

# BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

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

— Education Code § 94875

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

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

As of 2015, private for-profit schools received an average of 86% of their revenue from federal grants and loans by the U.S. Department of Education (USDOE). In addition to the federal grants and loans, private for-profits received an increase in federal GI bill funding from the U.S. Department of Veterans Affairs. Title 38 of the United States Code provides veterans with public funding for tuition payments as well as some living expenses. The combined sources of federal funding going to for-profit institutions amount to around \$20 billion a year in taxpayer funds.

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

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.

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.

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 OSAR is statutorily required to attend, testify, and answer questions at each Advisory Committee meeting.

To implement its standards, BPPE maintains an Enforcement Section to handle complaints, investigations, and other actions. The Bureau also reviews private postsecondary institution applications for initial approval and subsequent renewals to operate within California. As a bureau within DCA, BPPE is not governed by a multimember board. BPPE operates under the oversight of a Bureau Chief appointed by the Governor and under the direct authority of the DCA Director. BPPE has a statutorily mandated Advisory Committee tasked with advising BPPE on matters related to private postsecondary education and the administration of the Bureau's governing statutes, including an annual review of the fee schedule, licensing, and enforcement.

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

public members, one each appointed by the Senate Rules Committee and the Assembly Speaker; and two non-voting *ex officio* members (the chairs of the Senate and Assembly policy committees with jurisdiction over legislation relating to BPPE).

During this reporting period, the Speaker of the Assembly appointed Leigh Ferrin, Director of Litigation and Pro Bono at the Public Law Center, as a consumer advocate, and Mr. Thomas Wong, Public Affairs Manager at Southern California Edison, as a public member on the Advisory Committee. At this writing, there is one vacancy on the Advisory Committee for a past student of an institution, to be appointed by the DCA Director.

## **HIGHLIGHTS**

### **BPPE Issues Emergency Decision Against Holberton School**

On January 24, 2020, BPPE issued an [Emergency Decision](#) ordering the coding bootcamp Holberton School, Inc. to (1) cease enrollment of new students in all of the institute's programs; (2) cease all instruction for all of the institute's programs; and (3) cease collection of tuition and fees for all of the institute's programs, effective February 4, 2020.

After a January 30, 2020 hearing before the Director of DCA, BPPE issued a [modified Emergency Decision](#) ordering Holberton School to (1) cease enrollment of new students in the unapproved portion of the program, (2) cease all instruction for students in the unapproved portion of the program; and (3) cease collection of tuition and fees for the unapproved portion of the program. On February 4, 2020, BPPE filed an [accusation](#) against Holberton, revealing several violations of the California Education Code, including section 94886 for operating without an Approval to Operate from BPPE, and section 94897(j) for Prohibited Business Practices.

According to the accusation, on July 11, 2018, Holberton School obtained an Approval to Operate by the Bureau to offer a two-year, 4331-hour Full Stack Software Engineer program, but had been enrolling students into this program prior to that approval. The Bureau also accuses Holberton of fraudulently obtaining its Approval to Operate when it agreed not to offer Income-Share Agreements to students as a condition of its Approval to Operate, but in fact offered ISAs to students both before and after the Approval. An ISA allows students to defer paying their tuition at the beginning of their program in exchange for paying the institution a percentage of their income for a specified number of years after graduating. In this case, students are required to pay Holberton 17 percent of their annual income over \$40,000 for three and one-half years after graduating, with the agreed amount capped at \$85,000. BPPE notified Holberton on March 21, 2018 that it would not approve ISAs since they are based on a percentage of future income and cited issues with determining pro rata refund amounts if a student withdrew from the program, determining amount of student loss under ISAs to calculate STRF amounts owed, and the lack of total program charges in Holberton's enrollment agreements as justification for not issuing an approval to operate. On April 20, 2018, Holberton responded to each issue raised by disclosing the \$85,000 tuition amount and noting that students would receive a pro rata refund based on either the total program cost if they paid up front, or on a pro rata percentage of their future income, determined by the number of completed program hours. On May 30, 2018, BPPE replied that Holberton's response was "acceptable," but required Holberton to remove any mention of an ISA from the catalog and enrollment agreement because BPPE would not approve Holberton to operate otherwise. Holberton asserts that this correspondence did not clearly prohibit them from offering an ISA, but instead only required them to remove specific references of an ISA from their enrollment agreement and catalog.

