

AMENDED IN ASSEMBLY JULY 17, 2007

AMENDED IN ASSEMBLY JULY 2, 2007

AMENDED IN SENATE MAY 24, 2007

AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 823

Introduced by Senator Perata

February 23, 2007

An act to amend Sections 146, 149, and 473.1 of the Business and Professions Code, and to add and repeal Chapter 7 (commencing with Section 94700) of 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 Private 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.

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

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 generally succeed to the duties assigned to the bureau under the 1989 act. The bill would repeal the California *Private* Postsecondary Education Act of 2007 on January 1, 2015.

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.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 146 of the Business and Professions Code
2 is amended to read:
3 146. (a) Notwithstanding any other provision of law, a
4 violation of any code section listed in subdivision (c) or (d) is an
5 infraction subject to the procedures described in Sections 19.6 and
6 19.7 of the Penal Code when:
7 (1) A complaint or a written notice to appear in court pursuant
8 to Chapter 5c (commencing with Section 853.5) of Title 3 of Part
9 2 of the Penal Code is filed in court charging the offense as an
10 infraction unless the defendant, at the time he or she is arraigned,
11 after being advised of his or her rights, elects to have the case
12 proceed as a misdemeanor, or

1 (2) The court, with the consent of the defendant and the
2 prosecution, determines that the offense is an infraction in which
3 event the case shall proceed as if the defendant has been arraigned
4 on an infraction complaint.

5 (b) Subdivision (a) does not apply to a violation of the code
6 sections listed in subdivisions (c) and (d) if the defendant has had
7 his or her license, registration, or certificate previously revoked
8 or suspended.

9 (c) The following sections require registration, licensure,
10 certification, or other authorization in order to engage in certain
11 businesses or professions regulated by this code:

12 (1) Sections 2052 and 2054.

13 (2) Section 2630.

14 (3) Section 2903.

15 (4) Section 3660.

16 (5) Sections 3760 and 3761.

17 (6) Section 4080.

18 (7) Section 4825.

19 (8) Section 4935.

20 (9) Section 4980.

21 (10) Section 4996.

22 (11) Section 5536.

23 (12) Section 6704.

24 (13) Section 6980.10.

25 (14) Section 7317.

26 (15) Section 7502 or 7592.

27 (16) Section 7520.

28 (17) Section 7617 or 7641.

29 (18) Subdivision (a) of Section 7872.

30 (19) Section 8016.

31 (20) Section 8505.

32 (21) Section 8725.

33 (22) Section 9681.

34 (23) Section 9840.

35 (24) Subdivision (c) of Section 9891.24.

36 (25) Section 19049.

37 (d) Institutions that are required to register with the Bureau for
38 Private Postsecondary Education pursuant to Chapter 7
39 (commencing with Section 94700) of Part 59 of Division 10 of
40 Title 3 of the Education Code.

(e) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

SEC. 2. Section 149 of the Business and Professions Code is amended to read:

149. (a) If, upon investigation, an agency designated in subdivision (e) has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

(2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

- 1 (1) The Bureau of Barbering and Cosmetology.
- 2 (2) The Funeral Directors and Embalmers Program.
- 3 (3) The Veterinary Medical Board.
- 4 (4) The Hearing Aid Dispensers Advisory Commission.
- 5 (5) The Landscape Architects Technical Committee.
- 6 (6) The California Board of Podiatric Medicine.
- 7 (7) The Respiratory Care Board of California.
- 8 (8) The Bureau of Home Furnishings and Thermal Insulation.
- 9 (9) The Bureau of Security and Investigative Services.
- 10 (10) The Bureau of Electronic and Appliance Repair.
- 11 (11) The Bureau of Automotive Repair.
- 12 (12) The Tax Preparers Program.
- 13 (13) The California Architects Board.
- 14 (14) The Speech-Language Pathology and Audiology Board.
- 15 (15) The Board for Professional Engineers and Land Surveyors.
- 16 (16) The Board of Behavioral Sciences.
- 17 (17) The State Board for Geologists and Geophysicists.
- 18 (18) The Structural Pest Control Board.
- 19 (19) The Acupuncture Board.
- 20 (20) The Board of Psychology.
- 21 (21) The California Board of Accountancy.
- 22 (22) The Bureau of Naturopathic Medicine.
- 23 (23) The Bureau for Private Postsecondary Education.

24 SEC. 3. Section 473.1 of the Business and Professions Code
25 is amended to read:

26 473.1. This chapter shall apply to all of the following:

27 (a) Every board, as defined in Section 22, that is scheduled to
28 become inoperative and to be repealed on a specified date as
29 provided by the specific act relating to the board.

30 (b) The Bureau for Postsecondary Education. For purposes of
31 this chapter, “board” includes the bureau.

32 (c) The Cemetery and Funeral Bureau.

33 SEC. 4. Chapter 7 (commencing with Section 94700) is added
34 to Part 59 of Division 10 of Title 3 of the Education Code, to read:

CHAPTER 7. CALIFORNIA PRIVATE POSTSECONDARY EDUCATION
ACT OF 2007

Article 1. Administration

94700. This chapter shall be known and may be cited as the California Private Postsecondary Education Act of 2007. Whenever a reference is made to the Private Postsecondary Education and Student Protection Act, the former Private Postsecondary and Vocational Education Reform Act of 1989, or the former Chapter 7 (commencing with Section 94700) *of Part 59 of Division 10 of Title 3* of the Education Code, by the provisions of any statute or regulation, unless the context requires otherwise, it is to be construed as referring to the provisions of this chapter.

94701. The bureau is subject to the periodic and ongoing review by the Legislature.

94702. Unless the context requires otherwise, the definitions set forth in Article 3 (commencing with Section 94840) govern the construction of this chapter.

94703. It is the intent and purpose of this chapter to protect students, reputable institutions, the public, and the economy of the state; ensure appropriate state control of business and operational standards; ensure institutional stability; ensure minimum standards for educational quality, including through accountability for course completion and student employment in occupations or job titles to which training is represented to lead; prohibit various misrepresentations, including misrepresentations related to the quality of education, the availability and quality of equipment and materials, the transferability of credits, and employment and salary opportunities; require full disclosure; and protect the citizens of California against fraud, misrepresentation, or other practices that may lead to an improper loss of funds paid for educational costs, whether financed through ~~personal resource~~ *resources*, state and federal student financial aid, or private loans. It is also the intent and purpose of this article to ensure that the cost to taxpayers of government loans and grants for instruction is commensurate with the benefits obtained by students and flowing to the state's economy.

94704. There is a Bureau for Private Postsecondary Education in the Department of Consumer Affairs. The bureau has the

responsibility for approving and regulating private postsecondary educational institutions and programs. The bureau shall have, as its objective, the development of a strong, vigorous, and widely respected sector of private postsecondary education that protects the interests of students and the public and serves the interests of the economy of California.

94705. Protection of the public shall be the highest priority for the bureau in exercising its approval, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

94706. (a) The duty of administering and enforcing this chapter is vested in the Director of Consumer Affairs, who may assign and delegate those duties to a bureau chief, subject to the other provisions of this section.

(b) Every power granted to, or duty imposed upon, the bureau under this chapter may be exercised or performed in the name of the bureau, subject to any conditions and limitations the director may prescribe. The bureau chief may redelegate any of those powers or duties to his or her designee. The bureau chief shall be appointed by the Governor and confirmed by the Senate, and is exempt from ~~Part~~ *the State Civil Service Act (Part 2* (commencing with Section 18500) of Division 5 of Title 2 of the Government Code ~~Code~~ *Code*).

(c) The director, in accordance with the State Civil Service Act, may appoint and fix the compensation of clerical, inspection, investigation, evaluation, and auditing personnel, as may be necessary to carry out this chapter.

94707. The proceedings under this chapter shall be conducted by the bureau in accordance with the provisions of this chapter or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code at the bureau's option. To the extent of any conflict between any of the provisions of this chapter and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, this chapter shall prevail.

94708. (a) The director shall appoint an advisory committee of no more than 15 members ~~that shall consist of~~, *who shall include*, among other parties, representatives of law enforcement or consumer protection organizations, representatives of

1 institutions, student advocates, employers who hire persons in
2 occupations or job titles which require vocational training, and
3 persons who have expertise in matters relevant to the duties of the
4 bureau.

5 (b) The advisory committee shall meet no less than quarterly.

6 (c) The ombudsperson shall serve ~~on the advisory committee~~
7 ~~as the chair~~ *as an ex officio member of the committee.*

8 (d) Duly appointed members shall be eligible for reimbursement
9 of expenses associated with attendance at meetings and other
10 functions as assigned by the bureau, subject to the approval of the
11 bureau.

12 (e) At its inception, the priorities of the advisory committee
13 shall be to consider issues as identified in this chapter, including,
14 but not *necessarily* limited to, providing advice to the bureau in
15 its obligation to promulgate regulations for purposes of
16 administering this chapter.

17 (f) The bureau chief, *the ombudsperson*, and the chair may each
18 place items on the agenda for the consideration of the advisory
19 committee.

20 94709. The bureau has the following functions and
21 responsibilities:

22 (a) The establishment of policies for the administration of this
23 chapter.

24 (b) The enforcement of minimum criteria for the approval of
25 institutions to operate in this state and award degrees and diplomas,
26 and for the approval of institutions and programs that meet those
27 criteria.

28 ~~(c) Maintaining a Web site with information for consumers,~~
29 ~~including the publication of an Internet directory that includes~~
30 ~~performance data for all institutions approved or registered pursuant~~
31 ~~with this chapter, including the following information:~~

32 ~~(1) The completion information described in subparagraph (A)~~
33 ~~of paragraph (1) of subdivision (a) of Section 94893.~~

34 ~~(2) The employment information described in subparagraphs~~
35 ~~(C) and (D) of paragraph (1) of subdivision (a) of Section 94893.~~

36 ~~(3) Total program cost.~~

37 ~~(4) The salary information described in clauses (i) and (ii) of~~
38 ~~subparagraph (F) of paragraph (1) of subdivision (a) of Section~~
39 ~~94893.~~

1 ~~(5) The license examination information described under clause~~
2 ~~(ii) of subparagraph (B) of paragraph (1) of subdivision (a) of~~
3 ~~Section 94893.~~

4 ~~(6) The status of the institution's approval.~~

5 ~~(7) Any disciplinary actions.~~

6 ~~(8) Substantiated complaints.~~

7 ~~(9) Refund policies.~~

8 *(c) The development and maintenance of a public Web site that*
9 *shall include sufficient, clearly accessible and searchable*
10 *information regarding approved and unapproved private*
11 *postsecondary institutions in California, and which shall provide*
12 *information for prospective students so they may make informed*
13 *choices regarding their educational opportunities, information*
14 *for current students so they may understand their rights and*
15 *responsibilities, and information for policymakers so they may*
16 *undertake studies related to postsecondary education.*

17 *(d) Providing outreach to prospective and current private*
18 *postsecondary education students and high school students, to*
19 *provide them with information on how best to select postsecondary*
20 *institutions, how to enter into contracts and student enrollment*
21 *agreements, how to protect themselves in the postsecondary*
22 *education marketplace, and how to contact the bureau for assistance*
23 *if problems arise. The bureau may accomplish the purposes of this*
24 *section in cooperation with the department.*

25 *(e) Establishing a regular inspection program, which shall may*
26 *include announced and unannounced inspections of a random*
27 *sample of educational programs and institutions each year. The*
28 *bureau may conduct additional announced and unannounced*
29 *inspections as it deems necessary shall conduct announced and*
30 *unannounced inspections based upon information in its possession*
31 *that indicates to the bureau that these inspections may be*
32 *warranted.*

33 *(f) Reviewing and investigating all institutions, programs, and*
34 *courses of instruction approved under this chapter. Consideration*
35 *in the scheduling of reviews and investigations shall be afforded*
36 *to student complaints and information collected by the Attorney*
37 *General, Student Aid Commission, any bureau within the*
38 *department, or any other federal, state, or local agency.*

39 *(g) If the bureau believes that there may have been a violation*
40 *of the standards prescribed by this chapter by an institution, the*

bureau shall conduct an investigation of the institution. Within a reasonable period of time after the commencement of the investigation, the bureau shall conclude the investigation. If the bureau determines, after completing an investigation, that an institution has violated this chapter or any regulations adopted by the bureau, the bureau shall take action against the institution pursuant to Article 8 (commencing with Section 95000), as it deems appropriate.

(h) Objective and regular assessment of the cost of meeting its statutory obligations, including the staffing necessary to meet those obligations, determination whether the prevailing fee and cost structure allows for collection of revenue sufficient to support the necessary costs, and report of that information to the Legislature and Governor through the annual state budget process, and regular adjustments to the fee and cost structure, as permitted in this chapter, sufficient to ensure that the bureau accomplishes its statutory obligations.

(i) The receipt, review, and investigation of complaints received from students and the public, and complaints transmitted by other federal, state, or local agencies, including a timely response and, where appropriate, initiation of investigation.

(j) Development and maintenance of a management information system sufficient to meet the bureau's responsibilities, including, but not necessarily limited to, a public Web site as provided in this article, a database of institutional and student characteristics developed in consultation with the California Postsecondary Education Commission and the USDE, and state-of-the-art functionalities to provide efficient and effective on-line administration of the provisions of this chapter.

(k) The establishment of a training program, including, but not necessarily limited to, information and support necessary for institutions to undertake corrective action to comply with this chapter, information and support to assist in the successful development of a new institution, and information and support to assist existing institutions in development that is necessary for them to become eligible for participation in student financial aid programs under Title IV of the federal Higher Education Act of 1965.

(l) Monitoring unaccredited, unapproved, distance education programs and aggressively pursuing enforcement of current laws

1 *in this regard, and the review, in consultation with its advisory*
 2 *committee, of distance education statutes in California and other*
 3 *selected states, to determine the adequacy of those statutes to*
 4 *protect against potentially fraudulent, unaccredited, and*
 5 *unapproved certificates and degrees, including the protection of*
 6 *employers who rely upon those degrees, and the development of*
 7 *recommendations to the Legislature and Governor regarding*
 8 *distance education in an annual report as required under this*
 9 *article.*

10 *(m) Other duties and functions as the bureau deems necessary*
 11 *to accomplish the provisions and purposes of this chapter.*

12 94710. For the purposes of administration and enforcement of
 13 this chapter, the department, the bureau, and the director and
 14 officers and employees of the department and the bureau, shall
 15 have all the powers and authority granted under this chapter and
 16 under Division 1 (commencing with Section 100) and Division
 17 1.5 (commencing with Section 475) of the Business and Professions
 18 Code. In addition to satisfying the approval, compliance, and
 19 enforcement provisions of this chapter, the bureau shall also
 20 comply with and exercise all authority granted by Division 1
 21 (commencing with Section 100) and Division 1.5 (commencing
 22 with Section 475) of the Business and Professions Code.

23 94711. The bureau ~~shall as necessary~~ *shall, as it deems*
 24 *necessary*, impanel qualified visiting committees to assist the
 25 bureau in the evaluation of an application or institutions pursuant
 26 to this chapter. The members of the qualified visiting committee
 27 shall receive no compensation but shall be reimbursed for their
 28 actual expenses for attendance at official meetings and actual
 29 expenses when on official bureau business. The members of the
 30 qualified visiting committees shall serve at no expense to the state.
 31 The actual travel and per diem expenses incurred by each member
 32 of a qualified visiting committee shall be reimbursed by the
 33 institution that is the subject of inspection or investigation.

34 94712. (a) A person serving on a qualified visiting committee,
 35 pursuant to this chapter, and who provides information to the
 36 bureau or its staff in the course and scope of evaluating any
 37 institution subject to this chapter or who testifies at any
 38 administrative hearing arising under this chapter, is entitled to a
 39 defense by, and indemnification from, the bureau to any action

1 arising out of information or testimony to the bureau which that
2 person would have if he or she were a public employee.

3 (b) A defense by, or indemnification from, the bureau, as
4 specified in subdivision (a) shall be solely with respect to that
5 claim or action pursuant to Article 4 (commencing with Section
6 825) of Chapter 1 of Part 2 of, and Part 7 (commencing with
7 Section 995) of, Division 3.6 of Title 1 of the Government Code.

8 94713. The bureau may adopt and enforce regulations that are
9 necessary, appropriate, or useful to interpret and implement this
10 chapter pursuant to Chapter 3.5 (commencing with Section 11340)
11 of Part 1 of Division 3 of Title 2 of the Government Code. The
12 bureau may adopt emergency regulations that shall become
13 effective immediately, subject to Chapter 3.5 (commencing with
14 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
15 Code.

16 94714. The bureau shall, in consultation and coordination with
17 the director and the Attorney General, develop and implement an
18 enforcement program to carry out the provisions of this chapter.

19 94715. The bureau shall make available to members of the
20 public, upon request, the nature and disposition of all complaints
21 on file with the bureau against an institution.

22 94716. The bureau shall adopt a strategic plan for the support
23 of the California economy by December 31, 2009, and update the
24 plan periodically as needed. The plan shall be developed in
25 consultation with appropriate stakeholders to ensure that
26 institutions are producing well-trained graduates that meet provided
27 *training and support to assist in producing well-trained graduates*
28 *and that a process exists by which new and continuing institutions*
29 *can survey and assess the identified current and anticipated future*
30 *needs of the California economy in a manner that provides for*
31 *more informed choices regarding program initiation or closure.*

32 94717. The bureau shall adopt, and periodically review and
33 update, internal quality review and audit procedures to ensure that
34 processes are in place to promote and achieve full compliance with
35 this chapter.

36 94718. (a) Beginning on January 1, 2011, and each year
37 thereafter, the bureau shall provide an annual report to the
38 Legislature and Governor on the bureau's activities in
39 implementing this chapter, data summarizing private postsecondary

1 education in California, and its recommendations for amendments
2 to this chapter, as ~~deemed~~ *it deems* necessary.

3 (b) Between January 1, 2011, and December 31, 2011, the
4 bureau shall employ an independent monitor to undertake a
5 comprehensive review of its policies and ~~operations and operations~~.
6 *The bureau* shall forward the results of that review to the
7 Legislature and the Governor. The independent monitor shall be
8 selected by the board in consultation with the Attorney General.

9 (c) The bureau shall include, in its December 31, 2012, regular
10 annual report to the Legislature and the Governor, information on
11 the bureau's activities to improve and correct any deficiencies
12 noted by the independent monitor and shall, where appropriate,
13 adopt meaningful, measurable, and manageable performance
14 standards as one mechanism to ensure improvement where there
15 are deficiencies, and shall include information pertaining to ~~such~~
16 *those* performance standards in this report to the Legislature.

17 (d) Between January 1, 2013, and December 31, 2013, the
18 bureau shall employ an independent monitor to undertake a
19 followup review of its policies and operations, and shall forward
20 the results of that review to the Legislature and the Governor. The
21 independent monitor shall be selected by the board in consultation
22 with the Attorney General.

23 ~~94719. The bureau may design and administer a process for~~
24 ~~the approval of courses offered to veterans, and for the approval~~
25 ~~and supervision of the institutions offering courses to veterans,~~
26 ~~pursuant to any applicable act of Congress and the regulations~~
27 ~~adopted pursuant to such an act. For purposes of this section, the~~
28 ~~bureau:~~

29 ~~(a) Is designated as the state approving agency for veterans'~~
30 ~~institutions and veterans' courses, and is authorized to be~~
31 ~~reimbursed for its services in this regard.~~

32 ~~(b) Has the same powers conferred on the Director of Education~~
33 ~~by Article 6 (commencing with Section 12090) of Chapter 1 of~~
34 ~~Part 8, to enter into agreements and cooperate with the United~~
35 ~~States Department of Veterans Affairs, or any other federal agency,~~
36 ~~regarding approval of courses, and the approval and supervision~~
37 ~~of institutions that offer courses to veterans.~~

38
39 Article 1.5. Enforcement Advisory Board
40

1 94730. There is hereby created within the bureau an
2 Enforcement Advisory Board.

3 ~~94731. (a) The board shall consist of three public individuals,~~
4 ~~one each appointed by the Governor, Senate Committee on Rules,~~
5 ~~and Speaker of the Assembly. Each member of the commission~~
6 ~~shall be appointed for a term of four years. All terms shall end on~~
7 ~~January 1. Vacancies occurring prior to the expiration of the term~~
8 ~~shall be filled by appointment for the unexpired term.~~

9 ~~(b) Notwithstanding subdivision (a), any member whose term~~
10 ~~has expired shall continue to serve in the position until the~~
11 ~~appointing authority appoints a new member to the position.~~

12 ~~(c) Notwithstanding subdivision (a), members first appointed~~
13 ~~shall be subject to the following terms:~~

14 ~~(1) The Governor shall appoint one member for two years.~~

15 ~~(2) The Senate Committee on Rules shall appoint one member~~
16 ~~for three years.~~

17 ~~(3) The Speaker of the Assembly shall appoint one member for~~
18 ~~four years.~~

19 *94731. The board shall consist of four public individuals: two*
20 *appointed by the Governor and one each appointed by the Senate*
21 *Committee on Rules and the Speaker of the Assembly. Each*
22 *member of the board shall be appointed for a term expiring on*
23 *January 1, 2011. A vacancy on the board occurring prior to*
24 *January 1, 2011, shall be filled by the appropriate appointing*
25 *authority for the remainder of the unexpired term.*

26 94732. The appointing authority may remove any member of
27 the board for causes specified in Section 106 of the Business and
28 Professions Code.

29 94733. Protection of the public shall be the highest priority for
30 the board in exercising its functions. Whenever the protection of
31 the public is inconsistent with other interests sought to be
32 promoted, the protection of the public shall be paramount.

33 94734. A majority of the appointed members of the board shall
34 constitute a quorum for the transaction of business. The affirmative
35 vote of a majority of board members is necessary to render a
36 decision or pass a motion.

37 94735. The board members shall elect one of their number as
38 the chair and another member as the vice chair. The chair and vice
39 chair shall be elected at the first meeting of each calendar year or
40 when a vacancy exists.

1 94736. Each board member shall receive a per diem and
2 necessary travel expenses as provided in Section 103 of the
3 Business and Professions Code.

4 94737. The board is subject to all of the provisions of Division
5 1 (commencing with Section 100) of the Business and Professions
6 Code, and for the purposes of that division shall be deemed to be
7 a board. Except for the purposes of Section 102 of the Business
8 and Professions Code, the board shall not be deemed to be a board
9 created by an initiative act.

10 94738. The board shall meet at least quarterly or more often
11 as the board deems necessary.

12 94739. The bureau shall provide staff and administrative
13 support for the board as the bureau and the board deem necessary.

14 94740. The board shall be responsible for activities including,
15 but not necessarily limited to, *all of* the following:

16 (a) Providing advice and assistance in the bureau's initial
17 development and implementation of the enforcement program
18 under Article 8 (commencing with Section 95000).

19 (b) Appointing a full-time permanent ombudsperson to the
20 bureau and establishing the duties and responsibilities of the
21 ombudsperson.

22 (c) Reviewing and commenting on bureau reports ~~prior to the~~
23 ~~reports~~ being submitted to the Governor and the Legislature.

24 (d) Receiving reports from the ombudsperson.

25 ~~(e) In consultation with the Attorney General, selecting~~
26 ~~independent monitors for purposes of Section 94718.~~

27 ~~(f)~~

28 (e) Making reports, as the board deems necessary, to the
29 Governor and the Legislature on any deficiencies in this chapter
30 or the administration and implementation of this chapter. *These*
31 *reports shall include, but are not necessarily limited to, a final*
32 *report to be submitted no later than December 31, 2010.*

33 ~~(g) Selecting an independent consultant, if needed, to complete~~
34 ~~the work required of the Legislative Analyst's Office under~~
35 ~~subdivision (c) of Section 94841. This consultant shall demonstrate~~
36 ~~analytical expertise in private postsecondary education review and~~
37 ~~accreditation.~~

38 94741. *This article shall remain in effect only until January 1,*
39 *2011, and as of that date is repealed, unless a later enacted statute,*

1 *that is enacted before January 1, 2011, deletes or extends that*
2 *date.*

3
4 Article 1.7. Ombudsperson
5

6 94750. There is within the bureau a position to be known as
7 ombudsperson.

8 94751. The ombudsperson shall be a person with sufficient
9 knowledge of private postsecondary education.

10 94752. The ombudsperson shall be appointed by and report to
11 the Enforcement Advisory Board.

12 94753. Pursuant to subdivision (c) of Section 4 of Article VII
13 of the California Constitution, the ombudsperson shall be an
14 employee exempt from civil service.

15 94754. The bureau chief shall establish the compensation of
16 the ombudsperson.

17 94755. (a) The board, in consultation with the director and
18 bureau chief, shall establish the initial duty statement of the
19 ombudsperson, which may, from time to time, be amended by the
20 board.

21 (b) The duties of the ombudsperson shall include, but not
22 necessarily be limited to, the following:

23 (1) Working as a liaison between students and the bureau.

24 (2) Working as a liaison between institutions and the bureau.

25 (3) Reviewing and commenting on proposed regulations before
26 or during the public comment period.

27 (4) Reviewing and commenting on bureau reports prior to the
28 reports being submitted to the Governor and the Legislature.

29 (5) Providing a quarterly public report to the board on
30 enforcement activities of the bureau.

31 (6) Making recommendations to the board for selection of an
32 independent monitor under Section 94718.

33
34 Article 2. Definitions
35

36 94760. "Academic year" generally means a period including
37 a minimum of 30 weeks of instruction, beginning in the fall term
38 of a given year and ending at the end of the summer term of the
39 succeeding year. Some private postsecondary institutions may
40 adopt a different definition, such as the calendar year, for their

1 academic term, to accommodate unique or nontraditional conditions
2 such as continuous enrollment or shorter or longer term sessions.

3 94761. “Accredited” means that an institution has been
4 recognized as meeting the standards established by an accrediting
5 agency recognized by the United States Department of Education,
6 or the Committee of Bar Examiners of the State Bar of California.
7 It does not include an institution that has applied for accreditation,
8 is identified by an accrediting association as a candidate for
9 accreditation, or has provisional accreditation.

10 94762. “Agency” means a person or business entity, regardless
11 of the form of organization, that employs, or in any manner
12 contracts with, one or more agents. “Agency” does not include an
13 institution.

14 94763. “Agency authorization” means a written document
15 issued by the bureau authorizing a business entity or an institution
16 to engage in the recruitment of students for enrollment in private
17 postsecondary educational institutions approved under this chapter.

18 94764. “Agent” means a person who, at a place away from an
19 institution’s premises or site of instruction, but within the United
20 States, for consideration, solicits, promotes, advertises, offers, or
21 attempts to secure enrollment for that institution, refers any person
22 to that institution, either for enrollment or to receive a solicitation
23 for enrollment, or accepts application fees or admissions fees for
24 education in that institution. An administrator or faculty member
25 who makes informational public appearances, but whose primary
26 task does not include service as a paid recruiter, is not an agent.
27 A publisher of a directory that contains general information on an
28 institution and its offerings and who does not otherwise engage in
29 any of the activities described in this section is not an agent.

30 94765. “Annual report” means the report required to be filed
31 pursuant to Section 94910.

32 94766. “Applicant” means a person or entity that has submitted
33 an application but whose evaluation has not been completed by
34 the bureau. An applicant shall not enroll students or offer
35 educational services until the bureau has made a determination
36 regarding the application.

37 94767. “Approval,” “approval to operate,” “approved to
38 operate,” or “institutional approval” means that the bureau has
39 determined, pursuant to Article 5 (commencing with Section
40 94890) or Article 6 (commencing with Section 94960), that an

1 institution or program meets minimum standards established by
2 the bureau for integrity, financial stability, educational quality,
3 including the offering of bona fide instruction by qualified faculty,
4 and assessment of students' achievement prior to, during, and at
5 the end of its program, as appropriate.

6 94768. "Avocational education" means education offered only
7 for purposes of personal entertainment, personal pleasure, or
8 enjoyment, such as a hobby. Education that directly leads to an
9 objective other than personal entertainment, personal pleasure, or
10 enjoyment; is not "education solely avocational in nature."

11 94769. "Branch" means a site other than the main location of
12 an institution or a satellite. Only educational services approved at
13 the main location may be offered at the branch. The name of the
14 branch location shall be identical to that of the main location
15 approved by the bureau.

16 94770. "Bureau" means the Bureau for Private Postsecondary
17 Education in the Department of Consumer Affairs, established
18 pursuant to Section 94704.

19 94770.5. "Bureau chief" means the Chief of the Bureau for
20 Private Postsecondary Education described in Section 94706.

21 94771. "Business day," when referring to a student's right to
22 cancel an agreement with an institution, means the following:

23 (a) Except as provided in subdivision (b), a day on which a
24 student is scheduled to attend a class session.

25 (b) For home study or correspondence courses, any calendar
26 day except Saturday, Sunday, or any holiday enumerated in Section
27 6700 of the Government Code.

28 94772. "Cancellation period" means the initial period during
29 which a student may cancel and receive a refund under Section
30 94941.

31 94773. "Change of location" means a move of up to 25 miles
32 of the location at which an institution offers any education, training,
33 or instruction.

34 94774. "Class" means a subject, such as English or
35 mathematics, that is taught as part of a course of instruction.

36 94775. "Class session" means the part of a day that an
37 institution conducts instruction or training in a particular class,
38 such as an hour of instruction in English or mathematics, offered
39 on a particular day of the week.

1 94776. “Commencement of operations” or “commence
2 operations” means that an institution has begun to offer instruction,
3 training, or education to students.

4 94777. “Completion of a program,” “complete the program,”
5 or “completing the program” means a student has completed all
6 requirements of a program and received a certificate or degree, as
7 applicable, for that program.

8 94778. (a) Except as provided in subdivision (b), “continuing
9 education” means instruction in any of the following circumstances:

10 (1) Only in a subject a licensee is required to take as a condition
11 of continued licensure and solely for that purpose.

12 (2) Only in a subject necessary to continue to practice or work
13 in a profession such as law or medicine, and solely for that purpose.

