



ISSUE MEMORANDUM

DATE	January 14, 2022
TO	Bureau for Private Postsecondary Education Stakeholders
FROM	Debbie Cochrane, Bureau Chief Bureau for Private Postsecondary Education
SUBJECT	Pertinent Laws Newly Effective January 1, 2022

Newly chaptered legislation includes several changes to California’s Private Postsecondary Education Act governing the Bureau for Private Postsecondary Education and its licensees. This memo provides an overview of pertinent legislation and how it will be implemented, including:

- Senate Bill No. 607 (Min, Chapter 367, Statutes of 2021)
- Senate Bill No. 802 (Roth, Chapter 552, Statutes of 2021)
- Senate Bill No. 803 (Roth, Chapter 648, Statutes of 2021)
- Assembly Bill No. 70 (Berman, Chapter 153, Statutes of 2020)

Additional questions beyond the scope of this memo may be sent to bppe@dc.ca.gov.

Senate Bill No. 607 (Min, Chapter 367, Statutes of 2021)

SB 607 makes several changes to Department of Consumer Affairs entities. Pertaining to the Bureau for Private Postsecondary Education, SB 607 repealed Education Code section 94904, which required students without a high school diploma or the equivalent to successfully complete an examination prior to executing an enrollment agreement, amended section 94909 to eliminate the need to include specific admissions requirements for these students in school catalogs, and repealed section 94811 which defined “ability-to-benefit” (ATB) students.

Bill text viewable here:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB607

Bureau statement on SB 607 here:

https://www.bppe.ca.gov/lawsregs/sb607_atb_changes.pdf

Change	Implementation
Permits students without a high school diploma or the equivalent to enroll in private postsecondary institutions without having to complete the admissions prerequisite of passing an alternate entrance examination.	<p>The Bureau will continue to: 1) monitor for the existence of written standards for each educational program during licensure and 2) ensure enrolled students meet those standards through routine review of student files during compliance inspections. Effective January 1, 2022, the Bureau will no longer require a universal standard of having a high school diploma, GED, or documentation of ATB exam passage.</p> <p>References to ATB exams will be eliminated from Bureau regulations in the near future.</p>

NOTE: SB 607 does *not* impact 5 CCR 71770(a), which states that “institutions shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program.”

Senate Bill No. 802 (Roth, Chapter 552, Statutes of 2021)

SB 802 extends the Bureau for Private Postsecondary Education’s operating authorization until January 1, 2023 and makes several changes to the Private Postsecondary Education Act, as outlined below.

Bill text viewable here:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB802

Change	Implementation
Clarifies the definition of “continuing education” to exclude any instruction that leads to a degree.	The Bureau is updating its internal procedures to account for the new definition and providing training to staff to ensure consistent application.
Modifies the definition of “educational program” to exclude any program of 32 hours or less of instruction that is not designed to lead to employment. This change narrows the definition of educational program to exclude short programs that do not lead to employment. These programs will not be subject to Bureau approval and the law does not afford their students the same rights under the law as students in approved programs	. <p>The Bureau will promulgate regulations to implement this provision. The Bureau will hold a stakeholder meeting at 1pm on January 24, 2022 to solicit input in advance of promulgating regulations. To join the meeting, please log on here: https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m5cf5a4d6baec0831c40c0f6b80556b26</p>