Additionally, the Bureau asserts that the School charges \$85,000 in tuition for a two-year education and training program, yet students are encouraged to leave after receiving only nine-months of education to pursue employment. According to the accusation, Holberton School asks for an employer letter to verify the student had completed six months of employment and is in good standing, upon which the school would issue graduation certificates to those students for fifteen months of education and required the student to pay the full cost of tuition despite receiving only nine months of education and training. BPPE claims that many alumni of Holberton School are being financially harmed by being forced to pay 17 percent of their pre-tax income for 42 months for an education they did not receive as a result of entering into prohibited ISA agreements with the institution.<sup>1</sup>

The modified Emergency Decision will be in effect until the Accusation has been fully adjudicated.

## **BPPE Releases “BPPE At A Glance”**

On February 19, 2020, BPPE distributed a one-page “[BPPE At A Glance](#)” informational flyer at its Advisory Committee [meeting](#), summarizing the work that BPPE completed in 2019. The [BPPE Advisory Committee](#) holds four meetings a year to discuss the oversight functions and operational policies of the Bureau. They advise and make recommendations to BPPE on the policies and regulation of private postsecondary education. The information on the flyer includes (1) the history of BPPE, (2) the mission statement, (3) the approval mechanism for private for-profit institutions, (4) recent and upcoming administrative changes, (5) legislative impacts, (6)

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<sup>1</sup> Rindlisbacher, Christof, “[Priyanka Chopra’s Favorite Coding Bootcamp Accused of ‘Fraud,’](#)” *The Daily Beast*, Jan. 28, 2020.

community outreach, (7) licensing statistics, (8) Institutional Annual Report status, (9) compliance/inspections, and (10) enforcement statistics.

Of note, BPPE conducts outreach primarily for private postsecondary institutions and utilizes the OSAR to conduct [student outreach](#). BPPE Licensing Staff hold several [Application Workshops](#) a year to guide institutional applicants through each section of the application, to explain what the minimum operating standards are, and to provide the necessary resources for properly completing the licensing application. BPPE staff also provides [Compliance Workshops](#) and [School Performance Fact Sheet \(SPFS\) Workshops](#) twice a month throughout California for institutions that are already approved to operate to teach them how to maintain operational compliance, SPFS compliance, and accreditation compliance. BPPE cancelled all scheduled workshops in March and April in response to the COVID-19 pandemic.

In 2019, OSAR reported 83 student outreach events: 24 proactive student outreach events, mostly at college expos, 33 outreach events to assist veterans, and 26 school/program closure outreach events to assist students after their institution had ceased operations. OSAR informs prospective, current, and past students of private institutions of their rights, shows them how to file a school complaint, and provides them with available resources, including the [STRF](#) for possible reimbursement when they suffer economic harm due to a school's closure. There are no scheduled student outreach events for the remainder of the 2020 school year in response to the COVID-19 pandemic.

BPPE announced at the Advisory Committee's February 19 meeting that the Bureau plans on increasing the number of unannounced institutional inspections for the 2020 fiscal year. In 2019, BPPE conducted 48% more unannounced inspections than in 2018, but issued one less enforcement referral than it did in 2018. BPPE staff noted that the slight decline is likely

attributable to the fact that the Bureau now offers institutions with minor violations the opportunity to correct the violation on-site with the inspector. BPPE's [Chief Officer](#) reported that this was in the best interest of the students because it created a better working relationship with institutions to comply rather than issuing a citation for minor violations. When the Advisory Committee asked BPPE staff if there was a system in place to track these on-site corrections, BPPE replied that there was not but agreed that there should be one in place moving forward.

