

AMENDED IN ASSEMBLY MARCH 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 48

Introduced by Assembly Members Portantino and Niello

December 1, 2008

An act to amend Sections 27, 101, 146, 149, and 473.1 of the Business and Professions Code, and to add and repeal Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code, relating to private postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, Portantino. Private postsecondary education: ~~Department of Consumer Affairs. California Private Postsecondary Education Act of 2009.~~

(1) The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, and was repealed on January 1, 2008, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The former act *generally effectuated legislative intent to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions* and required the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act.

The former act also established the Private Postsecondary and Vocational Education Administration Fund, ~~composed of certain fees imposed on private postsecondary institutions, and the continuously appropriated Student Tuition Recovery Fund, both of which~~ ~~was~~ were

repealed on July 1, 2008.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.*

This bill would recast and revise the former act as the California Private Postsecondary Education Act of 2009. 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 appropriate the sum of \$580,000 from the Private Postsecondary and Vocational Education Administration Fund to the bureau for the purpose of funding 5 education administration positions, and would continue that fund in existence and rename it as the Private Postsecondary Education Administration Fund. The bill also would continue the existence of the continuously appropriated Student Tuition Recovery Fund, would provide that certain violations of the new act are punishable as infractions, and would authorize a student or graduate of an institution to bring an action for specified violations of the act. The bill would impose reporting requirements on the bureau and the Legislative Analyst's Office regarding compliance with the act.

The bill would impose various fees, in unspecified amounts, in connection with a private postsecondary institution's approval to operate under the act and would require those fees to be deposited in the Private Postsecondary Education Administration Fund, for expenditure, upon appropriation by the Legislature, by the bureau for the purposes of the act.

The bill would repeal the California Private Postsecondary Education Act of 2009 on January 1, 2016.

Because this bill would establish new infractions, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

~~This bill would express the intent of the Legislature to enact legislation to establish a Bureau for Private Postsecondary Education and to encourage the Department of Consumer Affairs to receive and respond to student complaints and provide information to students and prospective students of private postsecondary educational institutions, until a Bureau for Private Postsecondary Education is established.~~

~~The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund under the administration of the Department of Consumer Affairs and would appropriate \$1,000,000 from that fund to the department for the above purposes.~~

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

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

1 SECTION 1. Section 27 of the Business and Professions Code
2 is amended to read:
3 27. (a) ~~Every~~ Each entity specified in subdivision (b), ~~on or~~
4 ~~after July 1, 2001,~~ shall provide on the Internet information
5 regarding the status of every license issued by that entity in
6 accordance with the California Public Records Act (Chapter 3.5
7 (commencing with Section 6250) of Division 7 of Title 1 of the
8 Government Code) and the Information Practices Act of 1977
9 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
10 4 of Division 3 of the Civil Code). The public information to be
11 provided on the Internet shall include information on suspensions
12 and revocations of licenses issued by the entity and other related
13 enforcement action taken by the entity relative to persons,
14 businesses, or facilities subject to licensure or regulation by the
15 entity. In providing information on the Internet, each entity shall
16 comply with the Department of Consumer Affairs Guidelines for
17 Access to Public Records. The information may not include
18 personal information, including home telephone number, date of
19 birth, or social security number. Each entity shall disclose a
20 licensee's address of record. However, each entity shall allow a
21 licensee to provide a post office box number or other alternate
22 address, instead of his or her home address, as the address of
23 record. This section shall not preclude an entity from also requiring
24 a licensee, who has provided a post office box number or other
25 alternative mailing address as his or her address of record, to
26 provide a physical business address or residence address only for
27 the entity's internal administrative use and not for disclosure as
28 the licensee's address of record or disclosure on the Internet.
29 (b) Each of the following entities within the Department of
30 Consumer Affairs shall comply with the requirements of this
31 section:

1 (1) The Acupuncture Board shall disclose information on its
2 licensees.

3 (2) The Board of Behavioral Sciences shall disclose information
4 on its licensees, including marriage and family therapists, licensed
5 clinical social workers, and licensed educational psychologists.

6 (3) The Dental Board of California shall disclose information
7 on its licensees.

