

AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 823

Introduced by Senator Perata

February 23, 2007

An act to amend Sections 94808, 94809, 94854, and 94952 of, and to amend and renumber Section 94723 of, add Chapter 7 (commencing with Section 94700) to Part 59 of Division 10 of Title 3 of the Education Code, relating to private postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 823, as amended, Perata. Private postsecondary education: *California Postsecondary Education Act of 2007*.

(1) The Private Postsecondary and Vocational Education Reform Act of 1989 generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes in the Department of Consumer Affairs the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act.

The act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The act specifies that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes. ~~The act includes provisions defining numerous terms for the purposes of the act.~~

~~This bill would recast and revise the provision that defines "correspondence school" or "home study school" for the purposes of~~

the act, and would replace those terms with “distance learning school,” as defined.

(2) The act requires each institution that is approved to operate under its provisions to report to the bureau specified information about its educational programs.

This bill would require these institutions to submit these reports in specified electronic formats. The bill would further require these reports to contain additional specified information relating to students attending the institutions.

(3) The act requires certain institutions approved to operate under its provisions to submit specified information regarding the placement of their students in employment.

This bill would revise the definition of “employment” for these purposes to specify that certain hourly minimums in that definition apply to full-time or part-time employment with a single employer.

(4) The act authorizes the Attorney General, or any district attorney or city attorney, to make investigations to carry out its provisions.

This bill would authorize these officials to obtain from the bureau, without charge, any documents related to an institution that may be useful to an investigation of that institution.

(5) A provision of the act provides for it to become inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

The bill would declare that it would not become operative unless and until another statute amending this provision to change the date of the repeal of the Private Postsecondary and Vocational Education Reform Act of 1989 to a date that is after January 1, 2008, is chaptered and becomes operative.

This bill would recast, revise, and reenact the provisions of the Private Postsecondary and Vocational Education Reform Act of 1989 as the California Private Postsecondary Education Act of 2007. The bill would establish the Board for Private Postsecondary Education in the Department of Consumer Affairs, and would provide that the board would succeed to the duties assigned to the bureau under the 1989 act.

The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, thereby making an appropriation. Certain violations of the new act would be punishable as crimes, thereby establishing a state-mandated local program.

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.*

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) The bill would not become operative unless and until A.B. 1525 is chaptered and becomes operative.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. *It is the intent of the Legislature that the most*
2 *qualified and experienced staff continue working in the program*
3 *to regulate under the California Private Postsecondary Education*
4 *Act of 2007, and that, in accordance with Section 19050.9 of the*
5 *Government Code, staff currently working in a regulatory capacity*
6 *with regard to those institutions subject to Chapter 7 (commencing*
7 *with Section 94700) of Part 59 of Division 10 of the Education*
8 *Code, as of June 30, 2007, should continue working to administer*
9 *that act.*

10 SEC. 2. *Chapter 7 (commencing with Section 94700) is added*
11 *to Part 59 of Division 10 of Title 3 of the Education Code, to read:*

12
13 CHAPTER 7. PRIVATE POSTSECONDARY INSTITUTIONS

14
15 Article 1. General Provisions

16
17 94700. *This chapter shall be known, and may be cited, as the*
18 *California Private Postsecondary Education Act of 2007.*

19 94701. *The Legislature finds and declares all of the following:*

20 (a) *The fundamental problems with the Private Postsecondary*
21 *and Vocational Education Program have been studied extensively*
22 *and are well documented.*

23 (b) *It is the intent of the Legislature to establish a system of*
24 *governance that addresses the problems that have led to mediocre*
25 *educational services for California students by a substandard*
26 *bureaucratic scheme.*

27 (c) *This chapter is intended to provide for full protection of*
28 *students and a quality education through a transparent,*
29 *accountable, and streamlined regulatory process.*

1 (d) Implementation of this chapter should promote an effective
2 integration of private postsecondary education into all aspects of
3 California's educational system and foster and improve the
4 educational programs and services of these institutions while
5 protecting the citizens of the state from fraudulent or substandard
6 operations.

7 (e) It is the intent of the Legislature to recognize the diversity
8 of California's private postsecondary educational enterprise by
9 establishing standards and procedures designed to foster the
10 development of high quality, innovative educational programs in
11 emerging new fields of study, and restore the integrity of the
12 education delivered via the private postsecondary industry.

13 (f) It is the further intent of the Legislature to provide for the
14 enhanced protection, education, and welfare of citizens of
15 California, its postsecondary educational institutions, and its
16 students by more effectively providing for all of the following:

17 (1) Ensuring minimum standards of instructional quality and
18 institutional stability for all students in all types of institutions,
19 and thereby encouraging the recognition by public and private
20 institutions of completed coursework and degrees issued by private
21 institutions, to the end that students will be provided equal
22 opportunities for equal accomplishment and ability through
23 articulation.

24 (2) Establishing minimum standards concerning the quality of
25 education, ethical and business practices, health and safety, and
26 fiscal responsibility to provide protection against substandard,
27 transient, unethical, deceptive, or fraudulent institutions and
28 practices.

29 (3) Prohibiting the granting of false or misleading educational
30 credentials.

31 (4) Recognizing the importance of providing adequate funding
32 through application and renewal fees and federal funding for the
33 veterans' approval process to support the state's activities in
34 implementing this chapter.

35 (5) Protecting the consumer and students against fraud,
36 misrepresentation, or other practices that may lead to an improper
37 loss of funds paid for educational costs, whether financed through
38 personal resources or state and federal student financial aid.

39 (6) Establishing a path for the development of institutions
40 offering fields of study or methods of instruction and innovative

1 *educational delivery systems not previously recognized in order*
2 *to encourage them to become fully approved institutions.*

3 *(7) Recognizing and encouraging quality nongovernmental*
4 *accreditation, while not ceding to that or any other*
5 *nongovernmental process the responsibility for state oversight for*
6 *purposes of approval, if the accreditation process fails either to*
7 *protect minimum standards of quality or to acknowledge legitimate*
8 *innovative methods in postsecondary education.*

9 *(8) Establishing an administrative agency that is staffed by*
10 *individuals who are knowledgeable about private postsecondary*
11 *education, the norms, values, and standards related to higher*
12 *education in general, and is charged with the responsibility of*
13 *developing policies and procedures for the oversight and approval*
14 *of private postsecondary education, including the responsibility*
15 *for managing a broadly construed policy and planning process*
16 *that seeks to improve state accountability for private postsecondary*
17 *education. This new body should provide the leadership, planning,*
18 *coordination, and oversight needed to maintain and develop a*
19 *strong private sector in this community.*

20

21

Article 2. Definitions

22

23 *94710. The definitions set forth in this article govern the*
24 *construction of this chapter, unless the context requires otherwise.*

25 *94711. “Academic year” generally means a period including*
26 *a minimum of 30 weeks of instruction, beginning in the fall term*
27 *of a given year and ending at the end of the summer term of the*
28 *succeeding year. Some private postsecondary institutions may*
29 *adopt a different definition (that is, calendar year) for their*
30 *academic term, to accommodate unique or nontraditional*
31 *conditions such as continuous enrollment or shorter- or*
32 *longer-term sessions.*

33 *94712. “Accredited” means that an institution has been*
34 *recognized or approved as meeting the standards established by*
35 *an accrediting agency recognized by the United States Department*
36 *of Education, or the Committee of Bar Examiners or for the State*
37 *of California. It does not include those institutions that have*
38 *applied for accreditation, or are identified by accrediting*
39 *associations as candidates for accreditation or have initial*
40 *accreditation.*

1 94713. “Agent for service of process” means an individual
2 who has consented to act on behalf of the institution’s ownership
3 to receive administrative and judicial notices and pleadings at his
4 or her California address.

5 94714. “Annual report” means the reports required to be filed
6 pursuant to Section 94802.

7 94715. “Applicant” means a person or entity that has submitted
8 an application but whose evaluation has not been completed by
9 the board. An applicant shall not enroll students or offer
10 educational services until the board has made a determination
11 regarding the application.

12 94716. An “approval” means a written document issued by
13 the board authorizing a business entity or an institution to engage
14 in the recruitment of and advertisement to students for enrollment
15 in private postsecondary education institutions approved under
16 this chapter.

17 94717. “Approval” or “approval to operate” means that the
18 board has determined and certified that an institution meets
19 minimum standards established by the board for integrity, financial
20 stability, and educational quality, including the offering of bona
21 fide instruction by qualified faculty and the appropriate assessment
22 of students’ achievement before, during, and at the end of its
23 program.

24 94718. “Associate of Occupational Studies” or “Associate of
25 Applied Science” designated by terms including, but not
26 necessarily limited to, AOS (Associate Occupational Studies) or
27 AAS (Associate Applied Science) means an associate degree that
28 may be awarded to students who complete an occupational
29 program that provides preparation for employment in an
30 occupational field.

31 94719. “Avocational education” means education offered only
32 for purposes of personal entertainment, personal pleasure or
33 enjoyment such as a hobby. Education that directly leads to an
34 objective other than personal entertainment, personal pleasure or
35 enjoyment is not “education solely avocational in nature.”

36 94720. “Board” means the Board for Private Postsecondary
37 and Vocational Education established, pursuant to Section 94780,
38 in the Department of Consumer Affairs.

39 94721. “Branch” means a site other than the main location
40 or a satellite. Only educational services that are approved at the

1 *main location shall be offered at the satellite. The name of the*
2 *“branch” location shall be identical to that of the “main” location*
3 *approved by the board.*

4 94722. *“Calendar year” means the consecutive 12-month*
5 *period beginning on January 1 and ending on December 31.*

6 94723. *“Career field” means either of the following:*

7 (a) *A field for or pursuit of consecutive progressive achievement*
8 *especially in public, professional, or business life.*

9 (b) *A profession for which one trains and which is undertaken*
10 *as a permanent calling.*

11 94724. *“Certificate” means a formal academic award that*
12 *represents, purports to constitute, or may generally be taken to*
13 *signify, completion of a course of instruction for which college or*
14 *university-level academic credit is given, but which is shorter or*
15 *more limited than that leading to a degree. A “certificate” may*
16 *be at the undergraduate or graduate level.*

17 94725. *“Change of location” means a move of up to 25 miles*
18 *of the location at which an institution offers any education,*
19 *training, or instruction. A change of location of 25 or more miles*
20 *is deemed the establishment of a new location of instruction*
21 *requiring a separate approval to operate, unless otherwise*
22 *provided by the board.*

23 94726. *“Class” means a subject matter that is taught as part*
24 *of a course of instruction.*

25 94727. *“Class session” means the part of a day that an*
26 *institution conducts instruction or training in a particular class,*
27 *such as an hour of instruction in English or mathematics offered*
28 *on a particular day of the week.*

29 94728. *“College” or “university” means any incorporated*
30 *postsecondary educational entity, and its additional locations,*
31 *offering a substantially complete program that confers or offers*
32 *to confer at least an associate degree requiring at least 15 semester*
33 *hours or the equivalent of general education, or that furnishes or*
34 *offers to furnish instruction leading toward, or prerequisite to,*
35 *college credit. The terms include any college-credit-granting*
36 *independent educational institution that is chartered in this state*
37 *and any center or branch campus within this state of an out-of-state*
38 *institution at the college-credit level, or an out-of-state institution*
39 *with a “physical presence” in this state.*

1 94729. “Course of study” means a formally organized and
2 structured series of meetings open to the general public for which
3 a fee is charged, and for which credit toward a postsecondary
4 degree either is awarded or may reasonably be understood to be
5 applicable to a degree with the intent of imparting information or
6 understanding at a level appropriate to a postsecondary audience.
7 It may be comprised of either a single course or a set of related
8 courses for which a student enrolls.

9 94729.5. “CPEC” means the California Postsecondary
10 Education Commission established pursuant to Section 66901, or
11 a successor organization.

12 94730. “Credit hour” means the unit by which an institution
13 measures its course work. The number of credit hours assigned to
14 a course is defined by the number of hours per week in class and
15 preparation and the number of weeks in a term. One credit hour
16 is usually assigned for three hours of student work per week or its
17 equivalent. The three hours of student work per week usually
18 consists of a combination of one hour of lecture and two hours of
19 homework or three hours of laboratory. Semester and quarter
20 credit hours are the most common systems of measuring course
21 work. A semester credit hour is based on at least a 15-week
22 calendar or its equivalent. A quarter credit hour is based on at
23 least a 10-week calendar or its equivalent.

24 94731. “Degree” means any type of degree or honorary degree
25 or title of any designation, mark, appellation, series of letters or
26 words including, but not necessarily limited to, associate, bachelor,
27 master, doctor, or fellow that signifies, purports to constitute, or
28 is generally taken to signify, satisfactory completion of the
29 requirements of an academic, educational, technological, or
30 professional program of study beyond the secondary school level
31 or is an honorary title conferred for recognition of some
32 meritorious achievement.

33 94732. “Degree title” means the designated subject area of
34 study that also appears on the face of the document awarded to a
35 student signifying the conferring of a “degree.”

36 94733. “Diploma” means any diploma, document, or other
37 writing in any language, other than a “degree” or “certificate”
38 that signifies, purports to constitute, or is generally taken to signify,
39 satisfactory completion of the requirements of an academic,

1 *educational, technological, or professional program of study*
2 *beyond the secondary school level.*

3 94734. *“Diploma program” means an educational program*
4 *having all of the following characteristics:*

5 (a) *The educational program consists of a job-training program*
6 *or other instruction, training, or education that the institution*
7 *represents will lead to, or fit or prepare students for, employment*
8 *in any occupation.*

9 (b) *Students who complete all or a portion of the program are*
10 *awarded a non-credit bearing diploma or certificate of completion.*

11 94735. *“Distance education” means education that is designed*
12 *for learners who live at a distance from the teaching institution*
13 *or education provider. It is the enrollment and study with an*
14 *educational institution that provides organized formal learning*
15 *opportunities for students. Presented in a sequential and logical*
16 *order, the instruction is offered wholly or primarily by distance*
17 *study, through any media.*

18 94736. *“Distance learning school” means any institution that*
19 *provides lessons for study and completion by a student at a location*
20 *separate from the institution by correspondence, the Internet, or*
21 *other electronic means, including, but not necessarily limited to,*
22 *those institutions that offer that instruction in combination with*
23 *in-residence instruction.*

24 94737. *“Education,” “educational program,” or “educational*
25 *services” includes, but is not necessarily limited to, any class,*
26 *course, or program of training, instruction, or study. “Educational*
27 *service” also means any education, training, or instruction offered*
28 *by an institution, including, but not limited to, any equipment.*

29 94737.5. *“Electronic” or “digital” signature means an*
30 *electronic sound, symbol, process, or protocol, including but not*
31 *necessarily limited to, cryptographic techniques, attached to or*
32 *logically associated with a record or document and executed or*
33 *adopted by a person with the intent to sign the record or document,*
34 *as for an electronic document.*

35 94738. *“Employment” means any of the following:*

36 (a) *Full-time employment means employment for at least 32*
37 *hours per week for a period of at least 60 days in the occupations*
38 *or job titles to which the program of instruction is represented to*
39 *lead.*

1 (b) *Part-time employment means employment for at least 17.5*
2 *hours, but less than 32 hours, per week for a period of at least 60*
3 *days in the occupations or job titles to which the program of*
4 *instruction is represented to lead, provided the student completes*
5 *a handwritten statement at the beginning of the program and at*
6 *the end of the program that states that the student’s educational*
7 *objective is part-time employment. The institution shall not require*
8 *that any student complete such a statement or provide any*
9 *incentive, financial or otherwise, to any student for signing such*
10 *a statement.*

11 94738.5. *“Equipment” includes all textbooks, supplies,*
12 *materials, implements, tools, machinery, computers, electronic*
13 *devices, or any other goods related to any education, training, or*
14 *instruction, or an agreement for educational services or a course*
15 *of instruction.*

16 94739. *“Executive director” or “director” means the Executive*
17 *Director of the Board for Private Postsecondary Education.*

18 94739.5. *“Faculty” means an instructor or instructors within*
19 *any of the divisions or comprehensive branches of learning at a*
20 *college or university. For purposes of this chapter, “faculty,”*
21 *“instructor,” “professor,” and “teacher” are synonymous.*

22 94740. *“Funds” means cash or assets that can be converted*
23 *into cash within seven days. This definition relates to the financial*
24 *responsibility approval standard set forth in paragraph (1) of*
25 *subdivision (c) of Section 94853.*

26 94741. *“Hearing” means a hearing pursuant to the*
27 *requirements of this chapter.*

28 94742. *“Institution” means any private postsecondary*
29 *educational institution that offers education that can lead to a*
30 *degree. An “institution” includes its branch and satellite campuses,*
31 *unless otherwise provided by the board.*

32 94743. *“Institutional approval” means an institution that has*
33 *been evaluated by the board and has been found to be in*
34 *compliance with the board’s standards pursuant to this chapter.*

35 94744. *“Instruction” includes any specific, formal arrangement*
36 *by an institution or its enrollees to participate in learning*
37 *experiences in which the institution’s faculty or contracted*
38 *instructors present a planned curriculum appropriate to the*
39 *enrollee’s educational program.*

1 94745. “*Licensure*” includes any license, certificate, permit,
2 or similar credential that a person is required to hold to lawfully
3 engage in any occupation or activity.

4 94746. “*Main location*” or “*main site*” means the primary
5 teaching location of the institution. If an institution operates at
6 only one site, that site shall be considered its main location or
7 main site.

8 94747. “*Out-of-state school*” means any private postsecondary
9 or vocational educational institution offering career or job training
10 programs, including both an in-residence institution and a distance
11 learning institution that has its place of instruction or its principal
12 location outside the boundaries of the state, or that offers or
13 conducts programs of instruction or subjects on premises
14 maintained by the school outside the boundaries of the state, or
15 that provides distance education or correspondence lesson
16 materials from a location outside the boundaries of this state, or
17 that evaluates completed lesson materials or otherwise conducts
18 its evaluation service from a location outside the boundaries of
19 this state, or that otherwise offers or provides California students
20 with programs of instruction or subjects through activities engaged
21 in or conducted outside the boundaries of the state.

22 94748. “*Owner*” means any person who has a legal or
23 equitable interest in 10 percent or more of an institution’s stock
24 or assets.

25 94749. “*Parent corporation*” means a corporation that owns
26 more than 80 percent of the stock of the institution, the financial
27 resources of which are at issue.

28 94750. “*Person*” means a natural person or any business
29 entity, regardless of the form or organization.

30 94751. “*Person in control*” means a person who has sufficient
31 capacity, directly or indirectly, to direct or influence the
32 management, policies, or conduct of the institution so that the
33 person can cause or prevent violations of this chapter. There is a
34 rebuttable presumption affecting the burden of proof that an owner,
35 director, or officer of an institution is a person in control.

36 94752. “*Physical presence*” means an institution offering
37 postsecondary education courses in person, by correspondence,
38 or electronic media, to any California resident, including electronic
39 courses transmitted into the state of California. Physical presence
40 also means an institution operating any instructional site within

1 *the borders of California for the purpose of offering postsecondary*
2 *educational activities, including a personal residence where*
3 *instruction is delivered through electronically-mediated distance*
4 *education, or an institution that employs in California any person*
5 *or persons for the purpose of administering, coordinating,*
6 *teaching, training, tutoring, counseling, advising, or any other*
7 *activity on behalf of the sponsoring organization.*

8 (a) *An instructional site includes all instruction provided in*
9 *person, electronically, through correspondence, by telephone or*
10 *facsimile. Physical presence shall also mean the maintenance or*
11 *advertisement of an administrative location in California, such as*
12 *a mailing address or post office box, for education related activities*
13 *including, but not necessarily limited to, student recruitment,*
14 *advising, monitoring, study groups, and any other arrangement*
15 *that involves an organized group activity, composed of students*
16 *or prospective students, to include instruction, chat rooms,*
17 *seminars, or the administration of examinations.*

18 (b) *Representatives contracted or paid by institutions for the*
19 *purpose of conducting instructional or academic support activities*
20 *shall also be considered a physical presence in the State of*
21 *California.*

22 (c) *The institution has physical presence in California if it*
23 *delivers, or plans to deliver, instruction in California, and receives*
24 *assistance from any other organization within the state in*
25 *delivering the instruction, such as, but not necessarily limited to,*
26 *a cable television company or a television broadcast station that*
27 *carries instruction sponsored by the institution.*

28 94753. *“Placement rate” means the number and percentage*
29 *of students who complete their program and secure employment*
30 *in the field for which they were trained.*

31 94754. *“Private postsecondary educational institution” means*
32 *any person doing business in California that offers to provide or*
33 *provides, for tuition, fee, or other charge, any instruction, training,*
34 *or education that awards academic credit under any of the*
35 *following circumstances:*

36 (a) *A majority of the students to whom instruction, training, or*
37 *education is provided during any 12-month period is obtained*
38 *from, or on behalf of, students who have completed or terminated*
39 *their secondary education or are beyond the age of compulsory*
40 *high school attendance.*

1 (b) More than 50 percent of the revenue derived from providing
2 instruction, training, or education during any 12-month period is
3 obtained from, or on behalf of, students who have completed or
4 terminated their secondary education or are beyond the age of
5 compulsory high school attendance.

6 (c) More than 50 percent of the hours of instruction, training,
7 or education provided during any 12-month period is provided to
8 students who have completed or terminated their secondary
9 education or are beyond the age of compulsory high school
10 attendance.

11 (d) A substantial portion, as determined by the board, by
12 regulation, of the instruction, training, or education provided is
13 provided to students who have completed or terminated their
14 secondary education or are beyond the age of compulsory high
15 school attendance.

16 94755. “Program” or “program of instruction or study” means
17 a program of training, set of related courses, or education for
18 which a student enrolls.

19 94756. “Reporting period” means the institution’s fiscal year
20 or any year period designated by the board to be covered in the
21 institution’s annual report.

22 94757. “Representative” means any person who, for
23 compensation, does either of the following:

24 (a) Solicits, promotes, advertises, or refers or recruits students
25 or prospective students for an institution.

26 (b) Is involved with enrollment, admissions, student attendance,
27 administration, financial aid, instruction, or job placement
28 assistance on behalf of an institution.

29 94758. “Satellite” means an auxiliary classroom or a teaching
30 site. Student services, such as enrollment, advising, or placement,
31 shall not occur at a satellite location. All of the following apply
32 to a satellite:

33 (a) A satellite shall be physically located within 50 miles of an
34 institution’s main or branch location.

35 (b) Only educational services that are approved at the main
36 location shall be offered at the satellite.

37 (c) The institution shall maintain no permanent records of
38 attendance or academic progress at the satellite.

39 (d) Advertisement of a satellite shall indicate that the satellite
40 is an auxiliary classroom or a teaching site.

1 94759. “Secure employment” means employment starting
2 within six months of completing the program in the occupation to
3 which the program of instruction is represented to lead and
4 continuing in employment for a period of at least 60 days.

5 94760. “Site” means a main location, branch, or satellite
6 campus.

7 94761. “Teach-out” means an arrangement whereby an
8 institution offers to provide to a student, without any additional
9 charge, all of the instruction promised but not provided to that
10 student by a closed institution because of the closure.

11 94762. “Teach-out institution” means the institution offering
12 a teach-out.

13 94763. A “third-party payer” means an employer, government
14 program, or other payer that pays a student’s total charges directly
15 to the institution when no separate agreement for the repayment
16 of that payment exists between the third-party payer and the
17 student.

18 94764. “To offer” includes, in addition to its usual meanings,
19 advertising, publicizing, soliciting, or encouraging any person,
20 directly or indirectly, in any form, to perform the act described.

21 94765. “To operate” an educational institution, or like term,
22 means to establish, keep, or maintain any facility or location in
23 this state where, or from or through which, educational services
24 are offered or educational degrees are offered or granted.

25 (a) Offering courses in person, by correspondence, or electronic
26 media, at any California location for degree credit, including
27 electronic courses transmitted into the State of California.

28 (b) Granting or offering to grant degrees in California for credit
29 obtained within or outside the state.

30 (c) Maintaining or advertising a California location, mailing
31 address, or telephone number for any purpose or any other function
32 of a degree-granting institution, other than contact with the
33 institution’s former students for any legitimate purpose to their
34 having attended that institution.

35 94766. “Total charge” means the total charge for a course of
36 instruction or other education, instruction, or training, including
37 the charge for tuition, equipment, finance charges, and all other
38 fees, charges, costs, and expenses.

1 94767. “University” means an institution of higher education
2 that confers masters or doctorate degrees upon the completion of
3 programs of graduate or professional study.

4
5 Article 3. Exemptions
6

7 94770. It is the intent of the Legislature to carefully review the
8 exemptions in this article.

9 94771. The following are not considered to be private
10 postsecondary educational institutions under this chapter:

11 (a) Institutions exclusively offering instruction at any or all
12 levels from preschool through grade 12.

13 (b) Institutions offering education solely avocational or
14 recreational in nature, and institutions offering this education
15 exclusively.

16 (c) Institutions offering education sponsored by a bona fide
17 trade, business, professional, or fraternal organization, solely for
18 that organization’s membership.

19 (d) Postsecondary or vocational educational institutions
20 established, operated, and governed by the federal government or
21 by this state or its political subdivisions.

22 (e) Any public college, public university, public community
23 college, or public technical college or institute operating as part
24 of the public higher education system of this state.

25 (f) Any tribally controlled Native American college or university.

26 (g) (1) Except as provided in paragraph (2), “continuing
27 education” means instruction in any of the following
28 circumstances:

29 (A) Only in subjects that licensees are required to take as a
30 condition of continued licensure and solely for that purpose.

31 (B) Only in subjects necessary to continue to practice or work
32 in a profession such as law or medicine and solely for that purpose.

33 (C) To persons who are already in a particular profession,
34 trade, or job category for the sole purpose of enhancing their skills
35 or knowledge within that particular profession, trade, or job
36 category.

37 (2) “Continuing education” under this section does not include
38 any of the following:

39 (A) Vocational diploma programs that are credit bearing.

40 (B) Degree courses or programs.

1 (C) An educational service any part of the charge for which is
2 paid from the proceeds of a loan or grant subject to a governmental
3 student financial aid program.

4 (D) Institutions offering continuing education where the
5 institution or the program is approved, certified, or sponsored by
6 any of the following:

7 (E) A government agency, other than the board, that licenses
8 persons in a particular profession, trade, or job category.

9 (F) A state-recognized professional licensing body, including,
10 but not necessarily limited to, the State Bar of California, that
11 licenses persons in a particular profession, trade, or job category.

12 (G) A bona fide trade, business, or professional organization.

13 (h) An institution that limits its course of instruction to religion,
14 theology, or preparation for a religious vocation, or is operated
15 by a church or religious organization and limits its instruction to
16 preparation for service to churches or other religious
17 organizations. An institution exempted under this subdivision shall
18 be established as a nonprofit institution owned, controlled, and
19 operated and maintained by a bona fide church, religious
20 denomination, or religious organization lawfully operating as a
21 nonprofit religious corporation pursuant to Part 4 (commencing
22 with Section 9110) of Division 2 of Title 1 of the Corporations
23 Code. The exemption provided by this subdivision is limited as
24 follows:

25 (1) Instruction only in the beliefs, principles and practices of
26 that church, religious denomination, or religious organization, or
27 to courses offered pursuant to Section 2789 of the Business and
28 Professions Code.

29 (2) The diploma or degree or honorary degree conferred is
30 limited to evidence of completion of that education.

31 (3) Degrees awarded under this exception shall reflect the
32 nature of the degree, such as “Associate of Religious Studies” or
33 “Bachelor of Religious Studies,” or “Master of Divinity” or
34 “Doctor of Divinity,” and the curriculum content and objectives
35 shall reflect the strictly religious nature of the institution.

36 (A) Institutions operating under this paragraph shall not award
37 degrees in any area of physical science, philosophy, or the arts,
38 such as “Associate of Arts” or “Associate of Science,” “Bachelor
39 of Arts” or “Bachelor of Science,” “Master of Arts” or “Master
40 of Science,” or “Doctor of Philosophy” or “Ph.D.”