## **BPPE Releases Sunset Review Report**

On December 1, 2019, BPPE published its [Sunset Review Report](#) in preparation for its Sunset Review Oversight hearing before the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee. The Bureau's enabling act, section 94800, *et seq* of the Education Code, is scheduled to “sunset” (be repealed) on January 1, 2021 pursuant to section 94950 of the Education Code if not extended as part of the sunset review process, which is currently underway. This process provides an opportunity for DCA, the legislature, the bureaus, and interested parties to discuss BPPE's performance, and make recommendations for improvements, and BPPE must justify its existence and effectiveness as a regulatory body under DCA for the sunset date to be extended another four years.

The report includes performance measures on licensing and enforcement programs, responses to issues raised by the legislature during the Bureau's last sunset review in 2016, and raises 16 new issues that the Bureau seeks to discuss with the legislature as part of the sunset review process. For a complete list of new issues the Bureau is raising, see section 11 of the [Report](#).

Of note, BPPE seeks a legislative change to section 94937 of the Education Code, which currently requires *actual* student harm before the Bureau can take disciplinary action for an institution's violation of the law. (Issue #1) Citing the legislative intent set forth in section

94801(d)(6), which is to ensure prevention of student and public harm as a result of fraudulent or substandard educational programs, the Bureau recommends amending section 94937 to authorize BPPE to take disciplinary action if there is *potential* harm to students.

Additionally, BPPE seeks a statutory amendment to require institutions applying for an Approval to Operate with the Bureau to post a surety bond as part of the application process. (Issue # 4) According to the Bureau, this practice would bring it in line with eleven other states<sup>2</sup> requiring the same, and with other DCA entities<sup>3</sup> which have authority to require a bond as part of the licensing process. When a school precipitously closes, the high extrinsic costs and unique student needs can be provided for by the surety bond. BPPE reports that sudden closure causes significant economic harm to students who have invested time and money for an incomplete program of study. The [STRF](#) helps mitigate some of these losses after the school closes but it is statutorily prohibited from funding the storage, maintenance and availability of student records, faculty compensation to complete instruction through the end of a term, or keeping temporary school staff to assist students in transferring to other institutions—all of which may be in the best interest of the students. The Bureau reported that it also incurs unforeseen travel and lodging costs for personnel to assist students across the state when the larger institutions close and can cause personnel to be pulled from their normal duties, resulting in temporary backlogs.

On February 19, 2020, at its Advisory Committee [meeting](#), BPPE mentioned that DCA is still reviewing the draft regulatory language that would amend sections 71920, 71930, 71940, and 71950 of Title 5 of the CCR for the Student Records and Maintenance of Records, first presented

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<sup>2</sup> Arizona, Alaska, Florida, Georgia, Maryland, Nebraska, New Mexico, South Carolina, Tennessee, Texas, Utah.

<sup>3</sup> The Board of Pharmacy, Contractors State Licensing Board, Bureau of Cannabis Control, Cemetery and Funeral Bureau.

to the Committee by the Bureau on November 17, 2018. The proposed regulation would address Issue #5 in the Sunset Review Report, when institutions fail to identify a Custodian of Records and/or submit their plan for the disposition of student records to the Bureau, prior to a precipitous school closure. As of this writing, BPPE has not published notice of the proposed changes.

On March 9, 2020, a group of 12 student, veteran, civil rights, and higher education advocates sent a [joint letter](#) supporting BPPE's existence to the Chairs of the Senate Business, Professions, and Economic Development Committee and the Assembly Higher Education Committee. The letter discusses several of the Bureau's recommendations in the Sunset Review Report and adds three recommendations of their own: (1) require programs to prepare and make graduates eligible for licensure or certification in fields where licensure or certification are required since no such requirement currently exists; (2) improve transparency in complaint handling and resolution as well as triggers for Bureau action to understand trends of concern and identify areas in which BPPE's oversight needs improvement; and (3) increase student utilization of the STRF by improving its claim processing and data-reporting operations to meet the growing backlog of claims, and authorize an independent advocate to identify STRF shortcomings to better address student needs.

