AMENDED IN ASSEMBLY AUGUST 20, 2007

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~~ *set forth* 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~~ *established* in the Department of Consumer Affairs the Bureau for Private Postsecondary and Vocational Education, which, among other things, ~~is~~ *was* required to review and investigate all institutions, programs, and courses of instruction approved under the act.

The act ~~establishes~~ *established* the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The act ~~specifies~~ *specified* that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act ~~are~~ *were* punishable as crimes.

~~A provision of the act provides for it to become~~

The act became inoperative on July 1, 2007, and ~~provides for its repeal~~ *will be repealed* on January 1, 2008.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:

SECTION 1. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) or (d) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an

infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor, or

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

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

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

(1) Sections 2052 and 2054.
(2) Section 2630.
(3) Section 2903.
(4) Section 3660.
(5) Sections 3760 and 3761.
(6) Section 4080.
(7) Section 4825.
(8) Section 4935.
(9) Section 4980.
(10) Section 4996.
(11) Section 5536.
(12) Section 6704.
(13) Section 6980.10.
(14) Section 7317.
(15) Section 7502 or 7592.
(16) Section 7520.
(17) Section 7617 or 7641.
(18) Subdivision (a) of Section 7872.
(19) Section 8016.
(20) Section 8505.
(21) Section 8725.
(22) Section 9681.
(23) Section 9840.
(24) Subdivision (c) of Section 9891.24.
(25) Section 19049.

(d) Institutions that are required to register with the Bureau for Private Postsecondary Education pursuant to Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of 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) The Bureau of Barbering and Cosmetology.
(2) The Funeral Directors and Embalmers Program.
(3) The Veterinary Medical Board.
(4) The Hearing Aid Dispensers Advisory Commission.
(5) The Landscape Architects Technical Committee.
(6) The California Board of Podiatric Medicine.
(7) The Respiratory Care Board of California.
(8) The Bureau of Home Furnishings and Thermal Insulation.
(9) The Bureau of Security and Investigative Services.
(10) The Bureau of Electronic and Appliance Repair.
(11) The Bureau of Automotive Repair.
(12) The Tax Preparers Program.
(13) The California Architects Board.
(14) The Speech-Language Pathology and Audiology Board.
(15) The Board for Professional Engineers and Land Surveyors.
(16) The Board of Behavioral Sciences.
(17) The State Board for Geologists and Geophysicists.
(18) The Structural Pest Control Board.
(19) The Acupuncture Board.
(20) The Board of Psychology.
(21) The California Board of Accountancy.
(22) The Bureau of Naturopathic Medicine.
(23) The Bureau for Private Postsecondary Education.

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

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

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

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

(c) The Cemetery and Funeral Bureau.

SEC. 4. Chapter 7 (commencing with Section 94700) is added 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, other than in this chapter, to the Private Postsecondary Education and Student Protection Act or the Private Postsecondary and Vocational Education Reform Act of 1989 (Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3), by the provisions of any statute or regulation, it is to be construed as referring to this chapter.

94701. The Legislature finds and declares the following:

(a) In 2007, there were more than 400,000 Californians attending the more than 1,500 private postsecondary schools in California. Many of these students are low-income students who incur up to tens of thousands of dollars in long-term debt in an effort to learn a trade and become employed in order to financially provide for themselves and their families.

(b) Private postsecondary schools meet a great need in California. These schools complement the public education system and help develop a trained workforce that helps meet the demands of California businesses and the economy.

(c) Numerous reports and studies have concluded that California law and regulatory oversight have failed to provide effective student protections or oversight of private postsecondary schools. The law and regulatory oversight were allowed to expire on June 30, 2007, thereby creating an urgent need to reform the law and create a new regulatory structure to take effect on January 1, 2008.

(d) This chapter intends to provide a body of law that ensures all of the following:

(1) Minimum educational quality standards and opportunities for success for California students attending private post secondary schools.

(2) Meaningful student protections through essential avenues of recourse for students.

(3) A regulatory structure that provides for an appropriate level of oversight.

(4) A regulatory governance structure that ensures that all stakeholders have a voice and are heard in policymaking by the new bureau created by this chapter.

(5) A regulatory governance structure that provides for accountability and oversight by the Legislature through program monitoring and periodic reports.

(e) (1) In determining the scope of institutions subject to this chapter, the Legislature finds no conclusive evidence to be used as a basis for determining whether institutions should be exempted from this chapter and, if so, under what circumstances. Therefore, the Legislature concludes it best to continue exemptions in effect on June 30, 2007, and to require a study to assess accrediting bodies. This study is intended to serve as the basis for legislative reexamination of exemptions in the future.

(2) The Western Association of Schools and Colleges (WASC), through its two commissions, the Accrediting Commission for Senior Colleges and Universities, and the Accrediting Commission for Community and Junior Colleges has for more than 40 years been responsible for academic review and accreditation of all University of California campuses, California State University system campuses, and public junior or community colleges in California. Therefore, as a public policy, the Western Association of Schools and Colleges has been accepted as an appropriate level of accreditation for public post secondary instruction and all private post secondary institutions approved by the Western Association of Schools and Colleges are exempt from this chapter.

(f) The law has historically failed to address the issue of Internet-based education. There is no reliable data on this issue, but it is widely believed that up to 20 percent of the private postsecondary education provided in California in 2007 is Internet-based. Therefore, this chapter calls for a thorough review of Internet-based private postsecondary education. This review is intended to serve as a basis for future policymakers to address any deficiencies in law in regulating Internet-based private postsecondary education.

(g) The Legislature advises future policymakers to continually and carefully evaluate this chapter and its administration and enforcement. Where there are deficiencies in the law or regulatory oversight, the Governor and Legislature should act quickly to correct them. A failure to act in a timely manner allowed expiration

of the regulatory structure on June 30, 2007. This history should never be repeated.

94702. The Bureau for Private Postsecondary Education is subject to periodic and ongoing review by the Legislature.

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 program 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 resources, state and federal student financial aid, or private loans. It is also the intent and purpose of this chapter 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 protection of the public from fraud and misrepresentation and 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.

94704.5. Whenever a reference is made to the Bureau for Private Postsecondary and Vocational Education, by the provisions of any statute or regulation, that reference shall be construed as referring to the Bureau for Private Postsecondary Education.

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 the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government 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 ombudsperson, subject to confirmation by the Senate.

(b) The ombudsperson shall be a person with sufficient knowledge of private postsecondary education and consumer protection.

(c) The bureau chief shall establish the compensation of the ombudsperson.

(d) The duties of the ombudsperson shall include, but not be limited to, all of the following:

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

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

(3) Reviewing the handling of student complaints, initiation of investigations, and Student Tuition Recovery Fund claims.

(4) Reviewing and commenting on bureau reports to the Governor and the Legislature.

(5) Making recommendations for the selection of an independent monitor under Section 94751.

94709. The bureau has the following functions and responsibilities:

(a) The administration of this chapter and promulgation of necessary regulations.

(b) The enforcement of this chapter and the approval of institutions and programs that meet the requirements of this chapter.

(c) The development and maintenance of a public Internet Web site that shall include clearly accessible and searchable information regarding approved private postsecondary institutions in California. The Internet Web site shall provide information for prospective students so they may make informed choices regarding their educational opportunities and provide information for current students so they may understand their rights. The bureau shall also provide a directory of approved institutions which shall provide the following information, if applicable, about each program at each site of each institution:

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

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

(3) The salary information described in clauses (i) and (ii) of subparagraph (E) of paragraph (1) of subdivision (a) of Section 94893.

(4) The licensing examination information described under clause (ii) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 94893.

(5) The total charge.

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

(7) Information on student complaints.

(8) Any disciplinary actions against the institution.

(d) Providing outreach to prospective and current private postsecondary education students and high school students, to provide them with information on how best to select postsecondary institutions, how to enter into contracts and student enrollment agreements, how to protect themselves in the postsecondary

education marketplace, and how to contact the bureau for assistance if problems arise. The bureau may accomplish the purposes of this section in cooperation with the department.

(e) Establishment of a regular inspection program, which shall include announced and unannounced inspections during normal business hours of a sample of educational programs and institutions each year and may include all matters included in subdivision (d) of Section 94858 and all records required to be maintained under Section 94904, or necessary to show compliance with this chapter. Inspections under the program may be based, but not limited to, all of the following:

(1) Documents submitted to the bureau by the institution.

(2) Complaints received about the institution.

(3) Accrediting agency documents.

(4) The time elapsed since a previous inspection.

(5) Any other rational basis.

(f) Review and investigation of institutions and programs approved under this chapter. Consideration in the scheduling of reviews and investigations shall be afforded to student complaints and information collected by the Attorney General, Student Aid Commission, any bureau within the department, or any other federal, state, or local agency.

(g) If the bureau believes that there may have been a violation of this chapter or regulations adopted by the bureau by an institution, the bureau shall conduct a timely investigation of the institution. 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 timely responses and appropriate investigations.

(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 and database as provided in this article.

(k) To the extent funding and resources are available for this purpose, 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) Establishment of a plan to identify unlicensed institutions operating in violation of this chapter and initiate appropriate legal enforcement action against those institutions.

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

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

94711. The bureau shall, as it deems necessary, impanel qualified visiting committees to assist the bureau in the investigation, review, inspection, or evaluation of programs or institutions pursuant to this chapter. The members of a qualified visiting committee shall receive no compensation but shall be

reimbursed for their actual expenses for attendance at official meetings and actual expenses when on official bureau business. The members of the qualified visiting committees shall serve at no expense to the state. The actual travel and per diem expenses incurred by each member of a qualified visiting committee shall be reimbursed by the institution that is the subject of the investigation, review, inspection, or evaluation.

94712. (a) A person serving on a qualified visiting committee who provides information to the bureau or its staff in the course and scope of evaluating any institution subject to this chapter or who testifies at any administrative hearing arising under this chapter, is entitled to a defense by, and indemnification from, the bureau in any action arising out of information or testimony to the bureau which that person would have if he or she were a public employee.

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

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

94714. The bureau shall, in consultation and coordination with the director and the Attorney General, develop and implement an enforcement program to carry out this chapter, including a plan for investigating complaints filed with the bureau and monitoring data institutions.

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

94716. The bureau shall adopt a strategic plan by December 31, 2009, and update the plan periodically as needed.

94717. The bureau shall adopt, and periodically review and update, internal quality review and audit procedures to ensure

that processes are in place to promote and achieve full compliance with this chapter.

94718. The bureau may design and administer a process for the approval of programs offered to veterans of the armed forces, and for the approval and supervision of the institutions offering programs to veterans, pursuant to any applicable act of Congress and the regulations adopted pursuant to such an act. For purposes of this section, the bureau:

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

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

94719. For purposes of compliance with Section 94903, the bureau shall do the following:

(a) Adopt regulations concerning the manner of documenting the nature of a student's existing knowledge, training, and skill and that ESL instruction offered by the institution is necessary to enable the student to use that existing knowledge, training, and skill, as prescribed in subdivision (d) of Section 94903. The regulations shall specify all of the following:

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

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

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

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

(b) Develop and distribute instructions, informational materials, or forms to assist institutions in developing the documentation described in this section. These instructions, materials, and forms shall not be subject to review or approval by the Office of Administrative Law pursuant to any provision of the Government Code.

Article 1.5. Advisory Committee

94730. There is hereby created within the bureau an advisory committee.

94731. (a) The committee shall consist of 15 members: nine members appointed by the Governor, three members appointed by the Senate Committee on Rules, and three members appointed by the Speaker of the Assembly. The committee members shall include representatives of law enforcement, consumer protection organizations, representatives of institutions, consumer advocates, student advocates, employers who hire persons in occupations or job titles which require vocational training, and persons who have expertise in matters relevant to the duties of the bureau.

(b) In addition to those designated in subdivision (a), the ombudsperson shall serve as an ex officio member of the committee.

(c) Duly appointed members shall be eligible for per diem payment and reimbursement of expenses associated with attendance at meetings and other functions as assigned by the bureau, subject to the approval of the bureau.

(d) The bureau chief, the ombudsperson, and any member of the committee may each place items on the agenda for the consideration of the advisory committee.

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

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

94734. A majority of the appointed members of the committee constitutes a quorum for the transaction of business. The affirmative vote of a majority of committee members is necessary to render a decision or pass a motion. Any dissents from committee actions approved by a majority vote of the committee may be submitted in writing and shall be entered in the record of the committee.

94735. The committee members shall elect one of their number as the chair and another member as the vice chair. The chair and

vice chair shall be elected at the first meeting of each calendar year or when a vacancy exists.

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

94738. The committee shall meet at least quarterly or more often as the committee deems necessary.

94739. The bureau shall provide staff and administrative support for the committee necessary for the committee to perform its duties.

94740. The committee shall be responsible for activities including, but not limited to, all of the following:

(a) At its inception, the priorities of the committee shall be to consider issues identified in this chapter, including, but not limited to, providing advice to the bureau in its obligation to administer and enforce provisions of this chapter and the promulgation of regulations.

(b) Making reports, as the committee deems necessary, to the Governor and the Legislature on any deficiencies in this chapter or the administration and implementation of this chapter.

(c) Making recommendations to the ombudsperson and the bureau on the administration and enforcement of this chapter.

(d) Reviewing and publicly commenting on the report provided pursuant to subdivision (c) of Section 94750 after its final release.

Article 1.7. Program Monitor and Reports

94750. (a) The Legislature finds and declares the following:

(1) Many students who attend institutions accredited by the accrediting bodies described in paragraph (1) of subdivision (b) of Section 94841 receive Cal Grant awards toward the costs of attending these institutions.

(2) The state has a responsibility to ensure that, to the extent the state relies on the accreditation processes for institutions described in subdivision (b) of Section 94841, minimum standards of quality are met and that accreditation processes meet the goals and requirements of this chapter.

(b) (1) The Bureau of State Audits shall conduct an audit pursuant to Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of the Government Code that assesses the

extent accreditation by the accrediting bodies described in paragraph (1) of subdivision (b) of Section 94841 provides sufficient assurance that the various goals and requirements of this chapter are met, including, but not limited to, the degree to which the accreditation process assures the quality and effectiveness of education at accredited institutions and affords meaningful and effective student protections.

(2) In conducting the audit, the Bureau of State Audits shall protect the confidentiality of information obtained from private individuals and organizations pursuant to subdivision (a) of Section 8545 of the Government Code.

(3) In conducting the audit, the Bureau of State Audits may perform, but is not limited to, all of the following:

(A) Examine accrediting bodies recognized by the United States Department of Education (USDE) and accredited institutions in California. These shall include all regional accrediting bodies and a sample of national accrediting bodies.

(B) To the extent deemed necessary to meet the audit standards the Bureau of State Audits is required to comply with pursuant to Section 8546.1 of the Government Code, contacting and obtaining information from institutions or programs operated by institutions accredited by the accrediting bodies.

(c) The Bureau of State Audits shall issue a public report on the results of the audit not later than December 31, 2009. Based on the assessment, the audit report shall include recommendations on the continuation, elimination, or modification of the exemptions in Section 94841.

(d) (1) It is the intent of the Legislature that the accrediting bodies described in paragraph (1) of subdivision (b) of Section 94841, and any of the institutions or programs operated by those institutions accredited by those bodies, provide the Bureau of State Audits with full access to any information, records, or individuals that the State Auditor determines are necessary to perform the audit, in a manner consistent with Section 8545.2 of the Government Code.

(2) Upon receiving the information provided pursuant to paragraph (1), the Bureau of State Audits shall protect the confidentiality of that information as required by subdivision (a) of Section 8545, Section 8545.1, and subdivision (b) of Section 8545.2 of the Government Code. In keeping information

confidential as required by those provisions, the Bureau of State Audits shall provide reasonable assurances to the accrediting bodies and institutions that any information used to support the conclusions and facts in the audit report will be used in a manner that does not disclose confidential information that the accrediting body or the institution reasonably claims is not subject to public disclosure under state or federal law.

(3) If any of the entities described in paragraph (1) refuse to provide the Bureau of State Audits access to the information, records, or individuals the Bureau of State Audits determines are necessary to perform the audit, the Bureau of State Audits shall notify the Legislature and the Governor in writing of that fact, and that notification shall become a public record.

(e) The Bureau of Private Postsecondary Education, shall reimburse the Bureau of State Audits for the costs of the work performed by the Bureau of State Audits under this section

94751. (a) Beginning on January 1, 2011, and each January 1 thereafter, the bureau shall provide an annual report to the Legislature and Governor on the bureau's activities in implementing this chapter, data summarizing private postsecondary education in California, and its recommendations for amendments to this chapter, as it deems necessary.

(b) Between January 1, 2011, and December 31, 2011, the bureau shall employ an independent monitor to undertake a comprehensive review of its policies and operations. The bureau shall forward the results of that review to the Legislature and the Governor.

(c) The bureau shall include, in its January 1, 2013, regular annual report to the Legislature and the Governor, information on the bureau's activities to improve and correct any deficiencies noted by the independent monitor and shall, where appropriate, adopt meaningful, measurable, and manageable performance standards as one mechanism to ensure improvement where there are deficiencies, and shall include information pertaining to those performance standards in this report to the Legislature.

(d) Between January 1, 2013, and December 31, 2013, the bureau shall employ an independent monitor to undertake a followup review of its policies and operations, and shall forward the results of that review to the Legislature and the Governor.

94752. The bureau shall, in conjunction with California Postsecondary Education Commission, include in its January 1, 2012, regular annual report to the Legislature and Governor, a report on private postsecondary distance learning available to California students on the Internet. This report shall include, but not necessarily be limited to, the following:

(a) Data on the numbers of students receiving Internet-based private postsecondary education.

(b) Information on institutions, including whether the institutions are accredited, or otherwise regulated, and the location of the institutions, including institutions located outside of California.

(c) The types of courses offered.

(d) An identification of the opportunities and limitations in California law to regulate these institutions.

Article 2. Definitions

94760. "Academic year" generally means a period including a minimum of 30 weeks of instruction, beginning in the fall term of a calendar year and ending at the end of the summer term of the succeeding calendar year.

94761. "Accredited" means that an institution has received accreditation for having the standards established by an accrediting agency recognized by the United States Department of Education, or the Committee of Bar Examiners of the State Bar of California. It does not include an institution that has applied for accreditation, is identified by an accrediting association as a candidate for accreditation, or has provisional accreditation.

94761.5. "Adverse accreditation action" or "negative accreditation action" means the denial or withdrawal of accreditation or candidate status by a USDE recognized accrediting body.

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

94763. "Agency authorization" means a written document issued by the bureau authorizing a business entity or an institution to engage in the recruitment of students for enrollment in private

postsecondary educational institutions approved under this chapter.

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

94765. "Annual report" means the report required to be filed pursuant to Section 94883.6.

94766. "Applicant" means a person or entity that has submitted an application on which the bureau has not yet made a determination. An applicant shall not enroll students or offer educational services until the bureau has made a determination regarding the application.

94767. "Approval," "approval to operate," "approved to operate," or "institutional approval" means that the bureau has determined, pursuant to Article 4 (commencing with Section 94850), that an institution or program meets minimum standards established by the bureau for integrity, financial stability, educational quality, including the offering of bona fide instruction by qualified faculty, and assessment of students' achievement prior to, during, and at the end of its program, as appropriate.

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

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

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

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

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

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

(b) For distance learning courses, any calendar day except Saturday, Sunday, or any holiday enumerated in Section 6700 of the Government Code.

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

94772.5. "Certificate" means a diploma, certificate, document, or other writing in any language, other than a degree, which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary educational level.

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

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

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

94776. "Commencement of operations" or "commence operations" means that an institution has begun to offer instruction, training, or education to students.

94777. "Committee" means the advisory committee established pursuant to Section 94730

94778. "Completion of a program," "complete the program," or "completing the program" means a student has completed all requirements of a program and received a certificate or degree, as applicable, for that program.

94779. "Completion tracking period" means the year during which a student's scheduled completion and actual completion are tracked for purposes of determining, reporting, and disclosing a school's completion numbers and rates and reporting to the bureau pursuant to Section 94883.6.

94780. (a) Except as provided in subdivision (b), "continuing education" means instruction in any of the following circumstances:

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

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

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

(b) "Continuing education" does not include any of the following:

(1) A vocational program.

(2) A degree program.

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

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

94782. "Degree" means any type of degree or honorary degree or title of any designation, mark, appellation, series of letters or words including, but not necessarily limited to, associate, bachelor, master, doctor, or fellow, that signifies, purports to constitute, or is generally taken to signify, satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary educational level, or is an honorary title conferred for recognition of some meritorious achievement.

94784. "Degree program" means a program leading to a degree.

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

94786. "Department" means the Department of Consumer Affairs.

94787. "Director" means the Director of Consumer Affairs.

94788. "Distance learning" means lessons for study and completion by a student at a location separate from an institution with a physical location in California by home study, correspondence, or the Internet or other electronic means, including the instruction offered in combination with instruction at the institution.

94789. "Distance learning institution" means any institution that provides lessons for study and completion by a student at a location separate from the institution by home study, correspondence, or the Internet, or other electronic means, including, but not limited to, those institutions that offer that instruction in combination with instruction at the institution.

94790. "Document or record" means a test score, grade, record of grades, attendance record, record indicating student program completion or employment, financial information, including any financial report required to be filed pursuant to Section 94883.6, information or records relating to the student's eligibility for financial assistance or attendance at the institution, or any other record or document required by this chapter or by the bureau.

94791. "Education," "educational services," or "educational program" includes, but is not necessarily limited to, a class, course, or program of training, instruction, or study.

94791.5. "Emerging new fields of study" means a subject area that is not generally recognized by colleges and universities and by the bureau, at the time of the bureau's evaluation of the field, as a discipline for certificate or degree study in postsecondary education.

94792. (a) "Employment" means a paid position in which a student was employed for at least 60 days within the employment tracking period, in an occupation for which the student received the certificate or degree; the position requires education beyond

the high school level; the routine work in the position requires utilization of the skills and knowledge reasonably expected to be imparted in a program culminating in the degree or certificate the student received; and which is either of the following:

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

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

(b) Employment includes self-employment.

94793. "Employment tracking period" means the period during which a student's employment is tracked for purposes of determining a program's employment numbers and rate.

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

(b) For occupations for which the state requires passing an examination, the employment tracking period is extended to include the eight-month period after the announcement of the examination results for the first examination available after a student completes a program.

94794. "Enrollment" means the date on which the student signed an agreement for educational services.

94795. "ESL instruction" means any educational service involving instruction in English as a second language.

94796. "Equipment" includes all textbooks, supplies, materials, implements, tools, machinery, computers, electronic devices, or any other goods related to any education, training, or instruction, or an agreement for educational services or a program.

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

94798. "Hearing" means a hearing conducted pursuant to Article 9 (commencing with Section 95030) or other alternative adjudicative process established by the bureau consistent with due process.

94799. (a) "Institution" means a person doing business in this state that offers to provide or provides, for a fee, tuition, or other charge, any instruction, training, or education under any of the following circumstances:

(1) A majority of the students to whom instruction, training, or education is provided during any 12-month period who have completed their secondary education or terminated their secondary education and are beyond the age of compulsory high school attendance.

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

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

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

(b) An institution includes its branch and satellite sites.

(c) An educational institution established, operated, and governed by the federal government or by this state, or its political subdivisions is not considered an institution under this chapter.

94800. "Instruction" includes any specific, formal arrangement by an institution or its enrollees to participate in learning experiences in which the institution's faculty present a planned curriculum appropriate to the enrollee's educational program.

94802. "License," for purposes of this chapter, includes an approval to operate or registration to engage in a business.

94803. "Licensure" includes a license, certificate, permit, or similar credential that a person must hold to lawfully engage in an occupation or activity.

94804. "Main location" or "main site" means an institution's primary teaching location. If an institution operates at only one site, that site is its main location or main site.

94805. "Nondegree institution" means an institution that exclusively offers nondegree programs.

94806. "Nondegree program" means a program that does not lead to a degree.

94807. "Occupational associate degree," "associate of occupational studies," or "associate of applied science," designated by terms including, but not necessarily limited to, associate occupational studies (AOS), associate applied science (AAS), associate specialist technical (AST), or associate specialist business (ASB), means an associate degree that may be awarded to students who complete 60 semester units or 90 quarter units in an occupational program that provides preparation for employment in an occupational field.

94808. "Out-of-state institution" means an institution that has its place of instruction or its principal location outside the boundaries of this state, that offers or conducts programs on premises maintained by the institution outside the boundaries of this state, that provides distance learning materials from a location outside the boundaries of this state, that evaluates completed lesson materials or otherwise conducts its evaluation service from a location outside the boundaries of this state, or that otherwise offers or provides California students with programs through activities engaged in or conducted outside the boundaries of this state.

94809. "Overall employment rate" means the percentage of those students who started the program, did not cancel during the cancellation period, and were originally scheduled at the time of enrollment to complete the program during the applicable completion tracking period who both completed the program within that completion tracking period and obtained employment.

94810. "Owner" means a person who has a legal or equitable interest in 10 percent or more of an institution's stocks or assets.

94811. "Parent corporation" means a corporation that owns more than 80 percent of the stock of an institution.

94812. "Person" means a natural person or a business entity, regardless of the form or organization.

94813. "Person in control" means a person who has sufficient capacity, directly or indirectly, to direct or influence the management, policies, or conduct of an institution so that the person can cause or prevent a violation of this chapter. There is a rebuttable presumption affecting the burden of proof that an owner, director, or officer of an institution is a person in control.

94814. "Private Postsecondary Institution" means an institution.

94815. "Program" or "program of instruction" means a program of training, course, set of related courses, or education for which a student enrolls.

94816. "Registered," "registered institution," or "registered educational service" means a person that offers an educational service and is registered to operate under Article 4 (commencing with Section 94850).

94818. "Representative" means an employee, an agent as defined in Section 2295 of the Civil Code, an agent as defined in Section 94764, an agency, as defined in Section 94762, or any person who, for compensation, does either of the following:

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

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

94819. "Satellite" means an auxiliary classroom or a teaching site separate from an institution's main location at which all of the following apply:

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

(b) The permanent records of attendance or academic progress for students taking courses or enrolled in a program at the satellite shall be maintained at the main location.

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

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

94821. "Scheduled to complete" means the date the institution determined, when the student enrolled, that the student was scheduled to complete the program.

94823. "Site" means a main location, branch, or satellite campus.

94824. "To offer" includes in addition to its usual meanings, offering, advertising, publicizing, soliciting, encouraging, or offering to a person, directly or indirectly, in any form, to perform an act as described.

94825. "To operate" an educational institution, "to operate an institution in this state," or like term, means educational services are offered or educational degrees or certificates are offered or granted by, through, or from a person doing business in this state.

94826. "Total charge" means the total charge for a program or other education, instruction, or training, including the charge for tuition, equipment, finance charges paid to the institution, and all other fees, charges, costs, and expenses paid to the institution.

94827. "USDE" means the United States Department of Education.

94828. "Vocational program" means an educational program having all of the following characteristics:

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

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

(c) Students who complete all or a portion of the program are awarded a certificate or an associate degree, including, but not necessarily limited to, an Occupational Associate Degree, Associate of Occupational Studies, or Associate of Applied Science.

94829. "Year" means a calendar year.

Article 3. Exemptions

94840. This chapter does not apply to publicly operated institutions.

94841. (a) The following private institutions are exempt from the requirements of this chapter:

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

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

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

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

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

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

(4) (A) A nonprofit institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multidenominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, that meets all of the following requirements:

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

(ii) The certificate or degree is limited to evidence of completion of that education.

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

(B) An institution operating under this paragraph shall offer degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization.

(C) This paragraph expresses the legislative intent that the state shall not involve itself in the content of certificate or degree programs awarded by any institution operating under this paragraph, as long as the institution awards certificates or degrees only in the beliefs and practices of the church, religious denomination, or religious organization.

(D) An institution exempt under this paragraph shall not award certificates or degrees in any area of physical science.

(E) Any certificate or degree granted in any area of study under this paragraph shall contain on its face, in the written description of the title of the certificate or degree being conferred, a reference to the theological or religious aspect of the certificate or degree's subject area.

(F) A degree awarded under this paragraph shall reflect the nature of the degree title, such as "associate of religious studies,"

"bachelor of religious studies," "master of divinity," or "doctor of divinity."

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

(5) Institutions solely offering programs that have a total charge of one thousand dollars ($1,000) or less. The bureau may adjust this cost threshold based upon the Consumer Price Index, and post notification of the adjusted cost threshold on its public Web site on or after January 1, 2009, and each January 1 thereafter.

(6) All private postsecondary institutions offering instruction in California which are accredited by the Accrediting Commission for Senior Colleges and Universities of the Western Association of Schools and Colleges.