1 (B) *The use of the degree titles “Associate of Arts” or*
2 *“Associate of Science,” “Bachelor of Arts” or “Bachelor of*
3 *Science,” “Master of Arts” or “Master of Science,” or “Doctor*
4 *of Philosophy” or “Ph.D.” shall only be awarded by institutions*
5 *approved to operate under Article 8 (commencing with Section*
6 *94950) or meeting the requirements for an exemption under this*
7 *section.*

8 (4) *Any degree granted in any area of study under this*
9 *subdivision shall contain on its face, in the written description of*
10 *the title of the degree being conferred, a reference to the*
11 *theological or religious aspect of the degree’s subject area.*

12 (5) *The meritorious recognition upon which any degree or*
13 *honorary degree is conferred is limited to the principles of that*
14 *church, religious denomination, or religious organization.*

15 (6) *An institution operating under this subdivision shall*
16 *participate in the Integrated Postsecondary Education Data System*
17 *(IPEDS) reporting system as directed by the board, and file*
18 *annually with the board evidence to demonstrate its status as a*
19 *nonprofit religious corporation under Part 4 (commencing with*
20 *Section 9110) of Division 2 of Title 1 of the Corporations Code.*

21 (7) *A religious institution that is granted an exception under*
22 *this subdivision shall clearly disclose in all institutional catalogs*
23 *and other official publications the following statement:*

24 *“The Board of Postsecondary Education of the State of*
25 *California has determined that (the name of the institution)*
26 *qualifies for religious exception status for the following programs:*
27 *(list programs). Any questions or problems concerning this school*
28 *that have not been satisfactorily answered or resolved by the school*
29 *should be directed to the Board for Private Postsecondary*
30 *Education, (address), Sacramento, California 95814.”*

31 (8) *The intent of the Legislature in enacting this subdivision is*
32 *that the state should not involve itself in the content of degree*
33 *programs awarded by any institution operating under this*
34 *subdivision, as long as the institution awards degrees and diplomas*
35 *only in the beliefs and practices of the church, religious*
36 *denomination, or religious organization.*

37 (9) *Further, the intent of the Legislature in enacting this*
38 *subdivision is to prevent any entity claiming to be a nonprofit*
39 *institution owned, controlled, and operated and maintained by a*
40 *bona fide church, religious denomination, or religious organization*

1 *composed of multidenominational members of the same*
2 *well-recognized religion, lawfully operating as a nonprofit*
3 *religious corporation pursuant to Part 4 (commencing with Section*
4 *9110) of Division 2 of Title 1 of the Corporations Code, from*
5 *marketing and granting degrees or diplomas that are represented*
6 *as being linked to their church, religious denomination, or religious*
7 *organization, but that, in reality, are degrees in secular areas of*
8 *study.*

9 *(i) Effective January 1, 2008, the Committee of Bar Examiners*
10 *for the State of California shall be responsible for the approval,*
11 *regulation, and oversight of degree-granting law schools that*
12 *exclusively offer education leading to a juris doctor (J.D.) degree,*
13 *bachelor of laws (LL.B.) degree, or other law study degree,*
14 *bachelor's, master's, or doctorate degrees in law, such as Juris*
15 *Doctor. This paragraph does not apply to unaccredited law schools*
16 *that remain subject to the jurisdiction of the board.*

17 *(j) (1) All institutions certified to offer flight instruction by the*
18 *Federal Aviation Administration, and that operated in California*
19 *on December 31, 2007, shall receive approval or registration from*
20 *the board.*

21 *(A) On or before June 30, 2008, the board shall work in*
22 *cooperation with the Federal Aviation Administration to review*
23 *each of these institutions or registrants to determine whether each*
24 *is in compliance with the requirements of this chapter.*

25 *(B) It is the intent of the Legislature that the board should*
26 *develop a memorandum of understanding with the Federal Aviation*
27 *Administration to delineate the responsibilities of each agency for*
28 *the approval and monitoring of these institutions or registrants.*

29 *(2) An institution or a registrant certified to offer flight*
30 *instruction by the Federal Aviation Administration, or its successor*
31 *agency, shall comply with all of the requirements of Article 6*
32 *(commencing with Section 94850), Article 10 (commencing with*
33 *Section 95050), and Article 13 (commencing with Section 95100),*
34 *but shall not be required to file any materials with the board that*
35 *are not required by the Federal Aviation Administration or its*
36 *successor agency, except those minimally necessary to administer*
37 *the Student Tuition Recovery Fund as determined by the board.*
38 *The responsibility for monitoring and enforcing compliance shall*
39 *be with the board.*

1 (3) *This chapter does not apply to individual flight instructors*
2 *not requiring any advance payments, who do not negotiate a formal*
3 *contract of indebtedness, and who do not have an established place*
4 *of business other than their residences.*

5 (k) *Nonprofit regionally accredited colleges and universities.*
6 *This subdivision does not include a college or university that offers*
7 *nondegree certificate programs to a majority of its students.*

8
9 Article 4. *Board for Private Postsecondary Education*

10
11 94780. (a) *There is hereby established a Board for Private*
12 *Postsecondary Education in the Department of Consumer Affairs.*

13 (b) *The board shall succeed to any and all rights and claims of*
14 *the former Council for Private Postsecondary and Vocational*
15 *Education, the former Bureau for Private Postsecondary and*
16 *Vocational Education within the Department of Consumer Affairs,*
17 *and the Department of Consumer Affairs that may have been*
18 *asserted in any judicial or administrative action commenced before*
19 *July 1, 2007, and shall take any action reasonably necessary to*
20 *assert and realize those rights and claims in its own name.*

21 (c) *The functions and staff of the former council and board, and*
22 *the responsibilities the former council and the board had for the*
23 *administration of former Chapter 7 (commencing with Section*
24 *94700) on June 30, 2007, and January 1, 2008, are transferred to*
25 *the board, effective January 1, 2008, as provided by this chapter.*

26 (d) *It is the intent of the Legislature that there be no gap in the*
27 *performance of functions or the administration of the law*
28 *governing private postsecondary educational institutions.*
29 *Notwithstanding any other provision of law, Section 19050.9 of*
30 *the Government Code shall apply regardless of the date on which*
31 *former Chapter 7 (commencing with Section 94700) became*
32 *inoperative or was repealed.*

33 94781. (a) *The board shall be composed of seven voting*
34 *members, a majority of whom shall be representatives of the public.*
35 *The Governor shall appoint five members and the Senate*
36 *Committee on Rules and the Speaker of the Assembly shall each*
37 *appoint one member to the board.*

38 (b) *Any member of the board may be removed by the appointing*
39 *power for neglect of duty, misconduct, or malfeasance in office,*

1 *after being provided with a written statement of the charges and*
2 *an opportunity to be heard.*

3 *(c) No person who is currently or who has been in the last 12*
4 *months employed by an institution of public or private*
5 *postsecondary or vocational education, or by an organization*
6 *owning an interest in a private postsecondary or vocational*
7 *education institution, shall be appointed to, or serve on or serve*
8 *as staff to, the board. The executive director of the office shall not*
9 *be a member of the board.*

10 *(d) Each member of the board shall be appointed for a term of*
11 *four years.*

12 *(e) Each member of the board shall receive per diem and*
13 *expenses as provided in Section 103 of the Business and*
14 *Professions Code.*

15 *94782. Five members of the board shall constitute a quorum*
16 *for the transaction of business at any meeting. For the purpose of*
17 *transacting its business, the board shall meet at least once every*
18 *three months. The board shall keep, and easily make available to*
19 *the public, a record and minutes of all its proceedings.*

20 *94783. The board shall have the responsibility for approving*
21 *and regulating private postsecondary education institutions and*
22 *for enforcing state policies for private postsecondary education*
23 *in California. The board shall administer a fair, common-sense,*
24 *strong, and widely respected regulatory process over California's*
25 *private postsecondary education schools.*

26 *94784. (a) The board shall have possession and control of all*
27 *records, papers, offices, equipment, supplies, or other property,*
28 *real or personal, held for the benefit or use by the former council*
29 *and the current board in the performance of the duties, powers,*
30 *purposes, responsibilities, and jurisdictions that are vested in the*
31 *board.*

32 *(b) The Attorney General shall act as legal counsel for the board*
33 *for any judicial and administrative proceedings, and is authorized*
34 *to charge the board for his or her services.*

35 *(c) It is the intent of the Legislature that enforcement be as*
36 *prescriptive and clear as possible and include consolidation of*
37 *enforcement provisions, timely resolution of pending complaints,*
38 *specified permissive fines and penalties for various violations, and*
39 *clear due process. Corrective action plans for violations should*
40 *be required with clear time lines.*

1 94785. *The board shall appoint an advisory committee, which*
2 *shall consist of representatives of institutions, student advocates,*
3 *students, and employers who hire students, among other parties.*
4 *The advisory committee shall be balanced to ensure that*
5 *institutions and student advocates have approximate equal*
6 *representation. Institutional representatives on the committee shall*
7 *be in general proportion to the types of institutions approved*
8 *pursuant to this chapter and to the number of students served by*
9 *each type of institution. The advisory committee shall advise the*
10 *board, the executive director, and board staff concerning the*
11 *board's administrative, licensing, and enforcement functions under*
12 *this chapter.*

13 94786. *Protection of the public shall be the highest priority*
14 *for the board in exercising its approval, regulatory, and*
15 *disciplinary functions. Whenever the protection of the public is*
16 *inconsistent with other interests seeking to be promoted, the*
17 *protection of the public shall be paramount.*

18 94787. (a) *The board shall appoint an executive director, who*
19 *shall be subject to approval of the Director of Consumer Affairs*
20 *and confirmation by vote of a majority of the membership of the*
21 *Senate. The board may delegate any authority to the executive*
22 *director in administering this chapter. Any power granted to, or*
23 *duty imposed upon, the board under this chapter may be exercised*
24 *or performed by the executive director in the name of the board,*
25 *subject to any conditions and limitations the board may prescribe.*

26 (b) (1) *The executive director is exempt from the State Civil*
27 *Service Act (Part 2 (commencing with Section 18500) of Division*
28 *5 of Title 2 of the Government Code).*

29 (2) *The executive director may redelegate any of those powers*
30 *or duties to his or her staff or designee.*

31 (c) *The executive director, in accordance with the State Civil*
32 *Service Act (Part 2 (commencing with Section 18500) of Division*
33 *5 of Title 2 of the Government Code), may appoint and fix the*
34 *compensation of clerical, inspection, investigation, evaluation,*
35 *and auditing personnel, as may be necessary to carry out this*
36 *chapter.*

37 (d) *The board may authorize the executive director to do any*
38 *or all of the following:*

39 (1) *Plan, direct, supervise, and organize the work of the staff*
40 *of the board.*

1 (2) *Research, propose, and make policy recommendations*
2 *regarding postsecondary education issues to the board.*

3 (3) *Develop and implement regulations adopted by the board.*

4 (4) *Collect fees, issue approvals and permits, and investigate*
5 *complaints.*

6 (5) *Manage and administer funds and budgets according to*
7 *board's directions.*

8 (6) *Report to the board regarding implementation of board*
9 *policies and responses to board activity.*

10 (7) *Represent the board, as appropriate, in public policy*
11 *discussions and to the public and media.*

12 (8) *Enter into written agreements with individual accrediting*
13 *agencies recognized by the United States Department of Education*
14 *that, after determining that the accrediting entities' standards are*
15 *substantially equivalent to those of the board, allows institutions*
16 *within their membership to apply to the board by means of*
17 *accreditation for approval to operate, pursuant to Article 8*
18 *(commencing with Section 94950).*

19 94788. *It is the intent of the Legislature that the board's*
20 *approval and regulating responsibilities be funded solely through*
21 *approval fees and federal funding provided to implement the*
22 *approval process for courses offered to veterans by approved*
23 *institutions.*

24 94789. *The board shall have all of the following functions and*
25 *responsibilities in its capacity as the statewide private*
26 *postsecondary educational planning and approval agency:*

27 (a) *Administration of this chapter.*

28 (b) *Enforcement of minimum criteria for the approval and*
29 *registration of private postsecondary or vocational educational*
30 *institutions to operate in California and award degrees and*
31 *diplomas, and for the approval of institutions that meet the criteria.*

32 (c) *Promulgation and enforcement of regulations to interpret*
33 *and implement this chapter pursuant to Chapter 3.5 (commencing*
34 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
35 *Government Code.*

36 (d) *The publication of an Internet directory of each private*
37 *postsecondary and vocational educational institution approved to*
38 *operate in California under this chapter.*

39 (e) *The impaneling of committees of persons determined by the*
40 *board to be technically qualified to assist the board in the*

1 *development of standards for education and educational*
2 *institutions and the evaluation of an application or institutions*
3 *pursuant to this chapter. The members of the special committees*
4 *shall receive no compensation but shall be reimbursed for their*
5 *actual expenses for attendance at official meetings and actual*
6 *expenses when on official board business. The members of the*
7 *special committees shall serve at no expense to the state. The*
8 *institution that is the subject of inspection or investigation shall*
9 *reimburse the actual travel and per diem expenses incurred by*
10 *each member of a committee.*

11 *(f) (1) The board may design and administer a process for the*
12 *approval of courses offered to veterans, and for the approval and*
13 *supervision of the institutions offering courses to veterans, pursuant*
14 *to any applicable act of Congress and the regulations adopted*
15 *pursuant to such an act.*

16 *(2) For the purposes of this subdivision, the board:*

17 *(A) Is designated as the state approving agency for veterans'*
18 *institutions and veterans' courses, and is authorized to be*
19 *reimbursed for its services in this regard.*

20 *(B) Has the same powers conferred on the United States*
21 *Secretary of Education by Article 6 (commencing with Section*
22 *12090) of Chapter 1 of Part 8 of Division 1 of Title 1, to enter into*
23 *agreements and cooperate with the United States Department of*
24 *Veterans Affairs, or any other federal agency, regarding approval*
25 *of courses, and the approval and supervision of institutions that*
26 *offer courses to veterans.*

27 *(C) May adopt regulations that are necessary and appropriate*
28 *to exercise its authority under this subdivision.*

29 *94790. (a) For the purposes of administration and enforcement*
30 *of this chapter, the officers and employees of the board shall have*
31 *all the powers and authority granted under this chapter and under*
32 *Division 1 (commencing with Section 100) of, and Division 1.5*
33 *(commencing with Section 475) of, the Business and Professions*
34 *Code.*

35 *(b) The board shall establish a regular inspection program that*
36 *shall include, but is not limited to, unannounced inspections.*

37 *(c) The board shall immediately investigate and respond to all*
38 *complaints and claims by students.*

1 (d) If the board determines after an investigation that an
2 institution has violated this chapter or any of the regulations
3 adopted by the board, the board may do any of the following:

4 (1) Issue an administrative citation and impose an administrative
5 fine as authorized by, and in accordance with, Section 94963 or
6 Section 146, 147, or 148 of the Business and Professions Code.

7 (2) Issue an order of abatement or citation pursuant to Section
8 125.9 or 148 of the Business and Professions Code.

9 (3) Require the institution to prepare and implement a corrective
10 action plan that would include actions and a time line for
11 completion.

12 (4) Require progress reports on the corrective action plan.

13 (5) Issue an order prohibiting the enrollment of new students.

14 (6) Initiate proceedings under the Administrative Procedure
15 Act or this chapter to revoke or suspend the institution's approval
16 to operate, or to place the institution on probation.

17 (7) With the consent of the institution, refer an adjudicative
18 proceeding to mediation, or binding or nonbinding arbitration, in
19 accordance with the regulations of the Office of Administrative
20 Hearings or the Office of the Attorney General.

21 (8) Order reimbursement of the costs of the investigation and
22 enforcement in accordance with Article 12 (commencing with
23 Section 95070) or Section 125.3 of the Business and Professions
24 Code. An institution shall not be required to pay the same costs
25 and expenses to more than one investigating entity.

26 (9) Notify a telephone company to disconnect the institution's
27 telephone as authorized by Section 149 of the Business and
28 Professions Code.

29 94791. (a) Any person, serving on a committee of the board,
30 a visiting committee pursuant to Section 94956, or any other peer
31 review body impaneled by the board and who provides information
32 to the board or its staff in the course and scope of evaluating any
33 institution or registrant subject to this chapter or who testifies at
34 any administrative hearing arising under this chapter, is entitled
35 to a defense by, and indemnification from, the board to any action
36 arising out of information or testimony to the board that person
37 would have if he or she were a public employee.

38 (b) Any defense by, or indemnification from, the board, as
39 specified in subdivision (a) shall be solely with respect to that
40 claim or action pursuant to Article 4 (commencing with Section

1 825) of Chapter 1 of Part 2 of, and Part 7 (commencing with
2 Section 995) of, Division 3.6 of Title 1 of the Government Code.

3 94792. Each member of the board shall disclose all *ex parte*
4 communications from any parties having an issue before the board.
5 These disclosures shall be made public and included in minutes
6 of board meetings.

7 94793. The board shall make available to members of the
8 public, on its Internet Web site and through other appropriate
9 means, the nature and disposition of all complaints on file with
10 the board against an institution or registrant.

11 94794. (a) The board shall work together with staff of the
12 CPEC and higher education legislative committees, along with
13 representatives of regulated institutions, the Student Aid
14 Commission, students, and other interested parties to revise this
15 chapter to streamline its provisions and eliminate contradictions,
16 redundancies, ambiguities, conflicting provisions, and unnecessary
17 provisions. Within the first 12 months from the date when the
18 powers, authorities and responsibilities in this chapter are
19 transferred to the board, the board shall make recommendations
20 to the Legislature regarding all of the following:

21 (1) The progress of the state's utilization of national and
22 regional accreditation as part of the state approval process.

23 (2) The development of a cost-based fee structure for institutions
24 subject to Article 8 (commencing with Section 94950).

25 (3) The status of the Attorney General's implementation of an
26 efficient and effective enforcement program.

27 (b) The board shall objectively assess the cost of meeting its
28 statutory obligations, determine the staffing necessary to meet
29 those obligations, determine whether the current fee structure
30 allows for collection of revenue sufficient to support the necessary
31 staffing, and report that information to the Governor through the
32 annual Budget process.

33 (c) The board shall incorporate and continuously monitor its
34 data collection, dissemination and information systems into
35 CPEC's data system as the state's designated higher education
36 data coordinator and information clearinghouse, so that it will
37 provide improved reporting of information regarding the private
38 postsecondary education sector, and improved monitoring of
39 reports, initial and renewal applications, complaint and
40 enforcement records, and collection of fees among other

1 *information necessary to serve the board's wide-ranging data*
2 *management needs effectively. The board shall continue to make*
3 *improvements to its data collection and dissemination systems to*
4 *meet its program responsibilities.*

5 *(d) All institutions covered by this statute shall participate in*
6 *the Integrated Postsecondary Education Data System (IPEDS)*
7 *reporting system. This participation shall be a condition of*
8 *approval, and shall be monitored by the board.*

9 *(e) All institutions covered by this statute shall inform the board*
10 *of their participation in other locally-funded, state-funded, or*
11 *federally-funded programs that assess the effectiveness of those*
12 *institutions' programs including, but not necessarily limited to,*
13 *programs funded by the federal Workforce Investment Act (29*
14 *U.S.C. Sec. 2801 et seq.) and the federal Americans with*
15 *Disabilities Act (42 U.S.C. Sec. 12101 et seq.).*

16 94795. *(a) The board shall establish an expanded outreach*
17 *program for prospective and current private postsecondary*
18 *education students and high school students, to provide them with*
19 *information on how best to select postsecondary or vocational*
20 *schools, how to enter into contracts and student enrollment*
21 *agreements, how to protect themselves in the postsecondary and*
22 *vocational education marketplace, and how to contact the*
23 *commission for assistance if problems arise.*

24 *(b) The board shall establish quarterly workshops for the*
25 *purpose of providing applicants and institutions information on*
26 *application processes, best practices for offering postsecondary*
27 *educational services, and may include any other subjects that*
28 *encompass vast number of topics that affect postsecondary*
29 *education.*

30 94796. *Any degree granting institution operating on December*
31 *31, 2007, with a full, conditional, or temporary approval to*
32 *operate, may continue to operate under the terms of that approval*
33 *until that approval to operate expires or a subsequent action is*
34 *taken by the board that affects that approval to operate, whichever*
35 *comes first.*

36 94797. *Any nondegree granting institution operating on*
37 *December 31, 2007, with a approval to operate, may continue to*
38 *operate, under the terms that approval to operate expires or a*
39 *subsequent action is taken by the board that affects that approval*
40 *to operate, whichever comes first.*

1 94798. *The board shall adopt a strategic plan by December*
2 *31, 2008, and update the plan periodically as needed. The plan*
3 *shall address all issues relative to regulation of California's private*
4 *postsecondary and vocational education institutions through a*
5 *means that provides full protection of students and high quality*
6 *education, through a reasonable and appropriate regulatory*
7 *process that is nonburdensome for the industry. This shall also*
8 *include statewide and regional coordination with school districts,*
9 *trade and industrial associations, workforce investment boards,*
10 *the Employment Development Department, and others to ensure*
11 *that institutions are producing graduates that meet the needs of*
12 *business and have a higher likelihood of finding gainful*
13 *employment in their chosen area of study.*

14 94799. *All meetings of the board shall be subject to the*
15 *Bagley-Keene Open Meeting Act (Article 9 (commencing with*
16 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
17 *the Government Code).*

18 94800. *The board shall adopt performance standards, post*
19 *that information on its Web site, and provide this same information*
20 *to the Department of Consumer Affairs, the Department of Finance,*
21 *the Legislative Analyst's Office, and the Legislature annually*
22 *through the Budget process.*

23 94801. *The board shall maintain a state-of-the-art Internet*
24 *Web site that shall include all of the following:*

25 (a) *A list of approved schools.*

26 (b) *The status of the license for each school.*

27 (c) *Disciplinary actions.*

28 (d) *Anecdotal stories to illustrate to a student the information*
29 *he or she should seek out to limit the risks undertaken in enrolling*
30 *in a school.*

31 (e) *Hyperlinks to related public services available to students*
32 *and required consumer protections.*

33 94802. *The board shall provide an annual report to the*
34 *Legislature and Governor on the board's activities in implementing*
35 *this chapter.*

36 94803. *The board shall adopt, and periodically review and*
37 *update, internal quality review and audit procedures to ensure*
38 *that processes are in place to promote and achieve full compliance*
39 *with the this chapter.*

1 94804. (a) Before January 1, 2011, the Assembly Committee
2 on Higher Education and the Senate Education Committee shall
3 hold joint public hearings to review the implementation of this
4 chapter.

5 (b) If, as a result of the joint hearings, the Assembly Committee
6 on Higher Education and the Senate Education Committee jointly
7 determine that there are problems with the implementation of this
8 chapter sufficient to justify the reconstitution of the board, the
9 terms of the members as of the date of that determination shall
10 end, and the appointing entities under Section 94771 may appoint
11 new members to the board in accordance with that section.

12 (c) An appointing entity under Section 94771 may reappoint a
13 member of the board whose term is ended under subdivision (b),
14 in accordance with Section 94771.

15 (d) A member of the board whose term is ended under
16 subdivision (b) may continue to serve until a new member is
17 appointed for that position in accordance with subdivision (b).

18

19

Article 5. Fees and Costs

20

21 94820. (a) The Private Postsecondary Education
22 Administration Fund is continued in existence. All fees collected
23 pursuant this chapter shall be credited to this fund along with any
24 interest on the money, for the administration of this chapter. The
25 money in the fund shall be appropriated annually in the Budget
26 Act for the purposes of this chapter.

27 (b) A minimum of 50 percent of the funds appropriated to the
28 board shall be used to cover the costs of enforcing all of the
29 following:

30 (1) Enforcing this chapter by taking actions against violators,
31 while ensuring due process for all institutions.

32 (2) Ensuring that independent on-site evaluations and random
33 and targeted inspections and audits of institutions are conducted,
34 and that students have easy access to information concerning their
35 rights to contract cancellation, withdrawal, refunds, and remedies.

36 (3) Mediating student complaints to achieve balanced outcomes
37 for students and institutions.

38 (c) (1) For the approval of private institutions operating under
39 this chapter, the board shall charge an amount not to exceed the

1 actual costs of approving or renewing the approval of the private
2 institutions.

3 (2) The board may add or delete categories of fees related to
4 work performed by the board and the maximum amount to be
5 charged for each fee category added to the fee schedule. The fee
6 schedule shall provide adequate resources, including an annual
7 inflation adjustment, for the board to implement this chapter
8 effectively. The board shall annually present its proposed budget
9 and fee schedule, penalty fees assessed for delinquent payments
10 and additions and deletions of fee categories to the Department
11 of Finance and the Joint Legislative Budget Committee for their
12 review and approval as part of the annual budget process.

13 (3) The board shall annually publish a schedule of the current
14 fees to be charged pursuant to this section, and shall make this
15 schedule generally available to the public. These fees may be
16 increased annually, without any additional review and approval
17 by the Office of Administrative Law.

18 (d) The fee schedule established under Section 94824 shall take
19 effect on January 1, 2008, and shall be retained for the first 12
20 months of operation of the board. The board shall report to the
21 Governor and the Legislature by December 31, 2008, on this
22 schedule, and make recommendations on the further development
23 and implementation of a cost-based fee structure.

24 94821. Any institution or registrant more than 30 days
25 delinquent in the payment of any fee or order for the recovery of
26 costs and expenses under Section 95102, may be assessed a penalty
27 fee by the board.

28 94822. (a) If the board determines after an investigation that
29 an institution or registrant has violated this chapter, the board
30 may order the institution or registrant to pay the costs and expenses
31 incurred in connection with the investigation and any civil or
32 administrative proceeding involving the violation that was
33 investigated, including charges made by the Attorney General for
34 his or her services, and any expenses incurred by a district
35 attorney. Before any order for the payment of costs and expenses
36 is made under this section, the board shall provide a written notice,
37 including notice of the institution's right to request a hearing
38 within 15 days of service of the notice.

39 (b) If a hearing is not timely requested, the board may order
40 payment. If a hearing is requested, the board shall comply with

1 *Article 10 (commencing with Section 95050). Within 30 days after*
2 *the effective date of the order, the board may enforce the order as*
3 *if it were a money judgment pursuant to Title 9 (commencing with*
4 *Section 680.10) of Part 2 of the Code of Civil Procedure.*
5 *Alternatively, the board may seek the costs and expenses allowed*
6 *under this section in a civil proceeding. An institution or registrant*
7 *shall not be required to pay the same costs and expenses incurred*
8 *in connection with the investigation and any civil or administrative*
9 *proceeding to more than one investigating agency.*

10 94823. *The effective date of any statutory amendment to this*
11 *chapter affecting revenues payable to the board from any service*
12 *shall be immediate.*

13 94824. *Effective January 1, 2008, the board shall charge the*
14 *following fees:*

15 (a) ____.

16 (b) ____.

17 (c) ____.

18 94825. *The board may annually adjust the schedule set forth*
19 *in Section 94824 to reflect changes in the consumer price index,*
20 *and shall maintain and implement an updated fee schedule on at*
21 *least a biennial basis thereafter. The new and subsequent fee*
22 *schedules shall include consideration of actual and projected*
23 *enforcement costs of the board in administering this chapter.*

24

25 *Article 6. Student Consumer Protection*

26

27 94850. *All institutions approved under Tier 2 or Tier 3, as*
28 *defined in Section 94955, shall be maintained and operated, or in*
29 *the case of a new institution, shall demonstrate that it will be*
30 *maintained and operated, in compliance with all of the following*
31 *minimum standards:*

32 (a) *That, the institution is financially capable of fulfilling its*
33 *commitments to its students.*

34 (b) *That, upon satisfactory completion of study or training, the*
35 *student is given an appropriate degree, or certification, by the*
36 *institution, indicating that the student has satisfactorily completed*
37 *the program or programs of instruction.*

38 (c) *That the institution provides instruction as part of its*
39 *educational program.*

1 94851. *The executive director shall report all enforcement*
2 *actions to the board in full board hearings.*

3 94852. *Institutions planning to or currently delivering*
4 *postsecondary education by correspondence or through online*
5 *Internet delivery to California students for college credit or*
6 *non-credit bearing programs leading to a particular vocational,*
7 *trade, or career field that will maintain no physical presence in*
8 *the state shall not offer these educational programs unless the*
9 *institution has been approved by the board as meeting the*
10 *requirements of this chapter.*

11 94853. (a) *As a condition of obtaining initial approval to*
12 *operate or maintaining or renewing its approval to operate, a Tier*
13 *1 institution, as defined in Section 94955, shall comply with, and*
14 *a Tier 2 or Tier 3 institution, as defined in Section 94955, offering*
15 *any educational program or educational service shall demonstrate*
16 *compliance with, the following financial resource requirements*
17 *criteria in addition to the financial requirements of Section 94855.*

18 (1) *Satisfy minimum standards prescribed by Article 7*
19 *(commencing with Section 94900), Article 8 (commencing with*
20 *Section 94950), and, if applicable, Article 10 (commencing with*
21 *Section 95050).*

22 (2) *Provide the education, training, skill, and experience that*
23 *the institution, in any manner, represented it would provide.*

24 (3) *Pay timely refunds as required by Section 94865 or 94867.*

25 (b) (1) *In determining the extent of an institution's compliance*
26 *with subdivision (a), the board, at the institution's request, may*
27 *consider the financial resources of a parent corporation if the*
28 *parent corporation files with the board, and at all times complies*
29 *with, an irrevocable and unconditional agreement approved by*
30 *its board of directors that satisfies all of the requirements of*
31 *paragraph (2).*

32 (2) *The agreement described in paragraph (1) shall provide*
33 *that the parent corporation does all of the following:*

34 (A) *Consent to be sued in California in connection with the*
35 *provision of education services to California residents.*

36 (B) *Consent to be subject to the administrative jurisdiction of*
37 *the board and the Student Aid Commission in connection with the*
38 *institution's compliance with this chapter.*

39 (C) *Appoint an agent for service of process in California and*
40 *all notices required by this chapter.*

1 (D) Agree to pay any refund, claim, penalty, or judgment that
2 the institution is obligated to pay.

3 (E) File financial reports, maintain financial records, and permit
4 the inspection and copying of financial records to the same extent
5 as is required of the institution.

6 (3) For the purposes of this subdivision, a “parent corporation”
7 means a corporation that owns more than 80 percent of the stock
8 of the institution whose financial resources is at issue.

9 (c) An institution shall not be considered financially responsible
10 under any of the following conditions:

11 (1) (A) The institution fails to have available sufficient funds
12 and accounts receivable to pay all operating expenses due within
13 30 days.

14 (B) For the purposes of this paragraph, “funds” means cash
15 or assets that can be converted into cash within seven days.

16 (2) (A) Under generally accepted accounting principles, the
17 institution had, at the end of its latest fiscal year, a quick ratio of
18 current assets to current liabilities of 1.25 to 1 or higher.

19 (B) The “quick ratio” or “acid test” within the meaning of this
20 paragraph shall be calculated as follows:

21 (i) Deduct from the total current assets the school’s inventory.

22 (ii) Divide this figure by the current liabilities.

23 (iii) The quotient is the quick ratio.

24 (3) For the purposes of this paragraph, “current assets” do not
25 include any of the following:

26 (A) Intangible assets, including goodwill, going concern value,
27 organization expense, startup costs, long-term prepayment of
28 deferred charges, and nonrefundable deposits.

29 (B) State or federal grant funds that are not the property of the
30 institution, but which are held for future disbursement for the
31 benefit of students. Unearned tuition shall be accounted for in
32 accordance with generally accepted accounting principles.

33 (d) If the board determines that an institution is not financially
34 responsible, the board, under terms and conditions prescribed by
35 the board, may require the institution to submit for its latest
36 complete fiscal year and its current fiscal year, each of the
37 following:

38 (1) A financial audit of the institution conducted by a licensed
39 certified public accountant, in accordance with generally accepted
40 auditing standards.

