

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

**INITIAL STATEMENT OF REASONS - ADDENDUM  
Date of Closure Selection**

**Subject Matter of Proposed Regulations:** Date of Closure Selection

**Sections Affected:** Division 7.5 of Title 5 of the California Code of Regulations (CCR)<sup>1</sup>; Amend section 76240 and add section 76245.

The Bureau for Private Postsecondary Education (Bureau) has proposed modifications made to proposed regulation 5 CCR section 76240 related to Required Notices and Closure Plan, and 5 CCR 76245 related to Closure Date Selection and Automatic Termination of Approval to Operate, and as such provides this addendum to the Initial Statement of Reasons to clarify those changes.

**Summary of Modifications:**

General Cleanup to Sections 76240 and 76245:

- Update formatting of internal cross references and references to the Education Code to align with formatting used in existing CCR.
- Update subsection numbering to eliminate floating paragraphs and help with citations.

Amending Section 76240 of the CCR to:

- Update the regulatory section title to “Required Notices and Closure Plan.”
- Change text in subsection (a) from “section” to “article” when stating “For the purposes of this article, “authorized representative” shall mean...”
- Add subsection (b) to make requirements found in the noticed text at (a)(1) into its own subsection.
- Change “identification” code to “school” code in subsection (b)(1).
- Make regulatory language more concise in (b)(5)(D)
- Add clarifications to the information required to be included in the closure plan in (b)(5)(I) to specify that the closure plan form must include name of the educational program “enrolled in” and “enrolled” program costs.
- Changing the word “mailing” to “physical” in (b)(6).
- Adding “current” and removing “of record” to the text in (c).
- In (c)(1), removing “anticipated” and adding a reference to 76240(b)(2).
- Add a reference to statutory Section 94926(c) in 76240(c)(4)
- Clarify “email address and mailing address” in subsection (d).
- Add the words “any” in (d)(1) and (d)(2).
- Modify sentence structure in (e) to have two sentences, instead of one, for requirements of notices sent to students not completing their educational program.

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<sup>1</sup> Unless otherwise noted, all references to the CCR hereafter are to Title 5.

- Correct an incorrect regulatory section referenced in (f).
- Clarify “email address or mailing address” in subsection (f).

**Add Section 76245: Closure Date Selection and Automatic Termination of Approval to Operate**

- Begin with a regulatory subsection (a) instead of a “floating paragraph.”
- Change “mailing” address to “physical” address for where the Bureau shall send a notice to an institution’s agent for service of process when it believes that institution has closed without notifying the Bureau of a date of closure.
- Place the requirements of the notice into subsection (b) and re-letter previous subsections (a), (b), and (c), into (b)(1), (b)(2), and (b)(3).
- Clarify proposed regulatory language in (b)(2) to make it consistent with the regulatory section title.
- Specifying that responses to Bureau notices, or appeals for reconsideration of a terminated approval, must be sent to the same email address or mailing address as prescribed in 76240(a).
- Clarifying that an appeal to the Bureau for reconsideration of its decision to terminate an institution’s approval to operate pursuant to 76245(b)(2) must be done via a written request to the Bureau for a hearing.
- Move the procedural standards by which the Bureau shall conduct any appeal proceedings into its own subsection, (b)(3)(A).

**Specific purpose of, and rationale for, each adoption, amendment, or repeal in the addendum:**

**1. General Cleanup to Sections 76240 and 76245:**

**Proposed Change:** Through-out the text, update formatting of internal cross references and references to the Education Code to align with formatting used in existing CCR. Update subsection numbering to eliminate floating paragraphs and help with citations.

**Purpose & Rationale:** These amendments are non-substantive changes to cross-reference, structure, and punctuation that do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of the CCR.

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

**76240. Required Notices and Closure Plan.**

**Proposed Change:** In the originally noticed regulatory section title, replace the word “Teach-Out” with the word “Closure.”

**Purpose:** Section 76240: Replacing “Teach-Out” with the word “Closure” before “Plan” is to clarify that the closure plan information required by the Bureau can be found in this

section. Since subsections (a) and (b) list the requirements of the Bureau for a school's closure plan, it is appropriate to add in text to clarify that this section of the regulations pertains to "Required Notices and Closure Plan."

