau if an unaccredited institution wants pre-approval to make any of these substantive changes. To implement three of these changes to the statutory definition of “substantive change” in section 94894 of the Act, the Bureau is proposing to amend one regulation to instruct institutions to use a revised form to report one of the new changes, and to add two new regulatory sections and create two new forms for the reporting of two of the other newly added substantive changes. The Bureau has opted to defer implementing one of the additional categories, change in the institution’s distance education learning management system, to take more time to more thoroughly revise the form the Bureau will ask institutions to use when reporting that change.

When the Bureau evaluates an application for a substantive change, there are two distinct processes. If the institution is one that is approved to operate by the Bureau (as approximately 88% of institutions are), any substantive change must be pre-approved by the Bureau before it can be implemented. However, if an institution is approved on the basis of its accreditation by a national accrediting entity, then the institution only needs to inform the Bureau within 30 days of making the change by completing the appropriate application and submitting it to the Bureau with the appropriate fee and documentation, so long as the change is within the standards of the accreditor.

## **II. Anticipated benefits from regulatory action:**

The proposed regulatory language will enable the legislative language added to section 94894 of the code by SB 802 to be implemented by clearly informing institutions how to contact the Bureau to request pre-approval for the substantive changes added to the Code. Institutions making what are now deemed “substantive changes” will know which sections of the regulations to follow when reporting these changes, and what forms to use when notifying the Bureau, which will facilitate compliance with the statute.

### **Factual Basis/Rationale:**

The changes proposed by this regulatory package are as follows:

- 1. Amend Section 71650, Article 7, Chapter 2, Division 7.5 of Title 5 of the California Code of Regulations**

#### **71650. Application for a Change in Educational Objectives or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease by 25% or More).**

Proposed Change: Change the title of this section to add, “or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease by 25% or More)” after “Application for Change in Educational Objectives.”

Rationale: The passage of SB 802 in 2021 added four new categories of changes to be designated “substantive changes” under CEC 94894 requiring prior approval by the Bureau. The change added in section 94894(i) is “An increase or decrease of 25 percent or more in the number of clock hours or credit hours required for successful completion of the program.” To implement CEC 94894(i), institutions must be informed as to how to notify the Bureau that they plan to implement such a change.

The Bureau already has a form for institutions to notify the Bureau of a “Change in Educational Objectives,” form OBJ rev. 2/10. As it may be unclear to institutions that a 25% increase or decrease in the number of clock hours or credit hours required for successful completion of a program is considered to be a change to be reported on form OBJ rev. 2/10, section 71650 of the regulations is being amended to explicitly change the name of the Change in Educational Objectives section to add the phrase, “or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease by 25% or More)” to clarify that this form is the one to use to report a 25% or greater

change in the required clock hours or credit hours to complete a program a required by CEC section 94894(j).

Proposed Change: Amend 5 CCR section 71650(a) by adding, “, or increase or decrease by 25 percent or more the number of clock hours or credit hours required for successful completion of a program under section 94894(i) of the Code,” after, “An institution seeking to change its educational objectives” in the first sentence of section 71650(a).

Rationale: Language referring to an increase or decrease of 25 percent or more in the number of clock hours or credit hours required for successful completion of a program under section 94894(i) of the code is being added to bring the regulation in line with the changes brought about by SB 802. Adding this language communicates to the reader under what circumstances the requirements of section 71650 apply.

Proposed Change: Add “Application for” to the form name and “or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease by 25% or More)” after “Change in Educational Objectives” in the text.

Rationale: This change brings the regulation in line with title of this section as amended by this rulemaking and is designed to clearly communicate to the reader the revised name of the form, which itself is changed to more clearly communicate the circumstances under which the form is to be used.

Proposed Change: The reference to the form is changed from “OBJ rev. 2/10” to “OBJ rev. 8/22.” and “, which is hereby incorporated by reference” is added after it.

Rationale: The text of 71650(a) is being amended to consistently use the revised name of the form, and to change the revision date of the form to 08/22. This is necessary to be clear about what form is being referred to, and that a new form is being adopted. The phrase, “from the Bureau in accordance with 94894 of the Code” is being added to make it clear that it is the Bureau that grants prior authorization for a Substantive Change, and to lay out the statutory authority from requiring prior authorization.

When section 71650 was adopted, it did not incorporate the form being created, OBJ rev. 2/10, by reference into the regulation. For clarity and efficiency, the form is being incorporated by reference. The form also contains a number of graphical and formatting components which are difficult to publish in traditional regulatory text.

Proposed Change: Add “from the Bureau in accordance with 94894 of the Code” after “to obtain prior authorization”.

Rationale: This language is being added to clarify in the regulatory text where the prior authorization comes from. As previously worded, the phrase “to obtain prior authorization” left to implication that it was the Bureau’s process under which authorization occurred. This amendment clarifies that point and adds a reference to the Code to make it as clear as possible to the reader where that authorization comes from in statute.

Proposed Change: Delete, “For an institution approved under section 94885 of the Code it shall be signed and dated by the signatory(ies) required by section 71380, and for an institution approved under section 94890 of the Code it shall be signed and dated by the signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

“I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)”

Rationale: As noted above, form OBJ is being incorporated by reference, and as a result the text of section 71650 that describes the signature requirement is being deleted from the regulation text, as its presence on the form is now incorporated into the regulations. The signatures being asked for on the form are those required by sections 71380 (for unaccredited institutions) and 71390 (for accredited institutions). As these provisions are being added to the regulations through the form, the form is being amended to refer to those two regulatory sections under the title of the form.

Proposed Change: In section 71650(d), change the name of the form being referenced to add, “Application for” and “or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease by 25% or More)”. Add “and the fee required by Section 94930.5(c) of the Code” after, “providing the information required by (c)(1) and (c)(10).”

Rationale: The amendment to subdivision 5 CCR section 71650(a) renamed the form to be submitted for applying for approval of a substantive change by adding the words, “Application for” and “or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease by 25% or More)”. The name of the form is changed here to be consistent with the name change made in subdivision (a).

The words, “and the fee required by Section 94930.5(c) of the Code” are being added to the list of what institutions granted an approval to operate by means of accreditation must send to the Bureau when submitting the form. As the form being used now incorporates two separate subdivisions of CEC Section 94894, a change in educational objectives under CEC Section 94984(a) and a 25% or greater change in clock or credit hours required to complete a program under CEC Section 94894(i), it must be made clear to institutions that they are responsible for submitting only one fee as defined in CEC Section 94930.5(c) when submitting their form. This should eliminate any confusion over what fee should be submitted by institutions reporting a 25% or greater change in clock or credit hours to complete a program that is also a change in an educational objective.

Proposed Change: Add a new subdivision 5 CCR Section 71650(e) that says, “If no grounds for denial exist as provided in section 71655, the Bureau shall provide written notice of approval of the substantive changes requested on any application submitted in compliance with this section, or for institutions approved by means of accreditation, the Bureau shall send a written acknowledgement of receipt of the application specified in subdivision (d). The Bureau’s authorization to make the changes requested by an institution on any application required by this section shall be deemed effective as of the date of the written notice of approval provided by the Bureau.”

Rationale: This language is being added to the existing 5 CCR section 71650, as well as to the proposed 5 CCR sections 71652 and 71653. As CEC Section 94893 requires Bureau pre-approval for substantive changes for institutions that are not approved by means of accreditation, and current regulations do not specify the method by which the Bureau shall communicate its decision on the substantive change application to the institution, the Bureau is now establishing for these regulations that the institution will receive a written notice from the Bureau upon approval so the institution will know when the pre-approval is effective.

Institutions approved by means of accreditation do not require prior authorization from the Bureau, so their receiving notice of the Bureau’s decision is less time sensitive. They will be sent an acknowledgement that the notice they submitted to the Bureau in accordance with 5 CCR section 71650(d) has been accepted. In both cases, the Bureau has determined written communication is an effective way of both communicating the contents of the Bureau’s approval or acknowledgment, and creates a physical representation of the communication that can be referred back to easily by both the Bureau and the recipient.

The new language also establishes that the Bureau’s authorization to make the substantive change being applied for is effective as of the date of the written notice of approval. This is necessary to establish when institutions not approved by means of accreditation may begin implementing the substantive change. Institutions that are approved to operate by means of accreditation need only give the Bureau notice of the change within 30 days by completing the appropriate application and submitting it to the Bureau with the appropriate fee and documentation, but they still require notification that the notice was ultimately approved by the Bureau.

## **2. Incorporate by Reference the “Application for Change in Educational Objectives or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease by 25% or More)” Form (OBJ)**

As noted above, the Change in Educational Objectives (OBJ rev. 2/10) form is being incorporated by reference via this proposed rulemaking. Components described in the existing regulations are being carried over into the form as incorporated by reference. These include the signature, date, and declaration component previously described in subdivision (a) of section 71650. The following is a description of each component of

the form, a description of whether the component is derived from the existing regulations or is proposed solely by this rulemaking, and a statement of necessity.

Proposed Change: Addition of the header of the form, containing the Bureau’s logo and mailing address.

Rationale: The logo and the address are needed to identify the Bureau and direct applicants to the best place to submit the completed document.

Proposed Change: There are several changes that appear throughout the form: a footer reading “Form OBJ rev. 8/22” a line stating “Document is attached: \_\_\_\_\_ Yes \_\_\_\_\_ No”, and a series of Arabic numerals numbering of each section of the form.

Rationale: The footer reading “Form OBJ rev. 8/22” is to identify to the reader which form is being used, and to conform the naming of the form to the proposed revision of 16 CCR 71650(a) in this rulemaking. The form contains the language “Document is attached” and lines marked “yes” and “no” for questions 3, 5, 9, and 10, and in two places in questions 6 and 8 because the space given on the form itself may not be sufficient to contain the explanation requested by the question. In that event, the party filling out the form may attach a document containing additional information. Marking “yes” or “no” clearly indicates to the Bureau whether such information is attached, allowing the Bureau to consistently identify all materials submitted to it in addition to the form itself. Each separate section or question in the form is designated by an Arabic numeral. This notation indicates to the party filling out the form that each separation denotes a subject matter or common prompt.

Proposed Change: At the upper right corner of the first page of the form there is an “Office Use Only Box,” which contains spaces for a “Date Stamp”, “SAIL application #”, “Application fee”, “Date”, “School Code”, and also contains the notation “Revenue Code 1257009R / 1257009V.”

Rationale: The information in the Office Use Only box is needed by the Bureau to give each application a unique designation for future reference, to know that the appropriate fee was submitted and when it was received, and to identify the institution making the application with a designation that is short and not likely to be mistaken for another institution, and the account that the application fee money should be directed to.