(7) All private postsecondary institutions offering instruction in California which are accredited by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges.

(b) (1) The following institutions are exempt from this chapter until January 1, 2011, except as otherwise specifically provided in this chapter:

(A) All private postsecondary institutions offering instruction in California which are not accredited by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges but are accredited by another regional accrediting body recognized by the USDE.

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

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

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

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

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

Data System Report of the USDE and the accumulated default rate.

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

(2) To verify that any institution is exempt from this chapter, the bureau shall review and continue to monitor the accreditation status of each institution to determine if the institution received a negative accreditation action at any time between January 1, 2007, and December 31, 2010. The bureau's duty under this provision does not relieve any institution from its obligation to comply with this chapter.

94843. It is the intent of the Legislature that this article be amended before January 1, 2011 to reflect the findings and recommendations of the report required by Section 94750.

Article 4. Operating Requirements of Institutions

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

(a) Approved to operate pursuant to this article.

(b) Exempt from, or not subject to, this chapter.

94851. An institution making application under this article is subject to fees as specified in Article 10 (commencing with Section 95040). Approval of an institution to operate shall not be renewed prior to full payment of assessments, fees, fines, and penalties due under Article 7 (commencing with Section 94970) and Article 10 (commencing with Section 95040).

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

94853. (a) A new institution in California may be granted initial approval to operate under this chapter if the person's application satisfies the requirements of this article, there is no reason to expect that the person will not operate the institution in compliance with this chapter and any standard or regulation pertaining to it, the person is not in violation of this chapter or any standard or regulation pertaining to it, and there are no grounds for denial of the application under this chapter. An

approval to operate shall be issued to the owners or governing body, and shall be nontransferable, unless approved by the bureau.

(1) Initial approval shall be for a period of three years from the approval date if the institution is not accredited by an accrediting agency recognized by the USDE.

(2) Initial approval shall be for a period of five years from the approval date if the institution is accredited by an accrediting agency recognized by the USDE.

(3) If the institution has not commenced instruction within 18 months of the date of initial approval and notified the bureau of commencing instruction, the initial approval shall be terminated by operation of law.

94853.5. An institution that receives approval to operate shall be maintained and operated, or in the case of an initial approval for a person that has not commenced to operate, 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 or certificate by the institution, indicating that the program or programs of instruction have been satisfactorily completed by the student.

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

(d) The institution shall provide each student with sufficient materials, including current publications and equipment, not later than the time the materials are appropriate for use in the program.

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

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

(g) The institution shall not employ any person to be in a position of control, direct the financial operations, or be

responsible for the development or management of student financial and academic policies who has been convicted of, or pled nolo contendre or guilt to, a crime involving the acquisition, use, or expenditure of federal or state funds, or who has been judicially or administratively determined to have committed any violation of this chapter or the Private Postsecondary and Vocational Education Reform Act of 1989.

(h) The institution shall have technical resources to comply with the minimum standards of this chapter.

94854. An institution seeking an approval to operate shall file an application in a manner specified by the bureau, which shall be sufficient to demonstrate that the institution meets minimum obtain evidence of the minimum standards provided in Section 94853.5 and shall also include all of the following:

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

(b) The signatures and certifications under oath by the owners of the institution or, if the institution is incorporated, by the corporate officers, or, if the institution is a limited liability corporation, by all members who own 10 percent or more of that corporation, attesting to the accuracy of the information in the application and an acknowledgment that the owners, directors, and anyone in a position of control of the institution understands the responsibility to comply with the minimum standards in this chapter and that those minimum standards will be reviewed at the time of the initial approval onsite inspection and at other times as provided by this chapter.

(c) (1) An application for an initial approval shall include proposed versions of all of the following documents:

(A) All media advertising and promotional literature.

(B) All student enrollment agreements.

(C) All instruments of indebtedness made available to students.

(D) The institution's catalogue.

(E) All other documents that the institution is required to provide to students pursuant to Article 5 (commencing with Section 94890).

(F) A description of the institution's placement assistance.

(G) The institution's most current financial report as described in Section 94883.3.

(H) A list of all accrediting agencies recognized by the USDE which accredited the institution or program.

(2) An application for a renewal approval shall include copies of the documents specified in paragraph (1) in use on the date of the renewal application.

(d) If the application is for an initial approval, an operational plan sufficient to demonstrate that the institution will be maintained and operated in compliance with the requirements of this chapter. If the application is for a renewal approval, the information specified in Section 94883.6 and any other information needed to demonstrate that the institution is maintained and operated in compliance with the requirements of this chapter.

94855. An institution may combine all, or some, of its separate operating sites under one application for initial approval or may submit separate applications for each site. The sites, whether included in a combined application or separate applications will be considered to be part of the main location, and all sites will be treated as a single institution for purposes of regulation, approval, and compliance under this chapter.

94856. (a) (1) The bureau shall inform the institution within 60 days of receipt of an application for initial approval or renewal of approval to operate if additional information is required to complete or substantiate the application. The bureau shall provide a time period of no less than 30 days for an institution to provide requested information, and may grant extensions if requested and warranted.

(2) The bureau shall provide a time period of no less than 30 days for an institution to provide requested information.

(3) The bureau may grant extensions if requested and warranted.

(b) An application may be deemed abandoned if an institution fails to comply within the time period as specified or extended by the bureau according to subdivision (a).

(c) (1) The bureau may charge a delinquency fee of 20 percent of the application fee if an institution fails to comply within the time period as specified or extended by the bureau according to subdivision (a).

(2) The bureau may charge the fee on an institution that is subject to subdivision (a) if both of the following apply:

(A) The institution provides the missing information either with a new application or with a request in writing that the bureau process the original application even after the bureau had deemed it abandoned.

(B) The bureau agrees to process the application.

(d) If an application is deemed by the bureau to be abandoned, the bureau shall notify the applicant in writing of the determination. This notification shall also notify the applicant that if the applicant continues to seek initial approval, or renewal of approval, a new application shall be submitted.

94857. Following review of an institution's application for an initial approval to operate, accompanying documentation, and any other information required by this article, and any assessment or review of the applicant as the bureau deems necessary or appropriate, the bureau shall either approve or deny the institution's application. If the bureau determines the institution's application is not in compliance with the requirements of this article, the bureau shall deny the application. If the bureau determines that the institution's application satisfies the requirements of this article, that there is no reason to expect that the institution will not implement its business or operational plan, and that no grounds for denial of the application exist, the bureau shall grant the institution an initial approval to operate.

94858. (a) For institutions that are not accredited by an accrediting agency recognized by USDE, within one year of an institution's commencement of operations, following the bureau's issuance of an initial approval to operate, the bureau shall commence a qualitative review and assessment of all operations of an institution and all programs offered by that institution, and verify the institution's compliance with this chapter.

(b) The qualitative review and assessment shall, except for onsite inspection of an out-of-state institution which shall be at the discretion of the bureau, include an onsite inspection of the institution and its operations, and may include branches and satellites included in the initial approval to operate.

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

(d) The qualitative review and assessment shall encompass the required minimum standards as provided in Sections 94853 and 94853.5, and shall include interviews with administrators, faculty, staff, and students, and inspection of facilities, records, and record keeping. If student or public complaints have been received by the bureau since the time of initial approval to operate, all issues raised in such complaints shall be investigated.

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

(f) 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 that corrective action, which date shall not exceed 180 days from the date of the onsite review.

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

94864. At least 120 days before the expiration of its approval to operate, an institution seeking a renewal of that approval to operate shall file an application in a manner specified by the bureau and for a renewal approval which shall be fully demonstrate compliance with this chapter.

94866. If an institution files an application for a renewal approval within the time period specified in Section 94864, an institution's approval to operate is automatically continued until its application for renewal of approval to operate is acted upon by the bureau.

94867. Within 120 days of receipt of an application for renewal of approval to operate, the bureau shall review the application and take one or more of the following actions:

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

(b) Provide the institution with a corrective action plan to address deficiencies noted in the review and a time period not to exceed 18 months for the institution to undertake corrective action and present evidence of corrective activity as required, during which time period the institution's current approval to operate is extended.

(c) Deny renewal of the 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.

94869. (a) Notwithstanding any other provision of this article, if an institution loses its exemption from this chapter pursuant to subparagraphs (A) or (B) of paragraph (1) of subdivision (b) of Section 94841, it shall notify the bureau of that action within 10 days of receiving notice of that action, and the bureau shall immediately grant a 90 day approval of the institution and conduct a preliminary investigation to determine the causes for the action.

(b) Notwithstanding any other provision of this article, if an institution approved under this article loses its accreditation or its eligibility for participation in student financial aid programs under Title IV of the federal Higher Education Act of 1965, it shall notify the bureau of that action within 10 days of receiving notice of that action, and the bureau shall immediately place the license in a 90 day probationary period and conduct a preliminary investigation to determine whether the institution is operating in violation of this chapter.

(c) Grant an initial approval of the institution pursuant to Section 94853.

(d) 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.

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

94871. (a) An institution that 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 approval to operate by the bureau, and has not been subject to involuntary withdrawal from student financial aid participation under Title IV of the federal Higher Education Act of 1965, may add a program, a branch, or a satellite at any time if the program is, or if the branch or satellite

will offer programs, substantially related to an existing approved program. The institution shall notify the bureau of an addition of a program, branch, or satellite within 30 days after the institution finalizes its plan to add the program, branch, or satellite, and certify to the bureau that it currently meets, and will continue to meet, the requirements of this subdivision after the addition of the program, branch or satellite.

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

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

(2) The bureau may first conduct a site visit before acting on an application to add a new program, branch, or satellite.

(3) An institution may add a program with a total charge of less than two thousand five hundred dollars ($2,500) at any time, if the new program is substantially related to an existing, approved program. The institution shall notify the bureau of an addition of the program within 30 days, after the institution finalizes its plan to add the program; shall certify to the bureau that it is fully in compliance with, and after the addition of the program will remain fully in compliance with, this chapter and any standard or regulation pertaining to it; and shall not represent it to current or prospective students as an "approved program."

94872. An instructional program shall lead to a defined objective and shall, if an institution represents that a course or program leads to employment in a particular occupation, evidence quality, content, and instruction sufficient to ensure that students

may acquire the necessary level of education, training, skill, and experience to obtain employment in the occupation or job title to which the course or program of instruction is represented to lead.

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

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

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

94876. A program provided by distance learning shall evidence the technical resources necessary to provide that instruction for the full duration of the program.

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

94878. A person shall not serve as a faculty member if that person has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal or state funds, or who has been judicially or administratively determined to have committed any violation of this chapter or of any law involving state or federal funds.

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

(a) If an institution represents that the program leads to employment in a particular occupation, a student shall not be enrolled who cannot perform the duties of that occupation.

(b) If a program is represented to lead to a credential or licensure, the institution shall be responsible for knowing the requirements of that credential or licensure, and shall not enroll any student who cannot meet those requirements for reasons other than lacking the education and training that would be provided by successful completion of the program.

94880. Notwithstanding the provisions of this article, an institution that is not otherwise exempt from this chapter, and

proposes to offer solely, and after commencing operation solely offers programs with a total direct charge of less than two thousand five hundred dollars ($2,500), may apply in a manner specified by the bureau for an exemption from having to obtain approval under this article, and shall be deemed to be a registered institution. The bureau may annually adjust the two thousand five hundred dollar ($2,500) threshold of this section annually to reflect changes in the Consumer Price Index for California.

(a) The bureau shall act upon an exemption from approval within 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 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, in addition to any other action the bureau is authorized to take by this chapter, conduct a review of 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 this article.

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

94882. (a) Each owner, director, and administrator of an institution shall expend or authorize the expenditure of the institution's assets and funds, including tuition, fees and other charges collected from or on behalf of students, in a diligent and prudent manner to ensure that students receive the education and

student services that the institution represented it would provide to the students and that the institution is required to provide to the students pursuant to this chapter.

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

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

94882.3. (a) An institution shall maintain, for a period of not less than five years at its principal place of business in this state complete and accurate records, evidencing the following:

(1) The programs of study offered by the institution and the curriculum for each.

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

(3) The records required to be maintained by subdivision (e) of Section 94945.

(b) For each student the institution shall maintain permanent records of the degree or certificate granted, the date it was granted, the courses and units of each on which the certificate or degree was based, and the grades earned in those courses.

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

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

94882.6. (a) An institution shall be considered financially capable of fulfilling its commitments to its students if it has sufficient assets to do all of the following:

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

(2) Pay timely refunds as required by Sections 94941 and 95026.

(3) Provide the administrative and financial resources to fully comply with this chapter.

(4) Timely pay any fines owed under Article 10 (commencing with Section 95040).

(b) An institution shall be considered financially capable of fulfilling its commitments to its students if an opinion by a certified public accountant states or demonstrates both of the following conditions:

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

(2) Under generally accepted accounting principles, the institution had, at the end of its latest fiscal year, or upon filing an application for initial approval, a ratio of current assets to current liabilities of greater than 1.25 to 1. For the purpose of this subdivision, "current assets" does not include either of the following:

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

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

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

(d) In determining the institution's compliance with the requirements of this section the bureau may, at the institution's request, consider the financial resources of a parent corporation if the parent corporation files with the bureau, and at all times complies with, an irrevocable and unconditional agreement approved by its bureau board of directors that provides that the parent corporation shall do all of the following:

(1) Consent to be sued in California.

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

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

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

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

94882.9. If the bureau determines that an institution is not financially capable of fulfilling its commitments to its students, the bureau, in addition to any other action the bureau may take under this chapter, under terms and conditions prescribed by the bureau, may require the institution to submit all of the following:

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

(b) The institution's financial plan for establishing financial capability.

(c) Any other appropriate and necessary information requested by the bureau.

94883.3. (a) This section applies to any audit prepared by an independent accountant and to every financial report required to be prepared or filed under this chapter.

(b) Institutional audits and financial reports, including the preparation of financial statements, required to be prepared or filed under this chapter shall comply with all of the following:

(1) Financial reports shall be prepared in accordance with generally accepted accounting principles established by the American Institute of Certified Public Accountants, and audited by an independent certified public accountant who is not an employee, officer, or corporate director or member of the governing bureau of the institution. If the institution is a corporation that is publicly traded on a national stock exchange, the submission of the corporation's annual report shall be deemed to comply with this paragraph.

(2) Financial reports shall be prepared on an annual basis and shall include the institution's financial statement, including a

balance sheet, statement of operations, statement of cashflow, and statement of retained earnings or capital. Nonprofit institutions shall provide this information in the manner required under generally accepted accounting principles for nonprofit organizations.

(3) Financial reports shall establish whether the institution is or is not financially capable of fulfilling its commitments to its students.

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

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

(6) Audits shall be conducted in accordance with generally accepted auditing standards, and the accountant conducting the audit shall obtain an understanding of the institution's internal financial control structure, assess any risks, and report any material deficiencies in the internal controls.

(7) Financial reports shall contain a statement signed by the individual who prepared the report stating that the institution has paid or has not paid to the bureau all amounts owed under Section 94983. The bureau shall be deemed an intended beneficiary of that statement in the financial report and of the audit certifying the financial report. An institution that has not paid all amounts owed to the bureau under Section 94983 shall report to the bureau within 30 days after the unpaid amounts were due on its plan to become current in these payments. This subdivision shall not be construed to require the institution to prepare a report on its obligations under the Student Tuition Recovery Fund separately from its institutional financial report.

94883.6. (a) An institution approved to operate under this chapter shall report to the bureau, under penalty of perjury, by July 1 of each year, or another date designated by the bureau, electronically and in writing, the following information for educational programs offered in the prior year:

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

(2) The number of degrees and diplomas awarded, by level of degree.

(3) The degree levels offered.

(4) The schedule of tuition and fees required for each term, program, course of instruction, or degree offered.

(5) Financial information demonstrating compliance with Section 94882.6.

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

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

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

(1) Completion numbers and rates as set forth in Section 94887.9.

(2) Employment numbers and rates as set forth in Section 94887.9.

(3) The information specified under subdivision (e) of Section 94945.

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

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

94883.9. (a) An institution shall designate and maintain an agent for service of process within this state, and provide the name, address, and telephone number of the agent to the bureau. The bureau shall furnish the name, address, and telephone number of the agent for service of process to any person upon request.

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

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

94884.3. The bureau shall maintain records for five years of each application for an agent or agency authorization, each verification by the bureau of an agent or agency application, and each denial, issuance, or revocation of an agent or agency authorization.

94884.6. (a) The governing board or other governing authority of an institution shall adopt rules providing for the withholding of institutional services from students or former students who have been notified, in writing, at the student's or former student's last known address, that the student is in default on a loan or loans insured or issued by the United States Department of Education including, but not limited to, the Federal Family Education Loan Program and the Federal Direct Loan Program.

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

(1) The provision of grades.

(2) The provision of transcripts.

(3) The provision of diplomas.

(c) If an individual is in default on a loan or loans under either of the loan programs specified in subdivision (a), the Student Aid Commission shall give notice of the default to all institutions through which that individual acquired the loan or loans.

(d) Guarantors, or those who act as their agents, as defined in Section 2295 of the Civil Code, or act under their control, who provide information to institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board or other governing authority of the institutions from an action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided to the institution by the guarantors, their agents, as defined in Section 2295 of the Civil Code, or those acting under the control of the guarantors.

94885. (a) A shift in control or change in ownership of an institution may not be made until that institution submits an application for approval to operate under the changed ownership or control and that application is approved by the bureau. This application shall be submitted at least 30 days prior to the shift in control or change in ownership.

(b) An application filed pursuant to this section shall be approved if that application is filed properly and complies with this chapter and any standard or regulation pertaining to it. Upon approval of a change in ownership, the bureau shall give written notice to the Student Aid Commission.

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

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

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

(f) A change in ownership of the institution shall not be made until the application is approved. If an application for a new approval to operate is not timely filed by an institution, as required by this section, that institution's approval to operate shall terminate.

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

94885.3. The enrollment, course completion, and employment data used to determine compliance with this chapter and for the purposes of disclosures under Section 94893 shall continue to apply to an institution notwithstanding a change in the institution's ownership, name, or identification number.

94885.6. Notwithstanding any other provision in this chapter, a person shall not own or operate an institution, or give instruction, for the driving of motortrucks of three or more axles that are more than 6,000 pounds unladen weight unless all of the following conditions are met:

(a) The institution has been approved by the bureau.

(b) The institution, at the time of application and thereafter, maintains both of the following:

(1) Proof of compliance with liability insurance requirements that are the same as those established by the Department of Motor Vehicles for a driving institution owner, pursuant to Section 11103 of the Vehicle Code, unless the bureau deems it necessary to establish a higher level of insurance coverage.

(2) A satisfactory safety rating by the Department of the California Highway Patrol established pursuant to Division 14.8 (commencing with Section 34500) of the Vehicle Code.

(c) The institution, at all times, shall maintain the vehicles used in driver training in safe mechanical condition. The institution shall keep all records concerning the maintenance of the vehicles.

(d) The driving instructions meet the requirements set forth in Section 11104 of the Vehicle Code.

(e) Any other terms and conditions required by the bureau to protect the public safety or to meet the requirements of this chapter.

94885.9. (a) A person may not act as an agent of any institution that offers vocational programs unless that person holds a valid authorization issued by the bureau and maintains at all times a surety bond as described in Section 94886.

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

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

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

(e) An authorized agent shall carry the authorization with him or her for identification purposes when engaged in the solicitation of sales and the selling of programs of instruction away from the premises of the institution, and shall produce the authorization for inspection upon the request of any person.

(f) The issuance of an authorization pursuant to this section shall not be interpreted to mean, and it shall be unlawful for any individual holding any authorization to expressly or impliedly represent by any means whatsoever, that the bureau has made any evaluation, recognition, accreditation, or endorsement of any program being offered for sale by the individual.

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

94886. The application for an authorization of an agent shall include the following:

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

(b) Evidence of a surety bond issued in favor of the State of California by an admitted surety insurer making provision for indemnification of any person for any loss suffered as a result of the occurrence, during the period of coverage, of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any program of instruction, or as a result of any violation of this chapter. The term of the bond shall extend over the period of the authorization. The bond may be supplied by the institution or by the person for whom the issuance of the authorization is sought, and may extend to cover individuals separately or to provide blanket coverage for all persons to be engaged as representatives of the institution. The bond shall provide for liability in the penalty sum of twenty-five thousand dollars ($25,000) for each agent to whom coverage is extended by its terms. Neither the principal nor the surety on a bond may terminate the coverage of the bond, except upon giving 30 days' prior written notice to the bureau, and upon contemporaneously surrendering the agent's authorization. Liability on the bond may be enforced after a hearing provided according to Article 10 (commencing with Section 95040) after 30 days' advance written notice to the principal and surety. This subdivision supplements, but does not supplant, any other rights or remedies to enforce liability on the bond.

94886.6. An agency that recruits for an institution that offers vocational programs shall hold a valid authorization issued by the bureau.

94886.9. The application for an authorization for an agency shall include all of the following:

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

(b) Evidence of a surety bond issued in favor of the State of California by an admitted surety insurer making provision for indemnification of any person for any loss suffered as a result of the occurrence, during the period of coverage, of any fraud or misrepresentation used in connection with the solicitation for the

sale or the sale of any program of instruction, or as a result of any violation of this chapter. The term of the bond shall extend over the period of the authorization. The bond shall provide for liability in the penal sum of two hundred fifty thousand dollars ($250,000) for each agency to which coverage is extended by its terms. Neither the principal nor the surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the bureau, and upon contemporaneously surrendering the agency's authorization to operate. Liability on the bond may be enforced after a hearing before the bureau, after 30 days' advance written notice to the principal and surety. This subdivision supplements, but does not supplant, any other rights or remedies to enforce liability on the bond.

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

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

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

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

(4) The following statement: "Any questions or problems concerning this agency should be directed to the Bureau for Private Postsecondary Education," including the current address and telephone number for the bureau.

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

(A) The programs offered.

(B) Program objectives.

(C) Length of program.

(D) The faculty and their qualifications.

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

(F) The cancellation and refund policies.

(G) The total charge for the period needed to complete the student's education.

(H) For vocational programs completion, employment, and starting salary information specified in subdivision (a) of Section 94893.

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

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

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

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

(g) A signed statement by the applicant that all employees engaged in recruitment activities will be required to read and comprehend Sections 94885.9 to 94887.6, inclusive, of Article 4 (commencing with Section 94850) and Article 5 (commencing with Section 94890).

94887. Within 45 days of receipt of a person's completed application for authorization as an agency, and prior to issuance of that authorization, the bureau may inspect the applicant and verify the application. Within 45 days of the inspection, the bureau shall either issue an authorization for a one-year period, subject to annual renewal at the end of that period, or deny the application for authorization. The bureau shall deny the authorization if the applicant or any owner, officer, or director of the applicant previously has been found in a judicial or administrative proceeding to have violated this chapter, or if there exists any of the grounds for denial set forth in Section 480 of the Business and Professions Code.

94887.6. An institution approved under this chapter shall cease all recruitment activities involving an agent or agency if the bureau takes action to revoke or deny that agent or agency's authorization. The failure of the institution to do so upon presentation of notice of the bureau's action shall be cause to deny or revoke any approval held by that institution.

94887.9. (a) (1) Every institution shall meet the following completion performance standard for each program offered at a

site during the applicable completion tracking period described in subdivision (b):

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

(b) (1) Every institution shall meet the following employment performance standard for each vocational program offered at a site during the applicable completion tracking period described in paragraph (2):

(2) Seventy percent or more of the students who completed the program within that completion tracking period, regardless of when they were scheduled to complete, shall obtain employment.

(c) For the purposes of subdivisions (a) and (b), students who, as documented by the institution, have been prevented from completing the program or obtaining employment due to death, disability, pregnancy, military service, incarceration, or participation in the Peace Corps or domestic volunteer service, shall be excluded from the computations used to determine whether an institution has met the performance standards prescribed by those subdivisions.

(d) (1) This subdivision applies only to an institution in which 15 or fewer students started a program, did not cancel during the cancellation period, and were originally scheduled at the time of enrollment to complete the program during that completion tracking period.

(2) If an institution described in paragraph (1) fails to meet any of the performance standards in subdivision (a) or (b), but would have met the standard if one more student had completed or obtained employment, then the institution shall be deemed to have complied with this section in connection with that program.

94888. Any institution that commits any of the following acts shall not be approved or have its approval renewed by the bureau:

(a) Furnishing false, misleading, or incomplete information to the bureau, or the failure to furnish information requested by the bureau or required by this chapter.

(b) An owner, a person in control, a director, or an officer of an institution violated this chapter while serving as an owner,

person in control, director, or officer of an institution or licensee within the previous five-year period.

(c) A signatory to an application for a license was responsible for the closure of an institution or licensee in which there were unpaid liabilities to a state or federal government, or uncompensated pecuniary losses suffered by students without restitution.

(d) An applicant, owner, or person in control has been found previously in any judicial or administrative proceeding to have violated this chapter or admitted to having violated this chapter.

(e) Failing to maintain financial resources as required by this chapter.

(f) Failing to correct a deficiency or act of noncompliance under this chapter, or the standards, rules, regulations, and orders established and adopted under this chapter, within reasonable time limits set forth in the notice from the bureau.

(g) Paying a commission or other consideration to a person for an act or service in violation of this chapter.

(h) Failing to pay any fee assessment, costs, or penalty duly required by this chapter.

94888.6. No institution shall be approved if an owner, person in control, director, officer of the institution is, or has been, found in any criminal, civil, or administrative proceeding, after notice and an opportunity to be heard, to have violated any law regarding the obtaining, maintenance, or disbursement of state or federal funds, or to have unpaid financial liabilities involving the refund or unlawful acquisition, use, or expenditure of state or federal funds.

94888.9. No institution shall be approved if all of the following are, or have been, found in any criminal, civil, or administrative proceeding:

(1) A person in control of the institution was a person in control of another institution within one year before that institution's closure.

(2) While the person was acting as a person in control of the other institution, the person knew or, by the exercise of reasonable care, should have known, that the institution violated this chapter.

(3) That the violation was a cause of that institution's closure or of damage to students.

(4) That institution did not pay to all students refunds owed as a result of the closure and full compensation for actual damages from that violation.

94889. (a) Completion numbers and rates from a particular completion tracking period are to be reported to the bureau under Section 94887.9 the following year, and disclosed under subdivision (a) of Section 94893, and paragraph (10) of subdivision (a) of Section 94896 beginning as of January 1 of the second year following the completion tracking period. Completion numbers and rates from the 2008 completion tracking period shall be reported to the bureau during 2009 and disclosed beginning January 1, 2010, unless the licensing examination exemption in subdivision (b) applies.

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

94889.6. (a) (1) The test required by Section 94938 shall be a standardized test that is designed to reliably and validly measure the student's ability to be successfully trained to perform the tasks associated with the occupations or job titles to which the program of instruction is represented to lead. The student's performance on the test shall demonstrate that ability.

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

(3) (A) If no standardized test is available that satisfies paragraph (1), the institution shall use other appropriate tests to determine the student's ability to be trained to perform the tasks associated with the occupations and job titles for which training

is offered as described in paragraph (1). Within 30 days of determining that no standardized test satisfies paragraph (1), the institution shall so inform the bureau and shall describe and, if possible, furnish the bureau with the test to be used in lieu of the test required by paragraph (1).

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

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

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

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

(i) Answer any of the test questions.

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

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

(B) This paragraph does not prevent an institution from providing nonsubstantive assistance to accommodate the disability 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 distance learning program.

(4) If a prospective student fails 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 period 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 (a).

(d) 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.

(e) 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.

Article 5. Student Protections

94890. (a) This article shall apply to all institutions subject to this chapter. For institutions subject to this article under this subdivision, enforcement of this article shall include, but not be limited to, applicable provisions of Article 8 (commencing with Section 95000).

(b) This article shall also apply to all institutions that are exempt from this chapter under subparagraph (A) of paragraph (1) of subdivision (b) of Section 94841. For institutions subject to this article under this subdivision the bureau shall have no authority or power to enforce this article.

94893. (a) An institution shall clearly and conspicuously post on its Web site a "How Our Students Do" fact sheet that discloses the following information:

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

(A) The number and percentage of students who began the program, did not cancel within the cancellation period, and were originally scheduled at the time of enrollment to complete the program during the completion tracking period, who completed it during that completion tracking period.

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

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

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

(C) If the institution offers a vocational program, the number and percentage of students who completed the program during the completion tracking period who obtained employment, excluding self-employment during the employment tracking period.

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

(E) If the institution or a representative of the institution makes any express or implied claim about the salary that may be earned after completing a program, including a claim that the student may be able to repay a student loan from the salary received at a job obtained following completion of the program, the following shall apply:

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

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

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

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

94894. (a) An institution shall provide to each prospective student the following statement in a separate one page document in at least 12-point type, with double-spacing between the heading and each numbered point, in substantially the following format, with the heading in at least 14-point type:

"Will Credits You Earn at [Name of Institution] Be Transferable?

