

## **TITLE 5. BUREAU FOR PRIVATE POSTSECONDARY EDUCATION DEPARTMENT OF CONSUMER AFFAIRS**

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. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, Evergreen Facility Hearing Room, Room 1150, 2005 Evergreen St., Sacramento, CA 95815, at 10am, or as soon as practicable thereafter, on July 21, 2015. 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 not later than 5pm on July 20, 2015, or must be received by the Bureau at the hearing. 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: Pursuant to the authority vested by Sections 94877, 94928, 94929.5, 94929.7, 94929.8, 94934 and 94941 of the Education Code, and to implement, interpret or make specific Sections 94874.8, 94902, 94910, 94928, 94929 94929.5, 94929.7, 94932, 94934 and 94941 of said Code, the Bureau is considering changes to Division 7.5 of Title 5 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AB 2296, Chapter 585, Statutes of 2012, expanded the disclosure requirements for institutions under the Bureau related to unaccredited programs; expanded disclosure requirements for all regulated institutions; established more stringent criteria for determining gainful employment and calculating job placement rates; required certain financial aid information disclosures; and increased institutional documentation and reporting requirements around completion rates, job placement/license exam passage rates, and salary/wage information for graduates.

The regulatory proposal is as follows:

#### **1. Amend section 74110(a) of Title 5 of the California Code of Regulations**

This provides an overview of requirements for Annual Reports which includes information required by California Education Code sections 94929.5 and 94934. Additionally, this provides a list of additional information required to be included in the Annual Report.

#### **2. Amend section 74110(b) of Title 5 of the California Code of Regulations**

This adds a requirement that information required by this section be included in the Annual Report.

**3. Amend section 74110(c) of Title 5 of the California Code of Regulations**

This changes the deadline for submitting the Annual Report.

**4. Amend section 74110(d) of Title 5 of the California Code of Regulations**

This requires that the Annual Report be submitted via online form at the Bureau's website. It also requires that enrollment agreements be part of the included materials. It removes alternative submission methods.

**5. Amend section 74112(a) of Title 5 of the California Code of Regulations**

This provides reporting exceptions recently created by statute.

**6. Adopt section 74112(b) of Title 5 of the California Code of Regulations**

This provides instructions for reporting by institutions which are too new to have the required data for reporting.

**7. Adopt section 74112(c) of Title 5 of the California Code of Regulations**

This provides instructions to schools which are newly approved but not required to provide data from before approval for reporting.

**8. Re-number section 74112(b) to section 74112(d) and amend new section 74112(d) of Title 5 of the California Code of Regulations**

This renumbers this subsection and provides a definition for "gainfully employed."

**9. Re-number section 74112(c) to section 74112(e) and amend new section 74112(e) of Title 5 of the California Code of Regulations**

This changes the deadline for Performance Fact Sheets. It also provides two years as a minimum requirement for Performance Fact Sheets. It identifies which group of students is to be used for the Performance Fact Sheets.

**10. Adopt section 74112(f) of Title 5 of the California Code of Regulations**

This adds Total Charges to the Performance Fact Sheet and provides a reporting example.

**11. Adopt section 74112(g) of Title 5 of the California Code of Regulations**

This adds Student Loan/Debt Information to the Performance Fact Sheet and provides a reporting example. It also provides an example if an institution does not participate in federal financial aid programs.

**12. Re-number section 74112(d) to section 74112(h) and amend new section 74112(h) of Title 5 of the California Code of Regulations**

This renumbers this subsection. It also reflects minor changes caused by renumbering and changes in definitions. It removes the footnotes from the associated reporting chart.

**13. Re-number section 74112(e) to section 74112(i) and amend new section 74112(i) of Title 5 of the California Code of Regulations**

This renumbers this subsection and provides minor changes caused by renumbering and changes in definitions. It also adds provision for measuring employment when the occupation requires taking an exam. It adds a requirement that prospective students are provide relevant job classifications to the program with the Performance Fact Sheet. It removes the last two columns of the reporting chart. It removes the footnotes from the associated reporting chart. It adds a disclosure requirement for programs which may lead to self-employment or freelance work-styles.

**14. Re-number section 74112(f) to section 74112(j) and amend new section 74112(j) of Title 5 of the California Code of Regulations**

This renumbers this subsection. It also reflects minor changes caused by renumbering and changes in definitions. It removes the footnotes from the associated reporting charts.

**15. Re-number section 74112(g) to section 74112(k) and amend new section 74112 (k) of Title 5 of the California Code of Regulations**

This renumbers this subsection. It also reflects minor changes caused by renumbering and changes in definitions. It removes the footnotes from the associated reporting chart. It also adds a notification that a list of sources used to substantiate the information in the associated chart is available to a prospective student.

**16. Adopt section 74112(l) of Title 5 of the California Code of Regulations**

This provides a list of definitions for the reporting charts used as part of the Performance Fact Sheet, thus replacing the removed footnotes. It also requires that this list of definitions be included in the Performance Fact Sheet and be in the same format as required for the Performance Fact Sheet.

**17. re-number section 74112(h) to section 74112(m) and amend new section 74112(m) of Title 5 of the California Code of regulations**

This renumbers this subsection. It also requires that documentation supporting reported data be retained electronically and that it shall be provided to the Bureau upon request. It also provides a list of the minimum data to be retained.

Anticipated Benefits of the Proposal

All institutions approved to operate in California by the Bureau are required to make an Annual Report and provide prospective students with a Performance Fact Sheet which is updated annually. The proposal provides expanded disclosures including institutional participation in federal financial aid programs and provides a more stringent and meaningful definition of gainful employment as required by statute. Additionally, the reporting is reworked to help add clarity for prospective students.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, 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: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None

Business Impact: The Bureau has made 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.

Impact on Jobs/New Businesses: None

Cost Impact on Representative Private Person or Business: The Bureau is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations.

Effect on Housing Costs: None

## EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations would not affect small businesses. Institutions that qualify as small businesses are already required to provide students with a performance fact sheet and to make an annual report to the Bureau. The proposed regulations require additional information to be provided in the performance fact sheet and the annual report but it is not difficult to obtain.

## 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 Bureau has determined that this regulatory proposal will benefit the health and welfare of California residents by providing clarification and updated definitions for reporting requirements to comply with current law. The proposal will have no effect on worker safety or the State's environment.

## 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 the 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 of 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 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 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:	Kent Gray Legislative/Regulatory Analyst
Address:	P.O. Box 980818 West Sacramento, CA 95798-0818
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The backup contact person is:

Name:	Joanne Wenzel
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Website Access <http://bppe.ca.gov>: Materials regarding this proposal can be found at <http://bppe.ca.gov/>.