

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.

Private for-profit schools are of particular concern within the education sector, given the last two decades of alleged abuses. The number of private for-profit schools has grown substantially in number and student attendance since the 1980s, as has its share of major public education public subsidies. The rationale for their regulation combines two concerns: (1) the irreparable harm to students from years of investment and student loans without graduation or employment results; and (2) the possible waste of substantial public financing. Increased scrutiny of the for-profit industry arose in the aftermath of a series of studies beginning with the 2012 U.S. Senate [Harkin Report](#), which documented a host of problems with for-profit schools, including misleading claims of graduation benefits, payment of commissions to salespersons based on the number of students recruited, low graduation rates, low job acquisition, and unpaid loan accumulation by students.

Federal Regulation

The regulatory picture of the private for-profit education industry at the state level is complicated by federal regulation. 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).¹ In addition to the federal grants and loans, private for-profits

¹ According to the 2017–18 year version of the National Center for Education Statistics, which is part of the U.S. Department of Education’s Institute of Education Sciences, 86.5% of private for-profit undergraduate degree-granting institutions received federal financial aid, and 69.8% of the students received federal grant during school year 2015–16. While the number of institutions that received federal aid has declined since 2010–11, the data show little change in the percentage of such institutions receiving federal aid from 2010–11 through the 2015–2016 school year (see [data](#)).

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 dollars.

In 2014, the USDOE reported that 72 percent of the for-profit schools examined produced graduates who, on average, earned less than high school dropouts.² For-profit colleges account for 13 percent of the student population, but 47 percent of federal loan defaults. In 2016 and 2017, 98 percent of all federal loan cancellation applications were due to for-profit colleges. Recent efforts to regulate at the federal level include (a) a “gainful employment” rule intended to require a record of employment success to continue receiving federal funds and (b) a system of loan repayment for students who have been defrauded or left with a closed school and no chance for graduation. Both regulations are at risk in the current federal administration under USDOE Secretary Betsy DeVos. The DeVos USDOE has hired numerous former lobbyists and officials of the private for-profit industry, including noted abusers, as department officials.³ Also, the DeVos USDOE has been sued for illegally enacting regulations that delay student protections without following proper rulemaking procedures, and for unlawfully delaying loan forgiveness processing due to fraudulent practices by for-profit schools.

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

² [“Obama Administration Takes Action to Protect Americans from Predatory, Poor-Performing Career Colleges,”](#) U.S. Department of Education, March 14, 2014, (accessed November 18, 2019)

³ See the extensive documentation in the reporting of journalist [David Halperin](#).

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. SARA does not require any minimum standards for home state oversight, no minimum standards for enforcement penalties, qualifications, capacities, or resources, and no minimum disclosure requirements. SARA also forbids a state to differentiate regulations between public universities and the for-profit education industry, notwithstanding the for-profit industry’s propensity for fraudulent and abusive operating practices. To date, California is the only state declining to join the 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 the BPPE, pay a \$1,500 registration fee, and submit required documentation.

California Regulation and Authorities

BPPE is governed by the California Private Postsecondary Education Act of 2009. 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, which produces serious problems noted *supra* in higher numbers.

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. 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 twelve 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).

The Advisory Committee has filled its two previous vacancies—Ms. Natalie Lyons, Senior Attorney at Housing and Economic Rights Advocates (HERA) as the consumer advocate, and Dr. Robert “BJ” Snowden, Dean of Instruction at Folsom Lake College as the former student of an institution. As of this writing, there are two vacancies on the Advisory Committee—one for a consumer advocate and the other for a public member. The existence of these vacancies presents problems because of the recent amendment to its statute requiring a quorum to consist of a majority of all voting member positions. When two or more positions are left vacant, it makes achieving the required quorum more difficult

and has precluded some early 2019 meetings. This problem has led to a recent proposal to restore the previous quorum standard of a majority of appointed members.

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. Statutes require institutions to charge fifty cents per \$1,000 of institutional charges to be paid into the STRF. In the 2018–2019 fiscal year, over 1,300 claims were submitted, with 156 claims paid out, totaling a little over \$1.4 million. The 2018–19 state fiscal year’s fund balance was \$25,100,695.

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 of for-profit schools maximize their economic relief benefits. The chief of the OSAR is statutorily required to attend, testify, and answer questions at each Advisory Committee meeting. Due to the significant outreach efforts of OSAR, both the number of STRF claims and their level of completeness have risen significantly from previous years, enabling a larger amount of students harmed by the unlawful activities of private postsecondary institutions to be awarded relief.

On October 1, 2019, California launched Calbright—a state-funded partly-online community college aimed at providing workplace-based training to improve the prospects

of 8 million underemployed Californians. Most students will not be required to pay tuition since the California legislature has given Calbright \$100 million to be spent over seven years in startup costs plus \$20 million each year in operating costs, with additional funds available based on enrollment. Although not directly tied to BPPE, Calbright as an affordable alternative to the for-profit educational model will affect the abuses and predatory behavior that BPPE normally oversees.

