

CALIFORNIA ISSUES REGULATIONS AFFECTING FLIGHT SCHOOLS

May 6, 2010

What's at Issue

Late last year, California passed [Assembly Bill 48](#) (AB48), which reauthorized the Bureau for Private Post Secondary Education (BPPSE). AB48 removed an exemption for flight training facilities that had been included in previous versions of the BPPSE's authorizing legislation. The BPPSE recently issued its [proposed regulations](#) for public comment.

Why it's Important

The purpose of the BPPSE is to ensure that students receiving post-secondary education in the state receive quality instruction and are protected from loss of pre-paid tuition in the event of an institution's closure. The BPPSE has classified flight training facilities as post-secondary educational institutions and, therefore, subject to its regulation.

Major Provisions

The proposed regulations stipulate the minimum requirements for a post-secondary educational facility to receive the BPPSE's "approval to operate" in the state. Additionally, the proposed regulations establish a series of fees that must be paid to the state by post-secondary educational institutions.

Applicability

Currently, the BPPSE is interpreting AB48 in a way that will require the bureau to regulate all flight training providers regardless of size. Under this interpretation, an independent certified flight instructor will be required to comply with all provisions of the proposed rules just as a large Part 141 school would.

Application for "approval to operate"

All non-exempt post-secondary educational institutions must submit an [eight-page application](#) for "approval to operate" to the BPPSE. This application will require the submission of:

- Name, location and contact information of the institution
- Business Organizational Information
- List of all individuals having 25% or more ownership in the institution
- Management Organizational Chart
- Job Descriptions of each administrative and instructor position
- Document describing the education, experience and qualifications for individuals serving as:
 - Chief Executive Officer
 - Chief Operating Officer
 - Chief Academic Officer

OVER...

(Major Provisions Continued)

- The institution's mission statement and objectives
- Examples of all student enrollment agreements and instruments of indebtedness
- Copies of all public advertising
- Description of the educational programs the institution offers
- Audited Financial Statements

In order to receive "approval to operate" in the state, the application must demonstrate that the facility meets all of the minimum operational standards listed in the proposed regulation.

Visiting Committees

Under the proposed regulations, the BPPSE may elect to inspect a facility prior to providing an "approval to operate" by utilizing a visiting committee. The visiting committee will be composed of individuals, chosen by the BPPSE, with educational experience in the applying facility's educational program. The applying facility may object to the naming of certain individuals, including competitors, to the visiting committee. The proposed regulations require the committee to "conduct a comprehensive, qualitative onsite inspection and review of all aspects of the institution's operations to evaluate the institution's efforts to implement its mission and objectives." The committee would be authorized to:

- Inspect all of the institutions facilities and equipment
- Audit student instruction
- Interview students, instructors and executives

Minimum Operational Standards

In order to receive an "approval to operate," an institution must demonstrate compliance with all minimum operational standards, which include:

- Minimum standards for educational programs
- Minimum standards for faculty/instructors
 - All instructors must have at least three years of education or experience in the field they teach or the institution must demonstrate equivalency.
- Minimum Financial Resources - The minimum financial resources requirements must be demonstrated by annual audited financial statements
 - An asset to liability ratio of at least 1.25:1
 - Facilities must maintain the ability to pay all operating expenses within 30 days

Student Tuition Recovery Fund

The proposed regulations create the Student Tuition Recovery Fund (STRF) that is designed to protect students who have pre-paid their tuition from loss in the event that their post-secondary educational institution goes out of business or is otherwise unable to provide the agreed-on education. All post-secondary facilities are required to collect an assessment of \$2.50 per \$1,000 paid from all students residing in California at the time of their enrollment for deposit into the STRF.

Fees

The proposed regulations establish a series of fees in addition to the STRF assessment.

Application Fee - \$5,000

Application Fee for each additional location - \$3,000

Renewal Fee (every 5 years) - \$3,500

Annual Fee per location - \$1,000

MORE...

(Major Provisions Continued)

In addition to the fees listed above, all facilities must also pay an annual fee equal to” three-quarters of 1 percent of the institution’s annual revenues derived from students in California, but not exceeding a total of twenty-five thousand dollars (\$25,000) annually.”

NATA Position

In light of a recent situation where students in California lost tens of thousands of dollars of pre-paid tuition when their flight school went out of business, NATA understands the state’s desire to ensure appropriate protections for students. NATA’s concern lies in the fact that these proposed regulations were crafted without an understanding of the flight training industry. A quick read of both AB48 and the proposed regulations demonstrates that these rules were designed for traditional private colleges and technical schools, not the hundreds of small businesses that provide flight training in California.

NATA believes that these regulations will have two effects on flight training in the state. First, many flight training providers, being unable economically to bear the burden of complying with rules that do not take into account the unique nature of their operations, will be forced to cease operation or move out of state, costing the state dearly in both jobs and economic activity. Secondly, this decrease in availability of flight training providers will funnel all training into the limited number of larger providers, who have the administrative structure to deal with these rules.

NATA believes that the state must re-institute the exemption for flight training providers from BPPSE regulation. Further, NATA believes that there are simple, commonsense regulatory steps that can be taken to protect California students from predatory training providers that will not overly burden the vast number of quality flight training facilities that provide quality instruction to their students.

Status

The proposed regulations are available for review [here](#), and will be open for public comment until June 7, 2010. A [public hearing](#) will be held for the BPPSE to receive comment on the proposed regulations in Sacramento, CA, on June 7, 2010.

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