14 (3) To a person who is already in a particular profession, trade,
15 or job category for the sole purpose of enhancing that person’s
16 skills or knowledge within that particular profession, trade, or job
17 category.

18 (b) “Continuing education” does not include any of the
19 following:

20 (1) A vocational program.

21 (2) A degree program.

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

25 94779. “Correspondence school” or “home study school” means
26 an institution that provides correspondence lessons for study and
27 completion by a student at a location separate from the institution,
28 including those institutions which offer that instruction by
29 correspondence in combination with in-residence instruction.

30 94780. “Course of study” means either a single course or a set
31 of related courses for which a student enrolls.

32 94781. “Default” means the failure of a borrower to make an
33 installment payment when due, or to meet other terms of the
34 promissory note under circumstances where the guarantee agency
35 finds it reasonable to conclude that the borrower no longer intends
36 to honor the obligation to repay, provided that this failure persists
37 for 180 days for a loan repayable in monthly installments, or 240
38 days for a loan repayable in less frequent installments.

39 94782. “Degree” means any type of degree or honorary degree
40 or title of any designation, mark, appellation, series of letters or

1 words including, but not necessarily limited to, associate, bachelor,
2 master, doctor, or fellow, that signifies, purports to constitute, or
3 is generally taken to signify, satisfactory completion of the
4 requirements of an academic, educational, technological, or
5 professional program of study beyond the secondary educational
6 level, or is an honorary title conferred for recognition of some
7 meritorious achievement.

8 94783. “Degree institution” means an institution that offers
9 one or more degree programs.

10 94784. “Degree program” means a program leading to a degree.

11 94785. “Degree title” means the designated subject area of
12 study that also appears on the face of the document awarded to a
13 student signifying the conferring of a “degree.”

14 94786. “Diploma” means a diploma, certificate, document, or
15 other writing in any language, other than a degree, which signifies,
16 purports, or is generally taken to signify satisfactory completion
17 of the requirements of an academic, educational, technological, or
18 professional program of study beyond the secondary educational
19 level.

20 94787. “Director” means the Director of Consumer Affairs.

21 94788. “Distance education” means education that is designed
22 for learners who live at a distance from the teaching institution or
23 education provider. It is the enrollment and study with an
24 educational institution that provides organized formal learning
25 opportunities for students. Presented in a sequential and logical
26 order, the instruction is offered wholly or primarily by distance
27 study, through any media.

28 94789. “Distance learning institution” means any institution
29 that provides lessons for study and completion by a student at a
30 location separate from the institution by correspondence, the
31 Internet, or other electronic means, including, but not necessarily
32 limited to, those institutions that offer that instruction in
33 combination with in-residence instruction.

34 94790. “Document or record” means a test score, grade, record
35 of grades, attendance record, record indicating student course
36 completion or employment, financial information, including any
37 financial report required to be filed pursuant to Section 94910,
38 information or records relating to the student’s eligibility for
39 financial assistance or attendance at the institution, or any other
40 record or document required by this chapter or by the bureau.

1 94791. “Education,” “educational services,” or “educational
2 program” includes, but is not necessarily limited to, a class, course,
3 or program of training, instruction, or study.

4 94792. (a) “Employment” means a paid position in which a
5 student was employed for at least 60 days within the employment
6 tracking period, in an occupation for which the student received
7 the certificate or degree; the position requires education beyond
8 the high school level; the routine work in the position requires
9 utilization of the skills and knowledge reasonably expected to be
10 imparted in a program culminating in the degree or diploma the
11 student received; and which is either of the following:

12 (1) Full-time employment for at least 32 hours per week.

13 (2) Part-time employment for at least 17.5 hours, but less than
14 32 hours, per week.

15 (b) Employment includes self-employment.

16 94793. “Employment tracking period” means the period during
17 which a student’s employment is tracked for purposes of
18 determining a program’s employment numbers and rate.

19 (a) For occupations for which the state does not require passing
20 a license examination, the employment tracking period is the
21 eight-month period after a student completes a program.

22 (b) For occupations for which the state requires passing an
23 examination, the ~~Employment Tracking Period~~ *employment*
24 *tracking period* is extended to include the eight-month period after
25 the announcement of the examination results for the first
26 examination available after a student completes a program.

27 94794. “Enrollment” means the date on which the student
28 signed any agreement for education.

29 94795. “ESL instruction” means any educational service
30 involving instruction in English as a second language.

31 94796. “Equipment” includes all textbooks, supplies, materials,
32 implements, tools, machinery, computers, electronic devices, or
33 any other goods related to any education, training, or instruction,
34 or an agreement for educational services or a course of instruction.

35 94797. “Faculty” means an instructor or instructors within any
36 of the divisions or comprehensive branches of learning at an
37 institution. For purposes of this chapter, “faculty,” “instructor,”
38 “professor,” and “teacher” are synonymous.

1 94798. “Hearing” means a hearing pursuant to Article 9
2 (commencing with Section 95000) or other alternative adjudicative
3 process established by the bureau.

4 94799. “Institution” means a private postsecondary educational
5 institution, including its branch and satellite campuses, which is
6 a person doing business in this state that offers to provide or
7 provides, for a fee, tuition, or other charge, any instruction, training,
8 or education under any of the following circumstances:

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

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

19 (c) More than 50 percent of the hours of instruction, training,
20 or education provided during any 12-month period is provided to
21 students who have completed or terminated their secondary
22 education or are beyond the age of compulsory high school
23 attendance.

24 (d) A substantial portion, as determined by the bureau by
25 regulation, of the instruction, training, or education provided by
26 the institution is provided to students who have completed or
27 terminated their secondary education or are beyond the age of
28 compulsory high school attendance.

29 94800. “Instruction” includes any specific, formal arrangement
30 by an institution or its enrollees to participate in learning
31 experiences in which the institution’s faculty or contracted
32 instructors present a planned curriculum appropriate to the
33 enrollee’s educational program.

34 94801. “License and examination preparation” means a
35 program that is designed to assist students to prepare for an
36 examination for licensure.

37 94802. “License,” for purposes of this chapter, includes an
38 approval to operate, a registration, or any other authority to engage
39 in a business.

1 94803. “Licensure” includes a license, certificate, permit, or
2 similar credential that a person must hold to lawfully engage in an
3 occupation or activity.

4 94804. “Main location” or “main site” means an institution’s
5 primary teaching location. If an institution operates at only one
6 site, that site is its main location or main site.

7 94805. “Nondegree institution” means an institution that
8 exclusively offers nondegree programs.

9 94806. “Nondegree program” means a program that does not
10 lead to a degree.

11 94807. “Occupational associate degree,” “associate of
12 occupational studies,” or “associate of applied science,” designated
13 by terms including, but not *necessarily* limited to, associate
14 occupational studies (AOS), associate applied science (AAS),
15 associate specialist technical (AST), or associate specialist business
16 (ASB), means an associate degree that may be awarded to students
17 who complete 60 semester units or 90 quarter units in an
18 occupational program that provides preparation for employment
19 in an occupational field.

20 94808. “Out-of-state institution” means an institution that has
21 its place of instruction or its principal location outside the
22 boundaries of this state, that offers or conducts programs of
23 instruction or subjects on premises maintained by the institution
24 outside the boundaries of this state, that provides correspondence
25 or home-study lesson materials from a location outside the
26 boundaries of this state, that evaluates completed lesson materials
27 or otherwise conducts its evaluation service from a location outside
28 the boundaries of this state, or that otherwise offers or provides
29 California students with programs of instruction or subjects through
30 activities engaged in or conducted outside the boundaries of this
31 state.

32 94809. “Overall employment rate” means the percentage of
33 those students who started the program, did not cancel during the
34 cancellation period, and were originally scheduled at the time of
35 enrollment to complete the program during the applicable
36 completion tracking period who both completed the program within
37 that completion tracking period and obtained employment as
38 defined in Section 94792.

39 94810. “Owner” means a person who has a legal or equitable
40 interest in 10 percent or more of an institution’s stocks or assets.

1 94811. “Parent corporation” means a corporation that owns
2 more than 80 percent of the stock of an institution.

3 94812. “Performance related time periods” include *all of* the
4 following:

5 (a) “Cancellation period” means the initial period during which
6 a student may cancel and receive a refund under this chapter.

7 (b) “Completion tracking period” means the year during which
8 a student’s scheduled completion and actual completion are tracked
9 for purposes of determining, reporting, and disclosing a school’s
10 completion numbers and rates.

11 (1) Completion numbers and rates from a particular completion
12 tracking period are to be reported to the bureau under Section
13 94945 in the following year, and disclosed under subdivision (a)
14 of Section 94893, and paragraph (10) of subdivision (a) of Section
15 94896 beginning as of January 1 of the second year following the
16 completion tracking period. Completion numbers and rates from
17 the 2008 completion tracking period; shall be reported to the bureau
18 during 2009, and disclosed beginning January 1, 2010, unless the
19 license examination exception in paragraph (2) applies.

20 (2) If the state requires passing an examination to work in the
21 occupation for which a certificate or degree is awarded after
22 completion of a vocational program, and the examination results
23 for the first examination available after the end of a year period
24 are announced less than eight months before the end of the
25 following year, then the completion tracking period shall be one
26 year earlier so that the completion numbers and rates shall be
27 reported to the bureau in the second year following the completion
28 tracking period and disclosed under Sections 94893 and 94896
29 beginning as of January 1 of the third year following the
30 completion tracking period. Completion numbers and rates from
31 the 2008 completion tracking period shall be reported to the bureau
32 in 2010, and disclosed beginning in January 2011.

33 (c) “Employment tracking period” means the period during
34 which a student’s employment is tracked for purposes of
35 determining a program’s employment numbers and rates.

36 (1) For occupations for which the state does not require passing
37 a license examination, the employment tracking period is the
38 eight-month period after a student completes a program.

39 (2) For occupations for which the state requires passing an
40 examination, the employment tracking period is extended to include

1 the eight-month period after the announcement of the examination
2 results for the first examination available after a student completes
3 a program.

4 94813. “Person” means a natural person or a business entity,
5 regardless of the form or organization.

6 94814. “Person in control” means a person who has sufficient
7 capacity, directly or indirectly, to direct or influence the
8 management, policies, or conduct of an institution so that the
9 person can cause or prevent a violation of this chapter. There is a
10 rebuttable presumption affecting the burden of proof that an owner,
11 director, or officer of an institution is a person in control.

12 94815. “Program” or “program of instruction” means a program
13 of training, set of related courses, or education for which a student
14 enrolls.

15 94816. “Registered,” “registered institution,” or “registered
16 educational service” means a person that offers an educational
17 service and is registered to operate under Article 5 (commencing
18 with Section 94890).

19 94817. “Reporting period” means an institution’s fiscal year
20 or a year period designated by the bureau to be covered in an
21 institution’s annual report.

22 94818. “Representative” means an employee, an agent as
23 defined in Section 2295 of the Civil Code, an agency subject to
24 Section 94914, or any person who, for compensation, does either
25 of the following:

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

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

31 94819. “Satellite” means an auxiliary classroom or a teaching
32 site separate from an institution’s main location and without
33 administrative services provided to students.

34 94820. “Satisfactory academic progress” means that a student
35 is on track to complete a program within 150 percent of the
36 published length of the program, measured in academic years,
37 terms, credit hours, clock hours, or other form.

38 94821. “Scheduled to complete” means the date the institution
39 determined, when the student enrolled, that the student was
40 scheduled to complete the program.

1 94822. “Vocational program” means an educational program
2 having all of the following characteristics:

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

7 (b) The program is offered to students who do not possess a
8 bachelor’s or a graduate degree in the field of training.

9 (c) Students who complete all or a portion of the program are
10 awarded a certificate or an associate degree, including, but not
11 necessarily limited to, an AOS, AAS, ~~and~~ or AA degree.

12 94823. “Site” means a main location, branch, or satellite
13 campus.

14 94824. “To offer” includes offering, advertising, publicizing,
15 soliciting, encouraging, or offering to a person, directly or
16 indirectly, in any form, to perform an act as described.

17 94825. “To operate” an educational institution, or like term,
18 includes establishing, keeping, maintaining, or operating a facility
19 or location in this state where, or from or through which,
20 educational services are offered or educational degrees or diplomas
21 are offered or granted.

22 94826. “Total charge” means the total charge for a course of
23 instruction or other education, instruction, or training, including
24 the charge for tuition, equipment, finance charges, and all other
25 fees, charges, costs, and expenses.

26 94827. “USDE” means the United States Department of
27 Education.

28 ~~94827.~~

29 94828. “Year” means a calendar year.

30 Article 3. Exemptions

31
32
33 94840. This chapter regulates education in California provided
34 by private institutions offering instruction primarily to persons
35 who have obtained a high school diploma or its equivalent, or
36 primarily to persons who are beyond the age of compulsory *school*
37 attendance.

38 94841. (a) The following private educational activities and
39 private institutions are exempt from the requirements of this
40 chapter:

1 (1) An institution offering education solely as avocational or
2 recreational in nature, and offering this education exclusively.

3 (2) An institution offering education sponsored by a bona fide
4 trade, business, professional, or fraternal organization, solely for
5 that organization's membership.

6 (3) An institution offering continuing education where the
7 institution or the program is approved, certified, or sponsored by
8 any of the following:

9 (A) A government agency, other than the bureau, that licenses
10 persons in a particular profession, trade, or job category.

11 (B) A state-recognized professional licensing body, such as the
12 State Bar of California, that licenses persons in a particular
13 profession, trade, or job category.

14 (4) A bona fide trade, business, or professional organization.

15 (5) (A) A nonprofit institution owned, controlled, and operated
16 and maintained by a bona fide church, religious denomination, or
17 religious organization ~~comprised~~ *composed* of multid denominational
18 members of the same well-recognized religion, lawfully operating
19 as a nonprofit religious corporation pursuant to Part 4 (commencing
20 with Section 9110) of Division 2 of Title 1 of the Corporations
21 Code, that meets all of the following requirements:

22 (i) The education is limited to instruction in the principles of
23 that church, religious denomination, or religious organization, or
24 to courses offered pursuant to Section 2789 of the Business and
25 Professions Code.

26 (ii) The diploma or degree is limited to evidence of completion
27 of that education.

28 (iii) The meritorious recognition upon which any honorary
29 degree is conferred is limited to the principles of that church,
30 religious denomination, or religious organization.

31 (B) An institution operating under this paragraph shall offer
32 degrees and diplomas only in the beliefs and practices of the
33 church, religious denomination, or religious organization. The
34 enactment of this ~~subdivision~~ *paragraph* expresses the legislative
35 intent that the state shall not involve itself in the content of degree
36 programs awarded by any institution operating under this
37 ~~subdivision~~ *paragraph*, as long as the institution awards degrees
38 and diplomas only in the beliefs and practices of the church,
39 religious denomination, or religious organization.

1 (C) An institution operating under this paragraph shall not award
2 degrees in any area of physical science.

3 (D) Any degree or diploma granted in any area of study under
4 these provisions shall contain on its face, in the written description
5 of the title of the degree being conferred, a reference to the
6 theological or religious aspect of the degree's subject area.

7 (E) A degree awarded under this paragraph shall reflect the
8 nature of the degree title, such as "associate of religious studies,"
9 "bachelor of religious studies," "master of divinity," or "doctor of
10 divinity."

11 (F) The use of the degree titles "associate of arts" or "associate
12 of science," "bachelor of arts" or "bachelor of science," "master
13 of arts" or "master of science," or "doctor of philosophy" or
14 "Ph.D." shall only be awarded by institutions approved to operate
15 under this chapter.

16 (G) Institutions solely offering programs that have a total direct
17 cost of one thousand dollars (\$1,000) or less. The bureau shall
18 annually adjust this cost threshold based upon the Consumer Price
19 Index, and post notification of the adjusted cost threshold on its
20 public Web site on or after January 1, 2009, and each year
21 thereafter.

22 (b) (1) The following institutions are exempted from all
23 provisions of this chapter through December 31, 2010, except as
24 noted in paragraphs (2) to (8), inclusive:

25 (A) All private postsecondary institutions offering instruction
26 in California and accredited by regional accrediting bodies
27 recognized and approved by the United States Department of
28 Education (USDE).

29 (B) Any nonprofit public benefit corporation organized pursuant
30 to Part 2 (commencing with Section 5110) of Division 2 of Title
31 1 of the Corporations Code and not managed or administered by
32 an entity for profit, that meets all of the following requirements:

33 (i) Accredited by an accrediting agency recognized by the
34 USDE.

35 (ii) Operated continuously in this state for at least 20 years.

36 (iii) The institution's cohort default rate on guaranteed student
37 loans does not exceed 15 percent for the three most recent years
38 as published by the USDE.

39 (iv) The institution submits to the bureau copies of the most
40 recent IRS Form 990 and the Integrated Postsecondary Education

1 Data System Report of the ~~United States Department of Education~~
2 ~~USDE~~ and the accumulated default rate.

3 (v) The institution pays fees to the bureau in accordance with
4 Article 10 (*commencing with Section 95040*).

5 (2) The bureau shall review and continue to monitor the publicly
6 noticed accreditation status of each institution to determine if the
7 institution received a negative accreditation action at any time
8 between January 1, 2007, and December 31, 2010.

9 (3) If the bureau determines there is a publicly noticed, negative
10 accreditation action for an institution, it shall contact that institution
11 and request that the institution provide, within 10 working days,
12 a release to its accrediting body to allow it to share information
13 with the bureau to make the determination required in paragraph
14 (4). If the institution refuses to provide such a release, the bureau
15 shall find that it has no recourse to make an informed determination
16 regarding the protection of students, and shall proceed to take
17 action as provided in paragraph (6).

18 (4) The bureau shall review and continue to monitor the student
19 financial aid performance status of each institution in cooperation
20 with the USDE to determine if the institution was placed under a
21 limitation, suspension, or termination by the USDE pursuant to
22 Title IV of the federal Higher Education Act of 1965 at any time
23 between January 1, 2007, and December 31, 2010.

24 (5) Negative accreditation actions or federal student financial
25 aid performance-related conditions as described in paragraph (2),
26 (3), or (4) shall be reviewed by the bureau to determine if those
27 actions or conditions relate to material issues of student protection
28 or educational quality and if the conditions and actions have been
29 resolved in a manner deemed sufficient by the bureau.

30 (6) If resolution has not taken place or if the resolution is not
31 deemed sufficient, the bureau shall undertake a more thorough
32 review for the purposes of determining the advisability of canceling
33 the exemption granted in this chapter in order to protect the
34 education and rights of citizens of this state.

35 (7) If the bureau finds existing, unresolved material concerns
36 related to student protections or educational quality, it shall notify
37 the institution that the exemption will be revoked in 90 days and,
38 during that time period, shall provide the institution with an
39 opportunity to appeal that decision to the Director of Consumer
40 Affairs, whose decision shall be final.

(8) If an institution becomes subject to this chapter under this subdivision, the bureau shall, upon determination that sufficient corrective action has been taken, restore the exemption as otherwise provided under this article.

(c) (1) By December 31, 2009, the Legislative Analyst's Office shall conduct a comprehensive review, and provide to the Legislature and the Governor a report that assesses the extent to which accreditation by accrediting bodies *approved by the USDE* provides sufficient assurance that the various goals of this chapter have been met, *including, but not necessarily limited to, the degree to which accreditation affords student protections*. Based on this assessment, the report shall include recommendations for the continuation, elimination, or modification of the exemptions in subdivision (a). ~~If the Legislative Analyst's Office determines that for any reason, it is unable to meet the requirements of this subdivision, the Enforcement Advisory Board shall select an independent consultant to complete the work required of the Legislative Analyst's Office under this section. This report shall include, but not necessarily be limited to, all of the following issues:~~

(A) ~~Are the fundamental roles, legal authority and actions of the bureau and regional accrediting bodies recognized and approved by the USDE substantially comparable in practice, force, and effect and if they are different, what are the differences?~~

(B) ~~Should California law be amended to permanently extend the exemption for all regionally accredited institutions, thus relying upon such accreditation for the purposes of educational oversight and consumer protection?~~

(C) ~~If so, should California law be amended to permanently extend or amend the exceptions and monitoring as contained in subdivision (b)?~~

(D) ~~Should California law be amended to extend the exemptions only for some portion of the regionally accredited institutions or for some portion of the commissions within the accrediting bodies?~~

(E) ~~Should California law be amended to rely upon such accreditation for some aspect of its oversight, but not all aspects?~~

(F) ~~Should California law be amended to continue the exemption granted in former Section 94750, and if so, under what specific conditions?~~

1 ~~(2) Between January 1, 2008, and January 1, 2009, national~~
2 ~~accrediting bodies approved by the USDE may request that the~~
3 ~~Legislative Analyst's Office similarly review them for~~
4 ~~consideration as an accrediting body upon whom the State shall~~
5 ~~rely for private postsecondary oversight in a manner similar to the~~
6 ~~regional accrediting bodies. The Legislative Analyst's Office may,~~
7 ~~if the accrediting body provides all necessary information, consider~~
8 ~~adding recommendations related to any national accrediting body~~
9 ~~that makes such a request.~~

10 ~~(3) The Legislative Analyst's Office shall contact institutions~~
11 ~~exempt from this chapter and subject to this chapter and review~~
12 ~~their accreditation status in a manner not available to the public,~~
13 ~~in order to conduct necessary research. No information acquired~~
14 ~~in this manner shall be shared with the public.~~

15 ~~(4) Institutions doing business in California subject to this~~
16 ~~chapter or allowed to operate under the authority of the exceptions~~
17 ~~contained in subdivision (b) are deemed to have authorized any~~
18 ~~accrediting body to which they have applied or that accredits them~~
19 ~~to provide in confidence, without notice to institutions accredited,~~
20 ~~information requested by the Legislative Analyst's Office. Regional~~
21 ~~accrediting bodies recognized and approved by the USDE that~~
22 ~~accredit California institutions shall provide any information~~
23 ~~requested by the Legislative Analyst's Office to conduct necessary~~
24 ~~research. This may include, but not necessarily be limited to, all~~
25 ~~relevant data on all of the following:~~

26 ~~(A) The number, the qualifications, the current and past~~
27 ~~affiliations with any accredited institution, and the functions of~~
28 ~~accrediting body's own board and staff.~~

29 ~~(B) The number, qualifications, functions, and current or past~~
30 ~~affiliations with any accredited institution of additional paid or~~
31 ~~unpaid persons, if any, used to approve, review, monitor, take~~
32 ~~enforcement actions, or otherwise assist in carrying out the~~
33 ~~functions of the body.~~

34 ~~(C) Conflict-of-interest standards, if any.~~

35 ~~(D) What standards the body has and how they differ from~~
36 ~~California law and among accrediting bodies.~~

37 ~~(E) The sufficiency of the body's resources to withstand a~~
38 ~~challenge to any action taken in connection with any institution~~
39 ~~or program.~~

~~(F) The numbers of institutions accredited in total and by categories, such as numbers of institutions operating in California; number of private for-profit, private nonprofit, number of public institutions, number of institutions offering programs predominantly of various durations, such as two years or less, four-year, or postgraduate.~~

~~(G) The number of complaints filed against the institutions; programs for monitoring compliance, and nature and number of actions taken on complaints.~~

~~(H) The outcome of complaints.~~

~~(I) The number, type, and grounds for actions initiated against institutions.~~

~~(J) The number, type, and level of negative actions taken against institutions.~~

~~(K) The policies, if any, regarding sharing of information about complaints and institutions with state regulatory agencies and prosecutorial agencies.~~

~~(L) The numbers and types of institutions seeking accreditation and the result thereof.~~

~~(M) The criteria for accreditation.~~

~~(5) The Attorney General, the bureau, and the advisory board shall provide any information to the Legislative Analyst's Office that they deem necessary for the Legislative Analyst's Office to conduct necessary research. The Attorney General may provide any information to the Legislative Analyst's Office that he deems helpful for the Legislative Analyst's Office to conduct necessary research.~~

~~(2) Notwithstanding any other provision of law:~~

~~(A) The Legislative Analyst's Office may, at its discretion, contact institutions and request permission to review their accreditation status in a manner not available to the public, in order to conduct necessary research.~~

~~(B) Information acquired under this paragraph shall be kept strictly confidential, and shall not be shared with any governmental agency that has oversight or enforcement responsibilities for private postsecondary education.~~

~~(3) The Legislative Analyst's Office is requested to work with the bureau, the board, the Attorney General, and interested stakeholders in the development of its report under this subdivision.~~

~~(6)~~

1 (4) Upon consultation with the Legislative Analyst's Office,
2 the bureau may provide funding from the Private Postsecondary
3 Education Administration Fund to assist the Legislative Analyst's
4 Office in covering the costs associated with the Legislative
5 Analyst's Office requirements ~~in~~ *under* this section.
6

7 Article 4. Approved Institutions and Programs
8

9 94850. An institution may not provide private postsecondary
10 education in California unless that institution is one of the
11 following:

12 (a) Approved to operate pursuant to this article.

13 (b) Exempt from this chapter.

14 94851. An institution making application under the provisions
15 of this article shall be subject to fees as specified in Article 10
16 (commencing with Section 95040).

17 94852. If an institution is regulated by another state licensing
18 agency, the institution shall, in addition to approval as specified
19 in this article, obtain and retain the authorization of that agency.

20 94853. The following are the minimum conditions an institution
21 shall meet to be granted initial approval to operate pursuant to this
22 article:

23 (a) A mission statement.

24 (b) Development and readiness of no less than one instructional
25 program, pursuant to this article.

26 (c) Sufficient financial resources, including anticipated tuition
27 and fee revenue that can reasonably be expected, to operate for a
28 time period necessary to complete instruction in the program or
29 programs approved as part of an institution's initial approval to
30 operate, as evidenced in a financial plan and financial statements,
31 including demonstration of the institution's officer's, director's,
32 and owner's financial and fiduciary responsibility.

33 (d) Planned student support services and policies sufficient to
34 ensure minimum standards of student protection including the
35 following:

36 (1) Student financial policies, including tuition, fees, required
37 purchase of equipment and supplies, cancellation and refund
38 policies, and compliance with the requirements related to the
39 Student Tuition Recovery Fund.

1 (2) Student academic policies, including admissions, attendance,
2 withdrawal, leave of absence, and satisfactory academic progress.

3 (3) Placement, if the institution plans to conduct a program
4 leading to a recognized occupation and advertise placement
5 assistance to its students.

6 (e) Physical resources sufficient to provide no less than one
7 program, including demonstration of compliance with local, city,
8 county *or*, city and county health and safety rules and regulations.

9 (f) Human resources sufficient to comply with the minimum
10 standards of this chapter, including minimum qualifications of
11 principal employees that shall be sufficient to demonstrate capacity
12 to perform the duties and functions necessary to meet the minimum
13 operating standards of Article 5 (commencing with Section 94890).

14 (g) The planned or actual employment of no person who shall
15 be in a position of control, or directs the financial operations or is
16 responsible for the development or management of student financial
17 and academic policies who has been convicted of, or pled nolo
18 contendere or guilty to, a crime involving the acquisition, use, or
19 expenditure of federal or state funds, or who has been judicially
20 or administratively determined to have committed any violation
21 of this chapter or the Reform Act or of any law involving state or
22 federal funds.

23 (h) Technical resources sufficient to comply with the minimum
24 standards of this chapter, and where appropriate, sufficient to
25 support no less than one instructional program.

26 (i) Leadership, governance, and an administrative organization
27 sufficient to demonstrate capacity to plan and develop instructional
28 programs and comply with the minimum standards of this chapter.

29 (j) Compliance with local city, county, municipal, state, and
30 federal regulations relative to the safety and health of all persons
31 upon the premises such as fire, building, and sanitation codes.

32 (k) A business or operational plan ~~which~~ *that* shall include
33 specific plans and timelines for implementing and improving the
34 requirements of subdivisions (a) to (h), inclusive, and the
35 following:

36 (1) Copies of proposed media advertising and promotional
37 literature.

38 (2) Copies of proposed student enrollment agreements or
39 contract forms and instruments of indebtedness, if any.

1 (3) A catalog or brochure, in draft or published form, ~~containing~~
2 ~~at a minimum containing~~, *at a minimum*, a description of all
3 policies referenced in this section and a detailed description of at
4 least one instructional program, as planned to be offered.

5 94854. An institution seeking initial approval to operate shall
6 file an application in a manner specified by the bureau, which shall
7 be sufficient to obtain evidence of the minimum conditions as
8 provided in Section 94853 and the following items:

9 (a) The name and California address of a designated agent upon
10 whom any process, notice, or demand may be served.

11 (b) The signatures and certifications under oath by the owners
12 of the institution or, if the institution is incorporated, by the
13 corporate officers or their designee, or, if the institution is a limited
14 liability corporation, by all members who own 10 percent or more
15 *of that corporation*, attesting to the accuracy of the information in
16 the application and an acknowledgment that the owners, directors,
17 and anyone in a position of control of the institution understands
18 the responsibility to comply with the minimum standards in this
19 chapter and that those minimum standards will be reviewed at the
20 time of the initial approval onsite inspection.

21 94855. An institution may combine all, or some, of its separate
22 operating sites under one application or may submit separate
23 applications for each location. The branches or satellites included
24 in either a combined application or separate applications will be
25 considered to be part of the main location, and all locations will
26 be treated as a single institution for purposes of regulation,
27 approval, and compliance under this chapter.

28 94856. (a) The bureau shall inform the institution within 30
29 days of receipt of an application for initial approval to operate if
30 additional information is required to complete or substantiate the
31 ~~application and application~~. *The bureau shall* provide a time period
32 of no less than 30 days for an institution to provide requested
33 information, and may grant extensions if requested and warranted.

34 (b) An institution that fails to comply within the time period as
35 specified or extended by the bureau shall be required to pay
36 additional fees as provided in Article 10 (commencing with Section
37 95040).