**Rationale:** It is necessary for the Bureau to communicate an accurate regulatory section title. Since the entirety of subsections (a) and (b) describe the required notice for school closure and the required information of the closure plan, it is necessary to include "Closure Plan" in 76240. The word "Closure" has been added before the word "Plan" in order to have the words "Closure Plan" in the title of 76240, for clarity that this is the section in which the requirements of the closure plan can be found for an institution that may be closing.

**Proposed Change:** In 76240(a), change "per CCR" to "specified in."

**Purpose:** Changing the language in (a) to say "specified in section 70020" instead of "per CCR section 70020" is more consistent with existing regulatory text.

**Rationale:** Modifying the language in (a) ensures that the Bureau promulgates the most consistent regulations possible because they follow the same format found in existing regulatory text.

**Proposed Change:** In 76240 (a), modify the originally noticed text from "For purposes of this section," to, "For purposes of this article,".

**Purpose:** The Bureau proposes adding a definition of "authorized representative" in section 76240(a), to restrict the options of who may communicate on behalf of an institution. It is often difficult for the Bureau to know who may communicate on behalf of an institution that is closing, as personnel may be leaving for other employment and positions may be unfilled. Since the term "authorized representative" is also used in section 76245, the word "article" is a more accurate and consistent term to use.

**Rationale:** It is necessary to replace the word "section" with "article" so the regulatory text in 76240 and the regulatory text in 76245 are consistent with each other. The Bureau uses the term "authorized representative" in multiple sections of the same article, so it is necessary to specify that the definition of "authorized representative" applies to the entire article, not just one particular section.

**Proposed Change:** In (a), change the text from "25%" to "25 percent."

**Purpose and Rationale:** The Bureau is editing the language regarding the requirements of the closure plan to be as clear as possible. Changing "%" to "percent" is intended to make the proposed regulations clearer to read and understand for someone reading the regulation.

**Proposed Change:** In (a), make the final sentence before (1)-(7) which states, "The closure plan shall include:" to its own subsection (b). Re-letter the following subsections accordingly.

Purpose: The Bureau is editing the language regarding the requirements of the closure plan to be as clear as possible. Existing text was unclear due to the “floating” paragraph prior to the requirements of the closure plan listed in (1)-(7)

Rationale: Changing the previous subsections(a)(1)-(a)(7) into its own section (b) will be clearer to reference and understand. If the Bureau ever needs to specify the requirements of what should be included in the closure plan, it will now be able to simply refer to (b). The following subsections are re-lettered accordingly for consistency purposes.

**Proposed Change:** Change “identification code” in the noticed text in (b)(1) to, “school code.” Add the word, “campus” after “main” and “branch.”

Purpose: The Bureau is editing the language regarding the requirements of the closure plan to be as clear as possible. The current language is unclear and uses a term that is not found within existing regulations.

Rationale: It is necessary for the Bureau to request this information as part of the closure plan because while institutional closings sometimes consist of one institution at one location, often larger institutions consisting of multiple locations will close, sometimes all at the same time or sometimes in stages. Also, locations that close may be designated as a “branch campus” as defined in Education Code 94819, or as a “satellite location” as defined in Education Code 94862, or as a “main campus” as defined in Education Code 94849. Every location receives a school code, and for main institution campuses, their school code is the same as their institution code. The Bureau is able to obtain the most specific information relevant for reviewing the school closure by asking for the school code.

To be clear about the institutional closing process, institutions must inform the Bureau as to whether the site that is closing is a “main campus,” “branch campus,” or “satellite location,” and applicable information about the location’s name, school code assigned by the Bureau, and contact information including physical address and mailing address, in addition to a phone number and website address. Also, the Bureau needs to have a separate closure plan for each location that is closing, to keep the information manageable in the event a large, multi-branch institution ceases operating at all locations all at once. A separate closure plan for each location is necessary as the date of closure might be different for different branches of the main institution. Also, the contact information for the authorized representative and the custodian of records may vary depending on the location. Having a separate plan for each location with separate school codes is needed for the Bureau to respond to Public Records Requests about the various institutions in the future.