CSAAVE Rulemaking

Further complicating the regulatory oversight of private for-profit education industries are the implications that it specifically has on veterans. California State Approving Agency for Veterans Education (CSAAVE) is part of the California Department of Veterans Affairs (CalVet) and is responsible for overseeing the education and training programs receiving federal Title 38 veterans' benefit funding, also known as the GI Bill. CSAAVE prevents waste and abuse of GI Bill funds by promoting quality in veterans' education through evaluating and monitoring the programs offered in California and by approving or disapproving of any programs that do not meet their regulatory criteria. On March 1, 2019, CSAAVE noticed its modified proposal to adopt section 443, 444, 445, 446, and 447, Title 12 of the CCR, to add approval requirements on postsecondary educational institutions seeking to enroll veterans eligible for Title 38 funds. These funds, reserved for veteran education, allows higher tuition payments and room and board allowance, making those in the military a priority population for student recruitment by the historically abusive for-profit schools. The regulatory changes would have required that California institutions comply with federal and state laws and regulations regarding accreditation to operate as a California Private Postsecondary Institution (as authorized by

BPPE), and would have prevented the for-profit institutions seeking to enroll Title 38 eligible veterans from fraudulently advertising or misrepresenting, or both, CSAAVE approval. On September 10, 2019, on the eve of final approval of the regulatory package enacting these regulations, the federal Veteran's Affairs office rescinded the state-approving contract with California, effective October 1, 2019, in large part due to for-profit industry lobbying against it. CSAAVE initially asserted its authority in both federal and state law but reversed course on September 30, 2019, acquiescing to the federal VA. California student advocates are not aggressively asserting state authority at this time under Title 38 as it pertains to GI Bill veteran education benefits since several federal reforms in progress might negate the necessity of state authority in ensuring these funds do not go to waste or are improperly used.

MAJOR PROJECTS

Regulating Out-of-State Institutions

New section 71398(c) of Article 3.5 in Chapter 2 of Division 7.5, Title 5 of CCR, went into effect on July 1, 2019, and was approved by the Office of Administrative Law (OAL) on March 19, 2019. This section is a [modified text](#) from a prior-approved BPPE regulatory package from July 3, 2018, to correct an inconsistency in the language as to the timing of re-registration of out-of-state private for-profit schools. The modified section 71398(c) provides that if BPPE receives a fully compliant re-registration application before the registration's expiration, the out-of-state institution shall be deemed re-registered. Because California has not joined SARA, an out-of-state school initially authorized by a state other than California must seek California authorization for its distance education programs used by California students. [SB 1192 \(Hill\) \(Chapter 593, Statutes of 2016\)](#)

required BPPE to implement regulations related to out-of-state postsecondary institutions. Although the Bureau had adopted Emergency Regulations that required out-of-state private postsecondary schools to register with the Bureau and participate in the STRF, the previous Emergency Regulations expired on February 27, 2018. Accordingly, the Bureau needed to adopt a replacement rule to provide the required “out-of-state school registration.”

Intensive English Language Programs

On October 18, 2019, BPPE published [notice](#) of its intent to amend section 70000(k) of Division 7.5 of Title 5 of the CCR to amend the [current definition](#) of “avocational education” as “education offered for the purpose of personal entertainment, pleasure or enjoyment” to include education that assists students learning English as a second language, and to include education that enhances language skills for any business or occupational purpose, otherwise known as Intensive English Language Programs (IELPs). According to the [initial statement of reasons](#), the proposed changes are the Bureau’s efforts to exempt IELPs from the Bureau’s oversight since they do not offer diplomas or degrees, are more akin to exempt programs for personal entertainment, pleasure or enjoyment, and have experienced an increase in federal regulations and oversight, making BPPE’s oversight duplicative and unnecessary. Amended section 70000(k) specifies that any IELP’s not meeting the specific criteria as “avocational training” will not be exempt and would continue to be regulated by the BPPE. If implemented, this regulatory change will remove a small subset of institutions from the Bureau’s jurisdiction, allowing them to focus their limited resources on more typical postsecondary institutions that enroll more California residents.

A hearing on the proposed regulations is set for December 3, 2019.

Sunset Review 2020–2021

The Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee hold joint sunset review oversight hearings to review both boards and bureaus under DCA. BPPE’s enabling act is scheduled to sunset (be repealed) on January 1, 2021, if not extended as part of the sunset review process, which takes place in 2020. This process provides an opportunity for the DCA, the legislature, the boards, and interested parties to discuss the performance of the boards and make recommendations for improvements. BPPE must justify its existence and effectiveness as a regulatory body under DCA for the sunset date to be extended another four years.

Rulemaking

Substantial Relationship Criteria

At its August 21, 2019 meeting [Agenda [item 7A](#)], BPPE’s Advisory Committee discussed staff’s proposed language for amending section 75060, Title 5 of the CCR to implement [AB 2138 \(Chiu\) \(Chapter 995, Statutes of 2018\)](#), which requires boards to set criteria for determining whether an applicant’s or licensee’s criminal conviction is “substantially related” to the profession sufficient to justify the denial, revocation, or suspension of a license. Current section 75060 already establishes substantial relationship criteria for the denial of an application for licensure; the staff’s proposed amendments would add “suspension” and “revocation” to the regulation to clarify that the existing criteria apply beyond mere denial of a license. The proposed language also includes the

correction from “chapter” to “division” to show that the changes apply to all regulations within the Bureau and not only those included in that particular chapter.

