

# BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

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*In exercising its powers, and performing its duties, the protection of the public shall be the bureau's highest priority. If protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.*

— Education Code § 94875

The Bureau for Private Postsecondary Education (BPPE) is responsible for oversight of private postsecondary educational institutions. All non-exempt private postsecondary educational institutions operating in California, regardless of the school's actual physical location, must be approved by BPPE to operate in the state. The Bureau regulates over 1,000 institutions. BPPE's enabling act, the California Private Postsecondary Education Act of 2009, is codified at Education Code section 94800 *et seq.* The powers and duties specified in the Act are vested in the Director of the Department of Consumer Affairs (DCA), who in turn delegates that responsibility to BPPE as a departmental bureau. BPPE's regulations are in Division 7.5, Title 5 of the California Code of Regulations (CCR).

Operating within, and as a part of, the larger DCA, the law establishes BPPE's purpose as (a) protecting students and consumers against fraud, misrepresentation, or other business malpractices at postsecondary institutions that may lead to loss of student tuition and related educational funds; (b) establishing and enforcing minimum standards for ethical business practices and the health, safety, and fiscal integrity of postsecondary institutions; and (c) establishing and enforcing minimum standards for instructional quality and institutional stability for all students.

As of 2015, private for-profit schools received an average of 86% of their revenue from federal grants and loans by the U.S. Department of Education (USDOE). In addition to the federal

grants and loans, private for-profits received an increase in federal GI bill funding from the U.S. Department of Veterans Affairs. Title 38 of the United States Code provides veterans with public funding for tuition payments as well as some living expenses. The combined sources of federal funding going to for-profit institutions amount to around \$20 billion a year in taxpayer funds.

Further complicating California’s regulation of the private for-profit industry are the remaining states’ substantial delegation of their regulatory function of the private for-profit industry under the “State Authorization Reciprocity Agreements” (SARA). This system essentially allows a school to choose its state regulator and then arrange reciprocal approval by other states—thus bypassing performance requirements and other regulations at the state level. To date, California is the only state declining to join SARA. Its entry would substantially impact BPPE’s regulatory powers, particularly given the growth of distance learning—where California students may be enrolled in schools with a *situs* in another state. Effective July 1, 2017, certain out-of-state private schools that enroll California residents as students must register with BPPE, pay a \$1,500 registration fee, and submit required [documentation](#).

The Bureau has the authority to cite, revoke, suspend, place on probation, or bring an action for equitable relief against any approved institution if it violates applicable law. Its jurisdiction includes all private educational institutions, including private non-profits. However, most of its regulatory focus has been on the for-profit sector.

BPPE maintains and administers the [Student Tuition Recovery Fund \(STRF\)](#) to mitigate economic losses suffered by a student when institutions close, fail to pay or reimburse federal loan proceeds or fail to pay judgments against them. The STRF is funded through student fees. In 2022, STRF increased rates beginning April 2022. Statutes require institutions to charge \$2.50 cents per \$1,000 of institutional charges to be paid into the STRF.

BPPE also maintains the [Office of Student Assistance and Relief](#) (OSAR), which conducts outreach and provides current and past students of private colleges information about their rights, how to file a school complaint, and about resources available to them—including potential reimbursement from the STRF. OSAR helps students navigate their financial future following a school closure or unlawful activities of the private college they attend and provides free one-on-one consultations to help students at for-profit schools maximize their economic relief benefits. The chief of OSAR is statutorily required to attend, testify, and answer questions at each Advisory Committee meeting.

To implement its standards, BPPE maintains an Enforcement Section to handle complaints, investigations, and other actions. The Bureau also reviews private postsecondary institution applications for initial approval and subsequent renewals to operate within California.

As a bureau within DCA, BPPE is not governed by a multimember board. BPPE operates under the oversight of a Bureau Chief appointed by the Governor and under the direct authority of the DCA Director. The Bureau Chief as of writing is, Deborah Cochrane. In addition to the Bureau Chief, BPPE has a statutorily mandated Advisory Committee tasked with advising BPPE on matters related to private postsecondary education and the administration of the Bureau's governing statutes, including an annual review of the fee schedule, licensing, and enforcement.

The 12 members of the Advisory Committee must include three consumer advocates, one each appointed by the DCA Director, the Senate Rules Committee, and the Assembly Speaker; two current or past students of private postsecondary institutions, appointed by the DCA Director; three representatives of private postsecondary institutions, appointed by the DCA Director; two public members, one each appointed by the Senate Rules Committee and the Assembly Speaker;

and two non-voting *ex officio* members (the chairs of the Senate and Assembly policy committees with jurisdiction over legislation relating to BPPE).