**Proposed Change:** In the text at (b)(4), remove the word “the” before the word “purposes.”

Purpose: This change is intended to make the regulations clearer and less superfluous.

Rationale: Removing the word “the” makes the regulations easier to understand and conforms with the Department of Consumer Affairs guidelines to use clearly understood language. Therefore, the Bureau has modified this sentence to say, “for purposes of the closure process.”

**Proposed Change:** In the text at (b)(5), remove the words “Education Code” prior to Code section, and add the words, “of the Code” after the Code sections.

Purpose: This change is intended to ensure consistency between the proposed regulatory text and other existing Bureau regulations.

Rationale: The Bureau uses the phrase, “of the Code” 153 times in regulations, and “Code” is defined as the California Education Code in section 70000(f). Therefore, the Bureau chose to use this phrase in the proposed regulatory text to remain consistent with existing regulations.

**Proposed Change:** In the proposed subsection text (b)(5)(D), remove the words “Local or” and capitalize “mailing.”

Purpose: This change ensures the regulations are clear and do not use more terms than are necessary or superfluous to the understanding of the regulations.

Rationale: Local Address has the same meaning as “mailing address” and is not as frequently used throughout the Bureau’s regulations. Therefore, the Bureau has removed this language and opted to only include “mailing address” in (D) to maintain clarity in the regulations.

**Proposed Change:** In the proposed subsection (b)(5)(H), add “by the student” to the end of the subsection.

Purpose: Clarify the proposed text to specify the date of the specific person who signs the enrollment agreement that is needed for the closure plan.

Rationale: Enrollment Agreements have multiple signatures on them. To maintain clarity in the regulations, the Bureau is adding the words “by the student” which will set a clear, uniform standard for institutions to follow when completing a closure plan.

**Proposed Change:** In the originally noticed text at subsection 76240(b)(5)(I), change “Courses and course costs;” to “Name of the educational program enrolled in, as specified in the student’s enrollment agreement and enrolled program cost;”

Purpose: This amends the regulation for clarity and adds requirements for information that an institution must provide to the Bureau related to students.

Rationale: The original intent of the Bureau as shown in the initial statement of reasons was that the “date the student’s enrollment agreement was signed, courses taken and course costs, third-party payer identifying information, and total institutional charges both

charged and paid and whether the student is eligible for an institutional refund, (76240(a)(5)(H) through 76240(a)(5)(M)) help inform the Bureau and the Office of Student Assistance and Relief (OSAR) on the eligibility for recovery from the Student Tuition Recovery Fund (STRF) and the amount that might be recovered.” The words “Courses and course costs,” while used elsewhere in regulations, can potentially be unclear, as they are not specific as to what courses the Bureau needs as part of the closure plan. It is necessary to add specificity directed toward the educational program enrolled in and enrolled program costs, for the purposes of effective outreach and relief from OSAR and the STRF unit. By specifying that the closure plan requires student-level information for the “name of the educational program enrolled in, as specified in the student’s enrollment agreement and enrolled program cost;” the Bureau clarifies its regulation for a school that is closing and would need to provide the required information in an accurate and quick manner prior to its closure. Additionally, this is information that the school is already maintains. By adding the modified language to the existing language and specifying it for closed school needs, the Bureau is only asking for a subset of this information, only with more clarity provided to what information is relevant to the school closure plan.

**Proposed Change:** In the text at subsection (b)(5)(K), remove the word “and” at the end of the subsection.

**Purpose:** This change is intended to ensure consistency with the proposed regulatory text since additional subsections follow (b)(5)(K).

**Rationale:** The Bureau has three subsections after (K), so it is potentially confusing to end subsection (K) with “and.” The Bureau believes that removing this word maintains consistency and clarity within its regulations as it pertains to closure plan requirements.

**Proposed Change:** In the text at (b)(5)(M), remove the words “Education Code” prior to Code section, and add the words, “of the Code; and” after the Code section.

**Purpose:** This change is intended to ensure consistency between the proposed regulatory text and other existing Bureau regulations.