8 (4) The State Board of Optometry shall disclose information
9 regarding certificates of registration to practice optometry,
10 statements of licensure, optometric corporation registrations, branch
11 office licenses, and fictitious name permits of their licensees.

12 (5) The Board for Professional Engineers and Land Surveyors
13 shall disclose information on its registrants and licensees.

14 (6) The Structural Pest Control Board shall disclose information
15 on its licensees, including applicators, field representatives, and
16 operators in the areas of fumigation, general pest and wood
17 destroying pests and organisms, and wood roof cleaning and
18 treatment.

19 (7) The Bureau of Automotive Repair shall disclose information
20 on its licensees, including auto repair dealers, smog stations, lamp
21 and brake stations, smog check technicians, and smog inspection
22 certification stations.

23 (8) The Bureau of Electronic and Appliance Repair shall disclose
24 information on its licensees, including major appliance repair
25 dealers, combination dealers (electronic and appliance), electronic
26 repair dealers, service contract sellers, and service contract
27 administrators.

28 (9) The Cemetery Program shall disclose information on its
29 licensees, including cemetery brokers, cemetery salespersons,
30 crematories, and cremated remains disposers.

31 (10) The Funeral Directors and Embalmers Program shall
32 disclose information on its licensees, including embalmers, funeral
33 establishments, and funeral directors.

34 (11) The Contractors' State License Board shall disclose
35 information on its licensees in accordance with Chapter 9
36 (commencing with Section 7000) of Division 3. In addition to
37 information related to licenses as specified in subdivision (a), the
38 board shall also disclose information provided to the board by the
39 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

1 (12) The Board of Psychology shall disclose information on its
2 licensees, including psychologists, psychological assistants, and
3 registered psychologists.

4 (13) *The Bureau for Private Postsecondary Education shall*
5 *disclose information on private postsecondary institutions under*
6 *its jurisdiction, including disclosure of notices to comply issued*
7 *pursuant to Section 94935 of the Education Code.*

8 (c) “Internet” for the purposes of this section has the meaning
9 set forth in paragraph (6) of subdivision (e) of Section 17538.

10 SEC. 2. *Section 101 of the Business and Professions Code, as*
11 *amended by Section 1 of Chapter 31 of the Statutes of 2008, is*
12 *amended to read:*

13 101. The department is comprised of:

- 14 (a) The Dental Board of California.
- 15 (b) The Medical Board of California.
- 16 (c) The State Board of Optometry.
- 17 (d) The California State Board of Pharmacy.
- 18 (e) The Veterinary Medical Board.
- 19 (f) The California Board of Accountancy.
- 20 (g) The California Architects Board.
- 21 (h) The Bureau of Barbering and Cosmetology.
- 22 (i) The Board for Professional Engineers and Land Surveyors.
- 23 (j) The Contractors’ State License Board.
- 24 (k) ~~The Bureau for Private Postsecondary and Vocational~~
25 ~~Education.~~
- 26 (l) The Structural Pest Control Board.
- 27 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 28 (n) The Board of Registered Nursing.
- 29 (o) The Board of Behavioral Sciences.
- 30 (p) The State Athletic Commission.
- 31 (q) The Cemetery and Funeral Bureau.
- 32 (r) The State Board of Guide Dogs for the Blind.
- 33 (s) The Bureau of Security and Investigative Services.
- 34 (t) The Court Reporters Board of California.
- 35 (u) The Board of Vocational Nursing and Psychiatric
36 Technicians.
- 37 (v) The Landscape Architects Technical Committee.
- 38 (w) The Bureau of Electronic and Appliance Repair.
- 39 (x) The Division of Investigation.
- 40 (y) The Bureau of Automotive Repair.

1 (z) The State Board of Registration for Geologists and
2 Geophysicists.

3 (aa) The Respiratory Care Board of California.

4 (ab) The Acupuncture Board.

5 (ac) The Board of Psychology.

6 (ad) The California Board of Podiatric Medicine.

7 (ae) The Physical Therapy Board of California.

8 (af) The Arbitration Review Program.

9 (ag) The Hearing Aid Dispensers Bureau.