Proposed Change: Application title, “Application for Change in Educational Objectives or Clock or Credit Hours Required to Complete a Program (An Increase or Decrease of 25% or More),” and notation to “(California Education Code §§ 94894, 94896; Title 5, California Code of Regulations (CCR) §§ 71650, 71380, 71390)”.

Rationale: The name of the form is being changed to “Application for Change in Educational Objectives or Clock or Credit Hours to Complete a Program (An Increase or Decrease by 25% or More)” so that institutions making a change in amount of clock or

credit hours of greater than 25% can report the change to the Bureau using only one form. Any change in the number or clock or credit hours required to complete a program that is greater than 25% would also be a de facto change in the educational objectives of that program, so if these were not combined on one form institutions making a 25% change in a program's clock or credit hours would have to submit two separate forms to the Bureau; one to report the change in educational objectives and one to report the change in hours required to complete a program. This would require institutions making such a change to submit two Substantive Change requests, and each would need to be accompanied by the fee for submitting a substantive change request under section 94930.5(c) of the Act. Combining these two substantive changes on to one form thereby reduces the cost of submitting applications for both a change in educational objectives and a change in clock hours or credit hours by 25% or more in half.

The identification of the form is being changed from "OBJ rev. 02/10" to "OBJ rev. 08/22" to make it clear this is an updated form that is different from the previous form.

As the form is being incorporated by reference into the regulation, regulatory provisions being used to give the form its substance are being indicated. The text of the regulation that establishes the requirement of an application for a change in educational objectives, 5 CCR section 71650, is listed. The text of the regulation is being revised and the section of the text describing the regulatory requirements for the signature have been deleted. Therefore, the sections that established the signature requirements are now incorporated into the form, so references to section 71380 and section 71390 are added to the list of regulatory references identified under the title of the form. Citations to California Education Code section 94894 refers the reader to the substantive changes requiring prior approval from the Bureau; section 94896 refers the reader to the requirement that certain institutions only make changes per the institution's accreditation standards and that the institution use a form provided by the Bureau, respectively. Cross-referencing all these standards allows a reader of the form to read the applicable underlying statutes and regulations, making the purpose of the form clear to anyone who might read it.

Proposed Change: Beneath the title of the form and the statutory citations is a line reading "Approved Institution \$500.00 non-refundable fee". To the left of this line is a check box.

Rationale: CEC section 94930.5(c)(1) establishes that the fee that an institution that is approved to operate must pay when submitting a form seeking authorization of a substantive change is \$500. As institutions approved by means of accreditation pay a different fee, the form must ask applicants to indicate which fee is applicable, the \$500 fee for institutions that are approved to operate, or the \$250 fee for institutions that are approved by means of accreditation. All fees lawfully collected by the Bureau are non-refundable, as per 5 CCR section 74000(b). The check box added to the form communicates to the Bureau that the fee is included and allows the party filling out the form a way of tracking that they have completed the item.

Proposed Change: Beneath the previous check box and description is a line reading “Check Box and “Institution Approved By Means of Accreditation \$250.00 non-refundable fee.” To the left of this line is a check box.

Rationale: CEC section 94930.5(c)(2) establishes that the fee that an institution that is approved by means of accreditation must pay when submitting a form seeking authorization of a substantive change is \$250. As institutions approved to operate pay a different fee, the form must ask applicants to indicate which fee is applicable, the \$500 fee for institutions that are approved to operate, or the \$250 fee for institutions that are approved by means of accreditation. All fees lawfully collected by the Bureau are non-refundable, as per 5 CCR section 74000(b). The check box added to the form communicates to the Bureau that the fee is included and allows the party filling out the form a way of tracking that they have completed the item.

Proposed Change: Section 1 of the form is entitled “Institution” and asks for the Name of the institution, the institution’s School Code, address, city, state, zip code, phone number, and website address.

Rationale: This section is entitled “Institution” to clearly identify to the party filling out the form the subject matter of the section, which is asking for the demographic information of the institution represented on this form. 16 CCR section 71650(c)(1) requires the application to contain the name, school code, address, website address, telephone, and fax numbers of the institution. This form expands “address” to include street address, city, state, and zip code. This information is necessary to complete “address” as each component is necessary to mail information to the institution and to determine the institution’s physical location.

Proposed Change: Section 2 of the form is entitled “Institution’s Contact Person (for this application)” and asks for the contact person’s Name, Email address, Address, City, State, zip code, Telephone Number, and Fax Number.

Rationale: This section is entitled “Institution’s Contact Person (for this application)” to clearly identify to the party filling out the form the subject matter of the section.

The notation “for this application” is intended to comport with the existing description in 5 CCR 71650(c)(10), which uses the same phrase, and to limit the applicability of the designation of the contact person. Institutions may have multiple employees they wish to designate as contact persons for different purposes. Clearly indicating that the designation of the contact person is solely for the purposes of this application demonstrates to both the institution and the Bureau that the named person can be contacted for this form and also that the designated person may not necessarily be the correct individual to contact for any other purpose.

The information requested for this contacted person is consistent with the existing requirements of 5 CCR 71650(c)(10). Collecting this information will also allow the

Bureau to process the application, and ensure the institution will receive any communications regarding the application from the Bureau. This information will also allow the Bureau to follow up with the institution if the application contains deficiencies. This form expands “address” to include street address, city, state, and zip code. This information is necessary to complete “address” as each component is necessary to mail information to the institution and to determine the institution’s physical location.

Proposed Change: Section 2 of the form instructs “If this institution is approved by means of accreditation skip to #11.”

Rationale: Institutions that are approved by means of accreditation are given less oversight by the Bureau because their accrediting agency provides oversight. Therefore, institutions approved by means of accreditation are asked fewer questions on substantive change forms, and are charged a lower fee under CEC section 94930.5(c) because the processing cost is less. Institutions approved by means of accreditation may skip questions 3 through 10 and proceed directly to the signature section.

Proposed Change: Section 2 of the form also prompts “Attached is a certified copy of the current verification of accreditation granted by the accrediting agency.” This prompt also contains a check box.

Rationale: As institutions that are approved by means of accreditation are allowed to submit a lower fee and answer fewer questions when submitting an application for a substantive change, the Bureau needs to verify their accredited status by asking for a certified copy of their current verification of accreditation. As elsewhere noted, the addition of the check box allows the party filling out the form to track their compliance with the form’s requirements and communicates to the Bureau the requested item is attached.

Proposed Change: Section 3 is entitled “Reason for Change” and asks “What are the reasons for changing the educational objective or for an increase or decrease of 25 percent or more in the number of clock hours or credit hours required for successful completion of an educational program as defined by Education Code section 94837? How will the changes further the institution’s mission and objectives?”

Rationale: This section is entitled “Reason for Change” to clearly identify to the party filling out the form the subject matter of the section, which is to collect information on the basis for the requested change. 16 CCR section 71650(c)(2) requires the form to contain “the reasons for changing the educational objectives, and how the proposed change helps to further the institution’s mission and objectives.” This form adds prompts for that information.

As the form for reporting a change in Educational Objectives is now also being used to report changes in the number of clock hours or credit hours to complete a program, this

question also asks about not only the change in educational objective, but also the change in the number of hours to complete a program. The two might be linked, as a change in the number of clock hours required to complete a program by more than 25% is usually due to a change in the program's educational objectives.

With this new wording there should be no confusion by applicants that they are supposed to provide a reason for whatever purpose they are submitting this Substantive Change form for.

Proposed Change: Section 4 of the form is entitled "Date" and asks for the Date of the proposed change(s)?" and includes a blank.

Rationale: This section is entitled "Date" to clearly identify to the party filling out the form the subject matter of the section, which is to ask when a change will take effect. 16 CCR section 71650(c)(3) requires the application to contain "when the institution proposes to change the educational objectives." The question asking "Date of the proposed changes?" represents this requirement. "The proposed changes" in this question follows from the previous question, which describes which changes are being asked for. The Bureau can use this information to determine if the institution has complied with the requirement in CEC section 94983 that institutions approved to operate must receive prior authorization from the Bureau before making any substantive change.

Because this form can be used to report multiple changes (if a change in educational objectives and a change in the number of hours to successfully complete a program are both being made), there may be multiple dates on which the changes may be implemented. Therefore, the form will ask for multiple dates that the proposed changes may be made.

The blank is included in section 4 of the form because all that is required to answer the question is to write in a date; this portion of the form provides a space for that information.

Proposed Change: Section 5 is entitled Financial Impact and contains a prompt asking the party filling out the form to "Describe how the proposed change(s) will impact the financial resources of the institution, including the ability to comply with 5 C.C.R. 71745".

Rationale: The section is entitled "Financial Impact" to clearly indicate to the party filling out the form the subject matter of the question following. The form asks for a description of the changes' effect on the financial resources of the institution, including its ability to comply with 5 CCR section 71745, as existing 5 CCR 71650(c)(4) requires the application to include this information. Because this form can be used to report multiple changes (if a change in educational objectives and a change in the number of hours to successfully complete a program are both being made), there may be multiple impacts on the financial resources of the institution. Therefore, the form will ask for the impact from possible multiple changes that are being reported.

Proposed Change: Section 6 is entitled “Educational Programs” and contains a notation of “Addition”.

Rationale: This section is entitled “Educational Programs” to clearly identify to the party filling out the form the subject matter of the section, described more fully below. The separate notation “Addition” delineates the two sub-parts of section 6 of the form. The sub-part called “Addition” applies to the situation where a new program is being proposed to be added. Calling this “addition” demonstrates to the party filling out the form the correct reasons for filling out this sub-part.

Proposed Change: Section 6 of the form asks the following: “Identify and describe the educational program(s) the institution offers or proposes to offer.”

Rationale: Existing 5 CCR 71650 section (c)(6) requires in this form “for the addition of a new program, all information required by 71210 and 71220”. Section 71210(a) requires that “the institution shall identify and describe the educational program it offers, or proposes to offer.” The description requirement also applies to educational programs via section 71220(a). By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 6 of the form asks the following: “If the educational program is a degree program, identify the full title including the name of a specific major field of learning involved, which the institution will place on each degree awarded.”

Rationale: Existing 5 CCR 71650 section (c)(6) requires in this form “for the addition of a new program, all information required by 71210 and 71220”. Section 71210(a) requires “if the educational program is a degree program, the institution shall identify the full title which it will place on each degree awarded.” Section 71210(b) further requires “in addition to the general title, such as ‘Bachelor of Arts’ or ‘Master of Science,’ each degree title shall include the name of a specific major field of learning involved.” By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 6 of the form asks the following: “List the following for each educational program offered: 1. The admissions requirements, including minimum levels of prior education, preparation, or training;”

Rationale: Existing 5 CCR 71650 section (c)(6) requires in this form “for the addition of a new program, all information required by 71210 and 71220”. Section 71210(c) and (c)(1) require that the description include additional information, to include the information in this question. By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 6 of the form asks for the number of clock hours or credit hours required for successful completion of the program.”

