



CLIENT NEWS BRIEF

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NEW REGULATIONS ISSUED BY THE BUREAU OF PRIVATE POSTSECONDARY EDUCATION; APPLICATIONS TO OPERATE DUE AUGUST 2, 2010

Over the years, California has struggled to regulate both accredited and non-accredited private postsecondary educational institutions. These institutions include both private postsecondary schools and colleges, as well as other schools offering an education to the public for a charge, in everything from computer technology to cosmetology. According to the Legislature's own findings, all prior attempts at regulation have "failed to ensure student protections or provide effective oversight of private postsecondary schools." (Ed. Code, § 94801 (c).)

In its most recent attempt to ensure the sound operation of these institutions, and appropriate protections for students, the Legislature enacted the California Private Postsecondary Education Act of 2009 ("2009 Act"), signed into law by Governor Schwarzenegger on October 1, 2009.

Unless an institution is categorically exempt under Education Code section 94874, all private postsecondary educational institutions with a physical presence in California are subject to the 2009 Act and new regulations recently issued under it (discussed below). Currently, those institutions seeking State approval to operate must submit their applications by August 2, 2010.

A Brief History of California's Attempts to Regulate Private Postsecondary Education

Beginning in the late 1980s, the public began to voice concerns about the integrity and quality of education and the validity of diplomas being issued by some private postsecondary educational institutions in California. As a result of multiple failed attempts to regulate these institutions, the Legislature enacted the Private Postsecondary and Vocational Education Reform Act of 1989 ("Reform Act"), granting regulatory oversight to the newly formed Bureau for Private Postsecondary and Vocational Education ("BBPVE") within the Department of Consumer Affairs.

During the early 2000's, numerous studies were conducted, criticizing the effectiveness of the BBPVE and the Reform Act. The studies found major problems in the structural framework of the Reform Act, with different and often confusing rules governing different categories of institutions. On June 30, 2007, the Reform Act expired, with only temporary measures remaining in place to ensure minimal oversight until such time that the Legislature passed new, comprehensive regulatory legislation. The Reform Act was ultimately repealed on January 1, 2008.

The Bureau for Private Postsecondary Education is Born

With the enactment of the 2009 Act, the Legislature has reestablished, after a two and one-half year absence, regulation of private postsecondary educational institutions. The 2009 Act

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replaces the former BBPVE with the new Bureau for Private Postsecondary Education ("BPPE"). The 2009 Act also requires BPPE to issue [new regulations](#), which it did on February 1, 2010, although these regulations are subject to further revisions.

Some of the most significant changes brought about by the new regulations include the following: (i) a comprehensive list of all the information that must be included in an institution's application to operate, its student enrollment agreement, and its institutional catalog; (ii) the required components of an institution's educational program; (iii) what must be included in an institution's financial reports if requested by BPPE; (iv) how an institution must respond when a student withdraws, including the minimum required elements of an institution's refund policy; and (v) for how long, and the manner in which, the institution must maintain all student records.

The new regulations also include transitional provisions which apply to those institutions that previously received a valid approval to operate from the *former* BBPVE, or which had an application pending with the former BBPVE as of June 30, 2007, or which began operations on or after July 1, 2007 (i.e., during the two and one-half year period when no regulatory agency was in place). For those institutions which fall into either category, the deadline to submit an application to BBPE is August 2, 2010. (Ed. Code, § 94809.)

Should you have any questions regarding the new regulations and how they may impact your institution, please do not hesitate to contact any of our [seven](#) offices located statewide. For more information on LOZANO SMITH's Higher Education Practice Area, please be sure to visit our [website](#).



INTRODUCING ATTORNEY KEVIN MILLS

Noted higher education attorney Kevin Mills has joined the firm as a shareholder in our Walnut Creek office. Most recently, Kevin was a partner with the San Francisco law firm of Burgess, Mills & Ring. His practice is focused on providing general counsel and litigation services to private and public universities operating in California. Kevin also represents private and non-profit corporations, as well as individuals, in business advising, litigation, and employment matters. Read [more](#).

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