

**State of California
Office of Administrative Law**

In re:
Bureau for Private Postsecondary Education

Regulatory Action:

Title 05, California Code of Regulations

Adopt sections: 76245

Amend sections: 76240

Repeal sections:

NOTICE OF APPROVAL OF REGULATORY
ACTION

Government Code Section 11349.3

OAL Matter Number: 2024-0919-02

OAL Matter Type: Regular Resubmittal (SR)

This rulemaking action by the Bureau for Private Postsecondary Education (Bureau) updates notice requirements for institutions prior to closing. This action also establishes a process for selection of a closure date in the event an institution does not notify the Bureau of a closure.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2025.



Date: October 31, 2024

Lindsey S. McNeill
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Deborah Cochrane, Chief

Copy: Parker Strohmeyer

RESUBMITTAL

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2024-0404-02	REGULATORY ACTION NUMBER 2024-0919-02SR	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

NOTICE AGENCY WITH RULEMAKING AUTHORITY Bureau for Private Postsecondary Education	REGULATIONS OFFICE OF ADMIN. LAW 2024 SEP 19 PM 2:35
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

OCT 31 2024
AB 3:14 PM

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER 2024, 16-Z	PUBLICATION DATE 4/19/24

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Date of Closure Selection	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2024-0621-02S
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 76245
	AMEND 76240
TITLE(S) 5	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Rereadout (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
August 29, 2024 - September 13, 2024

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) Effective on filing with Secretary of State \$100 Changes Without Regulatory Effect Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify) _____

7. CONTACT PERSON Parker Strohmeyer	TELEPHONE NUMBER (279) 666-5844	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Parker.Strohmeyer@dca.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Kimberly Kirchmeyer</i>	DATE Sep 19, 2024
TYPED NAME AND TITLE OF SIGNATORY Kimberly Kirchmeyer, Director, Department of Consumer Affairs	

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ENDORSED APPROVED

OCT 31 2024

Office of Administrative Law

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

California Code of Regulations
Division 7.5. Private Postsecondary Education
Chapter 6. Student Tuition Recovery Fund
Article 4. Orderly Closure and Teach-Outs

ORDER OF ADOPTION
DATE OF CLOSURE SELECTION

Legend: Added text is indicated with an underline.
Omitted text is indicated by (* * * *)
Deleted text is indicated by ~~strikeout~~.

1. Amend Section 76240 of Article 4 of Chapter 6 of Division 7.5 of Title 5 of the California Code of Regulations

76240. Required Notices and ~~Teach-Out~~Closure Plan.

All institutions, including those exempt from Bureau regulation pursuant to the Code, shall do the following prior to closing:

(a) At least 30 calendar days prior to closing, an authorized representative of the institution shall notify the Bureau in writing at the email address BPPE.closedschools@dca.ca.gov or by mail to the mailing address specified in section 70020 of its intention to close and also provide a closure plan. For purposes of this article, "authorized representative" shall mean any owner who owns or controls 25 percent or more of the stock or interest in the institution, or any chief academic officer, chief executive officer, chief operating officer, institution director, or compliance officer.

(b) The closure plan shall include:

(1) The institution's name, its school code assigned by the Bureau, physical address, mailing address, phone number, website address (if any), and whether the site is a main campus, branch campus, or satellite location. If more than one location is closing, a separate closure plan is required for each location.

(4) The exact date of the closure and the reason for the closure.

(23) The last date of instruction for each educational service or program.

(4) The name, title, mailing address, email address, and telephone number of the individual who will function as the institution's contact person for purposes of the closure process.

(35) A list of students who were enrolled at any time during the time period prior to closure as provided in section 94923(b)(2)(B) and (C) of the Code, 60 days prior to closure, which shall include the following student-level information, when applicable, for each student:

(A) Student identification number;

(B) First and last names;

(C) Email address;

(D) Mailing address;

(E) Address at the time of enrollment;

(F) Home address;

(G) Telephone number;

(H) Date enrollment agreement signed by the student;

(I) Name of the educational program enrolled in as specified in the student's enrollment agreement, and enrolled program cost;

(J) Third-party payer identifying information;

(K) Total institutional charges charged;

(L) Total institutional charges paid;

(M) Whether or not the student is entitled to an institution-provided refund as a result of the closure, as required by section 94927 of the Code; and

(N) Graduation date, for students who completed their programs prior to closure.