1 (2) *The institution's financial plan for establishing financial*
2 *responsibility.*

3 (3) *Any other information requested by the board.*

4 (e) *Subdivision (d) does not prevent the board from taking any*
5 *other actions authorized under this chapter.*

6 94854. *Tier 2 and Tier 3 institutions, as defined in Section*
7 *94955, shall file annually with the board a financial report*
8 *prepared pursuant to Section 94855. Work papers for the audit*
9 *shall be retained for five years from the date of the audit report,*
10 *and shall be made available to the board upon request after the*
11 *completion of the audit.*

12 94855. (a) *This section applies to every audit, review, and*
13 *statement prepared by an independent accountant and to every*
14 *financial report required to be prepared or filed by this chapter.*

15 (b) *Audits and reviews of financial data, including the*
16 *preparation of financial statements, shall comply with all of the*
17 *following:*

18 (1) *An institution that collected seven hundred fifty thousand*
19 *dollars (\$750,000) or more in total student charges in its preceding*
20 *fiscal year shall file financial reports prepared in accordance with*
21 *generally accepted accounting principles established by the*
22 *American Institute of Certified Public Accountants, and audited*
23 *or reviewed by an independent certified public accountant who is*
24 *not an employee, officer, or corporate secretary or member of the*
25 *governing board of the institution.*

26 (2) *An institution or registrant that collected less than seven*
27 *hundred fifty thousand dollars (\$750,000) in total student charges*
28 *in its preceding fiscal year shall file financial reports prepared in*
29 *accordance with generally accepted accounting principles*
30 *established by the American Institute of Certified Public*
31 *Accountants. An individual with sufficient training to adhere to*
32 *the required accounting principles may prepare these financial*
33 *reports.*

34 (3) *Financial reports prepared on an annual basis shall include*
35 *a balance sheet, statement of operations, statement of cash flow,*
36 *and statement of retained earnings or capital. Nonprofit institutions*
37 *shall provide this information in the manner required under*
38 *generally accepted accounting principles for nonprofit*
39 *organizations.*

1 (4) *The financial report shall establish whether the institution*
2 *or registrant complies with subdivision (a) of Section 94853 or*
3 *subdivision (a) of this section, if applicable, and whether any of*
4 *the circumstances described in subdivision (b) of Section 94853*
5 *or subdivision (b) of this section, if applicable, exist.*

6 (5) *If an audit that is performed to determine compliance with*
7 *any federal or state student financial aid program reveals any*
8 *failure to comply with the requirements of the program, and the*
9 *noncompliance creates any liability or potential liability for the*
10 *institution, the financial report shall reflect the liability or potential*
11 *liability.*

12 (6) *Work papers for the financial statements shall be retained*
13 *for five years from the date of the reports, and shall be made*
14 *available to the board upon request after completion of the report.*

15 (c) *Any audits shall be conducted in accordance with generally*
16 *accepted auditing standards, and shall include the matters*
17 *described in subdivision (d).*

18 (d) *If an audit is conducted, the accountant shall obtain an*
19 *understanding of the institution's internal financial control*
20 *structure, assess any risks, and report any material deficiencies*
21 *in the internal controls.*

22 (e) *Any audit or financial report shall contain a statement signed*
23 *by the individual who has prepared the report stating that the*
24 *institution has paid or has not paid to the board all amounts owed*
25 *under Section 95102. If the institution is a corporation that is*
26 *publicly traded on a national stock exchange, the submission of*
27 *the corporation's annual report shall be deemed to comply with*
28 *this section. The board shall be deemed an intended beneficiary*
29 *of that statement in any audit or financial report. An institution*
30 *or registrant that has not paid all amounts owed to the board under*
31 *Section 95102 shall report to the board within 30 days on its plan*
32 *to become current in these payments. This subdivision shall not*
33 *be construed to require the institution or registrant to prepare a*
34 *separate audit or report on the Student Tuition Recovery Fund.*

35 94856. (a) *Each institution approved to operate under this*
36 *chapter shall report to the board, by July 1 of each year, or another*
37 *date designated by the board, the following information for*
38 *educational programs offered in the prior fiscal year:*

39 (1) *The total number of students enrolled, by level of degree or*
40 *type of diploma program.*

- 1 (2) *The number of degrees and diplomas awarded, by level of*
2 *degree.*
- 3 (3) *The degree levels offered.*
- 4 (4) *Program completion rates.*
- 5 (5) *The schedule of tuition and fees required for each term,*
6 *program, course of instruction, or degree offered.*
- 7 (6) *Financial information demonstrating compliance with*
8 *subdivisions (b) and (c) of Section 94853 and subdivisions (b) and*
9 *(c) of Section 94855, if applicable.*
- 10 (7) *Institutions having a probationary or conditional status*
11 *shall submit an annual report reviewing their progress in meeting*
12 *the standards required for approval status.*
- 13 (8) *A statement indicating whether the institution is or is not*
14 *current on its payments to the Student Tuition Recovery Fund.*
- 15 (9) *A log of all written student complaints received and their*
16 *disposition.*
- 17 (10) *A log of all arbitrations or actions filed against the school*
18 *and their disposition, including, the monetary amount of any*
19 *settlement and any injunctive or other equitable relief provided*
20 *by the disposition. On request of the board, the documents*
21 *constituting any disposition of that matter shall be made available*
22 *to the board.*
- 23 (11) *Any additional information that the board may prescribe.*
- 24 (b) *The information required to be reported by subdivision (a)*
25 *shall be provided in two electronic formats, one of which may be*
26 *in a form that cannot be changed, such as in a portable document*
27 *format (pdf.) file, and one of which shall be in a searchable*
28 *modifiable electronic format to be specified by the board, or if*
29 *none is specified, in a commonly available spreadsheet program*
30 *with any necessary narrative provided in a commonly available*
31 *word processing program.*
- 32 (c) *Colleges and universities operating under subdivision (h)*
33 *of Section 94771 shall comply with the reporting requirements of*
34 *paragraphs (1), (2), (3), and (5) of subdivision (a).*
- 35 (d) (1) *Program completion rates and placement data shall be*
36 *reported in accordance with the standards and criteria prescribed*
37 *by the board pursuant to this article and Section 94863, if*
38 *applicable.*
- 39 (2) (A) *The data underlying the completion rates and placement*
40 *data reported pursuant to this subdivision shall also be provided,*

1 including the name, address, and telephone number of each student
2 who enrolled in a program of instruction, including each student
3 who canceled or withdrew before completing the program; the
4 date upon which the student completed the program of instruction
5 if he or she completed the program; for each student counted as
6 a job placement, the name, address, and telephone number of his
7 or her employer, the name, address, and telephone number of the
8 person who provided to the institution the information regarding
9 the person's employment, the name, title, or description of the job,
10 the date upon which the student first reported for employment, the
11 duration of the student's employment, the number of hours the
12 student worked per week, the student's starting salary, and the
13 date or dates upon which the institution verified employment; if
14 any student was excluded from the completion or placement rate
15 calculations, a statement of the reason or reasons each of these
16 students was excluded; and if the student chose not to seek
17 employment and instead enrolled in another program to earn a
18 higher degree, the name and address of the institution in which
19 he or she enrolled, as well as the program in which he or she
20 enrolled.

21 (B) If the student is self-employed, the institution shall include
22 any documentation of self-employment, including, for example,
23 contracts, checks for payment, tax returns, social security
24 contribution records, records of accounts receivable or customer
25 payments, invoices for business supplies, rent receipts, appointment
26 book entries, business licenses, or any other information required
27 by the board that is a reliable indicator of self-employment. All of
28 this information shall be provided electronically in a format
29 prescribed by the board.

30 (3) Based on the review of information submitted to fulfill the
31 requirements of this section, the board may initiate a compliance
32 review and may place the institution on probation pursuant to
33 Section 95074, and may require evidence of financial stability and
34 responsibility pursuant to Sections 94853 and 94855, if applicable.
35 94857. Each institution approved under this chapter shall
36 provide the board with copies of all accrediting agency reports,
37 including preliminary reports and reports of visiting committees,
38 all audit reports prepared by the United States Department of
39 Education and student loan guaranty agencies, including all
40 preliminary reports, and the institution's written responses to the

1 reports described in this section, if applicable. The institution shall
2 provide a copy of each report within 15 days of the institution's
3 receipt of the report and a copy of the institution's response within
4 15 days of the institution's submission of its response. By a general
5 announcement on its Internet Web site, the board may authorize
6 or require these copies to be provided electronically or in paper
7 versions. Any documents provided electronically under this section
8 shall be indexed, with each separate document that makes up the
9 report or response provided as a separate file.

10 94858. (a) No institution approved under this chapter shall
11 offer any program of instruction to any person, or receive any
12 consideration from any person for a program of instruction, except
13 pursuant to a written agreement as described in this section. Any
14 written contract or agreement signed by a prospective student
15 shall not become operative until the student attends the first class
16 or session of instruction or has received the first lesson, if the
17 student is enrolled in a correspondence program.

18 (b) Every agreement for a program of instruction shall provide
19 all of the following:

20 (1) The name and address of the school and the addresses where
21 instruction will be provided.

22 (2) The name and description of the program of instruction,
23 including the total number of credits, classes, hours, or lessons
24 required to complete the program of instruction.

25 (3) A clear and conspicuous statement that the agreement or
26 contract is a legally binding instrument when signed by the student
27 and accepted by the school.

28 (4) The total amount that the student is obligated to pay for all
29 fees, charges, and expenses that shall be paid to complete the
30 program of instruction and all other services and facilities
31 furnished or made available to the student by the school, including
32 any charges made by the school for tuition, room and board, books,
33 materials, supplies, shop and studio fees, and any other fees and
34 expenses that the student will incur upon enrollment, shall be
35 separately itemized and underlined in capital letters on the same
36 page of the contract or agreement in which the student's signature
37 is required.

38 (A) If the student signs an agreement for the entire program,
39 the tuition and all other fees for the total cost of the program shall
40 be detailed. If the student enrolls by the semester or quarter, the

1 catalog shall include: the tuition per unit of credit, the units
2 required per semester or quarter, the number of units required for
3 the degree, a listing of all fees required to be paid and a description
4 of how and when fees are to be paid.

5 (B) The total amount charged for each item of equipment shall
6 be separately stated. The amount charged for each item of
7 equipment shall not exceed the equipment's fair market value. The
8 institution shall have the burden of proof to establish the
9 equipment's fair market value.

10 (C) The total amount shall be underlined and capitalized and
11 shall appear immediately above the following notice, which shall
12 be printed above the space on the agreement that is reserved for
13 the student's signature:

14 **“YOU ARE RESPONSIBLE FOR THIS AMOUNT. IF YOU GET**
15 **A STUDENT LOAN, YOU ARE RESPONSIBLE FOR REPAYING**
16 **THE LOAN AMOUNT PLUS ANY INTEREST.”**

17 (D) A list of any charges and deposits that are nonrefundable
18 shall be listed separately and clearly identified as nonrefundable
19 charges.

20 (E) The signature of the student under the following statement
21 that is presented in 12-point boldface or larger print: “My
22 signature below certifies that I have read, understood, and agreed
23 to my rights and responsibilities, the catalog and the institution's
24 cancellation and refund policies.”

25 (5) A clear and conspicuous caption, “BUYER'S RIGHT TO
26 CANCEL” under which it is explained in detail that the student
27 has the right to cancel the enrollment agreement and obtain a
28 refund, the form and means of notice that the student should use
29 in the event that he or she elects to cancel the enrollment
30 agreement, and the title and address of the school official to whom
31 the notice should be sent or delivered. The following statement
32 shall be included on the enrollment agreement:

33 “Students may cancel their contract with the school, without
34 any penalty or obligations on the fifth business day following the
35 first scheduled class session or with the first lesson in a
36 correspondence course, whichever is applicable. Cancellations
37 shall be made in writing. After the end of the cancellation period,
38 students also have the right to stop school at any time, and have
39 the right to receive a refund for the part of the program not taken
40 but have been paid for. If a student loses their copy of the contract,

1 *the school shall provide another copy to the student upon written*
2 *request and without charge. If the school closes before the student*
3 *graduates, that student may be entitled to a refund. Any questions*
4 *or problems concerning this school that have not been satisfactorily*
5 *answered or resolved by the school should be directed to the board*
6 *for Private Postsecondary Education, (address), Sacramento,*
7 *California 95834 or (Internet Web address).”*

8 (A) *If the student is not a resident of California or is the*
9 *recipient of third-party payor tuition and course costs, such as*
10 *workforce investment vouchers or rehabilitation funding, a clear*
11 *statement that the student is not eligible for protection under and*
12 *recovery from the Student Tuition Recovery Fund.*

13 (B) *The student’s right to withdraw from the program of*
14 *instruction and obtain a refund and an explanation of refund rights*
15 *and of how the amount of the refund will be determined including*
16 *a hypothetical example.*

17 (6) *A statement specifying that it is a state requirement that a*
18 *resident California student who pays his or her own tuition, either*
19 *directly or through a loan, is required to pay a state-imposed fee*
20 *for the Student Tuition Recovery Fund.*

21 (7) *A statement describing the purposes, operation, and*
22 *eligibility requirements of the Student Tuition Recovery Fund.*

23 (c) *All contracts and enrollment agreements signed by the*
24 *student shall be written in language that is capable of being easily*
25 *understood. If English is not the primary language spoken by the*
26 *student, the student shall have the right to obtain a clear*
27 *explanation of the terms and conditions of the agreement and all*
28 *cancellation and refund policies in his or her primary language.*

29 (d) *The institution shall provide a summary of the financial*
30 *resources encumbered by the student including, but not necessarily*
31 *limited to, public and private sources, interest rates, and total*
32 *repayment obligation.*

33 (e) *Each student shall be provided copies of any document that*
34 *he or she signs.*

35 (f) *The board may provide for the inclusion of additional*
36 *information in the enrollment agreement.*

37 94859. *No student may waive any provision of this article. Any*
38 *waiver or limitation of any substantive or procedural right or*
39 *remedy is contrary to public policy and is therefore in violation*
40 *of this section and thereby void and unenforceable.*

1 94860. (a) (1) Any institution or registrant governed by this
2 chapter extending credit or lending money to any person for tuition,
3 fees, or any charges whatever, for educational services to be
4 rendered or furnished shall cause any note, instrument, or other
5 evidence of indebtedness taken in connection with that loan or
6 extension of that credit to be conspicuously marked on the face
7 thereof with the following notice: “NOTICE: ANY HOLDER OF
8 THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL
9 CLAIMS AND DEFENSES THAT THE DEBTOR COULD ASSERT
10 AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED
11 PURSUANT TO THIS CONTRACT OR WITH THE PROCEEDS
12 HEREOF, RECOVERY UNDER THIS CONTRACT BY THE
13 DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE
14 DEBTOR UNDER THIS CONTRACT.”

15 (2) If the school or institution or registrant fails to do so, it shall
16 be liable for any damage or loss suffered or incurred by any
17 subsequent assignee, transferee, or holder of that evidence of
18 indebtedness on account of the absence of the specified notification.

19 (b) Notwithstanding the presence or absence of that notification
20 and notwithstanding any agreement in which the student waives
21 the right to assert any claim or defense, the institution or registrant
22 making that loan or extending that credit and the transferee,
23 assignee, or holder of that evidence of indebtedness, shall be
24 subject to all defenses and claims that could be asserted against
25 the institution or registrant that was to render or furnish those
26 educational services by any party to that evidence of indebtedness
27 or by the person to whom these educational services were to be
28 rendered or furnished up to the amount remaining to be paid
29 thereon.

30 (c) Institutions or registrants that participate in federal student
31 assistance programs, and that comply with the financial disclosure
32 and notification requirements for those programs, shall be deemed
33 to be in compliance with the standards prescribed by this section.

34 94861. (a) Every institution shall annually publish a catalog,
35 and shall provide this document to students and other interested
36 persons, before enrollment. No written contract signed by the
37 student shall be enforceable unless the following information has
38 been disclosed to the student:

39 (1) The specific beginning and ending dates defining the time
40 period covered by the catalog.

1 (2) A statement of the institution's mission, purpose, and
2 objectives as well as the objectives underlying each of its
3 educational programs.

4 (3) A list of the courses offered in each educational program
5 and a brief description of each course including the length of
6 programs offered.

7 (4) The number of credit hours per unit or units required for
8 completion of the educational degree or certificate program, as
9 defined by Sections 94724 and 94731.

10 (5) The institution's admissions policies including the
11 institution's policies regarding the acceptance of units of credit
12 earned by the student at other institutions or through challenge
13 examinations and standardized tests. If the institution admits
14 students from other countries, it shall disclose the following:

15 (A) Whether English language services, including instruction,
16 are provided and, if so, the nature of the service and its cost.

17 (B) Whether visa services are provided or whether the institution
18 will vouch for student status, and any associated charges.

19 (C) The level of English language proficiency required of
20 students and the kind of documentation of proficiency, such as the
21 Test of English as a Foreign Language (TOEFL) that will be
22 accepted.

23 (6) The institution's policies and procedures for the award of
24 credit for prior experiential learning, including assessment policies
25 and procedures, provisions for appeal, and all charges that a
26 student may be required to pay.

27 (7) The schedule of tuition payments, fees, and all other charges
28 and expenses necessary for the term of instruction and the
29 completion of the program of study.

30 (8) If the student signs an agreement for the entire program,
31 the tuition and all other fees for the total cost of the program shall
32 be detailed. If the student enrolls by the semester or quarter, the
33 catalog shall include: the tuition per unit of credit, the units
34 required per semester or quarter, the number of units required for
35 the degree, a listing of all fees required to be paid and a description
36 of how and when fees are to be paid.

37 (9) The cancellation and refund policies.

38 (10) The institution's policies and practices regarding any form
39 of financial aid, including all consumer information that the

1 institution is required to disclose to the student under any state or
2 federal financial aid program.

3 (11) The institution's standards for student achievement
4 including policy statements for attendance, dropout, and
5 leave-of-absence policies.

6 (12) A description of the facilities and of the types of equipment
7 and materials that will be used for instruction including a
8 disclosure providing the "normal business hours" of the
9 institution's operation.

10 (13) A description of library and other learning resources and
11 the procedures for student access to those resources.

12 (14) A description of all student services including a description
13 of the institution's practices that are designed to foster student
14 interaction for learning purposes, including practices for convening
15 study groups.

16 (15) If an institution represents that it provides employment
17 placement services, including contacts with potential employers,
18 a statement detailing the nature and extent of the placement
19 services and indicating when these services would be available to
20 the student.

21 (16) Policies on student rights, including the procedure for
22 addressing student grievances.

23 (17) If the institution offers instruction by correspondence, the
24 approximate number of days that will elapse between the
25 institution's receipt of student lessons, projects, or dissertations
26 and the institution's mailing of its response or evaluation.

27 (18) The names of each member of the faculty and their
28 individual qualifications to instruct.

29 (19) Housing information shall include whether the institution
30 has dormitory facilities under its control or the availability of
31 housing located reasonably near the institution's facilities and an
32 estimation of the approximate cost or range of cost of the housing.
33 If the institution has no responsibility to find or assist a student in
34 finding housing, the catalog shall include a clear and conspicuous
35 statement so indicating. A statement that the program is "non-
36 residential" does not satisfy this provision.

37 (20) Policies on the retention of student records including the
38 name telephone and address of the Custodian of Records and shall
39 include how long transcripts will be maintained.

1 (21) A description of the student's rights under the Student
2 Tuition Recovery Fund established pursuant to Article 13
3 (commencing with Section 95100).

4 (22) All other material facts concerning the institution and the
5 program or course of instruction that are reasonably likely to
6 affect the decision of the student to enroll, as prescribed by rules
7 and regulations adopted by the board.

8 (b) Annual updates may be made by the use of supplements or
9 inserts accompanying the catalog. If changes in educational
10 programs, educational services, procedures, or policies required
11 to be included in the catalog by statute or regulation are
12 implemented before the issuance of the annually updated catalog,
13 those changes shall be reflected at the time they are made in
14 supplements or inserts accompanying the catalog.

15 (c) If a state board, board, department, or agency has
16 established the minimum number of classes or class hours or the
17 minimum criteria of a course of instruction necessary for licensure
18 in an occupation and an institution offers a course of instruction
19 differing from the state entity's minimum requirements, the
20 institution shall disclose orally and in writing the state entity's
21 minimum requirements and how the course of instruction differs
22 from those criteria. The institution shall make this disclosure before
23 a prospective student executes an agreement obligating that person
24 to pay any money to the institution for the program of instruction.

25 94863. (a) Each institution offering a degree program designed
26 to prepare students for a particular vocational, trade, or career
27 field shall provide to each prospective student, and to the board
28 as part of its data reporting requirements a School Performance
29 Fact Sheet disclosing all of the following information:

30 (1) The number and percentage, by gender and ethnicity, of
31 students who begin the institution's program and successfully
32 complete the entire program as originally scheduled. The rate
33 shall be calculated by determining the number of students enrolled
34 in the program who were originally scheduled, at the time of
35 enrollment, to complete the program in a given calendar year
36 divided into the number who successfully completed the program
37 as scheduled.

38 (A) If the institution has offered the program of instruction for
39 less than one calendar year, the following statement shall be
40 included on the school performance fact sheet: "This program is

1 new. Therefore, the number of students who graduate, the number
2 of students who found jobs, or how much money you can earn after
3 finishing this program is unknown at this time. Contact the
4 institution to obtain the most recent information available.”

5 (B) An institution shall maintain records of the name, address,
6 and telephone number of students who enroll in a program of
7 instruction, including students who begin the program and students
8 who cancel, and of students who graduate from that program of
9 instruction.

10 (2) The passage rates of graduates, by gender and ethnicity, in
11 each program for the most recent calendar year that ended not
12 less than six months before the date of disclosure on any licensure
13 or certificate examination required by the state for employment
14 in the particular vocational, trade, or career field and for any
15 licensing preparation examination for which data is available.

16 (3) The number and percentage, by gender and ethnicity, of
17 students who complete the program and secure employment in the
18 field for which they were trained. In calculating this rate, the
19 institution shall consider as not having obtained employment, any
20 graduate for whom the institution does not possess evidence,
21 documented in his or her file, showing that he or she has obtained
22 employment in the occupation for which the program is offered.

23 (A) An institution shall inquire whether students who complete
24 a program of instruction obtain employment starting within six
25 months of completing the program in the occupation to which the
26 program of instruction is represented to lead and continue in
27 employment for a period of at least 60 days.

28 (B) The inquiry shall be documented by a list indicating each
29 student’s name, address, and telephone number; the employer’s
30 name, address, and telephone number; the name, address, and
31 telephone number of the person who provided the information
32 regarding the student’s employment to the institution; the name,
33 title, or description of the job; the date the student obtained
34 employment; the duration of the student’s employment; information
35 concerning whether the student was employed full-time or part-time
36 including the number of hours worked per week; and the names,
37 addresses, and telephone numbers of students who choose not to
38 seek employment and instead enroll in another program to earn
39 a higher degree, as well as the name and address of the institution
40 in which they enroll. If the student is self-employed, the list shall

1 *include reliable indices of self-employment such as contracts,*
2 *checks for payment, tax returns, social security contribution*
3 *records, records of accounts receivable or customer payments,*
4 *invoices for business supplies, rent receipts, appointment book*
5 *entries, business license, or any other information required by the*
6 *board that is a reliable indicator of self-employment.*

7 *(4) The average annual starting wages or salary of graduates,*
8 *by gender and ethnicity, of each program, if the institution makes*
9 *a claim to prospective students regarding the starting salaries of*
10 *its graduates, or the starting salaries or local availability of jobs*
11 *in a field. The institution shall disclose to the prospective student*
12 *the objective sources of information necessary to substantiate the*
13 *truthfulness of the claim.*

14 *(b) Each school that offers or advertises placement assistance*
15 *for any course of instruction shall file with the board its placement*
16 *statistics for the 12-month period or calendar year immediately*
17 *preceding the date of the school's application for annual review*
18 *for every program of instruction.*

19 *(c) The board shall develop standards and criteria to be used*
20 *by each institution in determining the statistical information*
21 *required by this section.*

22 *(d) The disclosure shall be signed by the institution and the*
23 *student and be dated. If the solicitation or negotiation leading to*
24 *the agreement for a program of instruction was in a language*
25 *other than English, the disclosure shall be in that other language.*

26 **94864. (a) Every institution offering an educational program**
27 **under this chapter shall provide to each prospective student a**
28 **statement in at least 12-point bold type that contains the following**
29 **statement:**

30 *“Transferability of credit(s) significantly depends upon the*
31 *receiving college or university. Students are advised that the*
32 *academic work they complete and that is subsequently reflected*
33 *on a transcript may or may not be accepted by other colleges or*
34 *universities. Any student that is considering attending another*
35 *postsecondary education institution, and in transferring credits,*
36 *should consult with all such institutions under consideration before*
37 *signing this enrollment agreement.”*

38 *(b) The institution may include any affirmative statements of*
39 *actual transfers as reported in their most recent IPEDS or CPEC*
40 *report.*

1 (c) *The disclosure shall be signed by the institution and the*
2 *student and dated. If the solicitation or negotiation leading to the*
3 *agreement for a program of instruction was in a language other*
4 *than English, the disclosure shall be in that other language. The*
5 *institution is not precluded from incorporating this disclosure in*
6 *the enrollment agreement.*

7 94865. (a) *The institution shall have and maintain the policy*
8 *set forth in this article for the refund of the unused portion of*
9 *tuition fees and other charges if the student does not register for*
10 *the period of attendance or withdraws from at any time before*
11 *completion of the courses, or otherwise fails to complete the period*
12 *of enrollment. The institutional refund policy for students who*
13 *have completed 60 percent or less of the course of instruction shall*
14 *be a pro rata refund. For the purpose of this provision, the*
15 *maximum fee retained by the institution for application and*
16 *registration fees, combined, shall be no more than one hundred*
17 *dollars (\$100.00).*

18 (b) *Except as provided in subdivision (c), the refund shall be*
19 *calculated as follows:*

20 (1) *Deduct a registration fee not to exceed one hundred dollars*
21 *(\$100.00) from the total tuition charge.*

22 (2) *Divide this figure by the number of hours in the program.*

23 (3) *The quotient is the hourly charge for the program.*

24 (4) *The amount owed by the student for the purposes of*
25 *calculating a refund is derived by multiplying the total hours*
26 *attended by the hourly charge for instruction plus the amount of*
27 *the registration fee specified in paragraph (1).*

28 (5) *The refund shall be any amount in excess of the figure*
29 *derived in paragraph (4) that was paid by the student.*

30 (c) *For an educational service offered by distance learning, the*
31 *refund shall be calculated as follows:*

32 (1) *Deduct a registration fee not to exceed one hundred (\$100)*
33 *from the total tuition charge.*

34 (2) *Divide this figure by the number of lessons in the program.*

35 (3) *The quotient is the per-lesson charge.*

36 (4) *The amount owed by the student for the purposes of*
37 *calculating a refund is derived by multiplying the total number of*
38 *lessons received by the per-lesson charge calculated in paragraph*
39 *(3) plus the amount of the registration fee specified in paragraph*
40 *(1).*

1 (5) *The refund shall be any amount in excess of the figure*
2 *derived in paragraph (4) that was paid by the student.*

3 (d) *Institutions subject to federal refund policies shall refund*
4 *to the student the amount of the unused portion of tuition fee and*
5 *other charges based upon the calculation that is monetarily*
6 *equivalent to or greater than the results achieved by the pro rata*
7 *calculations described in subdivisions (a), (b), and (c).*

8 94866. *Institutions, for all students, without penalty or*
9 *obligation, shall refund 100 percent of the amount paid for*
10 *institutional charges, less a reasonable deposit or application fee*
11 *not to exceed one hundred dollars (\$100), if notice of cancellation*
12 *is made before or on the first day of instruction. If the first lesson*
13 *in a distance learning program is sent to the student by mail, the*
14 *institution shall send it by first-class mail, postage prepaid,*
15 *documented by a certificate of mailing, and the student shall have*
16 *the right to cancel until midnight of the eighth business day after*
17 *the first lesson was mailed. The institution shall advise each student*
18 *that any notification of withdrawal or cancellation and any request*
19 *for a refund are required to be made in writing.*

20 94867. *The institution shall pay or credit refunds due on a*
21 *reasonable or timely basis, not to exceed 30 days following the*
22 *date upon which the student's withdrawal has been determined.*

23 94868. *The institution shall publish a current schedule of all*
24 *student charges, a statement of the purpose for those charges, and*
25 *a statement of the cancellation and refund policies with examples*
26 *of the application of the policies, and shall provide the schedule*
27 *to all current and prospective students before enrollment. The*
28 *schedule shall clearly indicate and differentiate all mandatory and*
29 *optional student charges. The institution shall include a clear*
30 *statement written in English describing the procedures that a*
31 *student is required to follow to cancel the contract or agreement*
32 *and obtain a refund. If the institution solicited the student or*
33 *negotiated the agreement in a language other than English, the*
34 *notice to the student shall be in that same language. The schedule*
35 *shall specify the total costs of attendance that shall include, but*
36 *not necessarily be limited to, tuition, fees, assessments for the*
37 *Student Tuition Recovery Fund, equipment costs, housing,*
38 *transportation, books, necessary supplies, materials, shop and*
39 *studio fees, and any other fees and expenses that the student will*

1 incur upon enrollment. The schedule shall clearly identify all
2 charges and deposits that are nonrefundable.

3 94869. (a) Any institution or registrant governed by this
4 chapter extending credit or lending money to any person for tuition,
5 fees, or any charges whatever for educational services to be
6 rendered or furnished shall cause any note, instrument, or other
7 evidence of indebtedness taken in connection with that loan or
8 extension of that credit to be conspicuously marked on the face
9 thereof with the following notice:

10 “NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT
11 CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES
12 THAT THE DEBTOR COULD ASSERT AGAINST THE SELLER
13 OF GOODS OR SERVICES OBTAINED PURSUANT TO THIS
14 CONTRACT OR WITH THE PROCEEDS HEREOF, RECOVERY
15 UNDER THIS CONTRACT BY THE DEBTOR SHALL NOT
16 EXCEED AMOUNTS PAID BY THE DEBTOR UNDER THIS
17 CONTRACT.”

18 (b) If the institution or registrant fails to comply with subdivision
19 (a), it shall be liable for any damage or loss suffered or incurred
20 by any subsequent assignee, transferee, or holder of that evidence
21 of indebtedness on account of the absence of the specified
22 notification.

23 (c) Notwithstanding the presence or absence of that notification
24 and notwithstanding any agreement in which the student waives
25 the right to assert any claim or defense, the institution or registrant
26 making that loan or extending that credit and the transferee,
27 assignee, or holder of that evidence of indebtedness, shall be
28 subject to all defenses and claims that could be asserted against
29 the institution or registrant that was to render or furnish those
30 educational services by any party to that evidence of indebtedness
31 or by the person to whom these educational services were to be
32 rendered or furnished up to the amount remaining to be paid
33 thereon.

34 94870. If the refund calculations set forth in this article cannot
35 be utilized because of the unique way in which an educational
36 program is structured, the board shall determine the details of an
37 alternative refund policy, by regulation, and shall take into
38 consideration the contract for educational services entered into
39 with the student, as well as the length and character of the

1 *educational program in determining standards for refunds. The*
2 *decision of the board shall be final.*

3 *94871. In addition to withholding institutional services as*
4 *described in Section 94948, an institution or registrant may*
5 *withhold a student's transcript or grades if the student is in default*
6 *on a student tuition contract. If the student has made partial*
7 *payment of his or her tuition obligation, the institution or registrant*
8 *may only withhold that portion of the grades or transcript that*
9 *corresponds on a pro rata basis to the amount of tuition or loan*
10 *obligation the student has not paid. If the course of study consists*
11 *of only one course, the institution or registrant may withhold the*
12 *grades or the transcript until the tuition or loan obligation is paid*
13 *in full.*

14 *94872. The approval to operate shall be issued to the owners*
15 *or the governing body of the applicant institution, and shall be*
16 *nontransferable. Any person that makes a proper application and*
17 *complies with this chapter and each standard and regulation*
18 *pertaining to this chapter shall be qualified to receive an approval*
19 *to operate or an approval of the transfer of ownership. Institution*
20 *status and compliance with this chapter shall continue to apply to*
21 *an institution notwithstanding a change in the institution's*
22 *ownership, name, or identification number.*

23 *94873. Every institution or registrant shall designate and*
24 *maintain an agent for service of process within this state and*
25 *provide the name, address, and telephone number of the agent to*
26 *the board. The board shall furnish the agent's name, address, and*
27 *telephone number to any person upon request. The address*
28 *provided for the agent for service of process shall not be a post*
29 *office box and it shall not be the same address as the institution*
30 *or registrant's primary administrative location.*

31 *94874. (a) If an institution or registrant is not operating in*
32 *California when it applies for approval to operate, the institution*
33 *or registrant shall set forth the name, address, and telephone*
34 *number of its agent for service of process in the institution's*
35 *application.*

36 *(b) If an institution or registrant fails to designate or maintain*
37 *an agent for service of process pursuant to subdivision (a) and if*
38 *service on the institution or registrant cannot reasonably be*
39 *effected in the manner provided in Section 415.10, 415.20, 415.30,*
40 *or 415.40 of the Code of Civil Procedure, the institution or*

1 registrant may be served by leaving a copy of the process or any
2 other document within the board and by sending, by first-class
3 mail, a notice of the service upon the board and a copy of the
4 process or other document to the institution or registrant at its
5 last address on file with the board. Service in this manner shall
6 be deemed complete on the 10th day after that mailing to the
7 institution or registrant. Proof of service may be made by a
8 declaration showing compliance with this subdivision.