BPPE's Chief Officer will work with DCA and the Governor's Office on the substantive language of BPPE's Sunset Bill addressing the numerous issues and recommendations after the Sunset Review hearing. At this writing, the hearing has not yet been set due to COVID-19 related delays.

## **RULEMAKING**

- ***Intensive English Language Programs:*** (On October 18, 2019, BPPE published [notice](#) of its intent to amend section 70000(k), Title 5 of the CCR, to amend the [current definition](#)

of “avocational education” 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. [[25:1 CRLR 165](#)] A hearing on the proposed regulations was set for December 3, 2019, but the Bureau’s Chief Officer announced at its February 19, 2020 Advisory Committee meeting that the regulation is still in hearing status with no further updates.)

## **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:

- A-1 Truck Driving School, Inc. (March 6, 2020)
- Academy of Truck Driving (March 16, 2020)
- Advertising & Design Education Corp. DBA Ad School San Francisco (March 17, 2020)
- AF International School of Languages, Inc. (February 3, 2020)
- Alexander Training Institute of Los Angeles (February 7, 2020)
- Allied Professional Institute (December 17, 2019); Dismissed January 23, 2020
- American Academy of English (March 25, 2020)
- American Beauty College (January 30, 2020)
- American Career College (October 30, 2019)
- American English Institute (December 19, 2019)
- American West College (December 5, 2019)
- Animsquad, LLC (March 3, 2020)
- AOI College of Languages, Inc. (February 21, 2020)
- Bay Area Training Academy (BATA) (December 18, 2019)
- Bradford University (March 25, 2020)

- Brentwood University (January 30, 2020 and April 1, 2020)
- Business and Insurance School (March 9, 2020)
- The California Academy, Inc. DBA Paul Mitchell the School Sacramento (December 3, 2019)
- California Barbering & Cosmetology Apprenticeship (March 25, 2020)
- California Career School (February 25, 2020)
- California Dental Certifications, LLC (December 18, 2019)
- California Institute of Advanced Management (October 30, 2019)
- California Institute of the Healing Arts and Sciences (October 17, 2019 and April 1, 2020)
- Calstone College (February 25, 2020)
- Careerstart, LLC. (January 16, 2020)
- Christine K. Beauty School (February 13, 2020)
- Cinta Aveda Institute (March 4, 2020)
- Coast Health Educational Centers, Inc. (April 1, 2020)
- College of Botanical Healing Arts (October 30, 2019 and February 6, 2020)
- Columbia International College (December 12, 2019)
- Connect English Language Institute (April 1, 2020)
- Contra Costa Medial Career College (February 7, 2020)
- Cosmo Beauty Academy (March 25, 2020)
- Creative Career Options (November 7, 2019)
- Cutting Edge Barber Academy (February 24, 2020)
- Cypress Health Institute (October 16, 2019 and December 10, 2019)
- Daria Chuprys Permanent Makeup Studio and Academy (October 21, 2019)
- Deep Creek Construction School (April 1, 2020)
- Design's School of Cosmetology (December 10, 2019)
- Dialysis Education Services LLC (October 30, 2019)
- Deluxe Brows Microblading Academy (February 28, 2020)
- Dolphin Trucking School (December 3, 2019)
- Esalen Institute (February 13, 2020)
- Elite Cosmetology School (November 6, 2019)
- ELS Language Centers (October 17, 2019)
- Embry-Riddle Aeronautical University (November 20, 2019)
- Excell College (December 17, 2019)
- Future-Net (February 3, 2020)
- Golden State University (November 7, 2019)
- Grace University (January 2, 2020)
- Green Valley Truck School (February 19, 2020)
- Hancock College of Arts and Sciences (December 19, 2019)
- Heavy Equipment Colleges of America (January 29, 2020)
- Heritage International University (December 12, 2019)
- Hinton Barber and Beauty College (February 21, 2020)
- Huntington Academy of Permanent Cosmetics (February 27, 2020)

