

AMENDED IN SENATE AUGUST 13, 2008
AMENDED IN ASSEMBLY JUNE 19, 2008
AMENDED IN ASSEMBLY JUNE 9, 2008
AMENDED IN ASSEMBLY AUGUST 20, 2007
AMENDED IN ASSEMBLY JULY 17, 2007
AMENDED IN ASSEMBLY JULY 2, 2007
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AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 823

Introduced by Senator Perata

February 23, 2007

An act to amend Sections 101, 146, 149, 473.1, 2902, 2914, 4038, 4841.5, 4939, 4980.40, 7313, 7362, 7395.1, 7407, and 8027 of, to amend and repeal Section 4980.37 of, and to add Sections 115.5, and 4980.36 to, the Business and Professions Code, to add Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code, and to add Section 11105.8 to the Vehicle Code, relating to postsecondary education, ~~making an appropriation therefor, and declaring the urgency thereof, to take effect immediately: education, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 823, as amended, Perata. California Private Postsecondary Education Act of 2008.

(1) The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The act generally effectuated legislative intent to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions.

The former act established the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. Existing law extends the existence of these funds until July 1, 2008. The former act specified that certain violations of its provisions were subject to civil penalties and that certain willful violations of the act were punishable as crimes. A provision provided for the act's repeal on January 1, 2008.

This bill would recast and revise the former act as the California Private Postsecondary Education Act of 2008. The bill would establish the Bureau for Private Postsecondary Education in the Department of Consumer Affairs as a successor agency to the former bureau. The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund, which the bill would rename the Private Postsecondary Education Administration Fund, and the continuously appropriated Student Tuition Recovery Fund, and would also provide that certain violations of the new act would be punishable as infractions. The bill would impose reporting requirements on the bureau and the office of the Legislative Analyst regarding bureau compliance within this act. The bill would also express the intent of the Legislature that the Bureau of State Audits conducts an audit that assesses the extent the requirements of this act are met.

The bill would express the intent of the Legislature that the California Private Postsecondary Education Act of 2008 be resolved in a comprehensive measure, as specified. Because this bill would establish new infractions, the bill would impose a state-mandated local program.

(2) Existing law provides for the licensure or registration and regulation of marriage and family therapists and interns by the Board of Behavioral Sciences and requires that applicants for licensure or registration, among other requirements, possess a doctor's or master's degree from a specified school, college, or university, containing no less than 48 semester or 72 quarter units of instruction in specified areas. Existing law requires that the doctor's or master's degree program contain no less than 6 semester or 9 quarter units of supervised

practicum, as specified, and requires that the practicum include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups. Existing law also requires the degree program to satisfy certain criteria in order to meet the educational qualifications for licensure.

This bill would limit the application of these requirements to applicants for licensure or registration who begin graduate study before August 1, 2012, and would impose additional requirements on applicants who do not complete that study on or before December 31, 2018, on applicants who graduate from a degree program that meets those requirements, and on those who begin graduate study on or after August 1, 2012. The bill would require that these applicants, among other things, possess a doctor's or master's degree containing no less than 60 semester or 90 quarter units of instruction in certain areas, including, but not limited to, cooccurring disorders, multicultural development and cross-cultural interaction, and an understanding of the effects of socioeconomic status on treatment and available resources, as specified. The bill would require that these units include 6 semester or 9 quarter units of practicum that provides training in specified areas and includes a minimum of 225 hours of face-to-face experience counseling individuals, couples, families, or groups. The bill would additionally, with respect to these applicants, revise the requirements needed for the degree program to meet the educational qualifications for licensure, as specified.

(3) This bill would condition the enactment of certain provisions relating to licensure requirements upon the enactment of both this bill and SB 1218 of the 2007–08 Regular Session. The bill would make another provision operative only if this bill is enacted and SB 1218 is not enacted.

(4) 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.

~~(5) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 101 of the Business and Professions Code
2 is amended to read:
3 101. The department is comprised of:
4 (a) The Dental Board of California.
5 (b) The Medical Board of California.
6 (c) The State Board of Optometry.
7 (d) The California State Board of Pharmacy.
8 (e) The Veterinary Medical Board.
9 (f) The California Board of Accountancy.
10 (g) The California Architects Board.
11 (h) The Bureau of Barbering and Cosmetology.
12 (i) The Board for Professional Engineers and Land Surveyors.
13 (j) The Contractors' State License Board.
14 (k) The Bureau for Private Postsecondary Education.
15 (l) The Structural Pest Control Board.
16 (m) The Bureau of Home Furnishings and Thermal Insulation.
17 (n) The Board of Registered Nursing.
18 (o) The Board of Behavioral Sciences.
19 (p) The State Athletic Commission.
20 (q) The Cemetery and Funeral Bureau.
21 (r) The State Board of Guide Dogs for the Blind.
22 (s) The Bureau of Security and Investigative Services.
23 (t) The Court Reporters Board of California.
24 (u) The Board of Vocational Nursing and Psychiatric
25 Technicians.
26 (v) The Landscape Architects Technical Committee.
27 (w) The Bureau of Electronic and Appliance Repair.
28 (x) The Division of Investigation.
29 (y) The Bureau of Automotive Repair.
30 (z) The State Board of Registration for Geologists and
31 Geophysicists.
32 (aa) The Respiratory Care Board of California.
33 (ab) The Acupuncture Board.
34 (ac) The Board of Psychology.
35 (ad) The California Board of Podiatric Medicine.
36 (ae) The Physical Therapy Board of California.
37 (af) The Arbitration Review Program.
38 (ag) The Hearing Aid Dispensers Bureau.

- 1 (ah) The Physician Assistant Committee.
- 2 (ai) The Speech-Language Pathology and Audiology Board.
- 3 (aj) The California Board of Occupational Therapy.
- 4 (ak) The Osteopathic Medical Board of California.
- 5 (al) The Bureau of Naturopathic Medicine.
- 6 (am) The Dental Hygiene Committee of California.
- 7 (an) Any other boards, offices, or officers subject to its
- 8 jurisdiction by law.

9 SEC. 2. Section 115.5 is added to the Business and Professions
10 Code, to read:

11 115.5. The department may design and administer a process
12 for the approval of programs offered to veterans of the Armed
13 Forces, and for the approval and supervision of the institutions
14 offering programs to veterans, pursuant to any applicable act of
15 Congress and the regulations adopted pursuant to that act. For
16 purposes of this section, the department:

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

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

27 SEC. 3. Section 146 of the Business and Professions Code is
28 amended to read:

29 146. (a) Notwithstanding any other provision of law, a
30 violation of any code section listed in subdivision (c) or (d) is an
31 infraction subject to the procedures described in Sections 19.6 and
32 19.7 of the Penal Code when:

33 (1) A complaint or a written notice to appear in court pursuant
34 to Chapter 5c (commencing with Section 853.5) of Title 3 of Part
35 2 of the Penal Code is filed in court charging the offense as an
36 infraction unless the defendant, at the time he or she is arraigned,
37 after being advised of his or her rights, elects to have the case
38 proceed as a misdemeanor, or

39 (2) The court, with the consent of the defendant and the
40 prosecution, determines that the offense is an infraction in which

1 event the case shall proceed as if the defendant has been arraigned
 2 on an infraction complaint.

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

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

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

35 (d) Institutions that are required to register with the Bureau for
 36 Private Postsecondary Education pursuant to Chapter 8
 37 (commencing with Section 94800) of Part 59 of Division 10 of
 38 Title 3 of the Education Code.

39 (e) Notwithstanding any other provision of law, a violation of
 40 any of the sections listed in subdivision (c) or (d), which is an

1 infraction, is punishable by a fine of not less than two hundred
2 fifty dollars (\$250) and not more than one thousand dollars
3 (\$1,000). No portion of the minimum fine may be suspended by
4 the court unless as a condition of that suspension the defendant is
5 required to submit proof of a current valid license, registration, or
6 certificate for the profession or vocation which was the basis for
7 his or her conviction.

8 SEC. 4. Section 149 of the Business and Professions Code is
9 amended to read:

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

- 17 (1) Cease the unlawful advertising.
18 (2) Notify the telephone company furnishing services to the
19 violator to disconnect the telephone service furnished to any
20 telephone number contained in the unlawful advertising.

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

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

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

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

- 39 (1) The Bureau of Barbering and Cosmetology.
40 (2) The Funeral Directors and Embalmers Program.

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

22 SEC. 5. Section 473.1 of the Business and Professions Code
 23 is amended to read:

- 24 473.1. This chapter shall apply to all of the following:
- 25 (a) Every board, as defined in Section 22, that is scheduled to
 26 become inoperative and to be repealed on a specified date as
 27 provided by the specific act relating to the board.
 - 28 (b) The Bureau for Private Postsecondary Education. For
 29 purposes of this chapter, “board” includes the bureau.
 - 30 (c) The Cemetery and Funeral Bureau.

31 SEC. 6. Section 2902 of the Business and Professions Code is
 32 amended to read:

- 33 2902. As used in this chapter, unless the context clearly requires
 34 otherwise and except as in this chapter expressly otherwise
 35 provided the following definitions apply:
- 36 (a) “Licensed psychologist” means an individual to whom a
 37 license has been issued pursuant to the provisions of this chapter,
 38 which license is in force and has not been suspended or revoked.
 - 39 (b) “Board” means the Board of Psychology.

1 (c) A person represents himself or herself to be a psychologist
2 when the person holds himself or herself out to the public by any
3 title or description of services incorporating the words
4 “psychology,” “psychological,” “psychologist,” “psychology
5 consultation,” “psychology consultant,” “psychometry,”
6 “psychometrics” or “psychometrist,” “psychotherapy,”
7 “psychotherapist,” “psychoanalysis,” or “psychoanalyst,” or when
8 the person holds himself or herself out to be trained, experienced,
9 or an expert in the field of psychology.

10 (d) “Accredited,” as used with reference to academic institutions,
11 means the University of California, the California State University,
12 or an institution that is accredited by a national or an applicable
13 regional accrediting agency recognized by the United States
14 Department of Education.

15 (e) “Approved,” as used with reference to academic institutions,
16 means an institution having “approval to operate,” as defined in
17 Section 94817 of the Education Code.

18 SEC. 7. Section 2914 of the Business and Professions Code is
19 amended to read:

20 2914. Each applicant for licensure shall comply with all of the
21 following requirements:

22 (a) Is not subject to denial of licensure under Division 1.5.

23 (b) Possess an earned doctorate degree (1) in psychology, (2)
24 in educational psychology, or (3) in education with the field of
25 specialization in counseling psychology or educational psychology.
26 Except as provided in subdivision (g), this degree or training shall
27 be obtained from an accredited university, college, or professional
28 school. The board shall make the final determination as to whether
29 a degree meets the requirements of this section.

30 No educational institution shall be denied recognition as an
31 accredited academic institution solely because its program is not
32 accredited by any professional organization of psychologists, and
33 nothing in this chapter or in the administration of this chapter shall
34 require the registration with the board by educational institutions
35 of their departments of psychology or their doctoral programs in
36 psychology.

37 An applicant for licensure trained in an educational institution
38 outside the United States or Canada shall demonstrate to the
39 satisfaction of the board that he or she possesses a doctorate degree
40 in psychology that is equivalent to a degree earned from a

1 regionally accredited university in the United States or Canada.
2 These applicants shall provide the board with a comprehensive
3 evaluation of the degree performed by a foreign credential
4 evaluation service that is a member of the National Association
5 of Credential Evaluation Services (NACES), and any other
6 documentation the board deems necessary.

7 (c) Have engaged for at least two years in supervised
8 professional experience under the direction of a licensed
9 psychologist, the specific requirements of which shall be defined
10 by the board in its regulations, or under suitable alternative
11 supervision as determined by the board in regulations duly adopted
12 under this chapter, at least one year of which shall be after being
13 awarded the doctorate in psychology. If the supervising licensed
14 psychologist fails to provide verification to the board of the
15 experience required by this subdivision within 30 days after being
16 so requested by the applicant, the applicant may provide written
17 verification directly to the board.

18 If the applicant sends verification directly to the board, the
19 applicant shall file with the board a declaration of proof of service,
20 under penalty of perjury, of the request for verification. A copy of
21 the completed verification forms shall be provided to the
22 supervising psychologist and the applicant shall prove to the board
23 that a copy has been sent to the supervising psychologist by filing
24 a declaration of proof of service under penalty of perjury, and shall
25 file this declaration with the board when the verification forms are
26 submitted.

27 Upon receipt by the board of the applicant's verification and
28 declarations, a rebuttable presumption affecting the burden of
29 producing evidence is created that the supervised, professional
30 experience requirements of this subdivision have been satisfied.
31 The supervising psychologist shall have 20 days from the day the
32 board receives the verification and declaration to file a rebuttal
33 with the board.

34 The authority provided by this subdivision for an applicant to
35 file written verification directly shall apply only to an applicant
36 who has acquired the experience required by this subdivision in
37 the United States.

38 The board shall establish qualifications by regulation for
39 supervising psychologists and shall review and approve applicants
40 for this position on a case-by-case basis.

1 (d) Take and pass the examination required by Section 2941
2 unless otherwise exempted by the board under this chapter.

3 (e) Show by evidence satisfactory to the board that he or she
4 has completed training in the detection and treatment of alcohol
5 and other chemical substance dependency. This requirement applies
6 only to applicants who matriculate on or after September 1, 1985.

7 (f) (1) Show by evidence satisfactory to the board that he or
8 she has completed coursework in spousal or partner abuse
9 assessment, detection, and intervention. This requirement applies
10 to applicants who began graduate training during the period
11 commencing on January 1, 1995, and ending on December 31,
12 2003.

13 (2) An applicant who began graduate training on or after January
14 1, 2004, shall show by evidence satisfactory to the board that he
15 or she has completed a minimum of 15 contact hours of coursework
16 in spousal or partner abuse assessment, detection, and intervention
17 strategies, including knowledge of community resources, cultural
18 factors, and same gender abuse dynamics. An applicant may request
19 an exemption from this requirement if he or she intends to practice
20 in an area that does not include the direct provision of mental health
21 services.

22 (3) Coursework required under this subdivision may be
23 satisfactory if taken either in fulfillment of other educational
24 requirements for licensure or in a separate course. This requirement
25 for coursework shall be satisfied by, and the board shall accept in
26 satisfaction of the requirement, a certification from the chief
27 academic officer of the educational institution from which the
28 applicant graduated that the required coursework is included within
29 the institution's required curriculum for graduation.

30 (g) An applicant holding a doctoral degree in psychology from
31 an approved institution is deemed to meet the requirements of this
32 section if all of the following are true:

33 (1) The approved institution offered a doctoral degree in
34 psychology designed to prepare students for a license to practice
35 psychology and was approved by the Bureau for Private
36 Postsecondary and Vocational Education on or before July 1, 1999.

37 (2) The approved institution has not, since July 1, 1999, had a
38 change of location, as described in Section 94822 of the Education
39 Code.

1 (3) The approved institution is not a franchise institution, as
2 defined in Section 94841.5 of the Education Code.

3 SEC. 8. Section 4038 of the Business and Professions Code is
4 amended to read:

5 4038. (a) “Pharmacy technician” means an individual who
6 assists a pharmacist in a pharmacy in the performance of his or
7 her pharmacy related duties, as specified in Section 4115.

8 (b) A “pharmacy technician trainee” is a person who is enrolled
9 in a pharmacy technician training program operated by a California
10 public postsecondary education institution or by a private
11 postsecondary vocational institution approved by the Bureau for
12 Private Postsecondary Education.

13 SEC. 9. Section 4841.5 of the Business and Professions Code
14 is amended to read:

15 4841.5. To be eligible to take the written and practical
16 examination for registration as a registered veterinary technician,
17 the applicant shall:

18 (a) Be at least 18 years of age.

19 (b) Furnish satisfactory evidence of graduation from, at
20 minimum, a two-year curriculum in veterinary technology, in a
21 college or other postsecondary institution approved by the board,
22 or the equivalent thereof as determined by the board. In the case
23 of a private postsecondary institution, the institution shall also be
24 approved by the Bureau for Private Postsecondary Education.

25 SEC. 10. Section 4939 of the Business and Professions Code
26 is amended to read:

27 4939. (a) The board shall establish standards for the approval
28 of schools and colleges offering education and training in the
29 practice of an acupuncturist, including standards for the faculty in
30 those schools and colleges and tutorial programs, completion of
31 which will satisfy the requirements of Section 4938.

32 (b) Standards for the approval of training programs shall include
33 a minimum of 3,000 hours of study in curriculum pertaining to the
34 practice of an acupuncturist. This subdivision shall apply to all
35 students entering programs on or after January 1, 2005.

36 (c) Within three years of initial approval by the board, each
37 program so approved by the board shall receive full institutional
38 approval under Article 3.5 (commencing with Section 94760) of
39 Chapter 7 of Part 59 of the Education Code as it existed on June
40 20, 2007, or Chapter 8 (commencing with Section 94800) of Part

1 59 of Division 10 of Title 3 of the Education Code, in the field of
2 traditional Asian medicine, or in the case of institutions located
3 outside of this state, approval by the appropriate governmental
4 educational authority, or the approval of the program shall
5 automatically lapse.

6 SEC. 11. Section 4980.36 is added to the Business and
7 Professions Code, to read:

8 4980.36. (a) This section applies to the following:

9 (1) Applicants for licensure or registration who begin graduate
10 study before August 1, 2012, and do not complete that study on
11 or before December 31, 2018.

12 (2) Applicants for licensure or registration who begin graduate
13 study before August 1, 2012, and who graduate from a degree
14 program that meets the requirements of this section.

15 (3) Applicants for licensure or registration who begin graduate
16 study on or after August 1, 2012.

17 (b) To qualify for a license or registration, applicants shall
18 possess a doctor's or master's degree meeting the requirements of
19 this section in marriage, family, and child counseling, marital and
20 family therapy, psychology, clinical psychology, counseling
21 psychology, or counseling with an emphasis in either marriage,
22 family, and child counseling or marriage and family therapy,
23 obtained from a school, college, or university approved by the
24 Bureau for Private Postsecondary and Education or accredited by
25 either the Commission on the Accreditation of Marriage and Family
26 Therapy Education or a regional accrediting agency recognized
27 by the United States Department of Education. The board has the
28 authority to make the final determination as to whether a degree
29 meets all requirements, including, but not limited to, course
30 requirements, regardless of accreditation or approval.

31 (c) A doctor's or master's degree program that qualifies for
32 licensure or registration shall do the following:

33 (1) Integrate all of the following throughout its curriculum:

34 (A) Marriage and family therapy principles.

35 (B) The principles of mental health recovery-oriented care and
36 methods of service delivery in recovery-oriented practice
37 environments, among others.

38 (C) An understanding of various cultures and the social and
39 psychological implications of socioeconomic position, including

1 an understanding of how poverty and social stress impact an
2 individual's mental health and recovery.

3 (2) Allow for innovation and individuality in the education of
4 marriage and family therapists.

5 (3) Encourage students to develop the personal qualities that
6 are intimately related to effective practice, including, but not
7 limited to, integrity, sensitivity, flexibility, insight, compassion,
8 and personal presence.

9 (4) Permit an emphasis or specialization that may address any
10 one or more of the unique and complex array of human problems,
11 symptoms, and needs of Californians served by marriage and
12 family therapists.

13 (5) Provide students with the opportunity to meet with various
14 consumers and family members of consumers of mental health
15 services to enhance understanding of their experience of mental
16 illness, treatment, and recovery.

17 (d) The degree described in subdivision (b) shall contain no less
18 than 60 semester or 90 quarter units of instruction that includes,
19 but is not limited to, the following requirements:

20 (1) Both of the following:

21 (A) No less than 12 semester or 18 quarter units of coursework
22 in theories, principles, and methods of a variety of
23 psychotherapeutic orientations directly related to marriage and
24 family therapy and marital and family systems approaches to
25 treatment and how these theories can be applied therapeutically
26 with individuals, couples, families, adults, children, adolescents,
27 and groups to improve, restore, or maintain healthy relationships.

28 (B) Practicum that involves direct client contact, as follows:

29 (i) A minimum of six semester or nine quarter units of practicum
30 in a supervised clinical placement that provides supervised
31 fieldwork experience.

32 (ii) A minimum of 225 hours of face-to-face experience
33 counseling individuals, couples, families, or groups. Up to 75 of
34 those hours may be gained performing client centered advocacy,
35 as defined in Section 4980.03.

36 (iii) A student shall be enrolled in a practicum course while
37 counseling clients.

38 (iv) The practicum shall provide training in all of the following
39 areas:

40 (I) Applied use of theory and psychotherapeutic techniques.

1 (II) Assessment, diagnosis, and prognosis.

2 (III) Treatment of individuals and premarital, couple, family,
3 and child relationships, including trauma and abuse, dysfunctions,
4 healthy functioning, health promotion, illness prevention, and
5 working with families.

6 (IV) Professional writing, including documentation of services,
7 treatment plans, and progress notes.

8 (V) How to connect people with resources that deliver the
9 quality of services and support needed in the community.

10 (v) Educational institutions are encouraged to design the
11 practicum required by this subparagraph to include marriage and
12 family therapy experience in low-income and multicultural mental
13 health settings.

14 (2) Instruction in all of the following:

15 (A) Diagnosis, assessment, prognosis, and treatment of mental
16 disorders, including severe mental disorders, evidence-based
17 practices, psychological testing, psychopharmacology, and
18 promising mental health practices that are evaluated in peer
19 reviewed literature.

20 (B) Developmental issues from infancy to old age, including
21 instruction in all of the following areas:

22 (i) The effects of developmental issues on individuals, couples,
23 and family relationships.

24 (ii) The psychological, psychotherapeutic, and health
25 implications of developmental issues and their effects.

26 (iii) Aging and its biological, social, cognitive, and
27 psychological aspects.

28 (iv) A variety of cultural understandings of human development.

29 (v) The understanding of human behavior within the social
30 context of socioeconomic status and other contextual issues
31 affecting social position.

32 (vi) The understanding of human behavior within the social
33 context of a representative variety of the cultures found within
34 California.

35 (vii) The understanding of the impact that personal and social
36 insecurity, social stress, low educational levels, inadequate housing,
37 and malnutrition have on human development.

38 (C) The broad range of matters and life events that may arise
39 within marriage and family relationships and within a variety of
40 California cultures, including instruction in all of the following:

- 1 (i) Child abuse assessment and reporting.
- 2 (ii) Spousal or partner abuse assessment, detection, intervention
- 3 strategies, and same-gender abuse dynamics.
- 4 (iii) Cultural factors relevant to abuse of partners and family
- 5 members.
- 6 (iv) Childbirth, child rearing, parenting, and stepparenting.
- 7 (v) Marriage, divorce, and blended families.
- 8 (vi) Long-term care.
- 9 (vii) End of life and grief.
- 10 (viii) Poverty and deprivation.
- 11 (ix) Financial and social stress.
- 12 (x) Effects of trauma.
- 13 (xi) The psychological, psychotherapeutic, community, and
- 14 health implications of the matters and life events described in
- 15 clauses (i) to (x), inclusive.
- 16 (D) Cultural competency and sensitivity, including a familiarity
- 17 with the racial, cultural, linguistic, and ethnic backgrounds of
- 18 persons living in California.
- 19 (E) Multicultural development and cross-cultural interaction,
- 20 including experiences of race, ethnicity, class, spirituality, sexual
- 21 orientation, gender, and disability, and their incorporation into the
- 22 psychotherapeutic process.
- 23 (F) An understanding of the effects of socioeconomic status on
- 24 treatment and available resources.
- 25 (G) An understanding of resilience, including the personal and
- 26 community qualities that enable persons to cope with adversity,
- 27 trauma, tragedy, threats, or other stresses.
- 28 (H) Human sexuality, including the study of physiological,
- 29 psychological, and social cultural variables associated with sexual
- 30 behavior, gender identity, and the assessment and treatment of
- 31 psychosexual dysfunction.
- 32 (I) Substance abuse, cooccurring disorders, and addiction,
- 33 including, but not limited to, instruction in all of the following:
- 34 (i) The definition of substance use disorders, cooccurring
- 35 disorders, and addiction. For purposes of this subparagraph,
- 36 “cooccurring disorders” means a mental illness and substance
- 37 abuse diagnosis occurring simultaneously in an individual.
- 38 (ii) Medical aspects of substance use disorders and cooccurring
- 39 disorders.
- 40 (iii) The effects of psychoactive drug use.

- 1 (iv) Current theories of the etiology of substance abuse and
2 addiction.
- 3 (v) The role of persons and systems that support or compound
4 substance abuse and addiction.
- 5 (vi) Major approaches to identification, evaluation, and treatment
6 of substance use disorders, cooccurring disorders, and addiction,
7 including, but not limited to, best practices.
- 8 (vii) Legal aspects of substance abuse.
- 9 (viii) Populations at risk with regard to substance use disorders
10 and cooccurring disorders.
- 11 (ix) Community resources offering screening, assessment,
12 treatment, and followup for the affected person and family.
- 13 (x) Recognition of substance use disorders, cooccurring
14 disorders, and addiction, and appropriate referral.
- 15 (xi) The prevention of substance use disorders and addiction.
- 16 (J) California law and professional ethics for marriage and
17 family therapists, including instruction in all of the following areas
18 of study:
 - 19 (i) Contemporary professional ethics and statutory, regulatory,
20 and decisional laws that delineate the scope of practice of marriage
21 and family therapy.
 - 22 (ii) The therapeutic, clinical, and practical considerations
23 involved in the legal and ethical practice of marriage and family
24 therapy, including, but not limited to, family law.
 - 25 (iii) The current legal patterns and trends in the mental health
26 professions.
 - 27 (iv) The psychotherapist-patient privilege, confidentiality, the
28 patient dangerous to self or others, and the treatment of minors
29 with and without parental consent.
 - 30 (v) A recognition and exploration of the relationship between
31 a practitioner's sense of self and human values and his or her
32 professional behavior and ethics.
 - 33 (vi) Differences in legal and ethical standards for different types
34 of work settings.
 - 35 (vii) Licensing law and licensing process.
- 36 (e) The degree described in subdivision (b) shall, in addition to
37 meeting the requirements of subdivision (d), include instruction
38 in case management, systems of care for the severely mentally ill,
39 public and private services and supports available for the severely
40 mentally ill, community resources for persons with mental illness

1 and for victims of abuse, disaster and trauma response, advocacy
2 for the severely mentally ill, and collaborative treatment. This
3 instruction may be provided either in credit level coursework or
4 through extension programs offered by the degree-granting
5 institution.