Rationale: Existing 5 CCR 71650 section (c)(6) requires in this form “for the addition of a new program, all information required by 71210 and 71220”. At the time of the publication of this proposed rulemaking, section 71210(c)(2) requires for degree-granting programs that the description include information about ability-to-benefit information. However, information about ability-to-benefit examinations as required by Education Code section 94904 is no longer applicable as that section of the Code was repealed by SB 607 (Min, Chapter 367, Statutes of 2021). Therefore, it is being omitted from the form.

In its place, the form will now ask institutions to list the number of clock hours or credit hours required for successful completion of the educational program. As the form is now being used to report significant changes in the number of hours needed to complete a program, the Bureau believes the required number of hours should be collected.

By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 6 of the form asks for the types and amount of general education required.

Rationale: Existing 5 CCR 71650 section (c)(6) requires in this form “for the addition of a new program, all information required by 71210 and 71220”. Section 71210(c)(3) requires the information in this question. By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 6 of the form asks for the title of the educational programs and other components of instruction offered.

Rationale: Existing 5 CCR 71650 section (c)(6) requires in this form “for the addition of a new program, all information required by 71210 and 71220”. Section 71210(c)(4) requires the information in this question. By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 6 of the form asks for the method of instruction.

Rationale: Existing 5 CCR 71650 section (c)(6) requires in this form “for the addition of a new program, all information required by 71210 and 71220”. Section 71210(c)(5) requires the information in this question. By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 6 of the form asks for the graduation requirements.

Rationale: Existing 5 CCR 71650 section (c)(6) requires in this form “for the addition of a new program, all information required by 71210 and 71220”. Section 71210(c)(6) requires the information in this question. By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 6 of the form asks “If the educational program is designed to fit or prepare students for employment in any occupation, identify each occupation and job title to which each educational program is represented to lead.”

Rationale: Existing 5 CCR 71650 section (c)(6) requires in this form “for the addition of a new program, all information required by 71210 and 71220”. Section 71210(c)(7) requires the information in this question. By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 6 of the form asks whether “Each educational program meets the requirements of 5 C.C.R. section 71710?” This question includes a space for marking “yes” or “no.”

Rationale: Existing 5 CCR 71650 section (c)(6) requires in this form “for the addition of a new program, all information required by 71210 and 71220”. 5 CCR Section 71220 requires an educational program to meet the requirements of section 71710. 5 CCR section 71710 sets out the minimum regulatory requirements for all educational programs at institutions regulated by the Bureau. As the institution is submitting a form to allow it to make the substantive change of either changing its educational objectives or increasing or decreasing its clock or credit hours by more than 25%, the Bureau needs to establish that after the change all educational programs will still meet the minimum requirements specified by section 71710. This is done here by directly asking the question of the institution and providing spaces for a yes/no answer.

Proposed Change: Section 6 of the form asks for a description for each educational program the following: The equipment to be used during the educational program; the number and qualifications of the faculty needed to teach the educational program; a projection and the bases for the projection of the number of students that the institution plans to enroll in the educational program during each of the three years following the date the application is submitted.; the learning, skills, and other competencies to be acquired by students who complete the education program.; if licensure is a goal of an education program, a copy of the approval from the appropriate licensing agency.

Of this last item, the form notes “A copy of the intent to approve conditional solely upon institutional approval from the Bureau will also meet this requirement.” Section 6

contains the following note “Please Note: Upon request, the institution shall provide to the Bureau copies of the required curriculum or syllabi (5 C.C.R. section 71220.)”

Rationale: The sub-parts of this question are derived from 5 CCR section 71220(b) through (f). The note “A copy of the intent to approve conditional solely upon institution approval from the Bureau will also meet this requirement” is taken verbatim from 5 CCR section 71220(f), as is the note that the institution shall provide to the Bureau copies of the required curriculum or syllabi. By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 6 of the Form contains a subsection entitled “Change” which asks the following “If the application is for a change to an existing program describe the differences between the program(s) currently approved and the proposed program(s).”

Rationale: The form’s notation of the sub-part entitled “Change” is designed to communicate to the part filling out the form that the portion is to be filled out in the circumstance that the form itself is being filled out where a change is being made to an existing educational program.

The prompt for information regarding the description of the change is derived from 5 CCR 71650(c)(7), which requires “a description of the differences between any programs approved and the proposed programs....” By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 7, entitled “Faculty”, asks whether “the institution has contracted with sufficient duly qualified faculty members who meet the qualification of 5 C.C.R. section 71720. This question contains a space for responding, reading “Please check one: \_\_\_\_\_ Yes \_\_\_\_\_ No”

Rationale: This section is entitled “Faculty” to clearly identify to the party filling out the form the subject matter of the section, which asks for information about the type of faculty contracted with the institution.

The prompt for information regarding whether the institution has contracted with sufficient duly qualified faculty members is derived from 5 CCR 71650(c)(8). Placing this question on the form allows the Bureau to collect all necessary information from the applicant institution required by other existing regulations. Adding a check space for a response allows the party filling out the form to communicate its answer to the Bureau and track their progress in filling out the form.

Proposed Change: Section 8 of the form, entitled “Facilities and Equipment”, asks the following: “For each change or new program offered, describe the facilities and the

equipment available for use by students at the main, branch, and satellite locations of the institution.”

Rationale: This section is entitled “Facilities and Equipment” to clearly identify to the party filling out the form the subject matter of the section. The section of the form asks for a description of the facilities and equipment because existing 5 CCR section 71650(c)(5) requires “A description of the facility and equipment, as required by section 71260, required for the change.” 5 CCR section 71260, by way of reference, requires “a description of the facilities and the equipment which is available for use by students at the main, branch, and satellite locations of the institution.” Placing this question on the form allows the Bureau to collect all necessary information from the applicant institution required by other existing regulations.

By using the same standard, the Bureau will be able to assure that students will have the facilities and equipment needed to be able to complete educational programs at all locations of the institution, or establish that some locations may not have the necessary facilities and equipment for some programs.

Proposed Change: Section 9 of the form, entitled “Libraries and Other Learning Resources, asks for a description of “new or different library holdings, services, and other learning resources necessary for the requested change or addition.”

Rationale: This section is entitled “Libraries and Other Learning Resources” to clearly identify to the party filling out the form the subject matter of the section.

The prompt for information regarding the description of the library holdings, services, and other resources is derived from 5 CCR 71650(c)(9), which requires such information in the circumstances of a proposed change. Section 71650(c)(9) references section 71270, which itself describes “library holdings, services, and other learning resources...” By placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 10 of the form, entitled “Additional Information” prompts the party filling out the form to “Include any material facts, which have not otherwise been disclosed in the application that might reasonably affect the Bureau’s decision to approve this application.”

Section 10 of the form notes “The institution may also include any other facts that the institution would like the Bureau to consider in approving this application.”

Rationale: This section is entitled “Additional Information” to clearly identify to the party filling out the form the subject matter of the section.

This prompt is derived from existing 5 CCR 71650(c)(11), which requires the form collect “any additional information required by the Bureau pursuant to section 71340.” Section 71340, entitled ‘Additional Information,’ requires the inclusion of “any material facts, which have not otherwise been disclosed in the Form ... that without inclusion would cause the information in the Form ... to be false, misleading or incomplete or that might reasonably affect the Bureau's decision to grant an approval to operate.” Subdivision (b) of section 71340 allows for the inclusion “any other facts which the institution would like the Bureau to consider in deciding whether to grant an approval to operate.”

The language on this form relating to additional information uses the same verbiage from 71340, adapted to make sense in the context of this form regarding substantive changes. Offering the party filling out the form to include additional information not covered by the questions on the form itself will ensure the Bureau has access to all potentially relevant information and allows the institution to include information it believes may be relevant and not otherwise covered by this form. As noted elsewhere, by placing this question on the form, the Bureau will be able to collect all necessary information from the applicant institution required by other existing regulations.

Proposed Change: Section 11, entitled “Declaration Under Penalty of Perjury” contains an instruction with the following language: “-- Each owner of the institution, or”, “-- If the institution is incorporated, by chief executive officer of the corporation and each owner of 25 percent or more of the stock, or interest in the institution, or”, and “-- By each member of the governing body of a nonprofit corporation.”

Rationale: This section is entitled “Declaration Under Penalty of Perjury” to clearly identify to the party filling out the form the subject matter of the section.

The form includes directions regarding who must sign the declaration that are consistent with the signatory requirements set out in 5 CCR section 71380 and 71390, which establish the signatories required on approvals to operate and approvals by means of accreditation. As institutions are reporting the making of substantive changes to the information reported in their respective approval forms, the signatories reporting a substantive change should correspond.

Proposed Change: Following section 11 of the form there are three separate portions of the form containing the following declaration: “I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.” Each of the portions of the form following this declaration contain fields for entering a signature, date, name, address, city, state, and zip code. Each of these portions also contains a notation reading “Owning \_\_\_% of Ownership,” “Member, Board of Directors \_\_\_\_\_”, “General Partner \_\_\_\_\_”. Each of these portions also contains the following note: “Attach Additional Sheet(s) if Necessary”

Rationale: The language of the declaration under penalty of perjury and the designations identifying the signatory correspond to the requirements set out for signatories in 5 CCR section 71380 and 71390, which are contain the format and the signatories required for the approval to operate form and the approval by means of accreditation form. As this form is being used to report a substantive change to the information submitted to the Bureau in the institution’s application, the format and signatories should correspond.

The notation “Owning \_\_\_% of Ownership,” “Member, Board of Directors \_\_\_\_\_”, “General Partner \_\_\_\_\_” is designed to communicate to the Bureau the relationship of the signatory to the institution; in the case of percentage ownership, a line is provided for the party filling out the form to indicate what percent of a corporation is owned by the signatory, as 5 CCR section 71380(a)(2) requires signatures from all owners of 25 percent or more of all stock or interest in an institution. Section 71380 requires signatures from all members of a governing body of a nonprofit institution. Denoting the signatory’s relationship as a General Partner communicates to the Bureau the signatory is an owner of the institution and therefore a required signatory under Sections 71380(a)(1) and 71390(d)(1)(A).

The form contains an instruction to attach additional sheets if necessary to allow the party filling out the form to submit complete information in the situation where the form is not sufficient.