**Rationale:** The Bureau uses the phrase, “of the Code” 153 times in regulations, and “Code” is defined as the California Education Code in section 70000(f). Therefore, the Bureau chose to use this phrase in the proposed regulatory text to remain consistent with existing regulations.

**Proposed Change:** In the text at (b)(6), remove the words “Education Code” prior to Code section, and add the words, “of the Code” after the Code section. Remove the words “of the California Code of Regulations” after the regulatory code section. Remove the words “providing the Bureau with” before the words “the name.”

**Purpose:** This change is intended to ensure consistency between the proposed regulatory text and other existing Bureau regulations.



**Rationale:** The Bureau uses the phrase, “of the Code” 153 times in regulations, and “Code” is defined as the California Education Code in section 70000(f). Therefore, the Bureau chose to use this phrase in the proposed regulatory text to remain consistent with existing regulations. Removing “of the California Code of Regulations” serves to make regulations clearer as the section referenced is already clearly within the existing regulations. Removing “proving the Bureau with” serves to makes the regulatory text clearer and less duplicitous of section (a), which is the section that requires an institution to submit a closure plan to the Bureau.

**Proposed Change:** In the originally noticed text at subsection 76240(b)(6), replace the word “mailing” with “physical.”

**Purpose:** The next subsection in the regulations, 76240(c), as well as existing forms 94886 and 94891 ask only for the physical address of the custodian of records. While the Bureau would not prevent an institution from providing both a physical and mailing address for the custodian of records, the address the Bureau must have for the purposes of ensuring that students have an accurate point of contact for the custodian of records is the physical address of the custodian. For the regulations to remain consistent, the closure plan that the Bureau requires from the institution has been changed from “mailing” to “physical.”

**Rationale:** It is necessary to have the physical address of the custodian of records to verify that the institution has made a proper plan for the maintenance of their records. The physical address is what is asked for when an institution applies for an approval to operate (form 94886) or if there are changes at the time of renewal (form 94891). Additionally, the physical address is what is required to be provided to students in other areas of the proposed regulations. The Bureau has changed the requirement of the proposed text in 76240(a)(6) from “mailing” to “physical” address to have clear and consistent regulations that provide the most transparency for California students attempting to access their records.

**Proposed Change:** In the originally text at 76240(b)(7), change the proposed text from “A written description of how the institution will notify the students identified in section 76240(a)(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 section 76240(b)” to, “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).”

**Purpose:** The Bureau intends to make changes to the proposed text to remove circular references to the regulatory section that the subsection exists in will ensure that the regulations remain clear. The regulations remain consistent by re-lettering other subsections with the appropriate subsection reference.

**Rationale:** The Bureau refers to subsection (b)(5), which is already in 76240, the same section as subsection (b)(7), so there is no need to say “section 76240” when the Bureau can simply refer to the subsection that is already in the section. As a result, the Bureau changed section to “subsection” in both instances in (b)(7). Furthermore, the Bureau re-lettered the originally noticed subsections to remain consistent with proposed changes to add a separate subsection (b) for the requirements of the closure plan form. It is necessary to re-letter the subsections as necessary, so they refer to the correct subsection.

**Proposed Change:** Re-Letter and modify the originally noticed text of subsection 76240(b), from “The institution shall provide to all students identified in section 76240(a)(5) written notice, either by mail to their address or to their email address of record, that shall include:” to “(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:”

**Purpose:** As noted in the first part of sub-division (b)(7), the Bureau requires as part of the school closure plan, “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).” It is necessary that if the Bureau asks for a written description of a plan for the school to notify students at their current email address in (b)(7), then the requirement of the school to notify the students in (c) reflects that same requirement. By deleting the words “of record” in (c) and replacing them with the word “current” before “email address” the Bureau maintains consistency with the regulatory text found in subsection (b)(7).