6 (f) The changes made to law by this section are intended to
7 improve the educational qualifications for licensure in order to
8 better prepare future licentiates for practice, and are not intended
9 to expand or restrict the scope of practice for marriage and family
10 therapists.

11 SEC. 12. Section 4980.37 of the Business and Professions
12 Code is amended to read:

13 4980.37. (a) This section applies to applicants for licensure
14 or registration who begin graduate study before August 1, 2012,
15 and complete that study on or before December 31, 2018. Those
16 applicants may alternatively qualify under paragraph (2) of
17 subdivision (a) of Section 4980.36.

18 (b) To qualify for a license or registration, applicants shall
19 possess a doctor's or master's degree in marriage, family, and child
20 counseling, marital and family therapy, psychology, clinical
21 psychology, counseling psychology, or counseling with an
22 emphasis in either marriage, family, and child counseling or
23 marriage and family therapy, obtained from a school, college, or
24 university accredited by a regional accrediting agency recognized
25 by the United States Department of Education or approved by the
26 Bureau for Private Postsecondary Education. The board has the
27 authority to make the final determination as to whether a degree
28 meets all requirements, including, but not limited to, course
29 requirements, regardless of accreditation or approval. In order to
30 qualify for licensure pursuant to this section, a doctor's or master's
31 degree program shall be a single, integrated program primarily
32 designed to train marriage and family therapists and shall contain
33 no less than 48 semester or 72 quarter units of instruction. This
34 instruction shall include no less than 12 semester units or 18 quarter
35 units of coursework in the areas of marriage, family, and child
36 counseling, and marital and family systems approaches to
37 treatment. The coursework shall include all of the following areas:

38 (1) The salient theories of a variety of psychotherapeutic
39 orientations directly related to marriage and family therapy, and
40 marital and family systems approaches to treatment.

1 (2) Theories of marriage and family therapy and the manner in
2 which those theories may be utilized in order to intervene
3 therapeutically with couples, families, adults, children, and groups.

4 (3) Developmental issues and life events from infancy to old
5 age and their effect on individuals, couples, and family
6 relationships. This may include coursework that focuses on specific
7 family life events and the psychological, psychotherapeutic, and
8 health implications that arise within couples and families,
9 including, but not limited to, childbirth, child rearing, childhood,
10 adolescence, adulthood, marriage, divorce, blended families,
11 stepparenting, and geropsychology.

12 (4) A variety of approaches to the treatment of children. The
13 board shall, by regulation, set forth the subjects of instruction
14 required in this subdivision.

15 (c) (1) In addition to the 12 semester or 18 quarter units of
16 coursework specified in subdivision (b), the doctor's or master's
17 degree program shall contain not less than six semester or nine
18 quarter units of supervised practicum in applied psychotherapeutic
19 technique, assessments, diagnosis, prognosis, and treatment of
20 premarital, couple, family, and child relationships, including
21 dysfunctions, healthy functioning, health promotion, and illness
22 prevention, in a supervised clinical placement that provides
23 supervised fieldwork experience within the scope of practice of a
24 marriage and family therapist.

25 (2) For applicants who enrolled in a degree program on or after
26 January 1, 1995, the practicum shall include a minimum of 150
27 hours of face-to-face experience counseling individuals, couples,
28 families, or groups.

29 (3) The practicum hours shall be considered as part of the 48
30 semester or 72 quarter unit requirement.

31 (d) As an alternative to meeting the qualifications specified in
32 subdivision (b), the board shall accept as equivalent degrees those
33 master's or doctor's degrees granted by educational institutions
34 whose degree program is approved by the Commission on
35 Accreditation for Marriage and Family Therapy Education.

36 (e) In order to provide an integrated course of study and
37 appropriate professional training, while allowing for innovation
38 and individuality in the education of marriage and family therapists,
39 a degree program that meets the educational qualifications for

1 licensure or registration under this section shall do all of the
2 following:

3 (1) Provide an integrated course of study that trains students
4 generally in the diagnosis, assessment, prognosis, and treatment
5 of mental disorders.

6 (2) Prepare students to be familiar with the broad range of
7 matters that may arise within marriage and family relationships.

8 (3) Train students specifically in the application of marriage
9 and family relationship counseling principles and methods.

10 (4) Encourage students to develop those personal qualities that
11 are intimately related to the counseling situation such as integrity,
12 sensitivity, flexibility, insight, compassion, and personal presence.

13 (5) Teach students a variety of effective psychotherapeutic
14 techniques and modalities that may be utilized to improve, restore,
15 or maintain healthy individual, couple, and family relationships.

16 (6) Permit an emphasis or specialization that may address any
17 one or more of the unique and complex array of human problems,
18 symptoms, and needs of Californians served by marriage and
19 family therapists.

20 (7) Prepare students to be familiar with cross-cultural mores
21 and values, including a familiarity with the wide range of racial
22 and ethnic backgrounds common among California's population,
23 including, but not limited to, Blacks, Hispanics, Asians, and Native
24 Americans.

25 (f) Educational institutions are encouraged to design the
26 practicum required by this section to include marriage and family
27 therapy experience in low-income and multicultural mental health
28 settings.

29 (g) This section shall remain in effect only until January 1, 2019,
30 and as of that date is repealed, unless a later enacted statute that
31 is enacted before January 1, 2019, deletes or extends that date.

32 SEC. 13. Section 4980.40 of the Business and Professions
33 Code is amended to read:

34 4980.40. To qualify for a license, an applicant shall have all
35 the following qualifications:

36 (a) Applicants shall possess a doctor's or master's degree in
37 marriage, family, and child counseling, marital and family therapy,
38 psychology, clinical psychology, counseling psychology, or
39 counseling with an emphasis in either marriage, family, and child
40 counseling or marriage and family therapy, obtained from a school,

1 college, or university accredited by a regional accrediting agency
2 recognized by the United States Department of Education, or
3 approved by the Bureau for Private Postsecondary Education. The
4 board has the authority to make the final determination as to
5 whether a degree meets all requirements, including, but not limited
6 to, course requirements, regardless of accreditation or approval.
7 In order to qualify for licensure pursuant to this subdivision, a
8 doctor's or master's degree program shall be a single, integrated
9 program primarily designed to train marriage and family therapists
10 and shall contain no less than 48 semester or 72 quarter units of
11 instruction. The instruction shall include no less than 12 semester
12 units or 18 quarter units of coursework in the areas of marriage,
13 family, and child counseling, and marital and family systems
14 approaches to treatment.

15 The coursework shall include all of the following areas:

16 (1) The salient theories of a variety of psychotherapeutic
17 orientations directly related to marriage and family therapy, and
18 marital and family systems approaches to treatment.

19 (2) Theories of marriage and family therapy and how they can
20 be utilized in order to intervene therapeutically with couples,
21 families, adults, children, and groups.

22 (3) Developmental issues and life events from infancy to old
23 age and their effect upon individuals, couples, and family
24 relationships. This may include coursework that focuses on specific
25 family life events and the psychological, psychotherapeutic, and
26 health implications that arise within couples and families,
27 including, but not limited to, childbirth, child rearing, childhood,
28 adolescence, adulthood, marriage, divorce, blended families,
29 stepparenting, and geropsychology.

30 (4) A variety of approaches to the treatment of children.

31 The board shall, by regulation, set forth the subjects of instruction
32 required in this subdivision.

33 (b) (1) In addition to the 12 semester or 18 quarter units of
34 coursework specified above, the doctor's or master's degree
35 program shall contain not less than six semester or nine quarter
36 units of supervised practicum in applied psychotherapeutic
37 techniques, assessment, diagnosis, prognosis, and treatment of
38 premarital, couple, family, and child relationships, including
39 dysfunctions, healthy functioning, health promotion, and illness
40 prevention, in a supervised clinical placement that provides

1 supervised fieldwork experience within the scope of practice of a
2 marriage and family therapist.

3 (2) For applicants who enrolled in a degree program on or after
4 January 1, 1995, the practicum shall include a minimum of 150
5 hours of face-to-face experience counseling individuals, couples,
6 families, or groups.

7 (3) The practicum hours shall be considered as part of the 48
8 semester or 72 quarter unit requirement.

9 (c) As an alternative to meeting the qualifications specified in
10 subdivision (a), the board shall accept as equivalent degrees, those
11 master's or doctor's degrees granted by educational institutions
12 whose degree program is approved by the Commission on
13 Accreditation for Marriage and Family Therapy Education.

14 (d) All applicants shall, in addition, complete the coursework
15 or training specified in Section 4980.41.

16 (e) All applicants shall be at least 18 years of age.

17 (f) All applicants shall have at least two years of experience
18 that meet the requirements of Section 4980.43.

19 (g) The applicant shall pass a board administered written or oral
20 examination or both types of examinations, except that an applicant
21 who passed a written examination and who has not taken and
22 passed an oral examination shall instead be required to take and
23 pass a clinical vignette written examination.

24 (h) The applicant shall not have committed acts or crimes
25 constituting grounds for denial of licensure under Section 480.
26 The board shall not issue a registration or license to any person
27 who has been convicted of a crime in this or another state or in a
28 territory of the United States that involves sexual abuse of children
29 or who is required to register pursuant to Section 290 of the Penal
30 Code or the equivalent in another state or territory.

31 (i) An applicant for licensure trained in an educational institution
32 outside the United States shall demonstrate to the satisfaction of
33 the board that he or she possesses a qualifying degree that is
34 equivalent to a degree earned from a school, college, or university
35 accredited by the Western Association of Schools and Colleges,
36 or approved by the Bureau of Private Postsecondary Education.
37 These applicants shall provide the board with a comprehensive
38 evaluation of the degree performed by a foreign credential
39 evaluation service that is a member of the National Association

1 of Credential Evaluation Services (NACES), and shall provide
2 any other documentation the board deems necessary.

3 SEC. 14. Section 7313 of the Business and Professions Code
4 is amended to read:

5 7313. (a) (1) To ensure compliance with the laws and
6 regulations of this chapter, the board's executive officer and
7 authorized representatives shall, except as provided by Section
8 159.5, have access to, and shall inspect, any establishment or
9 mobile unit during business hours or at any time in which
10 barbering, cosmetology, or electrolysis are being performed. It is
11 the intent of the Legislature that inspections be conducted on
12 Saturdays and Sundays as well as weekdays, if collective
13 bargaining agreements and civil service provisions permit.

14 (2) The board shall maintain a program of random and targeted
15 inspections of establishments to ensure compliance with applicable
16 laws relating to the public health and safety and the conduct and
17 operation of establishments. The board or its authorized
18 representatives shall inspect establishments to reasonably determine
19 compliance levels and to identify market conditions that require
20 targeted enforcement. The board shall not reduce the number of
21 employees assigned to perform random inspections, targeted
22 inspections, and investigations relating to field operations below
23 the level funded by the annual Budget Act and described in
24 supporting budget documents, and shall not redirect funds or
25 personnel years allocated to those inspection and investigation
26 purposes to other purposes.

27 (b) To ensure compliance with health and safety requirements
28 adopted by the board, the executive officer and authorized
29 representatives shall, except as provided in Section 159.5, have
30 access to, and shall inspect the premises of, all schools in which
31 the practice of barbering, cosmetology, or electrolysis is performed
32 on the public. Notices of violation shall be issued to schools for
33 violations of regulations governing conditions related to the health
34 and safety of patrons. Each notice shall specify the section violated
35 and a timespan within which the violation must be corrected. A
36 copy of the notice of violation shall be provided to the Bureau for
37 Private Postsecondary Education.

38 (c) With prior written authorization from the board or its
39 executive officer, any member of the board may enter and visit,
40 in his or her capacity as a board member, any establishment, during

1 business hours or at any time when barbering, cosmetology, or
2 electrolysis is being performed. The visitation by a board member
3 shall be for the purpose of conducting official board business, but
4 shall not be used as a basis for any licensing disciplinary action
5 by the board.

6 SEC. 15. Section 7362 of the Business and Professions Code
7 is amended to read:

8 7362. (a) A school approved by the board is one which is
9 approved by the Bureau for Private Postsecondary Education, or
10 a public school in this state, and provides a course of instruction
11 approved by the board.

12 (b) The board shall determine by regulation the required subjects
13 of instruction to be completed in all approved courses, including
14 the minimum hours of technical instruction and minimum number
15 of practical operations for each subject, and shall determine how
16 much training is required before a student may begin performing
17 services on paying patrons.

18 SEC. 16. Section 7395.1 of the Business and Professions Code
19 is amended to read:

20 7395.1. (a) A student who is enrolled in a school of
21 cosmetology approved by the Bureau for Private Postsecondary
22 Education in a course approved by the board may, upon completion
23 of a minimum of 60 percent of the clock hours required for
24 graduation in the course, work as an unpaid extern in a cosmetology
25 establishment participating in the educational program of the school
26 of cosmetology.

27 (b) A person working as an extern shall receive clock hour credit
28 toward graduation, but that credit shall not exceed eight hours per
29 week and shall not exceed 10 percent of the total clock hours
30 required for completion of the course.

31 (c) The externship program shall be conducted in cosmetology
32 establishments meeting all of the following criteria:

33 (1) The establishment is licensed by the board.

34 (2) The establishment has a minimum of four licensees working
35 at the establishment, including employees and owners or managers.

36 (3) All licensees at the establishment are in good standing with
37 the board.

38 (4) Licensees working at the establishment work for salaries or
39 commissions rather than on a space rental basis.

1 (5) No more than one extern shall work in an establishment for
2 every four licensees working in the establishment. No regularly
3 employed licensee shall be displaced or have his or her work hours
4 reduced or altered to accommodate the placement of an extern in
5 an establishment. Prior to placement of the extern, the
6 establishment shall agree in writing sent to the school and to all
7 affected licensees that no reduction or alteration of any licensee's
8 current work schedule shall occur. This shall not prevent a licensee
9 from voluntarily reducing or altering his or her work schedule.

10 (6) Externs shall wear conspicuous school identification at all
11 times while working in the establishment, and shall carry a school
12 laminated identification, that includes a picture, in a form approved
13 by the board.

14 (d) (1) A school participating in the externship program shall
15 provide the participating establishment and the extern with a
16 syllabus containing applicable information specified in Section
17 73880 of Title 5 of the California Code of Regulations. The extern,
18 the school, and the establishment shall agree to the terms of and
19 sign the syllabus prior to the extern beginning work at the
20 establishment. No less than 90 percent of the responsibilities and
21 duties of the extern shall consist of the acts included within the
22 practice of cosmetology as defined in Section 7316.

23 (2) The establishment shall consult with the assigning school
24 regarding the extern's progress during the unpaid externship. The
25 owner or manager of the establishment shall monitor and report
26 on the student's progress to the school on a regular basis, with
27 assistance from supervising licensees.

28 (3) A participating school shall assess the extern's learning
29 outcome from the externship program. The school shall maintain
30 accurate records of the extern's educational experience in the
31 externship program and records that indicate how the extern's
32 learning outcome translates into course credit.

33 (e) Participation in an externship program made available by a
34 school shall be voluntary, may be terminated by the student at any
35 time, and shall not be a prerequisite for graduation.

36 (f) The cosmetology establishment that chooses to utilize the
37 extern is liable for the extern's general liability insurance, as well
38 as cosmetology malpractice liability insurance, and shall furnish
39 proof to the participating school that the establishment is covered

1 by both forms of liability insurance and that the extern is covered
2 under that insurance.

3 (g) (1) It is the purpose of the externship program authorized
4 by this section to provide students with skills, knowledge, and
5 attitudes necessary to acquire employment in the field for which
6 they are being trained, and to extend formalized classroom
7 instruction.

8 (2) Instruction shall be based on skills, knowledge, attitudes,
9 and performance levels in the area of cosmetology for which the
10 instruction is conducted.

11 (3) An extern may perform only acts listed within the definition
12 of the practice of cosmetology as provided in Section 7316, if a
13 licensee directly supervises those acts, except that an extern may
14 not use or apply chemical treatments unless the extern has received
15 appropriate training in application of those treatments from an
16 approved cosmetology school. An extern may work on a paying
17 client only in an assisting capacity and only with the direct and
18 immediate supervision of a licensee.

19 (4) The extern shall not perform any work in a manner that
20 would violate law.

21 SEC. 17. Section 7407 of the Business and Professions Code
22 is amended to read:

23 7407. The board shall establish by regulation a schedule of
24 administrative fines for violations of this chapter. All moneys
25 collected under this section shall be deposited in the board's
26 contingent fund.

27 The schedule shall indicate for each type of violation whether,
28 in the board's discretion, the violation can be corrected. The board
29 shall review and revise the schedule of administrative fines for
30 violations by January 1, 2005. The board shall ensure that it and
31 the Bureau for Private Postsecondary Education do not issue
32 citations for the same violation.

33 SEC. 18. Section 8027 of the Business and Professions Code
34 is amended to read:

35 8027. (a) As used in this section, "school" means a court
36 reporter training program or an institution that provides a course
37 of instruction approved by the board and the Bureau for Private
38 Postsecondary Education, is a public school in this state, or is
39 accredited by the Western Association of Schools and Colleges.

1 (b) A court reporting school shall be primarily organized to train
2 students for the practice of shorthand reporting, as defined in
3 Sections 8016 and 8017. Its educational program shall be on the
4 postsecondary or collegiate level. It shall be legally organized and
5 authorized to conduct its program under all applicable laws of the
6 state, and shall conform to and offer all components of the
7 minimum prescribed course of study established by the board. Its
8 records shall be kept and shall be maintained in a manner to render
9 them safe from theft, fire, or other loss. The records shall indicate
10 positive daily and clock-hour attendance of each student for all
11 classes, apprenticeship and graduation reports, high school
12 transcripts or the equivalent or self-certification of high school
13 graduation or the equivalent, transcripts of other education, and
14 student progress to date, including all progress and counseling
15 reports.

16 (c) Any school intending to offer a program in court reporting
17 shall notify the board within 30 days of the date on which it
18 provides notice to, or seeks approval from, the California
19 Department of Education, the Bureau for Private Postsecondary
20 Education, the Chancellor's Office of the California Community
21 Colleges, or the Western Association of Schools and Colleges,
22 whichever is applicable. The board shall review the proposed
23 curriculum and provide the school tentative approval, or notice of
24 denial, within 60 days of receipt of the notice. The school shall
25 apply for provisional recognition pursuant to subdivision (d) within
26 no more than one year from the date it begins offering court
27 reporting classes.

28 (d) The board may grant provisional recognition to a new court
29 reporting school upon satisfactory evidence that it has met all of
30 the provisions of subdivision (b) and this subdivision. Recognition
31 may be granted by the board to a provisionally recognized school
32 after it has been in continuous operation for a period of no less
33 than three consecutive years from the date provisional recognition
34 was granted, during which period the school shall provide
35 satisfactory evidence that at least one person has successfully
36 completed the entire course of study established by the board and
37 complied with the provisions of Section 8020, and has been issued
38 a certificate to practice shorthand reporting as defined in Sections
39 8016 and 8017. The board may, for good cause shown, extend the
40 three-year provisional recognition period for not more than one

1 year. Failure to meet the provisions and terms of this section shall
2 require the board to deny recognition. Once granted, recognition
3 may be withdrawn by the board for failure to comply with all
4 applicable laws and regulations.

5 (e) Application for recognition of a court reporting school shall
6 be made upon a form prescribed by the board and shall be
7 accompanied by all evidence, statements, or documents requested.
8 Each branch, extension center, or off-campus facility requires
9 separate application.

10 (f) All recognized and provisionally recognized court reporting
11 schools shall notify the board of any change in school name,
12 address, telephone number, responsible court reporting program
13 manager, owner of private schools, and the effective date thereof,
14 within 30 days of the change. All of these notifications shall be
15 made in writing.

16 (g) A school shall notify the board in writing immediately of
17 the discontinuance or pending discontinuance of its court reporting
18 program or any of the program's components. Within two years
19 of the date this notice is sent to the board, the school shall
20 discontinue its court reporting program in its entirety. The board
21 may, for good cause shown, grant not more than two one-year
22 extensions of this period to a school. If a student is to be enrolled
23 after this notice is sent to the board, a school shall disclose to the
24 student the fact of the discontinuance or pending discontinuance
25 of its court reporting program or any of its program components.

26 (h) The board shall maintain a roster of currently recognized
27 and provisionally recognized court reporting schools, including,
28 but not limited to, the name, address, telephone number, and the
29 name of the responsible court reporting program manager of each
30 school.

31 (i) The board shall maintain statistics that display the number
32 and passing percentage of all first-time examinees, including, but
33 not limited to, those qualified by each recognized or provisionally
34 recognized school and those first-time examinees qualified by
35 other methods as defined in Section 8020.

36 (j) Inspections and investigations shall be conducted by the
37 board as necessary to carry out this section, including, but not
38 limited to, unannounced site visits.

39 (k) All recognized and provisionally recognized schools shall
40 print in their school or course catalog the name, address, and

1 telephone number of the board. At a minimum, the information
2 shall be in 8-point bold type and include the following statement:
3 “IN ORDER FOR A PERSON TO QUALIFY FROM A
4 SCHOOL TO TAKE THE STATE LICENSING EXAMINATION,
5 THE PERSON SHALL COMPLETE A PROGRAM AT A
6 RECOGNIZED SCHOOL. FOR INFORMATION CONCERNING
7 THE MINIMUM REQUIREMENTS THAT A COURT
8 REPORTING PROGRAM MUST MEET IN ORDER TO BE
9 RECOGNIZED, CONTACT: THE COURT REPORTERS
10 BOARD OF CALIFORNIA; (ADDRESS); (TELEPHONE
11 NUMBER).”

12 (l) Each court reporting school shall file with the board, not
13 later than June 30 of each year, a current school catalog that shows
14 all course offerings and staff, and for private schools, the owner,
15 except that where there have been no changes to the catalog within
16 the previous year, no catalog need be sent. In addition, each school
17 shall also file with the board a statement certifying whether the
18 school is in compliance with all statutes and the rules and
19 regulations of the board, signed by the responsible court reporting
20 program manager.

21 (m) A school offering court reporting may not make any written
22 or verbal claims of employment opportunities or potential earnings
23 unless those claims are based on verified data and reflect current
24 employment conditions.

25 (n) If a school offers a course of instruction that exceeds the
26 board’s minimum requirements, the school shall disclose orally
27 and in writing the board’s minimum requirements and how the
28 course of instruction differs from those criteria. The school shall
29 make this disclosure before a prospective student executes an
30 agreement obligating that person to pay any money to the school
31 for the course of instruction. The school shall also make this
32 disclosure to all students enrolled on January 1, 2002.

33 (o) Private and public schools shall provide each prospective
34 student with all of the following and have the prospective student
35 sign a document that shall become part of that individual’s
36 permanent record, acknowledging receipt of each item:

37 (1) A student consumer information brochure published by the
38 board.

1 (2) A list of the school's graduation requirements, including the
2 number of tests, the pass point of each test, the speed of each test,
3 and the type of test, such as jury charge or literary.

4 (3) A list of requirements to qualify for the state certified
5 shorthand reporter licensing examination, including the number
6 of tests, the pass point of each test, the speed of each test, and the
7 type of test, such as jury charge or literary, if different than those
8 requirements listed in paragraph (2).

9 (4) A copy of the school's board-approved benchmarks for
10 satisfactory progress as identified in subdivision (u).

11 (5) A report showing the number of students from the school
12 who qualified for each of the certified shorthand reporter licensing
13 examinations within the preceding two years, the number of those
14 students that passed each examination, the time, as of the date of
15 qualification, that each student was enrolled in court reporting
16 school, and the placement rate for all students that passed each
17 examination.

18 (6) On and after January 1, 2005, the school shall also provide
19 to prospective students the number of hours each currently enrolled
20 student who has qualified to take the next licensing test, exclusive
21 of transfer students, has attended court reporting classes.

22 (p) All enrolled students shall have the information in
23 subdivisions (n) and (o) on file no later than June 30, 2005.

24 (q) Public schools shall provide the information in subdivisions
25 (n) and (o) to each new student the first day he or she attends theory
26 or machine speed class, if it was not provided previously.

27 (r) Each enrolled student shall be provided written notification
28 of any change in qualification or graduation requirements that is
29 being implemented due to the requirements of any one of the
30 school's oversight agencies. This notice shall be provided to each
31 affected student at least 30 days before the effective date of the
32 change and shall state the new requirement and the name, address,
33 and telephone number of the agency that is requiring it of the
34 school. Each student shall initial and date a document
35 acknowledging receipt of that information and that document, or
36 a copy thereof, shall be made part of the student's permanent file.

37 (s) Schools shall make available a comprehensive final
38 examination in each academic subject to any student desiring to
39 challenge an academic class in order to obtain credit towards
40 certification for the state licensing examination. The points required

1 to pass a challenge examination shall not be higher than the
2 minimum points required of other students completing the
3 academic class.

4 (t) An individual serving as a teacher, instructor, or reader shall
5 meet the qualifications specified by regulation for his or her
6 position.

7 (u) Each school shall provide a substitute teacher or instructor
8 for any class for which the teacher or instructor is absent for two
9 consecutive days or more.

10 (v) The board has the authority to approve or disapprove
11 benchmarks for satisfactory progress which each school shall
12 develop for its court reporting program. Schools shall use only
13 board-approved benchmarks to comply with the provisions of
14 paragraph (4) of subdivision (o) and subdivision (u).