"1. Credits you earn here MIGHT NOT be transferable to another college.

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

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

"4. Even if credits "transfer," they may not count toward graduation requirements at another college.

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

"6. If you earn a degree or certificate in our school, it MIGHT NOT serve as a basis for obtaining a higher level degree at another college or university.

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

(b) If the solicitation or negotiation leading to the agreement for a program was in a language other than English, the statement shall be in that other language.

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

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

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

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

(3) Provide to that person a schedule of the total charge for the program, separately itemized into tuition, assessments for the Student Tuition Recovery Fund, the cost of each item of equipment, including textbooks, shop and studio fees, and any other fees the student will pay to the institution in order to complete the program, with a statement of the purpose for each of these charges. The schedule shall clearly indicate and differentiate all mandatory and optional charges. The schedule shall clearly identify all charges and deposits that are nonrefundable. The schedule shall also contain both of the following:

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

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

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

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

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

(7) Disclose in writing that, if the student is eligible for a loan guaranteed or reinsured by the state or federal government and the student defaults on the loan, the following may occur:

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

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

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

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

(10) Provide orally and in a written "How Our Students Do" fact sheet the information required by subdivision (a) of Section 94893.

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

(c) Notwithstanding any other provision of this section, an institution offering a distance learning program need not orally make the disclosures required by subdivision (a) in connection with that course if the institution did not orally solicit or recruit the student for enrollment and the student enrolled by mail or electronically.

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

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

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

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

(4) The faculty including their relevant qualifications as of the date of the publication of the catalogue or brochure.

(5) The schedule of tuition payments, fees, and all other charges and expenses necessary for the term of instruction and the completion of the course of study.

(6) The cancellation and refund policies.

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

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

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

(10) If an institution represents that it provides employment placement services, a description of the nature and extent of the

placement services that indicates when they are available to students.

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

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

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

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

94899. (a) When a person executes an agreement obligating that person to pay any money to an institution for a course program of instruction or related equipment, the institution shall provide the person with a document containing only the following notice:

"NOTICE OF CANCELLATION, REFUND AND OTHER RIGHTS"

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

"A different cancellation policy applies for distance learning programs. Read the Notice of Cancellation form for an explanation of your cancellation rights and responsibilities. If you have lost your Notice of Cancellation form, ask the school for another form.

"2. After the end of the cancellation period, you also have the right to stop school at any time, and you have the right to receive a refund for the part of the course not taken. Your refund rights are described in the contract. If you have lost your contract, ask the school for a description of the refund policy.

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

"4. If you have any complaints, questions, or problems that you cannot work out with the school, write or call the Bureau for Private Postsecondary Education:

_____

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

(b) Except as otherwise provided in subdivision (a), the notice required by subdivision (a) shall be printed in 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 copy of the notice, in each language in which the notice was printed pursuant to subdivision (b), shall be posted at all times in a conspicuous place at the main entrance of the institution, in each admissions office, and in each room used for instruction. The bureau may prescribe the size and format of the posted notice. This subdivision does not apply to an institution that exclusively offers distance learning programs.

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

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

94900. An institution shall provide the student with two cancellation forms at the first class attended by the student or with the first lesson in a distance learning course submitted by the student. The form shall be completed in duplicate, captioned "Notice of Cancellation," and shall contain the following statement:

"Notice of Cancellation

_____

(Date)

(Enter date of first class, date first lesson received, or date first lesson was mailed, whichever is applicable)

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

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

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

"The total amount charged for each item of equipment shall be separately stated. The amount charged for each item of equipment shall not exceed the equipment's fair market value. The school shall have the burden of proof to establish the equipment's fair market value. The school is required to refund any amount over that as provided above, and you may keep the equipment.

"To cancel the contract for school, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice to:

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

"NOT LATER THAN _____
(Enter midnight of the date applicable under Section 94939)

"I cancel the contract for school.

_____
(Date)

_____
(Student's signature)

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

"If you have any complaints, questions, or problems which you cannot work out with the school, write or call the Bureau for Private Postsecondary Education:

_____

(insert address and telephone number of the Bureau for Private Postsecondary 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 catalogue or brochure, containing the information described in 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) An institution shall not 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 does not relieve any institution of any obligation to make any disclosure required under other provisions of this article.

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

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

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

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

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

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

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

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

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

(7) A clear and conspicuous caption, "BUYER'S RIGHT TO 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 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 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 distance-learning programs.

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

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

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

94903. (a) An institution shall not offer English as a second language (ESL) instruction without the prior approval of the bureau.

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

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

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

or skills and that the ESL instruction is necessary to enable the student to use that existing knowledge, training, or skills.

(e) If an institution offers ESL instruction to a student in connection with a course of instruction leading to employment in any occupation requiring licensure awarded after the passage of an examination offered in English, the institution shall test the student after the student completes the ESL instruction to determine that the student has attained a level of proficiency in English reasonably equivalent to the level of English in which the licensure examination is offered.

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

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

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

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

(j) The tests used by an institution pursuant to this section shall be tests that are approved by the USDE, or tests such as the Test of English as a Foreign Language and the Comprehensive Adult Student Assessment System, that are generally recognized by public and private institutions of higher learning in this state for the evaluation of English language proficiency. An institution shall demonstrate to the bureau that the tests and passing scores that it uses establish that students have acquired the degree of

proficiency in oral and written English required by subdivision (b), (c), (d), or (e), whichever is applicable. The required level of proficiency in oral and written English shall not be lower than the sixth grade level.

(k) All tests shall be independently administered, without charge to the student and in accordance with the procedures specified by the test publisher. The tests shall not be administered by a previous or current owner, director, consultant, or representative of the institution or by any person who previously had, or currently has, a direct or indirect financial interest in the institution other than the arrangement to administer the test. The bureau shall adopt regulations that contain criteria to ensure independent tests administered including the criteria established by the USDE and set forth on pages 52160 and 52161 of Volume 55 of the Federal Register, dated December 19, 1990.

94905. An institution shall make available to a student, or a person designated by a student, all of that student's records. However, an institution may withhold a student's transcript or grades if that student is in default on a student tuition contract, as provided in Section 94884.6.

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

94918. An agency or an employee of an agency shall provide a prospective student with the disclosure statement described in subdivision (c) of Section 94886.9, and shall allow the prospective student a sufficient opportunity to read it before soliciting or recruiting that prospective student for enrollment or referring that prospective student to an institution. That disclosure statement shall be printed in 10-point type in English and, if the solicitation, recruitment, or referral is to be conducted in a language other than English, in that other language.

94919. No institution shall pay any consideration to an agent or agency subject to Section 94884.3, Sections 94886 to 94887.6, inclusive, Sections 94917 to 94918, inclusive, and Section 95024, whichever are applicable, that has not complied with those sections, or enter into an enrollment agreement with any person who was recruited or solicited to enroll in that institution by an

agent, agency, or by an agent employed by or under contract with an agency if the agent or agency was not in compliance with those sections, whichever are applicable, at the time of the recruitment or solicitation.

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

"NOTICE

"ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES THAT THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF, RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER."

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

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

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

94926. (a) A note, or other instrument of indebtedness, or contract relating to payment for educational services is not

enforceable by an institution within or outside this state governed by this chapter unless, at the time of execution of that note, other instrument of indebtedness, or contract, the institution has a valid approval to operate pursuant to this chapter.

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

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

94931. An institution or representative of an institution shall not do any of the following:

(a) Operate in this state a postsecondary educational institution not exempted from this chapter unless the institution is approved by the bureau.

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

(c) Instruct or educate, or offer to instruct or educate, including soliciting for those purposes, enroll or offer to enroll, contract or offer to contract with any person for that purpose, or award any educational credential, or contract with any institution or party to perform any act, in this state, whether that person, agent, group, or entity is located within or without this state, unless that person, agent, group, or entity observes and is in compliance with the minimum standards set forth in this article.

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

(e) Promise or guarantee employment.

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

(g) Advertise, or indicate in a promotional material, that distance learning programs are offered, without including in all advertising or promotional material the fact that the instruction or programs of study are offered by distance learning.

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

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

(j) Advertise, or indicate in a promotional material, that the institution is accredited, unless the institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the USDE or the Committee of Bar Examiners for the State of California.

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

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

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

"YOU MAY ASSERT AGAINST THE HOLDER OF THE PROMISSORY NOTE YOU SIGNED IN ORDER TO FINANCE THE COST OF INSTRUCTION ALL OF THE CLAIMS AND DEFENSES THAT YOU COULD ASSERT AGAINST THIS

INSTITUTION, UP TO THE AMOUNT YOU HAVE ALREADY PAID UNDER THE PROMISSORY NOTE."

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

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

(a) Make or cause to be made any statement that is in any manner untrue or misleading, either by actual statement, omission, or intimation.

(b) Engage in any false, deceptive, misleading, or unfair act in connection with any matter, including the institution's advertising and promotion, the recruitment of students for enrollment in the institution, the offer or sale of a program of instruction, course length, course credits, the withholding of equipment, educational materials, or loan or grant funds from a student, training and instruction, the collection of payments, or job placement.

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

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

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

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

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

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

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

(2) The institution is a public institution.

(3) The institution grants degrees.

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

(1) A financial report required to be filed pursuant to Sections 94882.6 to 94883.6, inclusive.

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

(3) Any other record or document required by this chapter or by the bureau.

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

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

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

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

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

(j) Direct a representative to perform any unlawful act, to refrain from complaining or reporting unlawful conduct to the bureau or another government agency, or to engage in any unfair act to persuade a student not to complain to the bureau or another government agency.

(k) An institution offering programs represented to lead to occupations or job titles requiring a credential or licensure shall be responsible for knowing the requirements of that credential or licensure and shall not enter into an agreement for a program with a person who the institution knows or, by the exercise of reasonable care, should know, cannot meet those requirements for reasons

other than lacking the education and training that would be provided by successful completion of the program.

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

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

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

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

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

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

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

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

(2) If a program of instruction is based on a series of modules composed of class sessions or lessons, and the learning experience

to be derived from any module is not based on a student's attendance at, or completion of, any classes or lessons in any other module, an institution shall only enroll a student in the program of instruction if the student begins with the first class, class session, or lesson in a module.

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

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

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

(1) Make any unscheduled suspension of any class unless caused 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 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 distance learning program at the time of enrollment, the institution shall not convert the program of instruction from classroom instruction to a distance learning program.

(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, 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.

94937. An institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program.

94938. An institution shall not enter into an agreement for a program of instruction with a student unless the institution first administers to the student, and the student passes, a test as provided in Section 94889.6.

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:

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

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

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

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

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

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

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

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

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

(f) If the institution gave the student any equipment, the student shall return the equipment within 10 days following the date of the notice of cancellation. If the student fails to return the equipment within this 10-day period, the institution may retain that portion of the consideration paid by the student equal to the documented cost to the institution of the equipment, and shall refund the portion of the consideration exceeding the documented cost to the institution of the equipment within 10 days after the period within which the student is required to return the equipment. The student may retain the equipment without further obligation to pay for it.

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

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

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

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

(1) All of that student's tuition and fees are paid by a third-party organization, such as a Job Training Partnership Act agency, a regional occupational program or regional occupational center, a private industry council, or a vocational rehabilitation program, if the student is not obligated to repay the third-party organization or does not lose time-limited educational benefits.

(2) The third-party organization and the institution have a written agreement, entered into on or before the date the student enrolls, that no refund will be due to the student if the student withdraws prior to completion. The institution shall provide a copy of the written agreement to the bureau. The institution shall disclose to any student whose refund rights are affected by this agreement, in all disclosures required to be given to the student by this chapter, that the student is not entitled to a refund. It is the intent of the Legislature that this paragraph not apply to any student whose tuition and fees are paid with funds provided to the third-party organization for the student's benefit as part of any program that provides funds for training welfare recipients or that is related to welfare reform.

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

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

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

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

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

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

(4) The amount owed by the student for the purposes of calculating a refund is derived by multiplying the total hours attended by the hourly charge for instruction and adding to that product the amount of the registration fee specified in paragraph (1).

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

(6) The refund amount shall be adjusted as provided in subdivision (f) or (g) for equipment and as provided in subdivision (h) for resident instruction, if applicable.

(d) For an educational service offered by distance learning, the refund shall be calculated as follows:

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

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

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

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

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

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

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

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

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

(3) The total number of hours necessary to complete each lesson of distance learning instruction shall be substantially equivalent to each other lesson unless otherwise permitted by the bureau.

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

(f) If the institution specifies in the agreement a separate charge for equipment that the student actually obtains and the student returns that equipment in good condition, allowing for reasonable wear and tear, within 30 days following the date of the student's withdrawal, the institution shall refund the charge for the equipment paid by the student. If the student fails to return that equipment in good condition, allowing for reasonable wear and tear, within 30 days following the date of the student's withdrawal, the institution may offset against the refund calculated under subdivision (a) the documented cost to the institution of that equipment. The student shall be liable for the amount, if any, by which the documented cost for equipment exceeds the refund amount calculated under subdivision (a). For the purposes of this subdivision, equipment cannot be returned in good condition if the equipment cannot be reused because of clearly recognized health and sanitary reasons and this fact is clearly and conspicuously disclosed in the agreement.

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

(h) If an agreement for educational service offered by distance learning includes a separate charge for resident instruction, which the student has not begun at the time of the student's withdrawal, the institution shall refund the charge for the resident instruction paid by the student. If the student withdraws from the educational service after beginning the resident instruction, the institution shall pay a refund equal to the amount the student paid for the resident instruction multiplied by a fraction, the numerator of which is the number of hours of resident instruction which the student has not received but for which the student has paid, and the denominator of which is the total number of hours of resident instruction for which the student has paid.

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

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

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

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

(4) The student has failed to submit three consecutive lessons, or has failed to submit a completed lesson within 60 days of its due date as set by an educational service offered by distance learning. For the purposes of this paragraph, the date of the student's withdrawal shall be deemed to be the date on which the student submitted the last completed lesson.

(j) An institution shall have the burden of proof to establish the validity of the amount of every refund. The institution shall

maintain records for five years of all the evidence on which the institution relies for the determination of refund amounts.

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

94945. (a) (1) The following applies to any program about which either of the following is true:

(A) It fails to meet either or both of the performance standards in subdivision (a) or (b) of Section 94887.9 by 10 percent or less.

(B) It fails to meet either or both of the performance standards in subdivision (a) or (b) of Section 94887.9 by more than 10 percent, but has an overall employment rate as described in subdivisions (a), (b), and (c) of Section 94887.9 of 40 percent or higher.

(2) If any institution fails to demonstrate by February 28 of the third year, or by February 28 of the fourth year if the licensing examination exception of subdivision (b) of Section 94889 applies, after the completion of the tracking period in which a program failed the completion performance standard, that 60 percent of the students who started at that site, did not cancel during the cancellation period, and who were originally scheduled to complete in the prior year, completed the program in that year, the bureau shall order the institution to stop enrolling any students in that course for two years from that date.

(3) If any institution fails to demonstrate by February 28 of the fourth year, or by February 28 of the fifth year if the licensing examination exception of subdivision (b) of Section 94889 applies, after the completion tracking period for a program that failed the employment performance standard, that 70 percent of the students who completed the program at that site in the most recent completion tracking period obtained employment, the bureau shall order the institution to stop enrolling any students in that course for two years from that date.

(4) No action shall be taken pursuant to this subdivision without notice, and, if requested by the institution, a hearing.

(5) In taking action pursuant to paragraph (3), the bureau shall consider the impact, if any, of changes in the employment rate of the area served by the site.

(b) (1) This subdivision applies to either of the following:

(A) Any program that fails to meet either performance standard in subdivision (a) or (b) of Section 94887.9 by more than 10 percent, or any vocational program which fails to meet either performance standard in those subdivisions by more than 10 percent if the institution cannot demonstrate that the vocational program has an overall employment rate as described in subdivisions (a), (b), and (c) of Section 94887.9 of 40 percent or higher.

(B) Any site at which the majority of the programs fail to meet either performance standard in subdivision (a) or (b) of Section 94887.9 by more than 10 percent, or any site at which the majority of the programs fail to meet either performance standard in those by more than 10 percent and the institution cannot demonstrate that the majority of the vocational programs have an overall employment rate as described in subdivisions (a), (b), and (c) of Section 94887.9 of 40 percent or higher.

(2) If either of the situations described in paragraph (1) occurs:

(A) The bureau shall order the institution to stop offering that program.

(B) The bureau shall revoke the approval of the institution to operate that site.

(3) No action shall be taken pursuant to this subdivision without notice, and, if requested by the institution, a hearing.

(c) (1) The institution shall have the burden of complying with this section.

(2) The bureau shall investigate an institution whenever the bureau deems it appropriate to verify the institution's compliance with this section. The investigation shall include an examination of the institution's records and contacts with students and employers.

(3) If an institution willfully falsifies, alters, destroys, conceals, or provides false or misleading information relating to compliance with this section, including, but not necessarily limited to, records maintained pursuant to subdivision (e), the bureau shall revoke

the institution's approval to operate. No action shall be taken pursuant to this subdivision without notice, and if requested by the institution, a hearing.

(4) The remedies provided in this section supplement, but do not supplant, any other penalty or remedy provided by law.

(d) A determination (1) that a program or programs failed to meet any completion or employment performance standard, (2) of the percentage by which an institution failed to meet that standard, or (3) that a program or programs met or failed to meet the overall employment rate, shall be effective on the date an institution reports any completion or employment rate that does not meet the performance standard completion or employment performance standards or overall employment rate or rates to the bureau, or if not based on the institution's reporting, then when an order is entered determining the fact.

(e) For each program an institution has offered at each location, the institution shall maintain all records necessary to substantiate its completion and employment performance numbers and rates, including all of the following:

(1) An electronic list or spreadsheet showing all of the following:

(A) For each student who enrolled in the program, the student's name, address, electronic mail address if available, and telephone number; the date the student enrolled; whether the student canceled within the cancellation period; the date the student was scheduled at the time of enrollment to complete the program; whether the student completed the program; and the date the student left the program or completed the program.

(B) The identity of each student the institution counts as having taken the first available state examination after the student completed the program, if the examination is required by the state for particular employment, whether the student passed the examination or not, and the date the examination results were first made available.

(C) The identity of each student the institution counts as having obtained employment; for that employment, the employer's name, address, electronic mail address if available, and telephone number; the name, address, electronic mail address if available, and telephone number of the person who provided the information to the institution regarding the student's employment; the name, title, or description of the job; the date the student obtained the

job; the number of hours per week the student worked at the job; the duration of the student's employment; and the amount of the student's salary, if the institution makes any salary claims.

(2) For each student the institution counts as having obtained part-time employment, a handwritten statement completed by the student at the beginning of the program and at the end of the program which states that the student's educational objective is part-time employment. The institution shall not require the student to complete the statement or provide any incentive, financial or otherwise, to any student for signing the statement.

(3) For each student the institution counts as having obtained employment based on being self-employed, reliable indices of self employment such as contracts, checks for payment, tax returns, social security contribution records, records of accounts receivable or customer payments, invoices for business supplies, rent receipts, appointment book entries, or business licenses, or a statement signed by the student at least 60 days after the student completed the course stating that the student considers himself or herself self-employed, that the student has earned money from the self-employment, and the identity of one or more of the documents listed above which the student has to document the self-employment.

(4) For each student the institution excludes from the computation of performance standards under this subdivision, documentation of the date or dates and fact of the applicable death, disability, pregnancy, military service, incarceration, or participation in the Peace Corps or as a Domestic Volunteer.

94948. (a) All institutions subject to the approval requirements of this chapter shall identify each student who makes an application for, and receives, loan moneys other than loans provided under a governmental student financial aid program, to the extent that this information is reasonably available to the institution, including, but not necessarily limited to, students for whom the institution makes a referral to a lender, students for whom the institution acts as lender, students receiving loan proceeds from a lending entity in which the institution has a financial interest, or students for whom loan proceeds are received by the institution on behalf of the student.

(b) The institution shall ensure, either by providing the service or by documenting that the service has been provided by the

lending entity, that each student has received information regarding the student's rights and obligations related to loans at the time of signing a promissory note, and at the end of a student's academic program. If a student leaves a program prior to completion of the program, the institution shall make an attempt to contact that student at the last known student address to ensure the student has received information from the lending entity or to provide information to the student itself, and shall keep evidence of its attempt to do so.

(c) (1) An institution shall disclose to the student any formal or informal relationship between the institution and the lender, including, but not necessarily limited to, an agreement between the institution and lender to make referrals, to place that lender in a preferred status for students of that institution, or to provide any benefit, financial or otherwise, to the institution as a result of referral or student borrowing, and shall disclose any financial interest of the institution in the lending entity.

(2) Disclosure under this subdivision shall be made, prior to the loan proceeds being received by the student, whenever the institution has a reasonable opportunity to know of the student's application for the loan.

(3) Disclosure under this subdivision shall be included in the information and materials provided to the student at the time of negotiation of the enrollment contract, whenever the institution has a reasonable opportunity to know of the student's application for that loan.

(4) A gift or other consideration of below one hundred dollars ($100) in total value exchanged between an institution and a lender in a calendar year shall not be considered to create a financial relationship.

(d) The institution shall keep sufficient records to demonstrate compliance with this section.

(e) If it is determined that an institution failed to disclose a financial relationship with, or a financial interest in, a lending entity that provided a loan to a student at that institution as required by this chapter, that loan shall be considered paid in full.

(f) Where federal statutes and regulations conflict with or exceed the disclosure provisions of this chapter, the federal statutes and regulations shall take precedence for institutions subject to approval under this chapter that are eligible to participate in

student financial aid programs under Title IV of the federal Higher Education Act of 1965.

94949. Any institution approved by the bureau shall do all of the following:

(a) Maintain the minimum standards prescribed by this chapter, and maintain standards that are the same as, or substantially equivalent to, those represented in the institution or licensee's applications and advertising.

(b) Not present to prospective students information that is false or misleading relating to an institution, to employment opportunities, or to enrollment opportunities in institutions of higher learning, after entering into or completing courses offered by the institution.

(c) Provide timely and accurate refunds to students, as required by this chapter, or failing to satisfy, within 30 days of its issuance, a final judgment obtained by a student against the institution.

(d) Not attempt to confer a degree, diploma, or certificate to a student in violation of this chapter.

(e) Not misrepresent to a student or prospective student that the student is or will be qualified, upon completion of a course, for admission to a professional examination under a state occupational licensing provision.

(f) Conduct business or instructional services only at a location approved by the bureau.

(g) Comply with any provision of law or regulation governing sanitary conditions as specified in Section 94853.5.

Article 6. Operating Requirements for Institutions Regardless of Exemption Status

94960. (a) Notwithstanding any exemption from this chapter under Article 3 (commencing with Section 94840), an institution that provides medical training providing for students to interact with health care patients, and that is required to provide criminal background checks, medical blood tests, or drug tests on its students, shall keep complete, accurate, and up-to-date files of these checks and test results.

(b) Records kept under this section shall be available for review by the medical facility in which the students are obtaining their

clinical rotation work, by law enforcement personnel, and by the bureau.

(c) An institution shall implement procedures to ensure that records kept under this article are safeguarded and that the privacy rights of students are protected.

94961. Notwithstanding any exemption from this chapter under Article 3 (commencing with Section 94840), no private postsecondary institution providing instruction in California shall design its public Web site in a manner that requires a student to register, identify themselves, provide electronic or other personal contact information, or agree to be contacted by an admission representative, in order to access information regarding the institution's program or programs, cost of attendance, student financial aid information, accreditation or approval status, faculty qualifications, facilities, location, admissions policies, or any item required under the consumer information requirements of Title IV of the federal Higher Education Act of 1965.

Article 7. Student Tuition Recovery Fund

94970. The Student Tuition Recovery Fund is continued in existence. All assessments and fees collected pursuant to this article shall be credited to this fund, along with any interest on the moneys, for the administration of this article. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are continuously appropriated to the bureau without regard to fiscal year for the purposes of this chapter.

94970.5. This article applies to all of the following:

(a) Institutions subject to this chapter.

(b) Institutions exempt under subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 94841.

(c) Students and former students of the institutions in subdivisions (a) and (b).

94971. The fund shall consist of assessments subject to this article. A student of an approved or registered institution which is subject to this article and who meets any of the following conditions is eligible for reimbursement from the fund:

(a) (1) The student was enrolled in an institution, prepaid tuition, and suffered economic loss as a result of the closure of the institution.

(2) For the purposes of this section, "closure" means the closure of a branch or satellite campus, the termination of either the distance learning or residence portion of a distance learning program, and the termination of a course of instruction for some or all of the students enrolled in the course before the time these students were originally scheduled to complete it, or before a student who has been continuously enrolled in a course of instruction has been permitted to complete all the educational services and classes that comprise the course.

(b) The student obtained a final judgment against the institution for a violation of this chapter, and the student certifies that the judgment cannot be collected after diligent collection efforts. A court judgment obtained under this subdivision shall be paid in accordance with subdivision (a) of Section 94975, unless the judgment indicates that a lesser amount is due.

(c) The institution failed to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the institution.

(d) The institution failed to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the institution prior to closure in excess of tuition and other costs.

(e) The commission of a breach or anticipatory breach by the institution of the agreement for the course of instruction.

(f) A decline in the quality or value of the course of instruction occurred within the 30-day period before the closure of the institution or, if the decline began before that period, the period of decline determined by the bureau.

(g) The commission of fraud by the institution during the solicitation or enrollment of, or during the program participation of, the student.

94972. A student's claim shall be initiated within three years of the closure of the institution or final judgment.

94973. (a) A student filing a claim for payment from the Student Tuition Recovery Fund shall submit an application indicating each of the following:

(1) The student's name, address, telephone number, and social security number.

(2) If a portion of the tuition was paid from the proceeds of a loan, the name of the lender, and any state or federal agency that guaranteed or reinsured the loan.

(3) The amount of the paid tuition, the amount and description of the student's loss, and the amount of the student's claim.

(4) The date the student started and ceased attending the institution.

(b) The bureau may require additional information designed to facilitate payment to entitled students. The bureau shall waive the requirement that a student provide all of the information required by this subdivision if the bureau has the information or the information is not reasonably necessary for the resolution of a student's claim.

(c) If the student is filing an application after receiving a final judgment against an institution for a violation of this chapter, the application shall include the amount of the judgment obtained against the institution, a statement that the judgment cannot be collected, and a description of the efforts attempted to enforce the judgment. The application shall be accompanied by a copy of the judgment, and any other documents indicating the student's efforts made to enforce the judgment, and shall be filed within two years after the date upon which the judgment became final.

(d) Notwithstanding any other provision of law, if a student fails to file a completed application, including providing any information required by this section, within one year after filing an initial application, that application shall be deemed abandoned. An application submitted subsequent to the abandonment of a former application shall be treated as a new application.

94974. Within 60 days of the bureau's receipt of a completed application for payment in accordance with this article, the bureau shall pay the claim from the Student Tuition Recovery Fund or deny the claim. The bureau may extend the time period for up to an additional 90 days to investigate the accuracy of the claim.

94975. (a) If the bureau pays a claim in accordance with this article, the amount of the payment shall be (1) the greater of either (A) the total guaranteed student loan debt incurred by the student in connection with attending the institution, or (B) the total of the student's tuition and the cost of equipment and materials related to the course of instruction, less (2) the amount of any refund, reimbursement, indemnification, restitution, compensatory

damages, settlement, debt forgiveness, discharge, cancellation, or compromise, or any other benefit received by, or on behalf of, the student before the bureau's payment of the claim in connection with the student loan debt or cost of tuition, equipment, and materials. The payment also shall include the amount the institution collected and failed to pay to third parties on behalf of the student for licensing fees or any other purpose. However, if the claim is based solely on a final judgment being awarded, the amount of the payment shall be the amount of the loss suffered by the student. In addition to the amount determined under this subdivision, the amount of the payment shall include all interest and collection costs on all student loan debt incurred by the student in connection with attending the institution.

(b) (1) The bureau may reduce the total amount specified in subdivision (a) by the value of the benefit, if any, of the education obtained by a student before the closure of an institution. If the bureau makes a reduction pursuant to this subdivision, the bureau shall notify the claimant in writing, at the time the claim is paid, of the basis of its decision and provide a brief explanation of the reasons upon which the bureau relied in computing the amount of the reduction.

(2) No reduction shall be made to the amount specified in subdivision (a) in any of the following circumstances:

(A) The student did not receive adequate instruction to obtain the training, skills, or experience, or employment to which the instruction was represented to lead.

(B) Credit for the instruction obtained by the student is not generally transferable to other institutions approved by the bureau.

