

California Jumps in with Sweeping Statutory Proposals – Part II (Registered Online Institutions and STRF)

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As noted in our [blog post last week](#), a group of six California Assembly members have coordinated in authoring a legislative package of seven bills impacting higher education in (and out of) that state. This is part two in our discussion of these legislative proposals, which may reshape parts of higher education regulation in California and create ripple effects for other institutions around the country and the students they serve.

These bills (AB1340 through 1346) focus on institutions offering education to residents of California [under the approval of](#), or [through registration with](#), the Bureau for Private Postsecondary Education (BPPE). Framing the bills to capture institutions with BPPE authorization [or registration](#) potentially could have a huge impact on the latter category. Specifically, the reference to registration captures many out-of-state institutions that serve students in California or enroll California residents in their online programs.

The amendment relating to the registration process would subject those out-of-state institutions to the entirety of the California Private Postsecondary Education Act (CPPEA), in contrast to the current system in which those out-of-state institutions are subject to the California Student Tuition Recovery Fund (STRF) requirements but not the other provisions of the CPPEA. While the impact on out-of-state institutions would be significant, California students seeking to enroll in online programs offered by those institutions would see the greatest impact. When faced with the burdensome prospect of complying with both home-state and BPPE requirements, institutions may be forced to make a tough decision: dedicate the time and financial resources to needed to comply with all BPPE requirements, or forgo enrolling California students altogether. In addition, this decision would increase pressure from registered institutions that choose to “opt in” to the BPPE requirements to ensure all colleges subject to the registration requirement complete this step.

[AB1344](#)

This bill would affect out-of-state institutions that offer online programs to California residents and are required to be registered in the state (i.e., all private institutions that do not have a physical presence in California but enroll California students in online programs that are not degree-granting public or non-profit accredited institutions).

Currently these institutions can be registered simply by submitting information about their home state authorization and accreditation and agreeing to comply with the BPPE's STRF regulations. Under the proposed law, they would need to comply with the entirety of the CPPEA and regulations for each California student they enroll.

It is unclear how any out-of-state institution could bifurcate its compliance model to comply with California's laws and regulations only for certain students, or how the BPPE would appropriately oversee institutions across the country. For example, how could the BPPE meet the CPPEA requirement to conduct regular compliance inspections of an approved school in Florida or Texas? Moreover, how would these institutions manage their compliance with their home-state laws and regulations, which are not congruent with the California requirements?

On a closely watched related matter, this also sends a strong message that California legislators (at least Democratic legislators) will not be receptive to a bill to allow California to enter the State Authorization Reciprocity Agreement (SARA). California has long indicated that it does not trust any other state to provide sufficient protections for its residents and AB1344 reinforces that message.

[AB1346](#)

This bill would expand the definition of “economic loss” for purposes of students' eligibility for relief from the STRF. The proposed language includes “any amounts paid in connection with attending the institution, and all principal, interest and charges of any kind for a loan incurred by a student to pay these amounts.” This language is extremely broad and it is unclear how the Assembly would define “amounts paid in connection with” attendance. Further, it is not evident how this expanded form of relief under state law would work in cases of school closures (a prerequisite for STRF eligibility) where the students are eligible for or actually receive a discharge of their federal loans, including all fees and charges.

At this time, these bills are legislative proposals that are just beginning to wind their way through the legislative review process. They have not yet been assigned to a committee and there is no evident parallel action in the California Senate. Nevertheless, the concerted effort of a powerful bloc within a large Democratic majority to introduce seven coordinated bills, all targeting the same sector of education, is a rarity. Particularly because so many out-of-state institutions are authorized or registered in California, the impact could go well beyond this single state and affect institutions all over the country.

Cooley will continue to provide summaries of the individual proposals, track these bills and provide updates as the sausage is made (er, as the legislative process unfolds).

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