9 94875. Institutions that provide a specific program of study
10 where the students will need program approval by a specific
11 authority or agency for the students to take an exam for
12 certification, licensure or other similar approval allowing the
13 student to perform services in the field of study, shall disclose to
14 the student if the school is not approved. Additionally, the
15 institution shall disclose any action plan and timeline for the
16 program to be approved.

17 94876. (a) Every institution shall meet all of the following
18 performance standards for each program offered during the
19 applicable time period described in this subdivision:

20 (1) Sixty percent or more of the students who began the program,
21 did not cancel pursuant to Section 94858, and were originally
22 scheduled at the time of enrollment to complete the course during
23 that period, shall complete it.

24 (2) Seventy percent or more of the students who completed the
25 program within that period shall obtain employment starting within
26 six months after completing the course in the occupations or job
27 titles to which the course of instruction was represented to lead.
28 For the purpose of this subdivision, “program” or “program of
29 instruction” or “course” or “course of instruction” includes all
30 courses of instruction, however denominated, that are represented
31 to lead to the same or closely related occupations or job titles.

32 (b) Every institution shall meet all of the following performance
33 standards for all programs in the aggregate offered by the
34 institution at each of its campuses during the applicable time period
35 described in this subdivision:

36 (1) Sixty percent or more of all the students who began the
37 programs did not cancel pursuant to Section 94858, and were
38 originally scheduled at the time of enrollment to complete these
39 programs during that time period, shall complete these programs.

1 (2) *Seventy percent or more of all the students who completed*
2 *the programs within that time period shall obtain employment,*
3 *starting within six months after completing the programs, in the*
4 *occupations or job titles to which the programs of instruction were*
5 *represented to lead.*

6 (c) *For the purposes of subdivisions (a) and (b), students who,*
7 *as documented by the institution, have been prevented from*
8 *completing the program or programs of instruction due to death,*
9 *disability, illness, pregnancy, military service, or participation in*
10 *the Peace Corps or Domestic Volunteer Service shall be excluded*
11 *from the computations used to determine whether an institution*
12 *has met the performance standards prescribed by those*
13 *subdivisions. Except as provided in Section 94874, an institution*
14 *shall not disclose the records maintained pursuant to this*
15 *subdivision unless production of those records are required by*
16 *any law, subpoena, or court order, or are necessary for a certified*
17 *public accountant to prepare a compliance report pursuant to*
18 *subparagraph (G) of paragraph (2) of subdivision (f).*

19 (d) *An institution shall meet the standards prescribed in*
20 *subdivisions (a) and (b) at each site at which the program or*
21 *programs are offered. A determination of whether a particular*
22 *site meets the standards prescribed in subdivisions (a) and (b)*
23 *shall be based only on students who attended that site. An*
24 *institution shall be subject to subdivisions (f) and (g) only with*
25 *respect to its sites that fail to meet the standards prescribed in*
26 *subdivisions (a) and (b).*

27 (e) (1) *This subdivision applies only to institutions in which 15*
28 *or fewer students began a program or programs, did not cancel*
29 *pursuant to Section 94858, and were originally scheduled to*
30 *complete the program or programs within the applicable time*
31 *period described in subdivision (a) or (b).*

32 (2) *If an institution described in paragraph (1) fails to meet any*
33 *of the standards prescribed in subdivision (a) or (b), but would*
34 *have met that standard if one additional student had completed or*
35 *obtained employment, the institution shall be deemed to comply*
36 *with this section. If an institution described in paragraph (1) fails*
37 *to meet the standard for review established in subdivision (f), but*
38 *would have met the standard if one additional student had*
39 *completed or obtained employment, the institution shall be deemed*
40 *subject to subdivision (f).*

- 1 (f) (1) *This subdivision applies only to an institution or any site*
2 *that fails to meet any of the following:*
- 3 (A) *Any of the standards established in subdivision (a) or (b)*
4 *by 10 percent or less.*
- 5 (B) *Any of the standards established in subdivision (a), but has*
6 *a placement rate of 42 percent or more for the course in which*
7 *the standard was failed.*
- 8 (C) *Any of the standards established in subdivision (b), but has*
9 *a placement rate of 42 percent or more for all courses in the*
10 *aggregate.*
- 11 (2) *If the institution's failure to meet the standards prescribed*
12 *in subdivision (a) or (b) was not caused by a violation of this*
13 *chapter, the board shall order, after notice and, if requested, after*
14 *a hearing, that the institution implement a program to achieve*
15 *compliance with subdivisions (a) and (b). The program may include*
16 *any of the following:*
- 17 (A) *Limitations on enrollment for specific courses of instruction.*
- 18 (B) *Revision of admission policies and screening practices to*
19 *ensure that students have a reasonable expectation of completing*
20 *courses and obtaining employment.*
- 21 (C) *Increased academic counseling and other student support*
22 *services.*
- 23 (D) *Improved curricula, facilities, and equipment.*
- 24 (E) *Revisions to the qualifications and number of faculty.*
- 25 (F) *Improved job placement services, including revisions to the*
26 *qualifications and number of job placement personnel and the*
27 *expansion of contacts with employees and state and federal*
28 *employment development agencies.*
- 29 (G) *Submission of a compliance report prepared by a certified*
30 *public accountant, who is not an officer, director, shareholder, or*
31 *employee of the institution, any parent corporation or any*
32 *subsidiary, prepared pursuant to an attestation engagement in*
33 *accordance with the Statements on Standards for Attestation*
34 *Engagements of the American Institute of Certified Public*
35 *Accounts, that states that the institution has complied with the*
36 *performance standards in this section within the period set forth*
37 *in paragraph (4).*
- 38 (H) *Any other reasonable procedure required by the board.*
- 39 (3) *If an institution is subject to an order pursuant to paragraph*
40 *(2), the board may require that the institution file information or*

1 reports requested by the board. The board may also monitor the
2 institution as provided in Article 12 (commencing with Section
3 95070).

4 (4) (A) An institution subject to an order pursuant to paragraph
5 (2) shall satisfy the standards established in subdivisions (a) and
6 (b) within the period designated by the board. This period shall
7 not extend more than one year beyond the length of the program
8 for noncompliance with the standards prescribed by subdivision
9 (a) or more than one year beyond the longest program for
10 noncompliance with the standards prescribed in subdivision (b).

11 (B) If the institution fails to satisfy the standards of subdivision
12 (a) within the period designated by the board, the board shall
13 order the institution to cease offering the course of instruction at
14 the campus where that program was offered. If the institution fails
15 to satisfy the standards of subdivision (b) within the period
16 designated by the board, the board shall revoke the institution's
17 approval to operate, or approval to operate the branch or satellite
18 campus where the programs were offered. No action shall be taken
19 pursuant to this paragraph without notice, and, if requested by
20 the institution, a hearing. In taking action pursuant to this
21 subparagraph, the board shall consider the impact, if any, of
22 changes in the employment rate in the area served by this
23 institution.

24 (g) If an institution fails to meet any of the standards established
25 in subdivision (a) and does not have a placement rate of 42 percent
26 or more for the program in which the standard was failed, the
27 board shall order the institution to cease offering the program of
28 instruction at the campus where the course was offered. If the
29 institution fails to meet any of the standards prescribed in
30 subdivision (b) and does not have a placement rate of 42 percent
31 or more for all programs in the aggregate, the board shall revoke
32 the institution's approval to operate, or approval to operate the
33 branch or satellite campus where the programs were offered. No
34 action shall be taken pursuant to this subdivision without notice
35 and, if requested by the institution, a hearing.

36 (h) (1) The institution shall have the burden of proving its
37 compliance with this section.

38 (2) The board shall investigate the institution as the board deems
39 appropriate to verify the institution's compliance with this section.
40 The investigation shall include an examination of the records

1 maintained by the institution pursuant to subdivision (j) and
2 contacts with the students and employers.

3 (3) If an institution willfully falsifies, alters, destroys, conceals,
4 or provides untrue or misleading information relating to
5 compliance with this section, including records maintained
6 pursuant to subdivision (j), the board shall revoke the institution's
7 approval to operate. No action shall be taken pursuant to this
8 paragraph without notice and, if requested by the institution, a
9 hearing. This provision supplements but does not supplant any
10 other penalty or remedy provided by law.

11 (4) The institution shall pay all reasonable costs and expenses
12 incurred by the board in connection with this section at a time
13 designated by the board.

14 (i) If the board, pursuant to subdivision (f) or (g), orders an
15 institution to cease offering a program of instruction or revokes
16 the approval of an institution to operate or operate a branch or
17 satellite campus, the institution may apply, no sooner than two
18 years after the date the order to cease or the revocation became
19 effective, for approval to offer that program or for approval to
20 operate. Before the board may grant any approval, the institution
21 shall establish that it complies with this chapter, each program
22 satisfies all of the minimum standards prescribed by this chapter,
23 and the circumstances surrounding the institution's failure to meet
24 the requirements of this section have sufficiently changed so that
25 the institution will be substantially likely to comply with this
26 section.

27 (j) An institution shall maintain records of the name, address,
28 and telephone number of students who enroll in a program of
29 instruction, including students who begin the program and students
30 who cancel pursuant to Section 94858, and of students who
31 graduate from that program of instruction. An institution shall
32 inquire whether students who complete a program of instruction
33 obtain employment starting within six months of completing the
34 program in the occupation to which the program of instruction is
35 represented to lead and continue in employment for a period of at
36 least 60 days. The inquiry shall be documented by a list indicating
37 each student's name, address, and telephone number; the
38 employer's name, address, and telephone number; the name,
39 address, and telephone number of the person who provided the
40 information regarding the student's employment to the institution;

1 *the name, title, or description of the job; the date the student*
2 *obtained employment; the duration of the student’s employment;*
3 *information concerning whether the student was employed full-time*
4 *or part-time including the number of hours worked per week; and*
5 *the names, addresses, and telephone numbers of students who*
6 *choose not to seek employment and instead enroll in another*
7 *program to earn a higher degree, as well as the name and address*
8 *of the institution in which they enroll. If the student is*
9 *self-employed, the list shall include reliable indices of*
10 *self-employment such as contracts, checks for payment, tax returns,*
11 *social security contribution records, records of accounts receivable*
12 *or customer payments, invoices for business supplies, rent receipts,*
13 *appointment book entries, business license, or any other*
14 *information required by the board that is a reliable indicator of*
15 *self-employment.*

16 *(k) For the purposes of this section, the following definitions*
17 *shall apply:*

18 *(1) “Annual report” means the report required to be filed*
19 *pursuant to Section 94802.*

20 *(2) (A) “Employment” means either of the following:*

21 *(i) Full-time employment with a single employer for at least 32*
22 *hours per week for a period of at least 60 days in the occupations*
23 *or job titles to which the program of instruction is represented to*
24 *lead.*

25 *(ii) Part-time employment with a single employer for at least*
26 *17.5 hours, but less than 32 hours, per week for a period of at least*
27 *60 days in the occupations or job titles to which the program of*
28 *instruction is represented to lead, provided that the student*
29 *completes a handwritten statement at the beginning of the program*
30 *and at the end of the program that states that the student’s*
31 *educational objective is part-time employment. The institution*
32 *shall not require that any student complete such a statement or*
33 *provide any incentive, financial or otherwise, to any student for*
34 *signing such a statement.*

35 *(B) The board shall adopt regulations to specify the job tasks,*
36 *other than those directly related to generating income, that may*
37 *be counted towards meeting the hour requirements for full-time*
38 *and part-time employment for students who are self employed.*

39 *(3) “Hearing” means a hearing as defined in Section 94741.*

1 (4) “Placement rate” means the percentage of students who
2 fulfilled both of the following conditions:

3 (A) Began the program, did not cancel pursuant to Section
4 94858, and were originally scheduled at the time of enrollment to
5 complete the program during the applicable time period described
6 in subdivision (l).

7 (B) (i) Completed the program, within the applicable time
8 period described in subdivision (l) and started employment within
9 six months of completing the program or, if employment requires
10 taking a state licensure examination for which only graduates of
11 the program may apply, then did either of the following:

12 (I) Started employment within six months of the date on which
13 the state licensing agency announces the results of the first
14 licensure examination reasonably available to students who
15 completed the program.

16 (II) Started employment within six months of the next reasonably
17 available licensure examination date for any student who did not
18 receive passing results on the first exam.

19 (ii) The time period determined pursuant to this subparagraph
20 shall not exceed 10 months beyond the date of completion of the
21 program of instruction. The institution shall retain a record of the
22 date of the first reasonably available licensure exam following the
23 completion date of each student, the date the licensure agency
24 announces the results of the first reasonably available licensure
25 exam, and the date of the next reasonably available licensure exam
26 for each student who did not pass the first exam.

27 (5) “Reporting period” means the institution’s fiscal year or
28 any year period designated by the board to be covered in the
29 institution’s annual report.

30 (6) “Time period” means the two most recent calendar years
31 that ended at least eight months before the end of the institution’s
32 applicable reporting period.

33 (l) (1) An institution’s compliance with the standards prescribed
34 in subdivisions (a) and (b) shall be determined as of the date on
35 which the institution’s reporting period ends.

36 (2) The institution shall report its determination of its
37 compliance with the standards established in subdivisions (a) and
38 (b) in each annual report.

39 (3) The board may adjust the meaning of “time period,” if the
40 board finds that an adjustment is necessary for the efficient

1 administration of this section. If any adjustment is made in the
2 annual reporting periods, the board may adjust when the time
3 period commences, but shall not alter the two-year length of the
4 period.

5 (m) In determining the placement rate for a particular time
6 period as described in subdivision (l), an institution may exclude
7 from the determination a student whose completion date was
8 extended beyond that time period if the extension was requested
9 by the student in writing on an enrollment agreement modification
10 request form that meets specifications established by the board.
11 The form shall include instructions to the student indicating that,
12 when signed by both the student and the institution, the request
13 modifies the existing agreement. The form shall not be valid unless
14 it provides space for the student to complete a handwritten
15 description, in the student's handwriting, of the reasons
16 necessitating the extension that are distinctly personal to the
17 student and unrelated to the provision of educational services or
18 activities of the institution, contains the new expected completion
19 date of the program, and is signed and dated by the student and
20 the institution. The institution shall provide the student a copy of
21 the signed modification request form. The institution shall retain
22 the student's original written request to modify the enrollment
23 agreement with the original enrollment agreement. A student
24 excluded from the placement rate determination for a particular
25 time period pursuant to this subdivision shall be included in the
26 placement rate determination for the next immediately following
27 time period. The institution shall state in the institution's annual
28 report the number of students for whom an extension was granted.

29 (n) In determining the placement rate for a particular time
30 period as described in subdivision (l), an institution may exclude
31 from the calculation a student who either:

32 (1) Decides not to obtain employment and, within six months
33 of completing the program, enrolls in a program to continue his
34 or her education to obtain a higher level degree that is related to,
35 or provides for the student to use, the same skills or knowledge
36 obtained in the program the student completed.

37 (2) Is in possession at the completion of the program of a valid
38 United States Immigration and Naturalization Service Form I-20.

39 (o) In determining the placement rate for a particular time
40 period as described in subdivision (l), an institution may count a

1 *student who drops out of the program after completing at least 75*
2 *percent of the program because the student has obtained*
3 *employment that lasts for a period of at least 60 days in the*
4 *occupations or job titles to which the program of instruction is*
5 *represented to lead. No more than 10 percent of the institution's*
6 *total number of placed students may be counted pursuant to this*
7 *subdivision.*

8 *(p) If an order to cease offering a program or a revocation is*
9 *issued pursuant to this section, the board may permit the institution*
10 *to continue to offer the program or programs of instruction to the*
11 *students who had begun the course or courses before the effective*
12 *date of the order or revocation or may order the institution to*
13 *cease instruction and provide a refund of tuition and all other*
14 *charges to students.*

15

16

Article 7. Standards

17

18 *94900. No private postsecondary educational institution may*
19 *issue, confer, or award a professional, academic or honorary*
20 *degree, unless the institution is approved by the board to operate.*
21 *The board shall not issue an approval under Article 8 (commencing*
22 *with Section 94950) until it has conducted a qualitative review*
23 *and assessment of, and has approved, each degree program offered*
24 *by the institution, and all of the operations of the institution, and*
25 *has determined all of the following:*

26 *(a) The institution has the facilities, financial resources,*
27 *administrative capabilities, faculty, and other necessary*
28 *educational expertise and resources to ensure its capability of*
29 *fulfilling the program or programs for enrolled students.*

30 *(b) The faculty is fully qualified to undertake the level of*
31 *instruction that they are assigned and shall possess degrees or*
32 *credentials appropriate to the degree program they teach and have*
33 *demonstrated professional achievement in the major field or fields*
34 *offered, in sufficient numbers to provide the educational services.*

35 *(c) The education services and curriculum clearly relate to the*
36 *objectives of the proposed program or programs and offer students*
37 *the opportunity for a quality education.*

38 *(d) The facilities are appropriate for the defined educational*
39 *objectives and are sufficient to ensure high quality educational*
40 *services to the students enrolled in the program or programs.*

1 (e) If an institution represents that a program leads to
2 employment, the quality, content, and instruction of the program
3 shall be sufficient to ensure that students may acquire the necessary
4 level of education, training, skill, and experience to obtain
5 employment in the occupation or job title to which the program
6 of instruction is represented to lead.

7 (f) The institution provides adequate student advisement
8 services, academic planning and curriculum development activities,
9 research supervision for students enrolled in Ph.D. programs, and
10 clinical supervision for students enrolled in various health
11 profession programs.

12 (g) If the institution offers credit for prior experiential learning
13 it may do so only after an evaluation by qualified faculty and only
14 in disciplines within the institution's curricular offerings that are
15 appropriate to the educational program to be pursued.

16 (h) The institution maintains for at least five years written
17 records of each student's previous education for which credit was
18 granted.

19 (i) A copy of the course outlines, description of the occupations
20 or job titles, if any, to which the course of instruction is represented
21 to lead.

22 (j) The institution maintains and enforces adequate standards
23 relating to, and maintains records of, attendance, satisfactory
24 academic progress, and student performance to achieve the
25 objective described in subdivision (e).

26 (k) The institution complies with all local city, county, municipal,
27 state, and federal regulations relative to the safety and health of
28 all persons upon the premises such as fire, building, and sanitation
29 codes. The board may require evidence of compliance.

30 (l) Application for approval shall be made in writing on forms
31 prescribed by the board.

32 94901. (a) Each institution shall have a written statement of
33 its mission, purposes, and objectives that clearly exemplify its
34 educational reasons to exist. The mission, purposes, and objectives
35 shall indicate the kind of education offered, for whom the
36 instruction is intended and the expected outcomes for graduates.
37 The institution shall document that its educational programs and
38 educational programs are based on its stated mission, purposes,
39 and objectives, and that its facilities and equipment, financial
40 resources, administrative capabilities, faculty, library and other

1 *learning resources, and student services are sufficient to achieve*
2 *its stated mission, purposes, and objectives. The mission shall have*
3 *both of the following characteristics:*

4 *(1) The mission shall include the institution's broad expectations*
5 *concerning the education that students will receive, including the*
6 *acquisition of the body of knowledge presented in the educational*
7 *program, the development of intellectual, analytical, and critical*
8 *abilities, and the fostering of values such as a commitment to*
9 *pursue lifelong learning.*

10 *(2) The mission shall relate to the educational expectations of*
11 *the institution's students and faculty and the community served by*
12 *the institution.*

13 *(b) The institution's objectives shall clearly describe how the*
14 *institution will transform its mission into measurable student*
15 *learning outcomes. The purposes or goals established by each*
16 *institution shall describe the methods or educational emphases*
17 *chosen by an institution to fulfill its mission. The institution's*
18 *purposes relate to why the institution was founded, its particular*
19 *point of view, its unique or special character, and its relationship*
20 *to the community it serves.*

21 *94902. (a) Each owner, director, and administrator of an*
22 *institution shall expend or authorize the expenditure of the*
23 *institution's assets and funds, including tuition, fees, and other*
24 *charges collected from or on behalf of students, in a diligent and*
25 *prudent manner to ensure that students receive the education and*
26 *student services that were represented to the students and that*
27 *meet the requirements of this chapter.*

28 *(b) Each owner, director, and administrator of an institution*
29 *has the duty to act in the utmost good faith to take all reasonable*
30 *steps within his or her capacity to cause the institution to comply*
31 *with all applicable law and to correct the effects of noncompliance.*

32 *(c) Each owner, director, and administrator of an institution*
33 *shall immediately disclose to the board evidence that the institution*
34 *or any person connected with the institution has engaged in fraud,*
35 *misrepresentation, misappropriation of funds, or any violation of*
36 *law prosecutable as a felony, except that no disclosure is required*
37 *of any matter privileged under Section 940 of the Evidence Code.*

38 *94903. (a) The curriculum shall present those subject areas*
39 *that are necessary for a student to achieve the educational*
40 *objectives of the educational program in which the student is*

1 enrolled. The institution shall maintain a course outline for each
2 course offered.

3 (b) Graduation requirements for undergraduate degree
4 programs shall include provisions for general education
5 appropriate to the level and type of degree.

6 (1) Associate degrees shall be awarded only to students who
7 complete at least the learning outcomes equivalent to a minimum
8 of 60 semester units or 90 quarter units of credit.

9 (A) The Associate in Arts and Associate in Science degrees may
10 be awarded only to students whom the institution can document
11 have achieved sequential learning equivalent in breadth of
12 knowledge and understanding (i.e., general education) to that
13 acquired in two years of college study beyond high school, as
14 measured by a minimum of 60 semester units or its equivalent in
15 other units of credit.

16 (i) Academic associate degrees shall designate at least 25
17 percent of the requirements for the associate degree and the
18 bachelor's degree shall be in general education. General education
19 offered as part of these programs shall be necessary for a student
20 to achieve the educational objectives of the program in which he
21 or she is enrolled.

22 (ii) General education shall also be at the same level of quality
23 as that taught in bachelor's or associate degree programs that are
24 approved pursuant to Article 8 (commencing with Section 94950).

25 (iii) General education shall consist of courses and other
26 organized educational activities designed to introduce students to
27 each of the major divisions of formal learning such as the natural
28 sciences, the social sciences, the humanities, the skills of writing
29 and speaking, and mathematics. The institution shall specify the
30 distribution of general education requirements by subject area for
31 each undergraduate degree program.

32 (B) The Associate of Occupational Studies or Associate of
33 Applied Science degree shall designate a minimum of 75 percent
34 of the curriculum shall be in the occupational area for which
35 training is offered. Currently approved institutions that have been
36 approved to offer vocational degree programs with degree titles
37 that are not designated as either an Associate of Occupational
38 Studies or Associate of Applied Science shall have until January
39 1, 2010, to comply with this section.

1 (2) *The bachelor's degree may be awarded to students who the*
2 *institution can document have achieved sequential learning*
3 *equivalent in breadth of knowledge and understanding (i.e., general*
4 *education) and equivalent in depth of achievement in a designated*
5 *major field to that acquired in four years of study beyond high*
6 *school, as measured by a minimum of 120 semester units or its*
7 *equivalent in other units of credit.*

8 (3) *The master's degree may only be awarded to students who*
9 *demonstrate at least the achievement of learning in a designated*
10 *major field that is equivalent in depth to that normally acquired*
11 *in a minimum of 30 semester units or its equivalent in other units*
12 *of credit or one year of study beyond the bachelor's degree.*

13 (A) *No more than 25 percent of the units required for graduate*
14 *degree programs may be awarded for a final product such as a*
15 *thesis, dissertation, or product.*

16 (B) *Dissertations, theses, and other work products submitted*
17 *by students as part of a graduate program shall be signed by all*
18 *faculty members recommending the student for an award of a*
19 *degree.*

20 (4) *Doctorate degrees may be awarded only to students who*
21 *have completed a prescribed level of study normally requiring a*
22 *minimum of three academic years of full-time graduate study or*
23 *the equivalent in part-time study; or, if the program leads to a*
24 *profession or occupation requiring state licensure, who satisfy the*
25 *requirements of the state agency.*

26 (A) *Programs leading to doctorate degree shall include*
27 *substantial instruction in both theory and research at advanced*
28 *levels in a designated field and specialty. Each educational*
29 *program leading to a doctorate degree shall involve preparation*
30 *for scholarship and systematic inquiry that includes research*
31 *methodology and who have demonstrated learning achievement*
32 *through original research directly attributable to the student.*

33 (B) *Each doctorate program shall include a minimum of two*
34 *formal evaluations of the student by a doctoral committee.*

35 (i) *The first evaluation shall consider the student's*
36 *qualifications, including the student's knowledge, skills, and*
37 *conceptual framework, for undertaking rigorous inquiry into the*
38 *student's designated field.*

1 (ii) *The second evaluation shall consider the design procedures*
2 *and products of a formal original inquiry proposed and completed*
3 *by the student.*

4 (C) *The doctoral committee shall be composed of at least three*
5 *members of the institution's own faculty. The faculty who serve*
6 *on each student's doctoral examining committee shall comply with*
7 *Section 94905.*

8 (D) *The formal evaluation procedures shall provide the*
9 *committee as a whole with the opportunity to jointly examine the*
10 *candidate. If the candidate is not physically present and the*
11 *evaluation shall take place by telephone or other means of*
12 *electronic communication, one of the following shall apply:*

13 (i) *One faculty member on the student's doctoral committee*
14 *from the main location in the state in which the program is licensed*
15 *or otherwise officially approved shall be present at the location*
16 *where the doctoral student is examined.*

17 (ii) *A proctor, selected and approved by the doctoral committee,*
18 *shall sit as an observer with the student at the distant location and*
19 *verify, under penalty of perjury under the laws of the State of*
20 *California, the identity of the student and the facts that the student*
21 *received no prompting by anyone and did not have access to*
22 *unallowed materials during the evaluation process.*

23 (E) *If a project includes more than one student, the individual*
24 *student's role and contributions shall be clearly identified and*
25 *documented.*

26 (F) *The institution shall maintain a written record of the*
27 *evaluations. This record shall include the names and signatures*
28 *of all committee members who participated in the evaluations.*

29 (c) *If an institution applying for approval seeks board approval*
30 *to offer a degree in an emerging new field of study, the institution*
31 *shall submit written documentation establishing that the field of*
32 *study is based on new or unique applications of information derived*
33 *from established principles, theories, and bodies of knowledge*
34 *from disciplines generally recognized in higher education. The*
35 *board recognizes that new or unique applications of information*
36 *may be stimulated by a variety of sources including new social*
37 *and economic trends.*

38 (1) *If the institution establishes that the subject matter area is*
39 *appropriate for instruction or instruction leading to a degree, the*
40 *director shall include on the visiting committee professional*

1 *educators with expertise, as described in paragraph (2) of*
2 *subdivision (d), to evaluate the institution's proposed offer of*
3 *instruction or a degree program in the emerging new field of study.*

4 *(2) If the board grants approval to the institution to offer a*
5 *degree in an emerging field of study, the institution shall disclose*
6 *in its catalog and a separate written notice provided to students*
7 *before enrollment that the educational service in the emerging*
8 *new field and will have limited, if any, transferability, to other*
9 *institutions because of the nature of the emerging subject matter.*

10 *(d) If an institution seeks approval to award a degree in an*
11 *emerging field of study, the institution shall comply with*
12 *subdivision (c) and submit to the board documentation, including*
13 *research, publications, written curriculum, and course materials,*
14 *establishing to the reasonable satisfaction of the board and a*
15 *special committee appointed by the executive director that the*
16 *emerging field of study should be recognized as a discipline for*
17 *degree study in higher education. The special committee shall*
18 *consist of a team of professional educators in disciplines related*
19 *to the emerging new field that are affiliated with accredited or*
20 *board-approved degree granting institutions.*

21 *94904. Instruction shall be the central focus of the resources*
22 *and services of the institution. The institution shall document that*
23 *the instruction offered leads to the achievement of the learning*
24 *objectives of each course.*

25 *(a) Direct instruction requires the physical presence of one or*
26 *more students and one or more faculty members at the same*
27 *location. Direct instruction includes instruction presented in a*
28 *classroom, seminar, workshop, lecture, colloquium, laboratory,*
29 *tutorial, or other physical learning settings consistent with the*
30 *mission, purposes, and objectives of the institution.*

31 *(b) Indirect instruction does not require the physical presence*
32 *of students and faculty at the same location but provides for*
33 *interaction between students and faculty by such means as*
34 *telecommunication, correspondence, electronic and computer*
35 *augmented educational services, postal service, and facsimile*
36 *transmission.*

37 *(c) An institution offering a degree program by correspondence*
38 *instruction shall comply with all of the following:*

1 (1) *The institution shall mail the first lesson and the initial*
2 *correspondence material to the student within seven days after the*
3 *institution accepts the student for admission.*

4 (2) *The student shall have the right to cancel the agreement and*
5 *receive a full refund before the first lesson and initial*
6 *correspondence material are received. Cancellation is effective*
7 *on the date written notice of cancellation is mailed. The institution*
8 *shall make the refund within 30 days of cancellation. If the*
9 *institution sent the first lesson and materials before an effective*
10 *cancellation notice was received, the institution shall make a refund*
11 *within 30 days after the student's return of the correspondence*
12 *material.*

13 (3) *An institution shall mail all of the lessons and other material*
14 *to the student if the student has fully paid for the program and*
15 *requests all of the material in writing after having received the*
16 *first lesson and initial correspondence material.*

17 (4) *If an institution mails the balance of the material as the*
18 *student requests, the institution shall remain obligated to provide*
19 *the other educational services it agreed to provide, such as*
20 *responses to student inquiries, student and faculty interaction, and*
21 *evaluation and comment on lessons submitted by the student but*
22 *shall not be obligated to pay any refund after all of the lessons*
23 *and material are mailed.*

24 (d) *The institution shall notify the board 30 days before the*
25 *discontinuation of an educational program and immediately upon*
26 *the decision to eliminate any instruction or other educational*
27 *service offered by the institution.*

28 (e) *If an institution proposes to use innovative or unique methods*
29 *of instruction in degree programs, the institution shall demonstrate*
30 *to the reasonable satisfaction of the board and a special committee*
31 *appointed by the executive director that the proposed method has*
32 *a demonstrable value as a method of delivering concepts and*
33 *information, leads to the measurable learning outcomes stated by*
34 *the institution, and is clearly explained to the students before their*
35 *enrolling in the course in which the method will be used.*

36 94905. (a) *Faculty shall possess adequate academic,*
37 *experiential, and professional qualifications to teach the course*
38 *or to perform the duties that the person is assigned, and shall*
39 *satisfy all standards established by the board. Each institution*
40 *shall employ or contract with qualified faculty sufficient in number*

1 to provide the instruction, student advisement, and learning
2 outcomes necessary for the institution to document its achievement
3 of its stated mission, purposes, and objectives and effectuate the
4 learning objectives for each student enrolled. The majority of the
5 institution's faculty shall possess a diverse educational
6 background, that shall be demonstrated in part by earned degrees
7 from a variety of colleges and universities or by credentials
8 generally recognized in the field of instruction.