38 94857. (a) Following review of an institution's application for
39 an initial approval to operate, accompanying documentation, and
40 any other information required by this article, and any investigation

1 of the applicant as the bureau deems necessary or appropriate, the
2 bureau shall either approve or deny the institution's application.
3 If the bureau determines the institution's application and
4 operational plan are not in compliance with the requirements of
5 this article, the bureau shall deny the application. If the bureau
6 determines that the institution's application and operational plan
7 will satisfy the requirements of this article, that there is no reason
8 to expect that the institution will not implement its business or
9 operational plan, and that no grounds for denial of the application
10 exist, the bureau shall grant the institution an initial approval to
11 operate.

12 (b) An initial approval to operate shall be for a term of three
13 years, unless otherwise determined by the bureau.

14 94858. (a) Within one year of an institution's commencement
15 of operations, following the bureau's issuance of an initial approval
16 *to operate*, the bureau shall commence a qualitative review and
17 assessment of all operations of an institution and all programs
18 offered by that institution, and verify the institution's compliance
19 with this chapter.

20 (b) The qualitative review and assessment shall include an onsite
21 inspection of the institution and its operations, and may include
22 branches and satellites included in the temporary approval to
23 operate.

24 (c) The bureau may, pursuant to Article 1 (commencing with
25 Section 94700), impanel a qualified visiting committee for purposes
26 of conducting the initial onsite inspection of an institution and the
27 programs offered by that institution as required by subdivision (b).
28 The visiting committee may include educators and other individuals
29 from institutions legally operating within this state with expertise
30 in the areas listed in subdivision (d) or employers with expertise
31 related to the program being reviewed.

32 (d) The qualitative review and assessment shall encompass the
33 required minimum conditions as provided in Section 94853, and
34 shall include interviews with administrators, faculty, staff, and
35 students, and inspection of facilities, records, and recordkeeping.
36 If student or public complaints have been received by the bureau
37 since the time of initial approval to operate, all issues raised in
38 such complaints shall be investigated.

39 (e) The institution being reviewed shall bear the cost of the
40 onsite review.

(f) The bureau may, upon consultation with the visiting committee, omit review of any item ~~in~~ *listed in subdivision (d)* if the institution provides documentation that such an item has been reviewed and found acceptable in an accreditation process undertaken by an accrediting agency approved by the United States Department of Education, if the institution is currently accredited, and if the institution is not subject to a current negative accreditation action.

(g) The bureau shall, within 60 days of its onsite view, notify the institution of any deficiency noted in that review that requires corrective action, and shall notify the institution of the date by which the institution must provide evidence of ~~such~~ *that* corrective action, ~~not to exceed 180 days which date shall not exceed 180 days from the date of the onsite review.~~

(h) The bureau may conduct followup qualitative reviews and assessments at any time, with or without empaneling a visiting committee.

94859. The following are the minimum standards that an institution shall meet in order receive a full approval to operate if it is not accredited by a national or regional accrediting body recognized by the United States Department of Education:

(a) Demonstration of continued institutional compliance with the minimum conditions for initial approval as provided in Section 94853, demonstration of reasonable compliance with the institution's own timeline and plans for implementing its business or operational plan as provided in Section 94853.

(b) Compliance with this chapter, including evidence that all disclosures required pursuant to this chapter are provided to students prior to enrollment.

(c) Development of an ongoing self-evaluation mechanism sufficient to identify deficiencies and undertake corrective activity.

(d) Demonstration of the development of competencies in staff, administration, and operations, and sufficient human resources to comply with this chapter.

(e) Satisfactory provision of at least one instructional program demonstrating a reasonable and adequate performance toward achieving the objectives for which the instructional program is offered and meeting the minimum standards for an instructional program as provided in this article.

(f) Maintenance of required records.

1 (g) Evidence that the institution maintains and enforces student
2 financial and academic policies as provided in Section 94853.

3 (h) The institution does not exceed enrollment that the facilities
4 and equipment of the institution can reasonably handle.

5 (i) Continuing assurance that no member of the administrative
6 staff or faculty shall have been convicted of, or pled nolo
7 contendere or guilty to, a crime involving the acquisition, use, or
8 expenditure of federal or state funds, or who has been judicially
9 or administratively determined to have committed any violation
10 of this chapter or of any law involving state or federal funds.

11 94860. The following are the minimum standards that an
12 institution shall meet in order to receive a full approval to operate
13 if it is accredited by an accrediting body recognized by the United
14 States Department of Education at the time of its application for
15 full approval:

16 (a) The institution is in compliance with this chapter ~~and~~, has
17 developed policies and procedures designed to ensure that
18 compliance, and can, upon order of the bureau, demonstrate such
19 compliance.

20 (b) The institution has provided the bureau with a copy of its
21 most recent accreditation review and provided evidence of
22 corrective action where deficiencies were noted.

23 (c) The institution has provided the bureau with copies of its
24 most recent ~~federally required Title IV~~ student financial aid
25 compliance audit and financial statement audit *as required by Title*
26 *IV of the federal Higher Education Act of 1965*, and provided
27 evidence of corrective action where deficiencies were noted, if the
28 institution participates in the federal Title IV student financial aid
29 programs.

30 94861. (a) At least 90 days before the expiration of its initial
31 approval, an institution seeking full approval to operate shall file
32 an application in a manner specified by the bureau, which shall be
33 sufficient to obtain evidence of the minimum standards as provided
34 in Article 5 (commencing with Section 94890) and items required
35 pursuant to subdivisions (c) and (d).

36 (b) An institution may, at its discretion, within 90 days of the
37 conclusion of its onsite inspection and successful completion of
38 correctional activity as provided in Section 94858, file an
39 application for full approval.

1 (c) The institution shall provide a statement that contains any
2 corrections, changes, or additions to the information submitted in
3 the application for initial approval.

4 (d) The application shall contain the signatures and certifications
5 under oath by the owners of the institution or, if the institution is
6 incorporated, by the corporate officers or their designee, or, if the
7 institution is a limited liability corporation, by all members who
8 own 10 percent or more *of that corporation*.

9 94862. An institution may combine all, or some, of its separate
10 operating sites under one application or may submit separate
11 applications for each location. The branches or satellites included
12 either in a combined application or in separate applications will
13 be considered to be part of the main location, and all locations will
14 be treated as a single institution for purposes of regulation,
15 approval, and compliance under this chapter.

16 94863. (a) The bureau shall inform the institution within 30
17 days of receipt of an application for a full approval to operate if
18 additional information is required to complete or substantiate the
19 ~~application and~~ *application*. *The bureau shall* provide a time period
20 of no fewer than 30 days for an institution to provide requested
21 information, and may grant extensions if requested and warranted.

22 (b) An institution that fails to comply within the time period as
23 specified or extended by the bureau shall be required to pay
24 additional fees.

25 94864. Within 90 days of receipt of an application for full
26 approval to operate, the bureau shall conduct a qualitative review
27 and assessment of the application and take one or more of the
28 following actions:

29 (a) Grant full approval *to operate* for a period not to exceed five
30 years.

31 (b) Notify the institution *that* the application review period has
32 been extended for a period not to exceed 90 days, and extend the
33 institution's initial approval *to operate* for that time period.

34 (c) Provide the institution with a corrective action plan to address
35 deficiencies noted in the qualitative review and assessment and a
36 time period not to exceed two years for the institution to undertake
37 corrective action and present evidence of corrective activity as
38 required, during which time period the institution's initial approval
39 *to operate* is extended.

(d) Deny full approval *to operate* and either impose a plan for closure of the institution that affords students already enrolled the opportunity to continue the program of instruction, or order the institution to cease instruction and provide a refund of tuition and all other charges to currently enrolled students.

(e) At the expiration of time periods as defined in subdivision (b) and (c), the bureau shall take action as defined in subdivision (a) or (d).

94865. The standards for renewal of full approval *to operate* shall be the same as those in Sections 94859 and 94860.

94865.5. At least 90 days before the expiration of its full approval *to operate*, an institution seeking a renewal of that full approval to operate shall file an application in a manner specified by the bureau, which shall be sufficient to obtain evidence of the minimum standards as provided in Article 5 (commencing with Section 94890) and the following items:

(a) A statement that contains any corrections, changes, or additions to the information submitted in the most recent application for full approval *to operate*.

(b) The signatures and certifications under oath by the owners of the institution or, if the institution is incorporated, by the corporate officers or their designee, or, if the institution is a limited liability corporation, by all members who own 10 percent or more of that corporation.

94866. (a) An institution may combine all, or some, of its separate operating sites under one application, or may submit separate applications for each location. The branches or satellites included in either a combined application or separate applications will be considered to be part of the main location, and all locations will be treated as a single institution for purposes of regulation, approval *to operate*, and compliance under this chapter.

(b) An institution's full approval *to operate* is automatically continued until its application for renewal of full approval *to operate* is acted upon by the bureau.

94867. Within 90 days of receipt of an application for renewal of full approval to operate, the bureau shall review the application and take one or more of the following actions:

(a) Grant full approval *to operate* for a period not to exceed five years.

1 (b) Notify the institution *that* the application review period has
2 been extended for a period not to exceed 90 days, and extend the
3 institution's full approval *to operate* for that time period.

4 (c) Provide the institution with a corrective action plan to address
5 deficiencies noted in the review and a time period not to exceed
6 two years for the institution to undertake corrective action and
7 present evidence of corrective activity as required, during which
8 time period the institution's current full approval *to operate* is
9 extended.

10 (d) Deny renewal of the full approval *to operate* and either
11 impose a plan for closure of the institution that affords students
12 already enrolled the opportunity to continue the program of
13 instruction, or order the institution to cease instruction and provide
14 a refund of tuition and all other charges to currently enrolled
15 students.

16 (e) At the expiration of time periods as defined in subdivisions
17 (b) and (c), the bureau shall take action as defined in subdivision
18 (a) or (d).

19 94868. Institutions approved under this chapter shall be subject
20 to a regulatory structure that shall assign each institution to one of
21 three tiers, as provided in Article 10 (commencing with Section
22 95040). Notwithstanding any other requirements of this article, an
23 institution placed in Tier 3 approval shall be subject to all of the
24 following requirements:

25 (a) During the period of Tier 3 approval, the bureau shall work
26 with the institution to develop a corrective action ~~plan and the~~
27 ~~institution, plan, and the institution~~ shall be subject to monitoring
28 that may include the submission of frequent and focused reports,
29 as prescribed by the bureau, as well as special onsite inspections
30 to determine progress towards compliance. The onsite inspections
31 may include an inspection of the institution's facilities and records,
32 interviews of administrators, instructors, and students, and
33 observation of class instruction. The bureau shall order the
34 institution to reimburse all reasonable costs and expenses incurred
35 by the bureau in connection with this subdivision. The bureau may
36 make the payment of the order for reimbursement a condition of
37 probation.

38 (b) The bureau shall notify the institution of the basis for
39 approval under Tier 3, including a statement that shall explain why

1 the lack of compliance is not considered minor or technical in
2 nature.

3 (c) All institutions operating under Tier 3 approval shall provide
4 the following disclosure to each current student and prospective
5 student ~~in writing and writing~~. *Receipt of this disclosure shall be*
6 evidenced in the student's file:

7 "Warning: As of (date) this institution has been found to be
8 operating in violation of the statutes, standards, and regulations
9 that govern private postsecondary educational institutions by
10 the state Bureau for Private Postsecondary Education (*BPPE*).
11 This institution is allowed to operate while the bureau monitors
12 this institution's corrective efforts to come into compliance
13 with applicable regulations and statutes. During this period,
14 this institution is under frequent review by the state Bureau
15 for Private Postsecondary Education and is subject to closure
16 if corrective actions are not taken or are not deemed sufficient.
17 For more information, please go to the BPPE _____ (current
18 Web address) or contact the BPPE at _____ (current physical
19 address)."

20 (d) If the bureau is not satisfied with the steps undertaken by
21 the institution to eliminate the violations of this article upon which
22 the Tier 3 approval was based, the bureau may revoke the
23 institution's approval to operate upon 30-day notice to the
24 institution and either impose a plan for closure of the institution
25 that affords students already enrolled the opportunity to continue
26 the program of instruction, or order the institution to cease
27 instruction and provide a refund of tuition and all other charges to
28 currently enrolled students.

29 94869. Notwithstanding any other provision of this article, if
30 an institution loses its accreditation or its eligibility for participation
31 in student financial aid programs under Title IV of the federal
32 Higher Education Act of 1965, it shall notify the bureau of that
33 action within 10 days of receiving notice of ~~such~~ *that* action, and
34 the bureau shall immediately place that institution in Tier 3
35 approval and conduct a preliminary investigation to determine the
36 causes for the action. Within 30 days of placing the institution in
37 Tier 3 approval status, the bureau shall take one of the following
38 actions:

39 (a) Continue the current approval of the institution, but if the
40 institution was formerly in a Tier 1 approval, place the institution

1 in a Tier 2 approval to operate as an approved, but unaccredited,
2 institution.

3 (b) Continue the institution in Tier 3 approval pursuant to
4 subdivision (d) of Section ~~94865~~ 94868.

5 (c) Either impose a plan for closure of the institution that affords
6 students already enrolled the opportunity to continue the program
7 of instruction, or order the institution to cease instruction and
8 provide a refund of tuition and all other charges to currently
9 enrolled students.

10 94870. Except for continuing education programs and programs
11 that are exclusively avocational or recreational in nature, all
12 programs offered by the institution shall meet the minimum
13 standards prescribed by this ~~section~~ article.

14 94871. (a) An institution that is accredited by an accrediting
15 body recognized by the United States Department of Education
16 with no current negative actions by that accrediting agency, that
17 is fully in compliance with the standards set forth in this chapter,
18 ~~and~~ that has been granted a full approval to operate by the bureau,
19 and that has not been subject to involuntary withdrawal from
20 student financial aid participation under Title IV of the federal
21 Higher Education Act of 1965, may add a program, a branch, or
22 a satellite at any time. The institution shall notify the bureau of an
23 addition of a program, branch, or satellite within 30 days.

24 (b) An institution ~~is~~ that is unaccredited, or operating under
25 initial approval, or unable to meet the standards set forth in
26 subdivision (a) shall not add a program, branch, or satellite without
27 authorization by the bureau, except as noted in paragraph (3). An
28 institution seeking to add an additional program, a branch, or a
29 satellite shall apply to do so in a manner specified by the bureau.

30 (1) The bureau shall review a proposed addition of a program,
31 branch, or satellite and determine if the institution will continue
32 to meet the minimum standards set forth in this article if the
33 program, branch, or satellite is added. If the bureau determines
34 that the institution will continue to meet those standards after the
35 addition, and if the program meets the standards set forth in this
36 article, the bureau shall authorize the addition of the program,
37 branch, or satellite. If the bureau determines that the institution
38 will not continue to meet those standards after the addition, the
39 bureau may not authorize the addition of the program, branch, or
40 satellite, and the institution may not continue with the addition.

1 (2) The bureau may first conduct a site visit before acting on
2 an application to add a new program, branch, or satellite, if the
3 new program is not substantially related to an existing, approved
4 program or if the institution has an initial approval to operate and
5 has not yet been reviewed in the manner specified in Section 94858.

6 (3) An institution not placed in Tier 3 approval as provided in
7 Article 10 (commencing with Section 95040) may add a program
8 with a total direct cost of less than five thousand dollars (\$5,000)
9 at any time, if the new program is substantially related to an
10 existing, approved program. The institution shall notify the bureau
11 of an addition of such a program ~~within 30 days~~ *the program within*
12 *30 days*, and shall refer to this program as a “registered program”
13 and shall not represent it to current or prospective students as an
14 “approved program.”

15 (c) An institution placed in Tier 3 approval shall not add a
16 program, branch, or satellite at any time unless the bureau
17 determines that the action is acceptable under the institution’s
18 corrective action plan.

19 94872. An instructional program shall lead to a defined
20 objective and shall, if an institution represents that a course or
21 program leads to employment in a particular occupation, ~~the~~
22 ~~program shall~~ evidence quality, content, and instruction sufficient
23 to ensure that students may acquire the necessary level of
24 education, training, skill, and experience to obtain employment in
25 the occupation or job title to which the course or program of
26 instruction is represented to lead.

27 94873. A program represented to lead to licensure shall
28 evidence the quality, content, and instruction sufficient to ensure
29 that students may acquire the necessary level of education, training,
30 skill, and experience to obtain the licensure to which the program
31 is represented to lead.

32 94874. The program shall have sufficient instruction, breadth,
33 depth, rigor, sequencing, and time to completion to reasonably
34 meet its stated learning and training objectives.

35 94875. The program shall utilize systems and modes of
36 instruction compatible with the objectives of the curriculum.

37 94876. A program provided through distance education shall
38 evidence the technical resources necessary to provide that
39 instruction for the full duration of the program.

1 94877. Faculty shall possess adequate academic, experiential,
2 and professional qualifications to teach the course or to perform
3 the duties as assigned. A faculty member in a program that leads
4 to a degree shall possess a degree of equal or higher level in the
5 occupation for which certification is sought.

6 94878. No person shall serve as a faculty member if that person
7 has been convicted of, or has pled nolo contendere or guilty to, a
8 crime involving the acquisition, use, or expenditure of federal or
9 state funds, or who has been judicially or administratively
10 determined to have committed any violation of this chapter or of
11 any law involving state or federal funds.

12 94879. The standards for student admission to the program
13 shall ensure the following:

14 (a) If an institution represents that the program leads to
15 employment in a particular occupation, no student shall be enrolled
16 who cannot perform the duties of that occupation.

17 (b) If a program is represented to lead to licensure, the institution
18 shall be responsible for knowing the requirements of that licensure,
19 and no student shall be enrolled who cannot meet ~~such~~ *these*
20 requirements for reasons other than lacking the education and
21 training that shall be provided by successful completion of the
22 program.

23 (c) If a student is not a native or fluent speaker of the language
24 in which the instruction shall be offered, the institution shall clearly
25 notify the student, in writing, in both the language of instruction
26 and the student's native language, that lack of language skills may
27 hamper student success and indicate whether or not the institution
28 will provide support services in this regard.

29 94880. Notwithstanding the provisions of this article, an
30 institution that is not otherwise exempt from this chapter, and
31 solely offers programs with a total direct cost of less than two
32 thousand five hundred dollars (\$2,500), may apply in a manner
33 specified by the bureau for an exemption from the provisions of
34 this article, and shall be deemed to be a registered institution. The
35 bureau shall annually adjust the two thousand five hundred dollar
36 (\$2,500) threshold of this section annually to reflect changes in
37 the Consumer Price Index for California.

38 (a) The bureau shall act upon an exemption from approval within
39 90 days of receipt of a completed application.

(b) The bureau may grant an exemption for a period not to exceed five years, and shall specify which, if any, of the other provisions of this article to which the institution shall remain subject.

(c) At least 90 days before the expiration of its exemption from approval, an institution shall apply for renewal in a manner specified by the bureau.

(d) The bureau shall act upon an application for renewal of exemption from approval within 90 days of receipt of a completed application.

(e) The bureau may grant ~~such a renewal~~ *a renewal under this section* for a period not to exceed five years, and shall specify to which, if any, of the other provisions of this article the institution shall remain subject.

(f) The bureau may, prior to granting an exemption, prior to granting a renewal of an exemption, or upon a determination that an institution may not be in compliance with the relevant provisions of this chapter, conduct a review of ~~such an~~ *that* institution and, upon determination of violations of this chapter, provide the institution with a 90-day time period in which to apply for initial approval to operate under ~~the provisions of this article~~.

94881. An institution registered under this article shall not represent itself to current or prospective students as an approved institution.

Article 5. Operating Requirements of Institutions

94890. An institution may not divide or structure a program of instruction so as to avoid the application of a provision of this chapter.

94891. An institution approved under this chapter shall be maintained and operated, or shall demonstrate that it will be maintained and operated, in compliance with the following minimum standards:

(a) The institution shall be financially capable of fulfilling its commitments to its students.

(b) The institution shall, upon satisfactory completion of training, ensure that each student is given an appropriate degree, diploma, or certificate by the institution, indicating that the course

1 or courses of instruction or the program or programs of instruction
2 or study have been satisfactorily completed by the student.

3 (c) The institution shall provide sufficient instruction and
4 materials pursuant to a planned curriculum appropriate to each
5 student's educational program.

6 (d) The institution shall provide each student with sufficient
7 materials, including current publications and equipment, not later
8 than the time the materials are appropriate for use in the course of
9 instruction.

10 (e) The institution shall maintain sufficient student attendance,
11 progress, and performance standards to reasonably ensure that
12 students acquire the education, training, skill, and experience that
13 the program is represented to provide.

14 (f) The institution shall comply with all local city, county,
15 municipal, state, and federal regulations relative to the safety and
16 health of all persons upon the premises, such as fire, building, and
17 sanitation codes.

18 94892. (a) Each owner, director, and administrator of an
19 institution shall expend or authorize the expenditure of the
20 institution's assets and funds, including tuition, fees, and other
21 charges collected from or on behalf of students, in a diligent and
22 prudent manner to ensure that students receive the education and
23 student services that were represented to the students and that meet
24 the requirements of this chapter.

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

29 (c) Each owner, director, and administrator of an institution
30 shall immediately disclose to the bureau evidence that the
31 institution or any person connected with the institution has engaged
32 in fraud, misrepresentation, or misappropriation of funds.

33 94893. (a) An institution shall clearly and conspicuously post
34 on its Web site a "How Our Students Do" factsheet that discloses
35 the following information-applies:

36 (1) If the institution has offered the program for more than one
37 calendar year, the following information applies:

38 (A) The number and percentage of students who began the
39 program, did not cancel within the cancellation period, and were
40 originally scheduled at the time of enrollment to complete the

1 program during the completion tracking period, who completed it
2 during that completion tracking period.

3 (B) If the institution or a representative of the institution in any
4 manner represents that the program might lead to employment in
5 an occupation or job title for which a state licensing examination
6 is required, the following shall apply:

7 (i) All licensure or certification requirements established by the
8 state for the occupation or job title category.

9 (ii) The number and percentage of students who completed the
10 program during the completion tracking period who took the
11 required examination the first time it was available after completion
12 of the ~~program~~ *program*, and who passed it.

13 (C) If the institution offers a vocational program, the number
14 and percentage of students who completed the program during the
15 completion tracking period who obtained employment, excluding
16 self-employment, as defined in Section 94792, during the
17 employment tracking period.

18 (D) If the institution offers a vocational program, and claims
19 that any students who completed the program during the
20 completion tracking period are self-employed, the number and
21 percentage of students who completed the program during the
22 completion tracking period who are self-employed and a clear and
23 conspicuous statement to the effect that the school does not know
24 if any of the persons listed as self-employed earn enough money
25 to support themselves or their families.

26 (E) Any other information necessary to substantiate the truth
27 of any claim made by the institution as to job placement.

28 (F) If the institution or a representative of the institution makes
29 any express or implied claim about the salary that may be earned
30 after completing a program, such as a claim that the student may
31 be able to repay a student loan from the salary received at a job
32 obtained following completion of the program, the following shall
33 apply:

34 (i) The percentage of students who completed the program
35 during the completion tracking period who earned salaries at or
36 above the claimed level during the employment tracking period.

37 (ii) The average annual salary earned during the employment
38 tracking period by the students who completed the program during
39 the completion tracking period.

1 (2) If the institution has offered the program of instruction for
2 one calendar year or less, the following statement: “This program
3 is new. We are not able to tell you how many students graduate,
4 how many students find jobs, or how much money you can earn
5 after finishing this course.”

6 (b) The institution shall document and maintain all the facts
7 necessary to substantiate the information contained in the “How
8 Our Students Do” fact sheet as specified in subdivision (a).

9 94894. (a) An institution shall provide to each prospective
10 student for a degree, diploma, or certificate program, the following
11 statement in a separate one page document in at least 12-point type
12 in substantially the following format, with the heading in at least
13 14-point *type*:

14 “Will Credits You Earn at [Name of Institution] Be
15 Transferable?”

16 1. Credits you earn here MAY NOT be transferable to another
17 college.

18 2. Accreditation does not mean credits will be transferable.

19 3. Whether credits are transferable depends on the college you
20 wish to transfer to.

21 4. Even if credits “transfer,” they may not count toward
22 graduation requirements at another college.

23 5. For example, if you entered our school as a freshman, you
24 may still be a freshman if you enter another college or university
25 in the future, even though you earned units here.

26 6. If you earn a degree, diploma, or certificate in our school, it
27 MAY NOT serve as a basis for obtaining a higher level degree at
28 another college or university.

29 7. Unless the college you may want to transfer to tells you, you
30 cannot know for sure if credits you earn here will be accepted
31 toward graduation at that other college.”

32 (b) If the solicitation or negotiation leading to the agreement
33 for a course of instruction was in a language other than English,
34 the statement shall be in that other language.

35 94895. If the bureau grants approval to an institution to offer
36 a degree or certificate in an emerging field of study, the institution
37 shall disclose in its catalog and a separate written notice provided
38 to students before enrollment that the educational service is in an
39 emerging field and will have limited, if any, transferability to other
40 institutions because of the nature of an emerging field.

1 94896. (a) Before a person executes an agreement obligating
2 that person to pay any money to an institution for a program of
3 instruction or related equipment, the institution shall:

4 (1) Provide to that person a copy of the enrollment agreement
5 containing, at a minimum, the information required by Section
6 94902.

7 (2) Provide to that person a clear statement, containing its refund
8 policy, a written statement set forth in a table of the amount of the
9 refund to which the student would be entitled if the student
10 withdrew from the program after completing a period of days or
11 weeks of instruction equivalent to 10 percent, 25 percent, 50
12 percent, 60 percent, and 75 percent of the program of instruction,
13 and a description of the procedures that a student is required to
14 follow to cancel the contract or agreement and obtain a refund. If
15 the institution solicited the student or negotiated the agreement in
16 a language other than English, the statement shall be in that same
17 language. The institution shall also make its refund policy known
18 to currently enrolled students.

19 (3) Provide a copy of a current schedule of all student charges
20 and a statement of the purpose for those charges. The schedule
21 shall clearly indicate and differentiate all mandatory and optional
22 student charges, and shall specify the total costs of attendance
23 which shall include, but not necessarily be limited to, tuition, fees,
24 assessments for the Student Tuition Recovery Fund, equipment
25 costs, housing, transportation, books, necessary supplies, materials,
26 shop and studio fees, and any other fees and expenses that the
27 student will incur upon ~~enrollment, however~~ enrollment. *However*,
28 an institution shall not include in its schedule of fees, or otherwise
29 advertise, costs that are less than those recommended by the
30 Student Aid Commission in its annual statement of recommended
31 student expense budgets, unless the cost as advertised is reflective
32 of a direct charge by the institution, in which case the cost shall
33 be advertised as actual. The schedule shall clearly identify all
34 charges and deposits that are nonrefundable. The schedule shall
35 also contain both of the following:

36 (A) A statement, to be provided by the bureau, specifying that
37 it is a state requirement that a resident California student who pays
38 his or her own tuition, either directly or through a loan, is required
39 to pay a state-imposed fee for the Student Tuition Recovery Fund.

1 (B) A statement, to be provided by the bureau, describing the
2 purpose, operation, and eligibility ~~requirement~~ *requirements* of
3 the Student Tuition Recovery Fund.

4 (4) If a state bureau, bureau, department, or agency has
5 established the minimum number of classes or class hours or the
6 minimum criteria of a course of instruction necessary for licensure
7 in an occupation and an institution offers a course of instruction
8 differing from the state entity's minimum requirements, disclose
9 orally and in writing the state entity's minimum requirements and
10 how the course of instruction differs from those criteria.

11 (5) If the institution provides a specific program of study where
12 the students will need program approval by a specific authority or
13 agency for the students to take an examination for certification,
14 licensure, or other similar approval allowing the student to perform
15 services in the field of study, or if the institution knows or
16 reasonably should know that ~~such~~ certification, licensure, or other
17 approval, while not necessarily required to perform services in the
18 field of study, is widely requested or required by employers, ~~shall~~
19 disclose to the student if the institution is not approved.

20 (6) Disclose in writing that, if the student obtains a loan to pay
21 for the course of instruction, the student will have the responsibility
22 to repay the full amount of the loan plus interest, less the amount
23 of any refund.

24 (7) Disclose in writing that, if the student is eligible for a loan
25 guaranteed or reinsured by the state or federal government and the
26 student defaults on the ~~loan shall do one of the following loan,~~
27 *either of the following may occur:*

28 (A) The federal or state government or the loan guarantee agency
29 can take action against the student, including applying any income
30 tax refund to which the person is entitled to reduce the balance
31 owed on the loan.

32 (B) The student may not be eligible for any other federal
33 financial assistance for education at a different institution or for
34 government housing assistance until the loan is repaid.

35 (8) Disclose in writing that the institution is not a public
36 institution.

37 (9) Disclose in writing whether or not the institution has filed,
38 or has had filed against it, a petition in bankruptcy.

1 (10) Provide orally and in a written “How Our Students Do”
2 factsheet the information required by subdivision (a) of Section
3 94893.

4 (b) The disclosures required by subdivision (a) shall be in
5 English unless the solicitation or negotiation leading to the
6 agreement for a course of instruction was in a language other than
7 English, in which case, the disclosures shall be in that other
8 language.

9 (c) Notwithstanding any other provision of this section, an
10 institution offering a home study or correspondence course need
11 not orally make the disclosures required by subdivision (a) in
12 connection with that course if the institution did not orally solicit
13 or recruit the student for enrollment and the student enrolled by
14 mail.

15 94897. (a) An institution shall provide to students and other
16 interested persons, prior to enrollment, a catalog or brochure
17 containing, at a minimum, *all of* the following information:

18 (1) Descriptions of the instruction provided under each course
19 offered by the institution, including the length of programs offered,
20 and all of the occupations or job titles, if any, to which the program
21 of instruction is represented to lead.

22 (2) The number of credit hours or clock hours of instruction or
23 training per unit or units required for completion of the educational
24 degree or certificate program.

25 (3) The attendance, dropout, and leave-of-absence policies.

26 (4) The faculty and their qualifications.

27 (5) 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 course of study.

30 (6) The cancellation and refund policies.

31 (7) For institutions that participate in federal and state financial
32 aid programs, all consumer information that the institution is
33 required to disclose to the student.