On May 12, 2022, the DCA [announced](#) the appointment of Tess Dubois-Carey to the BPPE Advisory Committee, serving as an industry representative. Dubois-Carey has been the President of Universal Technical Institute’s Sacramento Campus since 2015. At this writing, there are three vacancies on the Advisory Committee; two are to be appointed by the DCA Director: one for a past student of an institution and another for an institutional representative, and one public member to be appointed by the Senate Rules Committee.

## **HIGHLIGHTS**

### **SB 1433 Further Extends BPPE Sunset Review Date and Makes Additional Changes to Sunset Review Process**

[SB 1433 \(Roth\)](#), as amended August 24, 2022, extends the sunset date for the BPPE and California Private Postsecondary Education Act of 2009 (Act) to January 1, 2027. The bill extends BPPE’s operations for another four years as existing law extending the Act is set to expire on January 1, 2023. Due to several delays caused by the COVID-19 pandemic, BPPE has not had a formal sunset hearing since 2015. In 2019, BPPE published a [Sunset Review Report](#) ahead of its planned March 2020 hearing date. [[25:2 CRLR 117–119](#)] After several postponements, BPPE had a brief hearing and review in 2021 that only extended the Bureau’s sunset review for one year. In 2022, BPPE published an [Addendum](#) to its 2019 report adding updates to issues from the 2019 report and creating additional issues to be addressed at the next sunset hearing. [[26:1 CRLR 146](#); [26:2 CRLR 158–161](#); [27:1 CRLR 177–179](#); [27:2 CRLR 143](#)]

Along with extending the proposed sunset review date, the bill authorizes out-of-state public postsecondary institutions that have a physical presence in California to obtain their approval to operate from BPPE. According to the bill analysis, such institutions will be subject to the same regulations as private postsecondary educational institutions operating in the state. However, some institutions are exempt from these new rules, such as out-of-state institutions who do not award degrees or if the program's total charges do not exceed \$2,500, so long as no part of the charges can be paid by either state or federal student financial aid programs.

This bill also allows BPPE to deny an application for approval to operate for institutions that have engaged in or employ those who have engaged in misconduct. This detail is incredibly important given that, according to recent litigation outcomes, private postsecondary educational institutions have been a hotbed for bad actors and those seeking to exploit vulnerable populations. Allowing BPPE more control in this area may help limit the amount of corruption found in the operation of private postsecondary educational institutions further protecting the public.

Supporters of the bill argue that BPPE serves as a very important "first line of defense" for the public to shield them from would-be predatory institutions. The amendments within the bill allow BPPE to be more proactive in assisting those at risk of harm before such harm occurs. On the other hand, those against the bill argue that BPPE only needs a basic sunset extension and that the addendums are excessive and problematic.

The bill was signed by Governor Gavin Newsom on September 25, 2022 (Chapter 544, Statutes of 2022).

## **The Department of Education Continues to Erase Debt of Former Students of Predatory For-Profit Universities**

On June 1, 2022, the Department of Education [announced](#) they would cancel all remaining loans for students who attended the now-defunct Corinthian College. This cancellation will affect roughly 560,000 students and will result in \$5.8 billion in loans discharged. The Department of Education found that Corinthian misled students on many important issues, including graduation and job placement rates. This was just one of many cases where for-profit postsecondary educational institutions were found to have defrauded students and have been forced to cease operation and pay damages to students on top of the loan forgiveness efforts headed by the Biden-Harris Administration.

Another bad actor in the for-profit college arena, ITT Technical Institute, who closed its doors in September 2016 due to similar allegations of misconduct, was among institutions like Corinthian regarding student loan forgiveness. On August 16, 2022, the Department of Education [announced](#) that similar to Corinthian College, eligible ITT Tech students would have their student loans erased. This debt relief will reach 208,000 students and result in \$3.9 billion in loans discharged.

The final bad actor addressed in this publication is Westwood College, another institution brought down in 2016 due to widespread misrepresentation. On August 30, 2022, the Department of Education [announced](#) \$1.5 billion in debt relief for 79,000 former Westwood College students. At the time of this announcement, the Department of Education has erased \$14.5 billion in loans from 1.1 million students of predatory for-profit postsecondary institutions.

The tides are changing for these formerly profitable institutions as bad actors are being forced to cease operations. Holding the parties responsible for the abuses accountable is the next step toward reforming the entire for-profit postsecondary educational industry.