9 (b) When employing or contracting for educational services,
10 the institution shall maintain control of, and responsibility for, all
11 academic matters, and shall ensure that the instruction and faculty
12 satisfy the standards established by this chapter.

13 (c) Faculty shall have all of the following qualifications:

14 (1) Faculty shall possess a degree from an institution approved
15 or authorized by the Superintendent of Public Instruction, approved
16 by the former council or bureau, currently approved by the Board
17 for Private Postsecondary Education, or a public or private
18 institution that is accredited by an agency recognized by the United
19 States Department of Education. Faculty that possess earned
20 degrees from institution outside of the United States shall be
21 graduates from institutions recognized by their government and
22 their transcripts shall be translated into English and be evaluated
23 by the American Association of Collegiate Registrars and
24 Admissions Officers (AACRAO) or a member of the National
25 Association of Credential Evaluation Services (NACES) to
26 determine the equivalency of the degree to those degrees awarded
27 in the United States from institutions accredited by an agency
28 recognized by the United States Department of Education or
29 approved by the Board of Private Postsecondary Education.

30 (2) Faculty teaching in undergraduate degree programs shall
31 possess a bachelor's degree, at a minimum.

32 (3) Faculty teaching academic general education and other
33 academic courses shall possess at a minimum fifteen semester or
34 equivalent credit hours of coursework successfully completed from
35 undergraduate or graduate degrees in the subject area they are
36 assigned to instruct.

37 (4) Faculty teaching technical and occupationally related
38 courses, including applied general education, shall have a
39 minimum of three years of related practical experience in the
40 subject areas taught.

1 (5) Faculty teaching in master's level degree programs shall
2 possess a graduate degree, at a minimum. Fifty percent of the
3 faculty assigned to teach a master's degree program shall possess
4 terminal degrees. Professional certification is not an appropriate
5 alternative or a terminal degree.

6 (6) Faculty teaching in doctorate level degree programs shall
7 possess a doctorate degree, at a minimum. Fifty percent of the
8 faculty assigned to teach a doctorate degree program shall possess
9 terminal degrees from institutions accredited by an accrediting
10 association recognized by the United State Department of
11 Education. Professional certification is not an appropriate
12 alternative or a terminal degree.

13 (i) Faculty shall have been active in their field of scholarship
14 or profession within the five-year period preceding their contract
15 to instruct in doctoral programs.

16 (ii) Following the acquisition of a doctorate degree, faculty
17 shall have three or more years of field or research experience
18 related to their earned doctorate degree.

19 (7) Faculty for a program that leads to licensure shall possess
20 at least three years' experience in the occupation or job title
21 category for which the licensure is sought.

22 (8) No person shall serve as faculty if that person has been
23 convicted of, or has pled *nolo contendere* or guilty to, a crime
24 involving the acquisition, use, or expenditure of federal or state
25 funds, or who has been judicially or administratively determined
26 to have committed any violation of this chapter or of any law
27 involving state or federal funds, or committed any act that would
28 constitute grounds for the denial of a license under Section 480
29 of the Business and Professions Code.

30 (c) The institution shall maintain current records for a period
31 of not less than five years at its principal place of business in
32 California, that are immediately available during normal business
33 hours for inspection and copying by the board or the Attorney
34 General and showing all of the following:

35 (1) The names and addresses of its faculty together with a record
36 of the educational qualifications of each.

37 (2) Certified copies of educational transcripts. A transcript
38 bearing the notation "issued to student" shall not be considered
39 an official transcript evidencing qualified faculty.

40 (3) Verified employment history.

1 (4) *Teaching assignments and other duties assigned for each*
2 *academic year whereby the faculty member entered into an*
3 *agreement with the institution to conduct one or more of the*
4 *courses in the institution's curriculum or is responsible for advising*
5 *and consulting with individual students or facilitating and*
6 *evaluating student learning outcomes and progress.*

7 (5) *The institution shall maintain for each member of the faculty*
8 *a validated transcript evidencing the annual completion of three*
9 *continuing education units of recognized inservice training in their*
10 *education, job title category, or employment field at the main*
11 *location. These units may be completed through inservice training*
12 *offered by accrediting associations or professional organizations.*

13 (6) *Each faculty member's job performance shall be assessed*
14 *annually, at a minimum, and documentation shall be evidenced in*
15 *the faculty member's personnel file. The duties, responsibilities,*
16 *and performance evaluation criteria for each faculty member shall*
17 *be evidenced in the personnel file of each faculty member.*

18 (d) *Each institution shall develop and implement written policies*
19 *and procedures providing for the participation of qualified faculty*
20 *in the conducting of research, development of curricula, academic*
21 *planning, enforcement of standards of academic quality, pursuit*
22 *of academic matters related to the institution's mission, purposes,*
23 *and objectives, and the establishment of criteria for contracting*
24 *new faculty, and evaluation of faculty credentials and instructional*
25 *effectiveness, such as peer review.*

26 (e) *Each institution shall have a written academic freedom*
27 *policy that describes the conditions under which scholars and*
28 *faculty are allowed latitude with respect to their discussions with*
29 *students that may include controversial concepts and positions*
30 *without fear of retribution or reprisal. This written policy shall be*
31 *made available to any person upon request. The institution shall*
32 *not take adverse action based on a faculty member's exercise of*
33 *academic freedom consistent with the institution's policy.*

34 94906. (a) *The institution shall have sufficient facilities and*
35 *necessary equipment to support the achievement of the educational*
36 *objectives of all of the courses and educational programs in which*
37 *students are enrolled.*

38 (b) *The institution's facilities, including heating and cooling,*
39 *ventilation, lighting, classrooms, laboratories, and campus*
40 *environs, shall be well maintained. The institution shall adopt*

1 *safety and security procedures necessary to protect students and*
2 *shall comply with Section 94380, if applicable.*

3 *(1) The institution's physical facilities, and any equipment used*
4 *on the institution's premises or sold to students, shall comply with*
5 *applicable health and safety requirements. The institution's*
6 *facilities and equipment shall be used in accordance with health*
7 *and safety requirements.*

8 *(2) The institution shall maintain on file all valid permits*
9 *required by public agencies relating to the health and safety of*
10 *the institution's facilities and equipment.*

11 *94907. (a) Each institution shall have qualified administrative*
12 *personnel fully capable of accomplishing the mission, purposes,*
13 *and objectives of the institution.*

14 *(1) Each owner, director, and administrator of an institution*
15 *has the duty to act in the utmost good faith to take all reasonable*
16 *steps within his or her capacity to cause the institution to comply*
17 *with all applicable law and to correct the effects of noncompliance.*

18 *(2) Each owner, director, and administrator of an institution*
19 *shall immediately disclose to the board evidence that the institution*
20 *or any person connected with the institution has engaged in fraud,*
21 *misrepresentation, misappropriation of funds, or any violation of*
22 *law prosecutable as a felony, except that no disclosure is required*
23 *of any matter privileged under Section 940 of the Evidence Code.*

24 *(3) Each owner, director, and administrator of an institution*
25 *shall expend or authorize the expenditure of the institution's assets*
26 *and funds, including tuition, fees, and other charges collected from*
27 *or on behalf of students, in a diligent and prudent manner to ensure*
28 *that students receive the education and student services that were*
29 *represented to the students and that meet the requirements of this*
30 *chapter.*

31 *(b) Each institution shall have a chief executive officer, a chief*
32 *operating officer, and a chief academic officer, at a minimum. One*
33 *person may serve more than one function.*

34 *(1) The Chief Executive Officer shall be the individual primarily*
35 *responsible for the overall administration of the institution,*
36 *including the supervision of the Chief Operating Officer and the*
37 *Chief Academic Officer.*

38 *(2) The Chief Academic Officer is the individual primarily*
39 *responsible for the administration of an institution's academic*
40 *Affairs including the supervision of faculty, development of*

1 educational programs and curricula, and implementation of the
2 institution's mission, purposes, and objectives. The Chief Academic
3 Officer shall possess a degree and equivalent acceptable
4 experience at least equal to the highest qualifications required of
5 the institution's faculty.

6 (3) The Chief Operating Officer shall be the individual primarily
7 responsible for the administration of an institution's business
8 operations, including finances, management, personnel, and the
9 contracting of goods, services, and property.

10 (c) Financial aid directors shall have five years of experience
11 in an administrative position in the financial aid office of a public
12 or board approved private postsecondary school. Financial aid
13 officers shall possess verification of completion within the previous
14 two years of training seminar or workshop certified by the Student
15 Aid Commission as providing up-to-date comprehensive
16 information on financial aid programs and policies.

17 (d) No person shall serve in an administrative position if that
18 person has been convicted of, or has pled nolo contendere or guilty
19 to, a crime involving the acquisition, use, or expenditure of federal
20 or state funds, or who has been judicially or administratively
21 determined to have committed any violation of this chapter, any
22 law involving state or federal funds, or committed any act that
23 would constitute grounds for the denial of a license under Section
24 480 of the Business and Professions Code.

25 (e) The duties, responsibilities, and performance evaluation
26 criteria for each administrator shall be set forth in a personnel
27 manual or equivalent maintained by the institution. The written
28 document shall include a current organizational chart that
29 illustrates the governance and administrative structure of the
30 institution and the relationship between the faculty and the
31 administrative positions.

32 (f) The institution shall maintain current records for a period
33 of not less than five years at its principal place of business in
34 California. These records shall be immediately available during
35 normal business hours for inspection and copying by the board or
36 the Attorney General, and shall show all of the following:

37 (1) The names and addresses of its administrators together with
38 a record of the educational and experiential qualifications of each.

39 (2) The Chief Academic Officer records shall include certified
40 copies of educational transcripts. A transcript bearing the notation

1 “issued to student” shall not be considered an official transcript
2 evidencing a qualified Chief Academic Officer.

3 (3) Verified employment history.

4 (4) Each administrator’s job performance will be assessed
5 annually, at a minimum, and documentation shall be evidenced in
6 the administrator’s personnel file. The duties, responsibilities, and
7 performance evaluation criteria for each administrator shall be
8 evidenced in the personnel file of each administrator.

9 (5) Administrators shall maintain a validated transcript
10 evidencing the annual completion of three continuing education
11 units of recognized inservice training in their education, job title
12 category, or employment field at the main location. These units
13 may be completed through inservice training offered by accrediting
14 associations or professional organizations.

15 94908. (a) The institution shall maintain a file for each student
16 who enrolls in the institution whether or not the student completes
17 the educational service. Every institution shall maintain for a
18 period of not less than five years at its principal place of business
19 in California accurate records that show all of the following:

20 (1) The names, telephone numbers, and home and local
21 addresses of each student.

22 (2) The courses of instruction offered by the institution and the
23 curriculum for each course.

24 (3) All information and records required by this chapter or
25 required by the board.

26 (4) Written records and transcripts of any formal education or
27 training, testing, or experience that is relevant to the student’s
28 qualifications for admission to the institution or the institution’s
29 award of credit or acceptance of transfer credits including all of
30 the following:

31 (A) Evidence of high school completion or equivalency or other
32 documentation establishing the student’s ability to do college level
33 work.

34 (B) Records documenting units of credit earned at other
35 institutions that have been accepted and applied by the institution
36 as transfer credits toward the student’s completion of an
37 educational program.

38 (C) Grades or findings from any examination of academic ability
39 or educational achievement used for admission or college
40 placement purposes.

- 1 (D) All of the documents evidencing a student's prior
2 experiential learning upon which the institution and the faculty
3 base the award of any credit.
- 4 (E) Personal information regarding a student's age, gender,
5 and ethnicity, if the student has voluntarily supplied that
6 information.
- 7 (F) Copies of all documents signed by the student, including
8 contracts, instruments of indebtedness, and documents relating to
9 financial aid.
- 10 (G) Records of the dates of enrollment and, if applicable,
11 withdrawal from the institution, leaves of absence, and graduation.
- 12 (H) A transcript showing all of the following:
- 13 (i) The classes and courses or other educational programs that
14 were completed, or were attempted but not completed, and the
15 dates of completion or withdrawal.
- 16 (ii) The final grades or evaluations given to the student.
- 17 (iii) Credit awarded for prior experiential learning, including
18 the course title for which credit was awarded and the amount of
19 credit.
- 20 (iv) Credit for courses earned at other institutions.
- 21 (v) Credit based on any examination of academic ability or
22 educational achievement used for admission or college placement
23 purposes.
- 24 (vi) Degrees and diplomas awarded the student.
- 25 (I) For independent study courses, course outlines or learning
26 contracts signed by the faculty and administrators who approved
27 the course.
- 28 (J) The dissertations, theses, and other student projects
29 submitted by graduate students.
- 30 (K) A copy of any document relating to student financial aid
31 that is required to be maintained by law or by a loan guarantee
32 agency.
- 33 (L) A document showing the total amount of money received
34 from or on behalf of the student and the date or dates on which
35 the money was received.
- 36 (M) A document specifying the amount of a refund, including
37 the amount refunded for tuition and the amount for other itemized
38 charges, the method of calculating the refund, the date the refund
39 was made, and the name and address of the person or entity to
40 which the refund was sent.

1 (N) Copies of any official advisory notices or warnings
2 regarding the student's progress.

3 (O) Complaints received from the student.

4 (b) Except as provided in subdivision (c), an institution shall
5 maintain all records required by this chapter and that relate to
6 the institution's compliance with this chapter for at least five years
7 at the institution's primary administrative location in California.
8 Unless the institution has applied for, and the board has approved
9 a change of the institution's primary administrative location, the
10 primary administrative location shall be deemed to be the location
11 identified in the institution's most recently filed application for
12 approval to operate.

13 (c) The institution shall maintain for a period of 50 years a
14 transcript as prescribed by subparagraph (H) of paragraph (4) of
15 subdivision (a).

16 (d) The institution shall maintain records relating to federal
17 financial aid programs as provided by federal law.

18 (e) A copy of each current record required by this chapter shall
19 be maintained. Current records include records required by
20 subdivision (a) for students who are attending the institution, who
21 graduated or withdrew from the institution within the preceding
22 one-year, or for whom a refund is owed. Current records may be
23 maintained in either printed form or on reliable electronic devices
24 so long as they are available for inspection.

25 (f) A record that is no longer current may be stored on
26 microfilm, microfiche, computer disk, or any other method of
27 record storage only if all of the following apply:

28 (1) The record may be stored without loss of information or
29 legibility for the period within which the record is required to be
30 maintained by the act.

31 (2) The institution maintains functioning devices that can
32 immediately reproduce exact, legible printed copies of stored
33 records. The devices shall be maintained in reasonably close
34 proximity to the stored records at the institution's primary
35 administrative location in California.

36 (3) The institution has personnel scheduled to be present at all
37 times during normal business hours who know how to operate the
38 devices and can explain the operation of the devices to any person
39 authorized by this chapter to inspect and copy records.

1 (4) Any person authorized by this chapter to inspect and copy
2 records shall be given immediate access to the document
3 reproduction devices for the purpose of inspecting and copying
4 stored records and shall, upon request, reimburse the institution
5 for the reasonable cost of using the institution's equipment and
6 material to make copies at a rate not to exceed ten cents (\$.10)
7 per page. The institution shall maintain a second set of all
8 academic and financial records required by this chapter at a
9 different location unless the original records, including records
10 stored pursuant to subdivision (e), are maintained in a manner
11 secure from damage or loss. Storage under this paragraph may
12 include, but is not necessarily limited to, fire resistant cabinets.

13 (g) All records that the institution is required to maintain by
14 this chapter or this chapter shall be made immediately available
15 by the institution for inspection and copying during normal
16 business hours by the board and any entity authorized to conduct
17 investigations under Article 10 (commencing with Section 95050).

18 (h) If an institution closes, the institution and its owners are
19 jointly and severally responsible to arrange at their expense for
20 the storage and safekeeping in California of all records that are
21 required to be maintained by this chapter for as long as those
22 records shall be maintained. The repository of the records shall
23 make these records immediately available for inspection and
24 copying, without charge except as allowed under paragraph (4)
25 of subdivision (f), during normal business hours by any entity
26 authorized by law to inspect and copy records.

27 94909. (a) Each institution shall establish specific written
28 standards for student admissions for each educational program.
29 These standards shall be related to the particular educational
30 program. The institution shall not admit any student who is
31 obviously unqualified, or who does not appear to have a reasonable
32 prospect of completing the program. Each institution shall specify
33 the maximum credit it will accept from another institution for each
34 educational program and the basis upon which the transfer or
35 experiential credit will be awarded.

36 (b) Units earned at institutions approved by this board, public
37 or private institutions of higher learning accredited by an
38 accrediting association recognized by the United States
39 Department of Education, or any institution of higher learning,
40 including foreign institutions, if the institution offering the

1 *undergraduate program documents that the institution of higher*
2 *learning at which the units were earned offers degree programs*
3 *equivalent to degree programs approved by the board or accredited*
4 *by an accrediting association recognized by the United States*
5 *Department of Education.*

6 *(c) Students who possess earned degrees from institution outside*
7 *of the United States shall be graduates of institutions recognized*
8 *by their government and their transcripts shall be translated into*
9 *English and be evaluated by the American Association of*
10 *Collegiate Registrars and Admissions Officers (AACRAO) or a*
11 *member of the National Association of Credential Evaluation*
12 *Services (NACES) to determine the equivalency of the degree to*
13 *those degrees awarded in the United States from institutions*
14 *accredited by an agency recognized by the United States*
15 *Department of Education or currently approved by the Office of*
16 *Proprietary Education.*

17 *(d) Every student admitted to an undergraduate degree program*
18 *shall have a high school diploma or meet the institution's written*
19 *standards demonstrating the ability to succeed in college. A*
20 *maximum of 75 percent of the units or credit that may be applied*
21 *toward the award of a bachelor's degree may be derived from a*
22 *combination of any or all of the following:*

23 *(1) An institution may accept transfer credits only from the types*
24 *of institutions of higher learning described in subdivisions (b) and*
25 *(c).*

26 *(2) Challenge examinations and standardized tests such as the*
27 *College Level Placement Tests for specific academic disciplines.*

28 *(3) Prior experiential learning to the extent permitted under*
29 *subdivision (h).*

30 *(e) Possession of a bachelor's degree or its equivalent shall be*
31 *required for admission into post-baccalaureate degree programs.*
32 *The institution shall document that alternatives to a bachelor's*
33 *degree accepted by the institution are equivalent to a bachelor's*
34 *degree. If a graduate program leads to a profession or an*
35 *occupation requiring state licensure and the licensing agency does*
36 *not require that the members of the profession or occupation*
37 *possess a bachelor's degree or its equivalent, this subdivision does*
38 *not apply.*

- 1 (f) No more than six graduate semester units or the equivalent
2 in other units awarded by another institution may be credited
3 toward a Master's degree.
- 4 (g) No more than 30 graduate semester units or the equivalent
5 in other units awarded by another institution may be credited
6 toward a doctoral degree. This subdivision does not apply to
7 graduate programs that lead to a profession or an occupation
8 requiring state licensure where the licensing agency has a
9 regulation permitting a different standard.
- 10 (h) An institution may grant credit to a student for prior
11 experiential learning only if the institution complies with this
12 section.
- 13 (1) Credit for prior experiential learning may be granted only
14 if all of the following apply:
- 15 (A) The prior learning is equivalent to a college or university
16 level of learning.
- 17 (B) The learning experience demonstrates a balance between
18 theory and practice.
- 19 (C) The credit awarded for the prior learning experience directly
20 relates to the student's degree program and is applied in
21 satisfaction of some of the degree requirements.
- 22 (D) Each college or university level learning experience for
23 which credit is sought shall be documented by the student in
24 writing.
- 25 (2) Each college or university level learning experience shall
26 be evaluated by faculty qualified in that specific subject area who
27 shall ascertain to what college or university level learning the
28 student's prior experience is equivalent and how many credits
29 toward a degree may be granted for that experience.
- 30 (3) The faculty evaluating the prior learning shall prepare a
31 written report indicating all of the following:
- 32 (A) The documents in the student's record on which the faculty
33 member relied in determining the nature of the student's prior
34 experience.
- 35 (B) The bases for determining that the prior experience is
36 equivalent to college or university level learning and demonstrates
37 a balance between theory and practice.
- 38 (C) The bases for determining to what college or university
39 level the experience is equivalent, and the proper number of credits
40 to be awarded toward the degree for that experience.

1 (4) *The institution shall designate at least one administrator to*
2 *be responsible for the review of faculty determinations regarding*
3 *the award of credit for prior experiential learning.*

4 (5) *The administrator shall document the institution's periodic*
5 *review of faculty evaluations to ensure that the faculty written*
6 *evaluations and awards of credit comply with this section and the*
7 *institution's policies and are consistent.*

8 (6) *The amount of credit awarded for prior experiential learning*
9 *shall not be related to the amount charged the student for the*
10 *assessment process.*

11 (7) *Of the first 60 semester units awarded a student in an*
12 *undergraduate program, no more than 15 semester units may be*
13 *awarded for prior experiential learning.*

14 (8) *Of the second 60 semester units awarded a student in an*
15 *undergraduate program, no more than 15 semester units may be*
16 *awarded for prior experiential learning.*

17 (9) *Of the first 30 semester units awarded a student in a*
18 *graduate program, no more than six semester units may be*
19 *awarded for prior experiential learning.*

20 (10) *Of the second 30 semester units awarded a student in a*
21 *graduate program, no more than three semester units may be*
22 *awarded for prior experiential learning.*

23 (11) *No credit for experiential learning may be awarded after*
24 *a student has obtained 60 semester units in a graduate program.*

25 94910. *Each institution shall maintain and implement*
26 *procedures for the measurement of student academic progress*
27 *including all of the following:*

28 (a) *The use of evaluation and assessment measures consistent*
29 *with the level and abilities of the student and the mission, purposes,*
30 *and objectives of the institution.*

31 (b) *The maintenance of records of student progress that is*
32 *readily understandable and usable by other accredited or approved*
33 *institutions for the evaluation of students for admission.*

34 (c) (1) *The requirements that students demonstrate their*
35 *knowledge, skills, and academic achievement through student work*
36 *products, including tests, essays, written projects, oral*
37 *presentations, theses, and dissertations.*

38 (d) *The award of grades or credits based on evaluation by duly*
39 *qualified faculty.*

1 94911. (a) Each institution shall retain, for a minimum of five
2 years, copies of all advertising, including flyers, brochures,
3 newspaper, and other print advertisements, scripts for, and audio
4 and video recordings of, broadcast advertisements, and scripts
5 for telephone solicitations. The institution shall make these records
6 immediately available for inspection and copying during normal
7 business hours to site visit teams, the board, and the agencies
8 specified in Article 10 (commencing with Section 95050).

9 (b) No institution shall use the word “university” in its name
10 or in connection with a description of itself or its educational
11 programs unless the institution is a university as defined in Section
12 94767, or the institution uses other words in conjunction with
13 “university” to prevent the use of “university” from being
14 deceptive or misleading in any manner.

15 (c) (1) The institution shall have an official name. The name
16 shall not be identical, or similar to such a degree as may be
17 misconstrued as identical, to the name of an existing public or
18 nonpublic institution approved or authorized to operate in
19 California or deemed by the board as an identity confusing or
20 misleading to the public at large.

21 (2) Currently approved institutions that do not meet the criteria
22 of this section, shall have until June 30, 2009, to comply with this
23 section.

24 (d) (1) No honorary degree may be given, awarded, or granted
25 by any institution that does not give, award, or grant an earned
26 degree.

27 (2) No fee or other charge may be assessed for giving, awarding,
28 or granting an honorary degree.

29 (3) An honorary degree shall be clearly designated as such on
30 the diploma or certificate.

31 94912. (a) An institution shall, as part of its curricula, require
32 that students use available library and other learning resources.
33 An institution shall provide or make provision for the library and
34 other learning resources needed to support each educational
35 program it offers, including resources such as reference works,
36 periodicals, monographs, and media and equipment specific to
37 the educational programs offered. The institution shall provide
38 onsite library and other learning resources, if any, that enable
39 students to pursue inquiries, searches for information and

1 *documentation, and assignments connected with their study*
2 *programs.*

3 *(b) An institution that depends for library and other learning*
4 *resources primarily on other institutions' collections and resources*
5 *not in its possession shall do all of the following:*

6 *(1) Provide students and faculty with access to the regular*
7 *services of a professional librarian or information specialist*
8 *experienced in the electronic retrieval of information, who shall*
9 *provide support for faculty in curriculum matters and actively*
10 *serve as a resource guide for both graduate and undergraduate*
11 *students.*

12 *(2) Ensure that students have access to the library collections*
13 *and resources of another institution, organization, or library.*

14 *(3) Document compliance with paragraphs (1) and (2).*

15 *94913. (a) Each institution shall designate a sufficiently*
16 *trained individual to provide to students academic advisement,*
17 *financial aid advisement, and placement services. Advising and*
18 *guidance services shall be readily available to students to assist*
19 *them in program planning, course selection, and other academic*
20 *activities. Financial aid administration and distribution shall be*
21 *performed according to institutional, state, and federal policies.*
22 *Placement services and employment opportunities shall be*
23 *accurately described.*

24 *(b) Each institution shall assist its students in similar*
25 *educational programs may convene as a study group if they so*
26 *choose.*

27

28 *Article 8. Procedures for Approval to Operate*

29

30 *94950. (a) Schools offering or proposing to offer*
31 *credit-bearing courses or degree programs shall file applications*
32 *for approval to operate.*

33 *(b) Schools may demonstrate financial viability through an*
34 *audit, by a certified public accountant, that provides an unqualified*
35 *opinion on the financial standing of the school.*

36 *(c) A school training students for employment in any specific*
37 *area shall demonstrate that there is a work force market need for*
38 *this skill or that the school has explained to students that there*
39 *may be no employment opportunities in this area.*

1 (d) There shall be no temporary, provisional, or conditional
2 licenses under this chapter. A school is either approved or not
3 approved.

4 (e) The board shall review and approve modifications that are
5 of a substantive nature, as determined by the board, before the
6 changes can be implemented or take effect. The board shall not
7 consider substantive changes if the school is operating under an
8 initial approval, an approval with conditions, or on probation.

9 (f) It is the intent of the Legislature to enact subsequent changes
10 to this chapter to establish parameters for significant change in a
11 manner that does not micromanage the industry or create consumer
12 risk. "Significant change," within the meaning of this subdivision,
13 may include any of the following:

14 (1) Change of ownership.

15 (2) Approval for an additional degree or certificate program.

16 (3) Approval for change of school name.

17 (4) Approval for a change of location or an additional location.

18 (5) Approval for adding a methodology of instruction or change
19 of mission.

20 (g) Nonsignificant program modifications are those that result
21 in less than a 25 percent change in the program's credit hours,
22 changes to the name of an approved program, or a change in the
23 agent for service of process. Although the board shall not require
24 prior approval of nonsignificant program modifications, schools
25 shall notify the board, in writing, of these types of modifications.

26 94952. An institution shall not advertise itself as an approved
27 institution unless each educational program offered by the
28 institution has been approved in accordance with the requirements
29 of this section. The board may review all operations of the
30 institution pertaining to California educational programs, both
31 within and outside of California. Each institution or instructional
32 degree program offering education for entry into a health care
33 profession in which the provider has primary care responsibilities
34 shall offer that education within a professional program that shall
35 be subject to approval by the board pursuant to this section.

36 94953. (a) All complete applications for licensure shall
37 approved or denied within ____ days from the date of receipt of
38 the complete application. This ____ day period shall not begin
39 until complete information is received. Applicants shall be notified
40 in writing and in a timely manner of any deficiencies in the

1 application. Applicants shall be told in clear and concise terms of
2 any expected delays in reviewing the application and of the reasons
3 for the delay.

4 (b) The board shall not provide conditional or temporary
5 approval under this chapter.

6 (c) The executive director shall make a periodic report to the
7 board in full board meetings on pending applications and approved
8 applications.

9 94954. (a) Except as otherwise provided pursuant to Article
10 3 (commencing with Section 94770), each institution desiring to
11 operate in this state shall make application for approval to operate
12 to the Board for Private Postsecondary Education, upon forms to
13 be provided by the board. The board shall make forms available
14 electronically and allow institutions to file electronically where
15 appropriate. The board shall strive to ensure that all forms are
16 concise, clear, and complete. The board may approve an
17 unaccredited institution or an institution that is accredited but
18 whose accrediting entity has not entered into a participatory
19 agreement with the board, provided the following standards, in
20 addition to the provisions established in Article 6 (commencing
21 with Section 94850) and Article 7 (commencing with Section
22 94900), have been met.

23 (b) Each application shall include, as a minimum, at least all
24 of the following:

25 (1) A fee based on the number of branches, satellites, and
26 programs included within a single application in order to cover
27 the costs involved for those multi-site and multi-program reviews.
28 If the application for approval includes branches and satellites,
29 the board may inspect each branch and may inspect any satellite
30 campus.

31 (2) The application shall be signed and certified under oath by
32 the owners of the school or, if the school is incorporated, by the
33 principal owners of the school (those who own at least 10 percent
34 of the stock), or by the corporate officers or their designee. The
35 application shall contain a statement that the person or persons
36 who sign the application certify to the best of their knowledge that
37 the institution and each signatory complies with all applicable
38 laws regarding the operation of the institution.

1 (3) Copies of the institution's articles of incorporation, bylaws,
2 fictitious name statement, or other documents substantiating the
3 current ownership.

4 (4) If the institution has a governing board, the application shall
5 also include the name, work address, and telephone number of
6 each member of the governing board.

7 (5) The current name and California address of a designated
8 agent upon whom any process, notice, or demand may be served.
9 The agent address shall not be the same as the institution address.

10 (6) The name, work address, and telephone number of the
11 custodian of records, and the address and telephone number of
12 the office where the records will be maintained.

13 (7) The institution shall furnish timely notification with an
14 explanation of any legal action pending against the institution or
15 ownership or any of the institution's owners, officers, corporate
16 directors, administrators, or faculty by any federal, state, or local
17 law enforcement agency involving alleged acts of fraud, dishonesty,
18 financial mismanagement, unpaid liabilities to any governmental
19 agency or claims for pecuniary loss suffered by any student.

20 (8) The institution's most current financial report as described
21 in Section 94856, and proof of insurance or certificate of liability
22 coverage.

23 (9) The information specified in Article 6 (commencing with
24 Section 94850) regarding annual reports by institutions, if
25 applicable.

26 (10) A catalog published, or proposed to be published, by the
27 institution containing the information specified in Section 94861.

28 (11) Copies of all student enrollment agreement or contract
29 forms, instruments evidencing indebtedness, the School
30 Performance Fact Sheet, and Transferability of Credit Units
31 disclosure form.

32 (12) Copies of media advertising and promotional literature.