~~(4) If any student will not be provided complete educational services or the educational program, the institution shall provide:~~

~~(A) A plan for providing teach-outs or transfers, including the details of any agreements with other institutions.~~

~~(B) If no teach-out is contemplated, or for students who do not wish to participate in a teach-out, arrangements for making refunds within 45 days from the date of closure, or for institutions that participate in federal student financial aid programs arrangements for making refunds and returning federal student financial aid program funds.~~

~~(5) A plan for the disposition of student records.~~

~~(6) A plan to notify students of their rights and options under the Act and this chapter.~~

(6) A written description of how the institution will maintain the student records as required by section 94900 of the Code and section 76140, including the name, physical address, email address, and telephone number of the custodian of records.

(7) A written description of how the institution will notify the students identified in subsection (b)(5), in writing, either by mail to their current address or to their current email address, of the information required to be sent to students in subsection (c).

~~(b) The institution shall notify students of the following:~~

~~(1) If the institution is a participant in federal student financial aid programs, it shall provide students information concerning those programs and institutional closures.~~

~~(2) If any student will not be provided complete educational services or the educational program, information regarding the Student Tuition Recovery Fund and the Bureau's physical and Internet addresses.~~

(c) The institution shall provide written notice to all students identified in subsection (b)(5), either by mail to their current address or to their current email address, that shall include:

(1) Notice of the closure and the date of closure provided to the Bureau pursuant to subsection (b)(2);

- (2) The name, physical address, email address, and phone number for the custodian of records and instructions on how students can access their institution records;
- (3) The statement regarding the Office of Student Assistance and Relief required to be included in the institution's catalog by section 94909(a)(3)(D) of the Code; and
- (4) If the institution is a participant in federal student financial aid programs, it shall provide students information pursuant to section 94926(c) of the Code.

(d) In addition to the requirements of subsection (b), if as a result of the closure any student will not complete their educational program, the institution shall provide to the Bureau at the email address or mailing address prescribed in subsection (a):

(1) A copy of any written agreements with other institutions for providing teach-outs, if applicable.

(2) A copy of any written agreements with other institutions for accepting transfers, if applicable.

(3) A copy of the institution's arrangements, as required by section 94926 of the Code, for making refunds within 45 calendar days from the date of closure to all students who will not complete their educational program, and who also choose not to participate in any teach-out arranged.

(4) If the institution participates in federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, a copy of the institution's arrangements, as required by section 94926 of the Code, to return federal student financial aid program funds.

(e) In addition to the requirements of subsection (c), for all students who will not complete their educational program as a result of the closure, the notice of closure provided to those students shall state whether there have been teach-out or transfer arrangements made, and if so, the name(s) of the institution(s) providing the teach-out or accepting transfers, and those institutions' physical address, email address, and phone number. The notice shall also include the student's right to refuse to participate in a teach-out and to instead obtain a refund from the institution, and the web address for the Student Tuition Recovery Fund (STRF) page on the Bureau's internet website.

(f) Within 5 calendar days after an institution provides notice of closure to affected students in subsections (b)(5) and (e), the institution shall provide an exemplar copy or copies of the notice or notices described in subsection (c) and, if applicable, subsection (e), to the Bureau at the email address or mailing address prescribed in subsection (a).

Note: Authority cited: Sections 94803 and 94877, Education Code. Reference: Sections 94874.5, 94909, 94911, 94923, 94926, 94927 and 94927.5, Education Code.

2. Add Section 76245 to Article 4, of Chapter 6, of Division 7.5 of Title 5 of the California Code of Regulations

76245. Closure Date Selection and Automatic Termination of Approval to Operate.

(a) If the Bureau believes an institution has closed without notifying the Bureau of a date of closure, the Bureau shall send a notice to the mailing address of the institution, and to the physical address of the institution's agent for service of process.

(b) The notice referenced in subsection (a) shall:

(1) Request a response from an authorized representative, signed under penalty of perjury and sent to the Bureau at the email address or mailing address prescribed in section 76240(a), to be received within 30 calendar days of the date indicated on the notice, to either confirm that the institution has not closed and is operating as a private postsecondary educational institution, or confirm that the institution has closed and provide a closure date; and

(2) Inform the institution that if the Bureau does not receive a response to the notice within 30 calendar days of the date of the notice, the Bureau will select the date 31 calendar days after the date the notice was sent as the institution's closure date and that the institution's approval to operate will automatically terminate on that date; and

(3) Notify the institution that the institution may appeal the Bureau's selection of a date of closure by sending a written request to the Bureau for a hearing, at the email address or mailing address prescribed in section 76240(a), no later than 60 calendar days after the date on the Bureau's notice.

(A) The proceedings under this subsection shall be conducted in accordance with Article 10 (commencing with Section 11445.10) of Chapter 4.5 or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, as requested by the institution.

Note: Authority cited: Sections 94877 and 94885, Education Code. Reference: Sections 94874.5, 94926, 94926.5, 94927, 94927.5 and 94940, Education Code.