15 (w) Each school shall counsel each student a minimum of one
16 time within each 12-month period to identify the level of attendance
17 and progress, and the prognosis for completing the requirements
18 to become eligible to sit for the state licensing examination. If the
19 student has not progressed in accordance with the board-approved
20 benchmarks for that school, the student shall be counseled a
21 minimum of one additional time within that same 12-month period.

22 (x) The school shall provide to the board, for each student
23 qualifying through the school as eligible to sit for the state licensing
24 examination, the number of hours the student attended court
25 reporting classes, both academic and machine speed classes,
26 including theory.

27 (y) The pass rate of first-time exam takers for each school
28 offering court reporting shall meet or exceed the average pass rate
29 of all first-time test takers for a majority of examinations given
30 for the preceding three years. Failure to do so shall require the
31 board to conduct a review of the program. In addition, the board
32 may place the school on probation and may withdraw recognition
33 if the school continues to place below the above described standard
34 on the two exams that follow the three-year period.

35 (z) A school shall not require more than one 10-minute
36 qualifying examination, as defined in the regulations of the board,
37 for a student to be eligible to sit for the state certification
38 examination.

1 (aa) A school shall provide the board the actual number of hours
2 of attendance for each applicant the school qualifies for the state
3 licensing examination.

4 (ab) The board shall, by December 1, 2001, do the following
5 by regulation as necessary:

6 (1) Establish the format that shall be used by schools to report
7 tracking of all attendance hours and actual timeframes for
8 completed coursework.

9 (2) Require schools to provide a minimum of 10 hours of live
10 dictation class each school week for every full-time student.

11 (3) Require schools to provide students with the opportunity to
12 read back from their stenographic notes a minimum of one time
13 each day to his or her instructor.

14 (4) Require schools to provide students with the opportunity to
15 practice with a school-approved speed-building tape, or other
16 assigned material, a minimum of one hour per day after school
17 hours as a homework assignment and provide the notes from this
18 tape to their instructor the following day for review.

19 (5) Develop standardization of policies on the use and
20 administration of qualifier examinations by schools.

21 (6) Define qualifier exam as follows: the qualifier exam shall
22 consist of 4-voice testimony of 10-minute duration at 200 wpm,
23 graded at 97.5 percent accuracy, and in accordance with the
24 guidelines followed by the board. Schools shall be required to date
25 and number each qualifier and announce the date and number to
26 the students at the time of administering the qualifier. All qualifiers
27 shall indicate the actual dictation time of the test and the school
28 shall catalog and maintain the qualifier for a period of not less than
29 three years for the purpose of inspection by the board.

30 (7) Require schools to develop a program to provide students
31 with the opportunity to interact with professional court reporters
32 to provide skill support, mentoring, or counseling which they can
33 document at least quarterly.

34 (8) Define qualifications and educational requirements required
35 of instructors and readers that read test material and qualifiers.

36 (ac) The board shall adopt regulations to implement the
37 requirements of this section not later than September 1, 2002.

38 (ad) The board may recover costs for any additional expenses
39 incurred under the enactment amending this section in the 2001–02

1 Regular Session of the Legislature pursuant to its fee authority in
2 Section 8031.

3 SEC. 19. Chapter 8 (commencing with Section 94800) is added
4 to Part 59 of Division 10 of Title 3 of the Education Code, to read:

5

6

CHAPTER 8. PRIVATE POSTSECONDARY INSTITUTIONS

7

8

Article 1. General Provisions

9

10 94800. This chapter shall be known, and may be cited, as the
11 California Private Postsecondary Education Act of 2008.

12 94801. Whenever a reference is made to the Bureau for Private
13 Postsecondary and Vocational Education, by the provisions of any
14 statute or regulation, that reference shall be construed as referring
15 to the Bureau for Private Postsecondary Education. Whenever a
16 reference is made to the Council for Private Postsecondary
17 Education and Vocation Education, by the provisions of any statute
18 of regulation, that reference shall be construed as referring to the
19 Bureau for Private Postsecondary Education.

20 94801.1. The Legislature finds and declares the following:

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

27 (b) Private postsecondary schools complement the public
28 education system and help develop a trained workforce to meet
29 the demands of California businesses and the economy.

30 (c) Numerous reports and studies have concluded that California
31 law and regulatory oversight failed to enforce student protections
32 or provide effective oversight of private postsecondary schools.
33 The law and regulatory oversight were *nearly allowed to expire,*
34 *and only reinstated by urgency legislation in 1997,* allowed to
35 expire on June 30, 2007, *with some skeletal functions continued*
36 *by urgency legislation and allowed to expire on June 30, 2008,*
37 thereby creating an urgent need to reform the law and create a new
38 regulatory structure to take effect as soon as possible.

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

1 (1) Minimum educational quality standards and opportunities
2 for success for California students attending private postsecondary
3 schools.

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

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

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

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

14 (e) It is widely believed that up to 20 percent of the private
15 postsecondary education provided in California in 2007 is Internet
16 based. Therefore, this chapter calls for a thorough review of
17 Internet-based private postsecondary education. This review is
18 intended to serve as a basis for future policymakers to address any
19 deficiencies in law in regulating Internet-based private
20 postsecondary education.

21 (f) The Legislature advises future policymakers to continually
22 and carefully evaluate this chapter and its administration and
23 enforcement. Where there are deficiencies in the law or regulatory
24 oversight, the Governor and the Legislature should act quickly to
25 correct them. A failure to act in a timely manner allowed expiration
26 of the regulatory structure on June 30, 2007. This history should
27 never be repeated.

28 94801.2. (a) The Legislature finds that the Accrediting
29 Commission for Senior Colleges and Universities, Western
30 Association of Schools and Colleges (ACSCU) and the Accrediting
31 Commission for Community and Junior Colleges and Universities,
32 Western Association of Schools and Colleges (ACCJC)
33 (collectively WASC) serve as unique and reliable authorities for
34 establishing and maintaining standards for public and private
35 institutions providing postsecondary education in California for
36 the following reasons:

37 (1) WASC has acted as the regional accrediting association for
38 colleges and universities based in California for more than 40
39 years. This includes all campuses of the University of California,
40 California State University, and California Community Colleges.

1 Its effectiveness has been affirmed in numerous past external
2 studies.

3 (2) For private institutions, ACSCU and ACCJC require, as one
4 condition for eligibility for accreditation, that an applicant
5 institution first apply to and obtain approval from the Bureau of
6 Private Postsecondary Education, thereby assuring Californians
7 that all applicant institutions have been found by the bureau to
8 meet the state’s licensure standards prior to being considered for
9 accreditation.

10 (3) A majority of the commission members on the ACSCU and
11 ACCJC are residents of California and represent a diversity of
12 backgrounds and interests.

13 (4) WASC does not discriminate based on location or geography.
14 ACSCU and ACCJC policies and practices permit an institution
15 that is accredited by a different regional accrediting association to
16 apply for accreditation from ACSCU and ACCJC if that institution
17 maintains sufficient presence in California. Institutions accredited
18 by a different regional accrediting association have been granted
19 accreditation by WASC.

20 (5) Through a full faith and credit agreement with other regional
21 accredited agencies, WASC has a process whereby institutions
22 accredited by other regional ~~accredited~~ *accrediting* agencies may
23 also be accredited by WASC in an expeditious manner. This
24 agreement allows institutions that are accredited by other regional
25 ~~accredited~~ *accrediting* agencies to be accredited by WASC in a
26 matter of only a few months, compared to a process that may
27 normally take several years.

28 (6) ACCJC provides periodic on campus visits to all WASC
29 accredited institutions and for each California campus.

30 (7) ACSCU and ACCJC regularly meet in California, publish
31 the time and place of meetings in advance, and permit and
32 encourage interested Californians to attend the public portions of
33 meetings and comment on policies under consideration by their
34 respective commissions.

35 (8) WASC has demonstrated transparency and accountability
36 for Californians, on-campus oversight, and student protection for
37 Californians.

38 (9) In 2007, the United State District Court, Central District of
39 California, issued a judgment in *Saro Daghlian vs. DeVry DeVry*
40 *University, Inc.*, which is currently on appeal before the United

1 States Court of Appeals for the Ninth Circuit. In this case, the
2 district court found a portion of the 1989 Postsecondary and
3 Vocational Education Reform Act (Reform Act) to impermissibly
4 discriminate against out-of-state regionally accredited educational
5 institutions. ~~Conversely, this chapter is based on~~ *These* legislative
6 findings pertinent to the regional accreditation process ~~that~~ were
7 not available to the district court at the time of its judgment. ~~The~~
8 *Additionally*, the scope, requirements, and approval process of this
9 chapter are distinct from that of the Reform Act. Consequently,
10 the Legislature finds and declares that the ~~contents of the chapter~~
11 *will legislative findings not previously available to the court and*
12 *the contents of the chapter will both* effectively distinguish ~~itself~~
13 *themselves* from the Reform Act and preclude the application of
14 the district court's reasoning in *Saro Daghlian vs. Devry DeVry*
15 *University, Inc.* to this act.

16 (b) Based on the above findings, the Legislature finds that there
17 are compelling reasons to grant WASC accredited institutions a
18 complete exemption from the requirements of this chapter.

19 94801.3. The Bureau for Private Postsecondary Education is
20 subject to periodic and ongoing review by the Legislature.

21 94801.4. It is the intent and purpose of this chapter to protect
22 students, reputable institutions, the public, and the economy of the
23 state; ensure appropriate operational standards; ensure institutional
24 stability; ensure minimum standards for educational quality,
25 including through ~~accountability for~~ *required uniform disclosures*
26 *of* program completion and student placement in occupations or
27 job titles to which training is represented to lead; ~~prohibit various~~
28 *and salaries paid graduates in those occupations or job titles;*
29 *prohibit* misrepresentations, including misrepresentations related
30 to the quality of education, the availability and quality of
31 equipment, software, and materials, the transferability of credits,
32 and employment availability and range of salary opportunities;
33 require full disclosure of all material facts regarding the course or
34 program of instruction; and protect the citizens of California against
35 fraud, misrepresentation, or other practices that may lead to loss
36 of funds paid for educational costs, whether financed through
37 personal resources, state and federal student financial aid, or private
38 loans. It is also the intent and purpose of this chapter to ensure that
39 *the public has information needed to assess whether* the cost to
40 taxpayers of government loans and grants for instruction is

1 commensurate with the benefits obtained by students and flowing
2 to the state's economy.

3 94801.5. There is a Bureau for Private Postsecondary Education
4 in the Department of Consumer Affairs. The bureau has the
5 responsibility for approving and regulating private postsecondary
6 educational institutions and programs.

7 94801.6. (a) Protection of the public shall be the highest
8 priority for the bureau in exercising its approval, regulatory, and
9 disciplinary functions. The bureau shall have all of the following
10 objectives:

11 (1) Protection of the public from fraud and misrepresentation
12 and from illegal, unscrupulous, or unethical practices.

13 (2) To encourage students to make informed decisions.

14 (3) The development of a strong, vigorous, and widely respected
15 sector of private postsecondary education that protects the interests
16 of students and the public and serves the interests of the economy
17 of California.

18 (b) Whenever the protection of the public is inconsistent with
19 other interests sought to be promoted, the protection of the public
20 shall be paramount.

21 94801.7. The proceedings under this chapter shall be conducted
22 by the bureau in accordance with the provisions of this chapter or
23 Chapter 5 (commencing with Section 11500) of Part 1 of Division
24 3 of Title 2 of the Government Code at the bureau's option. To
25 the extent of any conflict between any of the provisions of this
26 chapter and Chapter 5 (commencing with Section 11500) of Part
27 1 of Division 3 of Title 2 of the Government Code, this chapter
28 shall prevail.

29 94801.8. ~~Regulations~~ *Except as otherwise provided in this*
30 *chapter, regulations* required by and necessary to fully implement
31 this chapter shall be adopted by ~~July 1, 2009~~ *January 1, 2010*, and
32 shall be amended periodically as needed by the bureau to fully
33 implement the intent of this article.

34

35 Article 2. Transition Provisions

36

37 94802. (a) ~~An institution, program, or course of study~~ that
38 had a valid approval to operate on June 30, 2007, issued by the
39 Bureau for Private Postsecondary and Vocational Education
40 pursuant to Chapter 7 (commencing with Section 94700) of Part

1 59 of Division 10 of Title 3, as it existed on June 30, 2007, which
 2 was not revoked, shall maintain that approval under this chapter.
 3 For the purposes of this chapter, the approval shall be valid until
 4 two calendar years after the expiration date of the approval, as it
 5 existed on June 30, 2007.

6 (b) Applications for reapproval that had been pending action
 7 before the Bureau for Private Postsecondary and Vocational
 8 Education on June 30, 2007, shall be deemed processed as follows:

9 (1) Applications received prior to January 1, 2006, shall be
 10 granted a reapproval until 2009 to coincide with the anniversary
 11 date of the current approval.

12 (2) Applications received after January 1, 2006, shall be granted
 13 a reapproval until 2010 to coincide with the anniversary date of
 14 the current approval.

15 (c) Students enrolling in institutions approved under subdivision
 16 (b) shall be notified during the enrollment process that the
 17 institution's application for reapproval to operate has not been
 18 fully reviewed by the bureau.

19 ~~94802.5. This chapter does not affect, pending litigation or~~
 20 ~~rights under former Chapter 7 (commencing with Section 94700)~~
 21 ~~of Part 59 of Division 10 of Title 3, which became inoperative on~~
 22 ~~June 30, 2007.~~

23 (d) *With respect to any deadline applicable to the approval,*
 24 *renewal of approval, or conditional approval of an institution or*
 25 *program, no time shall be deemed to have elapsed between July*
 26 *1, 2007, and January 1, 2009, inclusive.*

27 94803. Notwithstanding any other provision of law:

28 (a) Each *unresolved* matter submitted to the Bureau for Private
 29 Postsecondary and Vocational Education prior to July 1, 2007,
 30 shall be deemed to remain pending before the bureau irrespective
 31 of any applicable deadlines. With respect to any deadline applicable
 32 to a pending matter, no time shall be deemed to have elapsed from
 33 July 1, 2007, through ~~June 30, 2008~~ *January 1, 2009, inclusive.*

34 (1) For the purposes of this subdivision, "matter" includes, but
 35 is not necessarily limited to, an appeal, a complaint, ~~a lawsuit, an~~
 36 ~~action,~~ a claim, an evaluation, a hearing, or an investigation.

37 (2) For the purposes of this subdivision, "matter" does not
 38 include a Student Tuition Recovery Fund claim. ~~Nothing in this~~
 39 ~~paragraph shall be construed to prevent the payment of existing~~
 40 ~~Student Tuition Recovery Fund claims that have been filed with,~~

1 and approved by, the Bureau for Private Postsecondary and
2 Vocational Education as of June 30, 2007.

3 (b) Student complaints received from July 1, 2007, through June
4 30, 2008, inclusive, continue to be duly recorded and investigated
5 to the extent possible so that no Californian is harmed by the delay
6 in the provision of full services.

7 (c) Any institution, program, or course of study that is approved
8 by the bureau or authorized pursuant to Section 94905, as it read
9 on June 30, 2007, as of the close of business on June 30, 2007,
10 shall be deemed to be approved as of July 1, 2008, irrespective of
11 any applicable conditions, deadlines, or additional requirements.
12 With respect to any deadline applicable to the approval, renewal
13 of approval, or conditional approval of an institution, program, or
14 course of study, no time shall be deemed to have elapsed between
15 July 1, 2007, and June 30, 2008, inclusive.

16 (d) For any claims that a student had against a covered
17 institution, the period from June 30, 2007, to January 1, 2009,

18 (b) Student complaints between from July 1, 2007, to December
19 31, 2008, inclusive, shall continue to be duly recorded and
20 investigated and shall be determined based on law that was in
21 effect at the time the violations or events complained of occurred.

22 (c) For any claims that a student had based on a violation of
23 the Private Postsecondary and Vocational Education Reform Act
24 of 1989 on or before June 30, 2007, Chapter 67 of the Statutes of
25 2007, or Chapter 635 of the Statutes of 2007, the period from June
26 30, 2007, to January 1, 2009, inclusive, shall be excluded in
27 determining the deadline or the statute of limitation for filing a
28 lawsuit based on those claims any claim with the bureau or a
29 lawsuit based on any claim.

30 (e)

31 (d) All claims, except claims to the Student Tuition Recovery
32 Fund, and all complaints, including those contained in a lawsuit
33 or other legal action, shall be determined or adjudicated based on
34 the law that was in effect when the violations or events took place,
35 even though those provisions have become inoperative, been
36 repealed, or otherwise expired.

37 94803.5. (a) Each regulation in Division 7.5 (commencing
38 with Section 70000) of Title 5 of the California Code of
39 Regulations in effect on June 30, 2007, shall be in full force and
40 effect on and after July 1, 2008. By July 1, 2009, the bureau shall

1 *January 1, 2009. The bureau may* amend Division 7.5
2 (commencing with Section 70000) of Title 5 of the California Code
3 of Regulations to amend or repeal any regulation that is inconsistent
4 with this chapter.

5 (b) The bureau may adopt emergency regulations, as necessary,
6 to allow for the immediate implementation of this chapter.

7 (c) *Regulations promulgated pursuant to this chapter shall be*
8 *consistent with the director's, or his or her designee's, powers*
9 *and duties under Section 310 of the Business and Professions Code*
10 *and legislative intent under Section 301 of the Business and*
11 *Professions Code.*

12 94804. The bureau shall succeed to any and all rights and
13 claims of the former Bureau for Private Postsecondary and
14 Vocational Education that may have been asserted in a judicial or
15 administrative action pending on July 1, 2007, and shall take any
16 action reasonably necessary to assert and realize those rights and
17 claims in its own name. The functions of the former Bureau for
18 Private Postsecondary and Vocational Education, and the
19 responsibilities the former bureau had for the administration of
20 former Chapter 7 (commencing with Section 94700) on June 30,
21 2007, and January 1, 2008, are transferred to the new Bureau for
22 Private Postsecondary Education, effective ~~July 1, 2008~~ *January*
23 *1, 2009*, as provided by this chapter. Notwithstanding any other
24 provision of law, Section 19050.9 of the Government Code shall
25 apply regardless of the date on which former Chapter 7
26 (commencing with Section 94700) became inoperative or was
27 repealed.

28 94805. The bureau shall have possession and control of all
29 records, papers, offices, equipment, supplies, or other property,
30 real or personal, held for the benefit or use by the former Bureau
31 for Private Postsecondary and Vocational Education in the
32 performance of the duties, powers, purposes, responsibilities, and
33 jurisdictions that are vested in the bureau.

34 94806. (a) The Private Postsecondary and Vocational
35 Education Administration Fund established by former Section
36 94932 of the Education Code, and extended and reconfigured by
37 Chapter 635 of the Statutes of 2007, is continued in existence, and
38 is renamed the Private Postsecondary Education Administration
39 ~~Fund. Students, including former students who paid into the fund~~
40 ~~prior to July 1, 2007 shall have the right to recover from the fund~~

1 ~~under the terms and conditions set forth in former Section 94944.~~
2 *Fund.*

3 (b) It is the intent of the Legislature that the Private
4 Postsecondary Education Administration Fund be administered,
5 and that fees be established and collected, in a manner that assures
6 full and effective implementation of this chapter.

7 94807. The Student Tuition Recovery Fund established by
8 former Section 94944 of the Education Code, ~~and extended by~~
9 *extended and reconfigured by Chapter 67 of the Statutes of 2007,*
10 *and continued in existence by Chapter 635 of the Statutes of 2007,*
11 *is further continued in existence.*

12 94808. (a) Any Student Tuition Recovery Fund claims received
13 by the former Bureau for Private Postsecondary and Vocational
14 Education prior to July 1, 2007, that were not processed by the
15 former Bureau for Private Postsecondary and Vocational Education
16 and were not paid by the department between July 1, 2007, and
17 ~~June 30 December 31, 2008, inclusive,~~ shall be processed by the
18 bureau in accordance with this chapter *based on the terms and*
19 *conditions set forth in former Section 94944 of the Education Code,*
20 *except that any payments of claims from the fund shall be paid*
21 *from the single Student Tuition Recovery Fund as continued in*
22 *Article 13 (commencing with Section 94923).*

23 (b) Any Student Tuition Recovery Fund claims received by the
24 department between July 1, 2007, and ~~June 30 December 31, 2008,~~
25 inclusive, shall be processed by the bureau in accordance with this
26 chapter based on the terms and conditions set forth in former
27 Section 94944 of the Education ~~Code.~~ *Code, except that any*
28 *payments on claims to the fund shall be paid from the single*
29 *Student Tuition Recovery Fund as continued in Article 13*
30 *(commencing with Section 94923).*

31 ~~(c) Any Student Tuition Recovery Fund claims received by the~~
32 ~~department after June 30, 2007, for actions that occurred prior to~~
33 ~~July 1, 2007, or regarding courses of instruction which commenced~~
34 ~~prior to July 1, 2007, shall be processed by the bureau in~~
35 ~~accordance with this chapter and the terms and conditions set forth~~
36 ~~in former Section 94944 of the Education Code.~~

37 (c) *Student Tuition Recovery Fund claims filed with, and*
38 *approved by, the Bureau for Private Postsecondary and Vocational*
39 *Education as of June 30, 2007, if not already paid, shall be paid*
40 *before any later approved claims.*

1 (d) The student's right to recovery from the Student Tuition
 2 Recovery Fund ~~or the Private Postsecondary Education~~
 3 ~~Administrative Fund~~ shall be based on the law that was in effect
 4 when the student enrolled and a fee for the fund was charged as a
 5 part of tuition costs, ~~whether or not a claim was filed prior to July~~
 6 ~~1, 2007. part of tuition costs, even though that law has become~~
 7 ~~inoperative, been repealed or otherwise expired, and whether or~~
 8 ~~not a claim was filed prior to the law becoming inoperative,~~
 9 ~~repealed, or otherwise expired.~~

10 ~~94809. (a) Approved institutions with applications on file,~~
 11 ~~excluding Student Tuition Recovery Fund and certificate of~~
 12 ~~authorization applications, that were pending with the former~~
 13 ~~Bureau for Private Postsecondary and Vocational Education as of~~
 14 ~~July 1, 2007, may continue to operate.~~

15 ~~(b) An institution that did not have a valid approval issued by,~~
 16 ~~94809. (a) An institution that did not have a valid approval~~
 17 ~~issued by, or an application for approval pending with, the former~~
 18 ~~Bureau for Private Postsecondary and Vocational Education on~~
 19 ~~June 30, 2007, that began operations on or after July 1, 2007, may~~
 20 ~~continue to operate through December 31, 2008 2009, but shall~~
 21 ~~comply with and is subject to this chapter, and shall submit an~~
 22 ~~application to the bureau pursuant to this chapter which shall be~~
 23 ~~treated in all respects as an initial application for approval.~~

24 ~~(e)~~
 25 ~~(b) Students enrolling in institutions approved under subdivision~~
 26 ~~(b) (a) shall be notified during the enrollment process before~~
 27 ~~entering into any enrollment agreement that the institution's~~
 28 ~~approval to operate has not been reviewed by the bureau.~~

29 ~~94809.5. (a) Notwithstanding any exemption from this chapter~~
 30 ~~under Article 3 (commencing with Section 94810) or any other~~
 31 ~~provision of law, the rights and obligations established by the~~
 32 ~~Private Postsecondary and Vocational Education Reform Act of~~
 33 ~~1989 on or before June 30, 2007, as preserved by Chapter 67 of~~
 34 ~~the Statutes of 2007 and extended by Chapter 635 of the Statutes~~
 35 ~~of 2007, shall be determined by the law in effect on or before June~~
 36 ~~30, 2007, and any claim or cause of action in any manner based~~
 37 ~~on the act that arose on or before June 30, 2007, whether or not~~
 38 ~~reduced to a final judgment, shall be preserved, and any remedy~~
 39 ~~that was or could have been ordered to redress a violation of the~~

1 act on or before June 30, 2007, may be ordered or maintained
2 thereafter.

3 (b) The rights, obligations, claims, causes of action, and
4 remedies described in subdivision (a) shall remain subject to the
5 provisions of the Private Postsecondary and Vocational Education
6 Reform Act of 1989 in effect on or before June 30, 2007,
7 notwithstanding the inoperative status or repeal of the Private
8 Postsecondary and Vocational Education Reform Act of 1989 on
9 or after July 1, 2007 *or the repeal of Sections 1 to 8, inclusive, of*
10 *Chapter 67 of the Statutes of 2007 by Chapter 635 of the Statutes*
11 *of 2007 on or after July 1, 2008.*

12 (c) *This article shall apply retroactively from June 30, 2008.*

13

14

Article 3. Definitions

15

16 94810. Unless the context requires otherwise, the definitions
17 set forth in this article govern the construction of this chapter.

18 94811. “Ability-to-benefit student” means a student who does
19 not have a certificate of graduation from a school providing
20 secondary education, or a recognized equivalent of that certificate
21 such as a GED prior to completion of the course.

22 94812. “Academic year” means a period, including a minimum
23 of 30 weeks of instructional time, in which a full-time student
24 attending an institution that measures educational program length
25 in credit hours completes 24 semester or trimester hours or 36
26 quarter hours, or an institution that measures educational program
27 length in clock hours completes at least 900 clock hours.

28 94813. “Accredited” means an institution is recognized or
29 approved by an accrediting agency recognized by the United States
30 Department of Education.

31 94814. “Accrediting agency” means an agency recognized by
32 the United States Department of Education.

33 94815. “Annual report” means the report required to be filed
34 pursuant to Section-94883.6 94934.

35 94816. “Applicant” means a person or entity that has submitted
36 an application for renewal or approval to operate on which the
37 bureau has not yet made a determination. An applicant shall not
38 enroll students or offer education without an approval to operate.

39 94817. “Approval to operate” means the authorization to offer
40 to the public and to provide postsecondary educational programs,

1 as well as the written document issued by the bureau to an
2 institution signifying its approval to operate.

3 94818. “Avocational education” means education offered
4 exclusively for the purpose of personal entertainment, pleasure,
5 or enjoyment.