33 (13) An application submitted by a nationally accredited,
34 regionally accredited, professionally accredited, or
35 program-specifically accredited institution shall include a copy
36 of the certificate of accreditation issued by the accrediting agency
37 along with information specified in subdivision (d) regarding
38 notification requirements pertaining to accrediting agency and
39 audit reports.

1 *(14) An application submitted by an institution regulated by*
2 *any other state licensing agency, shall include a copy evidencing*
3 *the approval of that agency.*

4 *(b) (1) The initial application shall include, as a minimum, at*
5 *least all of the following:*

6 *(A) All materials listed in paragraphs (1) to (14), inclusive, of*
7 *subdivision (a).*

8 *(B) A copy of the document awarded to graduating students*
9 *upon their successful completion of the educational program.*

10 *(C) A description of how student records required by this*
11 *chapter are or will be organized and maintained, the types of*
12 *documents contained in individual student files, how the student*
13 *records are stored, and whether academic and financial records*
14 *are maintained in separate files.*

15 *(D) For facilities that are leased or rented, the application shall*
16 *contain the name and address of the lessor or landlord, together*
17 *with a copy of any use, lease, or rental agreements for the facilities.*
18 *For each program offered, the application shall contain a*
19 *description of the facilities and the equipment that is available for*
20 *use by students at the main, branch, and satellite locations of the*
21 *institution. Branches or satellites included in an initial application*
22 *shall be considered by the board as subdivisions of the single*
23 *institution for purposes of regulation, approval, and compliance*
24 *under this chapter.*

25 *(E) An operational plan establishing that the institution will*
26 *satisfy the minimum standards set forth in Article 7 (commencing*
27 *with Section 94900). The operational plan also shall include a*
28 *detailed description of the institution's program for implementing*
29 *the operational plan, including proposed procedures, financial*
30 *resources, and the qualifications of owners, directors, officers,*
31 *and administrators employed at the time of the filing of the*
32 *application. The board may request additional information to*
33 *enable the board to determine whether the operational plan and*
34 *its proposed implementation will satisfy these minimum standards.*

35 *(2) The initial application may be reviewed and acted upon as*
36 *provided in Article 7 (commencing with Section 94900).*

37 *(3) Once a grant of initial approval has been issued, a qualified*
38 *visiting committee impaneled by the board for that purpose, as*
39 *provided by Section 94956, shall perform a comprehensive onsite*

1 review. The scope and composition of the visiting committee shall
2 be at the discretion of the board.

3 (4) The board shall inspect the institution within 720 days after
4 operation has begun under the initial approval to operate. Within
5 90 days of the receipt of the site visit report and recommendations,
6 the board shall take action pursuant to Section 94956.

7 (5) All institutions operating under an initial approval shall
8 include the following disclosure on each enrollment agreement
9 and catalog:

10 “This institution has received an initial approval to operate from
11 the board of Private Postsecondary Education. An initial approval
12 is merely an interim designation the board can authorize pending
13 a qualitative review and assessment of the institution. At the time
14 it is issued, the board has not yet conducted a site visit. It is issued
15 if the board determines the institution’s operational plan satisfies
16 minimum standards. The initial approval will remain in effect for
17 not more than 720 days in order to enable the board to conduct
18 the site visit and inspection of the institution. After that visit, the
19 board will then determine whether the institution should be
20 approved. If a review and decision cannot be completed by the
21 board before the expiration of the institution’s Initial approval,
22 that expiration date shall be extended until the date that the board
23 notifies the institution of its decision.”

24 (6) All institutions operating under an initial approval shall
25 have the following notice included in any advertisements it causes
26 to be published in the print or electronic media:

27 “This institution has received an initial approval to operate from
28 the Board for Private Postsecondary Education in order to enable
29 the board to conduct a quality inspection of the institution.”

30 (c) At least 90 days before the expiration of an approval to
31 operate, the institution shall complete and file with the board an
32 application form for renewal of its approval to operate.

33 (1) The renewal application shall include, as a minimum, at
34 least both of the following:

35 (A) All materials listed in paragraphs (1) to (14), inclusive, of
36 subdivision (a).

37 (B) A description of any changes made by the institution since
38 the time its last application was reviewed by the board.

39 (2) Before an application for renewal to operate is approved,
40 the board reserves the right to require on site review. A qualified

1 visiting committee impaneled by the board for that purpose, as
2 provided by Section 94956, shall perform a comprehensive onsite
3 review. The scope and composition of the visiting committee shall
4 be at the discretion of the board. The board shall inspect the
5 institution, pursuant to subdivision (a), within 720 days after
6 operation has begun under the initial approval to operate.

7 (3) The renewal application may be reviewed and acted upon
8 as provided in Article 7 (commencing with Section 94900).

9 (4) If a review and decision on a renewal application cannot
10 be completed by the board before the expiration of the institution's
11 current approval, that expiration date shall be extended until the
12 date that the board notifies the institution of its decision.

13 (5) Changes that are considered amendments to the current
14 approval shall be submitted separately on forms prescribed by the
15 board with the applicable fees.

16 (d) (1) The board may accept accreditation by national or
17 regional accrediting entities recognized by the United States
18 Department of Education as evidence of partial or complete
19 compliance with standards established by the board pursuant to
20 this chapter.

21 (2) (A) Each accreditation entity seeking consideration of its
22 members for approval by means of accreditation shall enter into
23 written agreement with the board, and submit its accrediting
24 standards for determination by the board that the entity's standards
25 are substantially equivalent to those of the board.

26 (B) The written agreement shall include a provision that each
27 accreditation entity agrees to provide the board, upon request,
28 copies of all accreditation reports, including preliminary reports
29 and visiting committee reports, within 15 days of the member
30 institution's receipt of the report, and a copy of the member
31 institution's submission of its response.

32 (C) Work papers for all accreditation entity reports, including
33 preliminary reports and visiting committee reports, shall be
34 retained for five years from the date of the reports, and shall be
35 made available for inspection and copying by the board or the
36 Attorney General.

37 (3) Acceptance of national or regional accrediting agencies
38 recognized by the United States Department of Education as
39 evidence of partial or complete compliance shall be on a
40 school-by-school basis.

1 (4) Acceptance may include authorized board staff participating
2 as observers on accreditation site visits.

3 (5) This section does not preclude or relieve the board of its
4 responsibilities under this chapter, and the board shall retain full
5 authority for approving all private postsecondary degree granting
6 institutions operating in California.

7 (6) Except as otherwise provided pursuant to Article 3
8 (commencing with Section 94770), each institution desiring to
9 operate in this state by means of accreditation, shall make
10 application to the board, upon forms to be provided by the board.
11 The application shall include, as a minimum, all of the materials
12 listed in paragraphs (1) to (14), inclusive, of subdivision (a).

13 (d) The board shall consider an application to be complete if it
14 appears that the institution has submitted all of the information,
15 documents, and fees required by this chapter. The board shall take
16 action pursuant to Section 94955.

17 (e) Within 45 days after receipt of an application for approval
18 to operate, the board shall notify the institution in writing that the
19 application is complete and has been accepted for filing, or that
20 the application is not complete. If the application is not complete,
21 the board shall specify in the notice what additional information
22 or documents are needed from the institution in order for the
23 application to be deemed complete.

24 (f) (1) The board shall consider an application to be complete
25 if it appears that the institution has submitted all of the information,
26 documents, and fees required by the act. This includes any
27 additional documents the board may request to determine if the
28 institution's operational plan and its proposed implementation
29 meet the minimum standards of this chapter.

30 (2) An application that has not been completed by the applicant
31 in accordance with this chapter within one year after the
32 application was initially filed shall be deemed abandoned. If an
33 application has been abandoned, the applicant may seek approval
34 to operate only by submitting a new application and fee.

35 (g) Following review of the application and any other further
36 information submitted by the applicant, including the required
37 information that conforms with Article 7 (commencing with Section
38 94900) and Article 8 (commencing with Section 94950), and any
39 investigation of the applicant as the board deems necessary or

1 appropriate, the board either shall grant approval to operate or
2 deny the application.

3 94955. The board, after concluding its review, may act on an
4 application for initial approval or renewal of an existing approval
5 to operate, as follows:

6 (a) (1) Tier 1 approval: after finding that the information
7 provided in the application materials and processes prescribed
8 by Section 94925 meets the minimum standards, the board may
9 grant approval to operate.

10 (2) Tier 1 approval shall signify that the institution is in
11 compliance with the standards for institutional approval.

12 (3) Approval for a period of up to five years.

13 (b) (1) Tier 2 approval: if the institution is not a regionally
14 accredited nonprofit school or has a history of compliance issues
15 under subdivision (a) approval, the board may grant approval to
16 operate under this subdivision. Issues identified for correction
17 may be, in the judgment of the board, of a nature or scope that
18 affects the institution's capacity to maintain adherence to the
19 minimum standards for the period of this approval, or may relate
20 either to minor compliance matters or to the strengthening of
21 practices that meet the standards of compliance.

22 (2) (A) Tier 2 approval shall signify that the institution has
23 demonstrated the intent and capacity to rectify identified
24 deficiencies within no more than three years.

25 (B) During the period of the approval, the institution may be
26 subject to special monitoring. The conditions for the approval may
27 include the required submission of frequent and focused reports,
28 as prescribed by the board, and special visits by authorized
29 representatives of the board to determine progress toward total
30 compliance.

31 (C) Approval for a period of up to five years.

32 (c) (1) Tier 3 approval: if, at any time, the board determines
33 that an institution has deviated substantially from the standards
34 for approval, the board, after identifying for the institution the
35 areas in which it has deviated from the standards, and after giving
36 the institution due notice and an opportunity to be heard, may
37 grant approval for no more than one year.

38 (2) (A) Tier 3 approval shall signify that the institution is not
39 in compliance with the standards of approval and is subject to a
40 period of evaluation and possible termination of approval.

1 (B) During the period of Tier 3 approval, the institution shall
2 be subject to monitoring that may include the submission of
3 frequent and focused reports, as prescribed by the board, as well
4 as special onsite inspections to determine progress towards
5 compliance. The onsite inspections may include an inspection of
6 the institution's facilities and records, interviews of administrators,
7 instructors, and students, and observation of class instruction. The
8 board shall order the institution to reimburse all reasonable costs
9 and expenses incurred by the board in connection with this
10 subdivision. The board may make the payment of the order for
11 reimbursement a condition of probation.

12 (C) The board shall notify the institution of the basis for
13 approval under Tier 3.

14 (i) While the institution is operating under Tier 3 approval, the
15 board shall not review or consider any request by the institution
16 for significant modification, as described by Section 94957.

17 (ii) All institutions operating under Tier 3 approval shall provide
18 the following disclosure to each current student and prospective
19 student in writing and be evidenced in the student's file:

20 "This institution has been found by the state Board for Private
21 Postsecondary Education to be operating in violation of the
22 statutes, standards and regulations that govern private
23 postsecondary educational institutions. This institution is allowed
24 to operate while the board monitors compliance with applicable
25 regulations, statutes for a period of one year. After this period,
26 this institution will be reevaluated by the state Board for Private
27 Postsecondary Education to determine whether this institution
28 should continue to be allowed to operate."

29 (D) If, at the end of the period of Tier 3 approval, the board is
30 not satisfied with the steps taken by the institution to eliminate the
31 violations of this article, upon which the Tier 3 approval was
32 based, the board may revoke the institution's approval to operate.

33 (E) If the board determines after notice and, if requested by the
34 institution, a hearing, that an institution has violated this article,
35 but that the institution's approval to operate, or approval to
36 operate a branch or satellite campus, or any approved program
37 thereof, should not be revoked, or that the institution should not
38 be ordered to cease offering a class or program of instruction, the
39 board may do any or all of the following:

40 (i) Order the institution to post a bond.

1 (ii) (I) Any bond ordered by the board shall be issued by an
2 admitted surety insurer in an amount established at the discretion
3 of the board that is sufficient to protect students from the potential
4 consequences of the violation.

5 (II) The bond shall be in favor of the State of California for the
6 indemnification of any person for any loss, including the loss of
7 prepaid tuition, suffered as a result of the occurrence of any
8 violation of this chapter during the period of coverage.

9 (III) Liability on the bond may be enforced after a hearing
10 before the board, after 30 days' advance written notice to the
11 principal and surety. This subclause supplements, but does not
12 supplant, any other rights or remedies to enforce liability on the
13 bond.

14 (IV) The board may order the institution to file reports at any
15 interval the board deems necessary to enable the board to monitor
16 the adequacy of the bond coverage and to determine whether
17 further action is appropriate.

18 (iii) Order the institution not to enter into new agreements for
19 programs of instruction.

20 (iv) The board may assess a penalty of up to ten thousand dollars
21 (\$10,000) as part of a probation order for violations of this article.
22 In determining the amount of that penalty, the board shall consider
23 the number and gravity of the violations, the degree of the
24 institution's good faith or culpability, the history of the institution's
25 previous violations, and the institution's ability to pay. If the
26 institution fails to pay a penalty within the time prescribed by the
27 board the institution's approval to operate shall be automatically
28 revoked.

29 (v) The board shall determine an institution's compliance,
30 including the compliance of its branch and satellite campuses, and
31 shall not be bound by the findings or conclusions of any accrediting
32 agency.

33 94956. (a) A visiting committee shall make a comprehensive,
34 qualitative onsite review of each institution that applies for an
35 initial to operate 90 days before the expiration of that approval.
36 In addition, the director or a designee may impanel a special
37 committee consisting of one or more technically qualified people
38 to assist a visiting committee in the evaluation of an institution's
39 proposal for an a degree program considered a new and emerging
40 field of study. The board reserves the right to use a qualified

1 visiting committee in subsequent reviews, such as an application
2 for renewal or investigations.

3 (b) The board may conduct site visits outside of California,
4 including the institution's foreign operations, as the board
5 determines these visits to be necessary. The institution shall be
6 responsible for the expenses of the visiting team members including
7 the board's staff liaison.

8 (c) The board may waive or modify the onsite inspection for
9 institutions offering educational services through distance learning.

10 (d) When evaluating an institution whose purpose is to advance
11 postsecondary education through innovative methods or an
12 emerging field of study, the visiting committee shall be composed
13 of educators who are familiar with, and receptive to, evidence
14 bearing on the educational quality and accomplishments of those
15 methods.

16 (e) (1) The executive director or a designee shall appoint the
17 visiting committee.

18 (2) An institution seeking the impaneling of a special visiting
19 committee to review the institution's offer of instruction in an
20 emerging field of study, or the offer of instruction through
21 innovative methods of instruction, shall make special application
22 to the director as provided in Section 94957.

23 (3) The visiting committee shall include educators trained in
24 the academic disciplines of educational programs offered by the
25 institution, and any other person found to be technically qualified
26 within the meaning of subdivision (e) of Section 94789, from
27 degree-granting institutions legally operating in this state whom
28 the director or a designee deems necessary to provide a
29 comprehensive, qualitative review. The director or a designee
30 shall appoint a chair of the visiting committee. The director or a
31 designee shall appoint a member of the board's staff to serve as
32 the visiting committee's liaison. The staff member shall prepare,
33 with the cooperation of the visiting committee's members, the
34 visiting committee's evaluation report and recommendations.

35 (4) The institution being evaluated shall be notified of the
36 identity of the members of the visiting committee at least 45 days
37 before the visit. The notice shall also include a description of the
38 institution's right to object to a committee member and the
39 procedure for objection as provided in this section.

1 (5) (A) *If the institution objects to the inclusion of any person*
2 *in the visiting committee, the institution may file a written objection*
3 *with the director at least 10 days before the visiting committee is*
4 *originally scheduled to conduct its onsite inspection.*

5 (B) *An institution has a right to seek the disqualification of a*
6 *visiting committee member before the occurrence of the onsite*
7 *inspection on any of the following grounds:*

8 (i) *The committee member has inadequate academic or*
9 *experiential qualification.*

10 (ii) *The committee member or his or her family has a financial*
11 *interest in, or is employed by, a competing institution that offers*
12 *or proposes to offer any of the educational programs offered or*
13 *proposed to be offered by the applicant institution.*

14 (iii) *The committee member is biased. In order to establish that*
15 *a committee member is biased, the institution shall document by*
16 *written evidence that the member is predisposed to give an*
17 *unfavorable recommendation.*

18 (C) *An institution seeking to disqualify a visiting committee*
19 *member shall submit copies of all evidence and argument on which*
20 *it relies when the written objection is filed.*

21 (D) *All evidence and argument shall be considered by the*
22 *executive director. The executive director shall make the final*
23 *decision on the composition of the visiting committee before the*
24 *onsite inspection occurs. There shall be no oral hearing or review*
25 *of this decision. However, if the executive director rejects the*
26 *objection, the institution may raise the grounds for disqualification*
27 *in any administrative proceeding that may be held after the*
28 *inspection occurs.*

29 (E) *If an institution has grounds under subparagraph (C) to*
30 *object to the impaneling of a committee member before the*
31 *occurrence of the onsite inspection and fails to timely object, the*
32 *institution permanently waives the right to challenge the visiting*
33 *committee's composition or report on those grounds.*

34 (f) (1) *The visiting committee shall conduct a comprehensive,*
35 *qualitative onsite inspection and review of all aspects of the*
36 *institution's operations to evaluate the institution's efforts to*
37 *implement its mission, purpose, and objectives and to determine*
38 *whether the institution complies with the applicable requirements*
39 *of this chapter.*

1 (2) *The visiting committee's inspection and review may include*
2 *the examination of documents and records, the inspection of*
3 *facilities and equipment, the auditing of classes, and the interview*
4 *of current or former owners, directors, officers, administrators,*
5 *faculty, and students.*

6 (3) *The visiting committee shall cooperate with the board staff*
7 *liaison in the preparation of a written evaluation report.*

8 (4) (A) *A report shall be prepared and submitted to the*
9 *institution before the board receiving the report and the*
10 *recommendations. The institution shall have an opportunity to*
11 *review the visiting committee report and respond to board staff*
12 *within 15 days of the institution's receipt of that report as to errors*
13 *of fact or erroneous findings based on errors of fact. The director*
14 *or a designee will review the report and will submit to the board*
15 *the visiting committee's report and board staff's recommendations*
16 *along with the institution's comments. Except as provided in*
17 *subdivision (g), the board shall accept the visiting committee's*
18 *report as its basis for taking appropriate action.*

19 (B) *The visiting committee report shall contain all of the*
20 *following:*

21 (i) *The committee's findings regarding the institution's*
22 *compliance with this chapter and facts supporting those findings.*

23 (ii) *The committee's assessment of the quality of each*
24 *educational program offered by the institution and facts supporting*
25 *the assessment.*

26 (iii) *The committee's assessment of the quality of the institution*
27 *as a whole and facts supporting the assessment.*

28 (iv) *The committee's recommendations for quality improvement*
29 *based on its findings and assessment in the event the board*
30 *determines to grant an approval to operate.*

31 (g) *The board shall not be bound by any of the following:*

32 (1) *Any facts adduced by the visiting committee that is based*
33 *on inaccurate or unreliable evidence or that is inconsistent with*
34 *other facts found by the board.*

35 (2) *The findings or assessment made by the visiting committee,*
36 *if the findings or assessments are not supported by the facts or the*
37 *facts support different findings or assessments that may be*
38 *reasonably made by the board.*

1 (3) *The visiting committee's recommendations. Any actions*
2 *taken that do not follow these recommendations shall have some*
3 *reasonable basis in fact or law.*

4 (h) (1) *The institution shall make available for inspection by*
5 *the visiting committee all records that the visiting committee*
6 *reasonably deems necessary or appropriate to inspect to determine*
7 *whether the institution meets the standards of this chapter. Only*
8 *those records necessary to establish compliance with the provisions*
9 *of this chapter are required to be produced under this section.*

10 (2) *The institution shall facilitate the visiting committee's onsite*
11 *inspection including the inspection of records, inspection of*
12 *facilities and equipment, observation of class sessions, or*
13 *interviews with officers, administrators, faculty, or students.*

14 (i) (1) *The institution shall reimburse the board for expenses*
15 *incurred by the visiting committee, except for board staff,*
16 *conducting the onsite visit at rates not to exceed those used by the*
17 *state for reimbursing state employees on work travel assignment.*

18 (2) *No later than 30 days before the visit, the executive director*
19 *shall submit to the institution an estimated cost of the visit. The*
20 *institution shall pay all of the estimated cost 15 days before the*
21 *visit. If the deposit is not received by the deadline, the executive*
22 *director may cancel the visit and require that the institution submit*
23 *a new application and application fee.*

24 (3) *Within 15 days following the conclusion of the visit to the*
25 *institution and all sites scheduled that will be visited, the executive*
26 *director shall provide the institution with a statement of the actual*
27 *expenses of the visit.*

28 (4) *If the deposit was greater than the expenses incurred for the*
29 *visit, the board shall remit the excess within 30 days following the*
30 *date of the visit.*

31 (5) *If the costs exceeded the amount of the deposit, the institution*
32 *shall remit the balance within 30 days after receiving the statement*
33 *of expenses. The time period within which the board is required*
34 *to act on the application shall be tolled until the board receives*
35 *the balance. If the balance is not received by the deadline, the*
36 *executive director may require that the institution submit a new*
37 *application and application fee.*

38 94957. (a) *Modifications that are of a substantive type shall*
39 *require formal review and approval by the board before the*
40 *changes can be implemented or take effect. The board will not*

1 *consider substantive changes if the institution is operating under*
2 *an initial approval or an approval with conditions, or is on*
3 *probation.*

4 *(b) Any application submitted for significant changes to a*
5 *current approval to operate shall be signed under penalty of*
6 *perjury that any changes proposed would meet the standards*
7 *provided in Article 7 (commencing with Section 94900).*

8 *(c) (1) If a shift in control or change of ownership of an*
9 *institution occurs, an application for a new approval to operate*
10 *for the institution under the changed ownership or control shall*
11 *be filed at least 30 days before the shift in control or change in*
12 *ownership. Whenever an institution is operated at different*
13 *locations, an application for approval shall be filed for each*
14 *location.*

15 *(2) The application for approval to operate submitted in*
16 *conjunction with a change of ownership may include pertinent*
17 *portions of the institution's previous application prepared in*
18 *connection with programs or courses of instruction that are*
19 *changed or affected by the change in ownership.*

20 *(3) No application for ownership or transfer of ownership shall*
21 *be approved for any applicant that has been found previously in*
22 *any judicial or administrative proceeding to have violated this*
23 *chapter, or if there exists any of the grounds for denial set forth*
24 *in Section 480 of the Business and Professions Code.*

25 *(4) No change in ownership of the institution shall be made*
26 *until the application is approved. If an application for a change*
27 *in ownership or control is not timely filed as required by this*
28 *section, the institution's approval to operate shall terminate.*

29 *(5) For the purposes of this section, a change in ownership*
30 *occurs under the following circumstances:*

31 *(A) When there is a change of control of the institution, or where*
32 *a person that previously did not own at least 25 percent of the*
33 *stock or controlling interest of an institution or its parent*
34 *corporation, acquires ownership of at least 25 percent of the stock*
35 *of the institution or its parent corporation, or when a for-profit*
36 *business converts to nonprofit corporation status or forms a*
37 *nonprofit corporation as a subsidiary to provide the educational*
38 *services for which the for-profit business is approved to operate.*

39 *(B) When there is a change of 50 percent or more of the voting*
40 *members of the controlling board of a nonprofit corporation within*

1 a 12-month period or when there is a change in the number of
2 voting members of the aforementioned board within a 12-month
3 period that will allow a group of members to exercise control who
4 could not exercise control before the change.

5 (6) The institution shall be required to notify the board, and
6 provide substantiating documentation, that the agreement for the
7 change of ownership has been executed.

8 (7) If an institution is applying for approval to change
9 ownership, the application shall be made in writing upon forms
10 to be provided by the board, and shall contain, at a minimum, all
11 of the following information:

12 (A) Evidence confirming that the institution has sufficient
13 financial resources to ensure satisfactory conduct of its degree
14 programs and achievement of its stated educational goals.

15 (B) Evidence that the individuals having ownership or control
16 of the institution have experience operating an educational
17 institution or other business or enterprise in an effective manner
18 that demonstrates their capacity to operate a degree-granting
19 institution.

20 (C) Evidence that the individuals having ownership or control
21 of the institution have not engaged in fraudulent or deceptive
22 practices.

23 (D) Evidence confirming the owner's capacity to operate the
24 institution in compliance with the standards set forth in this chapter
25 and other applicable state statutes and regulations and applicable
26 federal statutes and regulations that are relevant to the operation
27 of degree-granting institutions.

28 (E) The board may cause the institution to undergo site visits
29 and provide additional reports in support of its application for
30 permanent approval to offer degrees pursuant to this article.

31 (d) If an institution is applying for approval to offer a particular
32 degree program that had not been offered at the time the institution
33 applied for approval to operate, the application for an additional
34 degree program shall be made in writing upon forms to be provided
35 by the board, and shall contain, at a minimum, all of the following
36 information:

37 (1) A catalog published, or proposed to be published, by the
38 institution containing the information specified in Section 94861
39 specific to the proposed program.

40 (2) A copy of the School Performance Fact Sheet.

- 1 (3) *For the program proposed, a description of the facilities*
2 *and the equipment that is available for use by students at the main,*
3 *branch, and satellite locations of the institution at which the*
4 *program will be taught.*
- 5 (4) *A copy of the document awarded to graduating students*
6 *upon their successful completion of the educational program.*
- 7 (e) *The application for a change of institution name shall be*
8 *made in writing upon forms to be provided by the board, and shall*
9 *contain, at a minimum, all of the following information:*
- 10 (1) *The current name, telephone number, and address of the*
11 *institution.*
- 12 (2) *The proposed name, a copy of the fictitious name statement*
13 *illustrating the new name, and the reason for the new name.*
- 14 (3) *The date on which the institution intends to begin using the*
15 *new name and a description of the actions taken to notify students*
16 *and graduates in including a copy of the notification for review.*
- 17 (f) *The application for a change in location or an additional*
18 *location shall be made in writing upon forms to be provided by*
19 *the board, and shall contain, at a minimum, all of the following*
20 *information:*
- 21 (1) *The name, current and proposed addresses, and telephone*
22 *number of the institution.*
- 23 (2) *A description of the proposed physical facilities including*
24 *the reasons why the additional location or change in location is*
25 *needed.*
- 26 (3) *For facilities that are leased or rented, the application shall*
27 *contain the name and address of the lessor or landlord, together*
28 *with a copy of any use, lease, or rental agreements for the facilities.*
- 29 (4) (A) *A description of any equipment to be used at the*
30 *proposed facilities.*
- 31 (B) *For changes of location the institution need only provide a*
32 *description of what differences, if any, from the equipment used*
33 *at the present facility to any that will be at the proposed location.*
- 34 (C) *For additional locations a description of the proposed*
35 *facility's planned utilization including the programs and degrees*
36 *that will be offered and the administrative and student services*
37 *that will be available.*
- 38 (5) *The date on which the institution intends to offer instruction*
39 *at the new location and, for changes in location, a description of*

1 *the actions taken to notify students in including a copy of the*
2 *notification for review.*

3 *(6) The distance between the approved location and the*
4 *proposed new location.*

5 *(g) The application for a change of mission or an addition or*
6 *change in methodology of instruction shall be made in writing*
7 *upon forms to be provided by the board, and shall contain, at a*
8 *minimum, all of the following information:*

9 *(1) The name, address, and telephone number of the institution.*

10 *(2) A description of the current mission and method or methods*
11 *of instruction and a description of the proposed mission or of the*
12 *new method or methods of instruction.*

13 *(3) A detailed explanation of the reasons for the proposed*
14 *change or additional methodology and how the change or changes*
15 *will affect students, administration, and the institution's financial*
16 *resources and how those effects will be monitored and evaluated,*
17 *including the process for determining whether the change achieves*
18 *the anticipated results.*

19 *(4) A description of how the institution will phase into the new*
20 *mission or the new method of instruction.*

21 *94958. (a) Nonsignificant program modifications are those*
22 *that result in less than a 25 percent change in the program's credit*
23 *hours, changes to the name of an approved program, or a change*
24 *in the agent for service of process. Although the board does not*
25 *require prior approval of nonsignificant program modifications,*
26 *an institution shall notify the board, in writing, of any of these*
27 *types of modifications.*

28 *(b) An institution shall submit a detailed description of any*
29 *nonsignificant modifications with all attachments before the*
30 *modification taking effect. In the event that it is determined that*
31 *the program modification is in fact a substantive change, an*
32 *institution shall be required to submit the appropriate substantive*
33 *change application.*

34 *(c) For the purposes of this section, a minor change in the*
35 *curriculum to accommodate new technology, advances in the field*
36 *of study, a new textbook, is not considered a change that requires*
37 *board notification.*

38 *94959. (a) No person shall own or operate a school, or give*
39 *instruction, for the driving of motortrucks of three or more axles*

1 *that are more than 6,000 pounds unladen weight, unless all of the*
2 *following conditions are met:*

3 *(1) The school or instruction has been approved by the board.*

4 *(2) The school, at the time of application and thereafter,*
5 *maintains both of the following:*

6 *(A) Proof of compliance with liability insurance requirements*
7 *that are the same as those established by the Department of Motor*
8 *Vehicles for a driving school owner, pursuant to Section 11103 of*
9 *the Vehicle Code, unless the board deems it necessary to establish*
10 *a higher level of insurance coverage.*

11 *(B) A satisfactory safety rating by the Department of the*
12 *California Highway Patrol is established pursuant to Division*
13 *14.8 (commencing with Section 34500) of the Vehicle Code.*

14 *(3) The school, at all times, shall maintain the vehicles used in*
15 *driver training in safe mechanical condition. The school shall be*
16 *enrolled and in compliance with the Biennial Inspection of*
17 *Terminals Program pursuant to subdivision (e) of Section 34501.12*
18 *of the Vehicle Code.*

19 *(4) The driving instructors meet the requirements set forth in*
20 *Section 11104 of the Vehicle Code.*

21 *(5) Any other terms and conditions required by the board to*
22 *protect the public safety or to meet the requirements of this chapter.*

23 *(b) No person shall own or operate a school, or give instruction,*
24 *intended to lead to the issuance of a Class A commercial driver's*
25 *license, unless all of the following conditions are met:*

26 *(1) The school meets the requirements of subdivision (a).*

27 *(2) At the time of application and thereafter, the school*
28 *maintains a Class A commercial driver's license curriculum that*
29 *includes all of the following:*

30 *(A) The skills or knowledge necessary to allow a student to*
31 *demonstrate competency in the following subjects:*

32 *(i) Basic operation, including control systems; vehicle*
33 *inspections; basic vehicle control; shifting, turns, and backing;*
34 *coupling and uncoupling; and highway driving.*

35 *(ii) Safe operating practices, including visual search; vehicle*
36 *communication; speed management; and space management.*

37 *(iii) Advanced operating practices, including extreme driving*
38 *conditions, and night operations; hazard perception; emergency*
39 *maneuvers; and skid prevention and recovery.*

1 (iv) *Vehicle systems and reporting malfunctions, including air*
2 *brakes; engine operation; and brake inspection.*

