

**BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA CODE OF REGULATIONS TITLE 5. DIVISION 7.5. CHAPTER 2.**

Notice of Regulatory Action Concerning Substantive Change Approval

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary Education (hereinafter “Bureau”), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest. The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this Notice.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office no later than 5:00pm on Tuesday, January 30, 2024, or must be received by the Bureau at the hearing, if one is held. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE CITATION

Authority cited: Sections 94803 and 94895 of the Education Code.

References cited: Sections 94893, 94894, 94895, 94896, and 94930.5 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In 2021 the legislature passed, and the Governor signed, SB 802 (Roth, Chapter 552, Statutes of 2021). Education Code section 94894, which defines what a “substantial change” that requires Bureau pre-approval is, was amended to add four new provisions requiring institutions to apply for approval. The four changes that an institution must now seek Bureau approval for are:

- 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;
- 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 change in the academic measurement of an educational program from clock hours to credit hours;
- A change in the distance education learning management system.

The proposed regulations will enact the fourth of the added definitions, a change in the distance education learning management system, while the other three were addressed in prior regulatory proposals. The proposed regulation directs institutions seeking to apply for a substantive change in the distance education learning management system to fill out the existing Substantive Change in Method of Instruction Delivery form, (Application for Significant Change in Method of Instructional Delivery or Change in Distance Education Learning Management System (Form INS rev. 8/23) (revised August 2023)) which is being revised in this proposal and is incorporated by reference.

Anticipated Benefits of Proposal

The specific benefit anticipated from the proposed regulation is to have the Bureau’s regulations conform to existing statutory language. The terms of SB 802 became effective on January 1, 2022, and in order to implement the law the Bureau must provide institutions with guidance on the proper way to apply for pre-approval for the newly defined substantive changes and provide institutions with forms that give the Bureau the information it needs to properly decide whether to approve the changes or not.

Consistency and Compatibility with Existing State Regulations

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

Fiscal Impact Estimates

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

Costs: The Bureau estimates 14 applications per year (six from accredited institutions and eight from unaccredited institutions). The Bureau estimates (absorbable) workload costs ranging from \$8,977 to \$10,033 per year and up to \$88,150 over a ten-year period.

The Bureau notes, year-one includes one-time implementation workload costs to update the notification forms and post them on the Bureau's website.

Revenues: Approximately \$5,500 in additional revenue will be collected by the Bureau per year, coming from 6 additional applications from accredited institutions at \$250 per application, and 8 applications from unaccredited institutions at \$500 per application.

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which section 17561 -17630 Require Reimbursement: None

Business Impact: The Bureau estimates that each year 6 accredited institutions and 8 unaccredited institutions will have to file with the Bureau because of a change in their Distance Education Learning Management System, which will impose filing fees and workload costs. Accredited institutions file a shorter form and pay a smaller filing fee than unaccredited schools, because they are reviewed and approved by an accrediting agency and therefore require less oversight than unaccredited institutions.

The Bureau estimates that the 6 accredited schools filing with the Bureau per year will each have \$75 in workload costs, with an additional cost of \$250 to file the form with the Bureau, for a total of \$325. An estimated 8 unaccredited institutions filing per year will have an estimated cost to fill out the form of \$400, with a filing fee of \$500, for an estimated cost of \$900 per institution. This will produce an economic impact of \$9,150 per year, for a cumulative total of \$91,500 over a ten-year period.

Impact on Jobs/New Business: None

Cost Impact on Private Person or Business: Based on recent experience, the Bureau does not believe that there will be many institutions submitting applications for the substantive change due to a change in their distance education learning management system.

The Bureau estimates 14 institutions will file an application for a Substantive Change in Distance Education Learning Management System per year. An estimated six accredited institutions will submit an application each year, with a workload cost of \$75 (one and a half hours of workload at \$50 per hour) and an application fee of \$250 for a total economic impact of \$325 per institution. An estimated 8 unaccredited institutions

will submit an application each year, with a workload cost of \$400 (8 hours of work at \$50 per hour) and an application fee of \$500 for a total economic impact of \$900 per institution.

The total economic impact will be \$9,150 per year and up to \$91,500 over a ten-year period.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations will not affect small businesses. The reporting requirement will affect very few businesses and the cost will be small.

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the state of California.

Benefits of Regulation:

The proposed regulation will benefit the health and welfare of California residents by bringing the Bureau to be into compliance with the CEC by allowing institutions to report a newly enacted addition to the list of Substantive Changes to the Bureau. This proposal is not anticipated to benefit worker safety or the state's environment.

Economic Impact Declaration

The Bureau for Private Postsecondary Education declares that this regulation proposal 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.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either

be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of reasons for the proposed action and has available all information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818.

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

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

You can obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

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

The backup contact person is:

Name: Yvette Johnson
Address: P.O. Box 980818
West Sacramento, CA 95798-0818
Telephone No.: (279) 895-6099 Fax: (916) 263-1897
E-Mail Address: Yvette.Johnson@dca.ca.gov

Website Access:

The Bureau's website is: <http://bppe.ca.gov>. Materials regarding this proposal can be found at <http://bppe.ca.gov/lawsregs/current.shtml>. An archive of the Bureau's prior regulatory actions can be found at <http://bppe.ca.gov/lawsregs/archive.shtml>.