(C) The institution or one of its representatives fraudulently misrepresented to students the likely starting salary or job availability, or both, after training.

(c) Upon payment of a claim, all of a student's rights against an institution shall be deemed assigned to the bureau to the extent of the amount of the payment.

94976. If the bureau denies a student's claim, or reduces the amount of a claim, the bureau shall notify the student of the denial or reduction and of the student's right to request a hearing within 60 days or any longer period permitted by the bureau. If a hearing is not requested within 60 days or any additional period reasonably requested by the student, the bureau's decision shall be final. If a

hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply.

94977. The bureau may deny any application for any or all of the following reasons:

(a) Failure to provide any information required by this article or that is required by the bureau that is necessary to process the application or pay the claim.

(b) Fraud or misrepresentation on the part of the applicant.

(c) Failure to make a diligent effort to collect a judgment from the institution.

(d) Receipt of third-party payer benefits for his or her institutional charges.

(e) The institution attended by the student was not subject to this article.

(f) Any other grounds for denial established through regulation by the bureau.

94978. (a) Whenever reasonably possible, the bureau shall negotiate with a lender, holder, guarantee agency, or the USDE for the full compromise or writeoff of student loan obligations to relieve students of loss, and thereby reduce the amount of student claims.

(b) In the case of a student who was a recipient of a loan to attend an institution, payment from the Student Tuition Recovery Fund shall first be made to the lender of financial aid funds to that student, to repay the student's indebtedness that pertains to tuition and fees related to attendance at the institution.

94979. It is the intent of the Legislature that, when a student is enrolled in an institution that closes prior to the completion of the student's program, the student shall have the option for a teach-out at another institution approved by the bureau. The bureau shall seek to promote teach-out opportunities wherever possible and shall inform the student of his or her rights, including payment from the fund, transfer opportunities, and available teach-out opportunities, if any.

94980. In the event of the closure of an institution or a teach-out, the bureau shall give priority, for payments from the fund, to a student who transfers to another institution to complete a course of study.

94981. Once the bureau has determined that a student claim is eligible for payment under this article and intends to use the Student Tuition Recovery Fund, in whole or in part, to satisfy the eligible claim, the bureau shall document its negotiations with the relevant lender, holder or guarantee agency, the USDE, or the applicable state agency. The bureau shall prepare a written summary of the parties and results of the negotiations, including the amounts offered and accepted, the discounts requested and granted, and any other information that is available to any party that files a request for this information with the bureau.

94982. The bureau shall assess an institution, except for an institution that receives all of its students' total charges from third-party payers, for the purpose of compliance with the provisions of this chapter that are related to the Student Tuition Recovery Fund. A "third-party payer," for the purposes of this article, means an employer, government program, or other payer that pays a student's total charges directly to the institution when no separate agreement for the repayment of that payment exists between the third-party payer and the student. A student who receives third-party payer benefits for his or her institutional charges is not eligible for benefits from the Student Tuition Recovery Fund.

94983. (a) (1) The amount assessed each institution shall be calculated only for those students who are eligible to be reimbursed from the fund and shall be based on the actual amount charged each of these students for total tuition cost, regardless of the portion that is prepaid. The amount of the assessment on an institution shall be determined in accordance with subdivisions (b) and (c).

(2) Each institution shall collect the amount assessed by the bureau in the form of a Student Tuition Recovery Fund fee from its new students, and remit these fees to the bureau during the quarter immediately following the quarter in which the fees were collected from the students, or from loans funded on behalf of the students, except that an institution may waive collection of the Student Tuition Recovery Fund fee and assume the fee as a debt of the institution. The fees collected by the institution shall be placed in a separate bank or trust account and not commingled with any other moneys until the institution remits those fees to the bureau. If the institution assumes the fee, this need not be placed

in a separate account. The student's subsequent disenrollment shall not relieve the institution of the obligation to pay the fee to the bureau, nor be the basis for refund of the fee to the student. An institution may not charge a fee of any kind for the collection of the Student Tuition Recovery Fund fee. An institution shall refuse to enroll a student who has not paid, or made provisions to pay, the appropriate Student Tuition Recovery Fund fee.

(b) A Student Tuition Recovery Fund fee shall be collected from students upon enrollment and in its entirety at the rate of two dollars and fifty cents ($2.50) per thousand dollars of tuition charged, rounded to the nearest thousand dollars.

(c) If, at any time, the balance in the Student Tuition Recovery Fund is more than five million dollars ($5,000,000), net of the estimated liability associated with any pending claims, the bureau may reduce the amount of the assessment collected from new students to a level less than two dollars and fifty cents ($2.50) per thousand dollars of tuition charged, rounded to the nearest thousand dollars, or suspend collection of the fee for a period determined by the bureau, so as to maintain a fund balance of between five million dollars ($5,000,000) and ten million dollars ($10,000,000). Prior to any reduction in the assessment, the bureau shall demonstrate that amounts in the fund would be reasonably sufficient to pay any pending or future claims.

(d) The bureau may by regulation levy additional reasonable special assessments on an institution under this section only if these assessments are required to ensure that sufficient funds are available to satisfy the anticipated costs of paying student claims.

(e) The bureau may not levy a special assessment unless the balance in the Student Tuition Recovery Fund falls below two hundred fifty thousand dollars ($250,000), as certified by the Secretary of the State and Consumer Services Agency.

(f) The assessments, fees, and special assessments shall be paid into the Student Tuition Recovery Fund, and the deposits shall be allocated, except as otherwise provided for in this chapter, solely for the payment of valid claims to students. Unless additional reasonable assessments are required, no assessment may be levied during any fiscal year if, as of June 30 of the prior fiscal year, the balance in the fund exceeds ten million dollars ($10,000,000). However, regardless of the balance in the fund, assessments shall be made on a newly approved institution.

94984. Moneys deposited in the Student Tuition Recovery Fund are exempt from execution and may not be the subject of litigation or liability on the part of creditors of those institutions or students.

94985. (a) On or before December 31, 2010, the bureau shall adopt a procedure allowing for payments to the fund to be made through online transactions and other electronic means.

(b) The bureau shall adopt audit and accounting procedures to ensure that institutions fully pay the amounts that are due to the fund.

94986. The bureau's costs of administration of the Student Tuition Recovery Fund authorized by this article shall not be paid from the fund, but shall be paid from the Private Postsecondary Education Fund.

94987. In the event of a closure by any approved institution under this chapter, any assessments that have been made against those institutions, but have not been paid into the fund, shall be recovered. Any payments from the fund made to students on behalf of any institution shall be recovered from that institution.

94988. In addition to civil remedies, the bureau may order an institution to remit or collect previously unpaid Student Tuition Recovery Fund fees or to reimburse the bureau for any payments made from the fund in connection with the institution. Before any order is made pursuant to this section, the bureau shall provide written notice to the institution and notice of the right to request a hearing within 30 days of the service of the notice. If a hearing is not requested within 30 days of the service of the notice, the bureau may order payment. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply, and the bureau shall have all powers prescribed in that chapter. Within 30 days after the effective date of the issuance of the order, the bureau may enforce the order in the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

94989. (a) Payment of Student Tuition Recovery Fund fees is due within 30 days of the bureau's demand for payment. A penalty of 20 percent of the amount due shall be added for late payment.

(b) In addition to any other action that the bureau may take under this chapter, the bureau may suspend or revoke an institution's approval to operate because of the institution's failure

to collect or remit Student Tuition Recovery Fund fees and pay penalties.

Article 8. Enforcement

95000. The bureau, with the assistance and guidance of, and in cooperation with, the Attorney General, shall develop an enforcement program. The enforcement program shall include, but not necessarily be limited to, all of the following:

(a) Initial and periodic training of bureau staff.

(b) The enforcement process shall ensure that all institutions subject to this chapter are in compliance with this chapter and that the bureau takes appropriate action, pursuant to this article, against institutions not in compliance.

(c) Site visits that include a review of records, inspection of facilities, interviews of administrators, faculty and students, and observation of class instruction.

(d) Audits, site visits, and investigations that are triggered by complaints and where the bureau has reasonable cause to believe an institution commits one or more acts constituting grounds for discipline. The audits and site visits may be unannounced.

95001. A person claiming damage or loss as a result of an act or practice by an institution, its agent, its employee or representative, or any combination thereof, that is a violation of this chapter or of the regulations adopted pursuant to this chapter, may file, with the bureau, electronically or in writing, a complaint against that institution. The complaint shall set forth the alleged violation, and shall contain any other information as may be required by the bureau.

95002. (a) A copy of a complaint received by the bureau pertaining to an institution accredited by the Western Association of Schools and Colleges shall be forwarded to the association. The bureau shall notify the complainant that the complaint has been forwarded and that the bureau will not take any other action due to its lack of jurisdiction. An action by the bureau relating to a complaint against these institutions shall be limited to the transmittal of this information to the Western Association of Schools and Colleges and notification to the complainant.

(b) Except as provided in subdivision (a), a complaint received by the bureau pertaining to an institution accredited by a USDE

recognized accrediting agency shall be forwarded to the accrediting agency that accredited that institution. The bureau shall notify the complainant that the complaint has been forwarded. The bureau may only take additional action as specifically authorized elsewhere by this chapter.

95003. (a) If a person, an institution or its employees, agent, or representative commits an act constituting grounds for discipline, the bureau may do any or all of the following:

(1) Take an action authorized under Section 95006.

(2) Revoke or suspend the license.

(3) Place the institution on probation.

(4) Issue an administrative citation with an administrative fine, order of abatement, or both, pursuant to Section 95007 of this code or Section 125.9, 146, 147, or 148 of the Business and Professions Code. A citation shall be in writing, and shall describe the nature of the violation and the specific provision of law determined to have been violated. A citation may contain an order of abatement, an assessment of an administrative fine, or both. The order of abatement may include, but is not necessarily limited to, any of the following provisions:

(A) An order to cease operating without a license.

(B) An order prohibiting the enrollment of new students.

(C) An order to cease entering into new agreements for one or more courses of instruction.

(D) An order to cease offering a class or program. This order may permit the licensee to complete the class or course of instruction only for those students enrolled, or may order the licensee to immediately cease instruction and provide a refund of tuition and all other charges to students.

(E) Other remedial measures intended to address the acts constituting grounds for discipline.

(5) Order reimbursement of the costs of an investigation and any enforcement action taken in accordance with Section 125.3 of the Business and Professions Code. A licensee may not be required to pay the same costs and expenses to more than one investigating entity.

(6) If the bureau has probable cause to believe that a person has violated this chapter, notify a telephone corporation to disconnect the person's telephone as authorized by Section 149 of the Business and Professions Code.

(b) Any enforcement proceeding may be referred to mediation or nonbinding arbitration with the consent of both the bureau and the licensee in accordance with the regulations of the Office of Administrative Hearings, the department, or the bureau.

95004. (a) Notwithstanding any other provision of law, the bureau shall cite any person, and that person shall be subject to a fine not to exceed fifty thousand dollars ($50,000), for any of the following:

(1) Operating an institution without proper approval to operate issued by the bureau pursuant to this chapter.

(2) Disseminating by any means any statement indicating directly or by implication that the person operates an institution or provides education, degrees or certificates, unless the person is an approved institution or exempt from this chapter.

(3) Offering to provide education, degrees or certificates, or proposing to operate an institution, unless the person is an approved institution or exempt from this chapter.

(b) In addition to subdivision (a), the bureau may take other steps to prevent unapproved activity, which may include, but is not necessarily limited to, either of the following:

(1) Notify a telephone corporation to disconnect the person's telephone as authorized by Section 149 of the Business and Professions Code.

(2) Issue a cease and desist order.

95005. For purposes of this chapter, grounds for discipline include a violation of this chapter or the regulations adopted pursuant to it.

95006. (a) The bureau chief, or his or her designee, may issue an order of correction to a licensee directing the licensee to comply with this chapter or regulations adopted pursuant to this chapter.

(b) The order of correction shall be in writing, and shall describe in detail the nature and facts of the violation, including a reference to the statute or regulations violated.

(c) The order of correction shall inform the licensee that within 30 days of service of the order of correction, the licensee may do any of the following:

(1) Submit a written request for an office conference with the bureau chief to contest the order of correction.

(A) Upon a timely request, the bureau chief, or his or her designee, shall hold an office conference with the licensee or the

licensee's legal counsel or authorized representative. Unless so authorized by the bureau chief, or his or her designee, no individual other than the licensee's legal counsel or authorized representative may accompany the licensee to the office conference.

(B) Prior to or at the office conference, the licensee may submit to the bureau chief declarations and documents pertinent to the subject matter of the order of correction.

(C) The office conference is intended to be an informal proceeding, and shall not be subject to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(D) The bureau chief, or his or her designee, may affirm, modify, or withdraw the order of correction. Within 14 calendar days from the date of the office conference, the bureau chief, or his or her designee, shall personally serve or send by certified mail to the licensee's address of record with the bureau a written decision. This decision shall be deemed the final administrative decision concerning the order of correction.

(E) The institution may request a hearing on the decision of the bureau chief, or his or her designee, pursuant to the procedures set forth in Article 9 (commencing with Section 95030).

(2) Comply with the order of correction, and submit a written corrective action plan to the bureau chief, or his or her designee, documenting compliance. If an office conference is not requested pursuant to this section, compliance with the order of correction shall not constitute an admission of the violation noted in the order of correction.

(d) The order of correction shall be served upon the licensee personally or by certified mail at the licensee's address of record with the bureau. If the licensee is served by certified mail, service shall be effective upon deposit in the United States mail.

(e) The licensee shall maintain a copy of the order of correction and corrective action plan for at least three years from the date of issuance of the order of correction.

(f) Nothing in this section shall in any way limit the bureau's authority or ability to take any other enforcement action authorized by this chapter.

(g) Unless a writ of mandate is filed, a citation issued, a hearing is requested, or a disciplinary proceeding instituted, an order of correction shall not be considered a public record and shall not be disclosed pursuant to a request under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

95007. (a) An administrative fine assessed with a citation may not exceed five thousand dollars ($5,000) for each violation. The bureau shall base its assessment of the administrative fine on the nature and seriousness of the violation, the persistence of the violation, the good faith of the institution or licensee, the history of previous violations, and the extent to which the violation undermined the purposes of this chapter.

(b) The citation shall inform the institution or licensee of a right to request a hearing pursuant to this chapter, in writing, within 15 days of the date that the citation was issued. If a hearing is not requested, payment of the administrative fine shall not constitute an admission of the violation charged. If a hearing is requested, the bureau shall provide a hearing pursuant to Article 9 (commencing with Section 95030). Payment of the administrative fine is due 15 days after the citation was issued if a hearing is not requested, or when a final order is entered if a hearing is requested. The bureau may enforce the administrative fine as if it were a money judgment pursuant to Title 9 (commencing with Section 680.10) of Part 2 of the Code of Civil Procedure.

(c) The citation shall also inform the licensee of its right to submit a written request for an office conference with the bureau chief to contest the citation under paragraph (1) of subdivision (c) of Section 95006.

(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. The bureau shall take immediate action to collect the fine.

(e) All administrative fines shall be deposited in the Private Postsecondary 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. Full and timely payment of any penalty charged under this subdivision shall be a term of probation.

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, for not more than 30 days unless the bureau initiates a proceeding to suspend or revoke the approval to operate within that period.

(b) (1) The bureau shall provide notice of an emergency action to the institution by either (A) certified mail, in which case the effective date of the emergency action shall be not less than 10 working days after mailing, or (B) personal service, in which case the effective date of the emergency action shall be not less than five days after service.

(2) The notice shall specify all of the following:

(A) The violations upon which the emergency action is based.

(B) The nature and grounds of the emergency action, including whether the action applies to the continuation of instruction to enrolled students or to the enrollment of new students.

(C) The effective date of the action.

(D) The institution's right to show cause that the emergency action is unwarranted by submitting to the bureau, at least two days before the effective date of the emergency action, declarations, documentary evidence, and written arguments demonstrating that the violations did not occur or that immediate action is not required.

(E) The right of the institution to request, in writing, within 30 days of the service of the notice, a hearing.

(c) At any time, the bureau may (1) continue the effective date of an emergency action or (2) terminate an emergency action if the bureau concludes that the institution has shown cause that the emergency action is unwarranted or that the grounds for instituting the emergency action no longer remain. The bureau shall provide written notice of a continuance or termination of an emergency action to the institution.

(d) (1) If an institution does not take the opportunity to show cause why an emergency action is unwarranted, the emergency action shall become effective on the date specified in the notice or notice of continuance.

(2) If an institution takes the opportunity to show cause why an emergency action is unwarranted, and the bureau decides, after a consideration of the declarations, documentary evidence, and written arguments submitted by the institution, that the emergency action should become effective, the emergency action shall be effective on the date specified in the notice or notice of continuance. The bureau shall notify the institution of the decision at least one day before the effective date, and the institution may thereafter seek judicial relief upon notice to the bureau and the Attorney General.

(e) (1) If an institution requests a hearing to contest an emergency action within the 30-day period specified in subdivision (b), the bureau shall set a date for a hearing within 20 days after receipt of the request.

(2) If an institution does not request a hearing to contest an emergency action within the 30-day period specified in subdivision (b), or if the bureau concludes after a hearing requested by the institution that grounds exist for the suspension or revocation of the institution's approval to operate or approval to operate a branch or satellite campus, the bureau may extend the action or take another disciplinary action, as the bureau deems appropriate.

(f) During the pendency of an emergency action, the bureau may investigate the institution's compliance with this chapter, including an onsite inspection, and may take another disciplinary action as the bureau deems appropriate.

(g) This section supplements, but does not supplant, the authority of the bureau to seek judicial relief, including a temporary restraining order and injunction, to redress any violation of this chapter.

95010. (a) An institution, the approval to operate of which has been revoked or suspended or that has been placed on probation, may petition the bureau for reinstatement or modification of penalty, including modification or termination of probation, after not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

(1) At least three years for reinstatement of a revoked license.

(2) At least two years for early termination of probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license revoked for termination of probation of less than three years.

(b) The petition shall be accompanied by a reinstatement processing fee of ____dollars ($____).

(c) In considering reinstatement or modification of penalty, the bureau may consider factors including, but not necessarily limited to, all of the following:

(1) The petitioner's activities since the disciplinary action was taken.

(2) The offense for which the petitioner was disciplined.

(3) The petitioner's activities during the time the license was in good standing.

(4) The petitioner's documented rehabilitative efforts, including repayment of restitution.

(d) No petition under this section shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The bureau may deny without a hearing or argument any petition filed pursuant to this section within a period of two

years from the effective date of the prior decision following a hearing under this section.

95011. (a) The bureau may bring an action for equitable relief for any violation of this chapter in addition to, or instead of, any other remedy or procedure. The equitable relief may include restitution, a temporary restraining order, the appointment of a receiver, or a preliminary or permanent injunction. The action may be brought in the county in which the defendant resides, or in which any violation has occurred, or may occur.

(b) The suspension or revocation of an institution's approval to operate also may be embraced in any action brought by the Attorney General, a district attorney, or city attorney otherwise proper in any court involving the institution's compliance with this chapter or performance of its legal obligations.

95013. (a) The Attorney General, a district attorney, or a city attorney may make investigations as may be necessary to carry out this chapter, including investigations of complaints. The bureau may jointly bring actions as necessary to enforce this chapter, including civil actions for injunctive relief.

(b) Nothing in this section or this chapter precludes the Attorney General, a district attorney, or a city attorney from taking any action each is otherwise lawfully authorized to take.

95014. (a) If an institution, or its agent, representative, or employee, violates any provision of Article 5 (commencing with Section 94890) in connection with an agreement for a course of instruction, that agreement shall be unenforceable, and the institution shall refund all consideration paid by or on behalf of the student.

(b) Notwithstanding any provision in an agreement, a student may bring an action for a violation of any provision of Article 5 (commencing with Section 94890) and, upon prevailing, shall be entitled to the recovery of damages, equitable relief, any other relief authorized by this article, and reasonable attorney's fees and costs.

(c) If a court finds that a violation was willfully committed or that the institution failed to refund all consideration as required by subdivisions (a) or (b) on the student's written demand, the court, in addition to the relief awarded under subdivision (b), shall award a civil penalty of up to two times the amount of the damages sustained by the student.

(d) The remedies provided in this article supplement, but do not supplant, the remedies provided under other provisions of law.

(e) An action brought under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the action.

(f) Any provision in any agreement that purports to require a student to invoke any grievance dispute procedure including arbitration established by the institution or any other procedure before bringing an action to enforce any right or remedy is void and unenforceable. After a grievance has arisen, a student may voluntarily elect to avail himself or herself of a nonbinding grievance dispute procedure available to students after the student's grievance has arisen but prior to enforcing any right or remedy under law or filing a judicial action.

(g) A student may assign his or her causes of action for a violation of this article to the bureau, or to any state or federal agency that guaranteed or reinsured a loan for the student or provided any grant or other financial aid.

(h) If a student commences an action or asserts any claim described in Section 17200 of the Business and Professions Code in an existing action for recovery on behalf of a class of persons, or on behalf of the general public, the student shall notify the bureau of the existence of the lawsuit, the court in which the action is pending, the case number of the action, and the date of the filing of the action or of the assertion of the claim. The student shall notify the bureau as required by this subdivision within 30 days of the filing of the action or of the first assertion of the claim, whichever is later. The student shall also notify the court that he or she has notified the bureau pursuant to this subdivision. Notwithstanding any other provision of law, no judgment may be entered pursuant to this section until the student has notified the bureau of the suit and notified the court that the bureau has been notified. This subdivision only applies to a new action filed or to a new claim asserted on or after January 1, 2002.

(i) An institution is liable in a civil action or proceeding for a violation of Article 5 (commencing with Section 94890) committed by a representative of the institution.

95014.5. A student may bring an action for an agent's, agency's, or agency employee's violations of this chapter or any fraud or misrepresentation and, upon prevailing, is entitled to the

recovery of damages, reasonable attorney's fees, and costs. If a court finds that the violation was willfully committed, the court shall, in addition to the award of damages, award a civil penalty of up to two times the amount of damages sustained by the student.

95021. (a) Notwithstanding any other provision of this chapter, each institution, including regionally accredited institutions that qualify for exemption under Article 3 (commencing with Section 94840), shall be deemed to have authorized the accrediting agency that accredited the institution to provide to the Attorney General, any district attorney or city attorney, or the Student Aid Commission, within 30 days of written notice, copies of all documents and other material concerning the institution that is maintained by the accrediting agency.

(b) Within 30 days of receiving written notice from the Attorney General, any district attorney or city attorney, or the Student Aid Commission, an accrediting agency shall provide, free of charge, the requesting official with all documents or other material concerning an institution accredited by that accrediting agency that are designated specifically or by category in the written notice.

(c) If the Attorney General, any district attorney or city attorney, or the Student Aid Commission is conducting a confidential investigation of an institution and so informs the accrediting agency, the accrediting agency shall not inform that institution of the investigation.

(d) If an accrediting agency willfully fails to comply with this section, the accrediting agency shall be liable for a civil penalty of not less than two thousand five hundred dollars ($2,500) or more than twenty-five thousand dollars ($25,000) for each violation. Penalties awarded pursuant to this section shall be deposited in the Private Postsecondary and Vocational Education Administration Fund or any successor fund.

95022. (a) A person or business entity, regardless of the form of organization, that willfully violates Sections 94882.3, 94883.9, 94893, 94894, 94896, 94897, 94902, 94931, 94932, or 94939 through 94942, inclusive, is guilty of a crime, and shall be subject to separate punishment for each violation by either of the following:

(1) Imprisonment in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine.

(2) Imprisonment in state prison for a period not to exceed _____ years, by a fine not to exceed fifty thousand dollars ($50,000), or by both that imprisonment and fine.

(b) Notwithstanding any other law, any prosecution under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the prosecution.

(c) The penalties provided by this section supplement, but do not supplant, remedies and penalties provided under other law.

(d) In addition to any other fines or penalties imposed pursuant to this section, any person or business entity found guilty of a crime as described in subdivision (a) shall be ordered to pay the Attorney General, any district attorney, or any city attorney all of their costs and expenses in connection with any investigation incident to that prosecution. An institution or licensee shall not be required to pay the same costs and expenses to more than one investigating agency.

95023. (a) Any person who, in any manner, makes or causes to be made any untrue or misleading statement in connection with offering or providing a program, or who makes or causes to be made any untrue or misleading change in any document or record and who knows or, by the exercise of reasonable care, should know that the statement or change is untrue or misleading is guilty of a crime, punishable as provided in subdivision (d).

(b) Any person who willfully falsifies, destroys, fails to maintain, or conceals any document or record that is required to be maintained by this chapter or by the bureau is guilty of a crime, punishable as provided in subdivision (d).

(c) Any person who is required to file any report required by Section 94883.6 and who willfully fails to file that report as required, or willfully violates or causes the violation of subdivision (d) of Section 94882.3, is guilty of a crime and is subject to punishment for each violation as provided in paragraph (2) of subdivision (d).

(d) Any person who violates subdivision (a) or (b), or who willfully violates Section 94901, 94931, 94932, or subdivision (c) of Section 95014 is guilty of a crime and is subject to separate punishment for each violation either by:

(1) Imprisonment in the state prison, by a fine not to exceed fifty thousand dollars ($50,000), or by both that imprisonment and fine.

(2) Imprisonment in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine.

(e) Notwithstanding any other law, any prosecution under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the prosecution.

(f) The penalties provided by this section supplement, but do not supplant, the remedies and penalties provided under other law.

95024. Any person who willfully violates Section 94884.3, Sections 94885.9 to 94887, inclusive, Section 94887.6 and Sections 94917 to 94919, inclusive, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, by a fine not to exceed five thousand dollars ($5,000), or by both that imprisonment and fine. To the extent permitted by law, an institution is liable in a criminal action for violations of Article 4 (commencing with Section 94850) committed by a representative of the institution.

95025. An institution is liable in an administrative action or proceeding for a violation of Article 4 (commencing with Section 94850) or Article 5 (commencing with Section 94890) committed by a representative of the institution.

95026. If any person willfully violates this chapter and the violation results in the closure of an institution, that person shall pay to all students of the closed institution full refunds or full compensation for actual damages resulting from the closure that were not paid by the closed institution.

Article 9. Hearings

95030. Any hearing allowed or required by this chapter shall be carried out in accordance with the provisions set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, in accordance with the procedures set forth in this article, or in accordance with any alternative adjudicative process established by the bureau that is consistent with due process. In connection with hearings carried out under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the bureau shall have all powers granted in that chapter.

95031. Upon taking an action to suspend or revoke an institution's approval to operate, or to deny an application for renewal of an approval to operate, the bureau shall provide written notice to the Student Aid Commission, the United States Department of Education, and to any appropriate accrediting association.

95032. The bureau may use the following procedures in lieu of other notice or hearing requirements provided for by this chapter.

(a) If notice of administrative action is required by this chapter, the bureau shall serve notice stating all of the following:

(1) The action, including the penalties and administrative sanctions sought.

(2) The grounds for the action, with sufficient particularity to give notice of the transactions, occurrences, violations, or other matters on which the action is based.

(3) The right to a hearing and the time period within which the party subject to the notice may request a hearing in writing. The time period shall not be less than 15 days after service of the notice unless a longer period is provided by statute.

(4) The right to be present at the hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

(5) That, if the party subject to the notice does not request a hearing in writing within the time period expressed in the notice, he or she will waive or forfeit his or her right to an administrative hearing and the action will become final.

(b) If a party subject to a notice provided pursuant to subdivision (a) requests a hearing in writing within the time period specified in paragraph (3) of subdivision (a), then within 30 days of receiving this request, the bureau shall schedule a hearing. The hearing shall be held in a location determined pursuant to Section 11508 of the Government Code. The bureau shall serve reasonable notice of the time and place for the hearing at least 10 days before the hearing. The bureau may continue the date of the hearing upon a showing of good cause.

(c) (1) A party, including the bureau, may submit a written request to another party before a hearing to obtain the name and address of any person who has personal knowledge, or who the party receiving the request claims to have personal knowledge, of any of the transactions, occurrences, violations, or other matters

that are the basis of the administrative action. In addition, the requesting party shall have the right to inspect and copy a written statement made by that person or a writing, as defined by Section 250 of the Evidence Code, or thing that is in the custody, or under the control, of the party receiving the request and that is relevant and not privileged. This subdivision shall constitute the exclusive method for prehearing discovery. However, nothing in this paragraph shall affect the bureau's authority, at any time, to investigate, inspect, monitor, or obtain and copy information under any provision of this chapter.