34 (8) A description of a student’s rights under the Student Tuition
35 Recovery Fund.

36 (9) The institution’s admissions policies, including the
37 institution’s policies regarding the acceptance of units of credit
38 earned by the student at other institutions or through challenge
39 examinations and standardized tests.

1 (10) If an institution represents that it provides employment
2 placement services, a description of the nature and extent of the
3 placement services and ~~indicating~~ *that indicates* when they are
4 available to students.

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

9 (b) The institution shall provide the catalog or brochure to any
10 person upon request.

11 (c) A written contract signed by a student is not enforceable
12 unless the student has first received the institution's catalog or
13 brochure containing the information required by this section.

14 94898. An institution shall not require the signature of a person
15 to an agreement obligating that person to pay any money to the
16 institution until the person has had at least one business day to
17 read and review all of the items required to be provided to that
18 person by this article.

19 94899. (a) When a person executes an agreement obligating
20 that person to pay any money to an institution for a course program
21 of instruction or related equipment, the institution shall provide
22 the person with a document containing only the following notice:
23 "NOTICE OF CANCELLATION, REFUND AND OTHER
24 RIGHTS"

25 "1. You may cancel your contract for school, without any
26 penalty or obligations prior to or on [insert 'the fifth business day
27 following your first class session' or 'the first day of class,'
28 whichever is applicable] as described in the Notice of Cancellation
29 form that will be given to you [insert 'on your first day of class'
30 or 'with the first lesson in a distance learning, home study or
31 correspondence course,' whichever is applicable].

32 "A different cancellation policy applies for distance learning,
33 home study or correspondence courses. Read the Notice of
34 Cancellation form for an explanation of your cancellation rights
35 and responsibilities. If you have lost your Notice of Cancellation
36 form, ask the school for another form.

37 "2. After the end of the cancellation period, you also have the
38 right to stop school at any time, and you have the right to receive
39 a refund for the part of the course not taken. Your refund rights

1 are described in the contract. If you have lost your contract, ask
2 the school for a description of the refund policy.

3 “3. If the school closes before you graduate, you may be entitled
4 to a refund. Contact the Bureau for Private Postsecondary and
5 Vocational Education at the address and telephone number printed
6 below for information.

7 “4. If you have any complaints, questions, or problems that you
8 cannot work out with the school, write or call the Bureau for
9 Private ~~and~~ Postsecondary Education:

10
11 _____
12 (insert address and telephone number of the Bureau for
Private Postsecondary and Vocational Education)”

13 (b) Except as otherwise provided in subdivision (a), the notice
14 required by subdivision (a) shall be printed in 10-point type in
15 English and, if any solicitation or negotiation leading to the
16 agreement for a course of instruction was in a language other than
17 English, in that other language.

18 (c) A copy of the notice, in each language in which the notice
19 was printed pursuant to subdivision (b), shall be posted at all times
20 in a conspicuous place at the main entrance of the institution, in
21 each admissions office, and in each room used for instruction. The
22 bureau may prescribe the size and format of the posted notice. This
23 subdivision does not apply to an institution that exclusively offers
24 correspondence or home study courses.

25 (d) Upon request, the institution shall provide a student with a
26 copy of a Notice of Cancellation form, a written description of the
27 student’s refund rights, a copy of the contract executed by the
28 student, a copy of documents relating to loans or grants for the
29 student, and a copy of any document executed by the student.

30 (e) The bureau may provide for the inclusion of additional
31 information in the notice set forth in subdivision (a).

32 94900. An institution shall provide the student with two
33 cancellation forms at the first class attended by the student or with
34 the first lesson in a home study course submitted by the student.
35 The form shall be completed in duplicate, captioned “Notice of
36 Cancellation,” and shall contain the following statement:

37 “Notice of Cancellation

38
39 _____
(Date)

40 (Enter date of first class, date

1 first lesson received, or date
2 first lesson was mailed, whichever
3 is applicable)

4 “You may cancel this contract for school, without any penalty
5 or obligation by the date stated below.

6 “If you cancel, any payment you have made and any negotiable
7 instrument signed by you shall be returned to you within 30 days
8 following the school’s receipt of your cancellation notice.

9 “But, if the school gave you any equipment, you must return
10 the equipment within 30 days of the date you signed a cancellation
11 notice. If you do not return the equipment within this 30-day
12 period, the school may keep an amount out of what you paid that
13 equals the cost of the equipment.

14 ~~The~~

15 “*The* total amount charged for each item of equipment shall be
16 separately stated. The amount charged for each item of equipment
17 shall not exceed the equipment’s fair market value. The school
18 shall have the burden of proof to establish the equipment’s fair
19 market value. The school is required to refund any amount over
20 that as provided above, and you may keep the equipment.

21 “To cancel the contract for school, mail or deliver a signed and
22 dated copy of this cancellation notice, or any other written notice,
23 or send a telegram to:

24 _____, at _____.
25 (name of institution) (address of institution)

26 “NOT LATER THAN _____
27 (Enter midnight of the date applicable under Section 94939)

28 “I cancel the contract for school.

29 _____
30 (Date)

31 _____
32 (Student’s signature)

33 “REMEMBER, YOU MUST CANCEL IN WRITING. You do
34 not have the right to cancel by just telephoning the school or by
35 not coming to class.

36 “If you have any complaints, questions, or problems which you
37 cannot work out with the school, write or call the Bureau for
38 Private Postsecondary and Vocational Education:

39 _____

(insert address and telephone number of the Bureau for Private Postsecondary and Vocational Education)”

94901. (a) In addition to making any other required disclosures, a representative of an institution who in any manner solicits or recruits any person in person at any place other than the institution’s premises, or by telephone, for enrollment in a course of instruction shall disclose all of the following, orally, and, if the solicitation is in person, in a correctly dated written document given to the person and printed in at least 10-point type and signed by the representative:

(1) That the representative is a paid recruiter for an institution and the institution is not a public school.

(2) That the representative is not offering a job, making job referrals, or conducting a survey.

(3) That there is no guarantee of a job after a student graduates from the course of instruction.

(4) The total charge for the course of instruction or, if the solicitation or recruitment is for more than one course, the range of the total charges for the courses offered.

(b) The representative shall make the disclosures required by paragraphs (1) to (3), inclusive, of subdivision (a) before attempting to solicit or recruit any person. The representative shall make the disclosure required by paragraph (4) of subdivision (a) before the end of a solicitation or attempt to recruit any person.

(c) A representative who solicits or recruits any person as described in subdivision (a) shall provide the person with a copy of the institution’s current catalog or brochure, containing the information described Section 94897 which the person may obtain without charge. The institution or its representative shall provide the catalog or brochure required by this subdivision at the time of an in-person solicitation or recruitment or send the catalog brochure within two days of a telephonic solicitation or recruitment.

(d) No institution shall enter an agreement for a course of instruction with, or prepare or assist in preparation of a student loan or grant application for, a person solicited or recruited as described in subdivision (a) within three days of the date on which the person was solicited or recruited.

(e) The disclosure of information pursuant to this section shall not relieve any institution of any obligation to make any disclosure required under other provisions of this article.

1 (f) This section does not apply to solicitations or presentations
2 made at informational public appearances directed to five or more
3 people or to advertisements in print or broadcast media.

4 94902. (a) An institution shall not offer a program of
5 instruction to a person, or receive consideration from a person,
6 except pursuant to a written contract or agreement that is signed
7 by both parties, including the student, that meets the requirements
8 of this section. A written contract or agreement for educational
9 services with an institution shall include all of the following:

10 (1) On the first page of the agreement or contract, in 12-point
11 boldface ~~print~~ *type* or larger, the following statement: "Any
12 questions or problems concerning this institution which have not
13 been satisfactorily answered or resolved by the institution should
14 be directed to the Bureau for Private Postsecondary Education,"
15 and include the current mailing address, Web site address, and
16 telephone and fax numbers for the bureau.

17 (2) In underlined capital letters on the same page of the contract
18 or agreement in which the student's signature is required, the total
19 amount that the student is obligated to pay for the course of
20 instruction, including any charges made by the institution for
21 tuition, room and board, books, materials, supplies, shop and studio
22 fees, and any other fees and expenses that the student will incur
23 upon enrollment, separately itemized, and all other services and
24 facilities furnished or made available to the student by the
25 institution. The total amount shall appear immediately above the
26 following notice:

27 "YOU ARE RESPONSIBLE FOR THIS AMOUNT. IF YOU
28 GET A STUDENT LOAN, YOU ARE RESPONSIBLE FOR
29 REPAYING THE LOAN AMOUNT PLUS ANY INTEREST."

30 (3) A schedule of payments and charges, including a list of any
31 charges and deposits that are nonrefundable, clearly identified as
32 nonrefundable charges.

33 (4) The name and address of the institution and the addresses
34 where instruction will be provided.

35 (5) The name and description of the program of instruction,
36 including the total number of credits, classes, hours, or lessons
37 required to complete the program of instruction.

38 (6) A clear and conspicuous statement that the agreement or
39 contract is a legally binding instrument when signed by the student
40 and accepted by the institution.

(7) A clear and conspicuous caption, “BUYER’S RIGHT TO CANCEL” ~~CANCEL~~,” under which the student’s right to cancel and obtain a refund under this article is explained in detail along with a description of the form and means of notice that the student should use in the event that he or she elects to cancel the enrollment agreement, and the title and address of the institution official to whom the notice should be sent or delivered.

(8) A clear and conspicuous caption, “YOU HAVE A RIGHT TO WITHDRAW AND OBTAIN A REFUND,” under which is placed an explanation of the student’s right to withdraw from the program of instruction and obtain a refund and of how the amount of the refund will be determined including a hypothetical example.

(9) The signature of the student under the following statement that is presented in 12-point boldface or larger ~~print~~ *type*: “My signature below certifies that I have read, understood, and agreed to my rights and responsibilities, and that the institution’s cancellation and refund policies have been clearly explained to me.”

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

(11) A statement that the student is responsible for paying the state assessment amount for the Student Tuition Recovery Fund.

(b) A contract or enrollment agreement signed by a student shall be written in language that is capable of being easily understood. Unless otherwise provided in subdivision (a), the institution shall provide the information required under this section and Section 94900 in at least 10-point type in English and, if any solicitation or negotiation leading to the agreement for a course of instruction was in a language other than English, in that other language.

(c) A written contract or agreement signed by a prospective student may not become operative until the student attends the first class or session of instruction. This section does not apply to correspondence institutions or other distance-learning programs.

(d) When a student is a client of a third-party organization and that organization pays all of the student’s tuition and fees, the institution may substitute for the contract or enrollment agreement required by subdivision (a) a form provided to the student that

1 contains the information required by this section. The form shall
2 also include a statement that students whose entire tuition and fees
3 are paid by a third-party organization are not eligible for payments
4 from the Student Tuition Recovery Fund.

5 (e) A provision in an agreement that purports to require a student
6 to invoke a grievance dispute procedure established by the
7 institution before enforcing a right or remedy is void and
8 unenforceable.

9 (f) The bureau shall have the authority to standardize the format
10 of the enrollment agreement by regulation.

11 94903. (a) No institution shall offer English as a second
12 language (ESL) instruction without the prior approval of the
13 bureau.

14 (b) An institution that offers ESL instruction to a student shall
15 not enroll the student in any educational service presented in the
16 English language unless the student passes a test indicating that
17 he or she has attained adequate proficiency in oral and written
18 English to comprehend instruction in English.

19 (c) A student who has completed ESL instruction at an
20 institution shall not be enrolled in any course of instruction
21 presented in the English language at that institution unless the
22 student passes a test indicating that he or she has attained adequate
23 proficiency in oral and written English to be successfully trained
24 by English language instruction to perform tasks associated with
25 the occupations or job titles to which the educational program is
26 represented to lead.

27 (d) If an institution offers ESL instruction to a student to enable
28 the student to use already existing knowledge, training, or skills
29 in the pursuit of an occupation, the institution shall test the student
30 after the student completes the ESL instruction to determine that
31 the student has attained adequate proficiency in oral and written
32 English to use his or her existing knowledge, training, or skills.
33 Before enrolling the student in ESL instruction, the institution
34 shall document the nature of the student's existing knowledge,
35 training, or skills and that the ESL instruction is necessary to enable
36 the student to use that existing knowledge, training, or skills.

37 (e) If an institution offers ESL instruction to a student in
38 connection with a course of instruction leading to employment in
39 any occupation requiring licensure awarded after the passage of
40 an examination offered in English, the institution shall test the

1 student after the student completes the ESL instruction to determine
2 that the student has attained a level of proficiency in English
3 reasonably equivalent to the level of English in which the licensure
4 examination is offered.

5 (f) If the results of a test administered pursuant to subdivision
6 (b), (c), (d), or (e) indicate that the student has not attained adequate
7 English language proficiency after the completion of ESL
8 instruction, the institution shall offer the student additional
9 instruction without charge, for a period of up to 50 percent of the
10 number of hours of instruction previously offered by the institution
11 to the student, to enable the student to attain adequate English
12 language proficiency.

13 (g) This section does not apply to grantees funded under Section
14 1672 of Title 29 of the United States Code.

15 (h) The institution, for five years, shall retain an exemplar of
16 each language proficiency test administered pursuant to this
17 section, an exemplar of the answer sheet for each test, a record of
18 the score for each test, the answer sheets or other responses
19 submitted by each person who took each test, and the
20 documentation required by subdivision (d).

21 (i) For the purpose of determining compliance with this article,
22 ESL instruction shall be deemed a course, and a charge shall be
23 deemed to be made for ESL instruction if a student is obligated to
24 make any payment in connection with the educational service,
25 including, but not *necessarily* limited to, the ESL instruction that
26 is offered by the institution.

27 (j) The tests used by an institution pursuant to this section shall
28 be tests that are approved by the USDE, or tests such as the Test
29 of English as a Foreign Language and the Comprehensive Adult
30 Student Assessment System, that are generally recognized by
31 public and private institutions of higher learning in this state for
32 the evaluation of English language proficiency. An institution shall
33 demonstrate to the bureau that the tests and passing scores that it
34 uses establish that students have acquired the degree of proficiency
35 in oral and written English required by subdivision (b), (c), (d), or
36 (e), whichever is applicable. The required level of proficiency in
37 oral and written English shall not be lower than the sixth grade
38 level.

39 (k) All tests shall be independently administered, without charge
40 to the student and in accordance with the procedures specified by

1 the test publisher. The tests shall not be administered by a previous
2 or current owner, director, consultant, or representative of the
3 institution or by any person who previously had, or currently has,
4 a direct or indirect financial interest in the institution other than
5 the arrangement to administer the test. The bureau shall adopt
6 regulations that contain criteria to ensure independent tests
7 administered including the criteria established by the USDE and
8 set forth on pages 52160 and 52161 of Volume 55 of the Federal
9 Register, dated December 19, 1990.

10 (l) The bureau shall adopt regulations concerning the manner
11 of documenting the nature of a student's existing knowledge,
12 training, and skill and that ESL instruction offered by the institution
13 is necessary to enable the student to use that existing knowledge,
14 training, and skill, as prescribed in subdivision (f). The regulations
15 shall specify all of the following:

16 (1) Reliable sources of information, independent of the student
17 and the institution, from which documentation of a student's
18 existing knowledge, training, and skill shall be obtained.

19 (2) Circumstances that must be documented by the institution
20 to establish that information from a designated reliable source of
21 information cannot reasonably be obtained.

22 (3) Alternate acceptable sources of information if designated
23 reliable sources are not available.

24 (4) The nature of all required types of documentation.

25 (m) The bureau shall develop and distribute instructions,
26 informational materials, or forms to assist institutions in developing
27 the documentation described in this section. These instructions,
28 materials, and forms shall not be subject to review or approval by
29 the Office of Administrative Law pursuant to any provision of the
30 Government Code.

31 94904. (a) An institution shall maintain adequate and accurate
32 records for five years, and satisfactory standards shall be enforced
33 relating to attendance, academic progress, and performance for at
34 least five years.

35 (b) An institution shall maintain current records for a period of
36 not less than five years at its principal place of business in this
37 state, showing the following:

38 (1) The programs of study offered by the institution.

39 (2) The names and addresses of its faculty, together with a record
40 of the educational qualifications of each.

1 (3) The degrees or diplomas granted; *and* the date of granting,
2 together with the curricula upon which the diplomas and degrees
3 were based.

4 (4) The records required to be maintained by subdivision (j) of
5 Section 94945.

6 (c) Notwithstanding ~~other provisions~~ *any other provision* of this
7 chapter, an institution may not disclose the personal student records
8 maintained pursuant to this section unless production of those
9 records is required by any law or by subpoena or court order.

10 (d) All records that an institution is required to maintain by this
11 chapter or that relate to an institution's compliance with this chapter
12 shall be made immediately available by the institution for
13 inspection and copying during normal business hours, upon request,
14 by the bureau, the Attorney General, any district attorney or city
15 attorney, and the Student Aid Commission.

16 94905. An institution shall make available to a student, or a
17 person designated by a student, all of that student's records.
18 However, an institution may withhold a student's transcript or
19 grades if that student is in default on a student tuition contract, as
20 provided in Section 94924.

21 94906. (a) An institution shall be considered financially
22 responsible if it has sufficient assets to do all of the following:

23 (1) Provide the education, training, skills, and experience that
24 the institution represented in any manner it would provide.

25 (2) Pay timely refunds as required by Section 94941.

26 (3) Provide the administrative and financial resources to fully
27 comply with this article.

28 (b) An institution shall not be considered financially responsible
29 under any of the following conditions:

30 (1) The institution fails to have available sufficient funds and
31 accounts receivable to pay all operating expenses due within 30
32 days. For the purpose of this subdivision, "funds" means cash or
33 assets that can be converted into cash within seven days.

34 (2) Under generally accepted accounting principles, the
35 institution had, at the end of its latest fiscal year, a ratio of current
36 assets to current liabilities of less than 1.25 to 1. For the purpose
37 of this subdivision, "current assets" does not include either of the
38 following:

1 (A) Intangible assets, including goodwill, going concern value,
2 organization expense, startup costs, long-term prepayment of
3 deferred charges, and nonreturnable deposits.

4 (B) State or federal grant funds that are not the property of the
5 institution, but are held for future disbursement for the benefit of
6 students.

7 (c) Unearned tuition shall be accounted for in accordance with
8 generally accepted accounting principles. When another
9 government agency requires an institution to file an annual
10 financial audit prepared by a certified public accountant, that
11 agency's current ratio standard may apply in lieu of the ratio
12 specified in this subdivision if the ratio of current assets to current
13 liabilities under that standard is 1 to 1 or greater. Institutions shall
14 certify that they meet the requirements of this section, and
15 incorporate the certification into their annual report.

16 (d) In determining compliance with the requirements of this
17 section the bureau may, at the ~~institutions~~ *institution's* request,
18 consider the financial resources of a parent corporation if the parent
19 corporation files with the ~~bureau and at all times complies with~~
20 *bureau, and at all times complies with*, an irrevocable and
21 unconditional agreement approved by its bureau of directors that
22 satisfies all of the following requirements:

23 (1) Consent to be sued in California.

24 (2) Consent to be subject to the administrative jurisdiction of
25 the bureau and the Student Aid Commission in connection with
26 the institution's compliance with this chapter.

27 (3) Appoint an agent for service of process in California and all
28 notices required by this chapter.

29 (4) Agree to pay any refund, claim, penalty, or judgment that
30 the institution is obligated to pay.

31 (5) File financial statements, maintain financial records, and
32 permit the inspection and copying of financial records to the same
33 extent as is required of the institution.

34 94907. If the bureau determines that an institution is not
35 financially responsible, the bureau, under terms and conditions
36 prescribed by the bureau, may require the institution to submit,
37 for its latest complete fiscal year and its current fiscal year, each
38 of the following:

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

4 (b) The institution's financial plan for establishing financial
5 responsibility.

6 (c) Any other information requested by the bureau.

7 94908. (a) This section applies to an audit, review, or statement
8 prepared by an independent accountant and to every financial
9 report prepared at the request of the bureau to demonstrate an
10 institution's financial responsibility.

11 (b) Institutional audits and reviews of financial data, including
12 the preparation of financial statements, shall comply with all of
13 the following:

14 (1) Financial statements shall be prepared in accordance with
15 generally accepted accounting principles established by the
16 American Institute of Certified Public Accountants, and audited
17 or reviewed by an independent certified public accountant who is
18 not an employee, officer, or corporate director or member of the
19 governing bureau of the institution.

20 (2) Financial statements prepared on an annual basis shall
21 include a balance sheet, statement of operations, statement of
22 cashflow, and statement of retained earnings or capital. Nonprofit
23 institutions shall provide this information in the manner required
24 under generally accepted accounting principles for nonprofit
25 organizations.

26 (3) The financial statements shall establish whether the
27 institution complies with the appropriate financial responsibility
28 requirements of this chapter.

29 (4) If an audit that is performed to determine compliance with
30 any federal or state student financial aid program reveals any failure
31 to comply with the requirements of the program, and the
32 noncompliance creates any liability or potential liability for the
33 institution, the financial report shall reflect the liability or potential
34 liability.

35 (5) Work papers and the supporting documentation for the
36 financial statements shall be retained for five years from the date
37 of the statements, and shall be made available to the bureau upon
38 request.

39 (c) An audit shall be conducted in accordance with generally
40 accepted auditing standards, and if an audit is conducted, the

1 accountant shall obtain an understanding of the institution's internal
2 financial control structure, assess any risks, and report any material
3 deficiencies in the internal controls.

4 (d) An audit or financial report shall contain a statement signed
5 by the individual who has prepared the report stating that the
6 institution has paid or has not paid to the bureau all amounts owed
7 under Section 94983. If the institution is a corporation that is
8 publicly traded on a national stock exchange, the submission of
9 the corporation's annual report shall be deemed to comply with
10 this section. The bureau shall be deemed an intended beneficiary
11 of that statement in an audit or financial report. An institution that
12 has not paid all amounts owed to the bureau under Section 94983
13 shall report to the bureau within 30 days on its plan to become
14 current in these payments. This subdivision shall not be construed
15 to require the institution to prepare a separate audit or report on
16 the Student Tuition Recovery Fund.

17 94909. (a) A new institution shall post a bond or letter of
18 credit, in favor of the State of California, in the amount of ____
19 dollars (\$____), with a term of three years for the indemnification
20 of any person for any loss, including the loss of prepaid tuition,
21 suffered as a result of the occurrence of any violation of this chapter
22 during the period of coverage. This requirement shall not apply to
23 any institution that has held a full approval for a period of five
24 years, or is accredited by a state-approved accrediting agency.

25 (b) Liability on the bond or letter of credit may be enforced after
26 a hearing before the bureau, after 30 days' advance written notice
27 to the principal and surety. This section supplements, but does not
28 supplant, any other rights or remedies to enforce liability on the
29 bond or letter of credit.

30 (c) "New institution," for the purposes of this section, means
31 an institution that has been operating under a temporary or full
32 approval to operate in this state for not more than five years.

33 94910. (a) An institution approved to operate under this chapter
34 shall report to the bureau, under penalty of perjury, by July 1 of
35 each year, or another date designated by the bureau, electronically
36 and in writing, the following information for educational programs
37 offered in the prior year:

38 (1) The total number of students enrolled, by level of degree or
39 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) The schedule of tuition and fees required for each term,
5 program, course of instruction, or degree offered.

6 (5) Financial information demonstrating compliance with
7 Section 94906.

8 (6) A statement indicating whether the institution is or is not
9 current on its payments to the Student Tuition Recovery Fund.

10 (7) Any additional information that the bureau may prescribe.

11 (b) An institution approved to operate under this chapter shall
12 report to the bureau, under penalty of perjury, by October 1 of
13 each year, or another date designated by the bureau, electronically
14 and in writing, the following information for the applicable
15 completion tracking and employment tracking periods:

16 (1) Completion numbers and rates as set forth in Section 94945.

17 (2) Employment numbers and rates as set forth in Section 94945.

18 (3) The information specified under subdivision (j) of Section
19 94945.

20 (c) The information required to be submitted by subdivisions
21 (a) and (b) shall be provided in two electronic formats, one of
22 which may be a form that cannot be changed, such as in a portable
23 document format (PDF) file, and one of which shall be in a
24 searchable modifiable electronic format to be specified by the
25 bureau, or if none is specified, in a commonly available spreadsheet
26 program with any necessary narrative provided in a commonly
27 available word processing program.

28 (d) Based on the review of information submitted to fulfill the
29 requirements of this section, the bureau may initiate a compliance
30 review and may require evidence of financial stability and
31 responsibility pursuant to this chapter.

32 94911. (a) An institution shall designate and maintain an agent
33 for service of process within this state, and provide the name,
34 address, and telephone number of the agent to the bureau. The
35 bureau shall furnish the agent's name, address, and telephone
36 number to a person upon request.

37 (b) If an institution is not operating in California when it applies
38 for approval to operate, the institution shall set forth the name,
39 address, and telephone number of its agent for service of process
40 in the institution's application.

1 (c) If an institution fails to designate or maintain an agent for
2 service of process pursuant to subdivision (a), and if service on
3 the institution cannot reasonably be effected in the manner provided
4 in Section 415.10, 415.20, 415.30, or 415.40 of the Code of Civil
5 Procedure, the institution may be served by leaving a copy of the
6 process or any other document in an office of the bureau and by
7 sending, by first-class mail, a notice of the service upon the bureau
8 and a copy of the process or other document to the institution at
9 its last address on file with the bureau. Service in this manner shall
10 be deemed complete on the 10th day after that mailing to the
11 institution. Proof of service may be made by a declaration showing
12 compliance with this subdivision.

13 94912. (a) A person may not act as an agent unless that person
14 holds a valid authorization issued by the bureau and maintains at
15 all times a surety bond as described in Section 94913.
16 Administrators or faculty, or both, who make informational public
17 appearances, but whose primary task is not to serve as paid
18 recruiters, are exempt from this section.

19 (b) An agent representing more than one institution shall obtain
20 a separate agent's authorization and bond for each institution
21 represented.

22 (c) A person may not be issued an authorization if he or she has
23 been found in a judicial or administrative proceeding to have
24 violated this chapter, or there exists any of the grounds for denial
25 set forth in Section 480 of the Business and Professions Code.

26 (d) An authorization shall be valid for the calendar year in which
27 it is issued, unless sooner revoked or suspended by the bureau for
28 fraud or misrepresentation in connection with the solicitation for
29 the sale of any course of study, for any violation of this chapter,
30 or for the existence of any condition in respect to the authorized
31 agent or the institution he or she represents which, if in existence
32 at the time the authorization was issued, would have been grounds
33 for denial of the authorization.

34 (e) An authorized agent shall carry the authorization with him
35 or her for identification purposes when engaged in the solicitation
36 of sales and the selling of courses of study away from the premises
37 of the institution, and shall produce the permit for inspection upon
38 the request of any person.

39 (f) The issuance of an authorization pursuant to this section
40 shall not be interpreted as *to mean*, and it shall be unlawful for any

1 individual holding any permit to expressly or impliedly represent
2 by any means whatsoever, that the bureau has made any evaluation,
3 recognition, accreditation, or endorsement of any course of study
4 being offered for sale by the individual.

5 (g) It is unlawful for any individual holding an authorization
6 under this section to expressly or impliedly represent, by any means
7 whatsoever, that the issuance of the authorization constitutes an
8 assurance by the bureau that any course of study being offered for
9 sale by the individual will provide and require of the student a
10 course of education or training necessary to reach a professional,
11 educational, or vocational objective, or will result in employment
12 or personal earnings for the student.

13 94913. The application for an authorization of an agent shall
14 include the following:

15 (a) A statement signed by the applicant that he or she has read
16 this chapter and the regulations adopted pursuant thereto.

17 (b) Evidence of a surety bond issued in favor of the State of
18 California by an admitted surety insurer making provision for
19 indemnification of any person for any loss suffered as a result of
20 the occurrence, during the period of coverage, of any fraud or
21 misrepresentation used in connection with the solicitation for the
22 sale or the sale of any program of study, or as a result of any
23 violation of this chapter. The term of the bond shall extend over
24 the period of the authorization. The bond may be supplied by the
25 institution or by the person for whom the issuance of the permit
26 is sought, and may extend to cover individuals separately or to
27 provide blanket coverage for all persons to be engaged as
28 representatives of the institution. The bond shall provide for
29 liability in the penalty sum of twenty-five thousand dollars
30 (\$25,000) for each agent to whom coverage is extended by its
31 terms. Neither the principal nor the surety on a bond may terminate
32 the coverage of the bond, except upon giving 30 days' prior written
33 notice to the bureau, and upon contemporaneously surrendering
34 the agent's authorization. Liability on the bond may be enforced
35 after a hearing before the bureau, after 30 days' advance written
36 notice to the principal and surety. This subdivision supplements,
37 but does not supplant, any other rights or remedies to enforce
38 liability on the bond.

1 94914. An agency shall hold a valid authorization issued by
2 the bureau, except for an agency recruiting solely for a degree
3 granting institution, which is not required to hold an authorization.

4 94915. The application for an authorization for an agency shall
5 include *all of* the following:

6 (a) A current financial statement prepared by a California
7 licensed certified public accountant who is not an employee,
8 officer, or director of the institution.

9 (b) Evidence of a surety bond issued in favor of the State of
10 California by an admitted surety insurer making provision for
11 indemnification of any person for any loss suffered as a result of
12 the occurrence, during the period of coverage, of any fraud or
13 misrepresentation used in connection with the solicitation for the
14 sale or the sale of any program of study, or as a result of any
15 violation of this chapter. The term of the bond shall extend over
16 the period of the authorization. The bond shall provide for liability
17 in the penal sum of two hundred fifty thousand dollars (\$250,000)
18 for each agency to which coverage is extended by its terms. Neither
19 the principal nor the surety on a bond may terminate the coverage
20 of the bond except upon giving 30 days' prior written notice to the
21 bureau, and upon contemporaneously surrendering the agency's
22 authorization to operate. Liability on the bond may be enforced
23 after a hearing before the bureau, after 30 days' advance written
24 notice to the principal and surety. This ~~paragraph~~ *subdivision*
25 supplements, but does not supplant, any other rights or remedies
26 to enforce liability on the bond.