At the same meeting, the Committee voted to take into consideration the proposed minor changes to have them approved by the July 1, 2020 date when AB 2138 goes into effect, to comport with the statutory changes until OAL approves the proposed language through the formal rulemaking process. At this writing, the Bureau has not yet formally noticed its intent to amend these regulations.

Criteria for Rehabilitation

At its August 21, 2019 [meeting](#), BPPE’s Advisory Committee also discussed staff’s proposed language for amending section 75070, Title 5 of the CCR to implement [AB 2138 \(Chiu\) \(Chapter 995, Statutes of 2018\)](#), which requires the Board to set criteria to evaluate the rehabilitation of a person when considering the denial, revocation, or suspension of a license. Current section 75070 already establishes criteria for rehabilitation but only for the denial of an application for licensure; the staff’s proposed amendments would add “suspension” and “revocation” to the regulation to clarify that the existing criteria apply beyond mere denial of a license. The proposed language also adds “licensee” to the existing “applicant” language to show that the changes apply not only to license applicants but also to already licensed individuals. Amended section 75070 also corrects the section number from 480 to 480.2.

At the same meeting, the Committee voted to take into consideration the proposed minor changes to have them approved by the July 1, 2020 date when AB 2138 goes into effect, to comport with the statutory changes until OAL approves the proposed language

through the formal rulemaking process. At this writing, the Bureau has not yet formally noticed its intent to amend these regulations.

Adjudication

Assessments of Fines and/or Orders of Abatement

During the coverage period of this Reporter, BPPE has issued orders of abatement and/or imposed fines on the following institutions:

- 101 School of Trucking (April 11, 2019)
- Aberdeen College (April 15, 2019, and October 3, 2019)
- Academy at Edge (April 24, 2019)
- Academy of Professional Medical Billers (April 24, 2019)
- Academy of Truck Driving (July 22, 2019)
- Achiever Academy (June 19, 2019)
- Adams College of English (September 12, 2019)
- Adrian's Beauty College of Turlock, Inc. (August 9, 2019)
- Adroit School of Architecture (October 11, 2019)
- AF International School of Languages, Inc. (June 26, 2019)
- Alliance School of Trucking (June 6, 2019)
- America Truck Driving School, Inc. (August 26, 2019)
- America West School of Real Estate (April 17, 2019)
- American Chinese Herbal College (September 18, 2019)
- American English Institute (May 10, 2019)
- American Harbor College (May 16, 2019)
- American Heritage College (August 6, 2019)
- American Heritage University of Southern California (August 22, 2019)
- American Institute of Education (August 22, 2019)
- American Microblading Academy, Inc. (August 27, 2019)
- American Tech and Management University, Inc. (June 19, 2019)
- Andrew University (May 16, 2019)
- Angeles Institute (June 25, 2019)
- Annenberg School of Nursing (September 5, 2019)
- Ashford University (June 11, 2019)
- ATI College (September 5, 2019)
- Au Lac Institute (August 14, 2019)
- Aumt Institute (September 19, 2019)
- Aveda Institute Los Angeles (July 5, 2019)
- Ayurvedic Academy Inc. dba Kerala Ayurveda Academy (August 28, 2019)
- Belly Mind Institute (June 20, 2019)
- Bellus Academy (August 8, 2019)

- Blush School of Makeup (June 12, 2019)
- Bradford College of Nursing (June 6, 2019, and July 5, 2019)
- Bre Edu (April 25, 2019)
- Brentwood University (October 3, 2019)
- Bryan College (July 23, 2019)
- Burke Williams Academy of Massage Therapy (August 9, 2019)
- Cali Cosmo DJH, Inc. (July 17, 2019)
- California Beauty College (May 21, 2019)
- California Medical College (July 17, 2019)
- California Northstate University, LLC (July 19, 2019)
- California Pacific University (April 19, 2019)
- California School of Health Sciences (August 7, 2019)
- California Takshila University (May 16, 2019)
- Capstone Pacific College (June 19, 2019)
- Caress Permanent Makeup (September 4, 2019)
- Careway Health Institute (May 14, 2019)
- Centro de Estudio Tecnico Automotriz (June 25, 2019)
- Champion Institute of Cosmetology, Inc. (April 25, 2019, and September 17, 2019)
- Clinical Training Institute (August 27, 2019)
- Codify Academy (May 1, 2019)
- Columbia International College (June 27, 2019)
- Columbia West College (April 25, 2019)
- Computer Institute of Technology (July 10, 2019)
- Concorde Career College (July 23, 2019)
- Converse International School of Languages – San Francisco (June 11, 2019)
- Converse International School of Languages – San Diego (July 24, 2019)
- Crescent School of Dialysis, LLC (September 5, 2019)
- C.R. England Inc. DBA Premier Truck Driving School (August 6, 2019)
- Delancey Street Academy (June 6, 2019)
- Dhyana Center, The (October 14, 2019)
- Dianova Institute (June 4, 2019)
- Diversified Vocational College (June 26, 2019)
- Dunnhill Barber Academy (June 6, 2019)
- Dynasty Trucking School (August 9, 2019)
- Esalen Institute (July 18, 2019)
- EC San Diego (August 23, 2019, and September 25, 2019)
- Edison Truck and Bus Driving School, Inc. (September 17, 2019)
- Eisner Institute for Professional Studies (August 14, 2019)
- El Monte Truck Driving School (June 6, 2019)
- El Portal College (April 16, 2019)
- Embassy CES Language Training Center (September 26, 2019)
- Emerson College (May 30, 2019)

