

CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 10. BUREAU FOR PRIVATE AND POSTSECONDARY EDUCATION
EXEMPTION VERIFICATION
TEXT OF PROPOSED REGULATIONS

§ 940. Bureau for Private and Postsecondary Education Exemption Verification.

(a) To request verification from the Attorney General pursuant to Education Code section 94874.1, subdivision (a), the nonprofit institution must submit the “Application for Verification,” Form CT-SCHOOL-1.

(b) The Application for Verification must be signed under penalty of perjury by the nonprofit institution’s president, chief executive officer, treasurer, or chief financial officer and must include all of the following:

(1) The name of the nonprofit institution, any and all doing business as (DBAs) operating names, its telephone number, and its website address;

(2) The mailing address of the nonprofit institution;

(3) The physical address of the nonprofit institution’s primary administrative location in California, if any;

(4) The name, title, address, email address, and telephone number of an individual who is the nonprofit institution’s contact person for the purposes of the Application for Verification;

(5) Federal Employer Identification Number and Corporation or Organization Number;

(6) Information requested in Part B of the Application for Verification, including:

(A) The effective date and a full description of the transaction converting the institution from for-profit to nonprofit status, including all agreements entered into between the nonprofit institution and the for-profit institution, all related financial information, and a statement from the nonprofit institution’s board of directors as to why they believe the transaction is or was necessary or desirable.

(B) A statement of whether the nonprofit institution acquired the for-profit institution’s assets for no more than the fair value of the assets. “Fair value” must be demonstrated by one of the means listed in Education Code section 94874.1, subdivision (c).

(C) If the nonprofit institution acquired the for-profit institution’s assets for no more than the fair value of the assets, a statement of whether the nonprofit institution executed agreements for goods or services for no more than the fair value of the goods or services. “Fair

value” must be demonstrated by one of the means listed in Education Code section 94874.1, subdivision (c).

(D) If the nonprofit institution executed agreements for goods or services for no more than the fair value of the goods or services, a statement of whether all core functions of the nonprofit institution are conducted by, or under the direction of, the nonprofit institution. The term “core functions” includes control of student instruction; academic research and public service; curriculum development and management and development of instructional personnel; institutional support including management and planning; student recruitment and marketing; and faculty recruitment and retention.

(E) If all core functions of the nonprofit institution are conducted by, or under the direction of, the nonprofit institution, a statement of whether the nonprofit institution entered into any contracts, loans, or leases with a term longer than three years with the former for-profit institution’s owners and managers. This requirement, however, does not apply to a nonprofit institution that previously operated as a for-profit institution owned by or controlled by a public institution of higher learning.

(c) The Attorney General may require the nonprofit institution to submit additional information to complete the evaluation of the Application for Verification. Failure to provide the Attorney General with sufficient additional information to evaluate the Application for Verification may be grounds for denying verification.

(d) The Application for Verification will not be deemed received under Education Code section 94874.1, subdivision (d), until the Attorney General has received all the information the Attorney General determines is necessary for the required verification, including, all information required by the Application for Verification, and all additional information requested by the Attorney General.

(e) At the time it submits its Application for Verification or any additional information as requested by the Attorney General, the nonprofit institution has the sole burden of designating any specific information that it believes should be treated as confidential and providing a detailed explanation supporting the request for confidentiality. If the nonprofit institution designates any of the information in the Application for Verification or submission of additional information as confidential, the nonprofit institution must provide the Attorney General with one unredacted copy and one redacted copy of the information believed to be confidential. The Attorney General has sole discretion in determining whether the requested information will be treated as confidential and will consider whether the public interest in maintaining the confidentiality of that information clearly outweighs the public interest in disclosure. The Attorney General will determine the validity of the confidentiality claim and communicate that determination to the nonprofit institution before any public disclosure of the information.

(f) The nonprofit institution must submit the completed Application for Verification to the Attorney General by uploading it on the Department’s website at <https://oag.ca.gov/charities>, and submitting one hard copy or one electronic copy on a compact disc or flash drive to the following address:

Department of Justice
Office of the Attorney General
Registry of Charitable Trusts
P.O. Box 903447
Sacramento, CA 94203-4470

Note: Authority cited: Section 94874.1, Education Code. Reference: Sections 94874.1 and 94874.9, Education Code.