## **RULEMAKING**

The following is a status update on recent rulemaking proceedings BPPE has initiated:

- **Repeal of Ability-to-Benefit Language:** On September 16, 2022, the Bureau published [notice](#) of its proposal to repeal “ability-to-benefit” language in the Bureau’s regulations. The [proposed text](#) will allow the Bureau’s regulations to more accurately reflect the Act after [SB 607 \(Min\) \(Chapter 367, Statutes of 2021\)](#) modified its text to eliminate all references to “ability-to-benefit” tests by deleting the California Education Code (CEC) sections 94811 and 94909 and removing, “admissions requirements for ability-to- benefit students” from CEC section 94909(a)(8)(A). According to the [initial statement of reasons](#), the proposal will amend CCR sections 71210, 71475, 71770 and 71920 to delete references to an “ability-to-benefit” test or adding a reference to whether the institution chooses to use passage of an “ability-to-benefit” test in its admission process. At the time of this writing, the proposed regulation is undergoing review by the Office of Administrative Law (OAL).

- **Educational Programs Under 32 Hours in Length:** On November 11, 2022, the Bureau published [notice](#) of its proposal to create an exception to the definition of “educational program.” The [proposed text](#) would amend section CCR section 71710 to create an exception for “a single course, workshop, seminar, continuing education course, or other instruction that consists of 32 hours of instruction or less that is not designed to lead to employment.” This proposal would

require that programs not designed to lead to employment disclose that fact to consumers. According to the [initial statement of reasons](#), the proposed language would specify what is meant by “not designed to lead to employment” lessening opportunities for confusion. Written comments must be received by the Bureau no later than December 27, 2022.

- **Registration and Re-registration of Out-of-State Institutions:** On November 11, 2022, the Bureau published [notice](#) of its proposal to amend provisions regarding Out-of-State postsecondary institutions operating in California. The [proposed text](#) would amend CCR sections 71396 and 71397 to add provisions that create guidelines for the decision to approve, conditionally approve, or deny an Out-of-State application. According to the [initial statement of reasons](#), this amendment would make it easier for Out-of-State institutions hoping to operate in California to know what legal requirements they must meet by showing clearly in the Education Code what is required of them during the application process. Written comments must be received by the Bureau no later than December 27, 2022.

- **Substantive Change Approval:** On November 11, 2022, the Bureau published [notice](#) of its proposal to amend and add sections to the Education Code that will help implement changes made to SB 802 (Roth) [[27:1 CRLR 177](#)]. The [proposed text](#) would amend section 71650 and add sections 71652 and 71653 to the Education Code. According to the [initial statement of reasons](#) the amended section would require institutions to complete an application through the Bureau if they plan to change educational objectives and increase or decrease by more than 25% the number of clock or credit hours required to complete an educational program. The added sections would create applications for institutions seeking to participate in federal financial aid and applications to change programs from clock hours to credit hours. Written comments must be received by the Bureau no later than December 27, 2022.

- **Annual Reports Submissions and Labor Market Identification Data:** On July 11, 2022, OAL [approved](#) BPPE’s request to amend section 74110, division 7.5 of Title 5 of the CCR to comply with [AB 1340 \(Chiu\) \(Chapter 519, Statutes of 2019\)](#) to accommodate the chronology of events necessary for usable data to collect and retain for each graduate completing a program at the institution on or after January 1, 2020, individual identifying information, the program the graduate was enrolled in, and specified student loan debt information. AB 1340 also requires the institution to report that information to BPPE annually according to a schedule and format determined by the Bureau. In this rulemaking the Bureau is adapting regulations outlining this schedule and format. Under existing Education Code section 84892.6(b)(5), institutions subject to data collection have 120 days from the date the institution receive notice from the Bureau that the institution must comply. This rulemaking requires the information to be compiled and submitted with the annual report. This regulatory action became effective on July 11, 2022.

## **ADJUDICATION**

### **Assessments of Fines and/or Orders of Abatement**

BPPE filed major citations with the following institutions requiring the payment of fines \$1,000 and over.

