

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

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Unapproved Activity

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

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Bureau at its office no later than February 2, 2026**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Authority Cited: Sections 94877, 94936, and 94944, Education Code.

References: Section 149, Business and Professions Code; and Sections 94936, 94944, and 94949.8, Education Code.

Pursuant to the authority vested by sections 94877, 94936, and 94944 of the Education Code (EDC), and to implement, interpret, or make specific EDC section 94944, the Bureau is considering amending sections 75020 and 75030 of Article 2 of Chapter 5 of Division 7.5 of Title 5, of the California Code of Regulations (CCR)¹.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Existing law requires the Bureau to proactively identify and take appropriate action against schools without proper approval by the Bureau, in accordance with the statutory mandate found in California Education Code (CEC) Section 94877. CEC Section 94944 grants the Bureau authority to issue citations, not to exceed \$100,000, to persons

¹ All references to the CCR are to Title 5

operating an institution without proper approval to operate issued by the Bureau. In 2022, the Legislature passed Senate Bill (SB) 1433 (Chapter 544, Statutes of 2022), which expanded the authority of CEC Section 94944 to establish that administrative citations issued pursuant to this section are separate and not inclusive of fines for other violations or refunds ordered.

Over the last four fiscal years, the Bureau has issued citations to more than 80 institutions for unlicensed activity. These institutions range from those without any knowledge of the Bureau or its regulatory requirements to institutions that held prior approval with the Bureau and have since flagrantly disregarded the Bureau's authority, seeing the fine as merely "the cost of doing business." Existing regulations found in section 75020(b) of the CCR refer to CEC Section 94944 but do not establish specific, transparent, and identifiable factors the Bureau considers when issuing administrative citations stemming from unlicensed activity.

The proposed regulatory changes provide clearer guidelines for the assessment of fines, as existing laws and regulations offer little to clarify the fine assessment process. The proposed language outlines how aggravating and mitigating factors would be considered when determining the fine amount. The factors outlined align with how Bureau staff currently set fine levels based on the specific circumstances of each case. This regulatory proposal aims to ensure that fines are issued in a fair and consistent manner, in a way that supports the predictability, clarity, and integrity of the orders to institutions, judges, the public, and other interested parties.

Lastly and importantly, the proposed regulatory changes conform citation authority for unapproved activity with law changes enacted in 2022. Specifically, SB 1433 clarified that the \$100,000 maximum fine for the Bureau's citations for unapproved institutions does not include the value of refunds ordered to be paid back to students.

By better aligning the Bureau's regulatory language on unapproved activity citations with existing law, and complementing standards already used in Disciplinary Guidelines and conditional registration for out-of-state institutions, the Bureau will be able to have clearer enforcement standards for unapproved institution violators, students, judges, and the public. The Bureau has drafted the following proposal that would specify all of the following requirements in regulation to better align the language to existing law.

This regulatory proposal will address the problems stated above by:

- 1) Amending section 75020 of the CCR to:
 - Re-organize the section by removing language concerning the maximum fine amount (\$100,000) and placing it into the next section (75030).
- 2) Amending section 75030 of the CCR to:
 - Re-organize the existing text by re-lettering Class A, B, C, and D violations into (a)(1)-(4).

- Add 75030(b)(1) to address citations issued for unapproved activity.
- Add subsection (b)(2)(A)-(F) to establish the various aggravating and mitigating factors the Bureau will consider when determining an administrative fine amount for an unapproved institution.
- Add subsection (b)(3) to specify that “refunds ordered” apply to students enrolled during the period of unapproved activity.

Anticipated Benefits of Proposal

The Bureau for Private Postsecondary Education has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and the state’s environment:

Institutions, students, and the Bureau will benefit from the proposed regulations, which aim to promote fairness in education and provide for openness and transparency in government.

Institutions, the Bureau, the Office of the California Attorney General (AG) and Administrative Law Judges (ALJs) benefit from clearer enforcement standards because the regulations will specify the aggravating and mitigating factors that may affect the fine amount. Institutions will be incentivized to comply with Bureau laws and regulations and conduct business legally rather than face administrative costs and a fine for unapproved activity. The Bureau, which issues the citation, benefits from clearly listing the factors to consider when issuing a fine for unapproved activity. The updated factors will also serve as an educational and guidance tool for the AG, and for the ALJs who administer hearings for the Bureau. ALJs will benefit from a greater understanding of the various nuances of the Bureau’s enforcement provisions, which will help improve the consistency of penalties for violations of state law.