6 94819. “Branch campus” means a site other than the main
7 campus or a satellite location.

8 94820. “Bureau” means the Bureau for Private Postsecondary
9 Education in the Department of Consumer Affairs.

10 94820.2. “Cancellation period” means the initial period during
11 which a student may cancel and receive a refund under Section
12 94919.

13 94820.5. “Certified” means having passed an examination that
14 attests to the quality and level of knowledge by a qualified
15 certification authority or organization that is not affiliated with an
16 institution.

17 94821. “Change in business organization form” means a change
18 of a business organization’s original form, including, for example,
19 a situation in which a sole proprietorship becomes a partnership
20 or corporation, or when a business organization becomes a
21 nonprofit public benefit corporation or forms a nonprofit public
22 benefit corporation as a subsidiary to provide the educational
23 programs for which the business organization has an approval to
24 operate.

25 94822. “Change of location” means a move or relocation more
26 than 10 miles from the site at which the institution offers
27 instruction.

28 94823. “Change of ownership” means the acquisition by a
29 person of more than 50 percent of an interest in or stock of a parent
30 company.

31 94823.5. “Class” or “course” means a subject, such as English
32 or mathematics that is taught as part of a program.

33 94824. “Class day” means a day a student is scheduled to attend
34 class session, or for students receiving instruction through distance
35 education, any calendar day except Saturday, Sunday, or any
36 holiday enumerated in Section 6700 of the Government Code.

37 94825. “Class session” means part of a class day that an
38 institution conducts instruction in a particular subject.

1 94825.5. “Clock hour” means 50 to 60, inclusive, minutes and
2 is used to measure the length of any program of study that does
3 not lead to a degree.

4 94826. “Commence operations” means an institution has begun
5 to provide educational programs.

6 94826.5. “Completion tracking period” means the two years
7 before the year in which the completion numbers and rates are
8 reported and disclosed.

9 94827. (a) “Continuing education” means instruction in
10 subjects that licensees are required to take solely for the purpose
11 of continued licensure, or to enhance their skills and knowledge
12 within their particular profession, occupation, trade, or career field.

13 (b) “Continuing education” does not include any of the
14 following:

15 (1) A vocational program.

16 (2) A degree program.

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

20 94827.5. “Credit hour” means the unit of measure by which
21 institutions measure its degree coursework. The number of credit
22 hours assigned to a course is defined by the number of hours per
23 week in class and preparation and the number of weeks in a term.
24 One credit hour is usually assigned for three hours of student work
25 per week or its equivalent. The three hours of student work per
26 week usually consists of a combination of one hour of lecture and
27 two hours of homework or three hours of laboratory. Semester and
28 quarter credit hours are based on at least a 15-week term or its
29 equivalent. A quarter credit hour is based on at least a 10-week
30 term or its equivalent.

31 94828. “Curriculum” means an organized set of courses or
32 modules of instruction that are prerequisites to the award of a
33 degree or diploma.

34 94828.5. “Custodian of records” means the person responsible
35 for maintaining records.

36 94829. “Default” means failure of a borrower and endorser, if
37 any, to make an installment payment for a loan received under the
38 federal student financial aid programs when due, or to meet other
39 terms of the promissory note, provided that this failure persists for

1 270 days if payment is due monthly or 330 days if payment is due
2 less frequently.

3 94830. “Degree” means any type of degree or honorary degree
4 or title of any designation, mark, appellation, series of letters or
5 words including, but not necessarily limited to, associate, bachelor,
6 master, doctor, or fellow, that signifies, purports to constitute, or
7 is generally taken to signify, satisfactory completion of the
8 requirements of an academic, educational, technological, or
9 professional program of study beyond the secondary educational
10 level, or is an honorary title conferred for recognition of some
11 meritorious achievement.

12 94831. “Degree title” means the designated subject area of the
13 educational program that appears on the face of the document
14 awarded to a student.

15 94831.1. “Department” means the Department of Consumer
16 Affairs.

17 94832. “Diploma” means a recognized educational credential,
18 other than a degree, awarded by an institution that signifies
19 satisfactory completion of the requirements of a postsecondary
20 educational program below the associate’s level. A diploma is also
21 known as a certificate.

22 94833. “Director” means the Director of Consumer Affairs.

23 94834. “Distance learning” means lessons for study and
24 completion by a student at a location separate from an institution
25 with a physical location in California by home study,
26 correspondence, or the Internet or other electronic means, including
27 the instruction offered in combination with instruction at the
28 institution.

29 94835. “Document ~~of~~ or record” means any document required
30 to be maintained by this chapter.

31 94836. “Educational materials” means textbooks, supplies,
32 implements, tools, machinery, computers, software, electronic
33 devices, or other goods related to any education, training, or
34 experience required for participation in an educational program.

35 94837. “Educational program” means a planned sequence
36 composed of a single course or module, or set of related courses
37 or modules, that provides the education, training, skill, and
38 experience leading to the award of a recognized educational
39 credential such as a degree or diploma.

1 94838. “Educational program approval” means authorization
2 by the bureau, another government agency of this state, or a federal
3 government agency, to provide educational programs, and is an
4 element of an approval to operate.

5 94838.5. (a) “Employment” means a paid position in a job,
6 job title, vocation, occupation, or trade to which the program was
7 represented to lead, in which all of the following occurred:

8 (1) A student was employed in the paid position for at least 60
9 days within the employment tracking period, in an occupation for
10 which the student received his or her degree or diploma.

11 (2) The position requires education beyond the high school
12 level.

13 (3) The routine work in the position requires utilization of the
14 skills and knowledge reasonably expected to be imparted in a
15 program culminating in the degree or certificate the student
16 received.

17 (4) For occupations for which the state does not require passing
18 an examination, the period of employment ~~begins~~ *must begin* within
19 six months after a student completes a program.

20 (5) For occupations for which the state requires passing an
21 examination, the period of employment begins within six months
22 after the announcement of the examination results for the first
23 examination available after a student completes a program.

24 (b) Employment includes self-employment.

25 94838.6. “Employment tracking period” means ~~the two years~~
26 *two years* before the year in which the employment numbers and
27 rates are reported and disclosed.

28 94839. “Enrollment” means the execution of an enrollment
29 agreement.

30 94840. “Enrollment agreement” means a written contract
31 between a student ~~and institution~~ *or a person acting on behalf of*
32 *a student and an institution* concerning an educational program,
33 *including any contract for related equipment.*

34 94841. “Faculty” means the instructional staff of an institution,
35 whether these persons are employees or independent contractors.
36 For purposes of this chapter, “faculty,” “instructor,” “professor,”
37 and “teacher” are synonymous.

38 94841.5. “Franchise institution” means a newly established
39 location of an existing approved institution offering postsecondary
40 education services leading to candidacy for psychology licensure

1 that bears the same name as the existing approved institution and
2 about which either of the following is true:

3 (a) The newly established location is owned or financially
4 controlled by an individual or individuals other than those who
5 own or financially control the existing approved institution.

6 (b) The newly established location is administered by an
7 individual or individuals other than those persons who administer
8 the existing approved institution.

9 94842. “Graduate” means an individual that has been awarded
10 a degree or diploma.

11 94843. “Institution” means any private postsecondary
12 educational institution, including its branch campuses and satellite
13 locations.

14 94844. “Institutional charges” means charges for an educational
15 program paid directly to an institution.

16 94845. “Institution manager” means an individual who is a
17 member of an institution’s management.

18 94846. “Instruction” means an institution’s specific, formal
19 arrangements in which its faculty present a part of the curriculum.

20 94847. “License and examination preparation” means
21 instruction designed to assist students to prepare for an examination
22 for licensure, or offered for the sole purpose of providing
23 continuing education in subjects licensees are required to take as
24 a condition of continued licensure.

25 94848. “Licensure” includes any license, certificate, permit,
26 or similar credential that a person must hold to lawfully engage in
27 a profession, occupation, trade, or career field.

28 94849. “Main campus,” “main location,” or “main site” means
29 the institution’s sole or primary teaching location. If an institution
30 operates at only one site, that site is its main campus, main location,
31 or main site.

32 94849.5. *“Minor violation” means a deviation from the*
33 *requirements of this chapter, or regulations adopted pursuant to*
34 *this chapter, that, for the purposes of administrative actions by*
35 *the bureau only, in the determination of the bureau, has not or*
36 *reasonably will not result in harm to students and is not any of the*
37 *following:*

38 (a) *Committed knowingly, willfully, or intentionally.*

39 (b) *A repeated violation.*

40 (c) *A falsification of a document or record.*

1 (d) *A public offense.*

2 94850. “Noninstitutional charges” means charges for an
3 educational program paid to an entity other than an institution that
4 are specifically required for participation in an educational
5 program.

6 94850.2. “Out-of-state institution” means an institution that
7 has its place of instruction or its principal location outside the
8 boundaries of this state, that offers or conducts programs on
9 premises maintained by the institution outside the boundaries of
10 this state, that provides distance learning materials from a location
11 outside the boundaries of this state, that evaluates completed lesson
12 materials or otherwise conducts its evaluation service from a
13 location outside the boundaries of this state, or that otherwise offers
14 or provides California students with programs through activities
15 engaged in or conducted outside the boundaries of this state.

16 94851. “Owner” means a person who has a legal or equitable
17 interest in 10 percent or more of an institution’s stocks or assets.

18 94852. “Ownership” means a legal or equitable interest in an
19 institution, including ownership of assets or stock.

20 94853. “Parent company” means a partnership, limited liability
21 company, or corporation that owns more than 50 percent of the
22 stock or interest in an institution.

23 94854. “Period of attendance” means a semester, quarter, or
24 trimester ~~for educational programs measured in credit hours~~
25 *programs that offer a degree*, and the entire educational program
26 ~~if measured in clock hours for programs that offer a diploma.~~

27 94855. “Person” means a natural person or a business entity,
28 regardless of the form or organization.

29 94856. “Person in control” means a person who has sufficient
30 capacity, directly or indirectly, to direct or influence the
31 management, policies, or conduct of an institution so that the
32 person can cause or prevent a violation of this chapter. There is a
33 rebuttable presumption affecting the burden of proof that an owner,
34 director, or officer of an institution is a person in control.

35 94857. “Postsecondary education” means a formal institutional
36 educational program whose curriculum is designed primarily for
37 students who have completed or terminated their secondary
38 education or are beyond the compulsory age of secondary
39 education, including programs whose purpose is academic,
40 vocational, or continuing professional education.

1 94858. “Private postsecondary educational institution” means
2 a private entity with a physical presence in this state that offers
3 postsecondary education to the public for an institutional charge.

4 94858.1. “Program” or “program of instruction” means an
5 educational program of training, course, set of related courses, or
6 education for which a student enrolls.

7 94859. “Recruiter” means an employee of an institution whose
8 principal job responsibilities are the recruitment of students other
9 than on the institution’s premises.

10 94860. “Recruitment” means actions taken by recruiters seeking
11 enrollment of students.

12 94861. “Reporting period” means the institution’s fiscal year
13 or any yearly period designated by the bureau to be covered in the
14 institution’s annual report.

15 94861.1. “Representative” means an employee, an agent, as
16 defined in Section 2295 of the Civil Code, or any person, who for
17 compensation, does either of the following:

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

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

23 94861.2. “Admissions representative” means an employee or
24 agent of an institution or other person who, for compensation, does
25 any of the following:

26 (a) Tries to convince prospective students to enroll at the
27 institution.

28 (b) Enrolls students by getting them to fill out the required
29 documents, including the enrollment agreement, disclosures, and
30 financial aid documents.

31 (c) Provides prospective students information about the school.

32 (d) Answers student questions even after enrollment.

33 94862. “Satellite location” means an auxiliary classroom or
34 teaching site within 50 miles of the branch or main location at
35 which all of the following apply:

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

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

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

3 94863. “Satisfactory academic progress” means the qualitative
4 and quantitative measures an institution uses to assess a student’s
5 academic progress, including progress towards the completion of
6 his or her educational program within 150 percent of the published
7 length of the educational program.

8 94863.1. “Scheduled to complete” means the date the institution
9 determined, when the student enrolled, that the student was
10 scheduled to complete the program.

11 94864. “Shift in control” means a change in the ownership of
12 an institution where a person who previously did not own at least
13 25 percent of the stock or interest in an institution or its parent
14 company acquires ownership of at least 25 percent of the stock or
15 interest in the institution or its parent company.

16 94865. “Site” means a main or branch campus or satellite
17 location.

18 94866. “Teach-out” means the arrangements an institution
19 makes for its students to complete their educational programs, at
20 no additional cost over that amount agreed to in the initial
21 enrollment agreement, when the institution ceases to operate.

22 94867. “Third-party payer” means an employer, government
23 program, or other entity that *directly* pays a student’s total charges
24 when no separate agreement for the repayment of the charges exists
25 between the third-party payer and the student.

26 94868. “To offer” includes in addition to its usual meaning,
27 offering, advertising, publicizing, soliciting, encouraging, or
28 offering to a person, directly or indirectly, in any form, to perform
29 an act as described.

30 94869. “To operate” means to establish, keep, or maintain any
31 facility or location in this state where or from which or through
32 which postsecondary educational programs are provided.

33 94870. “Total charge” means the total institutional and
34 noninstitutional charge for a program or other education,
35 instruction, or training, including the charge for tuition, equipment,
36 finance charges paid to the institution, and all other fees, charges,
37 costs, and expenses paid to the institution.

38 94872. “Vocational program” means an educational program
39 having all of the following characteristics:

- 1 (a) The educational program consists of a job training program
- 2 or other instruction, training, or education that the institution
- 3 identifies as, or represents as a program that will lead to, fit, or
- 4 prepare students for employment in any particular occupation.
- 5 (b) The program is offered to students who do not possess a
- 6 bachelor’s or a graduate degree in the field of training.
- 7 (c) Students who complete all or a portion of the program are
- 8 awarded a ~~certificate~~ *diploma* or an associate degree, including,
- 9 but not necessarily limited to, an Occupational Associate Degree,
- 10 Associate of Occupational Studies, or Associate of Applied
- 11 Science.
- 12 94873. “Year” means a calendar year.

13
14 Article 4. Exemptions

- 15
- 16 94874. (a) The following private institutions are exempt from
- 17 the requirements of this chapter:
- 18 (1) An institution offering education solely as avocational or
- 19 recreational in nature, and offering this education exclusively.
- 20 (2) An institution offering nondegree education sponsored by
- 21 a bona fide trade, business, professional, or fraternal organization,
- 22 solely for that organization’s membership.
- 23 (3) An institution offering either of the following:
- 24 (A) Test preparation for examinations required for admission
- 25 into postsecondary educational institutions.
- 26 (B) Continuing education or test preparation for licensing
- 27 examinations where the institution or the program is approved,
- 28 certified, or sponsored by any of the following:
- 29 (i) A government agency, other than the bureau, that licenses
- 30 person in a particular profession, trade, or job category.
- 31 (ii) A state-recognized professional licensing body, including,
- 32 but not limited to, the State Bar of California, that licenses persons
- 33 in a particular profession, trade, or job category.
- 34 (iii) A bona fide trade, business, or professional corporation.
- 35 ~~(C) A bona fide trade, business, or professional organization.~~
- 36 (4) (A) A nonprofit institution owned, controlled, and operated
- 37 and maintained by a bona fide church, religious denomination, or
- 38 religious organization composed of multidenominational members
- 39 of the same well-recognized religion, lawfully operating as a
- 40 nonprofit religious corporation pursuant to Part 4 (commencing

1 with Section 9110) of Division 2 of Title 1 of the Corporations
2 Code, that meets all of the following requirements:

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

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

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

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

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

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

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

28 (F) A degree awarded under this paragraph shall reflect the
29 nature of the degree title, such as "associate of religious studies,"
30 "bachelor of religious studies," "master of divinity," or "doctor of
31 divinity."

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

37 (5) Institutions solely offering nondegree programs that have a
38 total charge of one thousand five hundred dollars (\$1,500) or less.
39 The bureau shall monitor these programs and may adjust this cost
40 threshold based upon the Consumer Price Index, and post

1 notification of the adjusted cost threshold on its Internet Web site
2 on or after January 1, 2010, and each January 1 thereafter if the
3 bureau determines, through promulgation of regulations, that the
4 increase is consistent with the intent of this chapter.

5 (6) All private postsecondary institutions offering instruction
6 in California which are accredited by either the Accrediting
7 Commission for Senior Colleges and Universities, Western
8 Association of Schools and Colleges, or the Accrediting
9 Commission for Community and Junior Colleges and Universities,
10 Western Association of Schools and Colleges.

11 (7) Except as provided in Article 13 (commencing with Section
12 94923), all private postsecondary institutions, other than those
13 exempt under paragraph (6), offering instruction in California
14 which are accredited by a regional accrediting agency recognized
15 by the United States Department of Education.

16 (b) Except as provided in Article 13 (commencing with Section
17 94923), any nonprofit public benefit corporation organized pursuant
18 to Part 2 (commencing with Section 5110) of Division 2 of Title
19 1 of the Corporations Code and not managed or administered by
20 an entity for profit, that meets all of the following requirements is
21 exempt from this chapter:

22 (1) Accredited by an accrediting agency recognized by the
23 United States Department of Education.

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

25 (3) The institution's cohort default rate on guaranteed student
26 loans does not exceed 15 percent for the three most recent years
27 as published by the United States Department of Education.

28 (4) The institution submits to the bureau copies of the most
29 recent IRS Form 990 and the Integrated Postsecondary Education
30 Data System Report of the United States Department of Education
31 and the accumulated default rate.

32 (c) To verify that any institution is exempt from this chapter,
33 the bureau shall review and continue to monitor the accreditation
34 status of each institution to determine if the institution received a
35 negative accreditation action at any time. The bureau's duty under
36 this provision does not relieve any institution from its obligation
37 to comply with this chapter.

1 Article 5. Bureau Powers and Duties

2
3 94875. The Bureau for Private Postsecondary Education, as
4 established by Section 6 of Chapter 635 of the Statutes of 2007,
5 is continued in existence and shall commence operations. This
6 chapter establishes the functions and responsibilities of the bureau,
7 for the purposes of Section 6 of Chapter 635 of the Statutes of
8 2007. The bureau has all of the following functions and
9 responsibilities:

10 (a) The administration of this chapter and promulgation of
11 necessary, *appropriate, or useful* regulations consistent with the
12 intent and purpose of this chapter.

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

15 (c) The development and maintenance of an Internet Web site
16 that shall include clearly accessible and searchable information
17 regarding approved private postsecondary institutions in California.
18 The Internet Web site shall provide information for prospective
19 students so that they may make informed choices regarding their
20 educational opportunities and shall provide information for current
21 students so they may understand their rights. The bureau's Internet
22 Web site shall be operational by July 1, 2009, and shall ~~provide~~
23 *include* all of the following information:

24 (1) A directory of unapproved institutions in California which
25 are subject to this chapter and ~~warn~~ *a warning to* students of the
26 dangers of attending unapproved institutions. *This shall include a*
27 *disclaimer that the directory is based on the best information*
28 *available on a specified date and a notice to institutions that any*
29 *institution may notify the bureau if the institution believes it should*
30 *not be included in the directory.*

31 (2) A directory of approved institutions which, *if feasible*, shall
32 include a link to the Internet Web site of each institution.

33 (3) Disciplinary history of approved schools.

34 (4) Status of school's approval.

35 ~~(5) Summary of complaints filed, pursuant to Section 94884,~~

36 (5) *Pursuant to Section 94884, a summary of complaints filed*
37 *against the institution.*

38 (6) An explanation of the transition plan for the reconstituted
39 bureau.

40 (7) An explanation of the bureau's scope of authority.

1 (d) ~~Provide~~ *The provision of* outreach to prospective and current
2 private postsecondary education students and high school students,
3 providing them with information on how best to select a
4 postsecondary institution, how to enter into a student enrollment
5 agreement, how to protect themselves in the postsecondary
6 education marketplace, and how to contact the bureau for assistance
7 if problems arise. The bureau may accomplish the purposes of this
8 subdivision in cooperation with the department.

9 (e) ~~Establishment~~ *The establishment of* a regular inspection
10 program, which shall include announced and unannounced
11 inspections during normal business hours of educational programs
12 and institutions each year. If student or public complaints have
13 been received by the bureau since the time of initial approval to
14 operate all appropriate issues raised in the complaints shall be
15 investigated. Inspections under the program may be based on, but
16 not limited to, all of the following:

- 17 (1) Documents submitted to the bureau by the institution.
- 18 (2) Complaints received about the institution.
- 19 (3) Accrediting agency documents.
- 20 (4) The time elapsed since a previous inspection.
- 21 (5) Any other rational basis.

22 (f) ~~Review~~ *The review and* investigation of institutions and
23 programs approved under this chapter.

24 (g) ~~Objective~~ *The objective and* regular assessment of the cost
25 of meeting its statutory obligations, including the staffing necessary
26 to meet those obligations, a determination whether the prevailing
27 fee structure allows for collection of revenue sufficient to support
28 the necessary costs, and a report of that information to the
29 Legislature and the Governor through the annual State Budget
30 process, and regular adjustments to the fee and cost structure, as
31 permitted in this chapter, sufficient to ensure that the bureau
32 accomplishes its statutory obligations. Fees shall be raised
33 immediately if the bureau is not adequately performing its
34 investigatory function with respect to institution reviews and the
35 investigation of student complaints.

36 (h) The receipt, review, and investigation of complaints received
37 from students and the public, and complaints transmitted by other
38 federal, state, or local agencies, including timely responses and
39 appropriate investigations, consistent with Section 94801.6. The
40 performance of this function shall be the bureau's first priority.

1 (i) Development and maintenance of an information
2 management system sufficient to meet the bureau's responsibilities,
3 including, but not necessarily limited to, an Internet Web site and
4 database, as provided in this article.

5 (j) To the extent funding and resources are available for this
6 purpose, the establishment of a training program, including, but
7 not necessarily limited to, information and support necessary for
8 institutions to ~~undertake corrective action~~ to comply with this
9 chapter, information and support to assist in the successful
10 development of a new institution, and information and support to
11 assist existing institutions in development that is necessary for
12 them to become eligible for participation in student financial aid
13 programs under Title IV of the federal Higher Education Act of
14 1965.

15 (k) Establishment of a ~~plan to identify unlicensed~~ *program to*
16 *identify unapproved* institutions operating in violation of this
17 chapter and ~~initiate appropriate legal enforcement to initiate~~
18 *appropriate* action against those institutions.

19 94876. (a) The powers and duties set forth in this chapter are
20 vested in the Director of Consumer Affairs, who may delegate
21 them to a bureau chief, subject to the provisions of this section. *In*
22 *implementing and administering this chapter, the director, or his*
23 *or her designee, shall fully exercise all powers and duties under*
24 *Section 310 of the Business and Professions Code.*

25 (b) The bureau chief shall be appointed by the Governor and
26 confirmed by the Senate, and is exempt from the State Civil Service
27 Act pursuant to Part 2 (commencing with Section 18500) of
28 Division 5 of Title 2 of the Government Code.

29 (c) Every power granted to, or duty imposed upon, the bureau
30 under this chapter shall be exercised and performed in the name
31 of the bureau, subject to any conditions and limitations the director
32 may prescribe. The bureau chief may delegate any powers or duties
33 to a designee.

34 (d) (1) The director, in accordance with the State Civil Service
35 Act, shall appoint and fix the compensation of personnel as may
36 be necessary to carry out this chapter.

37 (2) The bureau shall be staffed with a sufficient number of
38 employees working at a professional level and having expertise
39 in higher education approval and investigation and auditing of
40 educational institutions.

1 (3) It is the intent of the Legislature that all employees,
2 excluding temporary employees, of the former Bureau for Private
3 Postsecondary and Vocational Education as of September 30, 2006,
4 who worked in a regulatory or oversight capacity have the
5 opportunity to transfer to their former status, positions, and
6 classifications in the Bureau for Private Postsecondary Education.
7 *The reestablishment of the bureau shall not in any form preclude*
8 *professional staff who worked in a regulatory or oversight capacity*
9 *to transfer to their former status, positions, and classifications.*

10 (4) Section 19050.9 of the Government Code shall apply to any
11 function or the administration of this chapter that is transferred
12 from the Department of Consumer Affairs or the Bureau for Private
13 Postsecondary and Vocational Education, which ceased to exist
14 on July 1, 2007, to the Bureau for Private Postsecondary Education.
15 The bureau shall demonstrate compliance with this section in the
16 ~~Budget Acts Act of 2008–09 and 2009–10.~~

17 94876.5. The bureau shall adopt and enforce regulations to
18 implement this chapter pursuant to the Administrative Procedure
19 Act in Chapter 3.5 (commencing with Section 11340) of Part 1 of
20 Division 3 of Title 2 of the Government Code within one year of
21 the enactment of this chapter. The bureau may adopt emergency
22 regulations that shall become effective immediately pursuant to
23 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
24 3 of Title 2 of the Government Code.

25 94876.6. The bureau shall, in consultation and coordination
26 with the director and the Attorney General, develop and implement
27 an enforcement program to carry out this chapter, including a plan
28 for investigating complaints filed with the bureau.

29 94876.7. The bureau shall adopt a five-year strategic plan by
30 December 31, 2010, and update the plan periodically as needed.

31 94877. It is the intent of the Legislature that the bureau adopt,
32 periodically review, and update internal quality review and audit
33 procedures to ensure that bureau processes are in place to promote
34 and achieve full compliance with this chapter.

35 94879. (a) To enable the bureau to exercise its powers and to
36 perform its duties, the bureau shall adopt, by regulation, a fee
37 schedule. The fee schedule shall set forth the fees that institutions,
38 and others subject to this chapter, shall pay. The bureau shall ~~not~~
39 set fees that ~~charge more than~~ *are* reasonably necessary to
40 accomplish the purposes of this act. It is the intent of the

1 Legislature that regulations promulgated under this subdivision
2 be completed by ~~August 31, 2008~~ *June 30, 2009*, and be codified
3 in this chapter by December 31, 2009.