10 (ah) The Physician Assistant Committee.

11 (ai) The Speech-Language Pathology and Audiology Board.

12 (aj) The California Board of Occupational Therapy.

13 (ak) The Osteopathic Medical Board of California.

14 (al) The Bureau of Naturopathic Medicine.

15 (am) The Dental Hygiene Committee of California.

16 (an) Any other boards, offices, or officers subject to its
17 jurisdiction by law.

18 *SEC. 3. Section 146 of the Business and Professions Code is*
19 *amended to read:*

20 146. (a) Notwithstanding any other provision of law, a
21 violation of any code section listed in subdivision (c) ~~or (d)~~ is an
22 infraction subject to the procedures described in Sections 19.6 and
23 19.7 of the Penal Code ~~when~~ *under either of the following*
24 *circumstances:*

25 (1) A complaint or a written notice to appear in court pursuant
26 to Chapter 5c (commencing with Section 853.5) of Title 3 of Part
27 2 of the Penal Code is filed in court charging the offense as an
28 infraction, unless the defendant, at the time he or she is arraigned,
29 after being advised of his or her rights, elects to have the case
30 proceed as a misdemeanor, ~~or~~.

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

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

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

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

~~(d) Institutions that are required to register with the Bureau for Private Postsecondary and Vocational Education pursuant to Section 94931 of the Education Code.~~

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

1 certificate for the profession or vocation which was the basis for
2 his or her conviction.

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

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

12 (1) Cease the unlawful advertising.

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

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

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

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

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

34 (1) The Bureau of Barbering and Cosmetology.

35 (2) The Funeral Directors and Embalmers Program.

36 (3) The Veterinary Medical Board.

37 (4) The Hearing Aid Dispensers Advisory Commission.

38 (5) The Landscape Architects Technical Committee.

39 (6) The California Board of Podiatric Medicine.

40 (7) The Respiratory Care Board of California.

- (8) The Bureau of Home Furnishings and Thermal Insulation.
- (9) The Bureau of Security and Investigative Services.
- (10) The Bureau of Electronic and Appliance Repair.
- (11) The Bureau of Automotive Repair.
- (12) The Tax Preparers Program.
- (13) The California Architects Board.
- (14) The Speech-Language Pathology and Audiology Board.
- (15) The Board for Professional Engineers and Land Surveyors.
- (16) The Board of Behavioral Sciences.
- (17) The State Board for Geologists and Geophysicists.
- (18) The Structural Pest Control Board.
- (19) The Acupuncture Board.
- (20) The Board of Psychology.
- (21) The California Board of Accountancy.
- (22) The Bureau of Naturopathic Medicine.
- (23) *The Bureau for Private Postsecondary Education.*

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

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

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

~~(b) The Bureau for Postsecondary and Vocational Education. For purposes of this chapter, "board" includes the bureau.~~

~~(c)~~

(b) The Cemetery and Funeral Bureau.

SEC. 6. *Chapter 8 (commencing with Section 94800) is added to Part 59 of Division 10 of Title 3 of the Education Code, to read:*

CHAPTER 8. PRIVATE POSTSECONDARY INSTITUTIONS

Article 1. General Provisions

94800. *This chapter shall be known, and may be cited, as the California Private Postsecondary Education Act of 2009.*

94800.5. *Whenever a reference is made to the former Private Postsecondary Education and Student Protection Act, the former Private Postsecondary and Vocational Education Reform Act of 1989, or the former Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it*

1 read on June 30, 2007, by the provisions of any statute or
2 regulation, it is to be construed as referring to the provisions of
3 this chapter. Whenever a reference is made to the former Bureau
4 for Private Postsecondary and Vocational Education by the
5 provisions of any statute or regulation, it shall be construed as
6 referring to the Bureau for Private Postsecondary Education.

7 94801. The Legislature finds and declares all of the following:

8 (a) In 2007, more than 400,000 Californians attended more
9 than 1,500 private postsecondary schools in California.

10 (b) Private postsecondary schools can complement the public
11 education system and help develop a trained workforce to meet
12 the demands of California businesses and the economy.