(2) The written request described in paragraph (1) shall be made before the hearing and within 30 days of the service of the notice described in subdivision (a). Each recipient of a request shall comply with the request within 15 days of its service by providing the names and addresses requested and by producing at a reasonable time at the bureau's office, or other mutually agreed reasonable place, the requested writings and things. The bureau may extend the time for response upon a showing of good cause.

(3) Except as provided in this paragraph, a party may not introduce the testimony or statement of a person or a writing or thing into evidence at the hearing if that party failed to provide the name and address of the person or to produce the writing or thing for inspection and copying as provided by this subdivision. A party may introduce the testimony, statement, writing, or thing that was not identified or produced as required herein only if all of the following are true:

(A) There is no objection, or the party establishes that the person, writing, or thing was unknown at the time when the response was made to the written request.

(B) The party could not have informed other parties within a reasonable time after learning of the existence of the person, writing, or thing.

(C) No party would be prejudiced by the introduction of the evidence.

(d) Before a hearing has commenced, the bureau shall issue subpoenas at the written request of a party for the attendance of witnesses or the production of documents or other things in the custody or under the control of the person subject to the subpoena.

Subpoenas issued pursuant to this section are subject to Section 11510 of the Government Code.

(e) (1) The bureau shall designate an impartial hearing officer to conduct a hearing. The hearing officer may administer oaths and affirmations, regulate the course of the hearing, question witnesses, and otherwise investigate the issues, take official notice according to the procedure provided in Division 4 (commencing with Section 450) of the Evidence Code of any technical or educational matter in the bureau's special field of expertise and of any matter that may be judicially noticed, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, direct any party to appear and confer to consider the simplification of issues by consent, and prepare a statement of decision.

(2) A hearing officer and a person who has a direct or indirect interest in the outcome of the hearing may not communicate directly or indirectly with each other regarding an issue involved in the hearing while the proceeding is pending without notice and opportunity for all parties to participate in the communication. A hearing officer who receives an ex parte communication shall immediately disclose the communication to the bureau and all other parties. The bureau may disqualify the hearing officer, if necessary, to eliminate the effect of the ex parte communication. If the bureau finds that a party willfully violated, or caused a violation of, this paragraph, the bureau shall enter that party's default and impose the administrative sanction set forth in the notice provided pursuant to subdivision (a).

(f) (1) Each party at a hearing shall be afforded an opportunity to present evidence, respond to evidence presented by other parties, cross-examine, and present written argument or, if permitted by the hearing officer, oral argument on the issues involved in the hearing. The bureau may call a party as a witness who may be examined as if under cross-examination.

(2) Each party may appear through its representative or through legal counsel.

(3) The technical rules relating to evidence and witnesses shall not apply. However, only relevant evidence is admissible.

(4) Oral evidence shall be taken only upon oath or affirmation. A hearing shall be conducted in the English language. The proponent of any testimony to be offered by a witness who is not

proficient in English shall provide, at the proponent's cost, an interpreter proficient in English and the language in which the witness will testify.

(5) A hearing shall be recorded by tape recording or other phonographic means unless all parties agree to another method of recording the proceedings.

(6) (A) At any time 10 or more days before a hearing, a party may serve on the other parties a copy of a declaration that the party proposes to introduce in evidence.

(B) A declaration provided pursuant to subparagraph (A) shall be accompanied by a notice indicating the date of service of the notice and stating that the declarations will be offered into evidence, the declarants will not be called as witnesses, and there will be no right of cross-examination unless the party receiving the notice requests the right to cross-examine, in writing, within seven days of the service of the declarations and notice.

(C) If no request for cross-examination is served within seven days of the service of the declarations and notice described in subparagraph (B), the right to cross-examination is deemed waived and the declaration shall have the same effect as if the declarant testified orally. Notwithstanding this subparagraph, a declaration may be admitted as hearsay evidence without cross-examination.

(7) Disposition of an issue involved in a hearing may be made by stipulation or settlement.

(8) If a party fails to appear at a hearing, that party's default shall be taken and the party shall be deemed to have waived the hearing and agreed to the administrative action and the grounds for that action described in the notice given pursuant to subdivision (b). The bureau shall serve the party with an order of default including the administrative action ordered. The order shall be effective upon service or at any other time designated by the bureau. The bureau may relieve a party from an order of default if the party applies for relief within 15 days after the service of an order of default and establishes good cause for relief. An application for relief from default shall not stay the effective date of the order unless expressly provided by the bureau.

(g) (1) At any time before a matter is submitted for decision, the bureau may amend the notice provided pursuant to subdivision (a) to set forth any further grounds for the originally noticed administrative action or any additional administrative action and

the grounds therefor. The statement of the further grounds for the originally noticed administrative action, or of the grounds for any additional administrative action, shall be made with sufficient particularity to give notice of the transactions, occurrences, violations, or other matters on which the action or additional action is based. The amended notice shall be served on all parties. All parties affected by the amended notice shall be given reasonable opportunity to respond to the amended notice as provided in this section.

(2) The bureau may amend a notice provided pursuant to subdivision (b) after a case is submitted for decision. The bureau shall serve each party with notice of the intended amendment, and shall provide the party with an opportunity to show that the party will be prejudiced by the amendment unless the case is reopened to permit the party to introduce additional evidence. If prejudice is shown, the bureau shall reopen the case to permit the introduction of additional evidence.

(h) (1) Within 30 days after the conclusion of a hearing, or at another time established by the bureau, a hearing officer shall submit a written statement of decision setting forth a recommendation for a final decision and explaining the factual and legal basis for the decision as to each of the grounds for the administrative action set forth in the notice or amended notice. The bureau shall serve the hearing officer's statement of decision on each party and its counsel within 10 days of its submission by the hearing officer.

(2) The director shall make the final decision, which shall be based exclusively on evidence introduced at the hearing. The final decision shall be supported by substantial evidence in the record. The director also shall issue a statement of decision explaining the factual and legal basis for the final decision as to each of the grounds for the administrative action set forth in the notice or amended notice. The director shall issue an order based on its decision, and that order shall be effective upon service or at any other time designated by the director. The director, or his or her agent, shall serve a copy of the final decision and order, within 10 days of their issuance, on each party and its 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. The provisions of this article shall apply to all institutions subject to this chapter and, notwithstanding any other provision of this chapter, to all institutions that are exempt under subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 94841.

95041. (a) There is in the State Treasury the Private Postsecondary Education Administration Fund, which is continued in existence as the Private Postsecondary Education Administration Fund. All fees collected pursuant to this section shall be credited to this fund along with any interest on the money, for the administration of this chapter. If the Legislature makes an appropriation for the support of the bureau in the Budget Act of any fiscal year, the amount for the support of the bureau expended from the fund during the fiscal year shall not exceed the amount appropriated by the Budget Act, unless that amount is modified in accordance with the Budget Act.

(b) It is the intent of the Legislature that the Private Postsecondary and Vocational Education Administration Fund be administered, and that fees be established and collected, in a manner that assures full and effective implementation of this chapter.

95041.5. The bureau may, by regulation, adjust the fees established by this article. These fees shall be adjusted periodically by regulation as necessary to allow the bureau to fully and effectively implement this chapter.

95042. The initial application fees prescribed by this section shall be the following:

(a) For a new degree-granting institution that is not accredited by a state recognized accrediting agency, five thousand dollars ($5,000).

(b) For a new branch of a degree-granting institution that is not accredited by a state recognized accrediting agency, three thousand dollars ($3,000).

(c) For a new nondegree-granting institution that is not accredited by a state recognized accrediting agency, ____ dollars ($____).

(d) For a new branch of a nondegree-granting institution that is not accredited by a state recognized accrediting agency, ____ dollars ($____).

95043. The renewal fees prescribed by this section shall be the following:

(a) For the main campus of a degree-granting institution that is accredited by a state recognized accrediting agency, _____ dollars ($ _____).

(b) For a branch of a degree-granting institution that is accredited by a state recognized accrediting agency, _____ dollars ($_____).

(c) For the main campus of a degree-granting institution that is not accredited by a state recognized accrediting agency, _____ dollars ($____).

(d) For a branch of a degree-granting institution that is not accredited by a state recognized accrediting agency, _____ dollars ($____).

(e) For the main campus of a nondegree-granting institution that is accredited by a state recognized accrediting agency, ___ dollars ($___).

(f) For a branch of a nondegree-granting institution that is accredited by a state approved accrediting agency, ___ dollars ($____).

(g) For the main campus of a nondegree-granting institution that is not accredited by a state recognized accrediting agency, ___ dollars ($____).

(h) For a branch of a nondegree-granting institution that is not accredited by a state recognized accrediting agency, ____ dollars ($____).

95044. The annual fees prescribed by this section shall be the following:

(a) For degree- and nondegree-granting institutions with annual revenues less than one hundred thousand dollars ($100,000), ____ dollars ($____).

(b) For degree- and nondegree-granting institutions with revenues from one hundred thousand dollars ($100,000) to four hundred ninety-nine thousand nine hundred ninety-nine dollars ($499,999), inclusive, five thousand dollars ($5,000).

(c) For degree- and nondegree-granting institutions with revenues from five hundred thousand ($500,000) to nine hundred

ninety-nine thousand nine hundred ninety-nine dollars ($999,999), inclusive, is ____ dollars ($____).

(d) For degree- and nondegree-granting institutions with revenues from one million dollars ($1,000,000) to nine million nine hundred ninety-nine thousand nine hundred ninety-nine dollars ($9,999,999), inclusive, ____ dollars ($____).

(e) For degree- and nondegree-granting institutions with revenues from ten million dollars ($10,000,000) to nineteen million nine hundred ninety-nine thousand nine hundred ninety-nine dollars ($19,999,999), inclusive, ____ dollars ($____).

(f) For degree- and nondegree-granting institutions with revenues from twenty million dollars ($20,000,000) to twenty nine million nine hundred ninety-nine thousand nine hundred ninety-nine dollars ($29,999,999), inclusive, ____ dollars ($____).

(g) For degree- and nondegree-granting institutions with revenues greater than twenty-nine million nine hundred ninety-nine thousand nine hundred ninety-nine dollars ($29,999,999), ____ dollars ($____).

95044.5. The fees for registered programs prescribed by this section shall be the following:

(a) For the initial application fee, ___ dollars ($___).

(b) For the renewal fee, ___ dollars ($___).

(c) For the annual fee, ___ dollars ($___).

95045. The application fee for an agency authorization is ____ dollars ($____).

95045.5. Notwithstanding paragraph (4) of subdivision (a) of Section 94841, there is a fee for an institution claiming an exemption under that section. The fee for a religious institution exemption under paragraph (4) of subdivision (a) of Section 94841 is ___ dollars ($___).

95046. (a) A fee not paid within 30 calendar days of the due date for payment of the fee is subject to a 25 percent late payment penalty fee.

(b) A fee not paid within 90 calendar days of the due date for payment of the fee is subject to a 35 percent late payment penalty fee.

95046.5. Any institution more than 30 days delinquent in the payment of any fee or order for the recovery of costs and expenses under subdivisions (c) and (d) of Section 95042 may be assessed a penalty fee by the bureau.

95047. If the bureau determines after an investigation that an institution has violated this chapter, the bureau may order the institution to pay the costs and expenses incurred in connection with the investigation and any civil or administrative proceeding involving the violation that was investigated, including charges made by the Attorney General for his or her services, and any expenses incurred by a district attorney. Before any order for the payment of costs and expenses is made under this section, the bureau shall provide the institution with written notice, including notice of the institution's right to request a hearing within 15 days of service of the notice. If a hearing is not timely requested, the bureau may order payment. If a hearing is requested, the bureau shall comply with Article 9 (commencing with Section 95030). Within 30 days after the effective date of the order, the bureau may enforce the order as if it were a money judgment pursuant to Title 9 (commencing with Section 680.10) of Part 2 of the Code of Civil Procedure. Alternatively, the bureau may seek the costs and expenses allowed under this section in a civil proceeding. An institution shall not be required to pay the same costs and expenses incurred in connection with the investigation and any civil or administrative proceeding to more than one investigating agency.

95047.5. The bureau shall establish an annual fee for institutions that are exempt from this chapter under subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 94841. The fee shall be commensurate with the oversight responsibilities of the bureau for this group of institutions.

Article 11. Transition

95050. (a) An institution that had a valid approval to operate on June 30, 2007, issued by the Bureau for Private Postsecondary and Vocational Education pursuant to Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3, as it existed on June 30, 2007, which was not revoked, shall maintain that approval under this chapter. For the purposes of this chapter, the approval shall be valid until two calendar years after the expiration date of the approval, as it existed on June 30, 2007.

(b) Applications for reapproval that had been pending action before the Bureau for Private Postsecondary and Vocational Education on June 30, 2007, shall be deemed processed as follows:

(1) Applications received prior to January 1, 2006, shall be granted a reapproval until 2009 to coincide with the anniversary date of the current approval.

(2) Applications received after January 1, 2006, shall be granted a reapproval until 2010 to coincide with the anniversary date of the current approval.

95051. (a) Each regulation in Division 7.5 (commencing with Section 70000) of Title 5 of the California Code of Regulations in effect on June 30, 2007, shall be in full force and effect on and after January 1, 2008, to the extent the regulation is consistent with the relevant provisions in this chapter.

(b) The bureau may, by emergency regulation, designate which existing regulations are consistent with this chapter and which are not and may replace inconsistent regulations. The bureau may adopt emergency regulations, as required, to allow for the immediate implementation of this chapter as this chapter succeeds the Private Postsecondary and Vocational Education Reform Act of 1989 (former Chapter 7 (commencing with Section 94700), as it existed on June 30, 2007).

95052. The bureau shall succeed to any and all rights and claims of the former Bureau for Private Postsecondary and Vocational Education and that may have been asserted in a judicial or administrative action pending on July 1, 2007, and shall take any action reasonably necessary to assert and realize those rights and claims in its own name. The functions and responsibilities of the former Bureau for Private Postsecondary and Vocational Education for the administration of former Chapter 7 (commencing with Section 94700) on June 30, 2007, are transferred to the bureau, effective July 1, 2007, as provided by this chapter.

95053. The bureau shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the former Bureau for Private Postsecondary and Vocational Education in the performance of the duties, powers, purposes, responsibilities, and jurisdictions that are vested in the bureau.

95053.5. Notwithstanding any other provision of law:

(a) Each matter submitted to the Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, shall be deemed to remain pending before the bureau irrespective of any applicable deadlines. With respect to any deadline

applicable to a pending matter, no time shall be deemed to have elapsed from July 1, 2007, through December 31, 2007, inclusive.

(1) For the purposes of this subdivision, "matter" includes, but is not necessarily limited to, an appeal, a complaint, an evaluation, a hearing, or an investigation.

(2) For the purposes of this subdivision, "matter" does not include a Student Tuition Recovery Fund Claim. Nothing in this paragraph shall be construed to prevent the payment of existing Student Tuition Recovery Fund claims that have been filed with, and approved by, the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007.

(b) Student complaints received from July 1, 2007, through December 31, 2007, inclusive, continue to be duly recorded and, to the extent practicable, investigated, so that no Californian is harmed by the delay in the provision of full services.

(c) Any institution, program, or course of study that is approved by the bureau or authorized pursuant to Section 94905, as it read on June 30, 2007, as of the close of business on June 30, 2007, shall be deemed to be approved as of February 1, 2008, irrespective of any applicable conditions, deadlines, or additional requirements. With respect to any deadline applicable to the approval, renewal of approval, or conditional approval of an institution, program, or course of study, no time shall be deemed to have elapsed between July 1, 2007, and January 31, 2008, inclusive.

95054. (a) Notwithstanding any exemption from this chapter under Article 3 (commencing with Section 94840) or any other provision of law, the rights and obligations established by the Private Postsecondary and Vocational Education Reform Act of 1989 on or before June 30, 2007, shall be determined by the law in effect on or before June 30, 2007, and any claim or cause of action in any manner based on the act that arose on or before June 30, 2007, whether or not reduced to a final judgment, shall be preserved, and any remedy that was or could have been ordered to redress a violation of the act on or before June 30, 2007, may be ordered or maintained thereafter.

(b) The rights, obligations, claims, causes of action, and remedies described in subdivision (a) shall remain subject to the provisions of the Private Postsecondary and Vocational Education Reform Act of 1989 in effect on or before June 30, 2007,

notwithstanding the inoperative status or repeal of the Private Postsecondary and Vocational Education Reform Act of 1989 on or after July 1, 2007.

95055. A Student Tuition Recovery Fund claim filed with the Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, or the department prior to January 1, 2008, but not paid by the department between July 1, 2007, and January 31, 2008, inclusive, shall be deemed pending before the bureau on January 1, 2008.

Article 12. Severability and Construction

95060. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

95061. This chapter shall be liberally construed to effectuate its intent and achieve its purposes.

Article 13. Repeal

95070. This chapter shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

~~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 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 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 the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government 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, who shall include, among other parties, representatives of law enforcement or consumer protection organizations, representatives of institutions, student advocates, employers who hire persons in occupations or job titles which require vocational training, and persons who have expertise in matters relevant to the duties of the bureau.~~

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

~~(c) The ombudsperson shall serve as an ex officio member of the committee.~~

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

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

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

~~94709. The bureau has the following functions and responsibilities:~~

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

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

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

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

~~(e) Establishing a regular inspection program, which may include announced and unannounced inspections of a random sample of educational programs and institutions each year. The bureau shall conduct announced and unannounced inspections based upon information in its possession that indicates to the bureau that these inspections may be warranted.~~

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

~~(g) If the bureau believes that there may have been a violation 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 in this regard, and the review, in consultation with its advisory committee, of distance education statutes in California and other selected states, to determine the adequacy of those statutes to~~

~~protect against potentially fraudulent, unaccredited, and unapproved certificates and degrees, including the protection of employers who rely upon those degrees, and the development of recommendations to the Legislature and Governor regarding distance education in an annual report as required under this article.~~

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

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

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

~~94712. (a) A person serving on a qualified visiting committee, pursuant to this chapter, and who provides information to the bureau or its staff in the course and scope of evaluating any institution subject to this chapter or who testifies at any administrative hearing arising under this chapter, is entitled to a defense by, and indemnification from, the bureau to any action arising out of information or testimony to the bureau which that person would have if he or she were a public employee.~~

~~(b) A defense by, or indemnification from, the bureau, as specified in subdivision (a) shall be solely with respect to that claim or action pursuant to Article 4 (commencing with Section~~

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

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

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

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

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

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

~~94718. (a) Beginning on January 1, 2011, and each year thereafter, the bureau shall provide an annual report to the Legislature and Governor on the bureau's activities in implementing this chapter, data summarizing private postsecondary education in California, and its recommendations for amendments to this chapter, as it deems necessary.~~

~~(b) Between January 1, 2011, and December 31, 2011, the bureau shall employ an independent monitor to undertake a comprehensive review of its policies and operations. The bureau shall forward the results of that review to the Legislature and the~~

~~Governor. The independent monitor shall be selected by the board in consultation with the Attorney General.~~

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

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

~~Article 1.5. Enforcement Advisory Board~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(d) Receiving reports from the ombudsperson.~~

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

~~94741. This article shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.~~

~~Article 1.7. Ombudsperson~~

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

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

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

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

~~94754. The bureau chief shall establish the compensation of the ombudsperson.~~

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

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

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

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

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

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

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

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

~~Article 2. Definitions~~

~~94760. "Academic year" generally means a period including a minimum of 30 weeks of instruction, beginning in the fall term of a given year and ending at the end of the summer term of the succeeding year. Some private postsecondary institutions may adopt a different definition, such as the calendar year, for their academic term, to accommodate unique or nontraditional conditions such as continuous enrollment or shorter or longer term sessions.~~

~~94761. "Accredited" means that an institution has been recognized as meeting the standards established by an accrediting agency recognized by the United States Department of Education, or the Committee of Bar Examiners of the State Bar of California. It does not include an institution that has applied for accreditation, is identified by an accrediting association as a candidate for accreditation, or has provisional accreditation.~~

~~94762. "Agency" means a person or business entity, regardless of the form of organization, that employs, or in any manner contracts with, one or more agents. "Agency" does not include an institution.~~

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

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

~~94765. "Annual report" means the report required to be filed pursuant to Section 94910.~~

~~94766. "Applicant" means a person or entity that has submitted an application but whose evaluation has not been completed by the bureau. An applicant shall not enroll students or offer educational services until the bureau has made a determination regarding the application.~~

~~94767. "Approval," "approval to operate," "approved to operate," or "institutional approval" means that the bureau has determined, pursuant to Article 5 (commencing with Section 94890) or Article 6 (commencing with Section 94960), that an institution or program meets minimum standards established by the bureau for integrity, financial stability, educational quality,~~

~~including the offering of bona fide instruction by qualified faculty, and assessment of students' achievement prior to, during, and at the end of its program, as appropriate.~~

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

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

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

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

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

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

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

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

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

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

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

~~94776. "Commencement of operations" or "commence operations" means that an institution has begun to offer instruction, training, or education to students.~~

~~94777. "Completion of a program," "complete the program," or "completing the program" means a student has completed all requirements of a program and received a certificate or degree, as applicable, for that program.~~

~~94778. (a) Except as provided in subdivision (b), "continuing education" means instruction in any of the following circumstances:~~

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

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

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

~~(b) "Continuing education" does not include any of the following:~~

~~(1) A vocational program.~~

~~(2) A degree program.~~

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

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

~~94780. "Course of study" means either a single course or a set of related courses for which a student enrolls.~~

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

~~94782. "Degree" means any type of degree or honorary degree or title of any designation, mark, appellation, series of letters or words including, but not necessarily limited to, associate, bachelor, master, doctor, or fellow, that signifies, purports to constitute, or is generally taken to signify, satisfactory completion of the~~

~~requirements of an academic, educational, technological, or professional program of study beyond the secondary educational level, or is an honorary title conferred for recognition of some meritorious achievement.~~

~~94783. "Degree institution" means an institution that offers one or more degree programs.~~

~~94784. "Degree program" means a program leading to a degree.~~

~~94785. "Degree title" means the designated subject area of study that also appears on the face of the document awarded to a student signifying the conferring of a "degree."~~

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

~~94787. "Director" means the Director of Consumer Affairs.~~

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

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

~~94790. "Document or record" means a test score, grade, record of grades, attendance record, record indicating student course completion or employment, financial information, including any financial report required to be filed pursuant to Section 94910, information or records relating to the student's eligibility for financial assistance or attendance at the institution, or any other record or document required by this chapter or by the bureau.~~

~~94791. "Education," "educational services," or "educational program" includes, but is not necessarily limited to, a class, course, or program of training, instruction, or study.~~

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

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

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

~~(b) Employment includes self-employment.~~

~~94793. "Employment tracking period" means the period during which a student's employment is tracked for purposes of determining a program's employment numbers and rate.~~

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

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

~~94794. "Enrollment" means the date on which the student signed any agreement for education.~~

~~94795. "ESL instruction" means any educational service involving instruction in English as a second language.~~

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

~~94797. "Faculty" means an instructor or instructors within any of the divisions or comprehensive branches of learning at an institution. For purposes of this chapter, "faculty," "instructor," "professor," and "teacher" are synonymous.~~

~~94798. "Hearing" means a hearing pursuant to Article 9 (commencing with Section 95000) or other alternative adjudicative process established by the bureau.~~

~~94799. "Institution" means a private postsecondary educational institution, including its branch and satellite campuses, which is~~

~~a person doing business in this state that offers to provide or provides, for a fee, tuition, or other charge, any instruction, training, or education under any of the following circumstances:~~

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

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

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

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

~~94800. "Instruction" includes any specific, formal arrangement by an institution or its enrollees to participate in learning experiences in which the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.~~

~~94801. "License and examination preparation" means a program that is designed to assist students to prepare for an examination for licensure.~~

~~94802. "License," for purposes of this chapter, includes an approval to operate, a registration, or any other authority to engage in a business.~~

~~94803. "Licensure" includes a license, certificate, permit, or similar credential that a person must hold to lawfully engage in an occupation or activity.~~

~~94804. "Main location" or "main site" means an institution's primary teaching location. If an institution operates at only one site, that site is its main location or main site.~~

~~94805. "Nondegree institution" means an institution that exclusively offers nondegree programs.~~

~~94806. "Nondegree program" means a program that does not lead to a degree.~~

~~94807. "Occupational associate degree," "associate of occupational studies," or "associate of applied science," designated by terms including, but not necessarily limited to, associate occupational studies (AOS), associate applied science (AAS), associate specialist technical (AST), or associate specialist business (ASB), means an associate degree that may be awarded to students who complete 60 semester units or 90 quarter units in an occupational program that provides preparation for employment in an occupational field.~~

~~94808. "Out-of-state institution" means an institution that has its place of instruction or its principal location outside the boundaries of this state, that offers or conducts programs of instruction or subjects on premises maintained by the institution outside the boundaries of this state, that provides correspondence or home-study lesson materials from a location outside the boundaries of this state, that evaluates completed lesson materials or otherwise conducts its evaluation service from a location outside the boundaries of this state, or that otherwise offers or provides California students with programs of instruction or subjects through activities engaged in or conducted outside the boundaries of this state.~~

~~94809. "Overall employment rate" means the percentage of those students who started the program, did not cancel during the cancellation period, and were originally scheduled at the time of enrollment to complete the program during the applicable completion tracking period who both completed the program within that completion tracking period and obtained employment as defined in Section 94792.~~

~~94810. "Owner" means a person who has a legal or equitable interest in 10 percent or more of an institution's stocks or assets.~~

~~94811. "Parent corporation" means a corporation that owns more than 80 percent of the stock of an institution.~~

~~94812. "Performance related time periods" include all of the following:~~

~~(a) "Cancellation period" means the initial period during which a student may cancel and receive a refund under this chapter.~~

~~(b) "Completion tracking period" means the year during which a student's scheduled completion and actual completion are tracked for purposes of determining, reporting, and disclosing a school's completion numbers and rates.~~

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

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

~~(c) "Employment tracking period" means the period during which a student's employment is tracked for purposes of determining a program's employment numbers and rates.~~

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

~~(2) For occupations for which the state requires passing an examination, the employment tracking period is extended to include the eight-month period after the announcement of the examination results for the first examination available after a student completes a program.~~

~~94813. "Person" means a natural person or a business entity, regardless of the form or organization.~~

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

~~94815. "Program" or "program of instruction" means a program of training, set of related courses, or education for which a student enrolls.~~

~~94816. "Registered," "registered institution," or "registered educational service" means a person that offers an educational service and is registered to operate under Article 5 (commencing with Section 94890).~~

~~94817. "Reporting period" means an institution's fiscal year or a year period designated by the bureau to be covered in an institution's annual report.~~

~~94818. "Representative" means an employee, an agent as defined in Section 2295 of the Civil Code, an agency subject to Section 94914, or any person who, for compensation, does either of the following:~~

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

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

~~94819. "Satellite" means an auxiliary classroom or a teaching site separate from an institution's main location and without administrative services provided to students.~~

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

~~94821. "Scheduled to complete" means the date the institution determined, when the student enrolled, that the student was scheduled to complete the program.~~

~~94822. "Vocational program" means an educational program having all of the following characteristics:~~

~~(a) The educational program consists of a job-training program or other instruction, training, or education that the institution~~

~~identifies as, or represents as a program that will lead to, fit, or prepare students for employment in any particular occupation.~~

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

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

~~94823. "Site" means a main location, branch, or satellite campus.~~

~~94824. "To offer" includes offering, advertising, publicizing, soliciting, encouraging, or offering to a person, directly or indirectly, in any form, to perform an act as described.~~

~~94825. "To operate" an educational institution, or like term, includes establishing, keeping, maintaining, or operating a facility or location in this state where, or from or through which, educational services are offered or educational degrees or diplomas are offered or granted.~~

~~94826. "Total charge" means the total charge for a course of instruction or other education, instruction, or training, including the charge for tuition, equipment, finance charges, and all other fees, charges, costs, and expenses.~~

~~94827. "USDE" means the United States Department of Education.~~

~~94828. "Year" means a calendar year.~~

~~Article 3. Exemptions~~

~~94840. This chapter regulates education in California provided by private institutions offering instruction primarily to persons who have obtained a high school diploma or its equivalent, or primarily to persons who are beyond the age of compulsory school attendance.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(iv) The institution submits to the bureau copies of the most recent IRS Form 990 and the Integrated Postsecondary Education Data System Report of the USDE and the accumulated default rate.~~

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

~~(2) The bureau shall review and continue to monitor the publicly noticed accreditation status of each institution to determine if the~~

~~institution received a negative accreditation action at any time between January 1, 2007, and December 31, 2010.~~

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

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

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

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

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

~~(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.~~

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

~~Article 4. Approved Institutions and Programs~~

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

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

~~(b) Exempt from this chapter.~~

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

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

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

~~(a) A mission statement.~~

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

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

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

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

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

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

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

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

~~(g) The planned or actual employment of no person who shall be in a position of control, or directs the financial operations or is responsible for the development or management of student financial and academic policies who has been convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal or state funds, or who has been judicially or administratively determined to have committed any violation~~