**Rationale:** It is necessary for the Bureau to have regulations that are clear and consistent when a school closes, in order to minimize potential for student harm or other negative outcomes as the result of the school’s closure. It is necessary to reflect that the institution shall provide written notice to the student’s current email address, as that is what the Bureau asks the school to provide a written plan for in the school closure plan requirements found in subsection (b). Requiring the school to communicate with the most current email address, which may or may not differ than the email address “on record” ensures that Bureau regulations maximize the protections for California students by requiring that, if the institution communicates via email, it does so to the most current email address it has for the student. Updating the references to other subsections is for consistency so the proposed regulations refer to the correct regulatory subsection upon the Bureau creating the new subsection (b) for the requirements of the closure plan.

**Proposed Change:** In the proposed language of subsection 76240 (c)(1), remove the word “anticipated” and replace the word “identified” with the word “provided,” and add in text, “pursuant to subsection (b)(2);” after the word “Bureau.”



**Purpose:** This amends the regulation for clarity and to have consistent requirements between what an institution provides to the Bureau in the closure plan, and what an institution must provide to students affected by the closure. Eliminating the word “anticipated” reduces confusion from the fact that existing regulation uses “exact” elsewhere. Replacing the word “identified” with the word “provided” serves as a more consistent term since the Bureau will be referring to the closure plan that is provided from the school, which has the date of closure included in it. Adding a reference to subsection 76240(b)(2) ensures that the provisions of the regulations are consistent, and students are provided with the same closure date that the Bureau requests from the institution in the closure plan.

**Rationale:** It is necessary to remove the word “anticipated” from subsection (c)(1) because it is the intent of the Bureau that institutions provide as accurate information to student affected by the closure as possible. This is evidenced that the text in 76240(b) asks for the exact date of closure, ensuring that the regulation is abundantly clear in this piece of information the Bureau needs when reviewing a school closure. It is necessary to mandate that institutions inform affected students about the exact date of closure, by referring to the date specified in 76240(b)(2). This ensures students can be well-informed as to when instruction will end and prepare for next steps educationally and financially.

**Proposed Change:** In the text at (c)(3), remove the words “Education Code” prior to Code section, and add the words, “of the Code; and” after the Code section.

**Purpose:** This change is intended to ensure consistency between the proposed regulatory text and other existing Bureau regulations.

**Rationale:** The Bureau uses the phrase, “of the Code” 153 times in regulations, and “Code” is defined as the California Education Code in section 70000(f). Therefore, the Bureau chose to use this phrase in the proposed regulatory text to remain consistent with existing regulations.

**Proposed Change:** In the noticed language of subsection 76240(c)(4), remove the words, “concerning those programs and institutional closures” and replace them with “pursuant to section 94926(c) of the Code.”

**Purpose:** Remove potentially duplicative language from proposed regulatory text, whilst also clarifying that the requirements from statute pertain to the regulatory requirements for information required to be provided to students.

**Rationale:** It is necessary to remove the previous language and replace it with a reference to California Education Code section 94926(c) because it clarifies that the information required pursuant to 94926(c) must be sent to students. Existing statute specifies what an institution must send to the Bureau, which includes (c), “If the institution is a participant in federal student financial aid programs, it shall provide students information concerning these programs and institutional closures.” Including the

reference to section 94926(c) in regulations serves as a clarification that the school must provide the required information to students during closure.

**Proposed Change:** In the proposed text of subsection 76240(d), change “76240(a)” to “subsection (b).” Change the words “same email address” to “email address or mailing address” and replace the word, “as” with the word, “prescribed” before the words, “in subsection (a).”

**Purpose:** This section is reorganized for clarity, as the Bureau offers two methods for a school to provide notice of its intent to close – to the email address for closed schools titled, [BPPE.closedschools@dca.ca.gov](mailto:BPPE.closedschools@dca.ca.gov) or by mail to the mailing address per CCR section 70020. The original text, as written, would mandate that the documents required in 76240(d)(1)–(d)(4), as applicable, be provided only to the email address in 76240(a), which could potentially cause the regulations to be unclear.

**Rationale:** It is necessary for to replace the words “email address” with “contact information” in subsection (d) so that regulations are clear for schools attempting to close in an orderly manner. If the Bureau allows schools to provide notice of closure via email or physical mail, but then only allows schools to provide notices in (d) via email, that may create confusion in the regulations. The word “prescribed” is substituted into the regulations for the word “as” for grammatical correctness.