3 (v) *Nonvehicular activities, including handling and documenting*
4 *cargo; basic hazard material handling; hours of service*
5 *requirements; accident procedures; trip planning; communication*
6 *skills; and fatigue management.*

7 (B) *The form and manner in which the skills and knowledge*
8 *will be taught and assessed.*

9 (3) *The school assesses student competency for each of the*
10 *knowledge and skill requirements set forth in subparagraph (A)*
11 *of paragraph (2) either by observing the student performing the*
12 *skill and assessing the student's competency level, or by*
13 *administering a written knowledge test to the student.*

14 (4) *The school maintains the following documentation for each*
15 *student:*

16 (A) *The date each assessment was administered.*

17 (B) *The name of the instructor or evaluator.*

18 (C) *The score or grade of each assessment.*

19 (D) *The minimal passing score for each assessment.*

20 (E) *The competencies and performance standards evaluated in*
21 *each assessment.*

22 (5) *The school provides each prospective student with a clear*
23 *and unambiguous rate schedule documenting the cost of the*
24 *training, including all obligations relating to employment.*

25

26

Article 9. Programs

27

28 95000. (a) *It is the intent of the Legislature, in enacting this*
29 *article, to proactively enforce the provisions of this article while*
30 *implementing a less rigorous application process for registration,*
31 *thereby allowing businesses to focus on providing student services*
32 *and their promised product and, thereby, substantially benefitting*
33 *the economy and citizens of this state. It is further intended that*
34 *businesses operating under this chapter will be able to respond*
35 *to the diverse needs of the state's marketplace and service*
36 *industries by incorporating a simpler process that rewards those*
37 *that are financially responsible, well-managed, that fully disclose*
38 *the student's financial and contractual obligations, and that deliver*
39 *the training and education promised, while impeding those*

1 *businesses that fail to fulfill their contractual and ethical*
 2 *obligations to the California community.*

3 *(b) Educational services or programs, or short-term educational*
 4 *programs, that are nonacademic or non-credit-bearing in nature*
 5 *and designed to prepare students to take licensure, registration,*
 6 *or certification examinations, shall be approved by the agency*
 7 *giving the examination. Approval shall be obtained before students*
 8 *enroll in the program if possible. If not, the institution shall take*
 9 *all steps necessary to obtain approval before students enroll in*
 10 *the program.*

11 *95001. (a) A private postsecondary educational entity, or an*
 12 *institution that is exempt from this chapter, shall not offer*
 13 *educational services or programs or short-term educational*
 14 *programs, that are nonacademic or non-credit-bearing in nature*
 15 *and designed to prepare students to take licensure, registration,*
 16 *or certification examinations, unless the program has been*
 17 *approved by the agency giving the examination, or the institution*
 18 *is in the process of obtaining that approval.*

19 *(b) Any institution offering a program described in subdivision*
 20 *(a) that is not approved by the agency giving the examination shall*
 21 *disclose the following to the student in writing:*

22 *“THIS PROGRAM IS NOT APPROVED. COMPLETION OF*
 23 *THIS PROGRAM MAY NOT QUALIFY YOU TO BE LICENSED*
 24 */ CERTIFIED / REGISTERED TO WORK AS A _____. THIS*
 25 *PROGRAM IS UNDER REVIEW BY __ (professional*
 26 *agency) _____ AND IT IS EXPECTED THAT THIS*
 27 *PROGRAM WILL BE APPROVED BY __ (date) _____. YOU*
 28 *WILL BE NOTIFIED PERIODICALLY OF OUR PROGRESS IN*
 29 *GETTING THE PROGRAM APPROVED. IF THERE ARE*
 30 *DELAYS THAT MAY RESULT IN THE PROGRAM BEING*
 31 *UNAPPROVED AT THE TIME OF YOUR COMPLETION OF*
 32 *THE PROGRAM, YOU WILL BE OFFERED A PRORATED*
 33 *REFUND OF YOUR TUITION AT THAT TIME.”*

34 *(c) Any institution required to provide a notice under subdivision*
 35 *(b) shall notify the students in writing not less than monthly of the*
 36 *institution’s progress in getting the program approved. This shall*
 37 *include any delays in the approval and a dollar amount offer of a*
 38 *prorated refund of the tuition.*

39 *95002. The board may implement regulations to interpret and*
 40 *enforce this article.*

1 (2) *Second offense: a citation and fine not to exceed ____ dollars*
2 *(\$____).*

3 (3) *Third offense: a citation and fine not to exceed ____ dollars*
4 *(\$____).*

5 (4) *Subsequent ongoing offenses may be subject to criminal*
6 *prosecution as either a misdemeanor or felony, within the*
7 *discretion of the prosecutor, in accordance with Section 95077.*

8 (b) *The board may require a corrective action plan to be*
9 *adopted to resolve violations.*

10 (c) (1) *The board may move an institution from Tier 1 to Tier*
11 *2 or Tier 3, or from Tier 2 to Tier 3, as defined in Section 94955,*
12 *based on violations of this chapter.*

13 (2) *The board may also recognize corrective action and move*
14 *an institution from Tier 3 to Tier 2 or Tier 1, or from Tier 2 to Tier*
15 *1, as defined in Section 94955 based on corrective actions to*
16 *address violations of this chapter.*

17 (3) *The board shall adopt regulations by December 31, 2008,*
18 *to provide the criteria for moving an institution from one tier to*
19 *another.*

20 (d) *All citations and fines are subject to appeal through the*
21 *Office of Administrative Hearings under Chapter 4 (commencing*
22 *with Section 11400) of, and Chapter 5 (commencing with Section*
23 *11500) of, Part 1 of Division 3 or Title 2 of the Government Code.*

24 95071. (a) *The Attorney General, or any district attorney, or*
25 *city attorney, may make investigations as may be necessary to*
26 *carry out this chapter, including, but not necessarily limited to,*
27 *investigations of complaints, and may obtain from the board,*
28 *without charge, any document related to an institution that may*
29 *be useful to an investigation of that institution. The board may*
30 *jointly bring actions as necessary to enforce this chapter, including,*
31 *but not necessarily limited to, civil actions for injunctive relief. In*
32 *actions brought pursuant to this subdivision, the board shall be*
33 *represented by the Attorney General.*

34 (b) *The Attorney General shall represent the board in the*
35 *following administrative proceedings arising under this chapter:*

36 (1) *Suspension or revocation of an institution's approval.*

37 (2) *Denial of an institution's application for approval.*

38 (3) *An appeal of a conditional approval to operate issued*
39 *following a review of an institution's application for approval.*

1 (c) *Nothing in this section or this chapter shall preclude the*
2 *Attorney General, or any district attorney or city attorney, from*
3 *any of the following:*

4 (1) *Bringing any action on behalf of the people as he or she is*
5 *empowered by law to bring, including, but not necessarily limited*
6 *to, actions based upon alleged violations of Chapter 5*
7 *(commencing with Section 17200) of Part 2, and Chapter 1*
8 *(commencing with Section 17500) of Part 3, of Division 7 of the*
9 *Business and Professions Code.*

10 (2) *Conducting investigations necessary to determine whether*
11 *there have been violations of law specified in paragraph (1).*

12 (3) *Conducting any investigations that he or she is authorized*
13 *to conduct, including, but not necessarily limited to, investigations*
14 *authorized under Section 11180 of the Government Code.*

15 (4) *In the case of the Attorney General, delegating his or her*
16 *representation authority under subdivision (b) to staff attorneys*
17 *of the board.*

18 (5) *Entering into an agreement or understanding with the board*
19 *with respect to representation in any judicial or administrative*
20 *proceeding not expressly enumerated herein.*

21 95072. *No institution or representative of that institution shall*
22 *do any of the following:*

23 (a) *Operate in this state a postsecondary educational institution*
24 *not exempted from this chapter, unless the institution is currently*
25 *approved to operate pursuant to this chapter. The board may*
26 *institute an action, pursuant to this article, to prevent any*
27 *individual or entity from operating an institution or program in*
28 *this state that has not been approved to operate pursuant to this*
29 *chapter and to obtain any relief authorized by that section.*

30 (b) *Instruct or educate, or offer to instruct or educate, including*
31 *soliciting for those purposes, enroll or offer to enroll, contract or*
32 *offer to contract with any person for that purpose, or award any*
33 *educational credential, or contract with any institution, or party*
34 *to perform any act, in this state, whether that person,*
35 *representative, group, or entity is located within or without this*
36 *state, unless that person, representative, group, or entity observes*
37 *and is in compliance with the minimum standards set forth in this*
38 *article.*

- 1 (c) Use, or allow the use of, any reproduction or facsimile of
2 the Great Seal of the State of California on any diploma or
3 certificate of completion.
- 4 (d) Promise or guarantee employment.
- 5 (e) Advertise concerning job availability, degree of skill and
6 length of time required to learn a trade or skill unless the
7 information is accurate and in no way misleading.
- 8 (f) Advertise, or indicate in any promotional material, that
9 correspondence instruction, or correspondence courses of study
10 are offered without including in all advertising or promotional
11 material the fact that the instruction or programs of study are
12 offered by correspondence.
- 13 (g) Advertise, or indicate in any promotional material, that
14 resident instruction, or programs of study are offered without
15 including in all advertising or promotional material the location
16 where the training is given or the location of the resident
17 instruction.
- 18 (h) Solicit students for enrollment by causing any advertisement
19 to be published in “help wanted” columns in any magazine,
20 newspaper, or publication or use “blind” advertising that fails to
21 identify the school or institution.
- 22 (i) Advertise, or indicate in any promotional material, that the
23 institution is accredited, unless the institution has been recognized
24 or approved as meeting the standards established by an accrediting
25 agency recognized by the United States Department of Education
26 or the Committee of Bar Examiners for the State of California.
- 27 (j) Fail to comply with federal requirements relating to the
28 disclosure of information to students.
- 29 (k) Discontinuance of, or change in, an approved institutional
30 operation such as closure of a branch or satellite, without prior
31 notification to, and approval by, the board.
- 32 (l) An institution that offers ESL instruction, Intensive English
33 language program, or an educational service approved by the
34 United States Immigration and Naturalization Service to a student
35 shall not enroll the student in any educational service presented
36 in the English language unless the student passes a test indicating
37 that he or she has attained adequate proficiency in oral and written
38 English to comprehend instruction in English.
- 39 95073. (a) No institution or representative of an institution
40 shall make or cause to be made any statement that is in any manner

1 *untrue or misleading, either by actual statement, omission, or*
2 *intimation.*

3 *(b) No institution or representative of an institution shall engage*
4 *in any false, deceptive, misleading, or unfair act in connection*
5 *with any matter, including the institution's advertising and*
6 *promotion, the recruitment of students for enrollment in the*
7 *institution or program, the offer or sale of a program of instruction,*
8 *course length, course credits, the withholding of equipment,*
9 *educational materials, or loan or grant funds from a student,*
10 *training and instruction, the collection of payments, or job*
11 *placement.*

12 *(c) An institution is liable in any civil or administrative action*
13 *or proceeding for any violation of this article committed by a*
14 *representative of the institution. An institution is liable in a*
15 *criminal action for violations of this article committed by a*
16 *representative of the institution to the extent permitted by law.*

17 *(d) (1) institution or representative of an institution shall induce*
18 *a person to enter into an agreement for a program of instruction*
19 *by offering to compensate that person to act as the institution's*
20 *representative in the solicitation, referral, or recruitment of others*
21 *for enrollment in the institution or program.*

22 *(2) No institution or representative of an institution shall offer*
23 *to pay, or pay, any consideration to a student or prospective*
24 *student to act as a representative of the institution with regard to*
25 *the solicitation.*

26 *(e) No institution shall compensate a representative involved*
27 *in recruitment, enrollment, admissions, student attendance, or*
28 *sales of equipment to students on the basis of a commission,*
29 *commission draw, bonus, quota, or other similar method except*
30 *as follows:*

31 *(1) If the program of instruction is scheduled to be completed*
32 *in more than 90 days, the institution shall pay compensation related*
33 *to a particular student as follows:*

34 *(A) No compensation shall be paid for at least 90 days after*
35 *that student has begun the program.*

36 *(B) Up to one-half of the compensation may be paid before the*
37 *student completes the program only if the student has made*
38 *satisfactory academic progress, documented by the institution in*
39 *the student's file, for more than 90 days.*

1 (C) *The remainder of the compensation shall be paid only after*
2 *the student's completion of the program. This subdivision shall*
3 *not prevent the payment at any time of an hourly, weekly, monthly,*
4 *or annual wage or salary.*

5 (f) *No institution or representative of an institution shall pay*
6 *any consideration to a person to induce that person to sign an*
7 *agreement for a program of instruction.*

8 (g) (1) *No institution or representative of an institution shall in*
9 *any manner make any untrue or misleading change in, or untrue*
10 *or misleading statement related to, any test score, grade, record*
11 *of grades, attendance record, record indicating student completion*
12 *or employment, financial information, including any of the*
13 *following:*

14 (A) *Any financial report required to be filed pursuant to Sections*
15 *94853 to 94808, inclusive.*

16 (B) *Any information or record relating to the student's eligibility*
17 *for financial assistance or attendance at the institution.*

18 (C) *Any other record or document required by this chapter or*
19 *by the board.*

20 (2) *No institution or representative of an institution shall falsify,*
21 *destroy, or conceal any record or other item described in*
22 *paragraph (1) while that record or item is required to be*
23 *maintained by this chapter or by the board.*

24 (h) *No institution or representative of an institution shall use*
25 *the terms "approval," "approved," "approval to operate," or*
26 *"approved to operate" without stating clearly and conspicuously*
27 *that approval to operate means compliance with minimum state*
28 *standards and does not imply any endorsement or recommendation*
29 *by the state or by the board.*

30 (1) *The institution or its programs of instruction are endorsed*
31 *or recommended by the state or by the board.*

32 (2) *The board's grant to the institution of approval to operate*
33 *indicates that the institution exceeds minimum state standards.*

34 (3) *The board or the state endorses or recommends the*
35 *institution.*

36 (j) *No institution offering programs or courses of instruction*
37 *represented to lead to occupations or job titles requiring licensure*
38 *shall enter into an agreement for a course of instruction with a*
39 *person whom the institution knows or, by the exercise of reasonable*
40 *care, should know, would be ineligible to obtain licensure in the*

1 *occupation or job title to which the course of instruction is*
2 *represented to lead, at the time of the scheduled date of course*
3 *completion, for reasons such as age, physical characteristics, or*
4 *relevant past criminal conviction.*

5 *(k) No institution shall divide or structure a program of*
6 *instruction or educational service to avoid the application of any*
7 *provision of this chapter.*

8 *(l) No institution or representative of an institution shall direct*
9 *a representative to perform any unlawful act, to refrain from*
10 *complaining or reporting unlawful conduct to the board or another*
11 *government agency, or to engage in any unfair act to persuade a*
12 *student not to complain to the board or another government*
13 *agency.*

14 *(m) No institution or representative of an institution approved*
15 *to operate a school or give instruction under this chapter shall do*
16 *either of the following:*

17 *(1) Reduce the wages of a trainee in order to recover the cost*
18 *of training unless the trainee is advised of the payment*
19 *arrangement before accepting employment.*

20 *(2) Advertise its training as free or no cost if a trainee is*
21 *required to enter into an employment arrangement or lease or rent*
22 *services or equipment, including a motortruck, as a condition of*
23 *receiving the training.*

24 *95074. The board may refuse to issue or renew any private*
25 *postsecondary educational institution's approval to operate, place*
26 *an institution on probation, or may revoke any approval to operate*
27 *for any of the following causes:*

28 *(a) A violation of this chapter, or any standard, rule, or*
29 *regulation established under this chapter, or an order of the board*
30 *made under this chapter.*

31 *(b) Furnishing false, misleading, or incomplete information to*
32 *the board, or the failure to furnish information requested by the*
33 *board or required by this chapter.*

34 *(c) A finding that an owner, a person in control, a secretary, or*
35 *an officer of an institution is not in compliance with this chapter*
36 *or was not in compliance with applicable law while serving as an*
37 *owner, person in control, secretary, or officer of an institution*
38 *within the previous five-year period.*

39 *(d) A finding that a signatory to an application for an approval*
40 *to operate was responsible for the closure of any institution in*

1 *which there were unpaid liabilities to any state or federal*
2 *government, or uncompensated pecuniary losses suffered by*
3 *students without restitution.*

4 *(e) A finding that the applicant, owner, or persons in control*
5 *have been found previously in any judicial or administrative*
6 *procedure to have violated this chapter or admitted to having*
7 *violated this chapter.*

8 *(f) A finding that there was either a denial of a previous*
9 *application submitted by the same institution to the board or its*
10 *predecessor, the board, or a revocation of the institution's approval*
11 *and that the conditions or violations that were the cause of the*
12 *denial or revocation have not been corrected.*

13 *(g) The failure of the institution to maintain the minimum*
14 *educational standards prescribed by this chapter, or to maintain*
15 *standards that are the same as, or substantially equivalent to,*
16 *those represented in the school's applications and advertising.*

17 *(h) Presenting to prospective students information that is false*
18 *or misleading relating to the school, to employment opportunities,*
19 *or to enrollment opportunities in institutions of higher learning*
20 *after entering into or completing courses offered by the school.*

21 *(i) The failure to maintain financial resources adequate for the*
22 *satisfactory conduct of the courses of instruction offered as*
23 *required by statute.*

24 *(j) The failure to provide timely and correct refunds to students.*

25 *(k) Paying a commission or valuable consideration to any*
26 *persons for acts or services in violation of this chapter.*

27 *(l) Attempting to confer a degree, diploma, or certificate to any*
28 *student in violation of this chapter.*

29 *(m) Misrepresenting to any students or prospective students*
30 *that they are qualified, upon completion of any course, for*
31 *admission to professional examination under any state*
32 *occupational licensing provision.*

33 *(n) The failure to correct any deficiency or act of noncompliance*
34 *under this chapter, or the standards, rules, regulations, and orders*
35 *established and adopted under this chapter within reasonable time*
36 *limits set by the board.*

37 *(o) The conducting of business or instructional services at any*
38 *location not approved by the board.*

39 *(p) Failure on the part of an institution to comply with*
40 *provisions of law or regulations governing sanitary conditions of*

1 *that institution specified in Division 2 (commencing with Section*
2 *500) and Division 3 (commencing with Section 5000) of the*
3 *Business and Professions Code.*

4 *(q) The failure to pay any fees, orders for costs and expenses*
5 *under Section 95077, assessments, or penalties owed to the board,*
6 *as provided in this chapter.*

7 *95075. (a) The Attorney General shall act as legal counsel*
8 *for the board for any judicial and administrative proceedings, and*
9 *his or her services shall be charged against the board.*

10 *(b) The board shall review and investigate all institutions, and*
11 *may review and investigate all programs, and programs of*
12 *instruction approved under this chapter. Consideration in the*
13 *scheduling of reviews and investigations shall be afforded to*
14 *student complaints and information collected by the Attorney*
15 *General, the Student Aid Commission, or any other federal, state,*
16 *or local agency.*

17 *(c) The board shall conduct periodic unannounced reviews and*
18 *investigations of institutions to determine compliance with this*
19 *chapter.*

20 *(d) If there is reasonable cause to believe that there has been*
21 *a violation by a private postsecondary educational institution of*
22 *the standards prescribed by this chapter, the board shall conduct*
23 *an investigation of the institution.*

24 *(e) The board may direct staff and any other authorized person*
25 *or persons to investigate alleged violations.*

26 *(f) The board reserves the right to impanel a visiting committee*
27 *to review allegations of noncompliance committed by an institution.*
28 *The scope and composition of the visiting committee shall be at*
29 *the discretion of the board.*

30 *(g) At the board's request in connection with an investigation*
31 *to determine compliance with this chapter, an institution, during*
32 *its normal business hours, shall immediately make available for*
33 *inspection and copying all records required to be maintained by*
34 *this chapter or that relate to the institution's compliance with this*
35 *chapter. The institution shall permit the board's representatives*
36 *to have immediate access to the institution's primary administrative*
37 *location and sites of instruction during the institution's normal*
38 *business hours to examine and copy these records, to inspect the*
39 *institution's physical facilities, equipment, library and other*

1 *learning resources, and to interview school administrators, faculty,*
2 *and students.*

3 *(h) The attorney general of this state at the request of the board*
4 *may bring appropriate action or proceeding (including injunctive*
5 *proceedings, or criminal proceedings), in any court of competent*
6 *jurisdiction for the enforcement of the provisions of this chapter.*

7 *(i) Notwithstanding any other provision of law, the Attorney*
8 *General and his or her investigative agents, and investigators and*
9 *representatives of the board, may inquire into any alleged violation*
10 *of this chapter.*

11 *95076. (a) Within 30 days of any action by any accrediting*
12 *agency that establishes, reaffirms, or publicly sanctions the*
13 *accreditation of any private postsecondary educational institution*
14 *operating in the state, the accrediting agency shall notify the board*
15 *of that action and shall provide a copy of any public statements*
16 *regarding the reasons for the accrediting agency's action.*

17 *(b) If the board, the Attorney General, any district attorney or*
18 *city attorney, or the Student Aid Commission is conducting a*
19 *confidential investigation of an institution and so informs the*
20 *accrediting agency, the accrediting agency shall not inform that*
21 *institution or registrant of the investigation.*

22 *(c) If an accrediting agency willfully fails to comply with this*
23 *section, the accrediting agency shall be liable for a civil penalty*
24 *of not less than two thousand five hundred dollars (\$2,500) or*
25 *more than twenty-five thousand dollars (\$25,000) for each*
26 *violation. Penalties awarded pursuant to this section shall be*
27 *deposited in the Private Postsecondary Education Administration*
28 *Fund, or any successor fund, and shall be deposited in the*
29 *appropriate account, pursuant to Article 5 (commencing with*
30 *Section 94820).*

31 *95077. (a) Any person who, or any business entity, regardless*
32 *of the form of organization, that, willfully violates this chapter is*
33 *guilty of a crime, and shall be subject to separate punishment for*
34 *each violation either by imprisonment in a county jail not to exceed*
35 *one year, by a fine not to exceed ten thousand dollars (\$10,000),*
36 *or by both that imprisonment and fine; or by imprisonment in the*
37 *state prison, by a fine not to exceed fifty thousand dollars*
38 *(\$50,000), or by both that imprisonment and fine.*

1 (b) Notwithstanding any other law, any prosecution under this
2 section shall be commenced within three years of the discovery of
3 the facts constituting grounds for commencing the prosecution.

4 (c) The penalties provided by this section supplement, but do
5 not supplant, the remedies and penalties provided under other
6 law.

7 (d) In addition to any other fines or penalties imposed pursuant
8 to this section, any person or business entity found guilty of a crime
9 as described in subdivision (a) shall be ordered to pay the Attorney
10 General, any district attorney, or any city attorney all of their costs
11 and expenses in connection with any investigation incident leading
12 to that prosecution. An institution shall not be required to pay the
13 same costs and expenses to more than one investigating agency.

14 95078. Before any institution may be considered for approval
15 or renewal of approval to operate, the institution, at a minimum,
16 shall pay all annual fees, assessments to the Student Tuition
17 Recovery Fund, orders for costs and expenses under Section 95077,
18 and penalties in arrears retroactive to January 1, 1990. If an
19 institution that has failed to make timely payments of fees and
20 assessments is approved, the application for approval shall be
21 denied without appeal and the approval shall be terminated.

22 95079. (a) If an institution does not comply with Section 94853,
23 the board may do any, or any combination of, the following:

24 (1) Require the institution to establish and implement a financial
25 plan to ensure compliance with Section 94853.

26 (2) Require the institution to post satisfactory security for the
27 performance of its financial obligations pursuant to Section 94853.

28 (3) Require the institution to furnish additional information
29 such as an audit report of financial statements prepared by a
30 California licensed certified public accountant who is not an
31 employee, officer, or director of the institution.

32 (b) In any action or proceeding involving an institution's failure
33 to comply with Section 94853, there shall be a presumption
34 affecting the burden of proof that the institution does not have
35 sufficient financial resources if the institution fails to meet any of
36 the standards set forth in Section 94853.

37 95080. If any person willfully violates this chapter and the
38 violation results in the closure of an institution, that person shall
39 pay to all students of the closed institution full refunds or full

1 *compensation for actual damages resulting from the closure that*
2 *were not paid by the closed institution.*

3 95081. (a) *If an institution violates a provision of this article*
4 *or commits an act in violation of Section 94864 or 95085 in*
5 *connection with an agreement for a program of instruction, that*
6 *agreement shall be unenforceable, and the institution shall refund*
7 *all consideration paid by or on behalf of the student.*

8 (b) *Notwithstanding any provision in an agreement, a student*
9 *may bring an action for a violation of this article or Section 94864*
10 *or 95085 for an institution's failure to perform its legal obligations*
11 *and, upon prevailing, shall be entitled to the recovery of damages,*
12 *equitable relief, any other relief authorized by this article, and*
13 *reasonable attorney's fees and costs.*

14 (c) *If a court finds that a violation was willfully committed or*
15 *that the institution failed to refund all consideration as required*
16 *by subdivision (a) on the student's written demand, the court, in*
17 *addition to the relief awarded under subdivision (b), shall award*
18 *a civil penalty of up to three times the amount of the damages*
19 *sustained by the student.*

20 (d) *The remedies provided in this article supplement, but do not*
21 *supplant, the remedies provided under other provisions of law.*

22 (e) *An action brought under this section shall be commenced*
23 *within three years of the discovery of the facts constituting grounds*
24 *for commencing the action.*

25 (f) *Any provision in any agreement that purports to require a*
26 *student to invoke any grievance dispute procedure established by*
27 *the institution or any other procedure before bringing an action*
28 *to enforce any right or remedy is void and unenforceable.*

29 (g) *A student may assign his or her causes of action for a*
30 *violation of this article to the board, or to any state or federal*
31 *agency that guaranteed or reinsured a loan for the student or*
32 *provided any grant or other financial aid.*

33 95082. (a) *The Attorney General, or any district attorney, or*
34 *city attorney, may make investigations as may be necessary to*
35 *carry out this chapter, including, but not necessarily limited to,*
36 *investigations of complaints. The board may jointly bring actions*
37 *as necessary to enforce this chapter, including, but not necessarily*
38 *limited to, civil actions for injunctive relief. In actions brought*
39 *pursuant to this subdivision, the Attorney General shall represent*
40 *the board.*

1 (b) The Attorney General shall represent the board in the
2 following administrative proceedings arising under this chapter:

3 (1) Revocation of an institution's approval to operate or
4 revocation of a specific program or location approval.

5 (2) Denial of an institution's application for approval or a
6 denial of an additional program, change of location, change of
7 name, change of methodology, or an addition of a branch or
8 satellite.

9 (3) An appeal of a conditional approval to operate or probation.

10 (c) Nothing in this section or this chapter shall preclude the
11 Attorney General, or any district attorney or city attorney, from
12 any of the following:

13 (1) Bringing any action on behalf of the people as he or she is
14 empowered by law to bring, including, but not necessarily limited
15 to, actions based upon alleged violations of Chapter 5
16 (commencing with Section 17200) of Part 2, and Chapter 1
17 (commencing with Section 17500) of Part 3, of Division 7 of the
18 Business and Professions Code.

19 (2) Conducting investigations necessary to determine whether
20 there have been violations of law described in paragraph (1).

21 (3) Conducting any investigations that he or she is authorized
22 to conduct, including, but not necessarily limited to, investigations
23 authorized under Section 11180 of the Government Code.

24 (4) In the case of the Attorney General, delegating his or her
25 representation authority under subdivision (b) to staff attorneys
26 of the board.

27 (5) Entering into an agreement or understanding with the board
28 with respect to representation in any judicial or administrative
29 proceeding not expressly enumerated herein.

30 (6) Bringing an action for equitable relief for any violation of
31 this chapter. The equitable relief may include restitution, a
32 temporary restraining order, the appointment of a receiver, and
33 a preliminary or permanent injunction. The action may be brought
34 in the county in which the defendant resides or in which any
35 violation has occurred or may occur.

36 (d) The remedies provided in this section supplement, but do
37 not supplant, the remedies and penalties under other law.

38 95083. (a) In addition to or in lieu of any other remedy or
39 penalty, the board may issue a citation to an institution for

1 committing any violation of this chapter or regulation adopted
2 under this chapter.

3 (b) The citation may contain an order of abatement or the
4 assessment of an administrative fine. The administrative fine shall
5 not exceed two thousand five hundred dollars (\$2,500) for each
6 violation. The board shall base its assessment of the administrative
7 fine on the nature and seriousness of the violation, the persistence
8 of the violation, the good faith of the institution, the history of
9 previous violations, and the purposes of this chapter.

10 (c) Citations shall be issued to institutions by the director for
11 failure to meet procedural requirements of the act. For the
12 purposes of this section, the board designates the following offenses
13 for violations with an accompanying penalty:

14 (1) Failure to notify the board of a change of location for a
15 “main,” “branch,” or “satellite” or an offering educational
16 services at an unapproved location carries a fine of five hundred
17 dollars (\$500) per occurrence.

18 (2) Failure to notify the board of a change of program title or
19 an additional program carries a fine of one thousand dollars
20 (\$1,000) per occurrence.

21 (3) Failure to provide access to board representatives to inspect
22 the institution for the purpose of an scheduled or unscheduled on
23 site visit during “normal” business hours carries a fine of five
24 hundred dollars (\$500) per occurrence.

25 (4) Issuance of a worthless bank check to the board carries a
26 fine of one hundred dollars (\$100) per occurrence.

27 (5) Failure to provide a written response to a complaint filed by
28 the board on behalf of a student complainant carries a fine of five
29 hundred dollars (\$500) per occurrence.

30 (d) The remedies provided in this section supplement, but do
31 not supplant, the remedies and penalties under other provisions
32 of law.