13 (c) Numerous reports and studies have concluded that
14 California's previous attempts at regulatory oversight of private
15 postsecondary schools failed to ensure student protections or
16 provide effective oversight of private postsecondary schools.
17 Previous laws and regulatory oversight were allowed to expire on
18 June 30, 2007, with some skeletal functions, continued by urgency
19 legislation, that were allowed to expire on June 30, 2008.

20 (d) It is the intent of the Legislature in enacting this chapter to
21 ensure all of the following:

22 (1) Minimum educational quality standards and opportunities
23 for success for California students attending private postsecondary
24 schools in California.

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

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

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

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

35 (e) The Legislature advises future policymakers to continually
36 and carefully evaluate this chapter and its administration and
37 enforcement. Where there are deficiencies in the law or regulatory
38 oversight, the Governor and the Legislature should act quickly to
39 correct them.

Article 2. Transition Provisions

94802. (a) An institution that had a valid approval to operate on June 30, 2007, issued by the former Bureau for Private Postsecondary and Vocational Education pursuant to former Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it read on June 30, 2007, shall maintain that approval under this chapter. For the purposes of this chapter, the approval to operate shall be valid for three calendar years after the expiration date of the approval, as it read on June 30, 2007.

(b) Applications to renew an approval to operate that had been pending action before the former Bureau for Private Postsecondary and Vocational Education on June 30, 2007, shall be deemed processed as follows:

(1) Applications received prior to January 1, 2006, shall be granted an approval to operate until 2012 to coincide with the anniversary date of the current approval to operate date.

(2) Applications received after January 1, 2006, shall be granted an approval to operate until 2013 to coincide with the anniversary date of the current approval to operate.

(c) Students seeking to enroll in institutions approved under subdivision (b) shall be notified in writing by the institution, prior to executing an enrollment agreement, that, although the institution was approved to operate by the former Bureau for Private Postsecondary and Vocational Education, the institution's application for reapproval to operate has not been reviewed by the bureau pursuant to this chapter.

94803. The bureau shall, by emergency regulation amend, and repeal as necessary, the regulations, as they read on June 30, 2007, in Division 7.5 (commencing with Section 70000) of Title 5 of the California Code of Regulations, to conform to this chapter no later than February 1, 2010. These emergency regulations shall become permanent through the regular rulemaking process within one year of the enactment of this chapter.

94804. (a) Each unresolved matter submitted to the former Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, shall be deemed to remain pending before the bureau irrespective of any applicable deadlines. With respect to any deadline applicable to a pending matter, no time shall be

1 *deemed to have elapsed from July 1, 2007, to January 1, 2010,*
2 *inclusive.*

3 *(1) For the purposes of this subdivision, “matter” includes, but*
4 *is not limited to, an appeal, a complaint, a claim, an evaluation,*
5 *a hearing, or an investigation.*

6 *(2) For the purposes of this subdivision, “matter” does not*
7 *include a Student Tuition Recovery Fund claim.*

8 *(b) Student complaints submitted from July 1, 2007, to December*
9 *31, 2009, inclusive, shall continue to be duly recorded and*
10 *investigated by the bureau.*

11 *94805. For the performance of the duties and exercise of the*
12 *powers vested in the bureau, the bureau shall have possession and*
13 *control of all records, papers, offices, equipment, supplies, or other*
14 *property, real or personal, held for the benefit or use by the former*
15 *Bureau for Private Postsecondary and Vocational Education.*

16 *94806. The Private Postsecondary and Vocational Education*
17 *Administration Fund established by former Section 94932 of the*
18 *Education Code, and extended by Chapter 635 of the Statutes of*
19 *2007, is continued in existence, and is renamed the Private*
20 *Postsecondary Education Administration Fund.*

21 *94807. The Student Tuition Recovery Fund established by*
22 *former Section 94944 of the Education Code, and extended by*
23 *Chapter 635 of the Statutes of 2007, is continued in existence.*