Proposed change: Add to the end of the Application for Change in Educational Objectives or Clock or Credit Hours to Complete a Program form the following notice:

“NOTICE ON COLLECTION OF PERSONAL INFORMATION The information requested on this application is mandatory pursuant to CEC sections 94894, 94896 and Title 5 CCR section 71650. Failure to provide all of the information requested will result in the application being ineligible for processing, or subject to denial (Title 5 CCR section 71655). The information provided will be used to determine qualification of the applicant for authorization to make a substantive change to its approval to operate by the Bureau for Private Postsecondary Education (Bureau). The information may be provided to other governmental agencies, or in response to a court order, subpoena, or public records request. You have a right of access to records containing personal information maintained by the Bureau unless the records are exempted from disclosure by law under Civil Code section 1798.40. For questions about this notice or access to your records, you may contact the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818, by phone at (916) 574-8900, or by email at [bppe@dca.ca.gov](mailto:bppe@dca.ca.gov).”

Rationale: California Civil Code section 1798 *et seq.*, known as the Information Practices Act, requires notification be given to persons submitting applications with personal information that the information may be subject to disclosure under certain conditions. Specifically, California Civil Code section 1798.17 requires agencies to

include certain information on forms, including the statutory basis for requesting information and the consequences of failing to provide all of the information.

The proposed notice to be included at the end of the Substantive Change in Educational Objectives or Clock or Credit Hours Required to Complete a Program form is necessary to meet the requirements of the Information Practices Act. It provides the statutory basis for the Bureau to request the information included in the form, states that the consequences of failing to provide the information is denial of the application, and how the Bureau will make use of the information, and the conditions upon which the Bureau will release the information to others. The notice also contains contact information if the person filling out the form has questions about the information that is being provided or their access to the records.

### **3. Add section 71652, Article 7, Chapter 2, Division 7.5 of Title 5 of the California Code of Regulations**

#### **71652. Application for a Change to Begin Participation in Federal Student Financial Aid Programs Authorized by Title IV of the Federal Higher Education Act of 1965, as Amended (20 U.S.C. Sec. 1070 et seq.).**

Proposed Change: Add a new section 71652 and subdivision 71652(a), which states,

“71652. Application for a Change to Begin Participation in Federal Student Financial Aid Programs Authorized by Title IV of the Federal Higher Education Act of 1965, as Amended (20 U.S.C. Sec. 1070 et seq.)

(a) An institution seeking to begin participation in federal Student Financial Aid Programs authorized by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq. – federal Higher Education Act of 1965) shall complete the “Application for Authorization for Institution to Begin Participation in Student Financial Aid Programs (Title IV of the Higher Education Act of 1965)” form (AID New. 8/22) which is hereby incorporated by reference, to obtain prior authorization from the Bureau in accordance with 94894 of the Code. The form shall be submitted to the Bureau along with the appropriate fee for authorization of a substantive change as provided in Section 94930.5(c) of the Code.

Rationale: The passage of SB 802 in 2021 added four new categories of changes to be designated “substantive changes” under CEC 94894 requiring prior approval by the Bureau. The change added in section 94894(j) is “Participation in federal student financial aid programs authorized by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.).” To implement CEC 94894(j), institutions must be informed as to how to notify the Bureau that they plan to implement such a change.

Unlike the reporting of a substantive change for an increase or decrease of 25 percent or more in the number of clock hours or credit hours required for successful completion of a program, which is effectively also a change in educational objectives and so can be reported on a revised form, there is no existing form used by the Bureau that would be appropriate for institutions to use to report a change in their participation in federal student financial aid programs. Therefore, the Bureau is adding a new section to its regulations, and creating a new form that is incorporated by reference. This form is also incorporated by reference due to the presence of graphical and formatting components which would make the form difficult to publish in traditional regulatory text.

The language for the new 71652(a) is similar to that of section 71650(a), except it applies to institutions seeking to participate in federal Title IV Financial Aid programs instead of a Change in Educational Objectives, and it incorporates by reference the newly created form, “Application for Authorization for Institution to Begin Participation in Federal Student Financial Aid Programs (Title IV of the Higher Education Act of 1965)” and designates the form as “AID New. 8/22.”

The regulation also directs institutions submitting the new form to submit the appropriate fee for applying for a substantive change, as defined in CEC 94930.5(c), along with the form. This is to make it clear that while this is a newly added section to the Substantive Change section of the Act, the established fees still apply. The fees described on this form are required by CEC section 94930.5(c).

Proposed Change: Create a new subdivision 5 CCR 71652(b) that says

“(b) An institution that has been granted an approval to operate by means of accreditation shall notify the Bureau of their participation in federal student financial aid programs authorized by the federal Higher Education Act of 1965 (“substantive change”) within 30 days of that substantive change by completing the Application for Authorization for Institution to Begin Participation in Student Financial Aid Programs (Title IV of the Higher Education Act of 1965) form referenced in subdivision (a) and submitting the fee required by Section 94930.5(c) of the Code.”

Rationale: The California Education Code sets up two different processes for the approval of applications for substantive changes. Under CEC section 94893 institutions that are not approved by means of accreditation must submit an application to the Bureau for pre-approval before making any substantive change; however, under CEC section 94896, institutions approved by means of accreditation need only inform the Bureau of changes that are in accordance with its accreditor’s standards by using the Bureau’s appropriate form.

This language is needed to inform institutions that are approved by means of accreditation that the notice they are required to send to the Bureau is due within 30 days of the substantive change of participating in Federal Title IV Financial Aid programs, and that when submitting the application they are required to include the standard fee for submitting a substantive change application under CEC section

94930.5(c), and that they must also submit, through the requirements of the Application for Authorization for Institution to Begin Participation in Student Financial Aid Programs, certification from their accreditor that it approves or acknowledges the change. Some accreditors have prepared documents, but some merely send letters referencing the change. These documents provide evidence to the Bureau that the accreditors are aware of the change and, in the case of approval documentation, have found the change acceptable. This documentation shows the accreditor is in agreement with the requested change and that the requested change meets the accreditors' standards.

Finally, the Bureau is requiring the information be sent to the Bureau within 30 days to conform with the same time length allowed for other substantive changes, as referred to in sections 71500(d) for change of location, 71550(c) for addition of separate branch, 71600(c) for significant change in method of instructional delivery, and 71630(c) for change of name. Further, in the Bureau's experience, thirty days is sufficient time for the institution to obtain information from its accreditor and remit the information to the Bureau for consideration.

Proposed Change: Add a new subdivision 5 CCR section 71652(c) that says,

“(c) If no grounds for denial exist as provided in section 71655, the Bureau shall provide written notice of approval of the substantive changes requested on any application submitted in compliance with this section, or for institutions approved by means of accreditation, the Bureau shall send a written acknowledgement of receipt of the application specified in subdivision (b). The Bureau's authorization to make the changes requested by an institution on any application required by this section shall be deemed effective as of the date of the written notice of approval provided by the Bureau.”

Rationale: As CEC Section 94893 requires Bureau pre-approval for substantive changes for institutions that are not approved by means of accreditation, and current regulations do not specify the method by which the Bureau shall communicate its decision on the substantive change application to the institution, the Bureau is now establishing for these regulations that the institution will receive a written notice from the Bureau upon approval so the institution will know when the pre-approval is effective.

Institutions approved by means of accreditation do not require prior authorization from the Bureau, so their receiving notice of the Bureau's decision is less time sensitive. They will be sent an acknowledgement that the notice they submit to the Bureau in accordance with 5 CCR section 71652(b) has been accepted. In both cases, the Bureau has determined written communication is an effective way of both communicating the contents of the Bureau's approval or acknowledgment and creates a physical representation of the communication that can be referred back to easily by both the Bureau and the recipient.

The new language also establishes that the Bureau's authorization to make the substantive change being applied for is effective as of the date of the written notice of approval. This is necessary to establish when institutions not approved by means of

accreditation may begin implementing the substantive change. Institutions that are approved to operate by means of accreditation need only give the Bureau notice of the change within 30 days, but they still require notification that the notice was ultimately approved by the Bureau.

Proposed Change: After the new 5 CCR section 71652, add, “Note: Authority cited: Sections 94877 and 94895, Education Code. Reference: Sections 94893, 94894(j), 94895, 94896, and 94930.5, Education Code”

Rationale: The standards for review of a proposed regulation laid out in California Government Code section 11349.1 include reviewing the proposed regulation for both authority and reference. 1 CCR section 14(d) states, “Citations of “authority” and “reference” for each regulatory section which has been adopted or amended and submitted to OAL for filing with the Secretary of State shall appear at the end of each section.” Therefore, it is necessary to add such citations to the proposed new regulation.

The “Authority cited” section lists California Education Code section 94877 and 94895. Section 94877 is the statute that gives the Bureau authority to adopt regulations to implement its authority under the California Private Postsecondary Act of 2009. Section 94895 directs the Bureau to adopt regulations for establishing the procedures for institutions to seek authorization for making a substantive change. These two statutes thus provide the Bureau with the legal authority for establishing the procedures laid out in the proposed 5 CCR section 17652 for seeking approval for a change in participation in the federal Title IV student financial aid program.

The “Reference” section cites California Education Code sections 94893, 94894(j), 94895, 94896, and 94930.5. Section 94893 is the section that requires institutions to receive authorization from the Bureau if they intend to make any substantive change, as defined by statute. Section 94894 is the section of the Education that defines what is a “substantive change, and specifically section 94894(j) is the newly adopted provision defining participation in the federal Title IV student financial aid program as a substantive change. Education Code section 94895 and 94896 are, respectively, the statutory provisions authorizing the Bureau to establish procedures for authorizing a substantive change for institutions not approved by means of accreditation and those institutions approved by means of accreditation.

Education Code section 94930.5 is the Bureau’s fee schedule, which establishes the fee to be submitted for an application to make a substantive change for both institutions approved by means of accreditation and those not approved by means of accreditation at 94930.5(c)(1) and (c)(2). These statutory provisions are the ones that meet the definition of Reference in Government Code section 11349.1 as the “provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation.”

**4. Add Form AID New. 8/22, “Application for Authorization for Institution to Begin Participation in Student Financial Aid Programs (Title IV of the Higher Education Act of 1965)”**

Proposed Change: Create a new form, “AID New. 8/22”, to be used by institutions to report beginning to participate in Federal Student Financial Aid Programs Authorized by Title IV of the Federal Higher Education Act of 1965, as Amended (20 U.S.C. Sec. 1070 *et seq.*).

Rationale: The proposed regulation directs institutions seeking to begin participation in federal Student Financial Aid Programs authorized by Title IV of the Higher Education Act, as amended, to complete the newly created Application for Authorization for Institution to Begin Participation in Federal Student Financial Aid Programs form, referred to as AID (New. 8/22), which is incorporated by reference. Institutions are directed to complete the form and submit it to the Bureau along with the appropriate fee for authorization of a substantive change as provided in CEC section 94930.5(c).