**Proposed Change:** In the proposed text 76240(d)(1) and (d)(2), add the word “any” before the words “written agreements.”

**Purpose:** Ensure clarity with the proposed regulations that the Bureau requires any written agreements regarding (d)(1) and (2), not just final agreements or one of several agreements. The Bureau ensures its regulations remain clear by requiring “any” written agreements pursuant to these subsections.

**Rationale:** When a school closes it may make agreements with other schools regarding teach-outs and transfer options. It is necessary that the Bureau specifies its requirement the school that is closing send in “any” written agreements with other institutions regarding their transfer or teach-out agreements. Schools may also have these agreements with one or more institutions, so it is necessary for the Bureau to have this information to maximize its ability to conduct effective student outreach and inform California students who may be affected by the closure of their rights and options that may exist for them.

**Proposed Change:** In the text at (d)(3), remove the words “Education Code” prior to Code section, and add the words, “of the Code; and” after the Code section.

**Purpose:** This change is intended to ensure consistency between the proposed regulatory text and other existing Bureau regulations.

**Rationale:** The Bureau uses the phrase, “of the Code” 153 times in regulations, and “Code” is defined as the California Education Code in section 70000(f). Therefore, the

Bureau chose to use this phrase in the proposed regulatory text to remain consistent with existing regulations.

**Proposed Change:** In the text at (d)(4), add the words “, as required by section 94926 of the Code,” after the words “a copy of the institution’s arrangements.”

**Purpose:** This change is intended to ensure clarity and consistency between the proposed regulatory text and other existing Bureau regulations.

**Rationale:** The Bureau uses the phrase, “of the Code” 153 times in regulations, and “Code” is defined as the California Education Code in section 70000(f). Therefore, the Bureau chose to use this phrase in the proposed regulatory text to remain consistent with existing regulations. Also, since this regulatory section refers to the statutory requirement found in section 94926 of the Code, it is necessary that the Bureau refers to that section of the Code when describing an institution’s requirement to provide copies of its arrangements to return federal student financial aid program funds.

**Proposed Change:** In the proposed text of subsection (e), remove the numerical reference to 76240(c) and instead say “subdivision (c).” Conduct general grammatical clean up by removing a superfluous “the,” adding hyphens between two instances of the words “teach-out,” and separating one long sentence describing the information required to be on notices of closure to students who will not complete their educational program into two smaller sentences.

**Purpose and Rationale:** The Bureau proposes the modified changes to ensure clarity in understanding the references in the proposed regulatory text, and to ensure consistency with existing regulations in the way certain terms, such as “teach-out,” are written.

**Proposed Change:** In the proposed text in subsection (f), remove “76240” after the words “students in subsections” and add the number (5) after (b), and change (d) to (e).

**Purpose and Rationale:** Removing 76240 makes the regulations clearer, as the subsection (f) is already in section 76240; therefore, to refer to itself rather than simply referring to the letter in the section, is redundant and may be unclear. Stating “subsections (b)(5) and (e) are intended to make the regulations clearer to understand, as well as to remain consistent with the re-lettering of proposed regulatory subsections.

**Proposed Change:** In the originally noticed text in subsection 76240(f), delete “76420” and replace it with “subsection (c).”

**Rationale:** The current proposed text refers to a CCR section that does not exist. Replacing the incorrect section allows for the regulations to be interpreted and applied in a clear and consistent manner and is a non-substantive amendment to a reference.

**Proposed Change:** In the proposed text in subsection (f), remove “76240” after the words “if applicable” and change (d) to (e).

**Rationale:** Removing 76240 makes the regulations clearer, as the subsection (f) is already in section 76240, therefore, to refer to itself rather than simply referring to the letter in the section, is redundant and may be unclear. Stating “subsection (e) is intended to make the regulations clearer to understand and to remain consistent with the re-lettering of proposed regulatory subsections.

**Proposed change:** In the noticed text of subsection (f), add the words “at the email address or mailing address prescribed in subsection(a)” at the end of the subsection.