~~of this chapter or the Reform Act or of any law involving state or federal funds.~~

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

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

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

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

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

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

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

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

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

~~(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, attesting to the accuracy of the information in the application and an acknowledgment that the owners, directors, and anyone in a position of control of the institution understands the responsibility to comply with the minimum standards in this chapter and that those minimum standards will be reviewed at the time of the initial approval onsite inspection.~~

~~94855. 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, and compliance under this chapter.~~

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

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

~~94857. (a) Following review of an institution's application for an initial approval to operate, accompanying documentation, and any other information required by this article, and any investigation of the applicant as the bureau deems necessary or appropriate, the bureau shall either approve or deny the institution's application. If the bureau determines the institution's application and operational plan are not in compliance with the requirements of this article, the bureau shall deny the application. If the bureau determines that the institution's application and operational plan will satisfy the requirements of this article, that there is no reason to expect that the institution will not implement its business or operational plan, and that no grounds for denial of the application exist, the bureau shall grant the institution an initial approval to operate.~~

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

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

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

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

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

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

~~(f) The bureau may, upon consultation with the visiting committee, omit review of any item 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 that corrective action, 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.~~

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

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

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

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

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

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

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

~~94861. (a) At least 90 days before the expiration of its initial approval, an institution seeking 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 items required pursuant to subdivisions (c) and (d).~~

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

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

~~(d) The application shall contain 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.~~

~~94862. 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 either in a combined application or in 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, and compliance under this chapter.~~

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

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

~~94864. Within 90 days of receipt of an application for full approval to operate, the bureau shall conduct a qualitative review and assessment of 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.~~

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

~~(c) Provide the institution with a corrective action plan to address deficiencies noted in the qualitative review and assessment and a time period not to exceed two years for the institution to undertake corrective action and present evidence of corrective activity as required, during which time period the institution's initial approval 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.~~

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

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

~~(d) Deny renewal of the 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 subdivisions (b) and (c), the bureau shall take action as defined in subdivision (a) or (d).~~

~~94868. Institutions approved under this chapter shall be subject to a regulatory structure that shall assign each institution to one of three tiers, as provided in Article 10 (commencing with Section 95040). Notwithstanding any other requirements of this article, an~~

~~institution placed in Tier 3 approval shall be subject to all of the following requirements:~~

~~(a) During the period of Tier 3 approval, the bureau shall work with the institution to develop a corrective action plan, and the 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. The onsite inspections may include an inspection of the institution's facilities and records, interviews of administrators, instructors, and students, and observation of class instruction. The bureau shall order the institution to reimburse all reasonable costs and expenses incurred by the bureau in connection with this subdivision. The bureau may make the payment of the order for reimbursement a condition of probation.~~

~~(b) The bureau shall notify the institution of the basis for approval under Tier 3, including a statement that shall explain why the lack of compliance is not considered minor or technical in nature.~~

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

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

~~(d) If the bureau is not satisfied with the steps undertaken by the institution to eliminate the violations of this article upon which the Tier 3 approval was based, the bureau may revoke the institution's approval to operate upon 30-day notice to the institution 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.~~

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

~~(a) Continue the current approval of the institution, but if the institution was formerly in a Tier 1 approval, place the institution in a Tier 2 approval to operate as an approved, but unaccredited, institution.~~

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

~~(c) 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.~~

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

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

~~(b) An institution that is unaccredited, or operating under initial approval, or unable to meet the standards set forth in subdivision~~

~~(a) shall not add a program, branch, or satellite without authorization by the bureau, except as noted in paragraph (3). An institution seeking to add an additional program, a branch, or a satellite shall apply to do so in a manner specified by the bureau.~~

~~(1) The bureau shall review a proposed addition of a program, branch, or satellite and determine if the institution will continue to meet the minimum standards set forth in this article if the program, branch, or satellite is added. If the bureau determines that the institution will continue to meet those standards after the addition, and if the program meets the standards set forth in this article, the bureau shall authorize the addition of the program, branch, or satellite. If the bureau determines that the institution will not continue to meet those standards after the addition, the bureau may not authorize the addition of the program, branch, or satellite, and the institution may not continue with the addition.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(c) If a student is not a native or fluent speaker of the language in which the instruction shall be offered, the institution shall clearly notify the student, in writing, in both the language of instruction and the student's native language, that lack of language skills may~~

~~hamper student success and indicate whether or not the institution will provide support services in this regard.~~

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

~~(a) The bureau shall act upon an exemption from approval within 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 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 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 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 or courses of instruction or the program or programs of instruction or study have been satisfactorily completed by the student.~~

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

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

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

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

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

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

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

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

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

~~(A) The number and percentage of students who began the program, did not cancel within the cancellation period, and were originally scheduled at the time of enrollment to complete the program during the completion tracking period, who completed it during that completion tracking period.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~"Will Credits You Earn at [Name of Institution] Be Transferable?~~

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

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

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

~~4. Even if credits "transfer," they may not count toward graduation requirements at another college.~~

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

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

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

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

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

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

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

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

~~(3) Provide a copy of a current schedule of all student charges and a statement of the purpose for those charges. The schedule shall clearly indicate and differentiate all mandatory and optional student charges, and shall specify the total costs of attendance which shall include, but not necessarily be limited to, tuition, fees, assessments for the Student Tuition Recovery Fund, equipment costs, housing, transportation, books, necessary supplies, materials, shop and studio fees, and any other fees and expenses that the student will incur upon enrollment. However, an institution shall not include in its schedule of fees, or otherwise advertise, costs~~

~~that are less than those recommended by the Student Aid Commission in its annual statement of recommended student expense budgets, unless the cost as advertised is reflective of a direct charge by the institution, in which case the cost shall be advertised as actual. The schedule shall clearly identify all charges and deposits that are nonrefundable. The schedule shall also contain both of the following:~~

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

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

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

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

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

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

~~(A) The federal or state government or the loan guarantee agency can take action against the student, including applying any income~~

~~tax refund to which the person is entitled to reduce the balance owed on the loan.~~

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

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

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

~~(10) Provide orally and in a written "How Our Students Do" factsheet the information required by subdivision (a) of Section 94893.~~

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

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

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

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

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

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

~~(4) The faculty and their qualifications.~~

~~(5) The schedule of tuition payments, fees, and all other charges and expenses necessary for the term of instruction and the completion of the course of study.~~

~~(6) The cancellation and refund policies.~~

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

~~(8) A description of a student's rights under the Student Tuition Recovery Fund.~~

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

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

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

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

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

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

~~94899. (a) When a person executes an agreement obligating that person to pay any money to an institution for a course program of instruction or related equipment, the institution shall provide the person with a document containing only the following notice:~~

~~"NOTICE OF CANCELLATION, REFUND AND OTHER RIGHTS"~~

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

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

~~"2. After the end of the cancellation period, you also have the right to stop school at any time, and you have the right to receive a refund for the part of the course not taken. Your refund rights are described in the contract. If you have lost your contract, ask the school for a description of the refund policy.~~

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

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

~~_____~~

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

~~(b) Except as otherwise provided in subdivision (a), the notice required by subdivision (a) shall be printed in 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 copy of the notice, in each language in which the notice was printed pursuant to subdivision (b), shall be posted at all times in a conspicuous place at the main entrance of the institution, in each admissions office, and in each room used for instruction. The bureau may prescribe the size and format of the posted notice. This subdivision does not apply to an institution that exclusively offers correspondence or home study courses.~~

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

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

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

~~"Notice of Cancellation~~

~~_____~~

~~(Date)~~

~~(Enter date of first class, date~~
~~first lesson received, or date~~
~~first lesson was mailed, whichever~~
~~is applicable)~~

~~"You may cancel this contract for school, without any penalty or obligation by the date stated below.~~

~~"If you cancel, any payment you have made and any negotiable instrument signed by you shall be returned to you within 30 days following the school's receipt of your cancellation notice.~~

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

~~"The total amount charged for each item of equipment shall be separately stated. The amount charged for each item of equipment shall not exceed the equipment's fair market value. The school shall have the burden of proof to establish the equipment's fair market value. The school is required to refund any amount over that as provided above, and you may keep the equipment.~~

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

~~_____, at _____.~~
~~(name of institution) (address of institution)~~

~~"NOT LATER THAN _____~~

~~(Enter midnight of the date applicable under Section 94939)~~

~~"I cancel the contract for school.~~

~~_____~~

~~(Date)~~

~~_____~~

~~(Student's signature)~~

~~"REMEMBER, YOU MUST CANCEL IN WRITING. You do not have the right to cancel by just telephoning the school or by not coming to class.~~

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

~~_____~~

~~(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.~~

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

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

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

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

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

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

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

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

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

~~(7) A clear and conspicuous caption, "BUYER'S RIGHT TO 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 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 contains the information required by this section. The form shall also include a statement that students whose entire tuition and fees are paid by a third-party organization are not eligible for payments from the Student Tuition Recovery Fund.~~

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

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

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

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

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

~~(d) If an institution offers ESL instruction to a student to enable the student to use already existing knowledge, training, or skills in the pursuit of an occupation, the institution shall test the student after the student completes the ESL instruction to determine that the student has attained adequate proficiency in oral and written English to use his or her existing knowledge, training, or skills.~~

~~Before enrolling the student in ESL instruction, the institution shall document the nature of the student's existing knowledge, training, or skills and that the ESL instruction is necessary to enable the student to use that existing knowledge, training, or skills.~~

~~(e) If an institution offers ESL instruction to a student in connection with a course of instruction leading to employment in any occupation requiring licensure awarded after the passage of an examination offered in English, the institution shall test the student after the student completes the ESL instruction to determine that the student has attained a level of proficiency in English reasonably equivalent to the level of English in which the licensure examination is offered.~~

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

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

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

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

~~(j) The tests used by an institution pursuant to this section shall be tests that are approved by the USDE, or tests such as the Test of English as a Foreign Language and the Comprehensive Adult Student Assessment System, that are generally recognized by public and private institutions of higher learning in this state for the evaluation of English language proficiency. An institution shall~~

~~demonstrate to the bureau that the tests and passing scores that it uses establish that students have acquired the degree of proficiency in oral and written English required by subdivision (b), (c), (d), or (e), whichever is applicable. The required level of proficiency in oral and written English shall not be lower than the sixth grade level.~~

~~(k) All tests shall be independently administered, without charge to the student and in accordance with the procedures specified by the test publisher. The tests shall not be administered by a previous or current owner, director, consultant, or representative of the institution or by any person who previously had, or currently has, a direct or indirect financial interest in the institution other than the arrangement to administer the test. The bureau shall adopt regulations that contain criteria to ensure independent tests administered including the criteria established by the USDE and set forth on pages 52160 and 52161 of Volume 55 of the Federal Register, dated December 19, 1990.~~

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

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

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

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

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

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

~~94904. (a) An institution shall maintain adequate and accurate records for five years, and satisfactory standards shall be enforced~~

~~relating to attendance, academic progress, and performance for at least five years.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(1) The institution fails to have available sufficient funds and accounts receivable to pay all operating expenses due within 30~~

~~days. For the purpose of this subdivision, "funds" means cash or assets that can be converted into cash within seven days.~~

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

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

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

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

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

~~(1) Consent to be sued in California.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(c) An audit shall be conducted in accordance with generally accepted auditing standards, and if an audit is conducted, the accountant shall obtain an understanding of the institution's internal financial control structure, assess any risks, and report any material deficiencies in the internal controls.~~

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

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

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

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

~~94910. (a) An institution approved to operate under this chapter shall report to the bureau, under penalty of perjury, by July 1 of~~

~~each year, or another date designated by the bureau, electronically and in writing, the following information for educational programs offered in the prior year:~~

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

~~(2) The number of degrees and diplomas awarded, by level of degree.~~

~~(3) The degree levels offered.~~

~~(4) The schedule of tuition and fees required for each term, program, course of instruction, or degree offered.~~

~~(5) Financial information demonstrating compliance with Section 94906.~~

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

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

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

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

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

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

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

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

~~94911. (a) An institution shall designate and maintain an agent for service of process within this state, and provide the name, address, and telephone number of the agent to the bureau. The~~

~~bureau shall furnish the agent's name, address, and telephone number to a person upon request.~~

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

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

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

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

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

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

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

~~(f) The issuance of an authorization pursuant to this section shall not be interpreted to mean, and it shall be unlawful for any individual holding any permit to expressly or impliedly represent by any means whatsoever, that the bureau has made any evaluation, recognition, accreditation, or endorsement of any course of study being offered for sale by the individual.~~

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

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

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

~~(b) Evidence of a surety bond issued in favor of the State of California by an admitted surety insurer making provision for indemnification of any person for any loss suffered as a result of the occurrence, during the period of coverage, of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any program of study, or as a result of any violation of this chapter. The term of the bond shall extend over the period of the authorization. The bond may be supplied by the institution or by the person for whom the issuance of the permit is sought, and may extend to cover individuals separately or to provide blanket coverage for all persons to be engaged as representatives of the institution. The bond shall provide for liability in the penalty sum of twenty-five thousand dollars ($25,000) for each agent to whom coverage is extended by its terms. Neither the principal nor the surety on a bond may terminate the coverage of the bond, except upon giving 30 days' prior written notice to the bureau, and upon contemporaneously surrendering~~

~~the agent's authorization. Liability on the bond may be enforced after a hearing before the bureau, after 30 days' advance written notice to the principal and surety. This subdivision supplements, but does not supplant, any other rights or remedies to enforce liability on the bond.~~

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

~~94915. The application for an authorization for an agency shall include all of the following:~~

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

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

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

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

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

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

~~(4) The following statement: "Any questions or problems concerning this agency should be directed to the Bureau for Private Postsecondary Education," including the current address and telephone number for the bureau.~~

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

~~(A) The courses offered.~~

~~(B) Program objectives.~~

~~(C) Length of program.~~

~~(D) The faculty and their qualifications.~~

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

~~(F) The cancellation and refund policies.~~

~~(G) The total cost of tuition over the period needed to complete the student's education.~~

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

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

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

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

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

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

~~94916. Within 30 days of receipt of a person's completed application for authorization as an agency, and prior to issuance of that authorization, the bureau may inspect the applicant and verify the application. Within 30 days of the inspection, the bureau shall either issue an authorization for a one-year period, subject to annual renewal at the end of that period, or deny the application~~

~~for authorization. The bureau shall deny the authorization if the applicant or any owner, officer, or director of the applicant previously has been found in a judicial or administrative proceeding to have violated this chapter, or if there exists any of the grounds for denial set forth in Section 480 of the Business and Professions Code.~~

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

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

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

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

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

~~94922. A student may bring an action for an agent's, agency's, or agency employee's violations of this chapter or any fraud or misrepresentation and, upon prevailing, is entitled to the recovery of damages, reasonable attorney's fees, and costs. If a court finds that the violation was willfully committed, the court shall, in addition to the award of damages, award a civil penalty of up to two times the amount of damages sustained by the student.~~

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

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

~~(1) The Stafford Student Loan program.~~

~~(2) The Supplemental Loans for Students program.~~

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

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

~~(1) The provision of grades.~~

~~(2) The provision of transcripts.~~

~~(3) The provision of diplomas.~~

~~(c) When it is determined that an individual is in default on a loan or loans under either of the loan programs specified in subdivision (a), the Student Aid Commission shall give notice of~~

~~the default to all institutions through which that individual acquired the loan or loans.~~

~~(d) Guarantors, or those who act as their agents or act under their control, who provide information to institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing bureau or other governing authority of the institutions from an action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided to the institution by the guarantors, their agents, or those acting under the control of the guarantors.~~

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

~~"NOTICE~~

~~"ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES THAT THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF, RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER."~~

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

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

~~(c) An institution that participates in a federal student assistance program and that complies with the financial disclosure and~~

~~notification requirements for those programs is in compliance with the standards prescribed by this section.~~

~~94926. (a) A note, or other instrument of indebtedness, or contract relating to payment for educational services is not enforceable by an institution within or outside this state governed by this chapter unless, at the time of execution of that note, other instrument of indebtedness, or contract, the institution has a valid approval to operate pursuant to this chapter.~~

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

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

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

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

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

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

~~(d) An application filed pursuant to this section may include pertinent portions of the institution's previous application prepared~~

~~in connection with programs or courses of instruction that remain unchanged or unaffected by the change in ownership.~~

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

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

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

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

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

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

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

~~(c) Instruct or educate, or offer to instruct or educate, including soliciting for those purposes, enroll or offer to enroll, contract or offer to contract with any person for that purpose, or award any~~

~~educational credential, or contract with any institution or party to perform any act, in this state, whether that person, agent, group, or entity is located within or without this state, unless that person, agent, group, or entity observes and is in compliance with the minimum standards set forth in this article.~~

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

~~(e) Promise or guarantee employment.~~

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

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

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

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

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

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

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

~~(2) For each student who enters into a consumer credit contract that is subject to Part 433 (commencing with Section 433.1) of Title 16 of the Code of Federal Regulations, as it existed on January 1, 2007, and as it is amended from time to time thereafter, the~~

~~institution shall include the following statement in any written contract or agreement for educational services or, in the alternative, shall provide the student with a separate written notice containing the following statement:~~

~~"YOU MAY ASSERT AGAINST THE HOLDER OF THE PROMISSORY NOTE YOU SIGNED IN ORDER TO FINANCE THE COST OF INSTRUCTION ALL OF THE CLAIMS AND DEFENSES THAT YOU COULD ASSERT AGAINST THIS INSTITUTION, UP TO THE AMOUNT YOU HAVE ALREADY PAID UNDER THE PROMISSORY NOTE."~~

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

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

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

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

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

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

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

~~(2) At a subsequent time, if the student has not maintained satisfactory academic progress in acquiring the necessary level of education, training, skill, and experience to obtain employment in the occupation or job title to which the program is represented to~~

~~lead. The institution shall have the burden of proof to establish that the student has maintained satisfactory academic progress.~~

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

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

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

~~(2) The institution is a public institution.~~

~~(3) The institution grants degrees.~~

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

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

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

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

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

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

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

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

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

~~(j) Direct a representative to perform any unlawful act, to refrain from complaining or reporting unlawful conduct to the bureau or~~

~~another government agency, or to engage in any unfair act to persuade a student not to complain to the bureau or another government agency.~~

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

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

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

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

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

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

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

~~94933. An institution is liable in a civil or administrative action or proceeding for a violation of this article committed by a representative of the institution. To the extent permitted by law, an institution is liable in a criminal action for violations of this article committed by a representative of the institution.~~

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

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

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

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

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

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

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

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

~~(1) Make any unscheduled suspension of any class unless caused 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 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, 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~~

~~protect students from the potential consequences of the violation. The following shall also be required:~~

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

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

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

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

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

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

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

~~(3) (A) If no standardized test is available that satisfies paragraph (1), the institution shall use other appropriate tests to determine~~

~~the student's ability to be trained to perform the tasks associated with the occupations and job titles for which training is offered as described in paragraph (1). Within 30 days of determining that no standardized test satisfies paragraph (1), the institution shall so inform the bureau and shall describe and, if possible, furnish the bureau with the test to be used in lieu of the test required by paragraph (1).~~

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

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

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

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

~~(i) Answer any of the test questions.~~

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

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

~~(B) Nothing in this paragraph prevents an institution from providing nonsubstantive assistance to accommodate the disability 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:~~

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

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

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

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

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

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

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

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

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

~~(f) If the institution gave the student any equipment, the student shall return the equipment within 10 days following the date of the notice of cancellation. If the student fails to return the equipment within this 10-day period, the institution may retain that portion of the consideration paid by the student equal to the documented cost to the institution of the equipment, and shall refund the portion of the consideration exceeding the documented cost to the institution of the equipment within 10 days after the~~

~~period within which the student is required to return the equipment. The student may retain the equipment without further obligation to pay for it.~~

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

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

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

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

~~(1) All of that student's tuition and fees are paid by a third-party organization, such as a Job Training Partnership Act agency, a regional occupational program or regional occupational center, a private industry council, or a vocational rehabilitation program, if the student is not obligated to repay the third-party organization or does not lose time-limited educational benefits.~~

~~(2) The third-party organization and the institution have a written agreement, entered into on or before the date the student enrolls, that no refund will be due to the student if the student withdraws prior to completion. The institution shall provide a copy of the written agreement to the bureau. The institution shall disclose to any student whose refund rights are affected by this agreement, in all disclosures required to be given to the student by this chapter, that the student is not entitled to a refund. It is the intent of the Legislature that this paragraph not apply to any student whose tuition and fees are paid with funds provided to the third-party~~

~~organization for the student's benefit as part of any program that provides funds for training welfare recipients or that is related to welfare reform.~~

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

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

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

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

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

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

~~(4) The amount owed by the student for the purposes of calculating a refund is derived by multiplying the total hours attended by the hourly charge for instruction and adding to that product the amount of the registration fee specified in paragraph (1).~~

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

~~(6) The refund amount shall be adjusted as provided in subdivision (f) or (g) for equipment and as provided in subdivision (h) for resident instruction, if applicable.~~

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

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

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

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

~~(4) The amount owed by the student for the purposes of calculating a refund is derived by multiplying the total number of~~

~~lessons for which the student has paid by the per lesson charge calculated in paragraph (3) and adding to that product the amount of the registration fee specified in paragraph (1).~~

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

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

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

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

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

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

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

~~(f) If the institution specifies in the agreement a separate charge for equipment that the student actually obtains and the student returns that equipment in good condition, allowing for reasonable wear and tear, within 30 days following the date of the student's withdrawal, the institution shall refund the charge for the equipment paid by the student. If the student fails to return that equipment in good condition, allowing for reasonable wear and tear, within 30 days following the date of the student's withdrawal, the institution may offset against the refund calculated under subdivision (a) the documented cost to the institution of that equipment. The student shall be liable for the amount, if any, by which the documented cost for equipment exceeds the refund amount calculated under subdivision (a). For the purposes of this subdivision, equipment cannot be returned in good condition if the equipment cannot be~~

~~reused because of clearly recognized health and sanitary reasons and this fact is clearly and conspicuously disclosed in the agreement.~~

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

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

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

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

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

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

~~(4) The student has failed to submit three consecutive lessons, or has failed to submit a completed lesson within 60 days of its due date as set by an educational service offered by distance learning, home study, or correspondence. For the purposes of this paragraph, the date of the student's withdrawal shall be deemed~~

~~to be the date on which the student submitted the last completed lesson.~~

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

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

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

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

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

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

~~(b) (1) Every institution shall meet the following employment performance standard for each vocational program offered at a site during the applicable completion tracking period described in paragraph (2):~~

~~(2) Seventy percent or more of the students who completed the program within that completion tracking period, regardless of when~~

~~they were scheduled to complete, shall obtain employment, as defined in Section 94792.~~

~~(c) For the purposes of subdivisions (a) and (b), students who, as documented by the institution, have been prevented from completing the program or obtaining employment due to death, disability, pregnancy, military service, incarceration, or participation in the Peace Corps or domestic volunteer service, shall be excluded from the computations used to determine whether an institution has met the performance standards prescribed by those subdivisions.~~

~~(d) (1) This subdivision applies only to an institution in which 15 or fewer students started a program, did not cancel during the cancellation period, and were originally scheduled at the time of enrollment to complete the program during that completion tracking period.~~

~~(2) If an institution described in paragraph (1) fails to meet any of the performance standards in subdivision (a) or (b), but would have met the standard if one more student had completed or obtained employment, then the institution shall be deemed to have complied with this section in connection with that program.~~

~~(e) Any institution which has a site at which the majority of the programs failed the completion performance standard, or the majority of the vocational programs failed the employment performance standard, shall be classified as a Tier 3 institution.~~

~~(f) (1) The following applies to any program about which either of the following is true:~~

~~(A) It fails to meet either or both of the performance standards in subdivision (a) or (b) by 10 percent or less.~~

~~(B) It fails to meet either or both of the performance standards in subdivision (a) or (b) by more than 10 percent, but has an overall employment rate as described in subdivisions (a), (b), and (c) of 40 percent or higher.~~

~~(2) If any institution fails to demonstrate by February 28 of the third year, or by February 28 of the fourth year if the licensing examination exception of subdivision (b) of Section 94812 applies, after the completion of the tracking period in which a program failed the completion performance standard, that 60 percent of the students who started at that site, did not cancel during the cancellation period, and who were originally scheduled to complete in the prior year, completed the program in that year, the bureau~~

~~shall order the institution to stop enrolling any students in that course for two years from that date.~~

~~(3) If any institution fails to demonstrate by February 28 of the fourth year, or by February 28 of the fifth year if the licensing examination exception of subdivision (b) of Section 94812 applies, after the completion tracking period for a program that failed the employment performance standard, that 70 percent of the students who completed the program at that site in the most recent completion tracking period obtained employment, the bureau shall order the institution to stop enrolling any students in that course for two years from that date.~~

~~(4) No action shall be taken pursuant to this subdivision without notice, and if requested by the institution, a hearing.~~

~~(5) In taking action pursuant to paragraph (3), the bureau shall consider the impact, if any, of changes in the employment rate of the area served by the site.~~

~~(g) (1) This subdivision applies to either of the following:~~

~~(A) Any program that fails to meet either performance standard in subdivision (a) or (b) by more than 10 percent, or any vocational program which fails to meet either performance standard in subdivision (a) or (b) by more than 10 percent if the institution cannot demonstrate that the vocational program has an overall employment rate as described in subdivisions (a), (b), and (c) of 40 percent or higher.~~

~~(B) Any site at which the majority of the programs fail to meet either performance standard in subdivision (a) or (b) by more than 10 percent, or any site at which the majority of the programs fail to meet either performance standard in subdivision (a) or (b) by more than 10 percent and the institution cannot demonstrate that the majority of the vocational programs have an overall employment rate as described in subdivisions (a), (b), and (c) of 40 percent or higher.~~

~~(2) If either of the situations described in paragraph (1) occurs:~~

~~(A) The bureau shall order the institution to stop offering that program.~~

~~(B) The bureau shall revoke the approval of the institution to operate that site.~~

~~(3) No action shall be taken pursuant to this subdivision without notice, and if requested by the institution, a hearing.~~

~~(h) (1) The institution shall have the burden of complying with this section.~~

~~(2) The bureau shall investigate an institution whenever the bureau deems it appropriate to verify the institution's compliance with this section. The investigation shall include an examination of the institution's records and contacts with students and employers.~~

~~(3) If an institution willfully falsifies, alters, destroys, conceals, or provides false or misleading information relating to compliance with this section, including, but not necessarily limited to, records maintained pursuant to subdivision (j), the bureau shall revoke the institution's approval to operate. No action shall be taken pursuant to this subdivision without notice, and if requested by the institution, a hearing.~~

~~(4) The remedies provided in this section supplement, but do not supplant, any other penalty or remedy provided by law.~~

~~(i) A determination (1) that a program or programs failed to meet any completion or employment performance standard, (2) of the percentage by which an institution failed to meet that standard, (3) of the classification of an institution as Tier 3, or (4) that a program or programs met or failed to meet the overall employment rate, shall be effective on the date an institution reports any completion or employment rate that does not meet the performance standard completion or employment performance standards or overall employment rate or rates to the bureau, or if not based on the institution's reporting, then when an order is entered determining the fact.~~

~~(j) For each program an institution has offered at each location, the institution shall maintain all records necessary to substantiate its completion and employment performance numbers and rates, including all of the following:~~

~~(1) An electronic list or spreadsheet showing all of the following:~~

~~(A) For each student who enrolled in the program, the student's name, address, electronic mail address if available, and telephone number; the date the student enrolled; whether the student canceled within the cancellation period; the date the student was scheduled at the time of enrollment to complete the program; whether the student completed the program; and the date the student left the program or completed the program.~~

~~(B) The identity of each student the institution counts as having taken the first available state examination after the student completed the program, if the examination is required by the state for particular employment, whether the student passed the examination or not, and the date the examination results were first made available.~~

~~(C) The identity of each student the institution counts as having obtained employment; for that employment, the employer's name, address, electronic mail address if available, and telephone number; the name, address, electronic mail address if available, and telephone number of the person who provided the information to the institution regarding the student's employment; the name, title, or description of the job; the date the student obtained the job; the number of hours per week the student worked at the job; the duration of the student's employment; and the amount of the student's salary, if the institution makes any salary claims.~~

~~(2) For each student the institution counts as having obtained part-time employment, a handwritten statement completed by the student at the beginning of the program and at the end of the program which states that the student's educational objective is part-time employment. The institution shall not require the student to complete the statement or provide any incentive, financial or otherwise, to any student for signing the statement.~~