<p>New language clarifies and narrows the exemption for institutions offering educational programs available only to students who are members of a business/fraternal organization.</p>	<p>The Bureau is updating its internal procedures to account for the new language and providing training to staff to ensure consistent application.</p>
<p>Requires that the advisory committee hold annual elections for a chair and vice-chair and establishes a cumulative two-year limit for each member to serve in leadership positions.</p>	<p>The Bureau's advisory committee will hold elections at its February 23, 2022 meeting. At the same meeting, the committee will consider whether revisions to its handbook are warranted.</p>
<p>Requires the advisory committee to adopt reasonable rules for its conduct.</p>	
<p>Modifies laws pertaining to accreditation requirements for degree-granting institutions and clarifies what occurs in specified circumstances not previously addressed in the law. Specifically, the modifications:</p> <ul style="list-style-type: none">- Modifies the timeline for institutions seeking accreditation to secure accreditation.- Prohibits institutions pursuing accreditation from changing ownership.- Clarifies that certain specified degree-granting programs are automatically suspended in the case of an institution's accreditation being revoked.- Clarifies that institutions may voluntarily cease pursuing accreditation.- Clarifies that institutions that have their degree programs suspended or voluntarily ceased may continue to offer non-degree programs.	<p>The Bureau is updating its internal procedures to account for the new language and providing training to staff to ensure consistent application.</p>
<p>Deletes provision for "inactive status."</p>	<p>This change has no impact on Bureau operations or institutions.</p>
<p>Requires institutions to receive prior approval for the following four new types of substantive changes:</p> <ul style="list-style-type: none">- An increase or decrease of 25 percent or more in the number of program clock or credit hours.- Participation in federal financial aid programs (Title IV).- Change in the academic measurement of an education program from clock hours to credit hours.- Change in the distance education learning management system.	<p>The Bureau will promulgate regulations to create applications for institutions to obtain approval for these changes. The Bureau will begin this regulatory process in the near future. Until such time as regulations are in place, institutions do not need to seek prior approval for these changes.</p>

Enables the Bureau to take enforcement action in cases where institutions' violations of the Private Postsecondary Education Act may result in harm to students, instead of only in cases that resulted in actual harm.

The Bureau is updating its internal procedures to account for the new language and providing training to staff.

Senate Bill No. 803 (Roth, Chapter 648, Statutes of 2021)

Along with reauthorizing the Board of Barbering and Cosmetology (BBC), SB 803 reduced the requisite number of hours for cosmetology and barbering programs to 1,000 (from 1,600 and 1,500 respectively) and created a new 600-hour program for a non-chemical hairstyling license.

Bill text viewable here:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB803

BBC Q&A document created in partnership with the Bureau:

https://www.barbercosmo.ca.gov/forms_pubs/sb_803_faq.pdf

Assembly Bill No. 70 (Berman, Chapter 153, Statutes of 2020)

AB 70 made several changes to the Act pertaining to institution's control status, portions of which newly go into effect on January 1, 2022.

Bill text viewable here:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB70

Change	Implementation
Modified out-of-state registration requirements such that only institutions meeting new definitions of nonprofit corporation or public institution of higher education are excluded. As a result of the bill, additional out-of-state institutions may be subject to registration requirements.	If the Bureau has reason to believe that an out-of-state institution required to register is enrolling Californians without having registered, it will request from the institution documentation that it meets the definition of nonprofit corporation in CEC section 94850.2 or public institution of higher education in CEC 94858.5. Institutions unable to provide such documentation will be required to register with the Bureau in order to operate in California. The institution may alternatively attest that it is not enrolling Californians.
Nonprofit corporation is defined at CEC section 94850.2 and public institution of higher education is defined at CEC section 94858.5.	

Effective January 1, 2022, prohibits the Bureau from verifying an exemption for, or contracting for complaint-handling with, institutions that have converted from for-profit to nonprofit status until the Attorney General verifies specified information pertaining to the conversion. The scope and process for the verification progress are determined by the Attorney General.

If a recently converted institution files an application for Verification of Exempt Status or requests to enter into a State Authorization Contract for complaint-handling, the Bureau will not process either until it receives written verification from the Attorney General pursuant to CEC 94874.1(d).

The Bureau is currently promulgating regulations to amend the Verification of Exempt Status application to address this requirement.

The Bureau is amending internal procedures pertaining to State Authorization Contracts to address this requirement and will communicate directly with impacted institutions in January 2022.