- English Language Learning Center (June 25, 2019)
- Fox Microblading & PMU Academy, LLC. (September 11, 2019)
- Fullerton Dental Assistant School (September 25, 2019)
- Future-Net (July 17, 2019)
- The Garage Door Training School (May 8, 2019)
- Gendarme Institute (October 9, 2019)
- Greater Sacramento Urban League (April 17, 2019 and June 4, 2019)
- Hamilton College (October 7, 2019)
- Hancock International College (June 5, 2019)
- Heritage International University (October 9, 2019)
- Hollywood Cultural Center (June 20, 2019)
- Ice Gel USA/Gem Nail and School/Gel Nail and Accessories Hana (September 19, 2019)
- Icon Collective (October 31, 2019)
- IO Music Academy (April 17, 2019)
- Integrated Digital Technologies (August 14, 2019)
- Integrative Wellness Academy (May 14, 2019)
- International Theological Seminary (July 18, 2019)
- Intrax English Academies, LLC. DBA Stafford House International (June 12, 2019)
- ISDI Digital University (June 5, 2019)
- JD Academy of Salon and Spa (August 6, 2019)
- JJ Truck Driving School (May 2, 2019)
- Kingsburg School of Dental Assisting (May 8, 2019)
- L.A. Translation and Interpretation (October 9, 2019)
- Language Systems International College of English (September 25, 2019)
- L.E.N. Business and Language Institute (August 21, 2019)
- Los Angeles Pacific College (September 4, 2019)
- Luxury Beauty Studio (October 9, 2019)
- Makar James University (August 2, 2019)
- Marin Success Beauty Academy (October 10, 2019)
- Mashdots College (July 30, 2019)
- Milan Institute (September 26, 2019)
- Milan Institute of Cosmetology (September 30, 2019)
- Moler Barber College (September 5, 2019)
- Moviola Education Center (August 23, 2019, and September 9, 2019)
- Napa Valley School of Massage (October 10, 2019)
- National Career College (August 6, 2019)
- New California Conservatory of Music (May 3, 2019)
- New School of Cooking (May 23, 2019)
- Newport International United College (August 8, 2019)
- Northern California Bible College (October 2, 2019)
- Nyingma Institute (July 5, 2019)

- Orange County Code School (September 25, 2019)
- Orange County Dental Careers (August 15, 2019)
- Organic Permanent Makeup (September 12, 2019)
- Oxman College (July 24, 2019)
- P. Steve Ramirez Vocational Training (September 5, 2019)
- Paul Mitchell The School Modesto (May 22, 2019)
- Permanent Cosmetic Training Center of Northern California (May 8, 2019)
- Permotech Makeup, Inc. (September 19, 2019)
- Phibrows Training by Fely Eguia (August 26, 2019)
- Pilot Trucking School (August 26, 2019, and September 25, 2019)
- Precise Barber College (May 16, 2019)
- Professional Holistic Institute (May 23, 2019)
- Professional Medical Careers Institute (April 16, 2019, and September 19, 2019)
- QBICS Career College (May 3, 2019, and September 19, 2019)
- Ramé Academy (September 27, 2019)
- Rosen Method: The Berkeley Center (August 13, 2019)
- RWM Fiber Optics, Inc. (May 13, 2019)
- Ryokan College (August 30, 2019)
- San Diego Dental Careers (August 9, 2019)
- SANS Institute (September 19, 2019)
- Shasta Bible College and Graduate School (September 5, 2019)
- Silicon Valley Polytechnic Institute, Inc. (August 7, 2019)
- Skyway Trucking School (September 6, 2019)
- Sober College of Addiction Studies (September 5, 2019)
- Sofia University (August 30, 2019)
- South Bay Medical Coding Learning Center (October 3, 2019)
- Southcal Career College (July 23, 2019)
- Spitfire Aviation (April 18, 2019)
- St. Giles College, Inc. (June 12, 2019)
- Stanton University (August 7, 2019)
- Stellar Career College (May 21, 2019)
- Sutech School of Vocational and Technical Training (July 1, 2019)
- Symmetry Academy (September 12, 2019)
- The Salon Professional Academy (August 29, 2019)
- Tradecraft (September 9, 2019)
- Training Institute for Addiction Counselors (August 6, 2019)
- Transportation Guidance & Assistance Truck Driving School (May 14, 2019)
- Transworld Schools (June 19, 2019)
- Trinity School of Nursing (August 19, 2019)
- Union University of California (August 27, 2019)
- Universal College of Beauty, Inc. (August 14, 2019)