~~(3) For each student the institution counts as having obtained employment based on being self-employed, reliable indices of self employment such as contracts, checks for payment, tax returns, social security contribution records, records of accounts receivable or customer payments, invoices for business supplies, rent receipts, appointment book entries, or business licenses, or a statement signed by the student at least 60 days after the student completed the course stating that the student considers himself or herself self-employed, that the student has earned money from the self-employment, and the identity of one or more of the documents listed above which the student has to document the self-employment.~~

~~(4) For each student the institution excludes from the computation of performance standards under this subdivision, documentation of the date or dates and fact of the applicable death, disability, pregnancy, military service, incarceration, or participation in the Peace Corps or as a Domestic Volunteer.~~

~~94946. A person may not own or operate an institution, or give instruction, for the driving of motortrucks of three or more axles that are more than 6,000 pounds unladen weight unless all of the following conditions are met:~~

~~(a) The institution has been approved by the bureau.~~

~~(b) The institution, at the time of application and thereafter, maintains both of the following:~~

~~(1) Proof of compliance with liability insurance requirements that are the same as those established by the Department of Motor Vehicles for a driving institution owner, pursuant to Section 11103 of the Vehicle Code, unless the bureau deems it necessary to establish a higher level of insurance coverage.~~

~~(2) A satisfactory safety rating by the Department of the California Highway Patrol is established pursuant to Division 14.8 (commencing with Section 34500) of the Vehicle Code.~~

~~(c) The institution, at all times, shall maintain the vehicles used in driver training in safe mechanical condition. The institution shall keep all records concerning the maintenance of the vehicles.~~

~~(d) The driving instructions meet the requirements set forth in Section 11104 of the Vehicle Code.~~

~~(e) Any other terms and conditions required by the bureau to protect the public safety or to meet the requirements of this chapter.~~

~~94947. The Legislature finds and declares that private lending is an appropriate and sometimes necessary function to enable students to finance their direct and indirect costs of attendance at private postsecondary institutions, and that this lending benefits both the students and the economy; however, neither the students nor the economy are served by usurious instruments of debt, by lack of student counseling regarding loan rights and obligations, or by undisclosed financial relationships between institutions and lending entities.~~

~~94948. (a) All institutions subject to the approval requirements of this chapter shall identify each student who makes an application for, and receives, loan moneys other than loans provided under a governmental student financial aid program, to the extent that this information is reasonably available to the institution, including, but not necessarily limited to, students for whom the institution makes a referral to a lender, students for whom the institution acts as lender, students receiving loan proceeds from a lending entity in which the institution has a financial interest, or students for~~

~~whom loan proceeds are received by the institution on behalf of the student.~~

~~(b) The institution shall ensure, either by providing the service or by documenting that the service has been provided by the lending entity, that each student has received information regarding the student's rights and obligations related to loans at the time of signing a promissory note, and at the end of a student's academic program. If a student leaves a program prior to completion of the program, the institution shall make an attempt to contact that student at the last known student address to ensure the student has received information from the lending entity or to provide information to the student itself, and shall keep evidence of its attempt to do so.~~

~~(c) (1) An institution shall disclose to the student any formal or informal relationship between the institution and the lender, including, but not necessarily limited to, an agreement between the institution and lender to make referrals, to place that lender in a preferred status for students of that institution, or to provide any benefit, financial or otherwise, to the institution as a result of referral or student borrowing, and shall disclose any financial interest of the institution in the lending entity.~~

~~(2) Disclosure under this subdivision shall be made, prior to the loan proceeds being received by the student, whenever the institution has a reasonable opportunity to know of the student's application for the loan.~~

~~(3) Disclosure under this subdivision shall be included in the information and materials provided to the student at the time of negotiation of the enrollment contract, whenever the institution has a reasonable opportunity to know of the student's application for that loan.~~

~~(4) A gift or other consideration of below one hundred dollars ($100) in total value exchanged between an institution and a lender in a calendar year shall not be considered to create a financial relationship.~~

~~(d) The institution shall keep records of each student making an application for and receiving loans, including evidence of the requirements in subdivision (b) and sufficient information to comply with the reporting requirements of subdivision (e) and evidence of required disclosure to each student, in accordance with the recordkeeping provisions of this chapter.~~

~~(e) The institution shall provide, in its annual report to the bureau as required in this chapter, a summary of loan activity in the most recently concluded fiscal year, which shall not include the individual identity of any student borrower at the institution.~~

~~(1) The report shall include, but not necessarily be limited to, the number and percentage of students receiving loans in each approved program and the total volume of those loans in each approved program, aggregated by the interest rate on the loans in categories to include all of the following:~~

~~(A) Zero to 5.0, inclusive, percent annual interest.~~

~~(B) 5.1 to 10.0, inclusive, percent annual interest.~~

~~(C) 10.1 to 15.0, inclusive, percent annual interest.~~

~~(D) 15.1 to 20.0, inclusive, percent annual interest.~~

~~(E) 20.1 or greater percent annual interest.~~

~~(F) Variable rate of annual interest.~~

~~(2) The report shall provide the names and addresses of all lending entities providing loans to students where the institution has a reasonable opportunity to know of that entity's lending relationship with a prospective student or a student enrolled in the institution. The report shall also specify whether or not the institution has a financial interest in, or financial relationship with, each entity included in the report.~~

~~(f) If it is determined that an institution failed to disclose a financial relationship with, or a financial interest in, a lending entity that provided a loan to a student at that institution as required by this chapter, that loan shall be considered paid in full.~~

~~(g) The bureau shall consult with the Enforcement Advisory Board established pursuant to Article 1.5 (commencing with Section 94730) prior to December 31, 2009, and shall include recommendations in its required December 31, 2009, report to the Legislature and Governor, relating to the advisability of enacting legislation to require students who do not possess a high school diploma or its equivalent to demonstrate, by means of an independently administered examination, their ability to benefit from the education offered by the institution prior to receiving loan proceeds. The report shall include, but not necessarily be limited to, information on the adequacy and relevance of the federally approved ability-to-benefit testing instruments and policies that apply in this manner to federally guaranteed student loans.~~

~~(h) Where federal statutes and regulations conflict with or exceed the disclosure provisions of this chapter, the federal statutes and regulations shall take precedence for institutions subject to approval under this chapter that are eligible to participate in student financial aid programs under Title IV of the federal Higher Education Act of 1965.~~

~~Article 6. Operating Requirements for Institutions Regardless of Exemption Status~~

~~94960. (a) Notwithstanding any exemption from this chapter under Article 3 (commencing with Section 94840), an institution that provides medical training providing for students to interact with health care patients, and that is required to provide criminal background checks, medical blood tests, or drug tests on its students, shall keep complete, accurate, and up-to-date files of these checks and test results.~~

~~(b) Records kept under this section shall be available for review by the medical facility in which the students are obtaining their clinical rotation work, by law enforcement personnel, and by the bureau.~~

~~(c) An institution shall implement procedures to ensure that records kept under this article are safeguarded and that the privacy rights of students are protected.~~

~~94961. Notwithstanding any exemption from this chapter under Article 3 (commencing with Section 94840), no private postsecondary institution providing instruction in California shall design its public Web site in a manner that requires a student to register, identify themselves, provide electronic or other personal contact information, or agree to be contacted by an admission representative, in order to access information regarding the institution's program or programs, cost of attendance, student financial aid information, accreditation or approval status, faculty qualifications, facilities, location, admissions policies, or any item required under the consumer information requirements of Title IV of the federal Higher Education Act of 1965.~~

~~94962. (a) With the exception of institutions accredited by the Accrediting Commission for Senior Colleges and Universities of the Western Association of Schools and Colleges, and past or present students attending those institutions, this section applies~~

~~only to institutions otherwise exempt from provisions of this chapter under Article 3 (commencing with Section 94840), and past or present students enrolling in those programs.~~

~~(b) An action may be brought under this section if the institution or its representative makes an oral or written statement in connection with an enrollment agreement or a student enrollment that misrepresents or conceals relevant information regarding any of the following:~~

~~(1) The transferability of the credits earned at the institution.~~

~~(2) The nature and specifics of the educational program or course of instruction at the institution, including, but not necessarily limited to, the following:~~

~~(A) Admissions standards.~~

~~(B) The nature, availability, and quality of instruction, training devices, equipment, software, and supplies to fit or prepare the student for the job or occupation to which the training was represented to lead.~~

~~(C) Whether the successful completion of the course allows the student to sit for a licensing exam.~~

~~(3) The nature of the financial charges, including, but not necessarily limited to, the following:~~

~~(A) The educational loans or financial aid available to the student.~~

~~(B) The amount of the total periodic loan payments for all loans.~~

~~(C) The ability to repay loans from probable earnings from a job after graduation.~~

~~(D) The annual percentage rate on each educational loan.~~

~~(E) The refund policy of the school.~~

~~(F) The student's ability or likely ability to make the minimum payments on the educational loans used to pay for the instruction upon graduation, even if employment is obtained as a result of the course of instruction.~~

~~(G) The total costs of the program.~~

~~(4) The institution's completion and placement statistics, including, but not necessarily limited to, all of the following:~~

~~(A) The completion rates and statistics of former students and the placement rates and statistics of graduates.~~

~~(B) Counting as a placement any job which required no prior training.~~

~~(C) Counting as a placement a job for which the student did not receive training.~~

~~(D) The passage rate on any licensing examination related to the course of instruction.~~

~~(5) The employability of the institution's graduates, including, but not necessarily limited to, all of the following:~~

~~(A) Job placement services provided by the institution.~~

~~(B) Job availability in the area for jobs which the student is receiving training.~~

~~(C) Probable starting salary or salary range for student graduates in the occupation for which they are receiving training.~~

~~(c) If an institution violates any provision of subdivision (b), the enrollment agreement shall be unenforceable and the institution shall refund to the student all consideration paid by or on behalf of the student.~~

~~(d) If an institution violates any provision of subdivision (b), a court shall order the recovery of damages and equitable relief. Reasonable attorney's fees and costs shall be awarded to a prevailing student or former student.~~

~~(e) The remedies provided in this section supplement, and do not supplant, any other remedies available to a student, a former student, or a consumer under the law.~~

~~(f) If the court finds that a violation was either willfully committed, or if the institution failed to refund all the tuition and costs when requested, the court, in addition to the return of tuition and other damages and relief, may award a civil penalty of up to two times the amount of the tuition and the other damages sustained by the student.~~

~~(g) All claims under this section shall be brought within three years from the date of the violation.~~

~~(h) Any provision in any agreement that purports to require a student to invoke any grievance dispute procedure before enforcing any right or remedy, or which in any way limits the student's right to sue, is void and unenforceable. A student may voluntarily elect to avail himself or herself of a nonbinding grievance dispute procedure available to students after the student's grievance has arisen, but prior to enforcing any right or remedy under law or filing a judicial action.~~

~~Article 7. Student Tuition Recovery Fund~~

~~94970. The Student Tuition Recovery Fund is continued in existence. All assessments and fees collected pursuant to this article shall be credited to this fund, along with any interest on the moneys, for the administration of this article. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are continuously appropriated to the bureau without regard to fiscal years for the purposes of this chapter.~~

~~94971. The fund shall consist of assessments from all institutions approved or registered under this chapter, and non-WASC regionally accredited for-profit institutions, that charge each enrolled student a total charge. A California resident who is a student of an approved or registered institution and who meets either of the following conditions is eligible for reimbursement from the fund:~~

~~(a) (1) The student was enrolled in an institution, prepaid tuition, and suffered economic loss as a result of the closure of the institution.~~

~~(2) For the purposes of this section, "closure" means the closure of a branch or satellite campus, the termination of either the correspondence or residence portion of a home study or correspondence course, and the termination of a course of instruction for some or all of the students enrolled in the course before the time these students were originally scheduled to complete it, or before a student who has been continuously enrolled in a course of instruction has been permitted to complete all the educational services and classes that comprise the course.~~

~~(b) The student obtained a final judgment against the institution for a violation of this chapter, and the student certifies that the judgment cannot be collected after diligent collection efforts. A court judgment obtained under this subdivision shall be paid in accordance with subdivision (a) of Section 94975, unless the judgment indicates that a lesser amount is due.~~

~~94972. A student's claim shall be initiated within three years of the closure of the institution.~~

~~94973. (a) A student filing a claim for payment from the Student Tuition Recovery Fund shall submit an application indicating each of the following:~~

~~(1) The student's name, address, telephone number, and social security number.~~

~~(2) If a portion of the tuition was paid from the proceeds of a loan, the name of the lender, and any state or federal agency that guaranteed or reinsured the loan.~~

~~(3) The amount of the paid tuition, the amount and description of the student's loss, and the amount of the student's claim.~~

~~(4) The date the student started and ceased attending the institution.~~

~~(b) The bureau may require additional information designed to facilitate payment to entitled students. The bureau shall waive the requirement that a student provide all of the information required by this subdivision if the bureau has the information or the information is not reasonably necessary for the resolution of a student's claim.~~

~~(c) If the student is filing an application after receiving a final judgment against an institution for a violation of this chapter, the application shall include the amount of the judgment obtained against the institution, a statement that the judgment cannot be collected, and a description of the efforts attempted to enforce the judgment. The application shall be accompanied by a copy of the judgment and any other documents indicating the student's efforts made to enforce the judgment, and shall be filed within two years after the date upon which the judgment became final.~~

~~(d) Notwithstanding any other provision of law, if a student fails to file a completed application, including providing any information required by this section, within one year after filing an initial application, that application shall be deemed abandoned. An application submitted subsequent to the abandonment of a former application shall be treated as a new application.~~

~~94974. Within 60 days of the bureau's receipt of a completed application for payment in accordance with this article, the bureau shall pay the claim from the Student Tuition Recovery Fund or deny the claim. The bureau may extend the time period for up to an additional 90 days to investigate the accuracy of the claim.~~

~~94975. (a) If the bureau pays a claim in accordance with this article, the amount of the payment shall be (1) the greater of either (A) the total guaranteed student loan debt incurred by the student in connection with attending the institution, or (B) the total of the student's tuition and the cost of equipment and materials related~~

~~to the course of instruction, less (2) the amount of any refund, reimbursement, indemnification, restitution, compensatory damages, settlement, debt forgiveness, discharge, cancellation, or compromise, or any other benefit received by, or on behalf of, the student before the bureau's payment of the claim in connection with the student loan debt or cost of tuition, equipment, and materials. The payment also shall include the amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose. However, if the claim is based solely on a final judgment being awarded, the amount of the payment shall be the amount of the loss suffered by the student. In addition to the amount determined under this subdivision, the amount of the payment shall include all interest and collection costs on all student loan debt incurred by the student in connection with attending the institution.~~

~~(b) The bureau may reduce the total amount specified in subdivision (a) by the value of the benefit, if any, of the education obtained by a student before the closure of an institution. If the bureau makes a reduction pursuant to this subdivision, the bureau shall notify the claimant in writing, at the time the claim is paid, of the basis of its decision and provide a brief explanation of the reasons upon which the bureau relied in computing the amount of the reduction.~~

~~(c) Upon payment of a claim, all of a student's rights against an institution shall be deemed assigned to the bureau to the extent of the amount of the payment.~~

~~94976. If the bureau denies a student's claim, or reduces the amount of a claim, the bureau shall notify the student of the denial or reduction and of the student's right to request a hearing within 60 days or any longer period permitted by the bureau. If a hearing is not requested within 60 days or any additional period reasonably requested by the student, the bureau's decision shall be final. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply.~~

~~94977. The bureau may deny any application for any or all of the following reasons:~~

~~(a) Failure to provide any information required by this article or that is required by the bureau that is necessary to process the application or pay the claim.~~

~~(b) Fraud or misrepresentation on the part of the applicant.~~

~~(c) Failure to make a diligent effort to collect a judgment from the institution.~~

~~(d) Receipt of third-party payer benefits for his or her institutional charges.~~

~~(e) The institution attended by the student was exempt from this chapter.~~

~~(f) Any other grounds for denial established through regulation by the bureau.~~

~~94978. (a) The bureau shall negotiate with a lender, holder, guarantee agency, or the United States Department of Education for the full compromise or writeoff of student loan obligations to relieve students of loss, and thereby reduce the amount of student claims.~~

~~(b) In the case of a student who was a recipient of a loan to attend an institution, payment from the Student Tuition Recovery Fund shall first be made to the lender of financial aid funds to that student, to repay the student's indebtedness that pertains to tuition and fees related to attendance at the institution.~~

~~94979. (a) It is the intent of the Legislature that, when a student is enrolled in an institution that closes prior to the completion of the student's program, the student shall have the option for a teach-out at another institution approved by the bureau. The bureau shall seek to promote teach-out opportunities wherever possible, and shall inform the student of his or her rights, including payment from the fund, transfer opportunities, and available teach-out opportunities, if any.~~

~~(b) Under a teach-out, the student incurs no involuntary additional tuition expenses for coursework successfully completed at the closing institution. The closing institution, or in the case of a closed institution, a third-party institution interested in providing a teach-out, shall provide the bureau a proposed teach-out plan. The plan should be provided within 30 days of the proposed teach-out to allow the bureau sufficient time to review it. The bureau shall review the plan to determine if it is in the best interest of the students, and may make recommendations or modifications prior to approval or denial. If a teach-out is not viable, the institution shall provide a list of transfer institutions to students and to the bureau 30 days prior to any actual transfers. The list shall provide the name and address of the institution, and the~~

~~contact person and telephone number. The student information requested shall be provided in hardcopy, and in electronic format if available.~~

~~94980. In the event of the closure of an institution or a teach-out, the bureau shall give priority, for payments from the fund, to a student who transfers to another institution to complete a course of study.~~

~~94981. Once the bureau has determined that a student claim is eligible for payment under this article and intends to use the Student Tuition Recovery Fund, in whole or in part, to satisfy the eligible claim, the bureau shall document its negotiations with the relevant lender, holder or guarantee agency, the United States Department of Education, or the applicable state agency. The bureau shall prepare a written summary of the parties and results of the negotiations, including the amounts offered and accepted, the discounts requested and granted, and any other information that is available to any party that files a request for this information with the bureau.~~

~~94982. The bureau shall assess an institution, except for an institution that receives all of its students' total charges from third-party payers, for the purpose of compliance with the provisions of this chapter that are related to the Student Tuition Recovery Fund. A "third-party payer," for the purposes of this article, means an employer, government program, or other payer that pays a student's total charges directly to the institution when no separate agreement for the repayment of that payment exists between the third-party payer and the student. A student who receives third-party payer benefits for his or her institutional charges is not eligible for benefits from the Student Tuition Recovery Fund.~~

~~94983. (a) (1) The amount assessed each institution shall be calculated only for those students who are California residents and who are eligible to be reimbursed from the fund. It shall be based on the actual amount charged each of these students for total tuition cost, regardless of the portion that is prepaid. The amount of the assessment on an institution shall be determined in accordance with subdivisions (b) and (c).~~

~~(2) Each institution shall collect the amount assessed by the bureau in the form of a Student Tuition Recovery Fund fee from its new students, and remit these fees to the bureau during the~~

~~quarter immediately following the quarter in which the fees were collected from the students, or from loans funded on behalf of the students, except that an institution may waive collection of the Student Tuition Recovery Fund fee and assume the fee as a debt of the institution. The fees collected by the institution shall be placed in a separate bank or trust account and not commingled with any other moneys until the institution remits those fees to the bureau. If the institution assumes the fee, this need not be placed in a separate account. The student's subsequent disenrollment shall not relieve the institution of the obligation to pay the fee to the bureau, nor be the basis for refund of the fee to the student. An institution may not charge a fee of any kind for the collection of the Student Tuition Recovery Fund fee. An institution shall refuse to enroll a student who has not paid, or made provisions to pay, the appropriate Student Tuition Recovery Fund fee.~~

~~(b) A Student Tuition Recovery Fund fee shall be collected from students upon enrollment and in its entirety at the rate of two dollars and fifty cents ($2.50) per thousand dollars of tuition charged, rounded to the nearest thousand dollars.~~

~~(c) If, at any time, the balance in the Student Tuition Recovery Fund is more than five million dollars ($5,000,000), net of the estimated liability associated with any pending claims, the bureau may reduce the amount of the assessment collected from new students to a level less than two dollars and fifty cents ($2.50) per thousand dollars of tuition charged, rounded to the nearest thousand dollars, or suspend collection of the fee for a period determined by the bureau, so as to maintain a fund balance of between five million dollars ($5,000,000) and ten million dollars ($10,000,000). Prior to any reduction in the assessment, the bureau shall demonstrate that amounts in the fund would be reasonably sufficient to pay any pending or future claims.~~

~~(d) The bureau may by regulation levy additional reasonable special assessments on an institution under this section only if these assessments are required to ensure that sufficient funds are available to satisfy the anticipated costs of paying student claims.~~

~~(e) The bureau may not levy a special assessment unless the balance in the Student Tuition Recovery Fund falls below two hundred fifty thousand dollars ($250,000), as certified by the Secretary of the State and Consumer Services Agency.~~

~~(f) The assessments, fees, and special assessments shall be paid into the Student Tuition Recovery Fund, and the deposits shall be allocated, except as otherwise provided for in this chapter, solely for the payment of valid claims to students. Unless additional reasonable assessments are required, no assessment may be levied during any fiscal year if, as of June 30 of the prior fiscal year, the balance in the fund exceeds ten million dollars ($10,000,000). However, regardless of the balance in the fund, assessments shall be made on a newly approved institution.~~

~~94984. Moneys deposited in the Student Tuition Recovery Fund are exempt from execution and may not be the subject of litigation or liability on the part of creditors of those institutions or students.~~

~~94985. (a) On or before December 31, 2010, the bureau shall adopt a procedure allowing for payments to the fund to be made through online transactions and other electronic means.~~

~~(b) The bureau shall adopt audit and accounting procedures to ensure that institutions fully pay the amounts that are due to the fund.~~

~~94986. The bureau's costs of administration of the Student Tuition Recovery Fund authorized by this article shall not be paid from the fund, but shall be paid from the Private Postsecondary Education Fund.~~

~~94987. In the event of a closure by any approved institution under this chapter, any assessments that have been made against those institutions, but have not been paid into the fund, shall be recovered. Any payments from the fund made to students on behalf of any institution shall be recovered from that institution.~~

~~94988. In addition to civil remedies, the bureau may order an institution to remit or collect previously unpaid Student Tuition Recovery Fund fees or to reimburse the bureau for any payments made from the fund in connection with the institution. Before any order is made pursuant to this section, the bureau shall provide written notice to the institution and notice of the right to request a hearing within 30 days of the service of the notice. If a hearing is not requested within 30 days of the service of the notice, the bureau may order payment. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply, and the bureau shall have all powers prescribed in that chapter. Within 30 days after the~~

~~effective date of the issuance of the order, the bureau may enforce the order in the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.~~

~~94989. In addition to any other action that the bureau may take under this chapter, the bureau may suspend or revoke an institution's approval to operate because of the institution's failure to collect or remit Student Tuition Recovery Fund fees when due or failure to pay reimbursement for any payments made from the fund within 30 days of the bureau's demand for payment.~~

~~Article 8. Enforcement~~

~~95000. The bureau, with the assistance and guidance of, and in cooperation with, the Attorney General and the board, shall develop an enforcement program. The enforcement program shall include, but not necessarily be limited to, all of the following:~~

~~(a) Initial and periodic training of bureau staff.~~

~~(b) The enforcement process shall ensure that all institutions subject to this chapter are in compliance with this chapter and that institutions not in compliance are appropriately disciplined.~~

~~(c) Site visits that include a review of student files.~~

~~(d) Audits and site visits that are triggered by complaints and events that would cause reasonable concern, which may include random audits and site visits.~~

~~95001. A person claiming damage or loss as a result of an act or practice by an institution, its agent, its employee or representative, or any combination thereof, that is a violation of this chapter or of the regulations adopted pursuant to this chapter, may file with the bureau, electronically or in writing, a complaint against that institution. The complaint shall set forth the alleged violation, and shall contain any other information as may be required by the bureau.~~

~~95002. (a) A copy of a complaint received by the bureau pertaining to an institution accredited by the Accrediting Commission for Senior Colleges of the Western Association of Schools and Colleges shall be forwarded to the association. The bureau shall notify the complainant that the complaint has been forwarded and that the bureau will not take any other action due to its lack of jurisdiction. An action by the bureau relating to a~~

~~complaint against these institutions shall be limited to the transmittal of this information to the Accrediting Commission for Senior Colleges of the Western Association of Schools and Colleges and notification to the complainant.~~

~~(b) A complaint received by the bureau pertaining to an institution accredited by a state recognized accrediting agency shall be forwarded to the accrediting agency that accredited that institution. The bureau shall notify the complainant that the complaint has been forwarded. The bureau may also pursue action against that institution for any violation of this chapter.~~

~~(c) A complaint received by the bureau pertaining to an institution or program that is accredited by an accrediting body that is not a state recognized accrediting agency shall be referred to the accrediting body, in addition to whatever other action the bureau may take.~~

~~95003. (a) If a person commits an act constituting grounds for discipline, the bureau may do any or all of the following:~~

~~(1) Revoke or suspend the license.~~

~~(2) Place the license on probation.~~

~~(3) Issue an administrative citation with an administrative fine, order of abatement, or both, pursuant to Section 95007 of this code or Section 125.9, 146, 147, or 148 of the Business and Professions Code. A citation shall be in writing, and shall describe the nature of the violation and the specific provision of law determined to have been violated. A citation may contain an order of abatement, an assessment of an administrative fine, or both. The order of abatement may include, but is not necessarily limited to, any of the following provisions:~~

~~(A) An order to cease operating without a license.~~

~~(B) An order prohibiting the enrollment of new students.~~

~~(C) An order to cease entering into new agreements for one or more courses of instruction.~~

~~(D) An order to cease offering a class or program. This order may permit the licensee to complete the class or course of instruction only for those students enrolled, or may order the licensee to immediately cease instruction and provide a refund of tuition and all other charges to students.~~

~~(E) Requiring posting of a bond.~~

~~(F) Other remedial measures intended to address the acts constituting grounds for discipline.~~

~~(4) Order reimbursement of the costs of an investigation and any enforcement action taken in accordance with Section 125.3 of the Business and Professions Code. A licensee may not be required to pay the same costs and expenses to more than one investigating entity.~~

~~(5) If the bureau has probable cause to believe that a person has violated this chapter, order the person to notify all telephone companies furnishing services to the person to disconnect all telephone services and that subsequent telephone calls not be referred by the telephone company to any new telephone number or numbers obtained by that person. If the person fails to comply after the order is final, the bureau may inform the Public Utilities Commission of the violation, and the Public Utilities Commission shall require the telephone company to disconnect the telephone service furnished to the person. The good faith compliance by the telephone company with an order of the Public Utilities Commission pursuant to this section shall constitute complete defense to any civil or criminal action brought against the telephone company arising from the termination of service.~~

~~(b) Any enforcement proceeding may be referred to mediation or nonbinding arbitration with the consent of both the bureau and the licensee.~~

~~95004. Notwithstanding any other provision of law, the bureau shall cite any person operating without proper approval to operate issued by the bureau pursuant to this chapter, and that person shall be subject to a fine not to exceed fifty thousand dollars ($50,000). In addition, the bureau may take additional steps to prevent unauthorized activity, which may include, but is not necessarily limited to, either of the following:~~

~~(a) Notify a telephone corporation to disconnect the person's telephone as authorized by Section 149 of the Business and Professions Code.~~

~~(b) Issue a cease and desist order.~~

~~95005. For purposes of this chapter, grounds for discipline include a violation of this chapter or the regulations adopted pursuant to it, or any other conduct substantially related to the qualifications, responsibilities, and duties of the licensee. These grounds include, but are not necessarily limited to, the following:~~

~~(a) Furnishing false, misleading, or incomplete information to the bureau, or the failure to furnish information requested by the bureau or required by this chapter.~~

~~(b) An owner, a person in control, a director, or an officer of an institution violated this chapter while serving as an owner, person in control, director, or officer of an institution or licensee within the previous five-year period.~~

~~(c) A signatory to an application for licensure was responsible for the closure of an institution or licensee in which there were unpaid liabilities to a state or federal government, or uncompensated pecuniary losses suffered by students without restitution.~~

~~(d) An applicant, owner, or person in control has been found previously in any judicial or administrative proceeding to have violated this chapter or admitted to having violated this chapter.~~

~~(e) Failing to maintain the minimum standards prescribed by this chapter, or to maintain standards that are the same as, or substantially equivalent to, those represented in the institution or licensee's applications and advertising.~~

~~(f) Presenting to prospective students information that is false or misleading relating to an institution, to employment opportunities, or to enrollment opportunities in institutions of higher learning, after entering into or completing courses offered by the institution.~~