33 (e) The citation shall be in writing and shall describe the nature
34 of the violation and the specific provision of law that was violated.
35 The citation shall inform the institution of its right to request a
36 hearing in writing within 15 days of the date that the citation was
37 issued. If a hearing is not requested, payment of the administrative
38 fine shall not constitute an admission of the violation charged. If
39 a hearing is requested, the board shall provide a hearing. Payment
40 of the administrative fine is due 15 days after the citation was

1 *issued if a hearing is not requested, or when a final order is entered*
2 *if a hearing is requested. The board may enforce the administrative*
3 *fine as if it were a money judgment pursuant to Title 9*
4 *(commencing with Section 680.10) of Part 2 of the Code of Civil*
5 *Procedure.*

6 *(f) All administrative fines shall be deposited in the Private*
7 *Postsecondary and Vocational Education Administration Fund in*
8 *the appropriate account, pursuant to Article 5 (commencing with*
9 *Section 94820).*

10 95085. *(a) Any institution that willfully violates any provision*
11 *of this chapter shall not enforce any contract or agreement arising*
12 *from the transaction in which the violation occurred, and any*
13 *willful violation is a ground for revoking an approval to operate*
14 *in this state or for denying a renewal application.*

15 *(b) Any person who claims that an institution is operating in*
16 *violation this chapter, or an institution is operating a branch or*
17 *satellite campus in violation of this chapter, may bring an action,*
18 *in a court of competent jurisdiction, for the recovery of actual and*
19 *or statutory damages as well as an equity proceeding to restrain*
20 *and enjoin those violations, or both.*

21 *(1) At least 35 days before the commencement of an action*
22 *pursuant to this subdivision, the plaintiff shall do all of the*
23 *following:*

24 *(A) Notify the institution alleged to have violated this chapter,*
25 *of the particular alleged violations.*

26 *(B) Demand that the institution apply for the board's approval*
27 *to operate as required by Article 8 (commencing with Section*
28 *94950).*

29 *(C) The notice shall be in writing, and shall be sent by regular*
30 *mail and certified or registered mail, return receipt requested, to*
31 *the location of the institution that is allegedly operating in violation*
32 *of Article 8 (commencing with Section 94950).*

33 *(D) The institution shall have 30 working days, from receipt of*
34 *the notice, to file an application for approval to operate with the*
35 *board.*

36 *(E) No action pursuant to this subdivision may be filed if the*
37 *institution, within 30 working days after receipt of the notice,*
38 *applies for the board's approval to operate as required by Article*
39 *8 (commencing with Section 94950).*

1 (F) If, within 35 days after receipt of the notice, the board has
2 not received an application from the institution, the board shall
3 mail the plaintiff a certification that the institution has not applied
4 or been approved to operate pursuant to Article 8 (commencing
5 with Section 94950).

6 (G) (1) The plaintiff shall also notify the board, by certified or
7 registered mail, return receipt requested, that he or she intends to
8 bring an action pursuant to this section against the institution.
9 Upon receipt of this notice, the board shall immediately investigate
10 the institution's compliance with Article 6 (commencing with
11 Section 94850), Article 7 (commencing with Section 94900), or
12 Article 10 (commencing with Section 95000), whichever is
13 applicable, and, if the board determines that the institution has
14 violated the applicable section, the board shall immediately order
15 the institution to cease and desist operations. For each day that
16 the institution continues to operate in violation of the board's
17 cease and desist order, the institution shall be fined one thousand
18 dollars (\$1,000).

19 (2) If the court finds that the institution has violated this chapter,
20 all of the following shall occur:

21 (A) The court shall order the institution to cease all operations
22 and to comply with all procedures set forth in this code pertaining
23 to the closure of institutions.

24 (B) The court shall order the institution to pay all students who
25 enrolled while the school was in violation, a refund of all tuition
26 and fees paid to the institution and a statutory penalty of one
27 thousand dollars (\$1,000).

28 (C) The court shall order the institution to pay the prevailing
29 party's attorneys' fees and costs.

30 (D) The court shall order the institution to pay to the board all
31 fines incurred pursuant to subparagraph (E) of paragraph (1).

32 (E) Any instrument of indebtedness, enrollment agreement, or
33 contract for educational services is unenforceable pursuant to
34 Section 94869. The court shall order the institution to mail a notice
35 to all students who were enrolled while the school was in, stating
36 that instruments of indebtedness, enrollment agreements, and
37 contracts for educational services are not enforceable. If the
38 institution fails to provide adequate proof to the court and to the
39 board that it has mailed this notice within 30 days of the court's
40 order, the board shall mail the notice to the students and the court

1 shall order the institution to pay the board's costs of generating
2 and mailing the notices, in no case less than five thousand dollars
3 (\$5,000).

4 (3) Any violation of this chapter shall constitute an unfair
5 business practice within the meaning of Section 17200 of the
6 Business and Professions Code.

7 (4) A certification, issued by the board, that the institution has
8 not applied for approval to operate and has not been approved to
9 operate as required by Article 8 (commencing with Section 94950),
10 shall establish a conclusive presumption that the institution has
11 violated this subdivision.

12 (5) All fines and other monetary amounts that an institution is
13 ordered to pay pursuant to this subdivision may be collected from
14 the institution itself and from the individuals who own the
15 institution, whether or not the institution is organized as a
16 corporation.

17 (c) Notwithstanding any provision of the contract or agreement,
18 a student may bring an action for a violation of this article or for
19 an institution's failure to perform its legal obligations and, upon
20 prevailing thereon, is entitled to the recovery of damages, equitable
21 relief, or any other relief authorized by this article, and reasonable
22 attorney's fees and costs.

23 (d) If a court finds that a violation was willfully committed or
24 that the institution failed to refund all consideration as required
25 by subdivision (b) on the student's written demand, the court, in
26 addition to the relief authorized under subdivision (b), shall award
27 a civil penalty of up to two times the amount of the damages
28 sustained by the student.

29 (e) The remedies provided in this article supplement, but do not
30 supplant, the remedies provided under any other provision of law.

31 (f) An action brought under this section shall be commenced
32 within three years of the discovery of the facts constituting grounds
33 for commencing the action.

34 (g) Any provision in any agreement that purports to require a
35 student to invoke any grievance dispute procedure established by
36 the institution before enforcing any right or remedy is void and
37 unenforceable.

38 (h) A student may assign his or her cause of action for a
39 violation of this article to the board, or to any state or federal

1 agency that guaranteed or reinsured a loan for the student or that
2 provided any grant or other financial aid.

3 (i) This section applies to any action pending on the January
4 1, 2008.

5 (j) This section supplements, but does not supplant, the authority
6 granted the Division of Labor Standards Enforcement under
7 Chapter 4 (commencing with Section 79) of Division 1 of the Labor
8 Code to the extent that placement activities of trade schools are
9 subject to regulation by the division under the Labor Code.

10 95086. (a) No note, other instrument of indebtedness, or
11 contract relating to payment for educational services shall be
12 enforceable by any institution within or outside this state governed
13 by this chapter unless at the time of execution of that note, other
14 instrument of indebtedness, or contract, the institution has a valid
15 approval to operate pursuant to this chapter.

16 (b) No note, other instrument of indebtedness, or contract
17 relating to payment for educational services shall be enforceable
18 by any institution within or outside this state governed by this
19 chapter unless the representative, who enrolled persons to whom
20 educational services were to be rendered or to whom degrees or
21 diplomas were to be granted pursuant to this chapter, held a valid
22 permit at the time of execution of the note, other instrument of
23 indebtedness, or contract.

24

25 Article 13. Student Tuition Recovery Fund

26

27 95100. (a) On and after January 1, 2008, the Student Tuition
28 Recovery Fund, shall be administered by the Board of Private
29 Postsecondary Education. All assessments collected pursuant to
30 Section 95102 shall be credited to the fund, along with any interest
31 on the moneys, for the administration of this article.
32 Notwithstanding Section 13340 of the Government Code, the
33 moneys in the fund are continuously appropriated to the board
34 without regard to fiscal years for the purposes of this chapter. For
35 institutions approved under any provision of this chapter, for the
36 purpose of relieving or mitigating pecuniary losses suffered by
37 any California resident who is a student of an approved institution
38 and who meets either of the following conditions:

39 (1) (A) The student was enrolled in an institution, prepaid
40 tuition, and suffered loss as a result of any of the following:

1 (i) *The closure of the institution.*

2 (ii) *The institution's failure to pay refunds or charges on behalf*
3 *of a student to a third party for license fees or any other purposes,*
4 *or to provide equipment or materials for which a charge was*
5 *collected within 180 days before the closure of the institution.*

6 (iii) *The institution's failure to pay or reimburse loan proceeds*
7 *under a federally guaranteed student loan program as required*
8 *by law or to pay or reimburse proceeds received by the institution*
9 *before closure in excess of tuition and other costs.*

10 (iv) *The institution's breach or anticipatory breach of the*
11 *agreement for the course of instruction.*

12 (v) *A decline in the quality or value of the course of instruction*
13 *within the 30-day period before the closure of the institution or,*
14 *if the decline began before that period, the period of decline*
15 *determined by the board.*

16 (vi) *The commission of a fraud by the institution during the*
17 *solicitation or enrollment of, or during the program participation*
18 *of, the student.*

19 (B) *For the purposes of this section, "closure" includes closure*
20 *of a branch or satellite campus, the termination of either the*
21 *correspondence or residence portion of a home study or*
22 *correspondence course, and the termination of a course of*
23 *instruction for some or all of the students enrolled in the course*
24 *before the time these students were originally scheduled to*
25 *complete it, or before a student who has been continuously enrolled*
26 *in a course of instruction has been permitted to complete all the*
27 *educational services and classes that comprise the course.*

28 (2) *The student obtained a judgment against the institution for*
29 *any violation of this chapter, and the student certifies that the*
30 *judgment cannot be collected after diligent collection efforts. A*
31 *court judgment obtained under this paragraph shall be paid in*
32 *accordance with paragraph (1) of subdivision (f), unless the*
33 *judgment indicates that a lesser amount is due.*

34 (b) *Payments from the fund to any student shall be subject to*
35 *any regulations and conditions prescribed by the board.*

36 (c) (1) (A) *The institution shall provide to the board, at the*
37 *time of the institution's closure, the names and addresses of*
38 *persons who were students of an institution within 60 days before*
39 *its closure, and shall notify these students, within 30 days of the*
40 *institution's closure, of their rights under the fund and how to*

1 apply for payment. If the institution fails to comply with this
2 subdivision, the board shall attempt to obtain the names and
3 addresses of these students and shall notify them, within 90 days
4 of the institution's closure, of their rights under the fund and how
5 to apply for payment. This notice shall include the explanation
6 and the claim form described in subparagraph (B).

7 (B) The board shall develop a form in English and Spanish fully
8 explaining a student's rights, that shall be used by the institution
9 or the board to comply with the requirements of subparagraph
10 (A). The form shall include, or be accompanied by, a claim
11 application and an explanation of how to complete the application.

12 (2) (A) If an institution fails to comply with paragraph (1), the
13 board shall order the institution, or any person responsible for
14 the failure to provide notice as required by paragraph (1), to
15 reimburse the board for all reasonable costs and expenses incurred
16 in notifying students as required in paragraph (1). In addition, the
17 board may impose a penalty of up to five thousand dollars (\$5,000)
18 against the institution and any person found responsible for the
19 failure to provide notice. The amount of the penalty shall be based
20 on the degree of culpability and the ability to pay. Any order may
21 impose joint and several liabilities. Before any order is made
22 pursuant to this paragraph, the board shall provide written notice
23 to the institution and any person from whom the board seeks
24 recovery of the board's claim and of the right to request a hearing
25 within 30 days of the service of the notice.

26 (B) If a hearing is not requested within 30 days of service of the
27 notice, the board may order payment in the amount of the claim.
28 If a hearing is requested, Chapter 5 (commencing with Section
29 11500) of Part 1 of Division 3 of Title 2 of the Government Code
30 shall apply, and the board shall have all of the powers therein
31 prescribed. Within 30 days after the effective date of the issuance
32 of an order, the board may enforce the order in the same manner
33 as if it were a money judgment pursuant to Title 9 (commencing
34 with Section 680.010) of Part 2 of the Code of Civil Procedure.
35 All penalties and reimbursements paid pursuant to this section
36 shall be deposited in the Postsecondary Education Administration
37 Fund established pursuant to Article 5 (commencing with Section
38 94820).

1 *(d) (1) Students entitled to payment as provided in paragraph*
2 *(1) of subdivision (a) shall file with the board a verified application*
3 *indicating each of the following:*

4 *(A) The student's name, address, telephone number, and social*
5 *security number.*

6 *(B) If any portion of the tuition was paid from the proceeds of*
7 *a loan, the name of the lender, and any state or federal agency*
8 *that guaranteed or reinsured the loan.*

9 *(C) The amount of the paid tuition, the amount and description*
10 *of the student's loss, and the amount of the student's claim.*

11 *(D) The date the student started and ceased attending the*
12 *institution.*

13 *(E) A description of the reasons the student ceased attending*
14 *the institution.*

15 *(F) If the student ceased attending because of a breach or*
16 *anticipatory breach or because of the decline in the quality or*
17 *value of the course of instruction as described in clause (v) of*
18 *subparagraph (A) of paragraph (1) of subdivision (a), a statement*
19 *describing in detail the nature of the loss incurred. The application*
20 *shall be filed within one year from the date of the notice, as*
21 *described in paragraph (1) of subdivision (c). If no notice is*
22 *received by the student from the board soon after the school closes,*
23 *the application shall be filed within four years of the institution's*
24 *closure, or within two years of the student's or former student's*
25 *receipt of an explanation of his or her rights and a claim form,*
26 *whichever of those claim periods expires later. The two-year claim*
27 *period shall begin on the day the student or former student receives*
28 *from the board both an explanation regarding how to file a claim*
29 *and a claim application, as provided in subparagraph (B) of*
30 *paragraph (1) of subdivision (c), or on the day the second of the*
31 *two documents is received, if they are received on different dates.*
32 *If the claimant's primary language is Spanish, or a language other*
33 *than English, the notice and explanation shall be sent in Spanish*
34 *or the primary language of the student.*

35 *(G) Nothing in this subdivision shall preclude the filing of a*
36 *single, unified application that aggregates the claims of similarly*
37 *situated students.*

38 *(2) (A) Students entitled to payment as provided in paragraph*
39 *(2) of subdivision (a) shall file with the board a verified application*
40 *indicating the student's name, address, telephone number, and*

1 social security number, the amount of the judgment obtained
2 against the institution, a statement that the judgment cannot be
3 collected, and a description of the efforts attempted to enforce the
4 judgment. A copy of the judgment and any other documents
5 indicating the student's efforts made to enforce the judgment shall
6 accompany the application.

7 (B) The application shall be filed within two years after the date
8 upon which the judgment became final.

9 (3) The board may require additional information designed to
10 facilitate payment to entitled students. The board shall waive the
11 requirement that a student provide all of the information required
12 by this subdivision if the board has the information or the
13 information is not reasonably necessary for the resolution of a
14 student's claim.

15 (4) Nothing in this subdivision shall be construed to preclude
16 the filing of a single, unified application that aggregates the claims
17 of similarly situated students.

18 (e) Within 60 days of the board's receipt of a completed
19 application for payment, the board shall pay the claim from the
20 Student Tuition Recovery Fund or deny the claim. The board, for
21 good cause, may extend the time period for up to an additional 90
22 days to investigate the accuracy of the claim.

23 (f) (1) If the board pays the claim, the amount of the payment
24 shall be (A) the greater of either (i) the total guaranteed student
25 loan debt incurred by the student in connection with attending the
26 institution, or (ii) the total of the student's tuition and the cost of
27 equipment and materials related to the course of instruction, less
28 (B) the amount of any refund, reimbursement, indemnification,
29 restitution, compensatory damages, settlement, debt forgiveness,
30 discharge, cancellation, or compromise, or any other benefit
31 received by, or on behalf of, the student before the board's payment
32 of the claim in connection with the student loan debt or cost of
33 tuition, equipment, and materials. The payment also shall include
34 the amount the institution collected and failed to pay to third
35 parties on behalf of the student for license fees or any other
36 purpose. However, if the claim is based solely on the circumstances
37 described in subparagraph (B) or (C) of paragraph (1) of
38 subdivision (a), the amount of the payment shall be the amount of
39 the loss suffered by the student. In addition to the amount
40 determined under this paragraph, the amount of the payment shall

1 *include all interest and collection costs on all student loan debt*
2 *incurred by the student in connection with attending the institution.*

3 *(2) The board may reduce the total amount specified in*
4 *paragraph (1) by the value of the benefit, if any, of the education*
5 *obtained by the student before the closure of the institution. If the*
6 *board makes any reduction pursuant to this paragraph, the board*
7 *shall notify the claimant in writing, at the time the claim is paid,*
8 *on the basis of its decision and provide a brief explanation of the*
9 *reasons upon which the board relied in computing the amount of*
10 *the reduction.*

11 *(3) No reduction shall be made to the amount specified in*
12 *paragraph (1) if (A) the student did not receive adequate*
13 *instruction to obtain the training, skills, or experience, or*
14 *employment to which the instruction was represented to lead, (B)*
15 *credit for the instruction obtained by the student is not generally*
16 *transferable to other institutions approved by the board, or (C)*
17 *the institution or one of its representatives fraudulently*
18 *misrepresented to students the likely starting salary or job*
19 *availability, or both, after training.*

20 *(4) The amount of the payment determined under this subdivision*
21 *is not dependent on the amount of the refund to which the student*
22 *would have been entitled after a voluntary withdrawal.*

23 *(5) Upon payment of the claim, all of the student's rights against*
24 *the institution shall be deemed assigned to the board to the extent*
25 *of the amount of the payment.*

26 *(g) (1) The board shall negotiate with a lender, holder,*
27 *guarantee agency, or the United States Department of Education*
28 *for the full compromise or write-off of student loan obligations to*
29 *relieve students of loss and thereby reduce the amount of student*
30 *claims.*

31 *(2) The board, with the student's permission, may pay a*
32 *student's claim directly to the lender, holder, guarantee agency,*
33 *or the United States Department of Education under a federally*
34 *guaranteed student loan program only if the payment of the claim*
35 *fully satisfies all of the student's loan obligations related to*
36 *attendance at the institution for which the claim was filed.*

37 *(3) Notwithstanding subdivision (e), the board may delay the*
38 *payment of a claim pending the resolution of the board's attempt*
39 *to obtain a compromise or write-off of the claimant's student loan*
40 *obligation. However, the board shall immediately pay the claim*

1 *if any adverse action that is not stayed is taken against the*
2 *claimant, including the commencement of a civil or administrative*
3 *action, tax offset, the enforcement of a judgment, or the denial of*
4 *any government benefit.*

5 *(4) The board shall make every reasonable effort to obtain a*
6 *loan discharge for an eligible student in lieu of reimbursing that*
7 *student in whole or in part from the fund pursuant to federal*
8 *student loan laws and regulations.*

9 *(5) Whenever the board receives from a student a completed*
10 *application for payment from the Student Tuition Recovery Fund,*
11 *the board shall, as soon as is practicable, cause to be delivered*
12 *to that student a written notice specifying, in plain English, the*
13 *rights of a student under this section.*

14 *(h) (1) If the board denies the claim, or reduces the amount of*
15 *the claim pursuant to paragraph (2) of subdivision (f), the board*
16 *shall notify the student of the denial or reduction and of the*
17 *student's right to request a hearing within 60 days or any longer*
18 *period permitted by the board. If a hearing is not requested within*
19 *60 days or any additional period reasonably requested by the*
20 *student, the board's decision shall be final. If a hearing is*
21 *requested, Chapter 5 (commencing with Section 11500) of Part 1*
22 *of Division 3 of Title 2 of the Government Code shall apply.*

23 *(2) It is the intent of the Legislature that, when a student is*
24 *enrolled in an institution that closes before the completion of the*
25 *student's program, the student shall have the option for a teach-out*
26 *at another institution approved by the board. The board shall seek*
27 *to promote teach-out opportunities wherever possible and shall*
28 *inform the student of his or her rights, including payment from the*
29 *fund, transfer opportunities, and available teach-out opportunities,*
30 *if any.*

31 *(i) This section applies to all claims filed or pending under*
32 *former Chapter 7 (commencing with Section 94700) after January*
33 *1, 1990.*

34 *(j) Once the board determines that a student claim is eligible*
35 *for payment under this section and that the use of the Student*
36 *Tuition Recovery Fund, in whole or in part, is appropriate to satisfy*
37 *the eligible claim, the board shall document its negotiations with*
38 *the relevant lender, holder or guarantee agency, the United States*
39 *Department of Education, or the applicable state agency. The*
40 *board shall prepare a written summary of the parties and results*

1 of the negotiations, including the amounts offered and accepted,
2 the discounts requested and granted, and any other information
3 that is available to any party that files a request for this information
4 with the board.

5 95101. (a) An institution closing, not seeking renewal to
6 operate, or whose approval to operate is discontinued, before the
7 completion of educational services by all enrolled students, shall
8 have a plan approved by the board that includes specific provisions
9 for the treatment of currently enrolled students in the event of
10 school closure. Closing schools shall communicate to all enrolled
11 students that these provisions exist and are available to them.
12 Closing schools shall provide opportunities for students to complete
13 their educational programs at another institution, or shall provide
14 a full refund and fee refund to students in the event that the board
15 determines that the school has not fulfilled its contractual
16 obligation to them.

17 (b) The plan required by subdivision (a) shall contain detailed
18 procedures that will be used in the event of closure, including all
19 of the following:

20 (1) Arrangements made for students to receive continued
21 instruction.

22 (2) Procedures for making tuition and fee refunds, including
23 the source of these funds, including, but not limited to bonds, letters
24 of credit, or other sources.

25 (3) Written descriptions that will be used to inform enrolled
26 students of these plans.

27 (c) The board-approved plan shall further provide for the
28 retention and disposition of records in the event of closure.
29 Arrangements shall be made for the transference of complete
30 academic and financial aid records to other institutions or agencies
31 in the event of closure, and currently enrolled and former students,
32 including graduates, shall be informed of the location of those
33 records and how they can gain access to them. The institution or
34 agency holding the records shall be directed to inform the board
35 if the records are later moved.

36 95102. (a) (1) The board shall assess each institution, other
37 than an institution that receives all of its students' total charges
38 from third-party payers, for the purpose of compliance with the
39 provisions of this chapter that are related to the Student Tuition
40 Recovery Fund. A third-party payer, for the purposes of this

1 *section, means an employer, government program, or other payer*
2 *that pays a student's total charges directly to the institution when*
3 *no separate agreement for the repayment of that payment exists*
4 *between the third-party payer and the student. A student who*
5 *receives third-party payer benefits for his or her tuition and fees*
6 *is not eligible for benefits from the Student Tuition Recovery Fund.*

7 (2) (A) *The amount assessed each institution shall be calculated*
8 *only for those students who are California residents and who are*
9 *eligible to be reimbursed from the fund. It shall be based on the*
10 *actual amount charged each of these students for total tuition cost,*
11 *regardless of the portion that is prepaid, and shall be assessed as*
12 *tuition is paid or loans are funded on behalf of the student, based*
13 *upon academic term. The amount of the assessment on an*
14 *institution shall be determined in accordance with paragraphs (3)*
15 *and (4).*

16 (B) *Each institution shall collect the amount assessed by the*
17 *board in the form of a Student Tuition Recovery Fund fee from its*
18 *new students, and remit these fees to the board during the quarter*
19 *immediately following the quarter in which the fees were collected*
20 *from the students, or from loans funded on behalf of the students,*
21 *except that an institution may waive collection of the Student*
22 *Tuition Recovery Fund fee and assume the fee as a debt of the*
23 *institution. The student's subsequent disenrollment at the institution*
24 *shall not relieve the institution of the obligation to pay the fee to*
25 *the board, nor be the basis for refund of the fee to the student. An*
26 *institution shall not charge a fee of any kind for the collection of*
27 *the Student Tuition Recovery Fund fee. An institution may refuse*
28 *to enroll a student who has not paid, or made provisions to pay,*
29 *the appropriate Student Tuition Recovery Fund fee.*

30 (3) *The amount collected from a new student by an institution*
31 *shall be calculated on the basis of the course tuition paid over the*
32 *current calendar year, based upon the assessment rate in effect*
33 *when the student enrolled at the institution, without regard to the*
34 *length of time the student's program of instruction lasts. For*
35 *purposes of annualized payment, a new student enrolled in a course*
36 *of instruction that is longer than one calendar year in duration*
37 *shall pay fees for the Student Tuition Recovery Fund based on the*
38 *amount of tuition collected during the current calendar year.*

39 (4) *Student Tuition Recovery Fund fees shall be collected from*
40 *new students at the rate of two dollars and fifty cents (\$2.50) per*

1 thousand dollars of tuition charged, rounded to the nearest
2 thousand dollars.

3 (5) The board may levy additional reasonable special
4 assessments on an institution under this section only if these
5 assessments are required to ensure that sufficient funds are
6 available to satisfy the anticipated costs of paying student claims
7 pursuant to this article.

8 (6) (A) The board shall not levy a special assessment unless
9 the balance in the Student Tuition Recovery Fund falls below ____
10 dollars (\$____), as certified by the board.

11 (B) A special assessment is a surcharge, collected by each
12 institution from newly enrolled students, of up to 100 percent of
13 that institution's regular assessment for four consecutive quarters.
14 The affected student shall pay the surcharge simultaneously with
15 his or her regular quarterly payment to the Student Tuition
16 Recovery Fund.

17 (C) The board shall provide at least 90 days' notice of an
18 impending special assessment to each affected institution. This
19 notice shall also be posted on the board's Internet Web site.

20 (D) The board may apply any special assessment payments that
21 it receives from an institution as a credit toward that institution's
22 current or future obligations to the Student Tuition Recovery Fund.

23 (7) The assessments shall be paid into the Student Tuition
24 Recovery Fund and the deposits shall be allocated, except as
25 otherwise provided for in this chapter, solely for the payment of
26 valid claims to students. Unless additional reasonable assessments
27 are required, no assessments shall be levied during any fiscal year
28 if, as of June 30 of the prior fiscal year, the balance in that account
29 of the fund exceeds ____ dollars (\$____). However, irrespective
30 of the balance in the fund, assessments shall be made on any
31 initially approved institution. Notwithstanding Section 13340 of
32 the Government Code, the moneys so deposited in the fund are
33 continuously appropriated to the board for the purpose of paying
34 claims to students pursuant to Section ____.

35 (b) The board may deduct from the fund the reasonable costs
36 of administration of the tuition recovery program authorized by
37 this article. The maximum amount of administrative costs that may
38 be deducted from the fund, in a fiscal year, shall not exceed one
39 hundred thousand dollars (\$100,000) from the degree-granting
40 postsecondary educational institution account plus the interest

1 *earned on money in the fund that is credited to the fund. Prior to*
2 *the board's expenditure of any amount in excess of one hundred*
3 *thousand dollars (\$100,000) from the fund for administration of*
4 *the tuition recovery program, the board shall develop a plan*
5 *itemizing that expenditure. The plan shall be subject to the*
6 *approval of the Department of Finance.*

7 *(c) Reasonable costs in addition to those permitted under*
8 *subdivision (b) may be deducted from the fund for either of the*
9 *following purposes:*

10 *(1) To make and maintain copies of student records from*
11 *institutions that close.*

12 *(2) To reimburse the board or a third party serving as the*
13 *custodian of records.*

14 *(d) In the event of a closure by any approved institution under*
15 *this chapter, any assessments that have been made against those*
16 *institutions, but have not been paid into the fund, shall be*
17 *recovered. Any payments from the fund made to students on behalf*
18 *of any institution shall be recovered from that institution.*

19 *(e) In addition to civil remedies, the board may order an*
20 *institution to pay previously unpaid assessments or to reimburse*
21 *the board for any payments made from the fund in connection with*
22 *the institution. Before any order is made pursuant to this section,*
23 *the board shall provide written notice to the institution and notice*
24 *of the institution's right to request a hearing within 30 days of the*
25 *service of the notice. If a hearing is not requested within 30 days*
26 *of the service of the notice, the board may order payment. If a*
27 *hearing is requested, Chapter 5 (commencing with Section 11500)*
28 *of Part 1 of Division 3 of Title 2 of the Government Code shall*
29 *apply, and the board shall have all powers prescribed in that*
30 *chapter. Within 30 days after the effective date of the issuance of*
31 *the order, the board may enforce the order in the same manner as*
32 *if it were a money judgment pursuant to Title 9 (commencing with*
33 *Section 680.010) of Part 2 of the Code of Civil Procedure.*

34 *(f) In addition to any other action that the board may take under*
35 *this chapter, the board may suspend or revoke an institution's*
36 *approval to operate or registration because of the institution's*
37 *failure to pay assessments when due or failure to pay*
38 *reimbursement for any payments made from the fund within 30*
39 *days of the board's demand for payment.*

1 (g) *The moneys deposited in the fund shall be exempt from*
2 *execution, and shall not be the subject of litigation or liability on*
3 *the part of creditors of those institutions or students.*

4 95103. *Students enrolling in institutions that are subject to*
5 *Sections 95101 and 95102 shall disclose in writing, if applicable,*
6 *the source of any and all guaranteed or insured loans granted for*
7 *the purposes of paying tuition to that institution. In the event of a*
8 *closure of any institution, the board shall provide any lending*
9 *institution that is the source of any guaranteed or insured student*
10 *loan with the names of students maintaining loans with that lending*
11 *institution.*

12 95104. (a) (1) *The governing board or other governing*
13 *authority of any private postsecondary or vocational educational*
14 *institution shall adopt rules providing for the withholding of*
15 *services from students or former students who have been notified,*
16 *in writing, at the student's or former student's last known address,*
17 *that he or she is in default on a loan or loans under either of the*
18 *following loan programs:*

19 (A) *The Stafford Student Loan program.*

20 (B) *The Supplemental Loans for Students program.*

21 (C) *Any program directly or indirectly financed by the*
22 *California Educational Facilities Authority.*

23 (2) *“Default,” as used in this section, with respect to a loan*
24 *under the Stafford Student Loan program or Supplemental Loans*
25 *for Students program means the failure of a borrower to make an*
26 *installment payment when due, or to meet other terms of the*
27 *promissory note under circumstances where the guarantee agency*
28 *finds it reasonable to conclude that the borrower no longer intends*
29 *to honor the obligation to repay, provided that this failure persists*
30 *for 180 days for a loan repayable in monthly installments, or 240*
31 *days for a loan repayable in less frequent installments. “Default,”*
32 *as used in this section, with respect to a program directly or*
33 *indirectly financed by the California Educational Facilities*
34 *Authority, means the failure of a borrower to make an installment*
35 *payment when due, or to meet other terms of the loan, within that*
36 *period and under the circumstances determined by the California*
37 *Educational Facilities Authority with respect to that program.*

38 (b) *The rules adopted pursuant to subdivision (a) shall that the*
39 *services withheld may be provided during a period when the facts*
40 *are in dispute and when the student or former student demonstrates*

1 to either the governing board or other appropriate governing
2 authority of the institution, or the Student Aid Commission and
3 the appropriate entity or its designee, that reasonable progress
4 has been made to repay the loan or that there exists a reasonable
5 justification for the delay as determined by the institution. The
6 rules shall specify the services to be withheld from the student and
7 may include, but are not limited to, the provision of any of the
8 following:

9 (1) Grades.

10 (2) Transcripts.

11 (3) Diplomas.

12 (c) The rules shall not include the withholding of registration
13 privileges.

14 (d) When it has been determined that an individual is in default
15 on a loan or loans under either of the loan programs specified in
16 subdivision (a), the Student Aid Commission shall give notice of
17 the default to all institutions through which that individual acquired
18 the loan or loans.

19 (e) Guarantors, or those who act as their agents or act under
20 their control, who provide information to institutions pursuant to
21 this section, shall defend, indemnify, and hold harmless the
22 governing board or other governing authority of the institutions
23 from action resulting from compliance with this section when the
24 action arises as a result of incorrect, misleading, or untimely
25 information provided to the institution by the guarantors, their
26 agents, or those acting under the control of the guarantors.

27 SEC. 3. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

36 SEC. 4. This act shall not become operative unless and until
37 A.B. 1525 of the 2007-08 Regular Session of the Legislature is
38 chaptered and becomes operative.

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate, February 23, 2007 (JR11)**

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