27 (c) A copy of the student disclosure statement to be read and
28 signed by all prospective students referred to an institution by the
29 agency. The student disclosure statement shall include, but shall
30 not necessarily be limited to, all of the following:

31 (1) A statement to the effect that no promise of employment
32 has been made by the agency.

33 (2) A statement to the effect that repayment of any debt incurred
34 by a student in connection with his or her education will be the
35 sole responsibility of the student.

36 (3) The amount and terms of any fee to be paid by the student
37 to the agency.

38 (4) The following statement: "Any questions or problems
39 concerning this agency should be directed to the Bureau for Private

1 Postsecondary Education,” including the current address and
2 telephone number for the bureau.

3 (5) A statement to the effect that the institution or institutions
4 to which the prospective student is referred by the agency have
5 the obligation to make available to the student a catalog or brochure
6 containing information describing all of the following:

7 (A) The courses offered.

8 (B) Program objectives.

9 (C) Length of program.

10 (D) The faculty and their qualifications.

11 (E) A schedule of tuition, fees, and all other charges and
12 expenses necessary for the completion of the course of study.

13 (F) The cancellation and refund policies.

14 (G) The total cost of tuition over the period needed to complete
15 the student’s education.

16 (H) For occupational training, placement data, including
17 program completion rates, employment rates, and starting salaries.

18 (I) Other material facts concerning the institution and the
19 program or course of instruction that are reasonably likely to affect
20 the decision of the student to enroll in the institution.

21 (d) Identification of all employees of the agency and their titles,
22 and of all agents with whom the agency contracts.

23 (e) Identification of all owners, and if the entity is a corporation,
24 the identification of all persons possessing an interest equal to, or
25 ~~in-excess, of~~ *excess of*, 10 percent.

26 (f) Identification of all vendors of educational services for which
27 the agency provides recruitment services.

28 (g) A signed statement by the applicant that all employees
29 engaged in recruitment activities will be required to read and
30 comprehend Article 5 (commencing with Section 94890).

31 94916. Within 30 days of receipt of a person’s completed
32 application for authorization as an agency, and prior to issuance
33 of that authorization, the bureau may inspect the applicant and
34 verify the application. Within 30 days of the inspection, the bureau
35 shall either issue an authorization for a one-year period, subject
36 to annual renewal at the end of that period, or deny the application
37 for authorization. The bureau shall deny the authorization if the
38 applicant or any owner, officer, or director of the applicant
39 previously has been found in a judicial or administrative proceeding
40 to have violated this chapter, or if there exists any of the grounds

1 for denial set forth in Section 480 of *the Business and Professions*
2 *Code*.

3 94917. An agent, an agency, or an employee of an agency ~~may~~
4 *shall* not make an untrue or misleading statement in the course of
5 a solicitation or recruitment activity or engage in the sales,
6 collection, credit, or other practices of any type that are false,
7 deceptive, misleading, or unfair.

8 94918. An agency or an employee of an agency shall provide
9 a prospective student with the disclosure statement described in
10 subdivision (c) of Section 94915, and shall allow the prospective
11 student a sufficient opportunity to read it before soliciting or
12 recruiting that prospective student for enrollment or referring that
13 prospective student to an institution. That disclosure statement
14 shall be printed in 10-point type in English and, if the solicitation,
15 recruitment, or referral is to be conducted in a language other than
16 English, in that other language.

17 94919. No institution shall pay any consideration to an agent
18 or agency subject to Sections 94913 to 94923, inclusive, whichever
19 are applicable, that has not complied with those sections, or enter
20 into an enrollment agreement with any person who was recruited
21 or solicited to enroll in that institution by an agent, agency, or by
22 an agent employed by or under contract with an agency if the agent
23 or agency was not in compliance with Sections 94913 to 94923,
24 inclusive, whichever are applicable, at the time of the recruitment
25 or solicitation.

26 94920. An institution approved under this chapter shall cease
27 all recruitment activities involving an agent or agency if the bureau
28 takes action to revoke or deny that agent or agency's authorization.
29 The failure of the institution to do so upon presentation of notice
30 of the bureau's action shall be cause to deny or revoke any approval
31 held by that institution.

32 94921. The bureau shall maintain records for five years of each
33 application for an authorization, each verification by the bureau
34 of an application, each bond, and each denial, issuance, ~~and~~ *or*
35 revocation of an authorization.

36 94922. A student may bring an action for an agent's, agency's,
37 or agency employee's violations of this chapter or any fraud or
38 misrepresentation and, upon prevailing, is entitled to the recovery
39 of damages, reasonable attorney's fees, and costs. If a court finds
40 that the violation was willfully committed, the court shall, in

1 addition to the award of damages, award a civil penalty of up to
2 two times the amount of damages sustained by the student.

3 94923. Any person who violates Sections 94913 to 94922,
4 inclusive, willfully is guilty of a misdemeanor punishable by
5 imprisonment in a county jail not exceeding six months, by a fine
6 not to exceed five thousand dollars (\$5,000), or by both that
7 imprisonment and fine.

8 94924. (a) The governing bureau or other governing authority
9 of an institution shall adopt rules providing for the withholding of
10 institutional services from students or former students who have
11 been notified, in writing, at the student's or former student's last
12 known address, that the student is in default on a loan or loans
13 under either of the following loan programs:

14 (1) The Stafford Student Loan program.

15 (2) The Supplemental Loans for Students program.

16 (3) Any program directly or indirectly financed by the California
17 Educational Facilities Authority.

18 (b) The rules adopted pursuant to subdivision (a) shall provide
19 that the services withheld may be provided during a period when
20 the facts are in dispute and when the student or former student
21 demonstrates to either the governing bureau or other appropriate
22 governing authority of the institution, or the Student Aid
23 Commission and the appropriate entity or its designee, that
24 reasonable progress has been made to repay the loan or that there
25 exists a reasonable justification for the delay as determined by the
26 institution. The rules shall specify the services to be withheld from
27 the student, which may include the following, except that the rules
28 may not include the withholding of registration privileges:

29 (1) The provision of grades.

30 (2) The provision of transcripts.

31 (3) The provision of diplomas.

32 (c) When it is determined that an individual is in default on a
33 loan or loans under either of the loan programs specified in
34 subdivision (a), the Student Aid Commission shall give notice of
35 the default to all institutions through which that individual acquired
36 the loan or loans.

37 (d) Guarantors, or those who act as their agents or act under
38 their control, who provide information to institutions pursuant to
39 this section, shall defend, indemnify, and hold harmless the
40 governing bureau or other governing authority of the institutions

1 from *an* action resulting from compliance with this section when
2 the action arises as a result of incorrect, misleading, or untimely
3 information provided to the institution by the guarantors, their
4 agents, or those acting under the control of the guarantors.

5 94925. (a) (1) An institution extending credit or lending
6 money to a person for tuition, fees, or other charges for educational
7 services to be rendered or furnished shall cause any note,
8 instrument, or other evidence of indebtedness taken in connection
9 with that loan or extension of that credit to be conspicuously
10 marked on the face thereof with the following notice:

11 “NOTICE

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

19 (2) An institution that fails to comply with paragraph (1) shall
20 be liable for any damage or loss suffered or incurred by any
21 subsequent assignee, transferee, or holder of that evidence of
22 indebtedness on account of the absence of that notification.

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

33 (c) An institution that participates in a federal student assistance
34 program and that complies with the financial disclosure and
35 notification requirements for those programs is in compliance with
36 the standards prescribed by this section.

37 94926. (a) A note, or other instrument of indebtedness, or
38 contract relating to payment for educational services is not
39 enforceable by an institution within or outside this state governed
40 by this chapter unless, at the time of execution of that note, other

1 instrument of indebtedness, or contract, the institution has a valid
2 approval to operate pursuant to this chapter.

3 (b) No note, other instrument of indebtedness, or contract
4 relating to payment for educational services shall be enforceable
5 by any institution within or outside this state governed by this
6 chapter unless the agent or agency ~~who enrolled persons, to whom~~
7 *that enrolled persons, to which* educational services were to be
8 rendered or to ~~whom~~ *which* degrees or diplomas were to be granted
9 pursuant to this chapter, held a valid agent or agency authorization
10 at the time of execution of the note, other instrument of
11 indebtedness, or contract.

12 94927. A student may not waive a provision of this chapter.
13 A waiver or limitation of a substantive or procedural right or
14 remedy is in violation of this section, and is void and
15 unenforceable.

16 94928. A person ~~that~~ *who* files a proper application and
17 complies with this chapter and each standard and regulation
18 pertaining to this chapter is qualified to receive an approval to
19 operate. The approval to operate shall be issued to the owners or
20 governing body, and shall be nontransferable, unless approved by
21 the bureau.

22 94929. (a) A shift in control or change in ownership of an
23 institution may not be made until that institution submits an
24 application for approval to operate under the changed ownership
25 or control and that application is approved by the bureau. This
26 application ~~must~~ *shall* be submitted at least 20 days prior to the
27 shift in control or change in ownership.

28 (b) An application filed pursuant to this section shall be
29 approved if that application is filed properly and complies with all
30 applicable ~~standard and regulation pertaining~~ *standards and*
31 *regulations pursuant* to this chapter. Upon approval of a change
32 in ownership, the bureau shall give written notice to the Student
33 Aid Commission.

34 (c) An application filed pursuant to this section shall include a
35 fee pursuant to Article 10 (commencing with Section 95040).

36 (d) An application filed pursuant to this section may include
37 pertinent portions of the institution's previous application prepared
38 in connection with programs or courses of instruction that remain
39 unchanged or unaffected by the change in ownership.

1 (e) An application filed pursuant to this section may not be
2 approved for an applicant that has been found previously in a
3 judicial or administrative proceeding to have violated this chapter,
4 or if there exists any of the grounds for denial set forth in Section
5 480 of the Business and Professions Code or Section 95005 of this
6 code.

7 (f) If an application for a new approval to operate is not timely
8 filed by an institution, as required by this section, that institution's
9 approval to operate shall terminate.

10 (g) For the purposes of this section, a change in ownership
11 occurs when there is a change of control of the institution, or where
12 a person ~~that~~ *who* previously did not own at least 25 percent of the
13 stock or controlling interest of an institution or its parent
14 corporation, acquires ownership of at least 25 percent of the stock
15 of the institution or its parent corporation, or when a for-profit
16 business converts to nonprofit corporation status or forms a
17 nonprofit corporation as a subsidiary to provide the educational
18 services for which the for-profit business is approved to operate.

19 94930. The enrollment, course completion, and employment
20 data used to determine compliance with this chapter and for the
21 purposes of disclosures under Section 94893 shall continue to
22 apply to an institution notwithstanding a change in the institution's
23 ownership, name, or identification number.

24 94931. An institution or representative of an institution ~~may~~
25 *shall* not do any of the following:

26 (a) Operate in this state a postsecondary educational institution
27 not exempted from this chapter.

28 (b) Offer in this state, as or through an agent, enrollment or
29 instruction in, or the granting of educational credentials from, an
30 institution not exempted from this chapter, whether that institution
31 is within or outside this state, unless that agent is a natural person
32 and has a currently valid agent's permit issued pursuant to this
33 chapter, or accept contracts or enrollment applications from an
34 agent who does not have a current permit as required by this
35 chapter.

36 (c) Instruct or educate, or offer to instruct or educate, including
37 soliciting for those purposes, enroll or offer to enroll, contract or
38 offer to contract with any person for that purpose, or award any
39 educational credential, or contract with any institution or party to
40 perform any act, in this state, whether that person, agent, group,

1 or entity is located within or without this state, unless that person,
2 agent, group, or entity observes and is in compliance with the
3 minimum standards set forth in this article.

4 (d) Use, or allow the use of, any reproduction or facsimile of
5 the Great Seal of the State of California on a diploma.

6 (e) Promise or guarantee employment.

7 (f) Advertise concerning job availability, degree of skill, or
8 length of time required to learn a trade or skill unless the
9 information is accurate and in no way misleading.

10 (g) Advertise, or indicate in a promotional material, that
11 correspondence instruction or correspondence courses of study
12 are offered, without including in all advertising or promotional
13 material the fact that the instruction or programs of study are
14 offered by correspondence or home study.

15 (h) Advertise, or indicate in a promotional material, that resident
16 instruction or programs of study are offered, without including in
17 all advertising or promotional material the location where the
18 training is given or the location of the resident instruction.

19 (i) Solicit students for enrollment by causing an advertisement
20 to be published in “help wanted” columns in a magazine,
21 newspaper, or publication, or use “blind” advertising that fails to
22 identify the institution.

23 (j) Advertise, or indicate in a promotional material, that the
24 institution is accredited, unless the institution has been recognized
25 or approved as meeting the standards established by an accrediting
26 agency recognized by the United States Department of Education
27 or the Committee of Bar Examiners for the State of California.

28 (k) Fail to comply with federal requirements relating to the
29 disclosure of information to students regarding vocational and
30 career training programs, as described in Section 94894.

31 (l) (1) Fail to comply with Part 433 (commencing with Section
32 433.1) of Title 16 of the Code of Federal Regulations, as it existed
33 on January 1, 2007, and as it is amended from time to time
34 thereafter.

35 (2) For each student who enters into a consumer credit contract
36 that is subject to Part 433 (commencing with Section 433.1) of
37 Title 16 of the Code of Federal Regulations, as it existed on January
38 1, 2007, and as it is amended from time to time thereafter, the
39 institution shall include the following statement in any written
40 contract or agreement for educational services or, in the alternative,

1 shall provide the student with a separate written notice containing
2 the following statement:

3 “YOU MAY ASSERT AGAINST THE HOLDER OF THE
4 PROMISSORY NOTE YOU SIGNED IN ORDER TO FINANCE
5 THE COST OF INSTRUCTION ALL OF THE CLAIMS AND
6 DEFENSES THAT YOU COULD ASSERT AGAINST THIS
7 INSTITUTION, UP TO THE AMOUNT YOU HAVE ALREADY
8 PAID UNDER THE PROMISSORY NOTE.”

9 (3) The statement set forth in paragraph (2) shall be printed in
10 boldface print of at least 12-point type.

11 94932. An institution or representative of an institution may
12 not do any of the following:

13 (a) No institution or representative of an institution shall make
14 or cause to be made any statement that is in any manner untrue or
15 misleading, either by actual statement, omission, or intimation.

16 (b) No institution or representative of an institution shall engage
17 in any false, deceptive, misleading, or unfair act in connection
18 with any matter, including the institution’s advertising and
19 promotion, the recruitment of students for enrollment in the
20 institution, the offer or sale of a program of instruction, course
21 length, course credits, the withholding of equipment, educational
22 materials, or loan or grant funds from a student, training and
23 instruction, the collection of payments, or job placement.

24 (c) Induce a person to enter into an agreement for a program of
25 instruction by offering to compensate that person to act as the
26 institution’s representative in the solicitation, referral, or
27 recruitment of others for enrollment in the institution.

28 (d) Offer to pay or pay any consideration to a student or
29 prospective student to act as a representative of the institution with
30 regard to the solicitation, referral, or recruitment of any person for
31 enrollment in the institution in either of the following:

32 (1) During the 60-day period following the date on which the
33 student began the program.

34 (2) At a subsequent time, if the student has not maintained
35 satisfactory academic progress in acquiring the necessary level of
36 education, training, skill, and experience to obtain employment in
37 the occupation or job title to which the program is represented to
38 lead. The institution shall have the burden of proof to establish
39 that the student has maintained satisfactory academic progress.

1 (e) Pay any consideration to a person to induce that person to
2 sign an agreement for a program of instruction.

3 (f) Use a misleading name in any manner implying any of the
4 following:

5 (1) The institution is affiliated with any governmental agency,
6 public or private corporation, agency, or association.

7 (2) The institution is a public institution.

8 (3) The institution grants degrees.

9 (g) In any manner make an untrue or misleading change in, or
10 untrue or misleading statement related to, a test score, grade, record
11 of grades, attendance record, record indicating student completion
12 or employment, *or* financial information, including any of the
13 following:

14 (1) A financial report required to be filed pursuant to Sections
15 94906 to 94910, inclusive.

16 (2) Information or records relating to the student's eligibility
17 for financial assistance or attendance at the institution.

18 (3) ~~Other~~ Any other record or document required by this chapter
19 or by the bureau.

20 (h) Falsify, destroy, or conceal any record or other item while
21 that record or item is required to be maintained by this chapter or
22 by the bureau.

23 (i) Use the terms "approval," "approved," "approval to operate,"
24 or "approved to operate" without stating clearly and conspicuously
25 that approval to operate means compliance with state standards as
26 set forth in this chapter. If the bureau has granted an institution
27 approval to operate, the institution or its representative may indicate
28 that the institution is "licensed" or "licensed to ~~operate~~" *operate*,"
29 but may not state or imply any of the following:

30 (1) The institution or its programs of instruction are endorsed
31 or recommended by the state or by the bureau.

32 (2) The bureau's grant to the institution of approval to operate
33 indicates that the institution exceeds minimum state standards as
34 set forth in this chapter.

35 (3) The bureau or the state endorses or recommends the
36 institution.

37 (j) Direct a representative to perform any unlawful act, to refrain
38 from complaining or reporting unlawful conduct to the bureau or
39 another government agency, or to engage in any unfair act to

1 persuade a student not to complain to the bureau or another
2 government agency.

3 (k) An institution offering programs or courses of instruction
4 represented to lead to occupations or job titles requiring licensure
5 ~~may~~ *shall* not enter into an agreement for a course of instruction
6 with a person ~~whom~~ *who* the institution knows or, by the exercise
7 of reasonable care, should know, would be ineligible to obtain
8 licensure in the occupation or job title to which the course of
9 instruction is represented to lead, at the time of the scheduled date
10 of course completion, for reasons such as age, physical
11 characteristics, or relevant past criminal conviction.

12 (l) An institution may not compensate a representative involved
13 in recruitment, enrollment, admissions, student attendance, or sales
14 of equipment to students on the basis of a commission, commission
15 draw, bonus, quota, or other similar method except as follows:

16 (1) If the program of instruction is scheduled to be completed
17 in 90 days or less, the institution shall pay compensation related
18 to a particular student only if that student completes the course.

19 (2) If the program of instruction is scheduled to be completed
20 in more than 90 days, the institution shall pay compensation related
21 to a particular student as follows:

22 (A) Compensation ~~may~~ *shall* not be paid for at least 90 days
23 after that student has begun the program.

24 (B) Up to one-half of the compensation may be paid before the
25 student completes the program only if the student has made
26 satisfactory academic progress, documented by the institution in
27 the student's file, for more than 90 days.

28 (C) The remainder of the compensation shall be paid only after
29 the student's completion of the program. This subdivision shall
30 not prevent the payment at any time of an hourly, weekly, monthly,
31 or annual wage or salary.

32 94933. An institution is liable in a civil or administrative action
33 or proceeding for a violation of this article committed by a
34 representative of the institution. ~~An~~ *To the extent permitted by law,*
35 *an* institution is liable in a criminal action for violations of this
36 article committed by a representative of the institution ~~to the extent~~
37 ~~permitted by law.~~

38 94934. An institution that willfully violates a provision of this
39 article, Article 5 (commencing with Section 94890), or Article 6
40 (commencing with Section 94960), may not enforce any contract

1 or agreement arising from the transaction in which the violation
2 occurred, and shall refund to the student any fees that it has
3 collected from the student.

4 94935. (a) If a program of instruction is based on a sequence
5 of classes, class sessions, or lessons, and the learning experience
6 to be derived from any class, class sessions, or lesson within the
7 sequence is based in any manner on a student's attendance at or
8 completion of a prior class, class session, or lesson, an institution
9 shall not enroll a student in that program of instruction unless the
10 instruction begins with the first class, class session, or lesson and
11 proceeds in the appropriate sequence.

12 (b) (1) If a program of instruction is based on a series of modules
13 ~~comprised of class sessions or lessons~~ *composed of class sessions*
14 *or lessons*, and the learning experience to be derived from any
15 module is based in a manner on a student's attendance at, or
16 completion of, any class sessions or lessons in any other module,
17 an institution shall not enroll a student in that course of instruction
18 unless the student begins and proceeds in the appropriate sequence.

19 (2) If a program of instruction is based on a series of modules
20 ~~comprised of class sessions or lessons~~ *composed of class sessions*
21 *or lessons*, and the learning experience to be derived from any
22 module is not based on a student's attendance at, or completion
23 of, any classes or lessons in any other module, an institution shall
24 only enroll a student in the program of instruction if the student
25 begins with the first class, class session, or lesson in a module.

26 (c) Notwithstanding subdivisions (a) and (b), if a class or a
27 module consists of more than 60 days of instruction, the institution
28 may enroll a student to begin no later than the fifth class session
29 of the first class or the fifth class session in the appropriate module.

30 (d) An institution shall not merge classes unless all of the
31 students have received the same amount of instruction and training.
32 This subdivision does not prevent the placement of students, who
33 are enrolled in different programs of instruction, in the same class
34 if that class is part of each of the courses and the placement in a
35 merged class will not impair the students' learning of the subject
36 matter of the class.

37 (e) After a student has enrolled in a program of instruction, the
38 institution shall not do any of the following:

39 (1) Make any unscheduled suspension of any class unless caused
40 by circumstances beyond the institution's control.

(2) Change the day or time in which any class is offered to a day when the student is not scheduled to attend the institution or to a time that is outside of the range of time that the student is scheduled to attend the institution on the day for which the change is proposed, unless at least 90 percent of the students who are enrolled consent to the change and the institution offers full refunds to the students who do not consent to the change. For the ~~purpose~~ *purposes* of this paragraph, “range of time” means the period beginning with the time at which the student’s first scheduled class session for the day is set to start and ending with the time the student’s last scheduled class session for that day is set to finish.

(f) If an institution enrolls a student in a program of instruction that is not offered or designed as a home study or correspondence course at the time of enrollment, the institution shall not convert the program of instruction from classroom instruction to a home study or correspondence course.

(g) An institution shall not move the class instruction to a location more than five miles from the location of instruction at the time of enrollment unless any of the following occur:

(1) The institution discloses orally, and clearly and conspicuously in writing, to each student before enrollment in the program that the location of instruction will change after the program begins and the address of the proposed location.

(2) The institution applies for, and the bureau grants, approval to change the location. The bureau shall grant the application within 30 days if the bureau, after notice to affected students and *after offering* an opportunity for them to be heard as prescribed by the bureau, concludes that the change in location would not be unfair or unduly burdensome to students. The bureau may grant approval to change the location ~~which shall be~~, *and may make that approval* subject to reasonable conditions, such as requiring the institution to provide transportation, transportation costs, or refunds to adversely affected students.

(3) The institution offers a full refund to students enrolled in the program of instruction who do not voluntarily consent to the change.

94936. A bond ordered by the bureau pursuant to this chapter shall be issued by an admitted surety insurer in an amount established at the discretion of the bureau that is sufficient to

1 protect students from the potential consequences of the violation.

2 The following shall also be required:

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

7 (b) Liability on the bond may be enforced after a hearing before
8 the bureau, after ~~30-days~~ *days*' advance written notice to the
9 principal and surety. The bureau shall adopt regulations
10 establishing the procedure for administrative enforcement of
11 liability. This ~~paragraph~~ *subdivision* supplements, but does not
12 supplant, any other rights or remedies to enforce liability on the
13 bond.

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

18 94937. An institution shall establish specific written standards
19 for student admissions for each educational program. These
20 standards shall be related to the particular educational program.
21 The institution shall not admit any student who is obviously
22 unqualified. Each institution shall specify the maximum number
23 of credits it will accept from another institution for each educational
24 program and the basis upon which the transfer of experiential credit
25 will be awarded.

26 94938. (a) An institution shall not enter into an agreement for
27 a program of instruction with a student unless the institution first
28 administers to the ~~student and the student passes~~ *student, and the*
29 *student passes*, a test as provided in subdivision (b).

30 (b) (1) The test required by subdivision (a) shall be a
31 standardized test that is designed to ~~measure and that reliably and~~
32 ~~validly measures~~ *measure, and that reliably and validly measures*,
33 the student's ability to be successfully trained to perform the tasks
34 associated with the occupations or job titles to which the program
35 of instruction is represented to lead. The student's performance
36 on the test ~~must~~ *shall* demonstrate that ability.

37 (2) Nothing in paragraph (1) precludes an institution from using
38 additional tests to determine a student's ability to be trained to
39 perform tasks associated with the occupations and job titles for
40 which training is offered as described in paragraph (1).

1 (3) (A) If no standardized test is available that satisfies paragraph
2 (1), the institution shall use other appropriate tests to determine
3 the student's ability to be trained to perform the tasks associated
4 with the occupations and job titles for which training is offered as
5 described in paragraph (1). Within 30 days of determining that no
6 standardized test satisfies paragraph (1), the institution shall so
7 inform the bureau and shall describe and, if possible, furnish the
8 bureau with the test to be used in lieu of the test required by
9 paragraph (1).

10 (B) Upon reasonable notice to the institution, the bureau may
11 order the institution to demonstrate to the reasonable satisfaction
12 of the bureau that the test and passing score are an appropriate
13 measure of the student's ability to be trained to perform the tasks
14 associated with the occupations or job titles to which the course
15 is represented to lead. If the *bureau determines that the* test is not
16 an appropriate measure, the bureau, after notice, and if requested,
17 a hearing, shall order that the institution cease administering the
18 test.

19 (c) The institution shall have the burden of proof that the test
20 complies with subdivision (b). If no minimum passing score is
21 established by the test developer or if the minimum passing score
22 used by the institution is below the minimum passing score
23 established by the test's developer, the institution shall have the
24 burden of proof that the student's achievement of the minimum
25 passing score reasonably measures the student's ability to be
26 successfully trained to perform the tasks associated with the
27 occupations and job titles to which the course of instruction is
28 represented to lead. The test shall be administered in accordance
29 with the test's instructions, rules, and time limits.

30 (d) (1) The test shall be completed solely by the student.

31 (2) (A) No institution or any person in any manner associated
32 with the institution shall do any of the following:

33 (i) Answer any of the test questions.

34 (ii) Read any of the test questions to the student.

35 (iii) Provide any assistance whatsoever to the student in
36 answering test questions.

37 (B) Nothing in this paragraph prevents an institution from
38 providing nonsubstantive assistance to accommodate the disability
39 of a handicapped person otherwise qualified to take the test.

(3) The test shall be given by the institution on its premises or by an independent testing service. The site requirement does not apply to an institution offering a home study or correspondence course.

(4) If a prospective student has failed a test, the institution or the testing service that administered the test shall not administer another test to that prospective student for at least the period specified by the test developer or one week, whichever is longer. Any subsequent test administered by an institution to the same prospective student shall be a substantially different form of the same test or a substantially different test than the preceding test, and shall satisfy the requirements of paragraph (1) or, if applicable, paragraph (3) of subdivision (b).

(e) An institution's application for approval to operate shall do all of the following:

(1) Identify the test used to comply with this section.

(2) State the minimum score, if any, that the test's developer indicates a prospective student must achieve to demonstrate an ability to be successfully trained to perform the tasks associated with the occupations or job titles to which the course is represented to lead.

(3) State the minimum passing score used by the institution.

(4) If the institution accepts a lower minimum passing score than is indicated by the test's developer, state an explanation of why the institution accepts a lower minimum passing score.

(f) The institution shall, for five years, retain an exemplar of each test administered by the institution pursuant to this section, an exemplar of the answer sheet for each test, a record of the passing score for each test, and the answer sheets or other responses submitted by each person who took each test.

94939. (a) A student shall have the right to cancel an agreement for a program of instruction, including any equipment, as follows:

(1) For degree programs, the student shall have the right to cancel prior to or on the first day of instruction.

(2) For nondegree programs in excess of 50 days, the student shall have the right to cancel until midnight of the fifth business day after the day on which the student did any of the following, whichever is later:

1 (A) Attended the first class of the program of instruction that
2 is the subject of the agreement.

3 (B) Received a copy of the notice of cancellation as provided
4 in Section 94899.

5 (C) Received a copy of the enrollment agreement and the
6 disclosures as required by Section 94893.

7 (3) For nondegree programs of 50 or fewer days, the student
8 shall have the right to cancel the agreement until midnight of the
9 date that is one business day for every 10 days of scheduled
10 program length, rounded up for any fractional increments thereof.

11 (4) For distance learning programs, if the first lesson is sent to
12 the student by mail, the institution shall send it by first-class mail,
13 postage prepaid, documented by a certificate of mailing, and the
14 student shall have a right to cancel until midnight of the eighth
15 business day after the first lesson was mailed. If the first lesson is
16 sent to the student electronically, the student shall have the right
17 to cancel until midnight of the third business day after the first
18 lesson was electronically received by the student.

19 (b) Cancellation shall occur when the student gives written
20 notice of cancellation to the institution at the address specified in
21 the agreement.

22 (c) The written notice of cancellation, if given by mail, is
23 effective when deposited in the mail properly addressed with
24 postage prepaid.

25 (d) The written notice of cancellation need not take a particular
26 form and, however expressed, is effective if it indicates the
27 student's desire not to be bound by the agreement.

28 (e) Except as provided in subdivision (g) of *Section 94941*, if
29 the student cancels the agreement, the institution shall refund,
30 without penalty or obligation, 100 percent of the amount paid to
31 that institution by or on behalf of the student, less a reasonable
32 deposit or application fee not to exceed one hundred fifty dollars
33 (\$150), within 10 days after the institution receives notice of the
34 cancellation.

35 (f) If the institution gave the student any equipment, the student
36 shall return the equipment within 10 days following the date of
37 the notice of cancellation. If the student fails to return the
38 equipment within this 10-day period, the institution may retain
39 that portion of the consideration paid by the student equal to the
40 documented cost to the institution of the equipment, and shall

1 refund the portion of the consideration exceeding the documented
2 cost to the institution of the equipment within 10 days after the
3 period within which the student is required to return the equipment.
4 The student may retain the equipment without further obligation
5 to pay for it.