- Universal Schools & Colleges of Health & Human Services, Inc. (July 18, 2019)
- University of Philosophical Research (April 18, 2019)
- USA Phiacademy Beauty School (May 14, 2019)
- Vanity Makeup (May 2, 2019)
- Vbrows Permanent Makeup Studio & Academy (August 15, 2019)
- Vine University (June 21, 2019)
- Welding Skills and Training Center, Inc. (May 2, 2019)
- Western Institute for Social Research (July 5, 2019)
- ZMS The Academy (June 25, 2019)

Accusations of Violations

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

- Advance Beauty College, Inc.: [Accusation](#) (April 4, 2019); [Stipulated Settlement and Order](#) (September 11, 2019)
- Advanced Vocational Institute: [Statement of Issues](#) (June 20, 2019); [Accusation](#) (June 25, 2019); [First Amended Accusation](#) (October 10, 2019)
- American Beauty Institute: [Stipulated Settlement and Order](#) (July 12, 2019)
- Argosy University: [First Amended Accusation](#) (August 27, 2019)
- Bich Ngoc Beauty College Inc., Diamond Beauty College: [Accusation and Petition to Revoke Probation](#) (May 16, 2019)
- Computer Institution of Technology: [Accusation](#) (August 21, 2019)
- GDS Institute: [Accusation](#) (September 10, 2019)
- International Public Safety United: [Accusation](#) (October 10, 2019)
- Newport International University: [Accusation](#) (July 15, 2019)
- Rosston School of Hair Design: [Second Amended Accusation](#) (November 6, 2018); [Decision and Order](#) (October 1, 2019)
- The Cosmo Factory Cosmetology Academy: [Stipulated Settlement and Issuance of Citation](#) (September 5, 2019)

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:

- American Liberty University: [First Amended Statement of Issues](#) (April 12, 2019); [Decision and Order](#) (September 10, 2019)
- Basis International University: [Order Suspending Approval to Operate Degree Granting Programs](#) (August 7, 2019)
- California International Theological Seminary: [First Amended Statement of Issues](#) (June 25, 2019)
- Dal Smith DBA National Culinary & Bakery School: [First Amended Statement of Issues](#) (April 29, 2019); [Default Decision and Order](#) (July 5, 2019)
- Dianova Foundation DBA Dianova Institute: [First Amended Statement of Issues](#) (June 6, 2019)
- H&H Truck Driving School: [Statement of Issues](#) (April 26, 2018); [Decision after Rejection and Order](#) (April 24, 2019)
- Newport Technological University: [Statement of Issues](#) (September 5, 2019)
- Vivekananda Yoga University: [Statement of Issues](#) (July 15, 2019)

LEGISLATION

[AB 1340 \(Chiu\)](#), as amended on September 6, 2019, adds Article 6.5 (commencing with section 94892.6) of the Education Code to require institutions regulated by BPPE to report identifying, program enrollment, and loan debt information to BPPE. According to the author, this bill reduces harm by protecting students, especially low-income students of color and veterans, from ineffective career training and burdensome debt by providing prospective students with the necessary data on employment and wage outcomes at private

for-profit schools in California. This data expands on the minimum requirements and disclosures that the California Private Postsecondary Education Act of 2009 requires (Education Code sections 94902–94912). Specifically, the bill authorizes BPPE to match student information with wage data provided by the Employment Development Department (EDD) and requires BPPE to make information available on its website once DCA certifies that an updated information technology system is capable of processing data. New section 94892.6 requires an institution to collect and retain the following data for each graduate completing a program on or after January 1, 2020: (1) Individual identifying information for each graduate of the institution sufficient to match to wage data from the EDD under Section 1095 of the Unemployment Insurance Code, (2) program the graduate was enrolled in, (3) the graduate’s student loan debt information, if that information applies to the student. Each institution will then report the data mentioned above annually to the Bureau so it can post information regarding the earnings levels of graduates, the student debt information, and the labor market outcome data for each program and institution relating to graduates at two years and five years after their graduation on BPPE’s website. Under the bill, the Director of Consumer Affairs will notify institutions approved to operate by the bureau when the information technology system is updated and ready to process the data as required by this section. Institutions will then have 120 days from the date of notice to comply.

Governor Newsom signed AB 1340 on October 4, 2019 (Chapter 519, Statutes of 2019).

[AB 1344 \(Bauer-Kahan\)](#), as amended September 10, 2019, amends, repeals, and adds section 94801.5 of the Education Code, relating to private postsecondary education.