Creating a new form is necessary as none of the existing forms would capture the necessary information from institutions that would enable the Bureau to evaluate the application. Once the Bureau has the information submitted by the institution, it can make an evaluation as to whether to approve the request for the substantive change or reject it.

Proposed Change: The “AID New. 8/22” form has the BPPE logo at the top, with the Bureau’s post office box address and an Office Use Only box. The Office Use Only box contains space for a date stamp upon receipt, and lines for an application number, application fee, date, school code, and a revenue code designation.

Rationale: The logo and the address are needed to identify the Bureau and direct applicants to the best place to submit the completed document. The information in the Office Use Only box is needed by the Bureau to give each application a unique designation for future reference, to know that the appropriate fee was submitted and when it was received, and to identify the institution making the application with a designation that is short and not likely to be mistaken for another institution, and the account that the application fee money should be directed to.

Proposed Change: The form identifies itself as “Application for Authorization for Institution to Begin Participation in Student Financial Aid Programs (Title IV of the Higher Education Act of 1965)” and underneath identifies the statutory and regulatory authority as “(California Education Code (CEC) §§ 94894, 94896; Title 5, California Code of Regulations (CCR) § 71652).”

The form next has two statements with check boxes, so applicants can indicate which fee is applicable to them. Institutions that are approved by the Bureau must pay a \$500 fee for submitting a substantive change application, as set out in CEC section 94930.5(c)(1), while those approved by means of accreditation pay \$250 under CEC

section 94930.5(c)(2). The form identifies that the fees are non-refundable, as specified in 5 CCR section 74000(b).

Rationale: This information is placed on the form to identify it clearly to any institution that is starting participation in Federal Title IV Student Financial Aid and wishes to inform the Bureau as required by CEC section 94894(j). CEC section 94894(j) does not specify if the change in participation in federal student financial aid under Title IV is beginning or ending, but as a practical matter no institution would choose to stop participating in federal student financial aid voluntarily. The form notifies applicants of the required fee to be submitted with the application, and that under statute the fee is nonrefundable, which is needed to avoid delays in processing the form due to the failure to include the required fee. As the form is being incorporated by reference into the regulation, regulatory provisions being used to give the form its substance are being indicated.

The text of the regulation that establishes the requirement of an application for a change to begin participation in federal student financial aid programs, 5 CCR section 71652, is listed. Citations to California Education Code section 94894 refers the reader to the substantive changes requiring prior approval from the Bureau; section 94896 refers the reader to the requirement that certain institutions only make changes per the institution's accreditation standards and that the institution use a form provided by the Bureau, respectively. Cross-referencing all these standards allows a reader of the form to read the applicable underlying statutes and regulations, making the purpose of the form clear to anyone who might read it.

Proposed Change: Part one of the form is labeled "1. INSTITUTION" and asks for information to identify the applicant. The form asks for the name of the institution, its school code, its address, city, state and zip code, a phone number, a fax number, and a website address.

Rationale: This information is necessary to properly identify the applicant and be able to contact the applicant once the form is processed. It is often useful to have multiple methods of contacting an applicant, therefore the form asks for the physical address of the institution along with a phone number and fax number. Having the school's website address enables to Bureau to double check any information if there is a mistake or changed circumstances.

Proposed Change: Part two of the form is labeled "2. INSTITUTION'S CONTACT PERSON (for this application)" and asks for a name, email address, address, city, state and zip code, telephone number, and fax number.

Rationale: This information is needed to allow the Bureau to contact an individual at the institution to communicate with if any issues arise while processing the application, and to inform the contact person once the application is approved or denied. It is necessary to have multiple methods of contacting the institution's contact person, as after COVID many individuals work from home and may have more access to an e-mail or fax than a telephone message.

Proposed Change: Part three of the form is labeled “3. Date” and asks the applicant, “What is the proposed effective date of participation in Student Financial Aid Programs under Title IV of the Higher Education Act?” followed by a space for the answer.

Rationale: The Bureau needs to know the effective date of the institution’s participation in the Title IV Student Financial Aid program, so it can know when to start observing the effects of the participation upon the institution. The approval process by the United States Department of Education may take a significant period of time, so it must be incumbent on the institution to inform the Bureau of when the approval process will be at an end.

Most institutions submitting the proposed form will be approved by means of accreditation and will only need to provide a notice to the Bureau of the substantive change being made after it has occurred. However, there are some circumstances when an unaccredited institution will begin participation in the Title IV Student Financial Aid program, and unaccredited schools must provide the Bureau advanced knowledge of the substantive change to get the Bureau’s pre-approval. For these institutions the Bureau must know when the institution’s participation in the federal financial aid program will start so the Bureau can supply its pre-approval.

Proposed Change: Part four of the form is labeled “4. FINANCIAL AID POLICIES, PRACTICES, AND DISCLOSURES” and tells the applicant, “Please attach the statement of the institution’s financial aid policies, practices, and disclosures required by CEC section 94909(a)(10), as well as copies of the institution’s catalog and enrollment agreements containing the disclosures required by 5 CCR section 71810 and CEC section 94911.” followed by “Document is attached:” and spaces to indicate “Yes” or “No”.

Rationale: Institutions participating in the federal Title IV Student Financial Aid program may have to make significant changes to comply with the federal standards for administering the moneys received through the Title IV programs. Some of these changes will be described in the section above when complying with the federal requirements for administering federal funds. However, the availability of federal financial aid will also require changes in an institution’s interaction with students and potential students, including how institutions inform students of the availability of federal financial aid, how financial aid offices calculate student need, and how they describe the affordability of their programs.

There are specific requirements in the California Education Code and the Bureau’s regulations concerning disclosures to students regarding federal financial aid programs, including CEC section 94911, which establishes minimum information to be included in an enrollment agreement including financial aid, , and 5 CCR section 71810(b)(6) which requires an institution’s catalog to inform students of, “The institution’s policies and practices regarding any form of financial aid, including all consumer information which the institution is required to disclose to the student under any state or federal financial aid program”. The Bureau is asking institutions to demonstrate compliance with these financial aid disclosure requirements.

For the Bureau to have up to date information on institutions undergoing a compliance review including their financial aid participation, it is necessary for the Bureau to ask both accredited and unaccredited institutions for any planned changes in their financial aid policies, practices, and disclosures when transitioning to participating in the federal Title IV Student Financial Aid program.

Proposed Change: On item 4, after the question is the text “Document is attached: \_\_\_\_\_ Yes \_\_\_\_\_ No”.

Rationale: The form contains the language “Document is attached” and lines marked “yes” and “no” for question 4 because the space given on the form itself may not be sufficient to contain the explanation requested by the question. In that event, the party filling out the form may attach a document containing additional information. Marking “yes” or “no” clearly indicates to the Bureau whether such information is attached, allowing the Bureau to consistently identify all materials submitted to it in addition to the form itself.

Proposed Change: Place a statement on the form in bold type, “If this institution is approved by means of accreditation skip to #7. Attach a certified copy of the current verification of accreditation granted by the accrediting agency.”

Rationale: Institutions approved by means of accreditation are treated differently than those approved by the Bureau; for example, as noted above, schools approved by means of accreditation are charged a lower fee for submitting a substantive change application. CEC section 94890 directs the Bureau to grant an institution that is accredited an approval to operate by means of accreditation, as those institutions are subject to the oversight of their accrediting agency and therefore do not require as much oversight by the Bureau. Therefore, these institutions may skip the remainder of the application and proceed to the end of the form as the Bureau does not need more information from them to process the application other than verification that they are accredited.

To verify an institution’s claim that it is accredited, the institution must provide a certified copy of its current accreditation. While the Bureau should have proof of accreditation on file when the institution was approved to operate by accreditation, it is necessary to ask for the current status of the accreditation as the accreditation status might have lapsed or been revoked by the accrediting agency.

Proposed Change: Part five of the form is labeled, “5. ORGANIZATION AND MANAGEMENT” and asks the applicant, “Will the institution’s participation in Student Financial Aid Programs under Title IV of the Higher Education Act cause any changes to the institution’s organization and management including changes to the job duties and responsibilities of each administrative and faculty position, and/or the addition of a financial aid officer position?” followed by spaces to answer either “Yes” or “No.” There is then a statement, “If yes, please attach a document stating the planned changes.”

Rationale: Institutions that apply to participate in the federal Title IV Student Financial Aid program must be approved by the United State Department of Education. One of the factors the Department of Education considers is administrative capability, with the standards laid out at 34 Code of Federal Regulations (CFR) 668.16, which state, “an institution [participating in the Title IV Student Financial Aid program] shall demonstrate to the Secretary that the institution is capable of adequately administering that program under each of the standards established in this section.”

An institution transitioning to participating in the Title IV Student Financial Aid program may have to make changes to the institution’s organization and management structure to meet the federal guidelines. These changes will involve changes to the job duties and responsibilities of administrative and staff personnel, and the Bureau can learn about how the institution operates by reviewing these changes. As unaccredited generally do not participate in federal financial aid programs, it is important to know if the institution will be adding the position of Financial Aid Officer and where that position is in the institution’s organizational structure.

Unaccredited schools beginning participation in the Title IV program will have already informed the Bureau of their organization and management either by answering question five on the Application for Approval to Operate, question 6 on their Renewal to Operate, or (if they have submitted one) an application for a Substantive Change in Business Organization/Control/Ownership, so the Bureau will be able to compare the answer to this question to what the institution described previously.

If the institution does not need to make any changes to its organization and management to begin participation in federal Title IV Student Financial Aid programs, it can simply indicate “No” on this question.

Proposed Change: Part six of the form is labeled, “6. EDUCATIONAL PROGRAM” and asks the applicant, “Will the institution’s participation in Student Financial Aid Programs under Title IV of the Higher Education Act cause any changes in the institution’s educational programs including any of the changes required to be reported under CEC sections 94894(a), 94894((g), 94894(i), or 94894(k)? followed by spaces to answer, “Yes” or “No,” followed by, “If yes, please attach a document describing the planned changes.”

Rationale: Federal regulations specify that certain types of programs may qualify students to participate in the federal Title IV Student Financial Aid program. The same regulations also limit the types of programs that may qualify a student for federal financial aid. For example, 34 CFR section 668.8(c)(3) states that for nonprofit institutions, a nondegree programs may allow a student to be eligible for the Title IV financial aid program if the program “prepares students for gainful employment in a recognized occupation.” Therefore, institutions that begin to participate in Title IV Federal Financial Aid may decide to make changes to their educational programs to enhance student eligibility. Any changes the institution will make to its educational programs should be reported to the Bureau before the Bureau’s decision on the institution’s application to begin participating in Title IV financial aid.