6 94940. (a) If a student withdraws from a program of instruction
7 after the applicable period described in Section 94939, the
8 institution shall remit a refund as provided in Section 94941 within
9 30 days following the student's withdrawal.

10 (b) If any portion of the tuition was paid from the proceeds of
11 a loan, the refund shall be sent to the lender or, if appropriate, to
12 the state or federal agency that guaranteed or reinsured the loan.
13 Any amount of the refund in excess of the unpaid balance of the
14 loan shall be first used to repay any student financial aid program
15 from which the student received benefits, in proportion to the
16 amount of the benefits received, and any remaining amount shall
17 be paid to the student.

18 (c) Within 10 days of the day on which the refund is made, the
19 institution shall notify the student in writing of the date on which
20 the refund was made, the amount of the refund, the method of
21 calculating the refund, and the name and address of the entity to
22 which the refund was sent. The following statement shall be placed
23 at the top of the notice in at least 10-point boldface type: "This
24 Notice is Important. Keep It For Your Records."

25 (d) Except for subdivision (a), this section shall not apply to a
26 student if both of the following occur:

27 (1) All of that student's tuition and fees are paid by a third-party
28 organization, such as a Job Training Partnership Act agency, a
29 ~~Regional Occupational Program or Regional Occupational Center,~~
30 ~~a Private Industry Council,~~ *regional occupational program or*
31 *regional occupational center, a private industry council,* or a
32 vocational rehabilitation program, if the student is not obligated
33 to repay the third-party organization or does not lose time-limited
34 educational benefits.

35 (2) The third-party organization and the institution have a written
36 agreement, entered into on or before the date the student enrolls,
37 that no refund will be due to the student if the student withdraws
38 prior to completion. The institution shall provide a copy of the
39 written agreement to the bureau. The institution shall disclose to
40 any student whose refund rights are affected by this agreement, in

1 all disclosures required to be given to the student by this chapter,
2 that the student is not entitled to a refund. It is the intent of the
3 Legislature that this ~~subdivision~~ *paragraph* not apply to any student
4 whose tuition and fees are paid with funds provided to the
5 third-party organization for the student's benefit as part of any
6 program that provides funds for training welfare recipients or that
7 is related to welfare reform.

8 94941. (a) An institution shall refund the unused portion of
9 tuition fees and other charges if a student does not register for the
10 period of attendance, withdraws at any time prior to completion
11 of the course, or otherwise fails to complete the period of
12 enrollment as provided in this section.

13 (b) For students enrolled in a degree program, the institution
14 shall provide a pro rata refund to students who completed 60
15 percent or less of the course of instruction.

16 (c) Except as provided in subdivision (d), the refund shall be
17 calculated as follows:

18 (1) Deduct a registration fee not to exceed one hundred fifty
19 dollars (\$150) from the total tuition charge.

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

21 (3) The quotient *derived in paragraph (2)* is the hourly charge
22 for the program.

23 (4) The amount owed by the student for the purposes of
24 calculating a refund is derived by multiplying the total hours
25 attended by the hourly charge for instruction ~~plus~~ *and adding to*
26 *that product* the amount of the registration fee specified in
27 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 (6) The refund amount shall be adjusted as provided in
31 subdivision (f) or (g) for equipment and as provided in subdivision
32 (h) for resident instruction, if applicable.

33 (d) For an educational service offered by distance learning,
34 home study, or correspondence, the refund shall be calculated as
35 follows:

36 (1) Deduct a registration fee not to exceed one hundred dollars
37 (\$100) from the total tuition charge.

38 (2) Divide this figure by the number of lessons for which the
39 student has paid, but which the student has not completed and
40 submitted.

1 (3) The quotient *derived in paragraph (2)* is the per lesson
2 charge.

3 (4) The amount owed by the student for the purposes of
4 calculating a refund is derived by multiplying the total number of
5 lessons for which the student has paid by the per lesson charge
6 calculated in paragraph (3) ~~plus and adding to that product~~ the
7 amount of the registration fee specified in paragraph (1).

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

10 (6) For the purposes of this section, an institution may specify
11 in an enrollment agreement the time limits within which a student
12 is required to complete the requirements of a course in a distance
13 learning program.

14 (e) Notwithstanding any provision in any agreement, all of the
15 following shall apply:

16 (1) All amounts that the student has paid, however denominated,
17 shall be deemed to have been paid for instruction, unless the student
18 has paid a specific charge for equipment set forth in the agreement
19 for the program of instruction.

20 (2) In the case of an educational service offered by home study
21 or correspondence, all amounts that the student has paid, however
22 denominated, shall be deemed to have been paid for lessons unless
23 the student has paid a specific charge for equipment or resident
24 instruction as set forth in the agreement for the educational service.

25 (3) The total number of hours necessary to complete each lesson
26 of home study or correspondence instruction shall be substantially
27 equivalent to each other lesson unless otherwise permitted by the
28 bureau.

29 (4) An equal charge shall be deemed to have been made for
30 each hour of instruction or each lesson.

31 (f) If the institution specifies in the agreement a separate charge
32 for equipment that the student actually obtains and the student
33 returns that equipment in good condition, allowing for reasonable
34 wear and tear, within 30 days following the date of the student's
35 withdrawal, the institution shall refund the charge for the equipment
36 paid by the student. If the student fails to return that equipment in
37 good condition, allowing for reasonable wear and tear, within 30
38 days following the date of the student's withdrawal, the institution
39 may offset against the refund calculated under subdivision (a) the
40 documented cost to the institution of that equipment. The student

1 shall be liable for the amount, if any, by which the documented
2 cost for equipment exceeds the refund amount calculated under
3 subdivision (a). For the ~~purpose~~ *purposes* of this subdivision,
4 equipment cannot be returned in good condition if the equipment
5 cannot be reused because of clearly recognized health and sanitary
6 reasons and this fact is clearly and conspicuously disclosed in the
7 agreement.

8 (g) If the institution specifies in the agreement a separate charge
9 for equipment, which the student has not obtained at the time of
10 the student's withdrawal, the refund also shall include the amount
11 paid by the student that is allocable to that equipment.

12 (h) If an agreement for educational service offered by distance
13 learning, home study, or correspondence includes a separate charge
14 for resident instruction, which the student has not begun at the
15 time of the student's withdrawal, the institution shall refund the
16 charge for the resident instruction paid by the student. If the student
17 withdraws from the educational service after beginning the resident
18 instruction, the institution shall pay a refund equal to the amount
19 the student paid for the resident instruction multiplied by a fraction,
20 the numerator of which is the number of hours of resident
21 instruction which the student has not received but for which the
22 student has paid, and the denominator of which is the total number
23 of hours of resident instruction for which the student has paid.

24 (i) For the purpose of determining a refund under this section,
25 a student shall be deemed to have withdrawn from a program of
26 instruction when any of the following occurs:

27 (1) The student notifies the institution of the student's
28 withdrawal or of the date of the student's withdrawal, whichever
29 is later.

30 (2) The institution terminates the student's enrollment as
31 provided in the agreement.

32 (3) The student has failed to attend classes for a three-week
33 period. For the purpose of determining the amount of the refund,
34 the date of the student's withdrawal shall be deemed the last date
35 of recorded attendance. For the ~~purpose~~ *purposes* of determining
36 when the refund must be paid pursuant to subdivision (a) of Section
37 9161.5 94940, the student shall be deemed to have withdrawn at
38 the end of the three-week period.

39 (4) The student has failed to submit three consecutive lessons,
40 or has failed to submit a completed lesson within 60 days of its

1 due date as set by an educational service offered by distance
2 learning, home study, or correspondence. For the ~~purpose~~ *purposes*
3 of this paragraph, the date of the student's withdrawal shall be
4 deemed to be the date on which the student submitted the last
5 completed lesson.

6 (j) An institution shall have the burden of proof to establish the
7 validity of the amount of every refund. The institution shall
8 maintain records for five years of all the evidence on which the
9 institution relies *for the determination of refund amounts*.

10 94942. A degree granting institution offering an educational
11 program for which the refund calculations set forth in this article
12 cannot be utilized because of the unique way in which the program
13 is structured may petition the bureau for an alternative method of
14 calculating tuition refunds. The bureau shall determine the details
15 of an alternative refund policy, by regulation, and shall take into
16 consideration the contract for educational services entered into
17 with the student, as well as the length and character of the
18 educational program in determining standards for refunds. The
19 decision of the bureau shall be final.

20 94943. If any person willfully violates this article and the
21 violation results in the closure of an institution, that person shall
22 pay to all students of the closed institution full refunds or full
23 compensation for actual damages resulting from the closure that
24 were not paid by the closed institution.

25 94944. A student may not waive a provision of this article. A
26 waiver or limitation of a substantive or procedural right or remedy
27 is in violation of this section, and is void and unenforceable.

28 94945. (a) (1) Every institution shall meet the following
29 completion performance standard for each program offered at a
30 site during the applicable completion tracking period described in
31 subdivision (b):

32 (2) Sixty percent or more of the students who began the program,
33 did not cancel within the cancellation period, and were originally
34 scheduled at the time of enrollment to complete the program during
35 that completion tracking period, shall complete it during that
36 completion tracking period.

37 (b) (1) Every institution shall meet the following employment
38 performance standard for each vocational program offered at a site
39 during the applicable completion tracking period described in
40 paragraph (2):

1 (2) Seventy percent or more of the students who completed the
2 program within that completion tracking period, regardless of when
3 they were scheduled to complete, shall obtain employment, as
4 defined in Section 94792.

5 (c) For the purposes of subdivisions (a) and (b), students who,
6 as documented by the institution, have been prevented from
7 completing the program or obtaining employment due to death,
8 disability, pregnancy, military service, incarceration, or
9 participation in the Peace Corps or domestic volunteer service,
10 shall be excluded from the computations used to determine whether
11 an institution has met the performance standards prescribed by
12 those subdivisions.

13 (d) (1) This subdivision applies only to an institution in which
14 15 or fewer students started a program, did not cancel during the
15 cancellation period, and were originally scheduled at the time of
16 enrollment to complete the program during that completion tracking
17 period.

18 (2) If an institution described in ~~subparagraph~~ *paragraph* (1)
19 fails to meet any of the performance standards in subdivision (a)
20 or (b), but would have met the standard if one more student had
21 completed or obtained employment, then the institution shall be
22 deemed to have complied with this section in connection with that
23 program.

24 (e) Any institution which has a site at which the majority of the
25 programs failed the completion performance ~~standard~~ *or standard*,
26 *or the* majority of the vocational programs failed the employment
27 performance standard, shall be classified as a Tier 3 institution.

28 (f) (1) The following applies to any program about which either
29 of the following is true:

30 (A) It fails to meet either or both of the performance standards
31 in subdivision (a) or (b) by 10 percent or less.

32 (B) It fails to meet either or both of the performance standards
33 in subdivision (a) or (b) by more than 10 percent, but has an overall
34 employment rate as described in subdivisions (a), (b), and (c) of
35 40 percent or higher.

36 (2) If any institution fails to demonstrate by February 28 of the
37 third year, or by February 28 of the fourth year if the licensing
38 examination exception of subdivision (b) of Section 94812 applies,
39 after the completion of the tracking period in which a program
40 failed the completion performance standard, that 60 percent of the

1 students who started at that site, did not cancel during the
2 cancellation period, and who were originally scheduled to complete
3 in the prior year, completed the program in that year, the bureau
4 shall order the institution to stop enrolling any students in that
5 course for two years from that date.

6 (3) If any institution fails to demonstrate by February 28 of the
7 fourth year, or by February 28 of the fifth year if the licensing
8 examination exception of subdivision (b) of Section 94812 applies,
9 after the completion tracking period for a program that failed the
10 employment performance standard, that 70 percent of the students
11 who completed the program at that site in the most recent
12 completion tracking period obtained employment, the bureau shall
13 order the institution to stop enrolling any students in that course
14 for two years from that date.

15 (4) No action shall be taken pursuant to this subdivision without
16 notice, and if requested by the institution, a hearing.

17 (5) In taking action pursuant to paragraph (3), the bureau shall
18 consider the impact, if any, of changes in the employment rate of
19 the area served by the site.

20 (g) (1) This subdivision applies to either of the following:

21 (A) Any program that fails to meet either performance standard
22 in subdivision (a) or (b) by more than 10 percent, or any vocational
23 program which fails to meet either performance standard in
24 subdivision (a) or (b) by more than 10 percent if the institution
25 cannot demonstrate that the vocational program has an overall
26 employment rate as described in subdivisions (a), (b), and (c) of
27 40 percent or higher.

28 (B) Any site at which the majority of the programs fail to meet
29 either performance standard in subdivision (a) or (b) by more than
30 10 percent, or any site at which the majority of the programs fail
31 to meet either performance standard in subdivision (a) or (b) by
32 more than 10 percent and the institution cannot demonstrate that
33 the majority of the vocational programs have an overall
34 employment rate as described in subdivisions (a), (b), and (c) of
35 40 percent or higher.

36 (2) ~~The~~ *If either of the situations described in paragraph (1)*
37 *occurs:*

38 (A) *The* bureau shall order the institution to stop offering that
39 program.

40 ~~(3)~~

1 (B) The bureau shall revoke the approval of the institution to
2 operate that site.

3 ~~(4)~~

4 (3) No action shall be taken pursuant to this subdivision without
5 notice, and if requested by the institution, a hearing.

6 (h) (1) The institution shall have the burden of complying with
7 this section.

8 (2) The bureau shall investigate an institution whenever the
9 bureau deems *it* appropriate to verify the institution's compliance
10 with this section. The investigation shall include an examination
11 of the institution's records and contacts with students and
12 employers.

13 (3) If an institution willfully falsifies, alters, destroys, conceals,
14 or provides false or misleading information relating to compliance
15 with this section, including, but not necessarily limited to, records
16 maintained pursuant to subdivision (j), the bureau shall revoke the
17 institution's approval to operate. No action shall be taken pursuant
18 to this subdivision without notice, and if requested by the
19 institution, a hearing.

20 (4) The remedies provided in this section supplement, but do
21 not supplant, any other penalty or remedy provided by law.

22 (i) A determination (1) that a program or programs failed to
23 meet any completion or employment performance standard, (2) of
24 the percentage by which an institution failed to meet ~~such a~~ *that*
25 standard, (3) of the classification of an institution as Tier 3, or (4)
26 that a program or programs met or failed to meet the overall
27 employment rate, shall be effective on the date an institution reports
28 any completion or employment rate that does not meet the
29 performance standard completion or employment performance
30 standards or overall employment rate or rates to the bureau, or if
31 not based on the institution's reporting, then when an order is
32 entered determining the fact.

33 (j) For each program an institution has offered at each location,
34 the institution shall maintain all records necessary to substantiate
35 its completion and employment performance numbers and rates,
36 including all of the following:

37 (1) An electronic list or spreadsheet showing all of the following:

38 (A) For each student who enrolled in the program, the student's
39 name, address, ~~email address if available, and telephone~~ *electronic*
40 *mail address if available, and telephone number*; the date the

1 student enrolled; whether the student canceled within the
2 cancellation period; the date the student was scheduled at the time
3 of enrollment to complete the program; whether the student
4 completed the program; and the date the student left the program
5 or completed the program.

6 (B) The identity of each student the institution counts as having
7 taken the first available state examination after the student
8 completed the program, if the examination is required by the state
9 for particular employment, whether the student passed the
10 examination or not, and the date the examination results were first
11 made available.

12 (C) The identity of each student the institution counts as having
13 obtained employment; for that employment, the employer's name,
14 address, ~~email~~ *electronic mail* address if available, and telephone
15 number; the name, address, ~~email~~ *electronic mail* address if
16 available, and telephone number of the person who provided the
17 information to the institution regarding the student's employment;
18 the name, title, or description of the job; the date the student
19 obtained the job; the number of hours per week the student worked
20 at the job; the duration of the student's employment; and the
21 amount of the student's salary, if the institution makes any salary
22 claims.

23 (2) For each student the institution counts as having obtained
24 ~~employment, which is part-time~~ *part-time employment*, a
25 handwritten statement completed by the student at the beginning
26 of the program and at the end of the program which states that the
27 student's educational objective is part-time employment. The
28 institution shall not require the student to complete the statement
29 or provide any incentive, financial or otherwise, to any student for
30 signing the statement.

31 (3) For each student the institution counts as having obtained
32 employment based on being self-employed, reliable indices of self
33 employment such as contracts, checks for payment, tax returns,
34 social security contribution records, records of accounts receivable
35 or customer payments, invoices for business supplies, rent receipts,
36 appointment book entries, or business ~~license~~ *licenses*, or a
37 statement signed by the student at least 60 days after the student
38 completed the course stating that the student considers himself or
39 herself self-employed, that the student has earned money from the
40 self-employment, and the identity of one or more of the documents

1 listed above which the student has to document the
2 self-employment.

3 (4) For each student the institution excludes from the
4 computation of performance standards under this subdivision,
5 documentation of the date or dates and fact of the *applicable* death,
6 disability, pregnancy, military service, incarceration, or
7 participation in the Peace Corps or as a Domestic Volunteer.

8 94946. A person may not own or operate an institution, or give
9 instruction, for the driving of motortrucks of three or more axles
10 that are more than 6,000 pounds unladen weight unless all of the
11 following conditions are met:

12 (a) The institution has been approved by the bureau.

13 (b) The institution, at the time of application and thereafter,
14 maintains both of the following:

15 (1) Proof of compliance with liability insurance requirements
16 that are the same as those established by the Department of Motor
17 Vehicles for a driving institution owner, pursuant to Section 11103
18 of the Vehicle Code, unless the ~~Bureau~~ *bureau* deems it necessary
19 to establish a higher level of insurance coverage.

20 (2) A satisfactory safety rating by the Department of the
21 California Highway Patrol is established pursuant to Division 14.8
22 (commencing with Section 34500) of the Vehicle Code.

23 (c) The institution, at all times, shall maintain the vehicles used
24 in ~~driving~~ *driver* training in safe mechanical condition. The
25 institution shall keep all records concerning the maintenance of
26 the vehicles.

27 (d) The driving instructions meet the requirements set forth in
28 Section 11104 of the Vehicle Code.

29 (e) Any other terms and conditions required by the bureau to
30 protect the public safety or to meet the requirements of this chapter.

31 94947. The Legislature finds and declares that private lending
32 is an appropriate and sometimes necessary function to enable
33 students to finance their direct and indirect costs of attendance at
34 private postsecondary institutions, and that ~~such~~ *this* lending
35 benefits both the students and the economy; however, neither the
36 students nor the economy are served by usurious instruments of
37 debt, by lack of student counseling regarding loan rights and
38 obligations, or by undisclosed financial relationships between
39 institutions and lending entities.

1 94948. (a) All institutions subject to the approval requirements
2 of this chapter shall identify each student who makes an application
3 ~~for and receives for, and receives~~, loan moneys other than loans
4 provided under a governmental student financial aid program, to
5 the extent that ~~such~~ *this* information is reasonably available to the
6 institution, including, but not *necessarily* limited to, students for
7 whom the institution makes a referral to a lender, students for
8 whom the institution acts as lender, students receiving loan
9 proceeds from a lending entity in which the institution has a
10 financial interest, or students for whom loan proceeds are received
11 by the institution on behalf of the student.

12 (b) The institution shall ensure, either by providing the service
13 or by documenting that the service has been provided by the
14 lending entity, that each student has received information regarding
15 the student's rights and obligations related to ~~such~~ loans at the
16 time of signing a promissory note, and at the end of a student's
17 academic program. If a student leaves a program prior to
18 completion of the program, the institution shall make an attempt
19 to contact that student at the last known student address to ensure
20 the student has received ~~such~~ information from the lending entity
21 or to provide information to the student itself, and shall keep
22 evidence of its attempt to do so.

23 (c) (1) ~~Institutions~~ *An institution* shall disclose to the student
24 any formal or informal relationship between the institution and
25 the lender, including, but not necessarily limited to, an agreement
26 between the institution and lender to make referrals, to place that
27 lender in a preferred status for students of that institution, or to
28 provide any benefit, financial or otherwise, to the institution as a
29 result of referral or student borrowing, and shall disclose any
30 financial interest of the institution in the lending entity.

31 (2) Disclosure under this subdivision shall be made, prior to the
32 loan proceeds being received by the ~~student~~ *where student*,
33 *whenever* the institution has a reasonable opportunity to know of
34 the student's application for ~~such~~ *the* loan.

35 (3) Disclosure under this subdivision shall be included in the
36 information and materials provided to the student at the time of
37 negotiation of the enrollment ~~contract~~ *where contract*, *whenever*
38 the institution has a reasonable opportunity to know of the student's
39 application for that loan.

1 ~~(4) Gifts or other considerations~~ *A gift or other consideration*
2 *of below one hundred dollars (\$100) in total value exchanged*
3 *between an institution and a lender in a calendar year shall not be*
4 *considered to create a financial relationship.*

5 (d) The institution shall keep records of each student making
6 an application for and receiving loans, including evidence of the
7 requirements in subdivision (b) and sufficient information to
8 comply with the reporting requirements of subdivision (e) and
9 evidence of required disclosure to each student, in accordance with
10 the recordkeeping provisions of this chapter.

11 (e) The institution shall provide, in its annual report to the bureau
12 as required in this chapter, a summary of loan activity in the most
13 recently concluded fiscal year, which shall not include the
14 individual identity of any student borrower at the institution.

15 (1) The report shall include, but not necessarily be limited to,
16 the number and percentage of students receiving loans in each
17 approved program and the total volume of ~~such~~ *those* loans in each
18 approved program, aggregated by the interest rate on ~~such~~ *the*
19 loans in categories to include *all of the following*:

20 (A) Zero to 5.0, inclusive, percent annual interest.

21 (B) 5.1 to 10.0, inclusive, percent annual interest.

22 (C) 10.1 to 15.0, inclusive, percent annual interest.

23 (D) 15.1 to 20.0, inclusive, percent annual interest.

24 (E) 20.1 or greater percent annual interest.

25 (F) Variable rate of annual interest.

26 (2) The report shall provide the names and addresses of all
27 lending entities providing loans to students where the institution
28 has a reasonable opportunity to know of that entity's lending
29 relationship with a prospective student or a student enrolled in the
30 institution. The report shall also specify whether or not the
31 institution has a financial interest in, or financial relationship with,
32 each entity included in the report.

33 (f) If it is determined that an institution failed to disclose a
34 financial relationship with, or a financial interest in, a lending
35 entity that provided a loan to a student at that institution as required
36 by this chapter, that loan shall be considered paid in full.

37 (g) The bureau shall consult with ~~its advisory committee~~ *the*
38 *Enforcement Advisory Board established pursuant to Article 1.5*
39 *(commencing with Section 94730)* prior to December 31, 2009,
40 and shall include recommendations in its required December 31,

1 2009, report to the Legislature and Governor, relating to the
2 advisability of enacting legislation to require students who do not
3 possess a high school diploma or its equivalent; to demonstrate,
4 by means of an independently administered examination, their
5 ability to benefit from the education offered by the institution prior
6 to receiving such loan proceeds. The report shall include, but not
7 necessarily be limited to, information on the adequacy and
8 relevance of the federally approved ability-to-benefit testing
9 instruments and policies that apply in this manner to federally
10 guaranteed student loans.

11 (h) Where federal statutes and regulations conflict with or
12 exceed the disclosure provisions of this chapter, the federal statutes
13 and regulations shall take precedence for institutions subject to
14 approval under this chapter that are eligible to participate in ~~the~~
15 ~~federal Title IV student financial aid programs~~ *student financial*
16 *aid programs under Title IV of the federal Higher Education Act*
17 *of 1965*.

18
19 Article 6. Operating Requirements for Institutions Regardless
20 of Exemption Status
21

22 94960. (a) Notwithstanding any exemption from this chapter
23 under Article 3 (commencing with Section 94840), an institution
24 that provides medical training providing for students to interact
25 with health care patients, and that is required to provide criminal
26 background checks, medical blood tests, or drug tests on its
27 students, shall keep complete, accurate, and up-to-date files of
28 these checks and test results.

29 (b) Records kept under this section shall be available for review
30 by the medical facility in which the students are obtaining their
31 clinical rotation work, by law enforcement personnel, and by the
32 bureau.

33 (c) An institution shall implement procedures to ensure that
34 records kept under this article are safeguarded and that the privacy
35 rights of students are protected.

36 94961. Notwithstanding any exemption from this chapter under
37 Article 3 (commencing with Section 94840), no private
38 postsecondary institution providing instruction in California shall
39 design its public Web site in a manner that requires a student to
40 register, identify themselves, provide electronic or other personal

1 contact information, or agree to be contacted by an admission
2 representative, in order to access information regarding the
3 institution's program or programs, cost of attendance, student
4 financial aid information, accreditation or approval status, faculty
5 qualifications, facilities, location, admissions policies, or any item
6 required under the consumer information requirements of Title IV
7 of the federal Higher Education Act of 1965.

8 94962. (a) With the exception of institutions accredited by the
9 Accrediting Commission for Senior Colleges and Universities of
10 the Western Association of Schools and Colleges, and past or
11 present students attending those institutions, this section applies
12 only to institutions otherwise exempt from provisions of this
13 chapter under ~~subdivision (b) of Section 3-19 Article 3~~
14 *(commencing with Section 94840)*, and past or present students
15 enrolling in those programs.

16 (b) An action may be brought under this section if the institution
17 or its representative makes an oral or written statement; in
18 connection with an enrollment agreement or a student enrollment
19 that misrepresents or conceals relevant information regarding any
20 of the following:

21 (1) The transferability of the credits earned at the ~~institutions~~
22 *institution*.

23 (2) The nature and specifics of the educational program or course
24 of instruction at the institution, including, but not *necessarily*
25 limited to, the following:

26 (A) Admissions standards.

27 (B) The nature, availability, and quality of instruction, training
28 devices, equipment, software, and supplies to fit or prepare the
29 student for the job or occupation ~~that to which~~ the training was
30 represented to lead.

31 (C) Whether the successful completion of the course allows the
32 student to sit for a licensing exam.

33 (3) The nature of the financial charges, including, but not
34 *necessarily* limited to, the following:

35 (A) The educational loans or financial aid available to the
36 student.

37 (B) The amount of the total periodic loan payments for all loans.

38 (C) The ability to repay loans from probable earnings from a
39 job after graduation.

40 (D) The annual percentage rate on each educational loan.

1 (E) The refund policy of the school.

2 (F) The ~~students'~~ *student's* ability or likely ability to make the
3 minimum payments on the educational loans used to pay for the
4 instruction upon graduation, even if employment is obtained as a
5 result of the course of instruction.

6 (G) The total costs of the program.

7 (4) The institution's completion and placement statistics,
8 including, but not ~~limited to~~, *necessarily limited to, all of* the
9 following:

10 (A) The completion rates and statistics of former students and
11 the placement rates and statistics of graduates.

12 (B) Counting as a placement any job which required no prior
13 training.

14 (C) Counting as a placement a job for which the student did not
15 receive training.

16 (D) The passage rate on any licensing examination related to
17 the course of instruction.

18 (5) The employability of the institution's graduates, including,
19 but not necessarily limited to, *all of* the following:

20 (A) Job placement services provided by the institution.

21 (B) Job availability in the area for jobs which the student is
22 receiving training.

23 (C) Probable starting salary or salary range for student graduates
24 in the occupation for which they are receiving training.

25 (c) If an institution violates any provision of subdivision (b),
26 the enrollment agreement shall be unenforceable and the institution
27 shall refund to the student all consideration paid by or on behalf
28 of the student.

29 (d) If an institution violates any provision of subdivision (b), a
30 court shall order the recovery of damages and equitable relief.
31 ~~Reasonable attorney fees and costs will~~ *attorney's fees and costs*
32 *shall* be awarded to a prevailing student or former student.

33 (e) The remedies provided in this section supplement, and do
34 not supplant, any other remedies available to a student, a former
35 student, or a consumer under the law.

36 (f) If the court finds that a violation was either willfully
37 committed, or if the institution failed to refund all the tuition and
38 costs when requested, the court, in addition to the return of tuition
39 and other damages and relief, may award a civil penalty of up to

1 two times the amount of the tuition and the other damages sustained
2 by the student.

3 (g) All claims under this section shall be brought within three
4 years from the date of the violation.

5 (h) Any provision in any agreement that purports to require a
6 student to invoke any grievance dispute procedure before enforcing
7 any right or remedy, or which in any way limits the ~~students'~~
8 *student's* right to sue, is void and unenforceable. *A student may*
9 *voluntarily elect to avail himself or herself of a nonbinding*
10 *grievance dispute procedure available to students after the*
11 *student's grievance has arisen, but prior to enforcing any right or*
12 *remedy under law or filing a judicial action.*

13
14 Article 7. Student Tuition Recovery Fund
15

16 94970. The Student Tuition Recovery Fund is continued in
17 existence. All assessments and fees collected pursuant to this article
18 shall be credited to this fund, along with any interest on the
19 moneys, for the administration of this article. Notwithstanding
20 Section 13340 of the Government Code, the moneys in the fund
21 are continuously appropriated to the bureau without regard to fiscal
22 years for the purposes of this chapter.

23 94971. The fund shall consist of assessments from all
24 institutions approved or registered under this chapter, and
25 non-WASC regionally accredited for-profit institutions, that charge
26 each enrolled student a total charge. A California resident who is
27 a student of an approved or registered institution and who meets
28 either of the following conditions is eligible for reimbursement
29 from the fund:

30 (a) (1) The student was enrolled in an institution, prepaid
31 tuition, and suffered economic loss as a result of the closure of the
32 institution.

33 (2) For the purposes of this section, "closure" means the closure
34 of a branch or satellite campus, the termination of either the
35 correspondence or residence portion of a home study or
36 correspondence course, and the termination of a course of
37 instruction for some or all of the students enrolled in the course
38 before the time these students were originally scheduled to
39 complete it, or before a student who has been continuously enrolled

1 in a course of instruction has been permitted to complete all the
2 educational services and classes that comprise the course.