4 (b) All fees collected shall be deposited in the Private
5 Postsecondary Education Administration Fund. These fees, along
6 with any accrued interest, shall be the means of funding the
7 implementation of this chapter.

8 (c) The fee schedule shall be publicly available.

9 (d) The bureau shall use an objective process to assess the costs
10 of exercising its powers and performing its duties, and shall use
11 this assessment as the basis for constructing the fee schedule.

12 94880. The bureau may appoint an advisory committee that
13 shall consist of, but not necessarily be limited to, representatives
14 of institutions, student representatives, and employers who hire
15 students.

16 94881. The bureau may conduct workshops to provide
17 applicants and institutions information on application processes,
18 compliance with this chapter, ~~best practices for providing~~
19 ~~postsecondary educational programs~~, and other subjects concerning
20 postsecondary education.

21 94882. The bureau may empanel visiting committees to assist
22 in evaluating an institution's application for an approval to operate.
23 The members of visiting committees shall serve at no expense to
24 the state. The members of visiting committees may ~~seek~~
25 ~~reimbursement~~ *be reimbursed at the rate allowed for state*
26 *employees* from the bureau for their actual travel and per diem
27 expenses incurred during the evaluation. The bureau may seek
28 reimbursement from the institution that is the subject of an
29 evaluation.

30 94883. (a) Any individual serving on a visiting committee
31 who provides information to the bureau, or its staff, in the course
32 of evaluating any institution, or who testifies in any administrative
33 hearing arising under this chapter, is entitled to a defense and
34 indemnification in any action arising out of the information or
35 testimony provided as if he or she were a public employee.

36 (b) Any defense and indemnification shall be solely with respect
37 to the action pursuant to Article 4 (commencing with Section 825)
38 of Chapter 1 of Part 2 of, and Part 7 (commencing with Section
39 995) of Division 3.6 of Title 1 of, the Government Code.

1 94884. For all complaints that have reached final disposition,
 2 the bureau shall, upon request, make available to members of the
 3 public the nature and disposition of complaints against an
 4 institution and a summary of the violations.

5 ~~94884.5. The bureau shall establish a program to identify
 6 unapproved institutions and take all appropriate legal action.~~

7 94884.5. *Notwithstanding paragraph (2) of subdivision (a) of
 8 Section 94838.5, the bureau may promulgate regulations
 9 recognizing that an employment position may not require education
 10 beyond the high school level, is not a typical entry level position,
 11 and is part of an immediate career track leading directly to a job,
 12 job title, vocation, occupation, or trade to which the program was
 13 represented to lead. The regulation shall ensure that in any specific
 14 situation the institution has the burden of proof that the position
 15 meets the definition of employment.*

16
 17 Article 6. Approval to Operate
 18

19 94886. If an institution is regulated by another state licensing
 20 agency, the institution shall, in addition to approval as specified
 21 in this article, obtain and retain the authorization of that agency.

22 94887. (a) The bureau shall promulgate regulations providing
 23 the minimum operating standards for institutions. These standards
 24 shall reasonably ensure that all of the following occur:

25 (1) The content of each educational program can achieve its
 26 stated objective.

27 (2) The facilities, instructional equipment, and materials are
 28 sufficient to enable students to achieve the educational program’s
 29 goals.

30 (3) The institution maintains a withdrawal policy and provides
 31 information regarding the calculation of refunds.

32 (4) The *person in control*, directors, administrators, and
 33 instructors are properly qualified ~~and have not been~~, *have not been*
 34 *found liable for failing to pay refunds as required by law, or have*
 35 *not pled guilty or no contest to, or been convicted of a crime*
 36 *involving the misuse of funds.*

37 (5) The faculty has sufficient experience and education and
 38 teaching expertise to enable students to achieve the educational
 39 program goals and obtain employment.

1 (6) The institution is financially sound and capable of fulfilling
2 its commitments to students ~~and has not filed for bankruptcy within~~
3 ~~the last seven years.~~

4 (7) That, upon satisfactory completion of an educational
5 program, the institution gives students a document signifying the
6 degree or diploma awarded.

7 (8) Adequate records and standard transcripts are maintained
8 and are available to students.

9 (9) The institution is maintained and operated in compliance
10 with applicable ordinances and laws.

11 (10) That students receive adequate disclosures, orally and in
12 writing, regarding all material facts which are reasonably likely
13 to affect the prospective student's decision to enroll in the
14 educational program, ~~are disclosed.~~

15 94888. An approval to operate shall be granted only after an
16 applicant has presented sufficient evidence to the bureau, and the
17 bureau has independently verified the information provided by the
18 applicant through site visits or other methods deemed appropriate
19 by the bureau, that the applicant has the capacity to satisfy the
20 minimum operating standards.

21 94889. An approval to operate shall be for a term of four years.

22 94890. (a) Notwithstanding Sections 94887, 94888, and 94889,
23 the bureau shall grant an institution that is accredited an approval
24 to operate by means of its accreditation.

25 (b) The term of the approval to operate shall be coterminous
26 with the term of accreditation.

27 (c) Institutions that are granted an approval to operate by means
28 of the institution's accreditation shall file reports with the bureau
29 on a form and in a manner prescribed by the bureau and shall
30 comply with all applicable requirements of this chapter.

31 94891. (a) The bureau shall adopt, by regulation, the process
32 and procedures whereby an institution may obtain a renewal of an
33 approval to operate.

34 (b) To be granted a renewal of an approval to operate, the
35 institution shall demonstrate its continued capacity to meet the
36 minimum operating standards. *However, the granting of an initial*
37 *or renewal approval to operate shall not be used as proof of, or*
38 *used to establish, a presumption that the institution has complied*
39 *with the provisions of this chapter.*

1 94892. If a federal agency or a state agency, other than the
 2 bureau, provides an approval to offer an educational program, that
 3 agency's educational program approval may satisfy the
 4 requirements of this article without any further review by the
 5 bureau. ~~However, the granting of an approval to operate shall not~~
 6 ~~be used as proof of, or used to establish, a presumption that the~~
 7 ~~institution has complied with the provisions of this chapter. The~~
 8 ~~bureau.~~ The bureau may incorporate that educational program into
 9 the institution's approval to operate when the bureau receives
 10 documentation signifying the conferral of the educational program
 11 approval by that agency.

12
 13 Article 7. Substantive Changes to an Approval to Operate
 14

15 94893. If an institution wishes to make a substantive change
 16 to its approval to operate, the institution shall receive prior
 17 authorization from the bureau. If the institution makes the
 18 substantive change without prior bureau authorization, the
 19 institution's approval to operate may be suspended or revoked.

20 94894. The following changes to an approval to operate may
 21 be considered substantive changes and require prior authorization:

22 (a) A change in educational objectives, including an addition
 23 of a new diploma or a degree educational program unrelated to
 24 the approved educational programs offered by the institution. If
 25 50 percent or less of an educational program is not substantially
 26 the same as the approved program, it shall be considered an
 27 unrelated program.

28 (b) A change in ownership.

29 (c) A shift in control.

30 (d) A change in business organization form.

31 (e) A change of location.

32 (f) A change of name.

33 (g) A significant change in the method of instructional delivery.

34 (h) An addition of a separate facility more than one mile from
 35 the main or branch campus.

36 94895. (a) The bureau shall promulgate regulations providing
 37 for the process and procedures whereby an institution that has been
 38 granted an approval to operate by means of accreditation may
 39 make a substantive change in accordance with the standards by
 40 which the institution is accredited.

1 (b) The institution shall notify the bureau of the substantive
2 change in a form and in a manner prescribed by the bureau.

3
4 Article 8. Business Practices
5

6 94896. *An institution shall establish specific written standards*
7 *for student admissions for each educational program. These*
8 *standards shall be related to the particular educational program.*

9 94897. An institution subject to this chapter or representative
10 of an institution subject to this chapter shall not do any of the
11 following:

12 (a) Operate in this state a postsecondary educational institution
13 subject to this chapter unless the institution is approved by the
14 bureau.

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

23 (c) Make or cause to be made any statement relative to the
24 operation of the school that is in any manner untrue or misleading,
25 either by actual statement, omission, or intimation. ~~This shall~~
26 ~~include, but not be limited to, the following prohibited acts:~~

27 ~~(1)~~

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

30 ~~(2)~~

31 (e) Engage in any false, deceptive, misleading, or unfair act in
32 connection with any matter, including the institution’s advertising
33 and promotion, the recruitment of students for enrollment in the
34 institution, the offer or sale of a program of instruction, course
35 length, course credits, the withholding of equipment, educational
36 materials, or loan or grant funds from a student, training and
37 instruction, the collection of payments, ~~or job placement~~
38 ~~completion, licensure passage, or job placement information.~~

39 ~~(3)~~

- 1 (f) Induce a person to enter into an agreement for a program of
 2 instruction by offering to compensate that person to act as the
 3 institution's representative in the solicitation, referral, or
 4 recruitment of others for enrollment in the institution.
 5 ~~(4)~~
- 6 (g) Promise or guarantee employment or otherwise overstate
 7 the availability of jobs in the local economy upon graduation.
 8 ~~(5)~~
- 9 (h) Advertise concerning job availability, degree of skill, or
 10 length of time required to learn a trade or skill unless the
 11 information is accurate and not misleading.
 12 ~~(6)~~
- 13 (i) Advertise, or indicate in promotional material, without
 14 including the fact that the educational programs are delivered by
 15 means of distance education if the educational programs are so
 16 delivered.
 17 ~~(7)~~
- 18 (j) Advertise, or indicate in promotional material, that resident
 19 instruction or programs of study are offered, without including in
 20 all advertising or promotional material the location where the
 21 training is given or the location of the resident instruction.
 22 ~~(8)~~
- 23 (k) Advertise, or indicate in promotional material, that the
 24 institution is accredited, unless the institution has been accredited
 25 by an accrediting agency.
 26 ~~(9)~~
- 27 (l) Solicit students for enrollment by causing an advertisement
 28 to be published in "help wanted" columns in a magazine,
 29 newspaper, or publication, or use "blind" advertising that fails to
 30 identify the institution.
 31 ~~(10)~~
- 32 (m) Use a misleading name in any untrue or misleading manner
 33 implying any of the following:
 34 ~~(A)~~
- 35 (1) The institution is affiliated with any government agency,
 36 public or private corporation, agency, or association if it is not, in
 37 fact, thus affiliated.
 38 ~~(B)~~
- 39 (2) The institution is a public institution.
 40 ~~(C)~~

1 (3) This institution grants degrees if it in fact, does not grant
2 degrees.

3 ~~(H)~~

4 (n) In any manner make an untrue or misleading change in, or
5 untrue or misleading statement related to, a test score, grade, record
6 of grades, attendance record, record indicating student completion,
7 employment, or salaries, or financial information, on any record
8 or document required by this chapter or by the bureau. This shall
9 include the falsification, destruction, or concealment of any record
10 or other item required to be accurately maintained by this chapter
11 or by the bureau.

12 ~~(I2)~~

13 (o) Use the terms “approval,” “approved,” “approval to operate,”
14 or “approved to operate” without stating clearly and conspicuously
15 that approval to operate means ~~compliance with state standards as~~
16 ~~set forth in this chapter and with the standards~~ *either the institution*
17 *met minimum state standards as set forth in this chapter or the*
18 *minimum standards* of the institution’s accrediting agency if
19 applicable. If the bureau has granted an institution approval to
20 operate, the institution may indicate that the institution is “licensed”
21 or “licensed to operate,” but may not state or imply either of the
22 following:

23 ~~(A)~~

24 (1) The institution or its educational programs are endorsed or
25 recommended by the state or by the bureau.

26 ~~(B)~~

27 (2) The approval to operate indicates that the institution exceeds
28 minimum state standards as set forth in this chapter.

29 ~~(I3)~~

30 (p) Misrepresent to a student or prospective student that the
31 student is or will be qualified, upon completion of a course, for
32 admission to a professional examination under a *specific private*
33 *authority or agency licensure or certification provision or a state*
34 occupational licensing provision.

35 ~~(I4)~~

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

40 ~~(A)~~

- 1 (l) During the 60-day period following the date on which the
- 2 student began the program.
- 3 ~~(B)~~
- 4 (2) At a subsequent time, if the student has not maintained
- 5 satisfactory academic progress in acquiring the necessary level of
- 6 education, training, skill, and experience to obtain employment in
- 7 the occupation or job title to which the program is represented to
- 8 lead. The institution shall have the burden of proof to establish
- 9 that the student has maintained satisfactory academic progress.
- 10 ~~(d)~~
- 11 (r) Direct a representative to perform any unlawful act, to refrain
- 12 from complaining or reporting unlawful conduct to the bureau or
- 13 another government agency, or to engage in any unfair act to
- 14 persuade a student not to complain to the bureau or another
- 15 government agency.
- 16 ~~(e)~~
- 17 (s) Pay any consideration to a person to induce that person to
- 18 sign an enrollment agreement for an educational program.
- 19 ~~(f)~~
- 20 (t) Compensate a representative involved in recruitment,
- 21 enrollment, admissions, student attendance, or sales of equipment
- 22 to students on the basis of a commission, commission draw, bonus,
- 23 quota, or other similar method except as specifically allowed under
- 24 federal law.
- 25 ~~(g)~~
- 26 (u) Require a prospective student to provide personal contact
- 27 information in order to obtain educational program information,
- 28 including, but not limited to, tuition and fees, faculty qualifications,
- 29 ~~and completion and placement information, from the institution's~~
- 30 ~~Internet Web site. completion and placement rates information,~~
- 31 ~~or any item required under the consumer information requirements~~
- 32 ~~of Title IV of the federal Higher Education Act of 1965 from the~~
- 33 ~~institution's Internet Web site.~~
- 34 ~~(h)~~
- 35 (v) Attempt to confer a degree, diploma, or certificate to a
- 36 student in violation of this chapter.
- 37 ~~(i) Misrepresent to a student or prospective student that the~~
- 38 ~~student is or will be qualified, upon completion of a course, for~~
- 39 ~~admission to a professional examination under a state occupational~~
- 40 ~~licensing provision.~~

1 94897.5. Any institution required to be approved by the bureau
2 shall do all of the following:

3 (a) Comply with the minimum standards prescribed by this
4 chapter, and provide the quality of instruction, faculty, equipment,
5 materials, software, supplies, and internships, as represented in or
6 substantially equivalent to that represented in the catalog, on the
7 Internet Web site, advertising, enrollment materials, and brochure
8 or by the admission's representative in the enrollment process or
9 other representative.

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

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

15 (d) Comply with any provision of law or regulation governing
16 sanitary conditions. However, the bureau may take an action
17 against an institution for violation of this subdivision only when
18 the bureau is aware of the violation.

19 (e) (1) Maintain the records of the name, address, e-mail address,
20 and telephone number of students who enroll in an educational
21 program or program of instruction, including the students who
22 begin the program, the students who cancel before completing the
23 program, and the students who graduate from the program of
24 instruction. For each vocational program and any other program
25 about which the institution or any representative makes any
26 statements about job availability for students in the job titles or
27 occupations to which the program is represented to lead, the
28 institution shall inquire whether students who complete an
29 educational program obtain employment.

30 (2) To the extent information is available from past students,
31 the institution shall keep a log which documents individual
32 employment of those students who completed the educational
33 program. The institution shall maintain records which document
34 the completion, placement, licensing examination, and salary
35 information the school is required to report to the bureau under
36 Section 94928 and disclose under Section 94907 with all facts
37 needed to substantiate the information.

38 ~~94897.6. (a) Each owner, director, and administrator of an~~
39 ~~institution shall expend or authorize the expenditure of the~~
40 ~~institution's assets and funds, including tuition, fees, and other~~

1 charges collected from or on behalf of students, in a diligent and
 2 prudent manner to ensure that students receive the education and
 3 student services that the institution represented it would provide
 4 to the students and that the institution is required to provide to the
 5 students pursuant to this chapter.

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

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

14 ~~(d) This section does not create any duty upon an institution or~~
 15 ~~the owner, director, or administrator of an institution, to students~~
 16 ~~or prospective students.~~

17 94898. Each institution *that has an Internet Web site* shall
 18 clearly and conspicuously provide the following information on
 19 its Internet Web site, if applicable, about each program at each site
 20 of each institution:

21 (a) All information required to be disclosed under Section 94907.

22 (b) The status of the institution's approval including any
 23 disciplinary actions by the bureau against the institution in the last
 24 three years.

25 ~~(c) The~~ *If an institution provides information about staff or*
 26 *faculty on its Internet Web site, it shall provide the names of the*
 27 *faculty members and their prior education and qualifications to*
 28 *teach in the program of instruction and the date they first began*
 29 *teaching at the institution.*

30 (d) The average class size and any class size limit.

31 (e) The specifics of any offsite training or internship.

32 (f) The requirements the prospective students must meet to
 33 enroll.

34 (g) *Any bankruptcy filing by the institution.*

35 94898.5. *Information required by Section 94898 to be provided*
 36 *on an institution's Internet Web site shall be kept current. The*
 37 *information under subdivision (a) of Section 94907 shall be deemed*
 38 *current on the Internet Web site if the information provided is*
 39 *updated by January 1 of each year. The information under*
 40 *subdivisions (b) to (i), inclusive, and subdivision (k) of Section*

1 94907 and under subdivisions (c) to (f), inclusive, of Section 94898
2 shall be deemed current if the information provided is updated at
3 least once every three months. Matters deemed current under this
4 section apply only to Internet Web site disclosure, not to any other
5 disclosures required under this chapter.

6 94899. If an institution offers an educational program in a
7 profession, occupation, trade, or career field that requires licensure
8 in this state, the institution shall have been approved to conduct
9 that educational program by the bureau and any other required
10 agencies, if applicable.

11 94899.5. (a) Institutions that offer short-term programs
12 designed to be completed in one term or four months, whichever
13 is less, may require payment of all tuition and fees on the first day
14 of instruction.

15 (b) For those programs designed to be four months or longer,
16 an institution shall not require more than one term or four months
17 of advance payment of tuition at a time. When 50 percent of the
18 program has been offered, the institution may require full payment.

19 (c) An institution that ~~provides~~ suggests lenders or refers
20 students to lenders of, or arranges private loan funding shall
21 ensure ~~that the student is not obligated for indebtedness that~~
22 ~~exceeds the current cost of attendance.~~ that a student who may be
23 eligible for a state or federal grant or guaranteed loan is first
24 offered that financing before being offered any private loan.

25 94899.6. (a) An institution shall not merge classes unless all
26 of the students have received the same amount of instruction. This
27 subdivision does not prevent the placement of students, who are
28 enrolled in different educational programs, in the same class if that
29 class is part of each of the educational programs and the placement
30 in a merged class will not impair the students' learning of the
31 subject matter of the class.

32 (b) After a student has enrolled in an educational program, the
33 institution shall not do either of the following:

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

36 (2) Change the day or time in which any class is offered to a
37 day when the student is not scheduled to attend the institution or
38 to a time that is outside of the range of time that the student is
39 scheduled to attend the institution on the day for which the change
40 is proposed unless at least 90 percent of the students who are

1 enrolled consent to the change and the institution offers full refunds
2 to the students who do not consent to the change. For the purpose
3 of this paragraph, “range of time” means the period beginning with
4 the time at which the student’s first scheduled class session for the
5 day is set to start and ending with the time the student’s last
6 scheduled class session for that day is set to finish.

7 (c) If an institution enrolls a student in an educational program
8 that is conducted at a specific site at the time of enrollment, the
9 institution shall not convert the educational program to another
10 method of delivery, such as by means of distance education.

11 (d) An institution shall not move the location of class instruction
12 more than 10 miles from the location of instruction at the time of
13 enrollment unless any of the following occur:

14 (1) The institution discloses in writing to each student before
15 enrollment in the educational program that the location of
16 instruction will change after the educational program begins and
17 the address of the new location.

18 (2) The institution applies for, and the bureau grants, approval
19 to change the location. The bureau shall grant the application within
20 60 days if the bureau, after notice to affected students and an
21 opportunity for them to be heard as prescribed by the bureau,
22 concludes that the change in location would not be unfair or unduly
23 burdensome to students. The bureau may grant approval to change
24 the location subject to reasonable conditions, such as requiring the
25 institution to provide transportation, transportation costs, or refunds
26 to adversely affected students.

27 (3) The institution offers a full refund to students enrolled in
28 the educational program who do not voluntarily consent to the
29 change.

30 (4) An unforeseeable and unavoidable circumstance outside of
31 the control of the institution requires the change in the location of
32 instruction.

33 94899.7. (a) An institution that provides medical training
34 providing for students to interact with health care patients, and
35 that is required to provide criminal background checks, medical
36 blood tests, or drug tests on its students, shall keep complete,
37 accurate, and up-to-date files of these checks and test results.

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

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

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

6 94899.8. (a) An institution shall maintain, for a period of not
7 less than five years at its principal place of business in this state,
8 complete and accurate records, evidencing *all of* the following:

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

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

13 (3) The records required to be maintained by this chapter.

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

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

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

28

29

Article 9. Recruiters

30

31 94900. An institution's recruiters shall be employees.

32 94901. (a) An institution shall issue identification to each
33 recruiter identifying the recruiter and the institution.

34 (b) The recruiter shall have the issued identification with him
35 or her while recruiting.

1 Article 10. Enrollment Agreements and Disclosures

2
3 94902. (a) Before a person executes an agreement obligating
4 that person to pay any money to an institution for a program or
5 related equipment, the institution shall:

6 (1) Provide to that person a copy of the enrollment agreement
7 containing, at a minimum, the information required by Section
8 94906.

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

20 (3)

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

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

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

38 (4)

39 (3) If a state board, bureau, department, or agency has
40 established the minimum number of classes or class hours or the

1 minimum criteria of a program necessary for licensure in an
2 occupation and an institution offers a program differing from the
3 state entity's minimum requirements, disclose orally and in writing
4 the state entity's minimum requirements and how the program
5 differs from those requirements.

6 ~~(5) If the institution provides a specific program of study where
7 the students will need program approval by a specific authority or
8 agency for the students to take an examination for certification;~~

9 *(4) If the institution provides a program of study for which
10 program approval by a specific authority or agency is necessary,
11 or absent experience in the field, it is necessary for those who
12 complete the program to qualify to take an examination for
13 certification, licensure, or other similar approval allowing the
14 student to perform services in the field of study, or if the institution
15 knows or reasonably should know that certification, licensure, or
16 other similar approval, while not necessarily required to perform
17 services in the field of study, is widely requested or required by
18 employers, disclose in writing to the student if the program is not
19 approved: disclose in writing to the student before enrollment if
20 the program does not have the program approval which will qualify
21 graduates to take the examination.*

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

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

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

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

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

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

1 ~~(10) Provide orally and in writing the information required by~~
2 ~~subdivision (a) of Section 94907.~~

3 ~~(11)~~

4 (5) A copy of the catalog or brochure as described in Section
5 94903.

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

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

17 94903. (a) An institution shall provide to ~~students and other~~
18 ~~interested persons~~ *prospective students*, prior to enrollment, a
19 catalog or brochure containing, at a minimum, all of the following
20 information:

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

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

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

29 (4) The faculty, including their relevant qualifications as of the
30 date of the publication of the catalog or brochure. This shall include
31 each degree held by staff and the name and location of the
32 institution from which each degree was earned.

33 (5) The schedule of tuition payments, fees, and all other charges
34 and expenses known to or arranged by the institution and necessary
35 for the term of instruction and the completion of the course of
36 study.

37 (6) The cancellation and refund policies.

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

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

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

7 (10) If an institution represents that it provides job placement
8 services, a description of the nature and extent of the placement
9 services that indicates when they are available to students.

10 (11) All other material facts concerning the institution and the
11 educational program or course of instruction that are reasonably
12 likely to affect the decision of the student to enroll.

13 (12) A list describing all transfer agreements or articulation
14 agreements between the institution and any other colleges or
15 universities that provide for a transfer of credits earned in the
16 program of instruction in which the student seeks to enroll. If no
17 transfer agreements or articulation agreements exist that relate to
18 the particular program of instruction in which the student seeks to
19 enroll, the institution shall disclose this.

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

22 (c) A written contract signed by a student is not enforceable
23 unless the student has first received the institution’s catalog or
24 brochure containing the information required by this section and
25 as required by Section 94903.5.

26 94903.5. (a) An institution shall not require the signature of
27 a person to an agreement obligating that person to pay any money
28 to the institution until the person has had at least one business day
29 *from the date of the oral disclosures under Section 94907.5*, to
30 read and review all of the items required to be provided to that
31 ~~person by this article. The prospective student shall be advised,~~
32 ~~orally and in writing, by the institution that he or she should read~~
33 ~~the required documents and ask questions regarding the content~~
34 ~~of the documents that he or she does not understand. Nothing in~~
35 ~~person by this article.~~

36 (b) *Nothing in* this chapter shall be construed in any manner to
37 relieve a student or prospective student from any legal duty there
38 may be to read and comprehend all disclosures and documents
39 presented by the institution.

1 94903.6. (a) An institution shall not offer
2 English-as-a-second-language (ESL) instruction without the prior
3 approval of the bureau.

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

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

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

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

36 (f) If the results of a test administered pursuant to subdivision
37 (b), (c), (d), or (e) indicate that the student has not attained adequate
38 English language proficiency after the completion of ESL
39 instruction, the institution shall offer the student additional
40 instruction without charge, for a period of up to 50 percent of the

1 number of hours of instruction previously offered by the institution
2 to the student, to enable the student to attain adequate English
3 language proficiency.

4 (g) This section does not apply to grantees funded under Section
5 1672 of Title 29 of the United States Code.