~~(g) Failing to maintain financial resources as required by this chapter.~~

~~(h) Failing to provide refunds to students timely and accurately, as required by this chapter, or failing to satisfy, within 30 days of its issuance, a final judgment obtained by a student against the institution.~~

~~(i) Paying a commission or other consideration to a person for an act or service in violation of this chapter.~~

~~(j) Attempting to confer a degree, diploma, or certificate to a student in violation of this chapter.~~

~~(k) Misrepresenting to a student or prospective student that the student is or will be qualified, upon completion of a course, for admission to a professional examination under a state occupational licensing provision.~~

~~(*l*) Failing to correct a deficiency or act of noncompliance under this chapter, or the standards, rules, regulations, and orders~~

~~established and adopted under this chapter, within reasonable time limits set forth in the notice from the bureau.~~

~~(m) Conducting business or instructional services at a location not approved by the bureau.~~

~~(n) Failing to comply with a provision of law or regulation governing sanitary conditions as specified in Section 94891.~~

~~(o) Failing to pay any fee assessment, costs, or penalty duly required by this chapter.~~

~~(p) The institution or an owner, person in control, director, or officer of the institution is, or has been, found in any criminal, civil, or administrative proceeding, after notice and an opportunity to be heard, to have violated any law regarding the obtaining, maintenance, or disbursement of state or federal funds, or to have unpaid financial liabilities involving the refund or unlawful acquisition, use, or expenditure of state or federal funds.~~

~~(q) All of the following are, or have been, found in any criminal, civil, or administrative proceeding:~~

~~(1) A person in control of the institution was a person in control of another institution within one year before that institution's closure.~~

~~(2) While the person was acting as a person in control of the other institution, the person knew or, by the exercise of reasonable care, should have known, that the institution violated this chapter.~~

~~(3) That the violation was a cause of that institution's closure or of damage to students.~~

~~(4) That institution did not pay to all students refunds owed as a result of the closure and full compensation for actual damages from that violation.~~

~~95006. (a) The bureau chief, or his or her designee, may issue an order of correction to a licensee directing the licensee to comply with this chapter or regulations adopted pursuant to this chapter.~~

~~(b) The order of correction shall be in writing, and shall describe in detail the nature and facts of the violation, including a reference to the statute or regulations violated.~~

~~(c) The order of correction shall inform the licensee that within 30 days of service of the order of correction, the licensee may do any of the following:~~

~~(1) Submit a written request for an office conference with the bureau chief to contest the order of correction.~~

~~(A) Upon a timely request, the bureau chief, or his or her designee, shall hold an office conference with the licensee or the licensee's legal counsel or authorized representative. Unless so authorized by the bureau chief, or his or her designee, no individual other than the licensee's legal counsel or authorized representative may accompany the licensee to the office conference.~~

~~(B) Prior to or at the office conference, the licensee may submit to the bureau chief declarations and documents pertinent to the subject matter of the order of correction.~~

~~(C) The office conference is intended to be an informal proceeding, and shall not be subject to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).~~

~~(D) The bureau chief, or his or her designee, may affirm, modify, or withdraw the order of correction. Within 14 calendar days from the date of the office conference, the bureau chief, or his or her designee, shall personally serve or send by certified mail to the licensee's address of record with the bureau a written decision. This decision shall be deemed the final administrative decision concerning the order of correction.~~

~~(E) Judicial review of the decision may be had by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure within 30 days of the date the decision was personally served or sent by certified mail. The judicial review shall extend to the question of whether or not there was a prejudicial abuse of discretion in the issuance of the order of correction.~~

~~(2) Comply with the order of correction, and submit a written corrective action plan to the bureau chief, or his or her designee, documenting compliance. If an office conference is not requested pursuant to this section, compliance with the order of correction shall not constitute an admission of the violation noted in the order of correction.~~

~~(3) Request a hearing under the procedures set forth in Article 9 (commencing with Section 95030).~~

~~(d) The order of correction shall be served upon the licensee personally or by certified mail at the licensee's address of record~~

~~with the bureau. If the licensee is served by certified mail, service shall be effective upon deposit in the United States mail.~~

~~(e) The licensee shall maintain, and have readily available on the licensee's premises, a copy of the order of correction and corrective action plan for at least three years from the date of issuance of the order of correction.~~

~~(f) Nothing in this section shall in any way limit the bureau's authority or ability to take any other enforcement action authorized by this chapter.~~

~~(g) Unless a writ of mandate is filed, a citation issued, a hearing is requested, or a disciplinary proceeding instituted, an order of correction shall not be considered a public record and shall not be disclosed pursuant to a request under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).~~

~~95007. (a) An administrative fine assessed with a citation may not exceed five thousand dollars ($5,000) for each violation. The bureau shall base its assessment of the administrative fine on the nature and seriousness of the violation, the persistence of the violation, the good faith of the institution or licensee, the history of previous violations, and the extent to which the violation undermined the purposes of this chapter.~~

~~(b) The citation shall inform the institution or licensee of a right to request a hearing pursuant to this chapter, in writing, within 15 days of the date that the citation was issued. If a hearing is not requested, payment of the administrative fine shall not constitute an admission of the violation charged. If a hearing is requested, the bureau shall provide a hearing pursuant to Article 9 (commencing with Section 95030). Payment of the administrative fine is due 15 days after the citation was issued if a hearing is not requested, or when a final order is entered if a hearing is requested. The bureau may enforce the administrative fine as if it were a money judgment pursuant to Title 9 (commencing with Section 680.10) of Part 2 of the Code of Civil Procedure.~~

~~(c) The citation shall also inform the licensee of its right to submit a written request for an office conference with the bureau chief to contest the citation.~~

~~(1) Upon a timely request, the bureau chief, or his or her designee, shall hold an office conference with the licensee or the licensee's legal counsel or authorized representative. Unless so~~

~~authorized by the bureau chief, or his or her designee, no individual other than the licensee's legal counsel or authorized representative may accompany the licensee to the office conference.~~

~~(2) Prior to or at the office conference, the licensee may submit to the bureau chief declarations and documents pertinent to the subject matter of the order of correction.~~

~~(3) The office conference is intended to be an informal proceeding, and shall not be subject to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).~~

~~(4) The bureau chief, or his or her designee, may affirm, modify, or withdraw the order of correction. Within 14 calendar days from the date of the office conference, the bureau chief, or his or her designee, shall personally serve, or send by certified mail to the licensee's address of record with the bureau, a written decision. This decision shall be deemed the final administrative decision 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, for not more than 30 days unless the bureau initiates a proceeding to suspend or revoke the approval to operate within that period.~~

~~(b) (1) The bureau shall provide notice of an emergency action to the institution by either (A) certified mail, in which case the effective date of the emergency action shall be not less than 10 working days after mailing, or (B) personal service, in which case the effective date of the emergency action shall be not less than five days after service.~~

~~(2) The notice shall specify all of the following:~~

~~(A) The violations upon which the emergency action is based.~~

~~(B) The nature and grounds of the emergency action, including whether the action applies to the continuation of instruction to enrolled students or to the enrollment of new students.~~

~~(C) The effective date of the action.~~

~~(D) The institution's right to show cause that the emergency action is unwarranted by submitting to the bureau, at least two days before the effective date of the emergency action, declarations, documentary evidence, and written arguments demonstrating that the violations did not occur or that immediate action is not required.~~

~~(E) The right of the institution to request, in writing, within 30 days of the service of the notice, a hearing.~~

~~(c) At any time, the bureau may (1) continue the effective date of an emergency action or (2) terminate an emergency action if the bureau concludes that the institution has shown cause that the emergency action is unwarranted or that the grounds for instituting the emergency action no longer remain. The bureau shall provide written notice of a continuance or termination of an emergency action to the institution.~~

~~(d) (1) If an institution does not take the opportunity to show cause why an emergency action is unwarranted, the emergency action shall become effective on the date specified in the notice or notice of continuance.~~

~~(2) If an institution takes the opportunity to show cause why an emergency action is unwarranted, and the bureau decides, after a consideration of the declarations, documentary evidence, and written arguments submitted by the institution, that the emergency action should become effective, the emergency action shall be effective on the date specified in the notice or notice of continuance. The bureau shall notify the institution of the decision at least one day before the effective date, and the institution may thereafter seek judicial relief upon notice to the bureau and the Attorney General.~~

~~(e) (1) If an institution requests a hearing to contest an emergency action within the 30-day period specified in subdivision (b), the bureau shall set a date for a hearing within 20 days after receipt of the request.~~

~~(2) If an institution does not request a hearing to contest an emergency action within the 30-day period specified in subdivision (b), or if the bureau concludes after a hearing requested by the institution that grounds exist for the suspension or revocation of the institution's approval to operate or approval to operate a branch or satellite campus, the bureau may extend the action or take another disciplinary action, as the bureau deems appropriate.~~

~~(f) During the pendency of an emergency action, the bureau may investigate the institution's compliance with this chapter, including an onsite inspection, and may take another disciplinary action as the bureau deems appropriate.~~

~~(g) This section supplements, but does not supplant, the authority of the bureau to seek judicial relief, including a temporary~~

~~restraining order and injunction, to redress any violation of this chapter.~~

~~95010. (a) An institution, the approval to operate of which has been revoked or suspended or that has been placed on probation, may petition the bureau for reinstatement or modification of penalty, including modification or termination of probation, after not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:~~

~~(1) At least three years for reinstatement of a revoked license.~~

~~(2) At least two years for early termination of probation of three years or more.~~

~~(3) At least one year for modification of a condition, or reinstatement of a license revoked for termination of probation of less than three years.~~

~~(b) The petition shall state any facts required by the bureau. The petition shall be accompanied by a reinstatement processing fee of ____dollars ($____).~~

~~(c) In considering reinstatement or modification of penalty, the bureau may consider factors including, but not necessarily limited to, all of the following:~~

~~(1) The petitioner's activities since the disciplinary action was taken.~~

~~(2) The offense for which the petitioner was disciplined.~~

~~(3) The petitioner's activities during the time the license was in good standing.~~

~~(4) The petitioner's documented rehabilitative efforts, including repayment of restitution.~~

~~(5) The petitioner's business reputation in the community.~~

~~(d) No petition under this section shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The bureau may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.~~

~~(e) The bureau may investigate any and all matters pertaining to the petition and documents submitted with, or in connection with, the application.~~

~~95011. (a) The bureau may bring an action for equitable relief for any violation of this chapter in addition to, or instead of, any other remedy or procedure. The equitable relief may include restitution, a temporary restraining order, the appointment of a receiver, or a preliminary or permanent injunction. The action may be brought in the county in which the defendant resides, or in which any violation has occurred, or may occur.~~

~~(b) The suspension or revocation of an institution's approval to operate also may be embraced in any action brought by the Attorney General, a district attorney, or city attorney otherwise proper in any court involving the institution's compliance with this chapter or performance of its legal obligations.~~

~~95012. (a) An institution or licensee that willfully violates Article 5 (commencing with Section 94890), Article 6 (commencing with Section 94960), or Article 7 (commencing with Section 94970) is guilty of a crime, and shall be subject to separate punishment for each violation by either of the following:~~

~~(1) Imprisonment in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine.~~

~~(2) Imprisonment in state prison, by a fine not to exceed fifty thousand dollars ($50,000), or by both that imprisonment and fine.~~

~~(b) Notwithstanding any other provision of law, any prosecution under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the prosecution.~~

~~(c) In addition to any other fines or penalties imposed pursuant to this section, an institution or licensee found guilty of a crime as described in subdivision (a) shall be ordered to pay the Attorney General, a district attorney, or a city attorney all of their costs and expenses in connection with an investigation pursuant to that prosecution. An institution or licensee shall not be required to pay the same costs and expenses to more than one investigating agency.~~

~~95013. (a) The Attorney General, a district attorney, or a city attorney may make investigations as may be necessary to carry out this chapter, including investigations of complaints. The bureau may jointly bring actions as necessary to enforce this chapter, including civil actions for injunctive relief.~~

~~(b) Nothing in this section or this chapter precludes the Attorney General, a district attorney, or a city attorney from taking any action each is otherwise lawfully authorized to take.~~

~~95014. (a) If an institution or licensee violates any provision of Article 5 (commencing with Section 94890) or Article 6 (commencing with Section 94960), or commits an act as described in Section 95005 in connection with an agreement for a course of instruction, that agreement shall be unenforceable, and the institution shall refund all consideration paid by or on behalf of the student.~~

~~(b) Notwithstanding any provision to the contrary in an agreement, a student may bring an action for a violation of any provision of Article 5 (commencing with Section 94890) or committing any act as described in Section 95005 in connection with an agreement for a course of instruction, or for an institution's failure to perform its legal obligations. Upon prevailing in an action brought under this subdivision, a student shall be entitled to the recovery of damages, equitable relief, any other relief authorized by this article, and reasonable attorney's fees and costs.~~

~~95015. A person entitled to bring an action for the recovery of damages or other relief shall not be required to file a complaint pursuant to this article, or to pursue or exhaust any administrative process or remedy before bringing the action.~~

~~95015.5. Any provision in any agreement that purports to require a student to invoke any grievance dispute procedure before enforcing any right or remedy, or which in any way limits the student's right to sue, is void and unenforceable. A student may voluntarily elect to avail himself or herself of a nonbinding grievance dispute procedure available to students after the student's grievance has arisen but prior to enforcing any right or remedy under law or filing a judicial action.~~

~~95016. A student may assign his or her cause of action for a violation of this article to the bureau, or to any state or federal agency that guaranteed or reinsured a loan for the student, or that provided any grant or other financial aid.~~

~~95017. The remedies provided in this article supplement, but do not supplant, the remedies provided under any other provision of law.~~

~~95018. This article supplements, but does not supplant, the authority granted the Division of Labor Standards Enforcement~~

~~under Chapter 4 (commencing with Section 79) of Division 1 of the Labor Code to the extent that placement activities of institutions are subject to regulation by the division under the Labor Code.~~

~~95019. The bureau shall proactively identify unlicensed institutions that are operating in violation of this chapter, and take all appropriate legal enforcement action against those institutions.~~

~~95021. (a) Each institution, including regionally accredited institutions that qualify for exemption under Article 3 (commencing with Section 94840), shall be deemed to have authorized the accrediting agency that accredited the institution to provide to the Attorney General, any district attorney or city attorney, or the Student Aid Commission, within 30 days of written notice, copies of all documents and other material concerning the institution that is maintained by the accrediting agency.~~

~~(b) Within 30 days of receiving written notice from the Attorney General, any district attorney or city attorney, or the Student Aid Commission, an accrediting agency shall provide, free of charge, the requesting official with all documents or other material concerning an institution accredited by that accrediting agency that are designated specifically or by category in the written notice.~~

~~(c) If the Attorney General, any district attorney or city attorney, or the Student Aid Commission is conducting a confidential investigation of an institution and so informs the accrediting agency, the accrediting agency shall not inform that institution of the investigation.~~

~~(d) If an accrediting agency willfully fails to comply with this section, the accrediting agency shall be liable for a civil penalty of not less than two thousand five hundred dollars ($2,500) or more than twenty-five thousand dollars ($25,000) for each violation. Penalties awarded pursuant to this section shall be deposited in the Private Postsecondary and Vocational Education Administration Fund or any successor fund.~~

~~Article 9. Hearings~~

~~95030. A proceeding in connection with the denial of an application to operate or the revocation of an approval to operate shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all of the powers~~

~~granted in that chapter. An action by the bureau to place an institution on probation shall be subject to appeal, and the bureau shall establish procedures that provide the institution with adequate notice and an opportunity to be heard and to present evidence as to why the action recommended by staff or by a visiting committee shall not be taken.~~

~~95031. Upon taking an action to suspend or revoke an institution's approval to operate, or to deny an application for renewal of an approval to operate, the bureau shall provide written notice to the Student Aid Commission, the United States Department of Education, and to any appropriate accrediting association.~~

~~95032. Except as otherwise provided in this chapter, the following procedures may be used in lieu of other notice or hearing requirements provided in this chapter.~~

~~(a) If notice of administrative action is required by this chapter, the bureau shall serve notice stating all of the following:~~

~~(1) The action, including the penalties and administrative sanctions sought.~~

~~(2) The grounds for the action, with sufficient particularity to give notice of the transactions, occurrences, violations, or other matters on which the action is based.~~

~~(3) The right to a hearing and the time period within which the party subject to the notice may request a hearing in writing. The time period shall not be less than 15 days after service of the notice unless a longer period is provided by statute.~~

~~(4) The right to be present at the hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.~~

~~(5) That, if the party subject to the notice does not request a hearing in writing within the time period expressed in the notice, he or she will waive or forfeit his or her right to an administrative hearing and the action will become final.~~

~~(b) If a party subject to a notice provided pursuant to subdivision (a) requests a hearing in writing within the time period specified in paragraph (3) of subdivision (a), then within 30 days of receiving this request, the bureau shall schedule a hearing. The hearing shall be held in a location determined pursuant to Section 11508 of the Government Code. The bureau shall serve reasonable notice of the time and place for the hearing at least 10 days before the~~

~~hearing. The bureau may continue the date of the hearing upon a showing of good cause.~~

~~(c) (1) A party, including the bureau, may submit a written request to another party before a hearing to obtain the name and address of any person who has personal knowledge, or who the party receiving the request claims to have personal knowledge, of any of the transactions, occurrences, violations, or other matters that are the basis of the administrative action. In addition, the requesting party shall have the right to inspect and copy a written statement made by that person or a writing, as defined by Section 250 of the Evidence Code, or thing that is in the custody, or under the control, of the party receiving the request and that is relevant and not privileged. This subdivision shall constitute the exclusive method for prehearing discovery. However, nothing in this paragraph shall affect the bureau's authority, at any time, to investigate, inspect, monitor, or obtain and copy information under any provision of this chapter.~~

~~(2) The written request described in paragraph (1) shall be made before the hearing and within 30 days of the service of the notice described in subdivision (a). Each recipient of a request shall comply with the request within 15 days of its service by providing the names and addresses requested and by producing at a reasonable time at the bureau's office, or other mutually agreed reasonable place, the requested writings and things. The bureau may extend the time for response upon a showing of good cause.~~

~~(3) Except as provided in this paragraph, a party may not introduce the testimony or statement of a person or a writing or thing into evidence at the hearing if that party failed to provide the name and address of the person or to produce the writing or thing for inspection and copying as provided by this subdivision. A party may introduce the testimony, statement, writing, or thing that was not identified or produced as required herein only if all of the following are true:~~

~~(A) There is no objection, or the party establishes that the person, writing, or thing was unknown at the time when the response was made to the written request.~~

~~(B) The party could not have informed other parties within a reasonable time after learning of the existence of the person, writing, or thing.~~

~~(C) No party would be prejudiced by the introduction of the evidence.~~

~~(d) Before a hearing has commenced, the bureau shall issue subpoenas at the written request of a party for the attendance of witnesses or the production of documents or other things in the custody or under the control of the person subject to the subpoena. Subpoenas issued pursuant to this section are subject to Section 11510 of the Government Code.~~

~~(e) (1) The bureau shall designate an impartial hearing officer to conduct a hearing. The hearing officer may administer oaths and affirmations, regulate the course of the hearing, question witnesses, and otherwise investigate the issues, take official notice according to the procedure provided in Division 4 (commencing with Section 450) of the Evidence Code of any technical or educational matter in the bureau's special field of expertise and of any matter that may be judicially noticed, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, direct any party to appear and confer to consider the simplification of issues by consent, and prepare a statement of decision.~~

~~(2) A hearing officer and a person who has a direct or indirect interest in the outcome of the hearing may not communicate directly or indirectly with each other regarding an issue involved in the hearing while the proceeding is pending without notice and opportunity for all parties to participate in the communication. A hearing officer who receives an ex parte communication shall immediately disclose the communication to the bureau and all other parties. The bureau may disqualify the hearing officer, if necessary, to eliminate the effect of the ex parte communication. If the bureau finds that a party willfully violated, or caused a violation of, this paragraph, the bureau shall enter that party's default and impose the administrative sanction set forth in the notice provided pursuant to subdivision (a).~~

~~(f) (1) Each party at a hearing shall be afforded an opportunity to present evidence, respond to evidence presented by other parties, cross-examine, and present written argument or, if permitted by the hearing officer, oral argument on the issues involved in the hearing. The bureau may call a party as a witness who may be examined as if under cross-examination.~~

~~(2) Each party may appear through its representative or through legal counsel.~~

~~(3) The technical rules relating to evidence and witnesses shall not apply. However, only relevant evidence is admissible.~~

~~(4) Oral evidence shall be taken only upon oath or affirmation. A hearing shall be conducted in the English language. The proponent of any testimony to be offered by a witness who is not proficient in English shall provide, at the proponent's cost, an interpreter proficient in English and the language in which the witness will testify.~~

~~(5) A hearing shall be recorded by tape recording or other phonographic means unless all parties agree to another method of recording the proceedings.~~

~~(6) (A) At any time 10 or more days before a hearing, a party may serve on the other parties a copy of a declaration that the party proposes to introduce in evidence.~~

~~(B) A declaration provided pursuant to subparagraph (A) shall be accompanied by a notice indicating the date of service of the notice and stating that the declarations will be offered into evidence, the declarants will not be called as witnesses, and there will be no right of cross-examination unless the party receiving the notice requests the right to cross-examine, in writing, within seven days of the service of the declarations and notice.~~

~~(C) If no request for cross-examination is served within seven days of the service of the declarations and notice described in subparagraph (B), the right to cross-examination is deemed waived and the declaration shall have the same effect as if the declarant testified orally. Notwithstanding this subparagraph, a declaration may be admitted as hearsay evidence without cross-examination.~~

~~(7) Disposition of an issue involved in a hearing may be made by stipulation or settlement.~~

~~(8) If a party fails to appear at a hearing, that party's default shall be taken and the party shall be deemed to have waived the hearing and agreed to the administrative action and the grounds for that action described in the notice given pursuant to subdivision (b). The bureau shall serve the party with an order of default including the administrative action ordered. The order shall be effective upon service or at any other time designated by the bureau. The bureau may relieve a party from an order of default if the party applies for relief within 15 days after the service of an~~

~~order of default and establishes good cause for relief. An application for relief from default shall not stay the effective date of the order unless expressly provided by the bureau.~~

~~(g) (1) At any time before a matter is submitted for decision, the bureau may amend the notice provided pursuant to subdivision (a) to set forth any further grounds for the originally noticed administrative action or any additional administrative action and the grounds therefor. The statement of the further grounds for the originally noticed administrative action, or of the grounds for any additional administrative action, shall be made with sufficient particularity to give notice of the transactions, occurrences, violations, or other matters on which the action or additional action is based. The amended notice shall be served on all parties. All parties affected by the amended notice shall be given reasonable opportunity to respond to the amended notice as provided in this section.~~

~~(2) The bureau may amend a notice provided pursuant to subdivision (b) after a case is submitted for decision. The bureau shall serve each party with notice of the intended amendment, and shall provide the party with an opportunity to show that the party will be prejudiced by the amendment unless the case is reopened to permit the party to introduce additional evidence. If prejudice is shown, the bureau shall reopen the case to permit the introduction of additional evidence.~~

~~(h) (1) Within 30 days after the conclusion of a hearing, or at another time established by the bureau, a hearing officer shall submit a written statement of decision setting forth a recommendation for a final decision and explaining the factual and legal basis for the decision as to each of the grounds for the administrative action set forth in the notice or amended notice. The bureau shall serve the hearing officer's statement of decision on each party and its counsel within 10 days of its submission by the hearing officer.~~

~~(2) The director shall make the final decision, which shall be based exclusively on evidence introduced at the hearing. The final decision shall be supported by substantial evidence in the record. The director also shall issue a statement of decision explaining the factual and legal basis for the final decision as to each of the grounds for the administrative action set forth in the notice or amended notice. The director shall issue an order based on its~~

~~decision, and that order shall be effective upon service or at any other time designated by the director. The director, or his or her agent, shall serve a copy of the final decision and order, within 10 days of their issuance, on each party and its 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 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. (a) The annual fee for a calendar year for an institution placed under Tier 1 approval as provided in Section 95040 shall be ____ percent of its gross revenues as evidenced in its most recent audited financial statement.~~

~~(b) The annual fee for an institution placed under Tier 2 approval as provided in subdivision (b) of Section 95040 shall be 200 percent of the fee provided in ____.~~

~~(c) The annual fee for an institution placed under Tier 3 approval as provided in subdivision (b) of Section 95040 shall be 500 percent of the fee provided in ____.~~

~~(d) Where an institution is placed in one or more tiers during a calendar year, the annual fee shall be assessed at the highest fee level that would apply.~~

~~95042. It is the intent of the Legislature that the measure that adds this section not be adopted by a fiscal committee unless and until this article is amended to add all of the following provisions:~~

~~(a) A percentage now represented by a blank line in subdivision (a) of Section 95041.~~

~~(b) Clarity regarding the specific revenues and documentation thereof that shall constitute the basis for the assessment in subdivision (a) of Section 95041.~~

~~(c) Creation, in the State Treasury, of the Private Postsecondary Education Administration Fund, as referenced elsewhere in this chapter.~~

~~(d) Establishment of a one-time assessment to the fund referred to in subdivision (c) to assist with the costs of the Legislative Analyst's Office study required in paragraph (1) of subdivision (c) of Section 94841, including a justification for the decision as to which institutions shall be assessed this fee.~~

~~(e) Authority for the bureau to adjust, by regulation, the fees and costs included in this article.~~

~~(f) Application fees, of specified amounts, for application for initial approval, full approval, renewal of approval, and registered institution approval, for the addition or a branch or satellite campus, for change of ownership, for program approval including registered programs, for agent and agency authorization, for exemption where required, and for failure to make a timely application where required.~~

~~(g) Authority for the bureau to assess an institution for cost recovery for investigations not sufficiently funded by an institution's placement in a tier as provided in Sections 95040 and 95041, including a statement of reasons as to why the annual fee levied under Sections 95040 and 95041 is insufficient, including notice and hearing rights.~~

~~Article 11. Transition~~

~~95050. (a) An institution that had a valid approval to operate on June 30, 2007, issued by the Bureau for Private Postsecondary and Vocational Education pursuant to Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3, as it existed on June 30, 2007, which was not revoked, shall maintain that approval under this chapter. For the purposes of this chapter, the approval shall be valid until two calendar years after the expiration date of the approval, as it existed on June 30, 2007.~~

~~(b) Applications for reapproval that had been pending action before the Bureau for Private Postsecondary and Vocational Education on June 30, 2007, shall be deemed processed as follows:~~

~~(1) Applications received prior to January 1, 2006, shall be granted a reapproval until 2009 to coincide with the anniversary date of the current approval day.~~

~~(2) Applications received after January 1, 2006, shall be granted a reapproval until 2010 to coincide with the anniversary date of the current approval.~~

~~95051. (a) Each regulation in Division 7.5 (commencing with Section 70000) of Title 5 of the California Code of Regulations in effect on June 30, 2007, shall be in full force and effect on and after January 1, 2008, to the extent the regulation is consistent with the relevant provisions in this chapter.~~

~~(b) The bureau may, by emergency regulation, designate which existing regulations are consistent with this chapter and which are not and may replace inconsistent regulations. The bureau may adopt emergency regulations, as required, to allow for the immediate implementation of this chapter as this chapter succeeds the Private Postsecondary and Vocational Education Reform Act of 1989 (former Chapter 7 (commencing with Section 94700), as it existed on June 30, 2007).~~

~~95052. The bureau shall succeed to any and all rights and claims of the former Bureau for Private Postsecondary and Vocational Education and that may have been asserted in a judicial or administrative action pending on July 1, 2007, and shall take any action reasonably necessary to assert and realize those rights and claims in its own name. The functions and responsibilities of the former Bureau for Private Postsecondary and Vocational Education for the administration of former Chapter 7 (commencing with Section 94700) on June 30, 2007, are transferred to the bureau, effective July 1, 2007, as provided by this chapter.~~

~~95053. The bureau shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the former Bureau for Private Postsecondary and Vocational Education in the performance of the duties, powers, purposes, responsibilities, and jurisdictions that are vested in the bureau.~~

~~95054. If an institution is placed in Tier 2 or Tier 3 based upon its failure to comply with one or more provisions of this chapter, the bureau shall restore the institution's previous level of tier approval under Article 10 (commencing with Section 95040) within 30 days of the bureau's determination that the institution has undertaken satisfactory corrective action related to those violations, or by the end of the calendar year, whichever is sooner.~~

~~Article 12. Severability and Construction~~

~~95060. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.~~

~~95061. This chapter shall be liberally construed to effectuate its intent and achieve its purposes.~~

~~Article 13. Repeal~~

~~95070. This act shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.~~

~~SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because~~

~~the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

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