24 *94808. (a) Any Student Tuition Recovery Fund claims received*
25 *by the former Bureau for Private Postsecondary and Vocational*
26 *Education prior to July 1, 2007, that were not processed by the*
27 *former Bureau for Private Postsecondary and Vocational*
28 *Education and were not paid by the department from July 1, 2007,*
29 *to June 30, 2008, inclusive, shall be processed by the bureau.*

30 *(b) Any Student Tuition Recovery Fund claims received by the*
31 *department from July 1, 2007, to December 31, 2009, inclusive,*
32 *shall be processed by the bureau.*

33 *(c) Student Tuition Recovery Fund claims filed with, and*
34 *approved by, the former Bureau for Private Postsecondary and*
35 *Vocational Education as of June 30, 2007, if not already paid,*
36 *shall be paid before any claims approved after that date.*

37 *(d) The student’s right to recovery from the Student Tuition*
38 *Recovery Fund shall be based on the law that was in effect when*
39 *the student enrolled and a fee for the fund was charged as a part*

1 of tuition costs, even though that law has become inoperative, been
2 repealed, or otherwise expired.

3 94809. (a) An institution that had an application for an
4 approval to operate pending with the former Bureau for Private
5 Postsecondary and Vocational Education on June 30, 2007, may
6 continue to operate, but shall comply with, and is subject to, this
7 chapter, and shall submit an application for an approval to operate
8 to the bureau pursuant to this chapter within six months of that
9 application becoming available.

10 (b) An institution that did not have a valid approval to operate
11 issued by, and did not have an application for approval to operate
12 pending with, the former Bureau for Private Postsecondary and
13 Vocational Education on June 30, 2007, that began operations on
14 or after July 1, 2007, may continue to operate, but shall comply
15 with, and is subject to, this chapter, and shall submit an application
16 for an approval to operate to the bureau pursuant to this chapter
17 within six months of that application becoming available.

18 (c) Students seeking to enroll in institutions approved under
19 subdivisions (a) and (b) shall be notified by the institution, in
20 writing and prior to executing an enrollment agreement, that the
21 institution's application for approval to operate has not been
22 reviewed by the bureau.

23 (d) An institution that is permitted to operate pursuant to
24 subdivision (a) or (b) shall not use the terms "approval,"
25 "approved," "approval to operate," or "approved to operate"
26 without clearly stating that the institution's application for
27 approval has not been reviewed by the bureau.

28 94809.5. Notwithstanding any other provision of law:

29 (a) For any claims that a student had based on a violation of
30 the Private Postsecondary and Vocational Education Reform Act
31 of 1989 on or before June 30, 2007, the period of time from June
32 30, 2007, to December 31, 2009, inclusive, shall be excluded in
33 determining the deadline or the statute of limitation for filing any
34 claim with the bureau or a lawsuit based on any claim.

35 (b) All claims described in subdivision (a), except claims to the
36 Student Tuition Recovery Fund, including those contained in a
37 lawsuit or other legal action, shall be determined or adjudicated
38 based on the law that was in effect when the violations or events
39 took place, even though those provisions have become inoperative,
40 been repealed, or otherwise expired.

1 94809.6. (a) Notwithstanding any other provision of law, any
2 claim or cause of action in any manner based on a violation of the
3 former Private Postsecondary and Vocational Education Reform
4 Act of 1989 that arose on or before June 30, 2007, shall have been
5 commenced on or before June 30, 2007. Notwithstanding the
6 inoperative status or repeal of the act on or after July 1, 2007, any
7 claim or cause of action in any manner based on the act that was
8 commenced on or before June 30, 2007, whether or not reduced
9 to a final judgment, shall be preserved, and any remedy that was
10 or could have been ordered to redress a violation of the act on or
11 before June 30, 2007, may be ordered or maintained thereafter.
12 If a final judgment was obtained in an action commenced on or
13 after July 1, 2007, under the authority of Chapter 635 of the
14 Statutes of 2007, the final judgment and any legal remedy that was
15 or could be maintained on or after July 1, 2007, under that statute,
16 shall be preserved and maintained thereafter.