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

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

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

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

1 94903.7. For purposes of compliance with Section 94903.6,
2 the bureau shall do the following:

3 (a) Promulgate regulations concerning the manner of
4 documenting the nature of a student's existing knowledge, training,
5 and skill and that ESL instruction offered by the institution is
6 necessary to enable the student to use that existing knowledge,
7 training, and skill, as prescribed in subdivision (d) of Section
8 94903.6. The regulations shall specify all of the following:

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

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

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

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

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

24 94904. Before an ability-to-benefit student may execute an
25 enrollment agreement, the institution shall have the student take
26 an independently administered examination from the list of
27 examinations prescribed by the United States Department of
28 Education pursuant to Section 484(d) of the federal Higher
29 Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.), as it is, from
30 time to time, amended. The student may not enroll unless the
31 student achieves a score, as specified by the United States
32 Department of Education, demonstrating that the student may
33 benefit from the education and training being offered. If the United
34 States Department of Education does not have a list of relevant
35 examinations that pertain to the intended occupational training,
36 the bureau may publish its own list of acceptable exams.

37 ~~94905. (a) During the enrollment process, an institution~~
38 ~~offering educational programs designed to lead to positions in a~~
39 ~~profession, occupation, trade, or jobs or job titles requiring~~
40 ~~licensure shall exercise reasonable care to determine that the~~

1 ~~student shall reasonably be eligible to obtain licensure in the~~
2 ~~profession, occupation, trade, or jobs or job titles at the time of~~
3 ~~the student's graduation for reasons such as age, apparent physical~~
4 ~~characteristic, or relevant past criminal conviction.~~

5 ~~(b) During the admission or enrollment process, an institution~~
6 ~~shall not offer job placement assistance or discuss salaries except~~
7 ~~as provided for in Section 94907. After a student has completed~~
8 ~~more than 60 percent of a program, the institution may offer job~~
9 ~~placement assistance.~~

10 94905. (a) (1) *An institution offering educational programs*
11 *represented to lead to employability in a profession, occupation,*
12 *trade, or job or job title for which licensure is required shall be*
13 *familiar with those conditions that would make a person ineligible*
14 *to obtain licensure after completion of the program.*

15 (2) *No institution offering programs represented to lead to*
16 *employability in an occupation or with a job title for which*
17 *licensure is required, shall enter into an agreement to provide an*
18 *educational program to a person whom the institution knows or,*
19 *by the exercise of reasonable care, should know, would be*
20 *ineligible to obtain that licensure after completion of the program.*

21 (b) *During the admission or enrollment process, if an institution*
22 *represents that it offers job placement assistance for students while*
23 *they attend school shall also disclose to prospective students the*
24 *number of requests it had for that assistance during the past*
25 *calendar year and the number of those who requested that*
26 *assistance whom the institution referred to a job for which the*
27 *student was hired while attending the institution.*

28 (c) *During the admission or enrollment process, an institution*
29 *shall not discuss salaries except as provided in subdivision (a) of*
30 *Section 94907.*

31 94905.2. ~~(a)~~ *The bureau shall promulgate regulations for*
32 *purposes of carrying out the intent of this article. These regulations*
33 *may include, but are not limited to, the following:*

34 ~~(1)~~

35 (a) *Recruiting.*

36 ~~(2)~~

37 (b) *Advertising, including advertising on the Internet or by*
38 *electronic mail.*

39 ~~(3)~~

40 (c) *Entrance exams and minimum qualifications of students.*

- 1 ~~(4)~~
- 2 (d) Transfer of credits.
- 3 ~~(5)~~
- 4 (e) Refund policies.
- 5 ~~(6)~~
- 6 (f) Fees paid by students.
- 7 ~~(7)~~
- 8 (g) Total student costs.
- 9 ~~(8)~~
- 10 (h) Preparing students for careers.
- 11 ~~(9)~~
- 12 (i) Financial aid.
- 13 ~~(10)~~
- 14 (j) Accreditation.
- 15 ~~(11)~~
- 16 (k) Facilities, including satellites.
- 17 ~~(12)~~
- 18 (l) Instructors, including qualifications.
- 19 ~~(13)~~
- 20 (m) Actions by agents.
- 21 ~~(14)~~
- 22 (n) Actions by employees.
- 23 ~~(15)~~
- 24 (o) Recordkeeping.
- 25 94906. The enrollment agreement shall include all of the
- 26 following required terms:
- 27 (a) On the first page of the enrollment agreement, in at least
- 28 12-point boldface type, the following statement:
- 29
- 30 “Any questions a student may have regarding this enrollment
- 31 agreement that have not been satisfactorily answered by the
- 32 institution may be directed to the Bureau for Private
- 33 Postsecondary Education at (address), Sacramento, CA (ZIP
- 34 Code), (Internet Web site address), (telephone and fax
- 35 numbers).”
- 36
- 37 (b) The name and description of the educational program,
- 38 including the total number of credit hours, clock hours, or other
- 39 increment required to complete the educational program.

1 (c) The name and address of the institution and the address
2 where class sessions shall be held.

3 (d) A schedule of *the* total charge, including a list of any charges
4 that are nonrefundable, clearly identified as nonrefundable charges.

5 (e) In underlined capital letters on the same page of the
6 enrollment agreement in which the student’s signature is required,
7 the total charge for a period of attendance or the entire educational
8 program.

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

11 (g) A clear and conspicuous statement that the enrollment
12 agreement is legally binding when signed by the student and
13 accepted by the institution.

14 (h) The following statement in at least 12-point, boldface type
15 above the space for the student’s signature:

16
17 “My signature below certifies that I have read, understood,
18 and agreed to my rights and responsibilities, and that the
19 institution’s cancellation and refund policies have been clearly
20 explained to me.”

21
22 (i) Description of the instruction to be provided, including the
23 length of programs offered, and ~~all of~~ the occupations or job titles,
24 if any, to which the program of instruction is represented to lead.

25 94906.5. It shall be a violation of this chapter for any institution
26 or representative of an institution to ~~ask~~ *sign, ask*, or induce any
27 person to sign the student statement specified in Section 94906 if
28 the institution or representative has not fully and clearly explained
29 the student’s rights, responsibilities, and the institution’s policies.

30 94907. An institution shall clearly and conspicuously make
31 the following disclosures on its ~~Web site~~ *Internet Web site, if it*
32 *has an Internet Web site*, about each program at each of the
33 institution’s sites, ~~orally and~~ in writing, to each student before
34 execution of the enrollment agreement about each program in
35 which the student expressed interest in enrolling:

36 (a) A “School Performance Facts Sheet” that discloses the
37 following information:

38 (1) Completion numbers and rates, calculated as follows:
39 The number and percentage of students who began the program,
40 did not cancel within the cancellation period, and were originally

1 scheduled at the time of enrollment to complete the program during
2 the completion tracking period, and the number and percentage of
3 them who completed the program during that completion tracking
4 period.

5 (2) For each vocational program and any other program about
6 which the institution or any representative makes statements about
7 job availability for students or graduates in the job titles or
8 occupations to which the program is represented to lead, the
9 employment numbers and rates, calculated as follows:

10 (A) For programs for which employment in the occupation does
11 not require passing a state examination, the number of students
12 who completed the program during the employment tracking
13 period, but at least eight months before its end, and the number
14 and percentage of those students who obtained employment,
15 excluding self-employment, during the employment tracking
16 period.

17 (B) For programs for which employment in the occupation does
18 require passing a state examination, the number of students who
19 completed the program and for whom the announcement of the
20 examination results for the first examination available after the
21 student completed the program occurred during the employment
22 tracking period, but at least eight months before its end, and the
23 number and percentage of those students who obtained
24 employment, excluding self-employment, during the employment
25 tracking period.

26 (C) For any students the institution documents are
27 self-employed, the employment calculation shall be made
28 separately and calculated as set forth in subparagraph (A) or (B),
29 as applicable, and unless the institution has documentation to the
30 contrary, a statement to the effect that the school does not have
31 information about whether the self-employment is part time or full
32 time.

33 (3) If the institution or a representative of the institution makes
34 any express or implied claim about the salary that may be earned
35 after completing a program, such as a claim that the student may
36 be able to repay a student loan from the salary received at a job
37 obtained following completion of the program, compensation
38 information shall be disclosed as follows:

39 (A) The total number of students who completed the program
40 and were counted under ~~subparagraph~~ *paragraph* (2), and the

1 number and percentage of those who earned salaries at or above
2 the claimed level during the employment tracking period.

3 (B) The average annual salary earned during the employment
4 tracking period by the students counted under ~~subparagraph~~
5 *paragraph (2)*.

6 (4) If the institution or a representative of the institution in any
7 manner represents that the program might lead to employment in
8 an occupation or job title for which a state examination is required,
9 the following:

10 (A) All licensure or certification requirements established by
11 the state for the occupation or job title category.

12 (B) The number of students counted under ~~subparagraph~~
13 *paragraph (2)* who completed a course for which employment
14 requires passing a state licensing examination, and the number and
15 percentage of them; who took the required exam the first time it
16 was available after completion of the program, and the number
17 and percentage of those who took it ~~who~~ and passed it.

18 (5) If a program is too new to provide data for any of the
19 categories listed in this subdivision, the institution shall state on
20 its fact sheet:

21
22 “This program is new. Therefore, the number of students who
23 graduate, the number of students who are placed, or the starting
24 salary you can earn after finishing the educational program
25 are unknown at this time. Information regarding general salary
26 and placement statistics may be available from government
27 sources or from the institution’s research, but it is not the same
28 as actual performance data.”

29
30 (b) Any other information necessary to substantiate the truth of
31 any claim made by the institution as to job placement.

32 (c) Costs of attendance, including a schedule of the total charges
33 and a list of any charges that are nonrefundable, clearly identified
34 as nonrefundable charges. *The disclosure required under*
35 *paragraph (2) of subdivision (a) is deemed to comply with this*
36 *requirement.*

37 (d) (1) A statement specifying that, if the student obtains a loan
38 to pay for an educational program, the student will have the
39 responsibility to repay the full amount of the loan plus interest,

1 less the amount of any refund applied to the balance due on *the*
 2 loan. ~~Prospective~~

3 (2) *Prospective* students shall be provided with information;
 4 about all loan and financial aid programs offered or arranged by
 5 the institution.

6 (e) A transferability disclosure. An institution shall provide to
 7 each prospective student for a degree, diploma, or certificate
 8 program, a written statement on a separate piece of paper in at
 9 least 12-point type that contains the following statement:

10

11 “NOTICE CONCERNING THE TRANSFERABILITY OF
 12 UNITS AND DEGREES EARNED AT OUR SCHOOL:

13

14 The transferability of credits you earn at (name of institution)
 15 is at the complete discretion of an institution to which you
 16 may seek to transfer.

17

18 Acceptance of the (degree, diploma, or certificate) you earn
 19 in (name of educational program) is also at the complete
 20 discretion of the institution to which you may seek to transfer.
 21 For example, if you entered our school as a freshman, you
 22 may still be a freshman if you enter another college or
 23 university at some time in the future, even though you earned
 24 credits here at our school.

25

26 In addition, if you earn a degree, diploma, or certificate in
 27 our (fill in the name of the program) program, it is possible
 28 that it may not serve as a basis for obtaining a higher level
 29 degree at another college or university.

30

31 For this reason you should make certain that your attendance
 32 at this institution will meet your educational goals. This may
 33 include contacting an institution to which you may seek to
 34 transfer after attending (name of institution) to determine if
 35 your (credits or degree, diploma, or certificate) will transfer.

36

37 If this institution has any transfer agreements with other
 38 colleges or universities, it must give you a written list and
 39 description of those ~~agreements~~: *agreements*.”

40

~~—You should not rely on any other oral statements about
 transferability of credits.”~~

41

(f) (1) A disclosure with a clear and conspicuous caption:

42

1 ~~“BUYER’S RIGHT TO CANCEL,”~~ under which it is
2 explained that the student has the right to cancel the enrollment
3 agreement and obtain a refund of charges paid through
4 attendance at the first class session, or the seventh day after
5 enrollment, whichever is later.

6
7 *“BUYER’S RIGHT TO CANCEL.*

8 *You have a temporary right to cancel this agreement and*
9 *will owe only the registration fee of \$(insert amount). The*
10 *school will notify you in writing at least three days prior to*
11 *the date you may cancel to receive a full refund. You must*
12 *cancel in writing. After (insert appropriate phrase as specified*
13 *in Section 94919), you will have the right to a partial refund*
14 *if you cancel this agreement. This notice explains your*
15 *cancellation and refund rights and how to cancel. These rights*
16 *are also explained in the school’s catalog and you will receive*
17 *a cancellation form on your first day of class.”*

18 ~~(2) The disclosure shall contain the institution’s refund policy,~~
19 ~~together with examples of the application of the policy, and a~~

20 *(2) The disclosure shall contain a clear written statement of the*
21 *institution’s refund policy, a table of the amount of the refund to*
22 *which the student would be entitled if the student withdrew from*
23 *the program after completing a period of days or weeks of*
24 *instruction equivalent to 10 percent, 25 percent, 50 percent, 60*
25 *percent, and 75 percent of the period of attendance, and a*
26 *statement that, if the student has received federal student financial*
27 *aid funds, the student is entitled to a refund of moneys not paid*
28 *from federal student financial aid program funds.*

29 *(3) The text shall also include a description of the procedures*
30 *that a student is required to follow to cancel the enrollment*
31 *agreement or withdraw from the institution and obtain a refund,*
32 *including the title and address of the institution manager to whom*
33 *the notice shall be sent or delivered.*

34 *(4) If the institution solicited the student or negotiated the*
35 *agreement in a language other than English, the disclosure shall*
36 *be in that same language.*

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

1 statement shall also describe the purpose and operation of the
2 Student Tuition Recovery Fund and the requirements for filing a
3 ~~claim against eligibility requirements for the Student Tuition~~
4 Recovery Fund. *This statement may be included in the same*
5 *document as required under subdivision (c).*

6 ~~(h) A statement specifying that, if the student obtains a loan to~~
7 ~~pay for an educational program, the student will have the~~
8 ~~responsibility to repay the full amount of the loan plus interest,~~
9 ~~less the amount of any refund applied to the balance due on the~~
10 ~~loan.~~

11 *(h) A statement providing disclosures as required by Section*
12 *69800 of the Education Code. This subdivision shall become*
13 *operative only if Senate Bill 1355 of the 2007–08 Regular Session*
14 *is enacted.*

15 (i) A statement specifying that, if the student is eligible for a
16 loan guaranteed by the federal or state government and the student
17 defaults on the loan, both of the following may occur:

18 (1) The federal or state government or a loan guarantee agency
19 may take action against the student, including applying any income
20 tax refund to which the person is entitled to reduce the balance
21 owed on the loan.

22 (2) The student may not be eligible for any other federal student
23 financial aid at another institution or other government assistance
24 until the loan is repaid.

25 (j) A statement specifying that the institution is not a public
26 institution.

27 (k) A statement specifying whether the institution has a pending
28 petition in bankruptcy or has had a petition in bankruptcy filed
29 against it.

30 (l) The objective sources of the information substantiating the
31 truthfulness of any claim by the institution or its representative
32 about salaries earned in any specific job, job title, vocation,
33 occupation, or trade. Objective sources shall include, but not be
34 limited to, the California Employment Development Department
35 and the United States Department of Labor Bureau of Labor
36 Statistics.

37 94907.5. (a) *An institution shall clearly and conspicuously*
38 *orally disclose all of the following information when providing*
39 *the required related written disclosure:*

- 1 (1) *The information required to be disclosed pursuant to*
2 *subdivision (a) of Section 94907.*
- 3 (2) *A statement pointing out on the written disclosure required*
4 *by subdivision (c) of Section 94907 the total being charged, the*
5 *schedule of payments, and which charges are nonrefundable.*
- 6 (3) *The information required to be disclosed pursuant to*
7 *paragraph (1) of subdivision (d) of Section 94907.*
- 8 (4) *The information required by subdivision (e) of Section 94907.*
- 9 (5) *The information required by paragraph (1) of subdivision*
10 *(f) of Section 94907.*
- 11 (6) *The information required by subdivision (h) of Section*
12 *94907.*
- 13 (b) *The disclosures required by subdivision (a) shall be made*
14 *to each prospective student at least one business day prior to the*
15 *student's execution of the enrollment agreement.*
- 16 (c) *The disclosures required by paragraphs (1), (2), (4), and*
17 *(5) of subdivision (a) shall be made about each program in which*
18 *the student expressed interest in enrolling.*
- 19 (d) *At the conclusion of providing the required oral information,*
20 *the institution shall advise the prospective student to read and*
21 *review the materials provided and ask questions about the content*
22 *of the documents that he or she does not understand.*
- 23 (e) *The institution shall have a uniform procedure sufficient to*
24 *ensure the disclosures are made as required by this section,*
25 *including a method to monitor compliance.*
- 26 94908. Each disclosure in Section 94907 shall be acknowledged
27 by the signature of a person representing the institution on a single
28 form acknowledging delivery of the individually identified
29 disclosures.
- 30 94909. A student may not waive any required term, or receipt
31 of any disclosure, required by this article.
- 32 94910. An enrollment agreement shall be written in language
33 that is easily understood. If English is not a student's primary
34 language, and the student is unable to understand the terms and
35 conditions of the enrollment agreement, the student shall be
36 provided a clear explanation of the terms and conditions and all
37 cancellation and refund policies in his or her primary language.
- 38 94911. If the recruitment leading to enrollment was conducted
39 in a language other than English, the enrollment agreement,
40 disclosures, and statements shall be in that language.

1 94912. An enrollment agreement shall become operative when
2 the student attends the first class session.

3 94913. An enrollment agreement shall not contain a provision
4 that requires a student to invoke an internal institutional dispute
5 procedure before enforcing any contractual or other legal rights
6 ~~or remedies. This does not preclude inclusion of a term in the~~
7 ~~enrollment agreement requiring binding arbitration as authorized~~
8 ~~under the Federal Arbitration Act pursuant to Title 9 of the United~~
9 ~~States Code or other alternative dispute resolution procedures. or~~
10 ~~remedies.~~

11 94914. An enrollment agreement, note, or other instrument of
12 indebtedness, or contract relating to payment for educational
13 services is not enforceable by an institution within or outside this
14 state governed by this chapter unless, at the time of execution of
15 that note, other instrument of indebtedness, enrollment agreement,
16 or contract, the institution has a valid approval to operate pursuant
17 to this chapter.

18

19 Article 11. Consumer Loans to Students

20

21 ~~94916. (a) (1) An institution extending credit or lending~~
22 ~~money to a person for tuition, fees, or other charges for educational~~
23 ~~services to be rendered or furnished shall cause any note,~~
24 ~~instrument, or other evidence of indebtedness taken in connection~~
25 ~~with that loan or extension of that credit to be conspicuously~~
26 ~~marked on the face thereof with the following notice:~~

27 *94916. (a) (1) For each student who will enter or has entered*
28 *into any consumer credit contract that would be subject to Part*
29 *433 (commencing with Section 433.1) of Title 16 of the Code of*
30 *Federal Regulations as it exists and as it is amended thereafter,*
31 *to pay for any part of the total charge, the institution shall include*
32 *the following statement in any written contract or agreement for*
33 *educational services:*

34 ~~“NOTICE REGARDING REFUNDS~~

35 ~~YOU MAY ASSERT AGAINST THE HOLDER OF THE~~
36 ~~PROMISSORY NOTE ANY CONSUMER CONTRACT YOU~~
37 ~~SIGNED IN ORDER TO FINANCE THE COST OF~~
38 ~~INSTRUCTION ALL OF THE CLAIMS AND DEFENSES~~
39 ~~THAT YOU COULD ASSERT AGAINST THIS~~
40 ~~INSTITUTION, UP TO THE AMOUNT YOU HAVE~~

1 ALREADY PAID UNDER ~~THE PROMISSORY NOTE.~~
2 ~~ANY CONSUMER CONTRACT.~~

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

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

18 (c) ~~An institution that participates in Any consumer credit~~
19 ~~contract for financing provided under a federal student assistance~~
20 program and that complies with the financial disclosure and
21 notification requirements for those programs is in compliance *as*
22 *to that financing* with the standards prescribed by this section.

23 (d) *For any term defined under Part 433 (commencing with*
24 *Section 433.1) of Title 16 of the Code of Federal Regulations and*
25 *used in this section, the definition under Part 433 shall apply to*
26 *that term in this section.*

27 94918. In making consumer ~~loans~~ *credit available* to students,
28 an institution shall also comply with the requirements of the Federal
29 Truth in Lending Act pursuant to Title 15 of the United States
30 Code.

31 ~~94918.5. An institution shall establish specific written standards~~
32 ~~for student admissions for each educational program. These~~
33 ~~standards shall be related to the particular educational program.~~
34

35 Article 12. Cancellations, Withdrawals, and Refunds

36
37 94919. (a) A student shall have the right to cancel an
38 ~~agreement for a program of instruction, including any equipment,~~
39 ~~as follows: enrollment agreement, set forth in subdivision (b) and~~
40 *as follows:*

- 1 (1) For degree programs, the student shall have the right to
2 cancel prior to or on the first day of instruction.
- 3 (2) For nondegree programs in excess of 50 days, the student
4 shall have the right to cancel until midnight of the fifth business
5 day after the day on which the student did any of the following,
6 ~~whichever is later:~~
- 7 ~~(A) Attended the first class of the program of instruction that~~
8 ~~is the subject of the agreement.~~
- 9 ~~(B) Received a copy of the notice of cancellation as provided~~
10 ~~in Section 94921.5.~~
- 11 ~~(C) Received a copy of the enrollment agreement and the~~
12 ~~disclosures as required by Section 94907. day after the day on~~
13 ~~which the student attended the first class of the program of~~
14 ~~instruction that is the subject of the agreement.~~
- 15 (3) For nondegree programs of 50 or fewer days, the student
16 shall have the right to cancel the agreement until midnight of the
17 date that is one business day for every 10 days of scheduled
18 program length, rounded up for any fractional increments thereof.
- 19 (4) For distance learning programs, if the first lesson is sent to
20 the student by mail, the institution shall send it by first-class mail,
21 postage prepaid, documented by a certificate of mailing, and the
22 student shall have a right to cancel until midnight of the eighth
23 business day after the first lesson was mailed. If the first lesson is
24 sent to the student electronically, the student shall have the right
25 to cancel until midnight of the third business day after the first
26 lesson was electronically received by the student.
- 27 *(b) The period for cancellation under this section begins as set*
28 *forth in subdivision (a), when either of the following occurs:*
- 29 *(1) The student receives a copy of the notice of cancellation as*
30 *provided in Section 94921.5.*
- 31 *(2) The student receives a copy of the enrollment agreement*
32 *and the disclosures as required by Section 94907 and Section*
33 *94907.5, whichever is later.*
- 34 ~~(b)~~
- 35 *(c) Cancellation shall occur when the student gives written*
36 *notice of cancellation to the institution at the address specified in*
37 *the agreement.*
- 38 ~~(e)~~
- 39 *(d) The written notice of cancellation, if given by mail, is*
40 *effective when deposited in the mail properly addressed with*

1 postage prepaid *and if given by e-mail, is effective when e-mailed*
2 *to the e-mail address, if any, specified in the agreement.*

3 ~~(d)~~

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

7 ~~(e)~~

8 (f) Except as provided in subdivision (g) of Section 94920.1, if
9 the student cancels the agreement, the institution shall refund,
10 without penalty or obligation, 100 percent of the amount paid to
11 that institution by or on behalf of the student, less a reasonable
12 ~~deposit or application~~ *registration* fee not to exceed one hundred
13 ~~fifty dollars (\$150), within 10 days after the institution receives~~
14 ~~notice of the (\$150) or one hundred dollars (\$100) for distance~~
15 *education, within 20 days after the institution receives notice of*
16 *the cancellation.*

17 ~~(f)~~

18 (g) If the institution gave the student any equipment, the student
19 shall return the equipment within 10 days following the date of
20 the notice of cancellation. If the student fails to return the
21 equipment within this 10-day period, the institution may retain
22 that portion of the consideration paid by the student equal to the
23 documented cost to the institution of the equipment, *but not more*
24 *than the equipment's fair market value*, and shall refund the portion
25 of the consideration exceeding the documented ~~cost to the~~
26 ~~institution of the equipment within 10 days after the period within~~
27 ~~which the student is required to return the equipment. cost to the~~
28 *institution of the equipment within 20 days after the institution*
29 *receives notice of the cancellation. The school shall have the*
30 *burden of proof to establish each item of the equipment's fair*
31 *market value.* The student may retain the equipment without further
32 obligation to pay for it.

33 94920. (a) If a student withdraws from a program of instruction
34 after the applicable period described in Section 94919, the
35 institution shall remit a refund as provided in Section 94920.1
36 within 30 days following the student's withdrawal.

37 (b) If any portion of the tuition was paid from the proceeds of
38 a loan, the refund shall be sent to the lender or, if appropriate, to
39 the state or federal agency that guaranteed or reinsured the loan.
40 Any amount of the refund in excess of the unpaid balance of the

1 loan shall be first used to repay any student financial aid program
 2 from which the student received benefits, in proportion to the
 3 amount of the benefits received, and any remaining amount shall
 4 be paid to the student.

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

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

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

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

33 94920.1. (a) ~~An~~ Except as provided in subdivision (b) and
 34 Section 94919, an institution shall refund the unused portion of
 35 tuition fees and other charges if a student does not register for the
 36 period of attendance, withdraws at any time prior to completion
 37 of the ~~course~~ *period of attendance*, or otherwise fails to complete
 38 the period of ~~enrollment~~ *attendance* as provided in this section.

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

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

6 (1) Deduct a *reasonable* registration fee not to exceed one
7 hundred fifty dollars (\$150) from the total ~~tuition charge~~ *charge*
8 *for the program or period of attendance, as applicable*.

9 (2) Divide this figure by the number of ~~hours in the program~~
10 *credit or clock hours in the program or period of attendance*.

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

13 (4) The amount owed by the student for the purposes of
14 calculating a refund is derived by multiplying the total hours
15 attended by the hourly charge for instruction and adding to that
16 product the amount of the registration fee specified in paragraph
17 (1).

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

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

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

25 (1) Deduct a *reasonable* registration fee not to exceed one
26 hundred dollars (\$100) from the total ~~tuition charge~~ *charge for the*
27 *program or period of attendance, as applicable*.