**Purpose:** Clarify the regulatory text to describe where institutions must send their exemplar copies of notices to students to the Bureau.

**Rationale:** The noticed regulatory text requires the institution that is closing to provide to the Bureau, within 5 days of an institution providing notice to students, an exemplar copy, or copies, of a notice provided to student communicating that the school is closing. This is necessary for the Bureau’s enforcement purposes, so that it is verifiable that the information the school provides to students during the closure process pursuant to 76240(c) are true and accurate. Therefore, it is necessary to specify exactly where the institution should send these exemplars. Referencing the contact information found in subsection 76240(a) allows for the Bureau to have clear and consistent regulatory standards for institutions as they navigate the school closure process.

### **3. Add Section 76245, Article 4, Chapter 6, Division 7.5 of Title 5 of the California Code of Regulations.**

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

**Proposed Change:** In the noticed regulatory text of section 76245, eliminate the “floating” paragraph and begin the regulatory section with subsection (a).

**Purpose:** The Bureau believes the regulations will be clearer if there are no “floating” paragraphs for the regulatory section and instead begins immediately with subsection (a).

**Rationale:** To promulgate clear and consistent regulations, in which the Bureau can refer to when communicating with institutions, and that institutions can refer to when looking at the regulatory requirements of section 76245, it is necessary to start section 76245 with subsection (a) instead of a separate, “floating” paragraph. The “floating” paragraph may serve as a point of confusion amongst institutions who are attempting to find the regulatory section requirements and what the Bureau shall do if it believes an institution has closed. Additionally, not beginning with subsection (a) may serve to confuse Bureau staff who are attempting to draft and send these notices to institutions. Therefore, it is necessary that the Bureau begins the regulatory section with subsection (a).

**Proposed Change:** Change the notice required to be sent by the Bureau to a suspected closed school’s agent for service of process in (a) from “mailing” to “physical” address.

**Purpose:** An agent for service of process, by definition, must be able to be served physical documents, if necessary. Updating the regulatory text from mailing address to physical address is most appropriate when considering that the notice must be sent to the agent for process. This change also maintains consistency with other regulatory sections.

**Rationale:** If the Bureau suspects a school to have closed, it shall mail a notice to the mailing address of the institution, but it does not have a way to mail the mailing address of the agent for service of process because the Bureau asks only for the physical address of this person. In existing regulatory text sections 71135 and 74190, the only address that the institution provides to the Bureau and is required to maintain for the agent for service of process is the physical address. Therefore, it is necessary that the proposed regulatory text in 76245 state that the notice to the agent for service of process be sent to the physical address, as that is what the Bureau has in its possession.

**Proposed Change:** Take the last sentence of the noticed “floating paragraph” in section 76245 which stated, “The notice shall:” and instead make this the new subsection (b), which states, “The notice referenced in subsection (a) shall:”

**Purpose:** This change is meant to clarify the requirements of the notice that the Bureau shall send to institutions that it suspects have closed without providing notice or a closure plan to the Bureau.

**Rationale:** It is necessary to have the requirements of the notice be its own subsection (b). The text of subsection (a) states that the Bureau shall send a notice, but there are other requirements of what the notice must contain, which was found in subsections (a), (b), and (c). Creating a subsection (b) with the requirements of the notice the Bureau shall send to institutions it believes has closed without notice is necessary to have a clear regulatory subsection that describes the exact requirements of the notice in three distinct subsections (see below).

**Proposed Change:** Change noticed subsections 76245 (a), (b), and (c), into subsections (b)(1), (b)(2), and (b)(3) and capitalize the first word of each subsection.

**Purpose:** Re-lettering the subsections is intended for the regulations to remain consistent with the re-lettering of other subsections. It also allows for maximum clarity with the proposed regulations, as each subsection requires different information to be provided in the notice the Bureau sends to institutions.

