

History of the Bureau for Private Postsecondary Education

The modern iteration of the Bureau for Private Postsecondary Education (BPPE) was established on January 1, 2010 through AB 48 (Portantino, Chapter 310, Statutes of 2009). Prior to the current BPPE, the state made multiple attempts to regulate for-profit colleges and other private postsecondary schools; many of these efforts are regarded as having been largely unsuccessful. In the BPPE's 2014 sunset review, statute was enacted stating that "the Legislature advises future policymakers to continually and carefully evaluate" the BPPE and its regulatory authority.

Private postsecondary schools were previously regulated by a division within the California Department of Education; however, by the end of the 1980s, the state had purportedly become regarded as the "diploma mill capital of the world." This led to the enactment of the Private Postsecondary and Vocational Education Reform Act of 1989 (Reform Act), which was intended to "promote the effective integration of private postsecondary education into all aspects of California's educational system and to foster and improve the educational programs and services of these institutions while protecting the citizens of the state from fraudulent or substandard operations." That year, the Legislature also enacted Maxine Waters School Reform and Student Protection Act, which first set a threshold for minimum job placement and graduation rates.

These two reforms, which were ultimately merged, created a new regulatory entity established as the Council on Private Postsecondary and Vocational Education (CPPVE). The CPPVE was given authority to approve and disapprove private postsecondary schools, and it used this power aggressively and at times controversially. In 1996, Columbia Pacific University engaged in litigation against the CPPVE for denying its application for approval. The CPPVE ultimately prevailed in this litigation, but the CPPVE was left with a public perception that it was overly belligerent in its regulation of educational institutions.

A review by the California Postsecondary Education Commission recommended that both the CPPVE and the Reform Act be permanently extended beyond their June 30, 1997 sunset date. However, the bill to extend that sunset date by five years (AB 2960, Firestone and Campbell) was vetoed by Governor Pete Wilson. The Governor's veto message stated that he believed "many of the bad operators have left the state or gone out of business" and that the remaining schools "have described a pattern of reprisals and vindictiveness in dealing with the Council staff." Governor Wilson wrote that he "would like to have more assurances that we are not making it impossible or unreasonably difficult for many small businesses to operate before I extend the life of the Council."

Urgency legislation was introduced in 1997 (AB 71, Wright) to extend the Reform Act and respond to the Governor's veto message by making numerous changes to how its provisions were carried out. In support of the bill, the California Postsecondary Education Commission stated that the Reform Act had "become a model for federal standards and other states, its regulation of private postsecondary education is a major improvement over the conditions that existed prior to its creation." The bill was opposed by numerous schools that had been regulated by the CPPVE and who believed the Reform Act simply resulted in "costly overregulation over private institutions" that "discourages new schools from investing in California."

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AB 71 was signed into law extending the provisions of the Reform Act; however, the bill allowed the CPPVE to be repealed on its sunset date. In its place, the bill established a new Bureau for Private Postsecondary and Vocational Education (BPPVE) created within the Department of Consumer Affairs. The extension of the Reform Act transferred all of the CPPVE's responsibilities for its implementation to the new BPPVE.

The creation of a new bureau, however, did not rectify concerns that the state was not appropriately overseeing private postsecondary schools. A 2000 audit of the Department of Consumer Affairs found that the BPPVE's licensing process was "not prompt or consistent" and that its complaint resolution procedures were inadequate. Following a review by the recently established Joint Legislative Sunset Review Committee in 2002, the BPPVE was tasked with streamlining the Reform Act, making its regulatory processes more efficient, and improving its data collection and reporting systems.

In 2004, SB 1544 (Figueroa) was enacted to provide the BPPVE with an Enforcement Monitor to examine the bureau's operations. The Enforcement Monitor's resulting report stated that there had been a "twenty-year record of repeatedly identified, fundamental problems in every one of the Bureau's key operations." That year, Governor Arnold Schwarzenegger vetoed AB 711 (Correa), which would have added additional exempted schools to the Reform Act; in his veto message, the Governor stated that it "fell short of its objective to streamline functions of the Bureau." In 2006, SB 1473 (Figueroa) was introduced to replace the Reform Act with new provisions within the Business and Professions Code and to recast the BPPVE; however, this bill was subsequently held on suspense.

That same year, legislation to extend the sunset on the Reform Act and the BPPVE was once again vetoed by the Governor. In his veto message, Governor Arnold Schwarzenegger commented that he "supported meaningful protections for students of California's private postsecondary and vocational institutions" but that because SB 1473 failed to pass the Legislature, extending the sunset date on the BPPVE "does nothing to enhance protections for students, allows problems that have been well documented to continue to exist, and merely allows mediocrity for California's students." A second bill to extend the state's regulation of private postsecondary schools through a modernization of the Reform Act, SB 823 (Perata), was also vetoed, and the Governor directed the Department of Consumer Affairs to take on the bureau's oversight responsibilities while a better replacement for the Reform Act was negotiated.

Following the Governor's vetoes, the Reform Act became inoperative on July 1, 2007 and the bureau was subjected to repeal. AB 1525 (Cook) was chaptered in 2007 to provide for a transition plan for business still pending before the BPPVE, and to give the Director of Consumer Affairs clear authority to take on the bureau's responsibilities. That bill also created the Student Tuition Recovery Fund. Later bills extended some of AB 1525's provisions.

In the years following the sunset of the BPPVE and the Reform Act, private postsecondary schools were subject to little or no oversight by the state. Finally, AB 48 (Portantino) was chaptered in 2009 to revive the state's regulation of private postsecondary institutions. That bill reinstated the authority of the BPPVE, rebranded and recast as the BPPE, and established the

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California Private Postsecondary Education Act of 2009. The bill sought to institute a more efficient and effective oversight entity to carry out implementation of a stronger consumer protection act. The BPPE was ultimately restored full funding in late 2010.

The BPPE continues to be subject to significant scrutiny by the Legislature and advocates. SB 1247 (Lieu) was chaptered in 2014 to provide the BPPE with only a two year sunset extension before further review while making a number of reforms to the California Private Postsecondary Education Act. In the BPPE's 2016 sunset review, staff outlined a number of ongoing issues relating to the operation of the bureau, ultimately providing no immediate recommendation as to whether the BPPE's sunset should be extended and stating that "the Bureau has faced significant difficulties in implementing the law. It is important that California's approval and oversight of an institution assures minimum quality and student protections."

In 2016, the BPPE's sunset date was again extended until January 1, 2021, with numerous reforms made in response to recent high-profile litigation and school closures. SB 1192 (Hill) established an Office of Student Assistance and Relief "for the purpose of advancing and promoting the rights of prospective students, current students, or past students of private postsecondary educational institutions." The bill also expanded the BPPE's authority to oversee out-of-state private postsecondary schools serving students in California, requiring registration and basic approval standards. Finally, the bill required approved institutions under investigation by entities other than the BPPE to report that investigation and its nature within 30 days.

The BPPE will next undergo sunset review in 2020. It is anticipated that the success of the new Office of Student Assistance and Relief and the effects of recent changes in management will be discussed, and the BPPE will be expected to demonstrate how it has improved its operates sufficiently to be a strong regulator on behalf of California students. Until then, the framework that has been put into place through careful oversight by the Legislature is cause for optimism that the BPPE is well-equipped to exercise its current responsibilities and expand into new opportunities for safeguarding the interests of Californians.