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

31 *(2) Divide this figure by the number of lessons for the program*
32 *or period of attendance, as applicable*.

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

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

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

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

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

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

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

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

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

23 (f) If the institution specifies in the agreement a separate charge
24 for equipment that the student actually obtains and the student
25 returns that equipment in good condition, allowing for reasonable
26 wear and tear, within 30 days following the date of the student's
27 withdrawal, the institution shall refund the charge for the equipment
28 paid by the student. If the student fails to return that equipment in
29 good condition, allowing for reasonable wear and tear, within 30
30 days following the date of the student's withdrawal, the institution
31 may offset against the refund calculated under ~~subdivision (a)~~
32 *subdivision (c) or (d), as applicable*, the documented cost to the
33 institution of that equipment. The student shall be liable for the
34 amount, if any, by which the documented cost for equipment
35 exceeds the refund amount calculated under ~~subdivision (a)~~
36 *subdivision (c) or (d), as applicable*. For the purposes of this
37 subdivision, equipment cannot be returned in good condition if
38 the equipment cannot be reused because of clearly recognized
39 health and sanitary reasons and this fact is clearly and
40 conspicuously disclosed in the *enrollment* agreement.

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

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

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

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

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

25 (3) The student has failed to attend classes for a three-week
26 period. For the purpose of determining the amount of the refund,
27 the date of the student's withdrawal shall be deemed the last date
28 of recorded attendance. For the purposes of determining when the
29 refund must be paid pursuant to subdivision (a) of Section ~~94940~~
30 *94920*, the student shall be deemed to have withdrawn at the end
31 of the three-week period.

32 (4) The student has failed to submit three consecutive lessons,
33 or has failed to submit a completed lesson within 60 days of its
34 due date as set by an educational service offered by distance
35 learning. ~~For the purposes of this paragraph~~ *purpose of determining*
36 *the amount of the refund*, the date of the student's withdrawal shall
37 be deemed to be the date on which the student submitted the last
38 completed lesson. *For the purposes of determining when the refund*
39 *must be paid pursuant to subdivision (a) of Section 94920, the*
40 *student shall be deemed to have withdrawn at the end of the 60*

1 *days or the date the student failed to timely submit the third*
2 *consecutive lesson.*

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

7 94921. A degree granting institution offering an educational
8 program for which the refund calculations set forth in this article
9 cannot be utilized because of the unique way in which the program
10 is structured may petition the bureau for an alternative method of
11 calculating tuition refunds. The bureau shall determine the details
12 of an alternative refund policy, by regulation, and shall take into
13 consideration the ~~contract for educational services~~ *enrollment*
14 *agreement* entered into with the student, as well as the length and
15 character of the educational program in determining standards for
16 refunds. The decision of the bureau shall be final.

17 94921.1. (a) *For purposes of this section, any reference to an*
18 *institution also includes its representatives who are involved with*
19 *financial aid.* All institutions subject to the approval requirements
20 of this chapter shall identify each student who makes an application
21 for, and receives, loan moneys other than loans provided under a
22 governmental student financial aid program, to the extent that this
23 information is reasonably available to the institution, including,
24 but not necessarily limited to, students for whom the institution
25 makes a referral to a lender, students for whom the institution acts
26 as lender *or an agent of the lender*, students receiving loan proceeds
27 from a lending entity in which the institution has a financial
28 interest, or students for whom loan proceeds are received by the
29 institution on behalf of the student. *For purposes of this section,*
30 *“financial interest” excludes ownership of mutual fund shares in*
31 *a mutual fund that directly owns shares of the lender.*

32 (b) The institution shall ensure, either by providing the service
33 or by documenting that the service has been provided by the
34 lending entity, that each student has received information regarding
35 the student’s rights and obligations related to loans at the time of
36 signing a promissory note *or other loan document*, and at the end
37 of a student’s academic program. If a student leaves a program
38 prior to completion of the program, the institution shall make an
39 attempt to contact that student at the last known student address
40 to ensure the student has received information from the lending

1 entity or to provide information to the student itself, and shall keep
2 evidence of its attempt to do so.

3 ~~(e) (1) An institution shall disclose to the student any formal~~
4 *(c) An institution that participates in private student loan*
5 *programs and suggests those programs to its students or refers*
6 *students to those programs, shall do all of the following:*

7 *(1) Disclose to the student any formal or informal relationship*
8 *between the institution and the lender, including, but not*
9 *necessarily limited to, an agreement between the institution and*
10 *lender to make referrals to the lender, to place that lender in a*
11 *preferred status for students of that institution, or to provide any*
12 *benefit, financial or otherwise, to the institution as a result of*
13 *referral or student borrowing from the lender, and shall disclose*
14 *any financial interest of the institution in the lending entity.*

15 *(2) Clearly and fully disclose to students the criteria and process*
16 *used to select the preferred lenders. For purposes of this section,*
17 *lenders shall be considered to be “preferred” or have a “preferred*
18 *status” if the institution recommends or suggests specific lending*
19 *institutions to its students or potential students to use to obtain*
20 *loans to finance their education.*

21 *(3) Clearly and fully disclose to students and their families their*
22 *right and ability to choose a lender of their choice regardless of*
23 *whether or not the lender is a preferred lender.*

24 *(4) Clearly and fully disclose to students and their families all*
25 *of the students’ options under Title IV of the Federal Higher*
26 *Education Act as amended, including information about any terms*
27 *or conditions of available loans under that title that are more*
28 *favorable to the student in terms of available loans and grants*
29 *under this title, before the institution refers or suggests that the*
30 *students use lenders making private educational loans.*

31 ~~(2)~~

32 *(5) Disclosure under this subdivision shall be made, prior to the*
33 *loan proceeds being received by the student signing of the*
34 *indebtedness, whenever the institution has a reasonable opportunity*
35 *to know of the student’s application for the loan.*

36 ~~(3)~~

37 *(6) Disclosure under this subdivision shall be included in the*
38 *information and materials provided to the student at the time of*
39 *negotiation of the enrollment contract, whenever the institution*

1 has a reasonable opportunity to know of the student’s application
2 for that loan.

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

7 *(d) Institutions that participate in private student loan programs*
8 *shall not do any of the following:*

9 *(1) Receive a gift or other consideration or anything of value*
10 *of more than one hundred dollars (\$100) in total value from a*
11 *lender in a calendar year.*

12 *(2) Provide preferred lender status to a lender unless the*
13 *decision is based solely on the best interests of the students and*
14 *their families.*

15 *(3) Receive anything of value for serving on an advisory board*
16 *or committee of any provider of student private loans.*

17 *(4) Give any lender preferred status unless the lender provides*
18 *assurances to the institution and to borrowers, who take out the*
19 *loans from such lenders, that the advertised benefits during any*
20 *deferral period and during repayment will continue to inure to the*
21 *benefit of borrowers regardless of whether the lender’s loans are*
22 *sold.*

23 *(5) Give any lender preferred status in exchange for benefits*
24 *provided by the lender to the institution or to the institution’s*
25 *students in connection with a different type of student loan.*

26 ~~(d)~~

27 *(e) The institution shall keep sufficient records to demonstrate*
28 *compliance with this section.*

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

33 *(f) Where federal statutes and regulations conflict with or exceed*
34 *the disclosure provisions of this chapter section with respect to*
35 *private educational loans, the federal statutes and regulations shall*
36 *take precedence for institutions subject to approval under this*
37 *chapter that are eligible to participate in student financial aid*
38 *programs under Title IV of the federal Higher Education Act of*
39 *1965.*

1 94921.5. (a) When a person executes an agreement obligating
 2 that person to pay any money to an institution for a course program
 3 of instruction or related equipment, the institution shall provide
 4 the person with a document containing only the following notice:

5
6
7 “NOTICE OF CANCELLATION, REFUND AND OTHER RIGHTS”

8 “1. You may cancel your contract for school, without any penalty or
 9 obligations prior to or on (insert ‘the fifth business day following your first
 10 class session’ or ‘the first day of class,’ whichever is applicable) as
 11 obligations other than payment of the registration fee of \$(insert amount)
 12 as described in the Notice of Cancellation form that will be given to you
 13 (insert ‘on your the first day of class’ or ‘with the first lesson in a distance
 14 learning program,’ whichever is applicable).

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

19 “2. After the end of the cancellation period, you also have the right to stop
 20 school at any time, and you have the right to receive a refund for the part
 21 of the course not taken. ~~Your refund rights are described in the contract.
 22 school at any time, and you have the right to receive a refund based on
 23 the part of the program you completed. Your refund rights are described
 24 in the contract.~~ If you have lost your contract, ask the school for a
 25 description of the refund policy.

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

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

32
33 _____
 34 (insert mailing address, e-mail address, and telephone number of the Bureau
 35 for Private Postsecondary Education)”

36
37 (b) Except as otherwise provided in subdivision (a), the notice
 38 required by subdivision (a) shall be printed in 10-point type *or*
 39 *larger* in English and, if any solicitation or negotiation leading to

1 the agreement for a course of instruction was in a language other
2 than English, in that other language.

3 (c) *The institution shall also make its refund policy known to*
4 *currently enrolled students.*

5 (e)

6 (d) A copy of the notice, in each language in which the notice
7 was printed pursuant to subdivision (b), shall be posted at all times
8 in a conspicuous place at the main entrance of the institution, in
9 each admissions office, and in each room used for instruction. The
10 bureau may prescribe the size and format of the posted notice. This
11 subdivision does not apply to an institution that exclusively offers
12 distance learning programs.

13 (d)

14 (e) Upon request, the institution shall provide a student with a
15 copy of a Notice of Cancellation form, a written description of the
16 student’s refund rights, a copy of the contract executed by the
17 student, a copy of documents relating to loans or grants for the
18 student, and a copy of any document executed *or initialed* by the
19 student.

20 (e)

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

23 94921.7. An institution shall provide the student with two
24 cancellation forms at the first class attended by the student or with
25 the first lesson in a distance learning course submitted by the
26 student. The form shall be completed in duplicate, *in 12-point or*
27 *larger type*, captioned “Notice of Cancellation,” and shall contain
28 the following statement:

29

30 “Notice of Cancellation

31

32 _____
(Date)

33 ~~(Enter date of first class, date first lesson received, or date first lesson was~~
34 ~~(Insert date of first class, date first lesson received, date first lesson was~~
35 ~~received electronically, or date first lesson was mailed, whichever is~~
36 ~~applicable)~~

37 “You may cancel this contract for school, without any penalty or obligation
38 (other than payment of the \$[insert amount of registration fee] registration
39 fee) by the date stated below.

1 “If you cancel, any payment you have made, *other than the registration fee*,
2 and any negotiable instrument signed by you shall be returned to you within
3 30 days following the school’s receipt of your cancellation notice.

4 “But, if the school gave you any equipment, you must return the equipment
5 within 30 days of the date you signed a cancellation notice. If you do not
6 return the equipment within this 30-day period, the school may keep an
7 amount out of what you paid that equals the cost of the equipment, *but no*
8 *more than what the school can show is the equipment’s fair market value.*

9 “The total amount charged for each item of equipment shall be separately
10 stated. ~~The amount charged for each item of equipment shall not exceed the~~
11 ~~equipment’s fair market value. The school shall have the burden of proof~~
12 ~~to establish the equipment’s fair market value. The school is required to~~
13 ~~stated. The school is required to~~ refund any amount over that as provided
14 above, and you may keep the equipment.

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

17 _____, at
18
19 _____.
20 (name of institution) (address of institution)
21 (Insert name of institution) (Insert address of institution and e-mail address
22 if available)

23 “NOT LATER THAN MIDNIGHT OF _____
24 (~~Enter midnight of~~ (Insert the date applicable under Section ~~94939~~) 94919)

25 “I cancel the contract for school.
26 _____
27 (Date)
28 _____
29 (Student’s signature)
30 _____

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

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

36 _____
37 _____
38 (insert mailing address, e-mail address, and telephone number of the Bureau
39 for Private Postsecondary Education)”
40

1 94922. A student may not waive any provision of this ~~article~~
2 *chapter*.

3

4 Article 13. Student Tuition Recovery Fund

5

6 94923. The Student Tuition Recovery Fund is continued in
7 existence. All assessments and fees collected pursuant to this article
8 shall be credited to this fund, along with any interest on the
9 moneys, for the administration of this article. Notwithstanding
10 Section 13340 of the Government Code, the moneys in the fund
11 are continuously appropriated to the bureau without regard to fiscal
12 year for the purposes of this ~~chapter~~ *article*.

13 94923.1. This article applies to the following:

14 (a) Institutions, and students and former students of the
15 institutions, subject to this chapter.

16 (b) Institutions, and students and former students of the
17 institutions exempt under paragraph (7) of subdivision (a) of, and
18 under subdivision (b) of, Section 94874.

19 94923.2. It is the intent of the Legislature that, when a student
20 is enrolled in an institution that closes prior to the completion of
21 the student’s program, the student shall have the option for a
22 teach-out at another institution approved by the bureau. The bureau
23 shall seek to promote teach-out opportunities wherever possible
24 and shall inform the student of his or her rights, including payment
25 from the fund, transfer opportunities, and available teach-out
26 opportunities, if any.

27 ~~94923.4. In the event of the closure of an institution or a~~
28 ~~teach-out, the bureau shall give priority, for payments from the~~
29 ~~fund, to a student who transfers to another institution to complete~~
30 ~~a course of study.~~

31 94923.5. The bureau shall assess an institution, except for an
32 institution that receives all of its students’ total charges from
33 third-party payers, for the purpose of compliance with the
34 provisions of this chapter that are related to the Student Tuition
35 Recovery Fund. ~~A “third-party payer,” for the purposes of this~~
36 ~~article, means an employer, government program, or other payer~~
37 ~~that pays a student’s total charges directly to the institution when~~
38 ~~no separate agreement for the repayment of that payment exists~~
39 ~~between the third-party payer and the student. A student who~~
40 ~~receives third-party payer benefits for his or her institutional~~

1 ~~charges is not eligible for benefits from the Student Tuition~~
2 ~~Recovery Fund. A student who receives third-party payer benefits~~
3 ~~for his or her total charge is not eligible for benefits from the~~
4 ~~Student Tuition Recovery Fund.~~

5 94923.6. (a) (1) The amount assessed each institution shall
6 be calculated only for those students who are eligible to be
7 reimbursed from the fund and shall be based on the actual amount
8 charged each of these students ~~for total tuition cost as the total~~
9 ~~charge~~, regardless of the portion that is *paid or* prepaid. The
10 amount of the assessment on an institution shall be determined in
11 accordance with subdivisions (b) and (c).

12 (2) Each institution shall collect the amount assessed by the
13 bureau in the form of a Student Tuition Recovery Fund fee from
14 its new students, ~~and except that an institution may waive collection~~
15 ~~of the Student Tuition Recovery Fund fee and assume the fee as a~~
16 ~~debt of the institution. Each institution shall remit these fees to~~
17 ~~the bureau during the quarter immediately following the quarter~~
18 ~~in which the fees were collected from the students, or from loans~~
19 ~~funded on behalf of the students, except that an institution may~~
20 ~~waive collection of the Student Tuition Recovery Fund fee and~~
21 ~~assume the fee as a debt of the institution. The fees collected by~~
22 ~~the institution shall be students, or for an institution that assumes~~
23 ~~the fee as its own debt, in the quarter immediately following the~~
24 ~~quarter in which the institution collected any initial payment from~~
25 ~~or on behalf of the student. For institutions that do not operate on~~
26 ~~the quarter system, the institution shall remit these fees to the~~
27 ~~bureau during the 10-week period immediately following the~~
28 ~~10-week period in which the fees or payments were collected unless~~
29 ~~the bureau establishes a different time period for such institutions.~~
30 ~~The fees collected by the institution shall be placed in a separate~~
31 ~~bank or trust account and not commingled with any other moneys~~
32 ~~until the institution remits those fees to the bureau. If the institution~~
33 ~~assumes the fee, this need not be placed in a separate account. The~~
34 ~~student's subsequent disenrollment after the cancellation period~~
35 ~~shall not relieve the institution of the obligation to pay the fee to~~
36 ~~the bureau, nor be the basis for refund of the fee to the student. An~~
37 ~~institution may not charge a fee of any kind for the collection of~~
38 ~~the Student Tuition Recovery Fund fee. An institution shall refuse~~
39 ~~to enroll a student who has not paid, or made provisions to pay,~~
40 ~~the appropriate Student Tuition Recovery Fund fee.~~

1 (b) A Student Tuition Recovery Fund fee shall be set at the rate
2 of two dollars and fifty cents (\$2.50) per thousand dollars of tuition
3 charged, rounded to the nearest thousand dollars.

4 (c) If, at any time, the balance in the Student Tuition Recovery
5 Fund is more than ten million dollars (\$10,000,000), ~~net of after~~
6 *deducting* the estimated liability associated with any pending
7 claims, the bureau ~~may reduce the amount of the assessment to a~~
8 ~~level less than~~ *may reduce the amount of the Student Tuition*
9 *Recovery Fund fees from which the assessment is paid to less than*
10 two dollars and fifty cents (\$2.50) per thousand dollars of tuition
11 charged, rounded to the nearest thousand dollars, or suspend
12 collection of the fee for a period determined by the bureau, so as
13 to maintain a fund balance of between ten million dollars
14 (\$10,000,000) and twenty-five million dollars (\$25,000,000) *after*
15 *deducting the estimated liability associated with any pending*
16 *claims.* Prior to any reduction in the assessment, the bureau shall
17 demonstrate that amounts in the fund would be reasonably
18 sufficient to pay any pending or future claims.

19 (d) (1) The bureau may by regulation levy additional reasonable
20 special assessments on an institution under this section only if
21 these assessments are required to ensure that sufficient funds are
22 available to satisfy the anticipated costs of paying *reasonably*
23 *anticipated* student claims.

24 (2) *The bureau shall levy a special assessment when the balance*
25 *in the Student Tuition Recovery Fund falls below one million*
26 *dollars (\$1,000,000) as certified by the Secretary of State and*
27 *Consumer Services.*

28 (3) *The bureau shall provide at least 90 days' notice of an*
29 *impending special assessment to each affected institution. This*
30 *notice shall be posted on the bureau's Internet Web site and shall*
31 *be sent electronically to the affected institutions.*

32 (e) The assessments, fees, and special assessments shall be paid
33 into the Student Tuition Recovery Fund, and the deposits shall be
34 allocated, except as otherwise provided for in this chapter, solely
35 for the payment of valid claims to students.

36 94923.7. Moneys deposited in the Student Tuition Recovery
37 Fund are exempt from execution and may not be the subject of
38 litigation or liability on the part of creditors of those institutions
39 or students.

1 94923.8. (a) The bureau shall adopt a procedure allowing for
2 payments to the fund to be made through online transactions and
3 other electronic means.

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

7 94923.9. The bureau's costs of administration of the Student
8 Tuition Recovery Fund authorized by this article shall not be paid
9 from the fund, but shall be paid from the Private Postsecondary
10 Education Fund.

11 94924. In the event of a closure by any approved institution
12 under this chapter, any assessments that have been made against
13 those institutions, but have not been paid into the fund, shall be
14 recovered. Any payments from the fund made to students on behalf
15 of any institution shall be recovered from that institution.

16 94925. In addition to civil remedies, the bureau may order an
17 institution to pay previously unpaid Student Tuition Recovery
18 Fund fees or to reimburse the bureau for any payments made from
19 the fund in connection with the institution. Before any order is
20 made pursuant to this section, the bureau shall provide written
21 notice to the institution and notice of the right to request a hearing
22 within 30 days of the service of the notice. If a hearing is not
23 requested within 30 days of the service of the notice, the bureau
24 may order payment. If a hearing is requested, Chapter 5
25 (commencing with Section 11500) of Part 1 of Division 3 of Title
26 2 of the Government Code shall apply, and the bureau shall have
27 all the powers prescribed in that chapter. Within 30 days after the
28 effective date of the issuance of the order, the bureau may enforce
29 the order in the same manner as if it were a money judgment
30 pursuant to Title 9 (commencing with Section 680.010) of Part 2
31 of the Code of Civil Procedure.

32 94925.5. Payment of Student Tuition Recovery Fund fees is
33 due within 30 days of the bureau's demand for payment. A penalty
34 of 20 percent of the amount due shall be added for late payment.

35 94925.6. (a) *A student or former student who was enrolled in*
36 *an institution, paid all or part of the total charge, and meets any*
37 *of the following conditions is eligible for reimbursement from the*
38 *fund:*

39 (1) *The student suffered economic loss as a result of the closure*
40 *of the institution. For the purposes of this section, "closure"*

1 includes the closure of the entire institution or of the site the student
2 is attending, the termination of either the distance learning or
3 residence portion of a distance learning program, and the
4 termination of a program for some or all of the students enrolled
5 in the program before the time these students were originally
6 scheduled to complete it, or before a student who has been
7 continuously enrolled in a program has been permitted to complete
8 all the educational services and classes that comprise the program.
9 For purposes of this paragraph, “closure” does not include the
10 relocation of a site to a new location within 20 miles where the
11 student continues to attend classes.

12 (2) The student obtained a final judgment against the institution
13 based on a violation of this chapter, and the student certifies that
14 the judgment cannot be collected after diligent collection efforts.

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

19 (4) The institution’s failure to pay or reimburse loan proceeds
20 under a federally guaranteed student loan program as required
21 by law or to pay or reimburse proceeds from whatever source
22 received by the institution prior to closure in excess of tuition and
23 other costs.

24 (5) The commission of a breach or anticipatory breach of the
25 agreement for the program.

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

30 (7) The commission of a fraud by the institution during the
31 solicitation or enrollment of, or during the program participation
32 of, the student.

33 (b) A claim based on paragraph (1) or (6) of subdivision (a),
34 shall be filed within three years after a closure or after the student
35 or former student receives both the explanation of rights and the
36 claim form under Section 94925.7, whichever is later. A claim
37 based on paragraph (2) of subdivision (a), shall be filed within
38 three years after the judgment is final. A claim based on paragraph
39 (3), (4), (5), or (7) of subdivision (a), shall be filed within three
40 years of discovery.

1 (c) *The time for filing a claim shall be tolled from the date a*
2 *student files a claim for a federal discharge or compromise on any*
3 *guaranteed loan received in connection with the student's program*
4 *until the decision accepting or rejecting the claim for discharge*
5 *or compromise becomes final. The time for filing a claim shall be*
6 *tolled from the date a student who has a private educational loan*
7 *received in connection with the student's program seeks a*
8 *discharge from the lender by asserting against the lender the claims*
9 *and defenses he has against the school until a decision on that*
10 *assertion becomes final.*

11 94925.7. (a) *The institution shall provide to the bureau, at the*
12 *time of the institution's closure, the names and addresses of*
13 *persons who were students of an institution within 60 days prior*
14 *to its closure, and shall give notice to these students, within 30*
15 *days of the institution's closure, of their rights under the fund and*
16 *how to apply for payment, and shall provide a claim application*
17 *to each student. If the institution fails to comply with this*
18 *subdivision, the bureau shall make its best effort to obtain the*
19 *names and addresses of these students and shall give them notice,*
20 *within 90 days of the institution's closure, of their rights under*
21 *the fund and how to apply for reimbursement from the fund, and*
22 *shall provide a claim application. The notice and claim application*
23 *required by this subdivision shall be as described in subdivision*
24 *(b).*

25 (b) *The bureau shall develop a form notice fully explaining a*
26 *student's rights in plain language, which shall be used by the*
27 *institution or the bureau to comply with the requirements of*
28 *subdivision (a). The form notice shall include, or be accompanied*
29 *by, a claim application and an explanation of how to complete the*
30 *application.*

31 (c) *The bureau shall determine and maintain a record of the*
32 *names of the persons in control at the institution which is closing*
33 *or has been closed with unpaid funds.*

34 94925.8. *A student applying for payment from the Student*
35 *Tuition Recovery Fund shall file with the bureau in a form and*
36 *manner prescribed by the bureau.*

37 94925.9. *Whenever the bureau receives from a student a*
38 *completed application for payment from the Student Tuition*
39 *Recovery Fund, the bureau shall, as soon as is practicable, cause*

1 to be delivered to that student a written notice specifying, in plain
2 language, the rights of a student under this article.

3 94925.10. (a) If the bureau pays a claim in accordance with
4 this article, the amount of the payment shall be (1) the greater of
5 either (A) the total student loan debt incurred by the student in
6 connection with attending the institution, including any interest,
7 fees and costs, including collection charges on the student loans,
8 or (B) the student's total charge for the program, less (2) the
9 amount of any refund, reimbursement, indemnification, restitution,
10 compensatory damages, settlement, debt forgiveness, discharge,
11 cancellation, or compromise, or any other benefit received by, or
12 on behalf of, the student before the bureau's payment of the claim
13 in connection with the student loan debt or total charge for the
14 program. The payment also shall include the amount the institution
15 collected and failed to pay to third parties on behalf of the student
16 for licensing fees or any other purpose. However, if the claim is
17 based solely on a final judgment being awarded, the amount of
18 the payment shall be the amount of the portion of the judgment
19 attributable to loss suffered by the student, but no more than the
20 amount otherwise allowed by this section.

21 (b) The amount of the payment determined under this subdivision
22 is not dependent on the amount of the refund to which the student
23 would have been entitled after a voluntary withdrawal.

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

27 94925.11. If the bureau denies a student's claim, or reduces
28 the amount of a claim, the bureau shall notify the student of the
29 denial or reduction and of the student's right to request a hearing
30 within 60 days or any longer period permitted by the bureau. The
31 60 day period for requesting a hearing may be extended for good
32 cause on request. If a hearing is not requested within 60 days or
33 any additional period reasonably requested by the student, the
34 bureau's decision shall be final. If a hearing is requested, Chapter
35 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
36 2 of the Government Code shall apply.