CEC section 94894 lists a number of changes that unaccredited institutions must get prior approval from the Bureau before implementing. Four of these deal with changes to educational programs: 94894(a), a change in educational objectives, including an addition of a new diploma or a degree educational program unrelated to the approved educational programs offered by the institution; 94894(g), a significant change in the method of instructional delivery; 94894(i), an increase or decrease of 25 percent or more in the number of clock hours or credit hours required for successful completion of the program; and 94894(k), a change in the academic measurement of an educational program from clock hours to credit hours. If an institution is going to implement any of these changes to begin participating in Title IV Federal Financial Aid, they will have to report them as a substantive change to the Bureau; however, if the reason for the change is to begin participating in Title IV Federal Financial Aid, the Bureau should have the information before deciding whether to approve the application to participate in federal financial aid.

If the institution does not need to make any changes to the educational programs it offers to begin participation in federal Title IV Student Financial Aid programs, it can simply indicate “No” on this question.

Proposed Change: The final section of the application form is labelled, “7. DECLARATION UNDER PENALTY OF PERJURY” and states “This application shall be signed by the following:

- “-- Each owner of the institution, or
- If the institution is incorporated, by the chief executive officer of the corporation and each owner of 25 percent or more of the stock, or interest in the institution, or
- By each member of the governing body of a nonprofit corporation.”

The form states, “I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.” and has three signature blocks. Each block asks for a signature, a date, a name, an address including city, state, and zip code, and a statement that the signer either owns a percentage of the business to be specified in a blank, or is a Chief Executive Officer, or is a Member of the Board of Directors, or is a General Partner. Below the last signature block is a statement, “Attach Additional Sheet(s) if Necessary.”

Rationale: The signatories listed are the required signatories for other Bureau applications, as specified in 5 CCR sections 71380 and 71390. It is appropriate to include those same signatories on this new form because the signatories listed in sections 71380 and 71390 represent the approved ownership structure of the institution. These individuals sign the approval to operate form and control the operations of the institution. Having signatures from those parties demonstrates to the Bureau that individuals in an ownership or control relationship to the institution are aware of the representations made on the form, and of the underlying changes.

The application requires a signature to be made under penalty of perjury to assure that institutions are not making false statements to the Bureau without consequence. The signature blocks attempt to make it as easy as possible for the required signatory to indicate whether he or she is signing as an owner, and what percent they own, or as a board member of a nonprofit, or as a General Partner. The statement to add additional sheets if necessary is in case there are additional signatories that need to be included.

Proposed change: Add to the proposed form the following notice:

“NOTICE ON COLLECTION OF PERSONAL INFORMATION The information requested on this application is mandatory pursuant to CEC sections 94894, 94896 and Title 5 CCR section 71652. Failure to provide all of the information requested will result in the application being ineligible for processing, or subject to denial (Title 5 CCR section 71655). The information provided will be used to determine qualification of the applicant for authorization to make a substantive change to its approval to operate by the Bureau for Private Postsecondary Education (Bureau). The information may be provided to other governmental agencies, or in response to a court order, subpoena, or public records request. You have a right of access to records containing personal information maintained by the Bureau unless the records are exempted from disclosure by law as specified in Civil Code section 1978.40. For questions about this notice or access to your records, you may contact the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818, by phone at (916) 574-8900, or by email at [bppe@dca.ca.gov](mailto:bppe@dca.ca.gov).”

Rationale: California Civil Code section 1798 *et seq.*, known as the Information Practices Act, requires notification be given to persons submitting applications with personal information that the information may be subject to disclosure under certain conditions. Specifically, California Civil Code section 1798.17 requires agencies to include certain information on forms, including the statutory basis for requesting information and the consequences of failing to provide all of the information.

The proposed notice to be included at the end of the Application for a Change to Begin Participation in Federal Student Financial Aid Programs Authorized by Title IV of the Federal Higher Education Act of 1965, as Amended (20 U.S.C. Sec. 1070 *et seq.*) form is necessary to meet the requirements of the Information Practices Act. It provides the statutory basis for the Bureau to request the information included in the form, states that the consequences of failing to provide the information is denial of the application, and how the Bureau will make use of the information, and the conditions upon which the Bureau will release the information to others. The notice also contains contact information if the person filling out the form has questions about the information that is being provided or their access to the records.

**5. Add section 71653, Article 7, Chapter 2, Division 7.5 of Title 5 of the California Code of Regulations**

**71653. Application for Authorization for a Change in Academic Measurement of an Educational Program from Clock Hours to Credit Hours.**

Proposed Change: Add a new section 71653 and subdivision 71653(a), which states, “71653. Application for Authorization for a Change in Academic Measurement of an Educational Program from Clock Hours to Credit Hours

(a) An institution seeking to change the academic measurement of an educational program from clock hours to credit hours shall complete the “Application for Authorization to Change From Clock Hours to Credit Hours” form (CREDIT New. 8/22) which is hereby incorporated by reference, to obtain prior authorization from the Bureau in accordance with 94894 of the Code. The form shall be submitted to the Bureau along with the appropriate fee for authorization of a substantive change as provided in Section 94930.5(c) of the Code.”

Rationale: The passage of SB 802 in 2021 added four new categories of changes to be designated “substantive changes” under CEC 94894 requiring prior approval by the Bureau. The change added in section 94894(k) is a “change in the academic measurement of an educational program from clock hours to credit hours.” To implement CEC 94894(k), institutions must be informed as to how to notify the Bureau that they plan to implement such a change.

Programs using “clock hours” measure student workload by the number of hours per week the student is expected to be in class or otherwise working towards completing the course. Programs using “credit hours” give students a number of credits for completing a course that is not related to the amount of time spent in class per week but is related to other factors.

The language for the new 71653(a) is similar to that of section 71650(a), except it applies to institutions seeking a change in the academic measurement of an educational program from clock hours to credit hours instead of a change in educational objectives, and it incorporates by reference the newly created form, “Application for Authorization to Change from Clock Hours to Credit Hours” and designates the form as “CREDIT New. 8/22.”

Proposed Change: Add a new subdivision 5 CCR 71653(b) that reads, “(b) An institution that has been granted an approval to operate by means of accreditation shall notify the Bureau of the change in their academic measurement of an educational program from use of clock hours or credit hours within 30 days of that change by submitting the Application for Authorization to Change from Clock Hours to Credit Hours form and submitting the fee required by Section 94930.5(c) of the Code, and shall attach written certification from the institution's accreditation agency approving of or acknowledging the change.”

Rationale: The California Education Code sets up two different processes for the approval of applications for substantive changes. Under CEC section 94893 institutions that are not approved by means of accreditation must submit an application to the Bureau for pre-approval before making any substantive change; however, under CEC section 94896, institutions approved by means of accreditation need only inform the Bureau of changes that are in accordance with its accreditor's standards by using the Bureau's appropriate form.

This language is needed to inform institutions that are approved by means of accreditation that the notice they are required to send to the Bureau is due within 30 days of the substantive change of switching from clock hours to credit hours, and that when submitting the application they are required to include the standard fee for submitting a substantive change application under CEC section 94930.5(c), and that they must also submit certification from their accreditor that it approves or acknowledges the change. Some accreditors have prepared documents, but some merely send letters referencing the change; the Bureau would accept any written documentation that was identified as coming from the accreditor and references the change being reported.

Proposed Change: Add a new subdivision 5 CCR Section 71653(c) that says, "If no grounds for denial exist as provided in section 71655, the Bureau shall provide written notice of approval of the substantive changes requested on any application submitted in compliance with this section, or for institutions approved by means of accreditation, the Bureau shall send a written acknowledgement of receipt of the application specified in subdivision (d). The Bureau's authorization to make the changes requested by an institution on any application required by this section shall be deemed effective as of the date of the written notice of approval provided by the Bureau."

Rationale: As CEC Section 94893 requires Bureau pre-approval for substantive changes for institutions that are not approved by means of accreditation, and current regulations do not specify the method by which the Bureau shall communicate its decision on the substantive change application to the institution, the Bureau is establishing for these regulations that the institution will receive a written notice from the Bureau upon approval so the institution will know when the pre-approval is effective.

Institutions approved by means of accreditation do not require prior authorization from the Bureau, so their receiving notice of the Bureau's decision is less time sensitive. They will be sent an acknowledgement that the notice they submit to the Bureau in accordance with 5 CCR section 71653(d) has been accepted.

The new language also establishes that the Bureau's authorization to make the substantive change being applied for is effective as of the date of the written notice of approval. This is necessary to establish when institutions not approved by means of accreditation may begin implementing the substantive change. Institutions that are approved to operate by means of accreditation need only give the Bureau notice of the

change within 30 days, but they still require notification that the notice was ultimately approved by the Bureau.

Proposed Change: After the new 5 CCR section 71653, add, “Note: Authority cited: Sections 94877 and 94895, Education Code. Reference: Sections 94893, 94894(k), 94895, 94896, and 94930.5, Education Code”

Rationale: The standards for review of a proposed regulation laid out in California Government Code section 11349.1 include reviewing the proposed regulation for both authority and reference. 1 CCR section 14(d) states, “Citations of “authority” and “reference” for each regulatory section which has been adopted or amended and submitted to OAL for filing with the Secretary of State shall appear at the end of each section.” Therefore, it is necessary to add such citations to the proposed new regulation.

The “Authority cited” section lists California Education Code section 94877 and 94895. Section 94877 is the statute that gives the Bureau authority to adopt regulations To implement its authority under the California Private Postsecondary Act of 2009. Section 94895 directs the Bureau to adopt regulations for establishing the procedures for institutions to seek authorization for making a substantive change. These two statutes thus provide the Bureau with the legal authority for establishing the procedures laid out in the proposed 5 CCR section 17652 for seeking approval for a change in participation in the federal Title IV student financial aid program.

The “Reference” section cites California Education Code sections 94893, 94894(k), 94895, 94896, and 94930.5. Section 94893 is the section that requires institutions to receive authorization from the Bureau if they intend to make any substantive change, as defined by statute. Section 94894 is the section of the Education that defines what is a “substantive change, and specifically section 94894(k) is the newly adopted provision defining a change from clock hours to credit hours as a substantive change. Education Code section 94895 and 94896 are, respectively, the statutory provisions authorizing the Bureau to establish procedures for authorizing a substantive change for institutions not approved by means of accreditation and those institutions approved by means of accreditation. Education Code section 94930.5 is the Bureau’s fee schedule, which establishes the fee to be submitted for an application to make a substantive change for both institutions approved by means of accreditation and those not approved by means of accreditation at 94930.5(c)(1) and (c)(2). These statutory provisions are the ones that meet the definition of Reference in Government Code section 11349.1 as the “provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation.”