This bill requires out-of-state online institutions enrolling California students to provide BPPE with expanded information beyond the bare minimum requirements of SARA, under penalty of not being able to operate in the state of California. Existing law defines what an “out-of-state private postsecondary educational institution” is and requires that they register with BPPE, pay a fee, provide evidence of accreditation, and of home-state approval to operate, submit a school catalog, and submit a sample enrollment agreement. Existing law further required compliance with STRF regulations and disclosures. Beginning July 1, 2022, new section 94801.5 requires out-of-state online institutions to report the occurrence of certain adverse actions taken against the institution or controlling officers within 30 days, including fraud, unfair business practice, and settlements. Under the bill, BPPE is authorized to take enforcement actions against an institution’s registration but must follow a specific process when considering whether to approve, deny, or condition registration based on information provided by an institution. New section 94801.5 expands the registration period for approved institutions from two years to five years. BPPE is required to develop a registration form through emergency regulations and to list the registered institutions and an email address to which complaints are sent about a registered school on the BPPE website. These emergency regulations should go through the regular rulemaking process to become law by January 1, 2022. In the interim period, the current language of the California Education Code, section 94801.5, will continue to apply.

Governor Newsom signed AB 1344 on October 4, 2019 (Chapter 520, Statutes of 2019).

[AB 1346 \(Medina\)](#), as amended on September 12, 2019, amends section 94923 of the Education Code, relating to postsecondary education, and making an appropriation

therefor. Effective January 1, 2020, section 94923 expands the definition of “economic loss” to include not only tuition, books, and other charges paid directly to the school, but also other economic losses related to attendance at the private for-profit school that closed, such as private or government student loans, administrative costs, and third-party payments and grants paid to the student or institution in relation to the student’s attendance. Amended section 94923 also expands STRF eligibility to student residents of California attending Corinthian Colleges, Inc (CCI) on or after January 1, 2010, who would be eligible for STRF funds but for CCI’s exemption from the act, or was a student of CCI enrolled as of June 20, 2014, or withdrew within 120 days of that date and did not complete the program. According to the author, this bill prevents students who are already low-income, from being subjected to demoralizing debt collection and lawsuits from private loan collectors for a worthless education and allows STRF to provide economic relief for the true cost of attendance. BPPE will be required to administer STRF funds by the expanded definition of “economic loss” and to those students of CCI who were previously exempted from relief.

Governor Newsom signed AB 1346 on October 4, 2019 (Chapter 521, Statutes of 2019).

[AB 1343 \(Eggman\)](#), as amended on June 11, 2019, would add section 94918.5 to Education Code relating to private postsecondary education. According to the author, this bill would close the loophole that deems GI benefits to be not federal aid but private funds instead, allowing for-profit institutions to circumvent the requirement of the 90/10 rule, which mandates a 90% cap on tuition revenue paid by federal funds. This loophole amounts to hundreds of private for-profit education institutions being almost entirely dependent on federal public funds. If the 90/10 loophole were closed, they would violate the federal cap.

Amended section 94918.5 would change the rule to 85/15, count GI benefits as federal aid, and allow institutions to prove that they spend at least half of what they receive in government benefits on instruction and student support as an alternative proof of fair tuition pricing if they want to stay under the 90/10 rule. Beginning January 1, 2023, private postsecondary institutions would be unable to enroll new California students unless they submit audited financial statement to the Bureau complying with amended section 94918.5. BPPE would be required to adopt regulations by July 1, 2022 defining “instruction” and “student support.” The bill would exempt an institution with annual revenues of less than \$2,500,000. New section 94918.5 aims to reduce the private for-profit industry’s predatory and aggressive recruitment of veterans and protect against taxpayers from being overcharged by ensuring that for-profits do not price tuition solely based on the wealth of the taxpayer benefits and instead on market realities. Due to opposition from the Chair of the Senate Business and Professions Committee, AB 1343 was made into a two-year bill, eligible to be heard in January 2020. *[S. BP&ED and S. ED]*

[AB 1341 \(Berman\)](#), as amended June 27, 2019, would have amended section 94801.5 of, and add sections 94850.2, 94858.5, 94874.1 to, the Education Code relating to private postsecondary education. The bill would have prevented for-profit institutions from creating shell corporations and posing as nonprofits or public institutions, thus evading private for-profit oversight, by creating regulatory structures to properly identify and define a “non-profit.” Some for-profit schools are beginning to use “non-profit” or “public” labels since for-profit schools have stricter guidelines when seeking access to taxpayer funds. After receiving no “no” votes, on August 30, 2019, the Senate Appropriations Committee killed the bill. *[S. Appr]*

[AB 1342 \(Low\)](#), as revised on April 10, 2019, would have added article 3 (commencing with section 5940) to the Corporation Code relating to nonprofit corporations and would have required the Attorney General to review and approve all sales, transfers, leases or exchanges, of nonprofit colleges to for-profit companies, in a manner similar to how the sale of nonprofit hospitals are approved. The enhanced AG involvement in non-profit status claims would have helped protect students from for-profit industry abuses, with regulatory oversight done by BPPE. On August 30, 2019, the Senate Appropriations Committee killed the bill. [*S. Appr*]