37 94925.12. Whenever reasonably possible, the bureau shall
38 negotiate with a lender, holder, guarantee agency, or the United
39 States Department of Education for the full compromise or
40 discharge of student loan obligations to relieve students of loss,

1 *and thereby reduce the amount of student claims charged against*
2 *the fund.*

3 94925.13. *The bureau, with the student's permission, may pay*
4 *a student's claim directly to the lender, holder, guarantee agency,*
5 *or the United States Department of Education under a federally*
6 *guaranteed student loan program only if the payment of the claim*
7 *fully satisfies all of the student's loan obligations related to*
8 *attendance at the institution for which the claim was filed.*

9 94925.14. (a) *Within 60 days of the bureau's receipt of a*
10 *completed application for payment, the bureau shall pay the claim*
11 *from the Student Tuition Recovery Fund or deny the claim. The*
12 *bureau, for good cause, may extend the time period for up to an*
13 *additional 90 days to investigate the accuracy of the claim.*

14 (b) *The bureau may also delay the payment of a claim from the*
15 *fund pending the resolution of the bureau's attempt to obtain a*
16 *compromise or discharge of the claimant's student loan obligation*
17 *from the federal government, the guarantee agency, a private*
18 *lender, or their representatives.*

19 (c) *If any adverse action that is not stayed is taken against the*
20 *claimant, including the commencement of a civil or administrative*
21 *action, tax offset, the enforcement of a judgment, or the denial of*
22 *any government benefit, the bureau shall immediately pay a valid*
23 *claim without regard to any extension or delay the bureau*
24 *previously allowed or could otherwise allow.*

25

26 Article 14. Orderly Institutional Closure and Teach-outs

27

28 94926. At least 30 days prior to closing, the institution shall
29 notify the bureau in writing of its intention to close. The notice
30 shall be accompanied by a closure plan, which shall include, but
31 not necessarily be limited to, all of the following:

32 (a) A plan for providing teach-outs of educational programs,
33 including any agreements with any other postsecondary educational
34 institutions to provide teach-outs.

35 (b) If no teach-out plan is contemplated, or for students who do
36 not wish to participate in a teach-out, arrangements for making
37 refunds within 45 days from the date of closure, or for institutions
38 that participate in federal student financial aid programs
39 arrangements for making refunds and returning federal student
40 financial aid program funds.

1 (c) If the institution is a participant in federal student financial
2 aid programs, it shall provide students information concerning
3 these programs and institutional closures.

4 (d) A plan for the disposition of student records.

5 94927. An institution shall be considered in default of the
6 enrollment agreement when an educational program is discontinued
7 or canceled or the institution closes prior to completion of the
8 educational program. When an institution is in default, student
9 institutional charges may be refunded on a pro rata basis if the
10 bureau determines that the school has made provision for students
11 enrolled at the time of default to complete a comparable educational
12 program at another institution at no additional charge to the student
13 beyond the amount of the total charges in the original enrollment
14 agreement. If the institution does not make that provision, a total
15 refund of all institutional charges shall be made to students.

16 94927.5. Prior to closing, an institution shall provide the bureau
17 with pertinent student records, including transcripts, as determined
18 by the bureau by regulation.

19
20 Article 15. Completion and Placement Requirements
21

22 94928. An institution shall report annually to the bureau the
23 information required to be disclosed in the institution's "School
24 Performance Fact Sheet" statement pursuant to Section 94907.

25 ~~94930. An institution shall use the data derived from the~~
26 ~~regulatory standards or the accreditation standards in the School~~
27 ~~Performance Fact Sheet, as established in Section 94907.~~

28 94929. *Nothing contained in subdivision (a) of Section 94907*
29 *prevents an institution from disclosing to students, but not in the*
30 *School Performance Fact Sheet, the institution's completion,*
31 *employment, salary, or licensure numbers and rates, at the site*
32 *and for the program in which the student is interested, determined*
33 *in accordance with the accreditation standards applicable to the*
34 *institution or another California state agency's regulatory*
35 *standards applicable to the institution, if the institution complies*
36 *with all of the following:*

37 (a) *The other disclosures are not misleading and do not detract*
38 *attention from the information required to be disclosed by*
39 *subdivision (a) of Section 94907.*

1 (b) *The criteria used to determine the numbers and rates of*
2 *other disclosures must be disclosed in immediate proximity to the*
3 *disclosed numbers or rates determined by those other criteria.*

4 (c) *The disclosures required by subdivision (a) of Section 94907*
5 *are prominently disclosed before any other numbers or rates.*

6 (d) *The institution discloses to the bureau in its application and*
7 *its annual report any other disclosures about completion,*
8 *employment, salaries, or licensure passage that it has made during*
9 *the previous year, the format of any written disclosures used and*
10 *any it intends to make in the following year, along with the basis*
11 *for calculating the other applicable standards.*

12
13 Article 16. Compliance, Enforcement, Process, and Penalties

14
15 94931. The bureau shall determine an institution's compliance
16 ~~with the requirements of this chapter. When the bureau has reason~~
17 ~~to believe that an institution may be out of compliance, it may~~
18 ~~conduct an investigation of the institution. As part of its compliance~~
19 *with the requirements of this chapter. If the bureau has reason to*
20 *believe that there may have been a violation of this chapter or*
21 *regulations adopted by the bureau, the bureau shall conduct a*
22 *timely investigation of the institution. As part of its compliance*
23 *program, the bureau may perform unannounced inspections of*
24 *institutions. The bureau shall have the authority to require*
25 *institutions to comply with requests for reports and other*
26 *documents necessary to complete audits, investigations, inquiries,*
27 *and inspections. If the bureau believes that there may have been*
28 *a violation of this chapter or regulations adopted by the bureau,*
29 ~~the bureau shall conduct a timely investigation of the institution.~~
30 *and inspections. If the bureau determines, after completing an*
31 *investigation, that an institution has violated any applicable laws*
32 *or regulations, the bureau shall take action against the institution*
33 *pursuant to this article as it deems appropriate.*

34 94931.1. The bureau, with the assistance and guidance of, and
35 in cooperation with, the Attorney General, shall develop an
36 enforcement program. The enforcement program shall include,
37 but not necessarily be limited to, all of the following:

38 (a) Initial and periodic training of bureau staff.

39 (b) The enforcement process shall ensure that all institutions
40 subject to this chapter are in compliance with this chapter and that

1 the bureau takes appropriate action, pursuant to this article, against
2 institutions not in compliance.

3 (c) Site visits that include a review of records, inspection of
4 facilities, interviews of administrators, faculty and students, and
5 observation of class instruction.

6 (d) Audits, site visits, and investigations that are triggered by
7 complaints and where the bureau has reasonable cause to believe
8 an institution commits one or more acts constituting grounds for
9 discipline. The audits and site visits may be unannounced and may
10 include a qualitative review and assessment encompassing
11 minimum standards, interviews with administrators, faculty, staff,
12 and students, inspection of facilities, records, and recordkeeping,
13 and all records required to be maintained under subdivision (b) of
14 Section 94862, subdivisions (b) and (c) of Section 94899.7, and
15 Sections 94887 and 94920.1, or necessary to show compliance
16 with this chapter.

17 94931.3. The bureau shall promulgate regulations to implement
18 the intent of this article, including, but not limited to, the probation
19 and suspension of an approval to operate.

20 94932. The bureau may provide the institution with the
21 opportunity to remedy noncompliance, impose fines, place the
22 institution on probation, or suspend or revoke the institution's
23 approval to operate as it deems appropriate to the severity of an
24 institution's violations of this chapter, and the harm caused to
25 students. In addition to any other action that the bureau may take
26 under this chapter, the bureau may suspend or revoke an
27 institution's approval to operate because of the institution's failure
28 to pay Student Tuition Recovery Fund fees and pay penalties.

29 94933. As much as is practicable, the bureau shall seek to
30 resolve instances of noncompliance, including the use of alternative
31 dispute resolution procedures in Chapter 4.5 (commencing with
32 Section 11420.10) of Part 1 of Division 3 of Title 2 of the
33 Government Code.

34 94934. (a) As part of the compliance program, an institution
35 shall submit an annual report to the bureau, under penalty of
36 perjury, by July 1 of each year, or another date designated by the
37 bureau, and it shall include the following information for
38 educational programs offered in the reporting period:

39 (1) The total number of students enrolled by level of degree or
40 for a diploma.

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

2 (3) The degree levels and diplomas offered.

3 (4) The records required by subdivision (e) of Section 94897.5.

4 (5) The total charges for each educational program by period
5 of attendance.

6 (6) A statement indicating whether the institution is, or is not,
7 current in remitting Student Tuition Recovery Fund assessments.

8 (7) Additional information deemed by the bureau to be
9 reasonably required to ascertain compliance with this chapter.

10 (b) The bureau shall prescribe the annual report's format and
11 method of delivery.

12 94935. (a) Bureau staff who, during an inspection of an
13 institution, detect a minor violation of this chapter, or regulations
14 adopted pursuant to this chapter, shall issue a notice to comply
15 before leaving the institution. The bureau shall establish a voluntary
16 informal appeal process, by regulation, within one year of the
17 enactment of this chapter.

18 (b) An institution that receives a notice to comply shall have no
19 more than 30 days from the date of inspection to remedy the
20 noncompliance.

21 (c) Upon achieving compliance, the institution shall sign and
22 return the notice to comply to the bureau.

23 (d) A single notice to comply shall be issued listing separately
24 all the minor violations cited during the inspection.

25 (e) A notice to comply shall not be issued for any minor
26 violation that is corrected immediately in the presence of the bureau
27 staff. Immediate compliance may be noted in the inspection report,
28 but the institution shall not be subject to any further action by the
29 bureau.

30 (f) A notice to comply shall be the only means the bureau shall
31 use to cite a minor violation discovered during an inspection. ~~The~~
32 *For minor violations, the* bureau shall not take any other
33 enforcement action specified in this chapter against an institution
34 that has received a notice to comply if the institution complies
35 with this section.

36 (g) If an institution that receives a notice to comply pursuant to
37 subdivision (a) disagrees with one or more of the alleged minor
38 violations listed in the notice to comply, an institution shall send
39 the bureau a written notice of disagreement. The agency may take

1 administrative enforcement action to seek compliance with the
2 requirements of the notice to comply.

3 (h) If an institution fails to comply with a notice to comply
4 within the prescribed time, the bureau may take administrative
5 enforcement action.

6 ~~(i) A minor violation is a deviation from the requirements of
7 this chapter, or regulations adopted pursuant to this chapter, that,
8 in the determination of the bureau, has not or reasonably will not
9 result in harm to students and is not either:~~

10 ~~(1) Committed knowingly, willfully, or intentionally.~~

11 ~~(2) A repeated violation or a violation committed by a
12 recalcitrant violator that has engaged in a pattern of neglect or
13 disregard for the requirements of this chapter.~~

14 94936. (a) As a consequence of an investigation, the bureau
15 may issue a citation to an institution for violation of this chapter,
16 or regulations adopted pursuant to this chapter.

17 (b) The citation may contain either *or both* of the following:

18 (1) An order of abatement that may require an institution to
19 demonstrate how future compliance with this chapter or regulations
20 adopted pursuant to this chapter will be accomplished.

21 (2) Notwithstanding Section 125.9 of the Business and
22 Professions Code, an administrative fine not to exceed ten thousand
23 dollars (\$10,000) for each violation. The bureau shall base its
24 assessment of the administrative fine on:

25 (A) The nature and seriousness of the violation.

26 (B) The persistence of the violation.

27 (C) The good faith of the institution.

28 (D) The history of previous violations.

29 (E) The purposes of this chapter.

30 (c) (1) The citation shall be in writing and describe the nature
31 of the violation and the specific provision of law or regulation that
32 is alleged to have been violated.

33 (2) The citation shall inform the institution of its right to request
34 a hearing in writing within 30 days from service of the citation.

35 (3) If a hearing is requested, the bureau shall select an informal
36 hearing pursuant to Chapter 4.5 (commencing with Section
37 11445.10) of Part 1 of Division 3 of Title 2 of the Government
38 Code or a formal hearing pursuant to Chapter 5 (commencing with
39 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
40 Code.

1 (4) If a hearing is not requested, payment of the administrative
2 fine is due 30 days from the date of service, and shall not constitute
3 an admission of the violation charged.

4 (5) If a hearing is conducted and payment of an administrative
5 fine is ordered, the administrative fine is due 30 days from when
6 the ~~final~~ order is entered.

7 (6) The bureau may enforce the administrative fine as if it were
8 a money judgment pursuant to Title 9 (commencing with Section
9 680.10) of Part 2 of the Code of Civil Procedure.

10 (d) All administrative fines shall be deposited in the Private
11 Postsecondary Education Administration Fund.

12 94937. (a) As a consequence of an investigation, the bureau
13 may place an institution on probation or may suspend or revoke
14 an institution's approval to operate for:

15 (1) Obtaining an approval to operate by fraud.

16 (2) Material or repeated violations of this chapter or regulations
17 ~~adopted pursuant to this chapter that have resulted in harm to~~
18 *adopted pursuant to this chapter that resulted in harm or may*
19 *reasonably be expected to result in harm to students.*

20 (b) The bureau shall adopt regulations governing probation and
21 suspension of an approval to operate.

22 (c) The bureau may seek reimbursement for the costs of an
23 investigation pursuant to Section 125.3 of the Business and
24 Professions Code.

25 (d) An institution shall not be required to pay the *same* cost of
26 investigation to more than one agency.

27 (e) *This section shall not apply to any minor violation of the*
28 *chapter.*

29 94938. (a) If the bureau determines that it needs to make an
30 emergency decision to protect students, prevent misrepresentation
31 to the public, or prevent the loss of public funds or moneys paid
32 by students, it may do so pursuant to Chapter 4.5 (commencing
33 with Section 11460.10) of Part 1 of Division 3 of Title 2 of the
34 Government Code.

35 (b) The bureau shall adopt regulations to give this subdivision
36 effect pursuant to Section 11460.20 of the Government Code.

37 94939. (a) The bureau may bring an action for equitable relief
38 for any violation of this chapter. The equitable relief may include
39 restitution, a temporary restraining order, the appointment of a
40 receiver, and a preliminary or permanent injunction. The action

1 may be brought in the county in which the defendant resides or in
2 which any violation has occurred or may occur.

3 (b) The remedies provided in this section supplement, and do
4 not supplant, the remedies and penalties under other provisions of
5 law.

6 94940. As a consequence of an adverse administrative action
7 *by the bureau under this chapter* against an institution, the
8 institution may request a hearing pursuant to Chapter 4.5
9 (commencing with Section 11445.10) or Chapter 5 (commencing
10 with Section 11500) of Part 1 of Division 3 of Title 2 of the
11 Government Code.

12 94941. (a) An individual who has cause to believe that an
13 institution has violated this chapter, or regulations adopted pursuant
14 to this chapter, may file a complaint with the bureau against the
15 institution. The complaint shall set forth the alleged violation, and
16 shall contain any other information as may be required by the
17 bureau.

18 (b) Taking into account the nature and seriousness of the alleged
19 violation, the bureau shall take action to ascertain the facts and to
20 verify the complaint. The action may include interviewing
21 institution management *or employees, students and others about*
22 *the student's complaint, the institution's response, the student's*
23 *response to the institution's response or other relevant*
24 *circumstances*, conducting an investigation, holding an informal
25 hearing, or other appropriate investigative activity.

26 (c) Upon the facts discovered, the bureau may take appropriate
27 *adverse* administrative enforcement action.

28 (d) If the bureau finds that an institution's violation of this
29 chapter has caused damage or loss to a student or group of students,
30 the bureau may ~~order the institution to~~ *take adverse administrative*
31 *action including, but not limited to, an order that the institution*
32 provide appropriate restitution to that student or group of students.

33 (e) *If the bureau determines that a minor violation occurred,*
34 *the only adverse actions that may be taken in connection with the*
35 *minor violation are those that would be allowed under Section*
36 *94935.*

37 (f) *A person entitled to bring an action for the recovery of*
38 *damages or other relief which is based on a violation of this*
39 *chapter shall not be required to file a complaint pursuant to this*

1 *section, or to pursue or exhaust any administrative process or*
2 *remedy before bringing the action.*

3 94943. The following violations of this chapter are public
4 offenses:

5 (a) ~~Knowingly~~ *Willfully* operating a private postsecondary
6 institution without an approval to operate is an infraction subject
7 to the procedures described in Sections 19.6 and 19.7 of the Penal
8 Code.

9 (b) ~~Knowingly~~ *Willfully* providing false information to the
10 bureau on an application for an approval to operate is an infraction
11 subject to the procedures described in Sections 19.6 and 19.7 of
12 the Penal Code.

13 94943.5. (a) The Attorney General, a district attorney, or a
14 city attorney may make investigations as may be necessary to carry
15 out this chapter, including investigations of complaints. The bureau
16 may jointly bring actions as necessary to enforce this chapter,
17 including civil actions for injunctive relief.

18 (b) Nothing in this section or this chapter precludes the Attorney
19 General, a district attorney, or a city attorney from taking any
20 action each is otherwise lawfully authorized to take.

21 94944. An institution shall designate and maintain an agent
22 for service of process within this state, and provide the name,
23 address, and telephone number of the agent to the bureau. The
24 bureau shall furnish the agent's name, address, and telephone
25 number to a person upon request.

26 94945. Notwithstanding any other provision of law, the bureau
27 shall cite any person *in control*, and that person shall be subject
28 to a fine not to exceed fifty thousand dollars (\$50,000), for
29 operating an institution without proper approval to operate issued
30 by the bureau pursuant to this chapter.

31 94945.1. (a) Each institution subject to this chapter shall be
32 deemed to have authorized the bureau or accrediting agency to
33 provide to the Attorney General, any district attorney or city
34 attorney, or the Student Aid Commission, within 30 days of written
35 notice, copies of all documents and other material concerning the
36 institution that are maintained by the accrediting agency.

37 (b) Within 30 days of receiving written notice from the Attorney
38 General, any district attorney or city attorney, or the Student Aid
39 Commission, an accrediting agency shall provide, free of charge,
40 the requesting official with all documents or other material

1 concerning an institution accredited by that accrediting agency
2 that are designated specifically or by category in the written notice.

3 (c) If the Attorney General, any district attorney or city attorney,
4 or the Student Aid Commission is conducting a confidential
5 investigation of an institution and so informs the accrediting
6 agency, the accrediting agency shall not inform that institution of
7 the investigation.

8 (d) If an accrediting agency willfully fails to comply with this
9 section, the accrediting agency shall be liable for a civil penalty
10 of not less than two thousand five hundred dollars (\$2,500) or
11 more than twenty-five thousand dollars (\$25,000) for each
12 violation. Penalties awarded pursuant to this section shall be
13 deposited in the Private Postsecondary and Vocational Education
14 Administration Fund or any successor fund.

15 94945.2. If any person *in control* willfully violates this chapter
16 and the violation results in the closure of an institution, that person
17 shall pay to all students of the closed institution full refunds or full
18 compensation for actual damages resulting from the closure that
19 were not paid by the closed institution. *This section shall not apply*
20 *to any minor violation of this chapter.*

21 94945.3. If the bureau determines after an investigation that
22 an institution has violated this chapter, the bureau may order the
23 institution to pay the costs and expenses incurred in connection
24 with the investigation and any civil or administrative proceeding
25 involving the violation that was investigated, including charges
26 made by the Attorney General for his or her services, and any
27 expenses incurred by a district attorney. Before any order for the
28 payment of costs and expenses is made under this section, the
29 bureau shall provide the institution with written notice, including
30 notice of the institution's right to request a hearing within 15 days
31 of service of the notice. If a hearing is not timely requested, the
32 bureau may order payment. If a hearing is requested, the bureau
33 shall select an informal hearing pursuant to Chapter 4.5
34 (commencing with Section 11445.10) of Part 1 of Division 3 of
35 Title 2 of the Government Code or a formal hearing pursuant to
36 Chapter 5 (commencing with Section 11500) of Part 1 of Division
37 3 of Title 2 of the Government Code. Within 30 days after the
38 effective date of the order, the bureau may enforce the order as if
39 it were a money judgment pursuant to Title 9 (commencing with
40 Section 680.10) of Part 2 of the Code of Civil Procedure.

1 Alternatively, the bureau may seek the costs and expenses allowed
2 under this section in a civil proceeding. An institution shall not be
3 required to pay the same costs and expenses incurred in connection
4 with the investigation and any civil or administrative proceeding
5 to more than one investigating agency.

6 94945.4. Nothing in this chapter shall be construed to *stay*,
7 *limit*, or preclude the enforcement of rights or remedies under any
8 other applicable statute or law.

9

10 Article 17. Severability

11

12 94946. The provisions of this chapter are severable. If any
13 provision of this chapter or its application is held invalid, that
14 invalidity shall not affect other provisions or applications that can
15 be given effect without the invalid provision or application.

16 94946.5. This chapter shall be liberally construed to effectuate
17 its intent and achieve its purposes.

18

19

20 Article 18. Reporting

21

22 94947. The bureau shall provide regular updates to the
23 Legislature by participating in annual oversight hearings conducted
24 by the appropriate ~~policy committees and budget committees and~~ *committees and*
25 subcommittees of the Senate and Assembly. The updates shall
26 describe the bureau's progress in adopting and enforcing
27 regulations and the provisions of this chapter.

28 94948. On or before July 1, 2013, the Office of the Legislative
29 Analyst shall conduct a comprehensive review of the bureau and
30 report to the Legislature and the Governor on the extent to which
31 the bureau has implemented the provisions of this chapter.

32 94948.5. (a) It is the intent of the Legislature that all of the
33 following occur:

34 (1) The Bureau of State Audits, through an audit request
35 approved by the Joint Legislative Audit Committee, conducts an
36 audit pursuant to Chapter 6.5 (commencing with Section 8543) of
37 Division 1 of Title 2 of the Government Code that assesses the
38 extent accreditation by accrediting bodies provides sufficient
39 assurance that the various goals and requirements of this chapter
40 are met, including, but not limited to, the degree to which the
accreditation process ensures the quality and effectiveness of

1 education at accredited institutions and affords meaningful and
2 effective student protections.

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

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

9 (A) Examine accrediting bodies that accredit institutions which
10 are subject to this chapter. These shall include a sample of regional
11 and national accrediting bodies. The auditor shall recognize that
12 the bureau by statute must approve accredited schools and rely on
13 that accreditation to the extent that those schools comply with this
14 chapter.

15 (B) To the extent deemed necessary to meet the audit standards
16 the Bureau of State Audits is required to comply with Section
17 8546.1 of the Government Code, contacting and obtaining
18 information from institutions or programs operated by institutions
19 accredited by the accrediting bodies.

20 (4) The Bureau of State Audits issues a public report on the
21 results of the audit not later than December 31, 2011.

22 (b) It is further the intent of the Legislature that all of the
23 following occur:

24 (1) The accrediting bodies, and any of the institutions or
25 programs operated by those institutions accredited by those bodies,
26 provide the Bureau of State Audits with full access to any
27 information, records, or individuals that the State Auditor
28 determines are necessary to perform the audit specified in
29 subdivision (a), in a manner consistent with Section 8545.2 of the
30 Government Code.

31 (2) Upon receiving the information provided pursuant to
32 paragraph (1), the Bureau of State Audits protects the
33 confidentiality of that information as required by subdivision (a)
34 of Section 8545, Section 8545.1, and subdivision (b) of Section
35 8545.2 of the Government Code. In keeping information
36 confidential as required by those provisions, the Bureau of State
37 Audits shall provide reasonable assurances to the accrediting bodies
38 and institutions that any information used to support the
39 conclusions and facts in the audit report will be used in a manner
40 that does not disclose confidential information that the accrediting

1 body or the institution reasonably claims is not subject to public
2 disclosure under state or federal law.

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

9 (c) It is the intent of the Legislature that this article be amended
10 before January 1, 2012, to reflect the findings and
11 recommendations of the report completed pursuant to this section.

12
13 Article 19. Termination

14
15 94949. It is the intent of the Legislature that the termination
16 of this chapter be resolved in a comprehensive measure that
17 resolves this issue for all boards and bureaus within the Department
18 of Consumer Affairs. The sunseting of the prior law has been to
19 the detriment of both students and schools and should be avoided
20 in the future.

21 SEC. 20. Section 11105.8 is added to the Vehicle Code, to
22 read:

23 11105.8. Beginning January 1, 2009, a person may not own,
24 operate, or provide instruction for an institution for the driving of
25 motortrucks of three or more axles that are more than 6,000 pounds
26 unladen weight unless all of the following conditions are met:

27 (a) The institution has been approved by the Department of
28 Motor Vehicles.

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

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

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

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

4 (d) The driving instructions meet the requirements set forth in
5 Section 11104.

6 (e) Any other terms and conditions required by the Department
7 of Motor Vehicles to protect the public safety or to meet the
8 requirements of this chapter.

9 SEC. 21. Section 4980.36 of the Business and Professions
10 Code, as added by Section 11 of this act, shall become operative
11 only if both this bill and Senate Bill 1218 of the 2007–08 Regular
12 Session are enacted, and in that event, Section 4980.36 of the
13 Business and Professions Code becomes operative on January 1,
14 2009.

15 SEC. 22. Section 4980.37 of the Business and Professions
16 Code, as amended by Section 12 of this act, shall become operative
17 only if both this bill and Senate Bill 1218 of the 2007–08 Regular
18 Session are enacted and, in that event, Section 4980.37 of the
19 Business and Professions Code becomes operative on January 1,
20 2009.

21 SEC. 23. Section 4980.40 of the Business and Professions
22 Code, as amended by Section 13 of this act, shall become operative
23 only if this bill is enacted and SB 1218 of the 2007–08 Regular
24 Session is not enacted.

25 SEC. 24. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.

34 ~~SEC. 25. This act is an urgency statute necessary for the~~
35 ~~immediate preservation of the public peace, health, or safety within~~
36 ~~the meaning of Article IV of the Constitution and shall go into~~
37 ~~immediate effect. The facts constituting the necessity are:~~

38 ~~In order to extend and modify, as soon as possible, critical~~
39 ~~provisions of law that govern the administration of private~~

- 1 ~~postsecondary education, it is necessary that this act take effect~~
- 2 ~~immediately.~~

O