## **6. Add New Form CREDIT New. 8/22 “Application for Authorization to Change from Clock Hours to Credit Hours”**

Proposed Change: Create a new form, the “Application for Authorization to Change from Clock Hours to Credit Hours” form, referred to as CREDIT New. 8/22, which is

incorporated by reference. The form will have information identifying the Bureau at the top, along with an office Use Only Box, a Title, a statutory citation, and a place for the institution to identify the fee it is paying to submit the form.

Rationale: The proposed regulation directs institutions seeking to change a program from clock hours to credit hours to complete the newly created “Application for Authorization to Change from Clock Hours to Credit Hours” form, referred to as CREDIT New. 8/22, which is incorporated by reference. Institutions are directed to complete the form and submit it to the Bureau along with the appropriate fee for authorization of a substantive change as provided in CEC section 94930.5(c).

Creating a new form is necessary as none of the existing forms would capture the necessary information from institutions that would enable the Bureau to evaluate the application. Once the Bureau has the information submitted by the institution, it can make an evaluation as to whether to approve the request for the substantive change or reject it.

Proposed Change: The “CREDIT New. 8/22” form has the BPPE logo at the top, with the Bureau’s post office box address and an Office Use Only box. The Office Use Only box contains space for a date stamp upon receipt, and lines for an application number, application fee, date, school code, and a revenue code designation.

Rationale: The logo and the address are needed to identify the Bureau and direct applicants to the best place to submit the completed document. The information in the Office Use Only box is needed by the Bureau to give each application a unique designation for future reference, to know that the appropriate fee was submitted and when it was received, and to identify the institution making the application with a designation that is short and not likely to be mistaken for another institution, and the account that the application fee money should be directed to. The information in the Office Use Only box is required for the form to be processed expeditiously and for the fee to be accounted for accurately.

Proposed Change: The form identifies itself as “Application for Authorization to Change in Clock Hours to Credit Hours” and underneath identifies the statutory and regulatory authority as “(California Education Code (CEC) §§ 94894, 94896; Title 5, California Code of Regulations (CCR) § 71653).”

The form next has two lines with check boxes, so applicants can indicate which fee is applicable to them. Institutions that are approved by the Bureau must pay a \$500 fee for submitting a substantive change application, as set out in CEC section 94930.5(c)(1), while those approved by means of accreditation pay \$250 under CEC section 94930.5(c)(2). The form identifies that the fee is non-refundable, as specified in 5 CCR section 74000(b).

Rationale: Unlike the reporting of a substantive change for an increase or decrease of 25 percent or more in the number of clock hours or credit hours required for successful completion of a program above, there is no existing form used by the Bureau that would be appropriate for institutions to use to report a change in their academic measurement of an educational program from clock hours to credit hours. Therefore, the Bureau is creating a new form that is incorporated by reference.

Identifying the form is necessary to make sure that institutions know what form they are filling out and the statutory basis for having to submit the form to the Bureau. It is also necessary to identify which application fee the institution is submitting, as CEC section 94930.5(c) identifies two different fees, one for institutions authorized to operate by the Bureau and those institutions authorized to operate through their accreditation status, and an institution submitting the incorrect fee could delay processing of the form.

The text of the regulation that establishes the requirement of an application for a change from clock hours to credit hours, 5 CCR section 71653, is listed. Citations to California Education Code section 94894 refers the reader to the substantive changes requiring prior approval from the Bureau; section 94896 refers the reader to the requirement that certain institutions only make changes per the institution's accreditation standards and that the institution use a form provided by the Bureau, respectively. Cross-referencing all these standards allows a reader of the form to read the applicable underlying statutes and regulations, making the purpose of the form clear to anyone who might read it.

Proposed Change: Section 1 of the form is labeled "1. INSTITUTION" and asks for information to identify the applicant. The form asks for the name of the institution, its Bureau-issued school code, its address, city, state and zip code, a phone number, a fax number, and a website address.

Rationale: This information is necessary to properly identify the applicant and be able to contact the applicant once the form is processed. It is often useful to have multiple methods of contacting an applicant, therefore the form asks for the physical address of the institution along with a phone number and fax number. Having the school's website address enables to Bureau to double check any information if there is a mistake or changed circumstances.

Proposed Change: Part two of the form is labeled "2. INSTITUTION'S CONTACT PERSON (for this application)" and asks for a name, email address, address, city, state and zip code, telephone number, and fax number.

Rationale: This allows the Bureau to have the name and contact information of an individual at the institution to communicate with if any issues arise while processing the application, as well as to inform once the application is approved or denied. As noted above, it is useful to have multiple contact methods, including a mailing address, phone number, email address and fax number.

Proposed Change: After part two of the form there is a line that states, “Is this institution approved by means of accreditation? \_\_\_Yes \_\_\_No. If this institution is approved by means of accreditation attach the certification required by Title 5 CCR section 71653 and then skip to #9. Attached is a certified copy of the current verification of accreditation granted by the accrediting agency.” followed by a check box.

Rationale: Institutions approved by means of accreditation are treated differently than those approved by the Bureau; for example, as noted above, schools approved by means of accreditation are charged a lower fee for submitting a substantive change application because the Bureau’s review is less rigorous. CEC section 94890 directs the Bureau to grant an institution that is accredited an “approval to operate by means of accreditation,” as those institutions are subject to the oversight of their accrediting agency and therefore do not require as much oversight by the Bureau. Therefore, these institutions may skip the remainder of the application and proceed to the end of the form as the Bureau does not need more information from them to process the application other than verification that they are accredited.

To verify an institution’s claim that it is accredited, the institution must provide a certified copy of its current accreditation. While the Bureau should have proof of accreditation on file when the institution was approved to operate by accreditation, it is necessary to ask for the current status of the accreditation as the accreditation status might have lapsed or been revoked by the accrediting agency.

Proposed Change: Part three of the application is labelled, “3. REASON FOR CHANGE” and asks the institution to, “Describe the reasons for the proposed change to confer credit hours (units) instead of clock hours for each educational program proposed to change. If the information cannot be written in the space provided, attach additional pages to this form.” followed by “Additional information attached: with spaces labeled “Yes” and “No.”

Rationale: For the Bureau to provide oversight of this substantive change, it must understand the reasons why the institution is seeking to make such a significant change to its educational model. Therefore, the Bureau must ask the institution applying for pre-approval of this substantive change why they are making the change, and to give adequate detail in making the explanation.

Proposed Change: Section four is labelled. “4. DATE” and asks, “Date of the proposed change?” followed by a blank line.

Rationale: This is to inform the Bureau of when the institution anticipates changing from using clock hours to credit hours in its educational programs. The change will affect how the Bureau oversees the institution, and how the institution discloses to students and prospective students how its educational programs are run for comparison with other similar programs at other institutions.

Proposed Change: Section five is labelled, “5. TYPE OF CONVERSION” and asks the institution to “Indicate below whether the institution is seeking to confer quarter or semester (or other) credit hours.”

Rationale: Institutions making the conversion from clock hours to credit hours might be on a semester system or a quarter system, or be on some other idiosyncratic system of charting student progress. It is necessary for the Bureau to know what system the institution is using and what it is converting to in order to evaluate the conversion process and make sure it is being done correctly.

Proposed Change: Section six is labelled, “6. CURRICULUM” and asks the institution to “Describe how the curriculum will be changed or adapted to meet the minimum requirements for the conferral of credit hours. If the information cannot be written in the space provided, attach additional pages to this form.” followed by “Additional information attached: with spaces labeled “Yes” and “No.”

Rationale: CEC section 94828 defines “curriculum” to mean, “an organized set of courses or modules of instruction that are prerequisites to the award of a degree or diploma.” The structure of these courses or modules will change if an institution changes from clock hours to credit hours, and the Bureau needs to know how the institution plans on making those changes.

Current regulations establish the importance of examining changes to the curriculum in the face of other substantive changes. For example, 5 CCR 71600(b)(2) says that the application for a significant change in the method of instructional delivery shall include, “A description of the proposed new method of instructional delivery, and how the curriculum will be changed or adapted to meet the change in delivery method.” A similar description is required for a substantive change from clock hours to credit hours.

Another example is in 5 CCR section 71710, which sets out the content requirements of a program’s curriculum that is needed to meet the educational program’s mission and objectives. A change from clock hours to credit hours will require changes to a program’s curriculum to maintain the same mission and objectives.

It is necessary for the Bureau to ask the institution to describe the changes that it anticipates making in the curriculum of its programs to accommodate the changes that will be incurred when the institution changes from clock hours to credit hours.

Proposed Change: Section seven is labelled “7. CALCULATION” and tells the institution to, “Describe proposed credit hour calculations by listing all applicable instructional hours of lecture, lab, practicum, and other planned learning experiences as determined by duly qualified faculty (“duly qualified faculty” as defined in Title 5 CCR section 70000(j)). If the information cannot be written in the space provided, attach additional pages to this form.” It then instructs the institution to “Identify and quantify time in hours outside of instruction which an institution requires a student to devote to preparation

(this means time for preparation for instruction, study of course material, or completion of educational projects) for planned learning experiences. If the information cannot be written in the space provided, attach additional pages to this form.” followed by “Additional information attached:” with spaces labeled “Yes” and “No.”

Rationale: In converting from clock hours to credit hours, the calculations used in making the conversion are critical in making sure that the programs continue to meet the educational standards set down in the Code and the regulations. For example, 5 CCR 71850(a) states that a bachelor’s degree may be awarded to students who completed a minimum of 120 semester credits or its equivalent; the clock hour equivalent to 120 semester credits needs to be established for the requirement to be applied. The definition of an “academic year” in CEC section 94812 states that it shall be 24 semester or 36 quarter hours for institutions using credit hours or 900 clock hours for institutions using clock hours; institutions converting from clock hours to credit hours will have to provide the Bureau with information on how their conversion process calculates the change for students who began using clock hours but will be required to shift to credit hours.

The proposed regulation requires that “planned learning experiences” be determined by “duly qualified faculty” as that term is defined in 5 CCR section 70000(j). That regulation refers to 5 CCR section 71720, which has an extensive definition of the expected standards for “duly qualified faculty.” The Bureau is restricting the task of defining “planned learning experiences” to duly qualified faculty, as those are the persons at an institution who are responsible for defining “planned learning experiences” in the regulation, as set out in 5 CCR section 70000(w)(2), and would be the best judges of what the “planned learning experience” should be. Also, institutions might have an incentive to have unqualified administrators make the determination for profit-motivated reasons, while presumably faculty would make the determination based on their program design and curriculum.