[AB 1345 \(McCarty\)](#), as amended August 13, 2019, would have amended section 94897 of, and added section 94841.2 to, the Education Code relating to private postsecondary education, by establishing and revising existing restrictions on private for-profit's hyper-aggressive recruitment tactics, which are often the source of misrepresentations regarding the institution's performance and the student's educational outlook. According to the author, recruiters target veterans and students from underprivileged backgrounds, and receive financial incentives, compensation, commissions and/or bonuses contingent upon quotas in student enrollment, admissions, financial aid awards, or sales of educational materials. On August 30, 2019, after receiving bipartisan support, the Senate Appropriations Committee killed the bill. [*S. Appr*]

The above seven bills were arranged as a package and introduced in 2019 with uniform support from consumer advocates, student groups, and veterans' organizations. The bills had some common co-sponsors and varying authors but received nearly unanimous support in the Assembly committees and floor before three of them failed to

pass in the Senate Appropriations Committee under Senator Anthony Portantino. The state senate is where for-profit school lobbying is concentrated.

[AB 376 \(Stone\)](#), as amended on June 20, 2019, would add Title 1.6C.10 (commencing with section 1788.100) to the Civil Code and would amend section 28106 of the Financial Code relating to student loans. New section 1788.100 of the Civil Code would create a “Student Borrower Bill of Rights” and imposed new requirements on student loan servicers by adding to the Student Loan Servicing Act (SLSA) of 2018, which requires licensing loan servicers, prohibits certain practices, and places oversight responsibility with the Commissioner of the Department of Business Oversight (DBO). There is no federal framework to regulate the student loan industry to prevent damaging practices such as losing paperwork, misapplying funds, providing inaccurate information, or steering borrowers into repayment plans that add to the overall cost of the loan. New section 1788.102 would create a minimum servicing standard regarding application of payments, paperwork retention, and specialized staff training. New section 1788.103 would require compliance from anybody engaged in student loan servicing. New section 1788.104 would establish “Student Borrower Advocate” within DBO responsible for reviewing complaints, gathering data and coordination with related state agencies. New section 1788.105 would grant DBO additional monitoring authorities in the student loan servicing market to collect better data about the servicing industry. New section 28106 of the Financial Code would require the commissioner to administer new Title 1.6C.10, commencing with section 1788.100, of the Civil Code, governing the student loan borrowers’ rights. Although not directly affecting BPPE, this bill’s regulation on abusive student loan service market would help BPPE protect students from weak and inconsistent federal rules governing student

loan services. As of August 30, 2019, the Senate Appropriations Committee held AB 376 in suspense as a two-year bill, to be reconsidered in January of 2020. [*S. Appr*]

[AB 154 \(Voepel\)](#), as amended on March 21, 2019, would add section 66027.9 to the Education Code relating to public postsecondary education to create an income-sharing pilot program for students at USC and Cal. State in the 2021–22 academic year. An Income Share Agreement (ISA) is a contract in which students pay a percentage of their income for a set timeframe in exchange for up-front funding or services. This is different from loans in that there is no outstanding balance, with the benefit being that ISA’s may provide a financing option for those who may otherwise take our private loans or federal Parent Plus loans, both of which carry higher interest rates than government-subsidized loans. New section 66027.9 establishes parameters similar to other ISA programs, including a minimum income threshold for requiring ISA repayment, a limit on the repayment period, and an absolute cap on the amount to be repaid. It also establishes a revolving fund in which appropriated funds would be deposited for initial ISA’s and graduates’ subsequent ISA payments would be deposited back into the fund to provide ISA’s to additional students. New section 66027.9 would require the pilot programs to report results by November 1, 2023 and again by November 1, 2026. Although this measure does not directly impact BPPE, major reforms or improvements of the public education financing sphere can add or subtract from the problem areas within BPPE’s regulatory domain. On May 16, 2019, the Senate Appropriations held the bill in a suspense file, making AB 154 a two-year bill to be revisited in January of 2020. [*S. Appr*]

LITIGATION

Lawsuits against USDOE

Nat'l Educ. Ass'n v. DeVos, Case No. 18-cv-05173-LB (N.D. Cal.). On April 26, 2019, in *Nat'l Educ. Ass'n v. DeVos*, 379 F. Supp. 3d 1001 (N.D. Cal. 2019), the U.S. District Court for the Northern District of California [granted](#) the plaintiff's motion for summary judgment, denied the defendants' motion for cross-summary judgment and ordered the Delay Rule vacated after 30 days from the date of the order. In December 2016, the Department promulgated "Distance-Education Rules," in accordance with Title IV of the Higher Education Act of 1965 (HEA), to go into effect in July 2018 in order to protect students from fraudulent and predatory practices related to distance learning and to require disclosures from online colleges that offered such distance-education programs. Required disclosures included notifying students that their programs may fail to meet state licensing standards or may face adverse actions from the state or accreditor. In July 2018, with the new presidential administration at the helm, the Department illegally promulgated a "Delay Rule" to postpone the effective date of the Distance-Education Rules until July 2020 and shared that it would reconsider the rules altogether. Under HEA, all Title IV regulations must be subject to a specialized process called "negotiated rulemaking," which the Department did not follow in their creation of the "Delay Rule." The NEA, the California Teachers Association, and several individual plaintiffs enrolled in or considering online-education programs filed suit to challenge the validity of the Delay Rule, promulgated in violation of the HEA and the Administrative Procedure Act, and requested that the Distance-Education Rules be allowed to go in effect as originally intended. The Department argued that it had "good cause" to forgo the required procedure and that any