Students benefit from the regulations because more students will attend Bureau-approved or Bureau-exempt schools as a result of the regulations. When a student attends an unapproved institution, they are not granted the same rights and protections as students who attend an approved institution. These rights and protections include, but are not limited to, the disclosure of student rights, clear itemization of all charges on enrollment agreements, and access to the Student Tuition Recovery Fund (STRF) in the event of a school closure.

Students benefit from the regulations by including language that the administrative fine is separate from refunds ordered to students enrolled during the period of unapproved activity, to ensure that students receive appropriate restitution. Finally, should the institution come into compliance with the laws and regulations by obtaining approval, students benefit from knowing that their institution is one with state oversight, complies with the laws and regulations, is subject to inspection, and upholds student rights.

Evaluation of Consistency and Compatibility with Existing State Regulations

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

INCORPORATION BY REFERENCE

The proposed regulation does not incorporate any forms by reference.

DISCLOSURES REGARDING THIS PROPOSED ACTION

Mandate Imposed on Local Agencies or School Districts: None

FISCAL IMPACT ESTIMATES

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

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

The Bureau does not anticipate additional workload or costs resulting from the proposed regulations.

This proposal does not change the amount of the fine the Bureau may issue to an institution for an unapproved activity violation, so no additional revenues are anticipated.

This proposal provides a more accurate overview of the Bureau's processes in formal disciplinary actions, which will provide greater clarity to licensees, consumers, the Bureau, the AG, and ALJs by outlining relevant and transparent standards directly related to violations outlined in law.

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

Nondiscretionary Costs/Savings to Local Agencies: None.

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

Mandate Imposed on Local Agencies or School Districts: None.

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

BUSINESS IMPACT ESTIMATES

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

The proposed regulatory action only impacts licensees and applicants who are disciplined by the Bureau for violations of the laws and regulations within its jurisdiction.

The proposed regulatory action only affects licensees and applicants who, through their conduct, subject themselves to disciplinary action for violations of the laws and regulations within the Bureau's jurisdiction.

Any "adverse economic impact" would only occur as the result of a disciplinary order following a formal administrative proceeding and a finding of fact affirming a violation of the laws or regulations within the Bureau's jurisdiction. Any potential "adverse economic impact" may be avoided simply by complying with the existing laws and regulations governing the professions regulated by the Bureau.

This initial determination is based on the fact that the proposed regulations are intended to better align the Bureau's regulatory language concerning unapproved activity with existing law and regulations.

Cost Impact on Representative Private Person or Business

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

Impact on Jobs / Businesses

The Bureau has determined that this regulatory proposal will not create or eliminate jobs in California; will not create or eliminate businesses in California; and will not affect the expansion of businesses currently doing business within the state.

This proposal would not have any of the above-referenced impacts as explained in the "Business Impact Estimates" section of this notice.

Business Reporting Requirements

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

Effect on Small Business

The Bureau has determined that the proposed regulations may affect small businesses. However, the proposed regulatory action only affects licensees and applicants who, through their conduct, subject themselves to disciplinary action for violations of the laws and regulations within the Bureau's jurisdiction. Any potential "adverse economic impact" may be avoided simply by complying with the existing laws and regulations governing institutions regulated by the Bureau.

Benefits to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

As stated above, the benefits of the regulation to the health and welfare of California residents by more clearly specifying the factors considered during unapproved activity enforcement efforts will benefit institutions, because unapproved institutions will be incentivized to comply with Bureau laws and regulations and conduct business legally rather than face administrative costs and a fine for unapproved activity. The proposed

regulations will help to ensure students attending private postsecondary educational institutions are attending institutions that are approved by the Bureau, and therefore are afforded all the rights and protections under the Bureau's laws and regulations. The proposed language further aims to benefit students by clarifying statutory language that the administrative fine is separate from refunds ordered to students enrolled during the period of unapproved activity, to ensure that students receive appropriate restitution. Finally, the proposed regulations are not expected to have an effect on worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at P.O. Box 980818, West Sacramento, CA 95798-0818. during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

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

TEXT OF PROPOSAL

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Bureau, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the persons designated in this Notice as the Contact Persons and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

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

CONTACT PERSONS

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

Name: Parker Strohmeyer
Address: Bureau for Private Postsecondary Education
P.O. Box 980818, West Sacramento, CA 95798-0818
Telephone No.: (279) 666-5844
E-Mail Address: Parker.Strohmeyer@dca.ca.gov

The backup contact person is:

Name: Manila Vongmany
Address: Bureau for Private Postsecondary Education
P.O. Box 980818, West Sacramento, CA 95798-0818
Telephone No.: (279) 345-9636
E-Mail Address: Manila.Vongmany@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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