- Ilearn Institute (February 26, 2020)
- Institute of Contemporary Psychoanalysis (February 13, 2020)
- International Christian Education College (March 2, 2020)
- International House San Diego (February 14, 2020)
- International Institute of Permanent Cosmetics (March 25, 2020)
- International University of California (January 15, 2020)
- Internexus (February 21, 2020)
- J C Truck Driving School (March 6, 2020)
- Jen's Styles & Beauty Training Center (October 21, 2019)
- Jinshan Institute of Clinical Massage (March 25, 2020)
- Jupiter Hollow School for Massage (January 16, 2020)
- Las Americas Technical and Vocational School (March 25, 2020)
- LRS Computer Techniques (December 2, 2019)
- Magnum Security Academy (November 19, 2019)
- Marie Beauty College (March 4, 2020)
- Marin Beauty Academy (January 30, 2020)
- Merit University (March 2, 2020)
- Methodist Theological Seminary in America (November 6, 2019)
- Micro-Easy Vocational Institute (January 9, 2020)
- Milan Institute (November 13, 2019)
- Modesto Technical College (December 19, 2019)
- Montessori Institute of Advanced Studies (November 13, 2019)
- Montessori Teacher Education Center/ San Francisco Area (October 17, 2019 and February 3, 2020)
- National Holistic Institute (January 13, 2020)
- National Truck Driving School (February 28, 2020)
- New Creation College (December 24, 2019)
- Northwood University (February 6, 2020)
- Oikos University (October 24, 2019)
- Orange County EMT (November 20, 2019)
- Olivet University (October 24, 2019)
- P. Steve Ramirez Vocational Training Centers (March 6, 2020)
- Pathways College, LLC., Nursing and Health Care Careers (February 4, 2020)
- Professional School of Psychology (February 24, 2020)
- Pro-Tech Life Safety Services (December 21, 2019)
- Q International School (February 25, 2020)
- Reach Institute for School and Leadership (February 14, 2020)
- Rosemead Beauty School (February 13, 2020)
- Royale College of Beauty and Barbering (October 23, 2019)
- Saint Joseph's School of Nursing (December 23, 2019 and February 4, 2020)
- San Diego Culinary Institute, Inc. (January 16, 2020)
- Santa Clara Beauty College (January 2, 2020)
- Santa Monica Montessori, Inc. (February 3, 2020)

- School of Holistic Touch, Inc. (February 18, 2020)
- Sierra College of Beauty (February 25, 2020)
- Sierra Nevada College (February 4, 2020)
- Silicon Valley School of Nursing (February 4, 2020)
- Sofia University (January 21, 2020)
- Southern California International University (February 5, 2020)
- St. Giles Colleges, Inc. (November 25, 2019)
- St. Jude Nursing School (January 23, 2020)
- Stellar Career College (January 29, 2020)
- Stockton Christian Life College (March 18, 2020)
- Straight Perm Beauty School.com (January 23, 2020)
- Studio Arts (February 20, 2020)
- Sum Bible College and Theological Seminary (October 24, 2019)
- Technical College (March 19, 2020)
- The Accounting Academy (February 7, 2020)
- The Coastal Trucking Institute, LLC (March 16, 2020)
- The Devmasters (March 9, 2020)
- Toni & Guy Hairdressing Academy (February 3, 2020)
- Training Institute for Addiction Counselors (January 29, 2020)
- Trinity School of Nursing (January 31, 2020)
- Truck Driving Academy (February 27, 2020)
- TTL College (January 23, 2020)
- Unitek College (December 9, 2019)
- Universal Healthcare Careers College (November 19, 2019)
- Universal Schools & Colleges of Health & Human Services, Inc. (February 4, 2020)
- Universal Technical Institute of California, Inc. (December 27, 2019)
- Universidad Tecnica Online, LLC (April 1, 2020)
- University of East-West Medicine (February 13, 2020)
- University of Northern California (October 23, 2019 and February 5, 2020)
- University of San Jose (January 6, 2020)
- University of St. Augustine for Health Sciences (February 19, 2020)
- USA Expedition, Inc. (November 6, 2019)
- Valley College of Medical Careers (April 1, 2020)
- Veterinary Allied Staff Education (March 5, 2020)
- VIP Nursing School, Inc. (February 19, 2020)
- Watsonville Institute of Cosmetology (January 30, 2020)
- Welding Skills and Training Center, Inc. (November 19, 2019)
- Western Truck School (October 31, 2019)
- Yeshiva Ohr Elchonon Chabad (November 20, 2019)
- ZMS The Academy (February 5, 2020)