failure to follow procedure was “harmless error.” The Court disagreed, and the Distance-Education Rules took effect on May 26, 2019. The California DCA and the education department created a complaint system for students enrolled in these out-of-state colleges in order to be compliant with the rules and keep tens of thousands of online California students from being at risk of losing their federal financial aid. This expanded upon the existing BPPE complaint system for students enrolled in for-profit colleges and universities. BPPE requires all out-of-state private postsecondary institutions to re-register with California. [[24:2 CRLR 144–145](#)]

***Sweet v. DeVos*, Case No. 19-cv-03674 (N.D. Cal.)**. On June 25, 2019, defrauded former students of for-profit schools filed a [class action complaint](#) in the U.S. District Court for Northern District of California against USDOE and DeVos, seeking declaratory and injunctive relief, in *Sweet v. DeVos*. The named plaintiffs, represented by the Project on Predatory Student Lending at Harvard’s Legal Services Center along with Housing and Economic Rights Advocates (HERA), are suing on behalf of more than 158,000 former students who have filed applications for borrower defense to repayment. Students are eligible for federal loan forgiveness when schools mislead or misrepresent information to students or when schools violate state laws regarding students’ education. Since January 20, 2017, the DeVos USDOE paused all processing of borrower defense claims while still garnishing the wages and tax credits of those who defaulted on their loans. The USDOE’s decision to halt their legal obligation in processing these claims has kept thousands of students in loan forgiveness purgatory, some for over four years, resulting in destroyed

credit and limited access to federal student aid.⁴ The case is still waiting to be heard. Although a court order would not apply to BPPE, if the courts do not compel USDOE to grant full relief, eligible California students will likely apply for STRF reimbursement for the failure to recover their prepaid tuition from the school.

***Calvillo Manriquez v. DeVos*, Case No. 3:17-cv 07210 (N.D. Cal.)**. On July 15, 2019, in *Calvillo Manriquez v. DeVos*, plaintiffs filed a motion to lift the stay and enforce the preliminary injunction due to the Department's substantial noncompliance with the preliminary injunction. On May 25, 2018, a [preliminary injunction](#) to stop the Department from collecting Plaintiffs' loans using the Average Earnings Rule, and from collecting debts from previously-identified groups where forbearance was required. The Department appealed to the Ninth Circuit, which stayed the proceedings, and supplemental briefing was provided on March 5, 2019. No opinion has been rendered as of this writing. The Department opposed the July 15, 2019 motion, and the Court heard oral arguments on August 19, 2019. The Court [denied](#) the motion to lift the stay and ordered the Department to file a [compliance report](#), which they did on September 18, 2019. The Compliance Report showed very little effort to comply with the preliminary injunction as required and exposed several outright violations where the Department: (a) sent 16,034 notices of payment due to Corinthian borrowers, resulting in 3,298 borrowers making one or more payments, (b) was unable to identify, and therefore alert and refund, the Corinthian borrowers affected by the incorrect notices in violation of the injunction, (c) mistakenly notified at least 3,000 Corinthian borrowers that their loans were entering repayment instead of entering

⁴ See [Sweet v. Devos Overview, The Project on Predatory Student Lending, Legal Services Center of Harvard Law School](#), June 25, 2019, (accessed November 20, 2019).

forbearance or non-collection, (d) provided adverse marks to credit reporting agencies for 847 Corinthian borrowers, (e) collected on the loans of 1,808 Corinthian borrowers through wage garnishment or tax refund offsets, (f) sent minimal “guidance” emails to loan service providers with three brief sentences on instruction and no mention of the preliminary injunction, (g) failed to ensure compliance from the loan providers with the preliminary injunction. A ruling on the motion is expected in the next few weeks. As with the previous case *supra*, a court order would not apply to BPPE, but absent a ruling that USDOE grant full relief, eligible California students will likely apply for STRF reimbursement for the failure to recover their prepaid tuition from the school.

RECENT MEETINGS

At its August 21, 2019 [meeting](#), Dr. Michael Marion, Jr., the Bureau Chief, announced that the Verification of Exempt Status regulatory package (sections 94874, 94874.2, 94874.7, 94874.5, and 948927.5 of Education Code; section 71395 of CCR) has been approved by DCA and was sent to OAL for further review on approved comments and suggestions. DCA has received the Compliance with Laws and Procedures regulatory package (section 71755 of CCR) and is making minor adjustments to the language. The notice package for Student Records and Maintenance of Records (section 71920, 71930, 71940, and 71950 of CCR) is still being developed and will be submitted for review to the Bureau legal counsel before going to OAL to be noticed. Dr. Marion, Jr. also mentioned how a different approach of educating both students and institutions about compliance and discipline, instead of taking an attack position for unintentional violations, will help the disciplinary and review process run more efficiently since it enables everybody to perform their duties better.