As noted above, one difference between clock hours and credit hours is that the clock hours method uses the number of hours a student spends in class as a measure of the workload, so a class that meets for three hours a week would be worth three units; the amount of time a student spends to prepare is assumed to be related to the in-class time. The conversion from clock hours to credit hours means that the number of hours spent in class will no longer be the measure of a course’s workload; therefore, it is important to know how the institution will evaluate student workload outside of instruction now that time of instruction does not measure the course’s value. Knowing the amount of time other than class time an institution expects a student to engage in for course credit is important in determining if the conversion from clock hours to credit hours is reasonable for students.

Proposed Change: Section eight is labelled “8. ADDITIONAL INFORMATION” and tells the institution to, “Include any material facts, as defined in section 71340(a), which have not otherwise been disclosed in the application that without inclusion would cause the

information provided on this application to be false, misleading or incomplete. If the information cannot be written in the space provided, attach additional pages to this form.” Below this is a statement, “Additional information attached:” followed by spaces to check indicating “Yes” or “No.”

The section then advises the institution that, “The institution may also include any other facts that the institution would like the Bureau to consider in approving this application. If the information cannot be written in the space provided, attach additional pages to this form.” followed by “Additional information attached:” followed by spaces to check indicating “Yes” or “No.”

Rationale: As the Bureau cannot anticipate every factual circumstance that may be relevant when considering an application, it is necessary to ask the applicant if they are aware of any facts not asked about on the form that are relevant. “Material facts” is defined in 5 CCR section 71340(a) as “a fact would be “material” if it would alter the Bureau's determination concerning the institution's ability to comply with any applicable provisions of the Act.” As the application is signed under penalty of perjury, this puts the impetus on the signatory to disclose any information known to them that they know might affect the Bureau’s decision to approve or deny the application.

Proposed Change: Section nine of the form is labelled “9. DECLARATION UNDER PENALTY OF PERJURY” and states “This application shall be signed by the following:

- Each owner of the institution, or
- If the institution is incorporated, by the chief executive officer of the corporation and each owner of 25 percent or more of the stock, or interest in the institution, or
- By each member of the governing body of a nonprofit corporation.”

The form states, “I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.” And has three signature blocks. Each block asks for a signature, a date, a name, an address including city, state, and zip code, and a statement that the signer either owns a percentage of the business to be specified in a blank, or is the Chief Executive Officer, or is a Member of the Board of Directors, or is a General Partner. Below the last signature block is a statement, “Attach Additional Sheet(s) if Necessary.”

Rationale: The signatories listed are the required signatories for Bureau applications, as specified in 5 CCR sections 71380 and 71390.

The application requires a signature to be made under penalty of perjury to assure that institutions are not making false statements to the Bureau without consequence. The signature blocks attempt to make it as easy as possible for the required signatory to indicate whether he or she is signing as an owner, and what percent they own, or as a board member of a nonprofit, or as a General Partner. The statement to add additional sheets if necessary is in case there are additional signatories that need to be included.

Proposed change: Add a notice at the bottom of the form that says, “NOTICE ON COLLECTION OF PERSONAL INFORMATION The information requested on this application is mandatory pursuant to CEC sections 94894, 94896 and Title 5 CCR section 71653. Failure to provide all of the information requested will result in the application being ineligible for processing, or subject to denial (Title 5 CCR section 71655). The information provided will be used to determine qualification of the applicant for authorization to make a substantive change to its approval to operate by the Bureau for Private Postsecondary Education (Bureau). The information may be provided to other governmental agencies, or in response to a court order, subpoena, or public records request. You have a right of access to records containing personal information maintained by the Bureau unless the records are exempted from disclosure by law as specified in Civil Code section 1798.40. For questions about this notice or access to your records, you may contact the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818, by phone at (916) 574-8900, or by email at [bppe@dca.ca.gov](mailto:bppe@dca.ca.gov).”

Rationale: California Civil Code section 1798 *et seq.*, known as the Information Practices Act, requires notification be given to persons submitting applications with personal information that the information may be subject to disclosure under certain conditions. Specifically, California Civil Code section 1798.17 requires agencies to include certain information on forms, including the statutory basis for requesting information and the consequences of failing to provide all of the information.

The proposed notice to be included at the end of the Application for Authorization to Change from Clock Hours to Credit Hours form is necessary to meet the requirements of the Information Practices Act. It provides the statutory basis for the Bureau to request the information included in the form, states that the consequences of failing to provide the information is denial of the application, and how the Bureau will make use of the information, and the conditions upon which the Bureau will release the information to others. The notice also contains contact information if the person filling out the form has questions about the information that is being provided or their access to the records.

### **Underlying Data (Technical, Theoretical, and/or Empirical Studies, Reports or Documents)**

1. “Institutional Eligibility for Participation in Title IV Student Financial Aid Programs,” Congressional Research Service, updated February 14, 2019, at <https://sgp.fas.org/crs/misc/R43159.pdf>.
2. The provisions of this proposed regulation were discussed at the Bureau for Private Postsecondary Education’s Advisory Committee meeting on May 17, 2022. The text of what was presented is at pages 51-61 of the meeting materials located at [https://www.bppe.ca.gov/about\\_us/meetings/materials/20220517\\_acm.pdf](https://www.bppe.ca.gov/about_us/meetings/materials/20220517_acm.pdf). The discussion of the proposal can be found in the meeting materials of the Advisory

Committee’s meeting on August 18, 2022 located at:  
[https://www.bppe.ca.gov/about\\_us/meetings/materials/20220818\\_acm.pdf](https://www.bppe.ca.gov/about_us/meetings/materials/20220818_acm.pdf)

3. Workload costs estimates – Accredited and non-accredited institutions

**Business Impact**

The Bureau has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following facts:

The Bureau estimates up to 37 institutions will submit applications for approval of substantive changes per year. These schools will incur workload costs and be required to pay application fees.

Accredited schools are estimated to incur total costs of \$325 per application and non-accredited schools \$800 per application. The Bureau estimates total costs for accredited and non-accredited institutions of \$19,625 per year and up to \$196,250 over a ten-year period as follows:

Bureau for Private Postsecondary Education														
Substantive Changes Accredited and Non-Accredited - Economic Impact														
Institution Type	Apps Per Yr	Workload Costs	Fee Amts	Years Ongoing										Total
				1	2	3	4	5	6	7	8	9	10	
Accredited Institution	21	\$75	\$250	\$6,825	\$6,825	\$6,825	\$6,825	\$6,825	\$6,825	\$6,825	\$6,825	\$6,825	\$6,825	\$68,250
Non-Accredited Institution	16	\$300	\$500	\$12,800	\$12,800	\$12,800	\$12,800	\$12,800	\$12,800	\$12,800	\$12,800	\$12,800	\$12,800	\$128,000
<b>Total Costs:</b>				<b>\$19,625</b>	<b>\$196,250</b>									

The Bureau notes, non-accredited schools will incur greater workload costs and pay higher fees than accredited institutions because these applications require more documents to be compiled and submitted to the Bureau. Since accredited schools have already been reviewed and approved by an accrediting agency, the Bureau’s requirements and review process are less than for non-accredited institutions.

Given the small number of institutions that will need to submit applications under the proposed regulations, and that institutions that are nationally accredited will face the same regulatory environment, the proposed should not adversely affect the ability of California businesses to compete against businesses in other states.

**Economic Impact/Assessment Analysis**

The regulatory proposal will have the following effects:

- It will not create or eliminate any jobs within the State of California because institutions rarely make the substantive changes now required to be reported, and having the Bureau review the change before making it should not have a significant financial impact any institution, which should not cause either the creation or elimination of any jobs within California.
- It will not create new businesses or eliminate businesses in the State of California because the requirement to report any of the substantive changes being regulated to the Bureau should rarely be applicable. When the reporting requirement is applicable, the cost of reporting the change to the bureau should be small, which should not create or eliminate any businesses in California.
- It will not affect the expansion of businesses currently doing business in the State of California because the proposed regulations will rarely be applicable. Therefore, the regulatory proposal will have a very small fiscal impact and should not affect the decision of any business to expand in California.
- The regulatory proposal benefits the health and welfare of California residents by requiring institutions making certain significant changes to their operations to have those changes reviewed by the Bureau before they are made, allowing institutions to operate as intended by the legislature.
- The regulatory proposal does not affect the state's environment because it requires institutions making certain significant changes to their operations to have those changes reviewed by the Bureau before they are made, which should not affect the state's environment.
- The regulatory proposal would not affect worker safety because these regulations are not relevant to the enhancement of worker safety and are to conform the Bureau's regulations to statutory language.

### **Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives**

Set forth below are the alternatives which were considered and the reasons each alternative was rejected.

1. Not adopt the regulations. This alternative was rejected because it is necessary to implement the statutory changes made by the legislature by adopting regulations providing for the reporting of substantive changes as defined by statute.

### **Fiscal Impact Statement**

**Costs:** The Bureau estimates up to 37 institutions will submit applications for approval of substantive changes per year.

The Bureau will incur workload and costs of approximately \$300 for an accredited institution application and \$750 for a non-accredited institution application with estimated costs of \$18,300 per year and up to \$183,000 as follows:

Bureau for Private Postsecondary Education													
Substantive Changes Accredited and Non-Accredited - Fiscal Impact (Costs)													
Institution Type	Apps Per Yr	Workload Costs*	Years Ongoing										
			1	2	3	4	5	6	7	8	9	10	Total
Accredited Institution	21	\$300	\$6,300	\$6,300	\$6,300	\$6,300	\$6,300	\$6,300	\$6,300	\$6,300	\$6,300	\$6,300	\$63,000
Non-Accredited Institution	16	\$750	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$120,000
<b>Total Costs:</b>			<b>\$18,300</b>	<b>\$183,000</b>									

\*Approximate

The Bureau notes, non-accredited schools will incur greater workload costs and pay higher fees than accredited institutions because these applications require more documents to be submitted and reviewed by the Bureau. Since accredited schools have already been reviewed and approved by an accrediting agency, the Bureau’s requirements and review process are less than for non-accredited institutions.

**Revenues:** Accredited institutions will be required to pay a \$250 application fee and non-accredited institutions will pay \$500 per application with total estimated revenues of \$13,250 per year and up to \$132,250 over a ten-year period as follows:

Bureau for Private Postsecondary Education													
Substantive Changes Accredited and Non-Accredited - Fiscal Impact (Revenues)													
Institution Type	Apps Per Yr	Fee Amts	Years Ongoing										
			1	2	3	4	5	6	7	8	9	10	Total
Accredited Institution	21	\$250	\$5,250	\$5,250	\$5,250	\$5,250	\$5,250	\$5,250	\$5,250	\$5,250	\$5,250	\$5,250	\$52,500
Non-Accredited Institution	16	\$500	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$80,000
<b>Total Costs:</b>			<b>\$13,250</b>	<b>\$132,500</b>									