- Allied Professional Institute (July 28, 2022)
- Blush School of Makeup (September 2, 2022)
- Bodhi Panya Institute (May 25, 2022)
- California Health Sciences University (July 14, 2022)
- California University of Business and Technology (August 1, 2022)
- Computer Technologies Program (August 1, 2022)
- CTM Welding, LLC (May 11, 2022)
- Divina Cosmetology and Barbering Academy (June 30, 2022)
- Frederico College, Inc. (May 26, 2022)
- Francesca Scognamiglio Permanent Makeup Academy (October 10, 2022)
- Heavy Equipment Colleges of America (August 4, 2022)

- Hussian College (August 31, 2022)
- Intercultural Institute of California (May 19, 2022)
- Language Systems International College of English (July 21, 2022)
- Las Americas Truck Driving School (August 24, 2022)
- Milpitas Massage College (August 8, 2022)
- New School of Cooking (August 12, 2022)
- NextGenT, Inc. (October 18, 2022)
- Northern California Bible College (July 27, 2022)
- Nurses' Development Center (August 12, 2022)
- Nursing Practice and Education Consultants dba Curam College of Nursing (June 30, 2022)
- Professional Schools of Beauty, Fashion and Arts, Inc. (November 10, 2022)
- Redwood Code Academy (August 22, 2022)
- Ryon College (November 3, 2022)
- Sabio Enterprises Inc. (August 24, 2022)
- San Bernardino Beauty College (September 2, 2022)
- SoCal EMT/Fire Training (August 4, 2022)
- The Anat Baniel Method (July 28, 2022)
- The Broadcasters and Sportscasters Mentoring Group (July 14, 2022)
- University of the People (May 31, 2022)
- Virscend University (September 2, 2022)

## Accusations of Violations

BPPE filed accusations requesting revocation or suspension of previous approvals to operate against the following institutions:

- A F International School of Languages, Inc.: [Accusation](#) (June 8, 2022); [Default Decision and Order](#) (August 15, 2022)
- Austin University: [Accusation](#) (April 8, 2022); [Decision and Order](#) (November 7, 2022)
- Business and Insurance School: [Accusation](#) (June 17, 2021); [Default Decision and Order](#) (May 6, 2022)
- California Institute of the Healing Arts and Sciences: [Statement of Issues](#) (June 10, 2022)
- California Vocational Academy: [Accusation](#) (July 14, 2022) [Default Decision and Order](#) (September 14, 2022)
- Creative Career Options: [Accusation](#) (May 31, 2022)
- Deep Creek Constructional School: [Accusation](#) (July 20, 2022)
- Dianova Institute: [Accusation](#) (October 1, 2022); [Decision and Order](#) (August 26, 2022)
- Dolphin Trucking School: [Accusation](#) (May 24, 2022)
- Micro-Easy Vocational Institute: [Statement of Issues](#) (November 2, 2022)
- Premiere Career College: [Accusation](#) (May 4, 2022)

- Saint Joseph’s School of Nursing: [Accusation](#) (May 21, 2021); [First Amended Accusation](#) (April 27, 2022); [Second Amended Accusation](#) (August 10, 2022)
- School of Healing Touch: [Statement of Issues](#) (June 2, 2022)
- South Bay Massage College: [Accusation](#) (July 7, 2022)
- Training Institute for Addiction Counselors: [Accusation](#) (April 22, 2022); [Default Decision and Order](#) (May 20, 2022)

## Statements of Issues to Deny Approval

BPPE filed statements of issues against the following institutions to deny approvals to operate, alleging that the institutions failed to file the required documentation compliant with the California Private Postsecondary Education Act of 2009 and other applicable law:

- Austin University: [Order Suspending Degree Granting Programs](#) (October 17, 2022)
- University of Mansford: [Order Suspending Degree Granting Programs](#) (June 20, 2022)  
[Appeal of Order Suspending Degree Granting Programs, Decision](#) (August 26, 2022)

## LEGISLATION

- [SB 1433 \(Roth\)](#) as amended August 24, 2022, amends various sections and adds sections 94801.7, 94885.7, 94918.5, 94926.5, and 94949 to the Education Code regarding Sunset Review extension. Among other things, the bill defines physical presence in a state, creates an exemption for certain programs, specifies that private postsecondary institutions are prohibited from behaving in a fraudulent manner or deliberately misleading prospective students, and adds five new prohibited business practices. Governor Newsom signed SB 1433 on September 25, 2022 (Chapter 544, Statutes of 2022) (see HIGHLIGHTS).

- The following bills reported in Volume 27, Issue 2 (Spring 2022) died in committee or otherwise failed to be enacted: [AB 2341\(Medina\)](#), require that independent institutions of higher education exempt from the California Private Postsecondary Education Act of 2009; [AB 2572 \(Blanca Rubio\)](#), Adult Learners Grant Program: distance learning.