## Accusations of Violations

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

- Alliance School of Trucking: [Accusation](#) (February 4, 2020)
- Computer Institute of Technology: [First Amended Accusation](#) (February 4, 2020)
- Bich Ngoc Beauty College, Inc. DBA Diamond Beauty College: [First Amended Accusation and Petition to Revoke Probation](#) (November 27, 2019)
- Holberton School: [Emergency Decision Modified and Affirmed](#) (February 4, 2020); [Accusation](#) (February 4, 2020)
- Oikos University: [First Amended Accusation](#) (December 12, 2019); [Stipulated Settlement and Order](#) (February 7, 2020)
- The Cosmo Factory Cosmetology Academy: [Accusation](#) (March 3, 2020)
- University of Los Angeles: [Order Suspending Degree Granting Programs](#) (January 16, 2020)

## 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:

- Avid Career College: [Statement of Issues](#) (February 7, 2019); [Decision and Order](#) (November 19, 2019)
- Bradford University: [Order Suspending Approval to Operate Degree Granting Programs](#) (November 20, 2019)
- Honor Health Sciences, Inc.: [Statement of Issues](#) (December 12, 2019)
- Institute of Contemporary Psychoanalysis: [Statement of Issues](#) (January 16, 2020)
- Los Angeles Institute and Society for Psychoanalytic Studies: [Statement of Issues](#) (December 27, 2019)
- Sliderule Labs, Inc. DBA Springboard: [Statement of Issues](#) (January 16, 2020)

## LEGISLATION

- [AB 1343 \(Eggman\)](#), as amended on June 11, 2019, is a two-year bill that would add section 94918.5 to the Education Code to prohibit private postsecondary institutions from enrolling residents of California unless they can demonstrate, through audited financial statements, that no more than 85% of the institution's tuition revenue is derived from student financial aid

provided by a federal agency or not less than 50% of the institution's tuition revenue is dedicated to student instruction and support. The bill would require compliance by January 1, 2023. According to the author, the purpose of this bill is to protect students from predatory school programs and to protect from wasteful spending on education using taxpayer money. [*S. BP&ED*]

- [H.R. 748 \(Courtney\)](#), as amended on March 25, 2020, otherwise known as the CARES Act, creates a national legislative response to the COVID-19 pandemic. Among its many provisions, the bill includes section 18004 and section 18005, which allow all colleges to retain federal funds allocated to assist qualifying students, even if those students drop out due to COVID-19 emergencies. Because for-profit institutions have a 77% dropout rate, compared to 41% for public institutions and 34% for private non-profit institutions, for-profit institutions will disproportionately retain more of the money they collect via federal loans to their students. According to [USDOE allocation data](#), the CARES Act also provides over a billion dollars in handouts to for-profit institutions. Although H.R. 748 does not directly apply to BPPE, the Bureau is tasked with protecting students against for-profit business malpractices that may lead to loss of student tuition. Accordingly, the Bureau will need to ensure that the institutions receiving and keeping the CARES Act federal funds have appropriate refund policies in place so as not to cause student harm. President Trump signed H.R. 748 on March 27, 2020 (Public Law No: 116-136).

- [H.R. 4625 \(Levin\)](#), as amended on November 12, 2019, would amend various sections within title 38 of the United States Code regarding the use of veterans' education benefits at educational institutions. Of note, amended section 3673 would permit a state agency, such as BPPE, or the federal government, to prohibit institutions subject to disciplinary sanctions by the school's accreditor from accessing future GI Bill benefits by enrolling student veterans. Amended section 3696 would clarify the definition of "substantial misrepresentations" by an institution and

limits certain advertising, sales, and enrollment practices for institutions that enroll veterans as students. The bill has received bipartisan support and on November 13, 2019, H.R. 4625 was referred in the Senate and referred to the Committee on Veterans' Affairs.