3 (b) The student obtained a final judgment against the institution
4 for a violation of this chapter, and the student certifies that the
5 judgment cannot be collected after diligent collection efforts. A
6 court judgment obtained under this subdivision shall be paid in
7 accordance with subdivision (a) of Section 94975, unless the
8 judgment indicates that a lesser amount is due.

9 94972. A student's claim shall be initiated within three years
10 of the closure of the institution.

11 94973. (a) A student filing a claim for payment from the
12 Student Tuition Recovery Fund shall submit an application
13 indicating each of the following:

14 (1) The student's name, address, telephone number, and social
15 security number.

16 (2) If a portion of the tuition was paid from the proceeds of a
17 loan, the name of the lender, and any state or federal agency that
18 guaranteed or reinsured the loan.

19 (3) The amount of the paid tuition, the amount and description
20 of the student's loss, and the amount of the student's claim.

21 (4) The date the student started and ceased attending the
22 institution.

23 (b) The bureau may require additional information designed to
24 facilitate payment to entitled students. The bureau shall waive the
25 requirement that a student provide all of the information required
26 by this subdivision if the bureau has the information or the
27 information is not reasonably necessary for the resolution of a
28 student's claim.

29 (c) If the student is filing an application after receiving a final
30 judgment against an institution for a violation of this chapter, the
31 application shall include the amount of the judgment obtained
32 against the institution, a statement that the judgment cannot be
33 collected, and a description of the efforts attempted to enforce the
34 judgment. The application shall be accompanied by a copy of the
35 judgment and any other documents indicating the student's efforts
36 made to enforce the judgment, and shall be filed within two years
37 after the date upon which the judgment became final.

38 (d) Notwithstanding any other provision of law, if a student
39 fails to file a completed application, including providing any
40 information required by this section, within one year after filing

1 an initial application, that application shall be deemed abandoned.
2 An application submitted subsequent to the abandonment of a
3 former application shall be treated as a new application.

4 94974. Within 60 days of the bureau's receipt of a completed
5 application for payment in accordance with this article, the bureau
6 shall pay the claim from the Student Tuition Recovery Fund or
7 deny the claim. The bureau may extend the time period for up to
8 an additional 90 days to investigate the accuracy of the claim.

9 94975. (a) If the bureau pays a claim in accordance with this
10 article, the amount of the payment shall be (1) the greater of either
11 (A) the total guaranteed student loan debt incurred by the student
12 in connection with attending the institution, or (B) the total of the
13 student's tuition and the cost of equipment and materials related
14 to the course of instruction, less (2) the amount of any refund,
15 reimbursement, indemnification, restitution, compensatory
16 damages, settlement, debt forgiveness, discharge, cancellation, or
17 compromise, or any other benefit received by, or on behalf of, the
18 student before the bureau's payment of the claim in connection
19 with the student loan debt or cost of tuition, equipment, and
20 materials. The payment also shall include the amount the institution
21 collected and failed to pay to third parties on behalf of the student
22 for license fees or any other purpose. However, if the claim is
23 based solely on a final judgment being awarded, the amount of the
24 payment shall be the amount of the loss suffered by the student.
25 In addition to the amount determined under this ~~paragraph~~
26 *subdivision*, the amount of the payment shall include all interest
27 and collection costs on all student loan debt incurred by the student
28 in connection with attending the institution.

29 (b) The bureau may reduce the total amount specified in
30 subdivision (a) by the value of the benefit, if any, of the education
31 obtained by a student before the closure of an institution. If the
32 bureau makes a reduction pursuant to this subdivision, the bureau
33 shall notify the claimant in writing, at the time the claim is paid,
34 of the basis of its decision and provide a brief explanation of the
35 reasons upon which the bureau relied in computing the amount of
36 the reduction.

37 (c) Upon payment of a claim, all of a student's rights against
38 an institution shall be deemed assigned to the bureau to the extent
39 of the amount of the payment.

1 94976. If the bureau denies a student's claim, or reduces the
2 amount of a claim, the bureau shall notify the student of the denial
3 or reduction and of the student's right to request a hearing within
4 60 days or any longer period permitted by the bureau. If a hearing
5 is not requested within 60 days or any additional period reasonably
6 requested by the student, the bureau's decision shall be final. If a
7 hearing is requested, Chapter 5 (commencing with Section 11500)
8 of Part 1 of Division 3 of Title 2 of the Government Code shall
9 apply.

10 94977. The bureau may deny any application for any or all of
11 the following reasons:

12 (a) Failure to provide any information required by this article
13 or that is required by the bureau that is necessary to process the
14 application or pay the claim.

15 (b) Fraud or misrepresentation on the part of the applicant.

16 (c) Failure to make a diligent effort to collect a judgment from
17 the institution.

18 (d) Receipt of third-party payer benefits for his or her
19 institutional charges.

20 (e) The institution attended by the student was exempt from this
21 ~~article~~ *chapter*.

22 (f) Any other grounds for denial established through regulation
23 by the bureau.

24 94978. (a) The bureau shall negotiate with a lender, holder,
25 guarantee agency, or the United States Department of Education
26 for the full compromise or writeoff of student loan obligations to
27 relieve students of loss, and thereby reduce the amount of student
28 claims.

29 (b) In the case of a student who was a recipient of a loan to
30 attend an institution, payment from the Student Tuition Recovery
31 Fund shall first be made to the lender of financial aid funds to that
32 student, to repay the student's indebtedness that pertains to tuition
33 and fees related to attendance at the institution.

34 94979. (a) It is the intent of the Legislature that, when a student
35 is enrolled in an institution that closes prior to the completion of
36 the student's program, the student shall have the option for a
37 teach-out at another institution approved by the bureau. The bureau
38 shall seek to promote teach-out opportunities wherever possible,
39 and shall inform the student of his or her rights, including payment

1 from the fund, transfer opportunities, and available teach-out
2 opportunities, if any.

3 (b) Under a teach-out, the student incurs no involuntary
4 additional tuition expenses for coursework successfully completed
5 at the closing institution. The closing institution, or in the case of
6 a closed institution, a third-party institution interested in providing
7 a teach-out, shall provide the bureau a proposed teach-out plan.
8 The plan should be provided within 30 days of the proposed
9 teach-out to allow the bureau sufficient time to review it. The
10 bureau shall review the plan to determine if it is in the best interest
11 of the students, and may make recommendations or modifications
12 prior to approval or denial. If a teach-out is not viable, the
13 institution shall provide a list of transfer institutions to students
14 and to the bureau 30 days prior to any actual transfers. The list
15 shall provide the name and address of the institution, and the
16 contact person and telephone number. The student information
17 requested ~~must~~ *shall* be provided in hardcopy, and in electronic
18 format if available.

19 94980. In the event of the closure of an institution or a
20 teach-out, the bureau shall give priority, for payments from the
21 fund, to a student who transfers to another institution to complete
22 a course of study.

23 94981. Once the bureau has determined that a student claim is
24 eligible for payment under this article and intends to use the
25 Student Tuition Recovery Fund, in whole or in part, to satisfy the
26 eligible claim, the bureau shall document its negotiations with the
27 relevant lender, holder or guarantee agency, the United States
28 Department of Education, or the applicable state agency. The
29 bureau shall prepare a written summary of the parties and results
30 of the negotiations, including the amounts offered and accepted,
31 the discounts requested and granted, and any other information
32 that is available to any party that files a request for this information
33 with the bureau.

34 94982. The bureau shall assess an institution, except for an
35 institution that receives all of its students' total charges from
36 third-party payers, for the purpose of compliance with the
37 provisions of this chapter that are related to the Student Tuition
38 Recovery Fund. A "third-party payer," for the purposes of this
39 article, means an employer, government program, or other payer
40 that pays a student's total charges directly to the institution when

1 no separate agreement for the repayment of that payment exists
2 between the third-party payer and the student. A student who
3 receives third-party payer benefits for his or her institutional
4 charges is not eligible for benefits from the Student Tuition
5 Recovery Fund.

6 94983. (a) (1) The amount assessed each institution shall be
7 calculated only for those students who are California residents and
8 who are eligible to be reimbursed from the fund. It shall be based
9 on the actual amount charged each of these students for total tuition
10 cost, regardless of the portion that is prepaid. The amount of the
11 assessment on an institution shall be determined in accordance
12 with subdivisions (b) and (c).

13 (2) Each institution shall collect the amount assessed by the
14 bureau in the form of a Student Tuition Recovery Fund fee from
15 its new students, and remit these fees to the bureau during the
16 quarter immediately following the quarter in which the fees were
17 collected from the students, or from loans funded on behalf of the
18 students, except that an institution may waive collection of the
19 Student Tuition Recovery Fund fee and assume the fee as a debt
20 of the institution. The fees collected by the institution shall be
21 placed in a separate bank or trust account and not commingled
22 with any other moneys until the institution remits those fees to the
23 bureau. If the institution assumes the fee, this need not be placed
24 in a separate account. The student's subsequent disenrollment shall
25 not relieve the institution of the obligation to pay the fee to the
26 bureau, nor be the basis for refund of the fee to the student. An
27 institution may not charge a fee of any kind for the collection of
28 the Student Tuition Recovery Fund fee. An institution shall refuse
29 to enroll a student who has not paid, or made provisions to pay,
30 the appropriate Student Tuition Recovery Fund fee.

31 ~~(b) Student Tuition Recovery Fund fees—A Student Tuition~~
32 ~~Recovery Fund fee~~ shall be collected from students upon enrollment
33 and in its entirety at the rate of two dollars and fifty cents (\$2.50)
34 per thousand dollars of tuition charged, rounded to the nearest
35 thousand dollars.

36 (c) If, at any time, the balance in the Student Tuition Recovery
37 Fund is more than five million dollars (\$5,000,000), net, of the
38 estimated liability associated with any pending claims, the bureau
39 may reduce the amount of the assessment collected from new
40 students to a level less than two dollars and fifty cents (\$2.50) per

1 thousand dollars of tuition charged, rounded to the nearest thousand
2 dollars, or suspend collection of the fee for a period determined
3 by the bureau, so as to maintain a fund balance of between five
4 million dollars (\$5,000,000) and ten million dollars (\$10,000,000).
5 Prior to any reduction in the assessment, the bureau ~~must~~ *shall*
6 demonstrate that amounts in the fund would be reasonably
7 sufficient to pay any pending or future claims.

8 (d) The bureau may by regulation levy additional reasonable
9 special assessments on an institution under this section only if
10 these assessments are required to ensure that sufficient funds are
11 available to satisfy the anticipated costs of paying student claims.

12 (e) The bureau may not levy a special assessment unless the
13 balance in the Student Tuition Recovery Fund falls below two
14 hundred fifty thousand dollars (\$250,000), as certified by the
15 Secretary of the State and Consumer Services Agency.

16 (f) The assessments, fees, and special assessments shall be paid
17 into the Student Tuition Recovery Fund, and the deposits shall be
18 allocated, except as otherwise provided for in this chapter, solely
19 for the payment of valid claims to students. Unless additional
20 reasonable assessments are required, no assessment may be levied
21 during any fiscal year if, as of June 30 of the prior fiscal year, the
22 balance in the fund exceeds ten million dollars (\$10,000,000).
23 However, regardless of the balance in the fund, assessments shall
24 be made on a newly approved institution.

25 94984. Moneys deposited in the Student Tuition Recovery
26 Fund are exempt from execution and may not be the subject of
27 litigation or liability on the part of creditors of those institutions
28 or students.

29 94985. (a) On or before December 31, 2010, the bureau shall
30 adopt a procedure allowing for payments to the fund to be made
31 through online transactions and other electronic means.

32 (b) The bureau shall adopt audit and accounting procedures to
33 ensure that institutions fully pay the amounts that are due to the
34 fund.

35 94986. The bureau's costs of administration of the Student
36 Tuition Recovery Fund authorized by this article shall not be paid
37 from the fund, but shall be paid from the Private Postsecondary
38 Education Fund.

39 94987. In the event of a closure by any approved institution
40 under this chapter, any assessments that have been made against

1 those institutions, but have not been paid into the fund, shall be
2 recovered. Any payments from the fund made to students on behalf
3 of any institution shall be recovered from that institution.

4 94988. In addition to civil remedies, the bureau may order an
5 institution to remit or collect previously unpaid Student Tuition
6 Recovery Fund fees or to reimburse the bureau for any payments
7 made from the fund in connection with the institution. Before any
8 order is made pursuant to this section, the bureau shall provide
9 written notice to the institution and notice of the right to request
10 a hearing within 30 days of the service of the notice. If a hearing
11 is not requested within 30 days of the service of the notice, the
12 bureau may order payment. If a hearing is requested, Chapter 5
13 (commencing with Section 11500) of Part 1 of Division 3 of Title
14 2 of the Government Code shall apply, and the bureau shall have
15 all powers prescribed in that chapter. Within 30 days after the
16 effective date of the issuance of the order, the bureau may enforce
17 the order in the same manner as if it were a money judgment
18 pursuant to Title 9 (commencing with Section 680.010) of Part 2
19 of the Code of Civil Procedure.

20 94989. In addition to any other action that the bureau may take
21 under this chapter, the bureau may suspend or revoke an
22 institution's approval to operate because of the institution's failure
23 to collect or remit Student Tuition Recovery Fund fees when due
24 or failure to pay reimbursement for any payments made from the
25 fund within 30 days of the bureau's demand for payment.

26 27 Article 8. Enforcement 28

29 95000. The bureau, with ~~assistance, guidance, and in~~
30 ~~cooperation with~~ *the assistance and guidance of, and in*
31 *cooperation with*, the Attorney General and the board, shall develop
32 an enforcement program. The enforcement program shall include,
33 but not necessarily be limited to, *all of* the following:

34 (a) Initial and periodic training of bureau staff.

35 (b) The enforcement process shall ~~assure~~ *ensure* that all
36 institutions subject to this chapter are in compliance with this
37 chapter and that institutions not in compliance are appropriately
38 disciplined.

39 (c) Site visits that include a review of student files.

1 (d) Audits and site visits that are triggered by complaints and
2 events that would cause reasonable concern, which may include
3 random audits and site visits.

4 95001. A person claiming damage or loss as a result of an act
5 or practice by an institution, its agent, its employee or
6 representative, or any combination thereof, that is a violation of
7 this chapter or of the regulations adopted pursuant to this chapter,
8 may file with the bureau, electronically or in writing, a complaint
9 against that institution. The complaint shall set forth the alleged
10 violation, and shall contain any other information as may be
11 required by the bureau.

12 95002. (a) A copy of a complaint received by the bureau
13 pertaining to an institution accredited by the Accrediting
14 Commission for Senior Colleges of the Western Association of
15 Schools and Colleges shall be forwarded to the association. The
16 bureau shall notify the complainant that the complaint has been
17 forwarded and that the bureau will not take any other action due
18 to its lack of jurisdiction. An action by the bureau relating to a
19 complaint against these institutions shall be limited to the
20 transmittal of this information to the Accrediting Commission for
21 Senior Colleges of the Western Association of Schools and
22 Colleges and notification to the complainant.

23 (b) A complaint received by the bureau pertaining to an
24 institution accredited by a state recognized accrediting agency
25 shall be forwarded to the accrediting agency that accredited that
26 institution. The bureau shall notify the complainant that the
27 complaint has been forwarded. The bureau may also pursue action
28 against that institution for any violation of this chapter.

29 (c) A complaint received by the bureau pertaining to an
30 institution or program that is accredited by an accrediting body
31 that is not a state recognized accrediting agency shall be referred
32 to the accrediting body, in addition to whatever other action the
33 bureau may take.

34 95003. (a) If a person commits an act constituting grounds for
35 discipline, the bureau may do any or all of the following:

- 36 (1) Revoke or suspend the license.
37 (2) Place the license on probation.
38 (3) Issue an administrative citation with an administrative fine,
39 order of abatement, or both, pursuant to Section 95007 of this code
40 or Section 125.9, 146, 147, or 148 of the Business and Professions

1 Code. A citation shall be in writing, and shall describe the nature
2 of the violation and the specific provision of law determined to
3 have been violated. A citation may contain an order of abatement,
4 an assessment of an administrative fine, or both. The order of
5 abatement may include, but is not *necessarily* limited to, any of
6 the following provisions:

7 (A) An order to cease operating without a license.

8 (B) An order prohibiting the enrollment of new students.

9 (C) An order to cease entering into new agreements for one or
10 more courses of instruction.

11 (D) An order to cease offering a class or program. ~~Such an~~ *This*
12 order may permit the licensee to complete the class or course of
13 instruction only for those students enrolled, or may order the
14 licensee to immediately cease instruction and provide a refund of
15 tuition and all other charges to students.

16 (E) ~~Require~~ *Requiring* posting of a bond.

17 (F) Other remedial measures intended to address the acts
18 constituting grounds for discipline.

19 (4) Order reimbursement of the costs of an investigation and
20 any enforcement action taken in accordance with Section 125.3
21 of the Business and Professions Code. A licensee may not be
22 required to pay the same costs and expenses to more than one
23 investigating entity.

24 (5) If the bureau has probable cause to believe that a person has
25 violated this chapter, order the person to notify all telephone
26 companies furnishing services to the person to disconnect all
27 telephone services and that subsequent telephone calls not be
28 referred by the telephone company to any new telephone number
29 or numbers obtained by that person. If the person fails to comply
30 after the order is final, the bureau may inform the Public Utilities
31 Commission of the violation, and the Public Utilities Commission
32 shall require the telephone company to disconnect the telephone
33 service furnished to the person. The good faith compliance by the
34 telephone company with an order of the Public Utilities
35 Commission pursuant to this section shall constitute complete
36 defense to any civil or criminal action brought against the telephone
37 company arising from the termination of service.

38 (b) Any enforcement proceeding may be referred to mediation
39 or nonbinding arbitration with the consent of both the bureau and
40 the licensee.

1 95004. Notwithstanding any other provision of law, the bureau
2 shall cite any person operating without proper approval to operate
3 issued by the bureau pursuant to this chapter, and that person shall
4 be subject to a fine not to exceed fifty thousand dollars (\$50,000).

5 In addition, the bureau may take additional steps to prevent
6 unauthorized activity, which may include, but is not *necessarily*
7 limited to, *either of* the following:

8 (a) Notify a telephone corporation to disconnect the person's
9 telephone as authorized by Section 149 of the Business and
10 Professions Code.

11 (b) Issue a cease and desist order.

12 95005. For purposes of this chapter, grounds for discipline
13 include a violation of this chapter or the regulations adopted
14 pursuant to it, or any other conduct substantially related to the
15 qualifications, responsibilities, and duties of the licensee. ~~Such~~
16 *These* grounds include, but are not *necessarily* limited to, the
17 following:

18 (a) Furnishing false, misleading, or incomplete information to
19 the bureau, or the failure to furnish information requested by the
20 bureau or required by this chapter.

21 (b) An owner, a person in control, a director, or an officer of an
22 institution violated this chapter while serving as an owner, person
23 in control, director, or officer of an institution or licensee within
24 the previous five-year period.

25 (c) A signatory to an application for licensure was responsible
26 for the closure of an institution or licensee in which there were
27 unpaid liabilities to a state or federal government, or
28 uncompensated pecuniary losses suffered by students without
29 restitution.

30 (d) An applicant, owner, or person in control has been found
31 previously in any judicial or administrative proceeding to have
32 violated this chapter or admitted to having violated this chapter.

33 (e) Failing to maintain the minimum standards prescribed by
34 this chapter, or to maintain standards that are the same as, or
35 substantially equivalent to, those represented in the institution or
36 licensee's applications and advertising.

37 (f) Presenting to prospective students information that is false
38 or misleading relating to an institution, to employment
39 opportunities, or to enrollment opportunities in institutions of

1 higher learning, after entering into or completing courses offered
2 by the institution.

3 (g) Failing to maintain financial resources as required by this
4 chapter.

5 (h) Failing to provide refunds to students timely and accurately,
6 as required by this chapter, or failing to satisfy, within 30 days of
7 its issuance, a final judgment obtained by a student against the
8 institution.

9 (i) Paying a commission or other consideration to a person for
10 an act or service in violation of this chapter.

11 (j) Attempting to confer a degree, diploma, or certificate to a
12 student in violation of this chapter.

13 (k) Misrepresenting to a student or prospective student that the
14 student is or will be qualified, upon completion of a course, for
15 admission to a professional examination under a state occupational
16 licensing provision.

17 (l) Failing to correct a deficiency or act of noncompliance under
18 this chapter, or the standards, rules, regulations, and orders
19 established and adopted under this chapter, within reasonable time
20 limits set forth in the notice from the bureau.

21 (m) Conducting business or instructional services at a location
22 not approved by the bureau.

23 (n) Failing to comply with a provision of law or regulation
24 governing sanitary conditions as specified in Section 94891.

25 (o) Failing to pay any fee assessment, costs, or penalty duly
26 required by this chapter.

27 (p) The institution or an owner, person in control, director, or
28 officer of the institution is, or has been, found in any criminal,
29 civil, or administrative proceeding, after notice and an opportunity
30 to be heard, to have violated any law regarding the obtaining,
31 maintenance, or disbursement of state or federal funds, or to have
32 unpaid financial liabilities involving the refund or unlawful
33 acquisition, use, or expenditure of state or federal funds.

34 (q) All of the following are, or have been, found in any criminal,
35 civil, or administrative proceeding:

36 (1) A person in control of the institution was a person in control
37 of another institution within one year before that institution's
38 closure.

1 (2) While the person was acting as a person in control of the
2 other institution, the person knew or, by the exercise of reasonable
3 care, should have known, that the institution violated this chapter.

4 (3) That the violation was a cause of that institution's closure
5 or of damage to students.

6 (4) That institution did not pay to all students refunds owed as
7 a result of the closure and full compensation for actual damages
8 from that violation.

9 95006. (a) The bureau chief, or his or her designee, may issue
10 an order of correction to a licensee directing the licensee to comply
11 with this chapter or regulations adopted pursuant to this chapter.

12 (b) The order of correction shall be in writing, and shall describe
13 in detail the nature and facts of the violation, including a reference
14 to the statute or regulations violated.

15 (c) The order of correction shall inform the licensee that within
16 30 days of service of the order of correction, the licensee may do
17 any of the following:

18 (1) Submit a written request for an office conference with the
19 bureau chief to contest the order of correction.

20 (A) Upon a timely request, the bureau chief, or his or her
21 designee, shall hold an office conference with the licensee or the
22 licensee's legal counsel or authorized representative. Unless so
23 authorized by the bureau chief, or his or her designee, no individual
24 other than the licensee's legal counsel or authorized representative
25 may accompany the licensee to the office conference.

26 (B) Prior to or at the office conference, the licensee may submit
27 to the bureau chief declarations and documents pertinent to the
28 subject matter of the order of correction.

29 (C) The office conference is intended to be an informal
30 proceeding, and shall not be subject to the provisions of the
31 Administrative Procedure Act (Chapter 3.5 (commencing with
32 Section 11340), Chapter 4 (commencing with Section 11370),
33 Chapter 4.5 (commencing with Section 11400), and Chapter 5
34 (commencing with Section 11500) of Part 1 of Division 3 of Title
35 2 of the Government Code).

36 (D) The bureau chief, or his or her designee, may affirm, modify,
37 or withdraw the order of correction. Within 14 calendar days from
38 the date of the office conference, the bureau chief, or his or her
39 designee, shall personally serve or send by certified mail to the
40 licensee's address of record with the bureau a written decision.

1 This decision shall be deemed the final administrative decision
2 concerning the order of correction.

3 (E) Judicial review of the decision may be had by filing a
4 petition for a writ of mandate in accordance with Section 1094.5
5 of the Code of Civil Procedure within 30 days of the date the
6 decision was personally served or sent by certified mail. The
7 judicial review shall extend to the question of whether or not there
8 was a prejudicial abuse of discretion in the issuance of the order
9 of correction.

10 (2) Comply with the order of correction, and submit a written
11 corrective action plan to the bureau chief, or his or her designee,
12 documenting compliance. If an office conference is not requested
13 pursuant to this section, compliance with the order of correction
14 shall not constitute an admission of the violation noted in the order
15 of correction.

16 (3) Request a hearing under the procedures set forth in Article
17 9 (commencing with Section 95030).

18 (d) The order of correction shall be served upon the licensee
19 personally or by certified mail at the licensee's address of record
20 with the bureau. If the licensee is served by certified mail, service
21 shall be effective upon deposit in the United States mail.

22 (e) The licensee shall maintain, and have readily available on
23 the licensee's premises, a copy of the order of correction and
24 corrective action plan for at least three years from the date of
25 issuance of the order of correction.

26 (f) Nothing in this section shall in any way limit the bureau's
27 authority or ability to take *any* other enforcement action authorized
28 by this chapter.

29 (g) Unless a writ of mandate is filed, a citation issued, a hearing
30 is requested, or a disciplinary proceeding instituted, an order of
31 correction shall not be considered a public record and shall not be
32 disclosed pursuant to a request under the California Public Records
33 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
34 of Title 1 of the Government Code).

35 95007. (a) An administrative fine assessed with a citation may
36 not exceed five thousand dollars (\$5,000) for each violation. The
37 bureau shall base its assessment of the administrative fine on the
38 nature and seriousness of the violation, the persistence of the
39 violation, the good faith of the institution or licensee, the history

1 of previous violations, and the extent to which the violation
2 undermined the purposes of this chapter.

3 (b) The citation shall inform the institution or licensee of a right
4 to request a hearing pursuant to this chapter, in writing, within 15
5 days of the date that the citation was issued. If a hearing is not
6 requested, payment of the administrative fine shall not constitute
7 an admission of the violation charged. If a hearing is requested,
8 the bureau shall provide a hearing pursuant to Article 9
9 (commencing with Section 95030). Payment of the administrative
10 fine is due 15 days after the citation was issued if a hearing is not
11 requested, or when a final order is entered if a hearing is requested.
12 The bureau may enforce the administrative fine as if it were a
13 money judgment pursuant to Title 9 (commencing with Section
14 680.10) of Part 2 of the Code of Civil Procedure.

15 (c) The citation shall also inform the licensee of its right to
16 submit a written request for an office conference with the bureau
17 chief to contest the citation.

18 (1) Upon a timely request, the bureau chief, or his or her
19 designee, shall hold an office conference with the licensee or the
20 licensee's legal counsel or authorized representative. Unless so
21 authorized by the bureau chief, or his or her designee, no individual
22 other than the licensee's legal counsel or authorized representative
23 may accompany the licensee to the office conference.

24 (2) Prior to or at the office conference, the licensee may submit
25 to the bureau chief declarations and documents pertinent to the
26 subject matter of the order of correction.

27 (3) The office conference is intended to be an informal
28 proceeding, and shall not be subject to the provisions of the
29 Administrative Procedure Act (Chapter 3.5 (commencing with
30 Section 11340), Chapter 4 (commencing with Section 11370),
31 Chapter 4.5 (commencing with Section 11400), and Chapter 5
32 (commencing with Section 11500) of Part 1 of Division 3 of Title
33 2 of the Government Code).

34 (4) The bureau chief, or his or her designee, may affirm, modify,
35 or withdraw the order of correction. Within 14 calendar days from
36 the date of the office conference, the bureau chief, or his or her
37 designee, shall personally serve, or send by certified mail to the
38 licensee's address of record with the bureau, a written decision.
39 This decision shall be deemed the final administrative decision
40 concerning the order of correction.

(d) Failure to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action taken by the bureau, and the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(e) All administrative fines shall be deposited in the Private Postsecondary and Vocational Education Administration Fund or its successor fund.

95008. (a) If the bureau places a licensee on probation, it shall articulate the terms and conditions of the probation. The terms and conditions of probation may include the required submission of periodic reports and documents, and unannounced inspections by bureau representatives to determine compliance with the terms of probation. The onsite inspections may include an inspection of the licensee's facilities and records, interviews of administrators, faculty, and students, and observation of class instruction.

(b) The licensee shall reimburse the bureau for all reasonable costs and expenses incurred in connection with this section. Payment of the reimbursement shall be a condition of probation.

(c) If the licensee fails to comply with the terms of probation, the bureau may suspend or revoke the license, or may take other action pursuant to this article.

(d) In addition to any other terms of probation, the bureau may assess a penalty of up to ten thousand dollars (\$10,000) as part of a probation order for violations of this chapter. In determining the amount of that penalty, the bureau shall consider the number, nature and seriousness of the violations, the persistence of the violations, the degree of the licensee's good faith or culpability, the history of the licensee's previous violations, the licensee's ability to pay, and the extent to which the violation undermined the purposes of this chapter. If the licensee fails to pay a penalty within the time prescribed by the bureau, in addition to any other remedies, the fine shall be added to the renewal fee as provided for in subdivision (d) of Section 95007.

95009. (a) If the bureau determines that immediate action is necessary to protect students or prevent the loss of public funds, tuition, or other money paid by students, the bureau may institute an emergency action to suspend the approval of an institution to operate, or the approval to operate a branch or satellite campus,

1 for not more than 30 days unless the bureau initiates a proceeding
2 to suspend or revoke the approval to operate within that period.

3 (b) (1) The bureau shall provide notice of an emergency action
4 to the institution by either (A) certified mail, in which case the
5 effective date of the emergency action shall be not less than 10
6 working days after mailing, or (B) personal service, in which case
7 the effective date of the emergency action shall be not less than
8 five days after service.

9 (2) The notice shall specify *all of* the following:

10 (A) The violations upon which the emergency action is based.

11 (B) The nature and grounds of the emergency action, including
12 whether the action applies to the continuation of instruction to
13 enrolled students or to the enrollment of new students.

14 (C) The effective date of the action.

15 (D) The institution's right to show cause that the emergency
16 action is unwarranted by submitting to the bureau, at least two
17 days before the effective date of the emergency action, declarations,
18 documentary evidence, and written arguments demonstrating that
19 the violations did not occur or that immediate action is not required.

20 (E) The right of the institution to request, in writing, within 30
21 days of the service of the notice, a hearing.