**Rationale:** It is necessary to have the requirements of the notice be its own subsection (b). The text of subsection (a) states that the Bureau shall send a notice, but there are other requirements of what the notice must contain, which was found in subsections (a), (b), and (c). Creating subsections (b)(1), (b)(2), and (b)(3) with the requirements of the notice the Bureau shall send to institutions it believes has closed without notice is necessary to have a clear regulatory subsection that describes the exact requirements of the notice in three distinct subsections. Since each subsection (b)(1), (b)(2), and (b)(3),

all specify different requirements of information to be included in the notice (requesting a response, selecting a date upon which the approval to operate shall be terminated, and appeal rights, respectively) it is necessary to have three subsections, so the regulations remain clear to understand.

**Proposed Change:** In subsection (b)(1), change the proposed language from “and sent to the Bureau within 30 calendar days...” to, “and sent to the Bureau at the email address or mailing address prescribed in section 76240(a), to be received within 30 calendar days...”

**Purpose:** This change is meant to clarify the regulation to specify where an institution’s authorized representative must send a response to the Bureau confirming whether the institution is closed or is still operating.

**Rationale:** It is necessary for an institution to know where they must send information to the Bureau. Specifying the contact information where the institution must send responses to the Bureau is meant to clarify regulations, so institutions know where to send the Bureau information.

**Proposed Change:** In subsection (b)(2), add the words “date the” prior to the words “notice was sent.” Modify the text in the final sentence of (b)(2) from “institution will no longer hold approval to operate after that date; and” to, “institution’s approval to operate will automatically terminate after that date; and.”

**Purpose:** This change is for consistency with the regulatory section title, and grammatical clarity by specifying the date the notice was sent to the institution.

**Rationale:** The Bureau added proposed section 76245 in the regulatory text, which is titled “Closure Date Selection and Automatic Termination of Approval to Operate.” However, the noticed text stated the “institution will no longer hold approval to operate” rather than mirroring the language found in the regulatory section title, which uses “termination” as its operative word. The Bureau’s rationale is that mirroring the language in (b)(2) to the language found in the regulatory section title of 76245 will make the regulatory text more consistent and clearer to understand.

**Proposed Change:** In subsection (b)(3), change the proposed language from “sending, no later than 60 calendar days after the date on the Bureau’s notice, a request to the Bureau for a hearing” to, “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.”

**Purpose:** This change is meant to clarify the regulation to specify that an appeal to the Bureau must be made in writing. It also modifies the sentence structure of the regulatory text to accommodate this clarification and clarifies where the institution must send any appeal for a selected date of closure, or automatic terminated approval pursuant to (b)(2).



**Rationale:** In the circumstance that an institution would like to appeal the Bureau’s decision to select a date of closure or appeal the automatic termination of an approval to operate because the Bureau has not received a response by the 31<sup>st</sup> day after it sends an institution a notice that it believes the school has closed, it is necessary to specify how that appeal must be received. An institution may appeal the specific date the Bureau has selected as its closure date, or the determination that the institution has in fact closed, or both. Adding that the request must be written ensures that the Bureau receives proof that the institution has in fact, appealed the decision of the Bureau within the designated timeframe prescribed in the section. It is necessary for an institution to know where they must send information to the Bureau. Specifying the contact information where the institution must send appeals to the Bureau is meant to clarify regulations.

**Proposed Change:** Remove “the proceedings under this section 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.” Add a new subsection, 76245(b)(3)(A) which states “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.”

**Purpose:** It is necessary to move the proceedings under which the appeal process shall be conducted, if requested by the institution, to its own subsection, (b)(3)(A), because the regulatory text describes something different than (b)(3).

**Rationale:** Subsection (b)(3) states that the institution has the right to appeal the Bureau’s decision within 60 calendar days. Subsection (b)(3) is also information that must be contained in the notice which the Bureau sends to the institution that puts a burden on the institution if it wishes to appeal. However, the information describing the conduct by which the appeal proceedings shall be conducted is distinctly different than what is found in (b)(3). It is not information that creates a burden of responsibility for the institution or for the Bureau, it is simply the Government Code the Bureau will follow if an institution does initiate appeal proceedings due to the Bureau’s decision to select a date of closure pursuant to subsection (b)(2) or if its approval to operate is automatically terminated. Placing this text into its own subsection (b)(3)(A) ensures the Bureau promulgates regulations in the clearest manner possible.