## LITIGATION

- ***Sweet v. DeVos, Case No. 19-cv-03674 (N.D. Cal.)***. On April 10, 2020, the parties filed a motion for preliminary approval of a [Settlement Agreement](#) in this class action complaint filed in June 2019 on behalf of a class of thousands of former students of for-profit schools who have filed applications for borrower defense to repayment of student loans against the U.S. Department of Education. The settlement promises nearly 170,000 class members that USDOE will provide final decisions on their pending claims within 18 months, and where appropriate, relief within 21 months of the agreement's effective date. Although this agreement does not apply to BPPE, California plaintiffs who do not qualify for full relief under the federal Borrower Defense application will likely apply for STRF reimbursement to recover any prepaid tuition from the school. The hearing for the Motion for the Settlement Agreement is scheduled for May 21, 2020.

- ***Calvillo Manriquez v. DeVos, Case No. 3:17-cv-07210 (N.D. Cal.)***. On October 24, 2019, the Court found U.S. Secretary of Education Betsy DeVos and the U.S. Department of Education, in contempt of court for failure to comply with the court's May 25, 2018 [preliminary injunction](#) order to stop the Department of Education from collecting on Plaintiffs' loans in a class action on behalf of 110,000 former students of now-defunct for-profit Corinthian Colleges. The court [ordered](#) USDOE to pay \$100,000 in sanctions to a fund held by Plaintiffs' counsel and provide monthly status reports relevant to USDOE's compliance with the preliminary injunction. While defendants' interlocutory appeal with the ninth circuit is still pending, defendants did not

dispute that they had been in violation of the order. A hearing on defendants' motion for reconsideration of the sanctions order is set for May 11, 2020.

- ***Federal Trade Commission v. The University of Phoenix, Inc., Case No. 2:19-cv-05772ESW (D. Ariz.)***. On December 10, 2019, the Federal Trade Commission (FTC), filed a [complaint](#) alleging the University of Phoenix (UOP), and its parent group Apollo Education Group, Inc., had engaged in misleading and deceptive advertising practices regarding the school's curriculum, their relationships with corporate partners, and student's employment opportunities after graduation in violation of Section 5(a) of the FTC Act, 15 U.S.C. §45 (a), which prohibits "unfair or deceptive acts or practices in or affecting commerce." The complaint also alleges that UOP specifically targeted current and former military members and Hispanics in its advertisements, which resulted in UOP being the largest recipient of Post-9/11 GI Bill benefits since the program's inception in the amount of \$2.1 billion. That same day, UOP agreed to a [record settlement](#) of \$191 million, paying \$50 million to the government for consumer refunds and cancelling \$141 million in student debt held by students lured in by the specified deceptive ads, while making no admission of wrongdoing.

- ***New York Legal Assistance Group v. DeVos, Case No. 1:20-cv-01414 (S.D.N.Y.)***. On February 19, 2020, the New York Legal Assistance Group (NYLAG) filed a [complaint](#) to invalidate USDOE's new borrower defense rules, which roll back protections for student borrowers against predatory institutions by (a) eliminating conditions on the use of forced arbitration and class-action bans; (b) increasing the hoops students must jump through to obtain relief when their school closes; (c) removing key institutional disclosure requirements; (d) imposing a narrow three-year statute of limitations for borrowers to raise claims; (e) eliminating the ability of borrowers to seek relief on a groupwide basis; and (f) increasing the evidentiary

standard to which borrowers' claims would be held, including requiring students to offer proof of financial harm beyond that of the federal loan itself. The complaint also asserts USDOE failed to comply with rulemaking procedures required by the federal Administration Procedures Act to implement the new rules. If these new rules are allowed to go into effect, student borrowers residing in California whose institutions engaged in misconduct or closed suddenly are likely to seek relief from the STRF for reimbursement of their pre-paid tuition if their federal student loans are not forgiven.