22 (c) At any time, the bureau may (1) continue the effective date
23 of an emergency action or (2) terminate an emergency action if
24 the bureau concludes that the institution has shown cause that the
25 emergency action is unwarranted or that the grounds for instituting
26 the emergency action no longer remain. The bureau shall provide
27 written notice of a continuance or termination of an emergency
28 action to the institution.

29 (d) (1) If an institution does not take the opportunity to show
30 cause why an emergency action is unwarranted, the emergency
31 action shall become effective on the date specified in the notice
32 or notice of continuance.

33 (2) If an institution takes the opportunity to show cause why an
34 emergency action is unwarranted, and the bureau decides, after a
35 consideration of the declarations, documentary evidence, and
36 written arguments submitted by the institution, that the emergency
37 action should become effective, the emergency action shall be
38 effective on the date specified in the notice or notice of
39 continuance. The bureau shall notify the institution of the decision
40 at least one day before the effective date, and the institution may

1 thereafter seek judicial relief upon notice to the bureau and the
2 Attorney General.

3 (e) (1) If an institution requests a hearing to contest an
4 emergency action within the 30-day period specified in subdivision
5 (b), the bureau shall set a date for a hearing within 20 days after
6 receipt of the request.

7 (2) If an institution does not request a hearing to contest an
8 emergency action within the 30-day period specified in subdivision
9 (b), or if the bureau concludes after a hearing requested by the
10 institution that grounds exist for the suspension or revocation of
11 the institution's approval to operate or approval to operate a branch
12 or satellite campus, the bureau may extend the action or take
13 another disciplinary action, as the bureau deems appropriate.

14 (f) During the pendency of an emergency action, the bureau
15 may investigate the institution's compliance with this chapter,
16 including an onsite inspection, and may take another disciplinary
17 action as the bureau deems appropriate.

18 (g) This section supplements, but does not supplant, the authority
19 of the bureau to seek judicial relief, including a temporary
20 restraining order and injunction, to redress any violation of this
21 chapter.

22 95010. (a) An institution ~~whose approval~~, *the approval to*
23 *operate of which* has been revoked or suspended or ~~who~~ *that* has
24 been placed on probation, may petition the bureau for reinstatement
25 or modification of penalty, including modification or termination
26 of probation, after not less than the following minimum periods
27 have elapsed from the effective date of the decision ordering
28 disciplinary action:

29 (1) At least three years for reinstatement of a revoked license.

30 (2) At least two years for early termination of probation of three
31 years or more.

32 (3) At least one year for modification of a condition, or
33 reinstatement of a license revoked for termination of probation of
34 less than three years.

35 (b) The petition shall state any facts required by the bureau. The
36 petition shall be accompanied by a reinstatement processing fee
37 of ____ dollars (\$____).

38 (c) In considering reinstatement or modification of penalty, the
39 bureau may consider factors including, but not *necessarily* limited
40 to, all of the following:

1 (1) The petitioner's activities since the disciplinary action was
2 taken.

3 (2) The offense for which the petitioner was disciplined.

4 (3) The petitioner's activities during the time the license was
5 in good standing.

6 (4) The petitioner's documented rehabilitative efforts, including
7 repayment of restitution.

8 (5) The petitioner's business reputation in the community.

9 (d) No petition under this section shall be considered while the
10 petitioner is under sentence for any criminal offense, including
11 any period during which the petitioner is on court-imposed
12 probation or parole. No petition shall be considered while there is
13 an accusation or petition to revoke probation pending against the
14 person. The bureau may deny without a hearing or argument any
15 petition filed pursuant to this section within a period of two years
16 from the effective date of the prior decision following a hearing
17 under this section.

18 (e) The bureau may investigate any and all matters pertaining
19 to the petition and documents submitted with, or in connection
20 with, the application.

21 95011. (a) The bureau may bring an action for equitable relief
22 for any violation of this chapter in addition to, or instead of, any
23 other remedy or procedure. The equitable relief may include
24 restitution, a temporary restraining order, the appointment of a
25 receiver, ~~and~~ or a preliminary or permanent injunction. The action
26 may be brought in the county in which the defendant resides, or
27 in which any violation has occurred, or may occur.

28 (b) The suspension or revocation of an institution's approval to
29 operate also may be embraced in any action brought by the
30 Attorney General, a district attorney, or city attorney otherwise
31 proper in any court involving the institution's compliance with
32 this chapter or performance of its legal obligations.

33 95012. (a) An institution or licensee that willfully violates
34 Article 5 (commencing with Section 94890), Article 6
35 (commencing with Section 94960), or Article 7 (commencing with
36 Section 94970) is guilty of a crime, and shall be subject to separate
37 punishment for each violation by either *of the following*:

38 (1) Imprisonment in a county jail not to exceed one year, by a
39 fine not to exceed ten thousand dollars (\$10,000), or by both that
40 imprisonment and fine.

1 (2) Imprisonment in state prison, by a fine not to exceed fifty
2 thousand dollars (\$50,000), or by both that imprisonment and fine.

3 (b) Notwithstanding any other *provision of law*, any prosecution
4 under this section shall be commenced within three years of the
5 discovery of the facts constituting grounds for commencing the
6 prosecution.

7 (c) In addition to any other fines or penalties imposed pursuant
8 to this section, an institution or licensee found guilty of a crime as
9 described in subdivision (a) shall be ordered to pay the Attorney
10 General, a district attorney, or a city attorney all of their costs and
11 expenses in connection with an investigation pursuant to that
12 prosecution. An institution or licensee shall not be required to pay
13 the same costs and expenses to more than one investigating agency.

14 95013. (a) The Attorney General, a district attorney, or a city
15 attorney may make investigations as may be necessary to carry
16 out this chapter, including investigations of complaints. The bureau
17 may jointly bring actions as necessary to enforce this chapter,
18 including civil actions for injunctive relief.

19 (b) Nothing in this section or this chapter precludes the Attorney
20 General, a district attorney, or a city attorney from taking any
21 action each is otherwise lawfully authorized to take.

22 95014. (a) If an institution or licensee violates any provision
23 of Article 5 (commencing with Section 94890) or Article 6
24 (commencing with Section 94960), or commits an act as described
25 in Section 95005 in connection with an agreement for a course of
26 instruction, that agreement shall be unenforceable, and the
27 institution shall refund all consideration paid by or on behalf of
28 the student.

29 ~~(b) Notwithstanding a provision~~ *any provision to the contrary*
30 *in an agreement, a student may bring an action for a violation of*
31 *any provision of Article 5 (commencing with Section 94890) or*
32 *committing any act as described in Section 95005 in connection*
33 *with an agreement for a course of instruction, or for an institution's*
34 *failure to perform its legal obligations and, upon prevailing,*
35 *obligations. Upon prevailing in an action brought under this*
36 *subdivision, a student shall be entitled to the recovery of damages,*
37 *equitable relief, any other relief authorized by this article, and*
38 *reasonable attorney's fees and costs.*

39 95015. A person entitled to bring an action for the recovery of
40 damages or other relief shall not be required to file a complaint

1 pursuant to this article, or to pursue or exhaust any administrative
2 process or remedy before bringing the action.

3 *95015.5. Any provision in any agreement that purports to*
4 *require a student to invoke any grievance dispute procedure before*
5 *enforcing any right or remedy, or which in any way limits the*
6 *student's right to sue, is void and unenforceable. A student may*
7 *voluntarily elect to avail himself or herself of a nonbinding*
8 *grievance dispute procedure available to students after the*
9 *student's grievance has arisen but prior to enforcing any right or*
10 *remedy under law or filing a judicial action.*

11 95016. A student may assign his or her cause of action for a
12 violation of this article to the bureau, or to any state or federal
13 agency that guaranteed or reinsured a loan for the student, or that
14 provided any grant or other financial aid.

15 95017. The remedies provided in this article supplement, but
16 do not supplant, the remedies provided under any other provision
17 of law.

18 95018. This article supplements, but does not supplant, the
19 authority granted the Division of Labor Standards Enforcement
20 under Chapter 4 (commencing with Section 79) of Division 1 of
21 the Labor Code to the extent that placement activities of institutions
22 are subject to regulation by the division under the Labor Code.

23 95019. The bureau shall proactively identify unlicensed
24 institutions that are operating in violation of this ~~act~~ *chapter*, and
25 take all appropriate legal enforcement action against ~~such~~ *those*
26 institutions.

27 ~~95020. The bureau shall include in its December 31, 2012,~~
28 ~~regular annual report to the Legislature and the Governor, a report~~
29 ~~on distance learning available to California students on the Internet.~~
30 ~~This report shall include, but not necessarily be limited to, the~~
31 ~~following:~~

32 ~~(a) Data on the numbers of students receiving internet-based~~
33 ~~private post secondary education.~~

34 ~~(b) Information on institutions, including whether the institutions~~
35 ~~are accredited, otherwise regulated, and the location of the~~
36 ~~institutions.~~

37 ~~(c) The types of courses offered.~~

38 ~~(d) Identify opportunities and limitations in California law to~~
39 ~~regulate these institutions.~~

1 ~~(e) If needed, make recommendations for amendments to~~
2 ~~California law to provide the strongest protections for these~~
3 ~~California students.~~

4 95021. (a) Each institution, including regionally accredited
5 institutions that qualify for exemption under Article 3 (commencing
6 with Section 94840), shall be deemed to have authorized the
7 accrediting agency that accredited the institution to provide to the
8 Attorney General, any district attorney or city attorney, or the
9 Student Aid Commission, within 30 days of written notice, copies
10 of all documents and other material concerning the institution that
11 is maintained by the accrediting agency.

12 (b) Within 30 days of receiving written notice from the Attorney
13 General, any district attorney or city attorney, or the Student Aid
14 Commission, an accrediting agency shall provide, free of charge,
15 the requesting official with all documents or other material
16 concerning an institution accredited by that accrediting agency
17 that are designated specifically or by category in the written notice.

18 (c) If the Attorney General, any district attorney or city attorney,
19 or the Student Aid Commission is conducting a confidential
20 investigation of an institution and so informs the accrediting
21 agency, the accrediting agency shall not inform that institution of
22 the investigation.

23 (d) If an accrediting agency willfully fails to comply with this
24 section, the accrediting agency shall be liable for a civil penalty
25 of not less than two thousand five hundred dollars (\$2,500) or
26 more than twenty-five thousand dollars (\$25,000) for each
27 violation. Penalties awarded pursuant to this section shall be
28 deposited in the Private Postsecondary and Vocational Education
29 Administration Fund or any successor fund.

30 31 Article 9. Hearings

32
33 95030. A proceeding in connection with the denial of an
34 application to operate or the revocation of an approval to operate
35 shall be conducted in accordance with Chapter 5 (commencing
36 with Section 11500) of Part 1 of Division 3 of Title 2 of the
37 Government Code, and the bureau shall have all of the powers
38 granted in that chapter. An action by the bureau to place an
39 institution on probation shall be subject to appeal, and the bureau
40 shall establish procedures that provide the institution with adequate

1 notice and an opportunity to be heard and to present evidence as
2 to why the action recommended by staff or by a visiting committee
3 shall not be taken.

4 95031. Upon taking an action to suspend or revoke an
5 institution's approval to operate, or to deny an application for
6 renewal of an approval to operate, the bureau shall provide written
7 notice to the Student Aid Commission, the United States
8 Department of Education, and to any appropriate accrediting
9 association.

10 95032. Except as otherwise provided in this chapter, the
11 following procedures may be used in lieu of other notice or hearing
12 requirements provided in this chapter.

13 (a) If notice of administrative action is required by this chapter,
14 the bureau shall serve notice stating *all of* the following:

15 (1) The action, including the penalties and administrative
16 sanctions sought.

17 (2) The grounds for the action, with sufficient particularity to
18 give notice of the transactions, occurrences, violations, or other
19 matters on which the action is based.

20 (3) The right to a hearing and the time period within which the
21 party subject to the notice may request a hearing in writing. The
22 time period shall not be less than 15 days after service of the notice
23 unless a longer period is provided by statute.

24 (4) The right to be present at the hearing, to be represented by
25 counsel, to cross-examine witnesses, and to present evidence.

26 (5) That, if the party subject to the notice does not request a
27 hearing in writing within the time period expressed in the notice,
28 he or she will waive or forfeit his or her right to an administrative
29 hearing and the action will become final.

30 (b) If a party subject to a notice provided pursuant to subdivision
31 (a) requests a hearing in writing within the time period specified
32 in paragraph (3) of subdivision (a), then within 30 days of receiving
33 this request, the bureau shall schedule a hearing. The hearing shall
34 be held in a location determined pursuant to Section 11508 of the
35 Government Code. The bureau shall serve reasonable notice of
36 the time and place for the hearing at least 10 days before the
37 hearing. The bureau may continue the date of the hearing upon a
38 showing of good cause.

39 (c) (1) A party, including the bureau, may submit a written
40 request to another party before a hearing to obtain the name and

1 address of any person who has personal knowledge, or who the
2 party receiving the request claims to have personal knowledge, of
3 any of the transactions, occurrences, violations, or other matters
4 that are the basis of the administrative action. In addition, the
5 requesting party shall have the right to inspect and copy a written
6 statement made by that person or a writing, as defined by Section
7 250 of the Evidence Code, or thing that is in the custody, or under
8 the control, of the party receiving the request and that is relevant
9 and not privileged. This subdivision shall constitute the exclusive
10 method for prehearing discovery. However, nothing in this
11 paragraph shall affect the bureau's authority, at any time, to
12 investigate, inspect, monitor, or obtain and copy information under
13 any provision of this chapter.

14 (2) The written request described in paragraph (1) shall be made
15 before the hearing and within 30 days of the service of the notice
16 described in subdivision (a). Each recipient of a request shall
17 comply with the request within 15 days of its service by providing
18 the names and addresses requested and by producing at a
19 reasonable time at the bureau's office, or other mutually agreed
20 reasonable place, the requested writings and things. The bureau
21 may extend the time for response upon a showing of good cause.

22 (3) Except as provided in this paragraph, a party may not
23 introduce the testimony or statement of a person or a writing or
24 thing into evidence at the hearing if that party failed to provide the
25 name and address of the person or to produce the writing or thing
26 for inspection and copying as provided by this subdivision. A party
27 may introduce the testimony, statement, writing, or thing that was
28 not identified or produced as required herein only if ~~there is no~~
29 ~~objection or if all of the following are true:~~

30 (A) *There is no objection, or* the party establishes that the
31 person, writing, or thing was unknown at the time when the
32 response was made to the written ~~request, the request.~~

33 (B) *The party could not have informed other parties within a*
34 *reasonable time after learning of the existence of the person,*
35 *writing, or thing, and no thing.*

36 (C) *No party would be prejudiced by the introduction of the*
37 *evidence.*

38 (d) Before a hearing has commenced, the bureau shall issue
39 subpoenas at the written request of a party for the attendance of
40 witnesses or the production of documents or other things in the

1 custody or under the control of the person subject to the subpoena.
2 Subpoenas issued pursuant to this section are subject to Section
3 11510 of the Government Code.

4 (e) (1) The bureau shall designate an impartial hearing officer
5 to conduct a hearing. The hearing officer may administer oaths
6 and affirmations, regulate the course of the hearing, question
7 witnesses, and otherwise investigate the issues, take official notice
8 according to the procedure provided in Division 4 (commencing
9 with Section 450) of the Evidence Code of any technical or
10 educational matter in the bureau's special field of expertise and
11 of any matter that may be judicially noticed, set the time and place
12 for continued hearings, fix the time for the filing of briefs and other
13 documents, direct any party to appear and confer to consider the
14 simplification of issues by consent, and prepare a statement of
15 decision.

16 (2) A hearing officer and a person who has a direct or indirect
17 interest in the outcome of the hearing may not communicate
18 directly or indirectly with each other regarding an issue involved
19 in the hearing while the proceeding is pending without notice and
20 opportunity for all parties to participate in the communication. A
21 hearing officer who receives an ex parte communication shall
22 immediately disclose the communication to the bureau and all
23 other parties. The bureau may disqualify the hearing officer, if
24 necessary, to eliminate the effect of the ex parte communication.
25 If the bureau finds that a party willfully violated, or caused a
26 violation of, this paragraph, the bureau shall enter that party's
27 default and impose the administrative sanction set forth in the
28 notice provided pursuant to subdivision (a).

29 (f) (1) Each party at a hearing shall be afforded an opportunity
30 to present evidence, respond to evidence presented by other parties,
31 cross-examine, and present written argument or, if permitted by
32 the hearing officer, oral argument on the issues involved in the
33 hearing. The bureau may call a party as a witness who may be
34 examined as if under cross-examination.

35 (2) Each party may appear through its representative or through
36 legal counsel.

37 (3) The technical rules relating to evidence and witnesses shall
38 not apply. However, only relevant evidence is admissible.

39 (4) Oral evidence shall be taken only upon oath or affirmation.
40 A hearing shall be conducted in the English language. The

1 proponent of any testimony to be offered by a witness who is not
2 proficient in English shall provide, at the proponent's cost, an
3 interpreter proficient in English and the language in which the
4 witness will testify.

5 (5) A hearing shall be recorded by tape recording or other
6 phonographic means unless all parties agree to another method of
7 recording the proceedings.

8 (6) (A) At any time 10 or more days before a hearing, a party
9 may serve on the other parties a copy of a declaration that the party
10 proposes to introduce in evidence.

11 (B) A declaration provided pursuant to subparagraph (A) shall
12 be accompanied by a notice indicating the date of service of the
13 notice and stating that the declarations will be offered into
14 evidence, the declarants will not be called as witnesses, and there
15 will be no right of cross-examination unless the party receiving
16 the notice requests the right to cross-examine, in writing, within
17 seven days of the service of the declarations and notice.

18 (C) If no request for cross-examination is served within seven
19 days of the service of the declarations and notice described in
20 ~~paragraph~~ *subparagraph* (B), the right to cross-examination is
21 deemed waived and the declaration shall have the same effect as
22 if the declarant testified orally. Notwithstanding this subparagraph,
23 a declaration may be admitted as hearsay evidence without
24 cross-examination.

25 (7) Disposition of an issue involved in a hearing may be made
26 by stipulation or settlement.

27 (8) If a party fails to appear at a hearing, that party's default
28 shall be taken and the party shall be deemed to have waived the
29 hearing and agreed to the administrative action and the grounds
30 for that action described in the notice given pursuant to subdivision
31 (b). The bureau shall serve the party with an order of default
32 including the administrative action ordered. The order shall be
33 effective upon service or at any other time designated by the
34 bureau. The bureau may relieve a party from an order of default
35 if the party applies for relief within 15 days after the service of an
36 order of default and establishes good cause for relief. An
37 application for relief from default shall not stay the effective date
38 of the order unless expressly provided by the bureau.

39 (g) (1) At any time before a matter is submitted for decision,
40 the bureau may amend the notice provided pursuant to subdivision

1 (a) to set forth any further grounds for the originally noticed
2 administrative action or any additional administrative action and
3 the grounds therefor. The statement of the further grounds for the
4 originally noticed administrative action, or of the grounds for any
5 additional administrative action, shall be made with sufficient
6 particularity to give notice of the transactions, occurrences,
7 violations, or other matters on which the action or additional action
8 is based. The amended notice shall be served on all parties. All
9 parties affected by the amended notice shall be given reasonable
10 opportunity to respond to the amended notice as provided in this
11 section.

12 (2) The bureau may amend a notice provided pursuant to
13 subdivision (b) after a case is submitted for decision. The bureau
14 shall serve each party with notice of the intended amendment, and
15 shall provide the party with an opportunity to show that the party
16 will be prejudiced by the amendment unless the case is reopened
17 to permit the party to introduce additional evidence. If prejudice
18 is shown, the bureau shall reopen the case to permit the introduction
19 of additional evidence.

20 (h) (1) Within 30 days after the conclusion of a hearing, or at
21 another time established by the bureau, a hearing officer shall
22 submit a written statement of decision setting forth a
23 recommendation for a final decision and explaining the factual
24 and legal basis for the decision as to each of the grounds for the
25 administrative action set forth in the notice or amended notice.
26 The bureau shall serve the hearing officer's statement of decision
27 on each party and its counsel within 10 days of its submission by
28 the hearing officer.

29 (2) The director shall make the final decision, which shall be
30 based exclusively on evidence introduced at the hearing. The final
31 decision shall be supported by substantial evidence in the record.
32 The director also shall issue a statement of decision explaining the
33 factual and legal basis for the final decision as to each of the
34 grounds for the administrative action set forth in the notice or
35 amended notice. The director shall issue an order based on its
36 ~~decision which~~ *decision, and that order* shall be effective upon
37 service or at any other time designated by the director. The director,
38 or his or her agent, shall serve a copy of the final decision and
39 order, within 10 days of their issuance, on each party and its
40 counsel.

(3) The bureau shall serve a certified copy of the complete record of the hearing, or any part thereof designated by a party, within 30 days after receiving the party's written request and payment of the cost of preparing the requested portions of the record. The complete record shall include all notices and orders issued by the bureau, a transcript of the hearing, the exhibits admitted or rejected, the written evidence and any other papers in the case, the hearing officer's statement of decision, and the final decision and order.

(i) The bureau shall serve all notices and other documents that are required to be served by this section on each party by personal delivery, by certified mail, return receipt requested, or by other means designated by the bureau.

(j) (1) A party aggrieved by the director's final decision and order may seek judicial review by filing a petition for a writ of mandate, pursuant to Section 1085 of the Code of Civil Procedure, within 30 days of the issuance of the final decision and order. If review is not sought within that period, the party's right to review shall be deemed waived.

(2) An aggrieved party shall present the complete record of the hearing or all portions of the record necessary for the court's review of the director's final decision and order. The court shall deny the petition for a writ of mandate if the record submitted by the party is incomplete. The court may not consider a matter not contained in the record. The director's findings of fact and legal conclusions supporting the final decision shall be conclusive if supported by substantial evidence on the record considered as a whole.

(3) A final order may not be stayed or enjoined during review except upon the court's grant of an order on a party's application after due notice to the director and the Attorney General. The order shall be granted only if the party establishes the substantial likelihood that it will prevail on the merits and posts a bond sufficient to protect fully the interests of the students, the bureau, and the fund; from any loss.

(k) The bureau may adopt regulations establishing alternative means of providing notice and an opportunity to be heard in circumstances in which a full hearing is not required by law.

(l) For the purposes of this section, "good cause" shall require sufficient ground or reason for the determination to be made by the bureau.

Article 10. Fees, Costs, and Regulatory Structure

95040. There is hereby enacted a tiered structure of approvals to operate that shall reflect the resources necessary for the bureau to perform its regulatory duties and functions, based upon the regulatory requirements to which institutions are subjected during approval and by other actions of the bureau.

(a) A Tier 1 approval signifies that an institution is accredited by an accrediting body recognized by the USDE with no current negative actions by that accrediting agency, is fully in compliance with the standards set forth in this chapter, has been granted a full approval to operate by the bureau, and has not been subject to involuntary withdrawal from federal Title IV student financial aid participation *under Title IV of the federal Higher Education Act of 1965*, or that an institution has received an exemption from the bureau that allows it to operate as a registered institution.

(b) A Tier 2 approval signifies that an institution is unaccredited, or operating under initial approval, or unable to meet the standards set forth in subdivision (a). Under a Tier 2 approval, an institution may be subject to special monitoring by the bureau. The conditions for the approval may include the required submission of frequent and focused reports, as prescribed by the bureau, and special visits by authorized representatives of the bureau to determine progress toward total compliance, if the institution's placement in Tier 2 approval was based upon its failure to fully comply with the standards set forth in this chapter.

(c) A Tier 3 approval signifies that the institution is not in compliance with one or more provisions of this chapter that are not technical or minor in nature, and is subject to a period of evaluation and possible termination of approval. Under a Tier 3 approval, an institution shall be subject to monitoring that may include the submission of frequent and focused reports, as prescribed by the bureau, as well as special onsite inspections to determine progress towards compliance.

~~95041. Fees for institutions as determined by their placement in the tiered structure of approvals.~~

~~(a) The annual fee for a calendar year for an institution placed~~

95041. (a) *The annual fee for a calendar year for an institution placed under Tier 1 approval as provided in Section*

1 95040 shall be ____ percent of its gross revenues as evidenced in
2 its most recent audited financial statement.

3 (b) The annual fee for an institution placed under Tier 2 approval
4 as provided in subdivision (b) of Section 95040 shall be 200 percent
5 of the fee provided in ____.

6 (c) The annual fee for an institution placed under Tier 3 approval
7 as provided in subdivision (b) of Section 95040 shall be 500 percent
8 of the fee provided in ____.

9 (d) Where an institution is placed in one or more ~~Tiers~~ tiers
10 during a calendar year, the annual fee shall be assessed at the
11 highest fee level that would apply.

12 95042. *It is the intent of the Legislature that the measure that*
13 *adds this section not be adopted by a fiscal committee unless and*
14 *until this article is amended to add all of the following provisions:*

15 (a) *A percentage now represented by a blank line in subdivision*
16 *(a) of Section 95041.*

17 (b) *Clarity regarding the specific revenues and documentation*
18 *thereof that shall constitute the basis for the assessment in*
19 *subdivision (a) of Section 95041.*

20 (c) *Creation, in the State Treasury, of the Private Postsecondary*
21 *Education Administration Fund, as referenced elsewhere in this*
22 *chapter.*

23 (d) *Establishment of a one-time assessment to the fund referred*
24 *to in subdivision (c) to assist with the costs of the Legislative*
25 *Analyst's Office study required in paragraph (1) of subdivision*
26 *(c) of Section 94841, including a justification for the decision as*
27 *to which institutions shall be assessed this fee.*

28 (e) *Authority for the bureau to adjust, by regulation, the fees*
29 *and costs included in this article.*

30 (f) *Application fees, of specified amounts, for application for*
31 *initial approval, full approval, renewal of approval, and registered*
32 *institution approval, for the addition or a branch or satellite*
33 *campus, for change of ownership, for program approval including*
34 *registered programs, for agent and agency authorization, for*
35 *exemption where required, and for failure to make a timely*
36 *application where required.*

37 (g) *Authority for the bureau to assess an institution for cost*
38 *recovery for investigations not sufficiently funded by an*
39 *institution's placement in a tier as provided in Sections 95040 and*
40 *95041, including a statement of reasons as to why the annual fee*

1 *levied under Sections 95040 and 95041 is insufficient, including*
2 *notice and hearing rights.*

3
4 Article 11. Transition
5

6 95050. (a) An institution that had a valid approval to operate
7 on June 30, 2007, issued by the Bureau for Private Postsecondary
8 and Vocational Education pursuant to Chapter 7 (commencing
9 with Section 94700) of Part 59 of Division 10 of Title 3, as it
10 existed on June 30, 2007, which was not revoked, shall maintain
11 that approval under this chapter. For the purposes of this chapter,
12 the approval shall be valid until two calendar years after the
13 expiration date of the approval, as it existed on June 30, 2007.

14 (b) Applications for reapproval that had been pending action
15 before the Bureau for Private Postsecondary and Vocational
16 Education on June 30, 2007, shall be deemed processed as follows:

17 (1) Applications received prior to January 1, 2006, shall be
18 granted a reapproval until 2009 to coincide with the anniversary
19 date of the current approval day.

20 (2) Applications received after January 1, 2006, shall be granted
21 a reapproval until 2010 to coincide with the anniversary date of
22 the current approval.

23 95051. (a) Each regulation in Division 7.5 (commencing with
24 Section 70000) of Title 5 of the California Code of Regulations
25 in effect on June 30, 2007, shall be in full force and effect on and
26 after January 1, 2008, to the extent the regulation is consistent with
27 the relevant provisions in this chapter.

28 (b) The bureau may, by emergency regulation, designate which
29 existing regulations are consistent with this chapter and which are
30 not and may replace inconsistent regulations. The bureau may
31 adopt emergency regulations, as required, to allow for the
32 immediate implementation of this chapter as this chapter succeeds
33 the Private Postsecondary and Vocational Education Reform Act
34 of 1989 (former Chapter 7 (commencing with Section 94700), as
35 it existed on June 30, 2007).

36 95052. The bureau shall succeed to any and all rights and
37 claims of the former Bureau for Private Postsecondary and
38 Vocational Education and that may have been asserted in a judicial
39 or administrative action pending on July 1, 2007, and shall take
40 any action reasonably necessary to assert and realize those rights

1 and claims in its own name. The functions and responsibilities of
2 the former Bureau for Private Postsecondary and Vocational
3 Education—~~had~~ for the administration of former Chapter 7
4 (commencing with Section 94700) on June 30, 2007, are transferred
5 to the bureau, effective July 1, 2007, as provided by this chapter.

6 95053. The bureau shall have possession and control of all
7 records, papers, offices, equipment, supplies, or other property,
8 real or personal, held for the benefit or use by the former Bureau
9 for Private Postsecondary and Vocational Education in the
10 performance of the duties, powers, purposes, responsibilities, and
11 jurisdictions that are vested in the bureau.

12 95054. If an institution is placed in Tier 2 or Tier 3 based upon
13 its failure to comply with one or more provisions of ~~the~~ *this*
14 chapter, the bureau shall restore the institution's previous level of
15 ~~Tier Approval~~ *tier approval under Article 10 (commencing with*
16 *Section 95040)* within 30 days of the bureau's determination that
17 the institution has undertaken satisfactory corrective action related
18 to those violations, or by the end of the calendar year, whichever
19 is sooner.

20 21 Article 12. Severability and Construction

22
23 95060. The provisions of this chapter are severable. If any
24 provision of this chapter or its application is held invalid, that
25 invalidity shall not affect other provisions or applications that can
26 be given effect without the invalid provision or application.

27 95061. This chapter shall be liberally construed to effectuate
28 its intent and achieve its purposes.

29 30 Article 13. Repeal

31
32 95070. This act shall remain in effect only until January 1,
33 2015, and as of that date is repealed, unless a later enacted statute,
34 that is enacted before January 1, 2015, deletes or extends that date.

35 SEC. 5. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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