17 (b) The rights, obligations, claims, causes of action, and
18 remedies described in subdivision (a) shall be determined by the
19 provisions of the former Private Postsecondary and Vocational
20 Education Reform Act of 1989 in effect on or before June 30, 2007,
21 notwithstanding the inoperative status or repeal of the former
22 Private Postsecondary and Vocational Education Reform Act of
23 1989 on or after July 1, 2007.

24 Article 3. Definitions

25
26
27 94810. Unless the context requires otherwise, the definitions
28 set forth in this article govern the construction of this chapter.

29 94811. "Ability-to-benefit student" means a student who does
30 not have a certificate of graduation from a school providing
31 secondary education, or a recognized equivalent of that certificate.

32 94812. "Academic year" means a period, including a minimum
33 of 30 weeks of instructional time, in which a full-time student
34 attending an institution that measures educational program length
35 in credit hours completes 24 semester or trimester hours or 36
36 quarter hours, or an institution that measures educational program
37 length in clock hours completes at least 900 clock hours.

38 94813. "Accredited" means an institution is recognized or
39 approved by an accrediting agency recognized by the United States
40 Department of Education.

1 94814. “Accrediting agency” is an agency recognized by the
2 United States Department of Education.

3 94815. “Annual report” means the yearly report required to
4 be filed by institutions.

5 94816. “Applicant” means an institution that has submitted
6 an application to the bureau for an approval to operate or for a
7 renewal of an approval to operate.

8 94817. “Approval to operate” or “approval” means the
9 authorization pursuant to this chapter to offer to the public and
10 to provide postsecondary educational programs, as well as the
11 written document issued to an institution signifying its approval
12 to operate.

13 94817.5. “Approved to operate” or “approved” means that
14 an institution has received authorization pursuant to this chapter
15 to offer to the public and to provide postsecondary educational
16 programs.

17 94818. “Avocational education” means education offered for
18 the purpose of personal entertainment, pleasure, or enjoyment.

19 94819. “Branch campus” means a site other than the main
20 campus or a satellite location.

21 94820. “Bureau” means the Bureau for Private Postsecondary
22 Education in the Department of Consumer Affairs.

23 94820.5. “Certified” means having passed an examination
24 that attests to the quality and level of knowledge by a qualified
25 certification authority or organization that is not affiliated with
26 an institution.

27 94821. “Change in business organization form” means a
28 change of a business organization’s original form, including, for
29 example, a situation in which a sole proprietorship becomes a
30 partnership or corporation, or when a business organization
31 becomes a nonprofit public benefit corporation or forms a
32 nonprofit public benefit corporation as a subsidiary to provide the
33 educational programs for which the business organization has an
34 approval to operate.

35 94822. “Change of location” means a move or relocation more
36 than 10 miles from the site at which the institution offers
37 instruction.

38 94823. “Change of ownership” means the acquisition by a
39 person of more than 50 percent of an interest in or stock of a parent
40 company.

1 94824. “Class day” means a day a student is scheduled to
2 attend class session, or for students receiving instruction through
3 distance education, any calendar day except Saturday, Sunday,
4 or any holiday enumerated in Section 6700 of the Government
5 Code.

6 94825. “Class session” means part of a class day that an
7 institution conducts instruction in a particular subject.

8 94826. “Commence operations” means an institution has
9 begun to provide educational programs.

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

15 94828. “Curriculum” means an organized set of courses or
16 modules of instruction that are prerequisites to the award of a
17 degree or diploma.

18 94829. “Default” means failure of a borrower and endorser,
19 if any, to make an installment payment for a loan received under
20 the federal student financial aid programs when due, or to meet
21 other terms of the promissory note, provided that this failure
22 persists for 270 days if payment is due monthly or 360 days if
23 payment is due less frequently.

24 94830. “Degree” means a recognized educational credential
25 awarded by an institution that signifies satisfactory completion of
26 the requirements of a postsecondary educational program at the
27 associate’s level or above.

28 94831. “Degree title” means the designated subject area of
29 the educational program that appears on the face of the document
30 awarded to a student.

31 94832. “Diploma” means a recognized educational credential,
32 other than a degree, awarded by an institution that signifies
33 satisfactory completion of the requirements of a postsecondary
34 educational program below the associate’s level. A diploma is
35 also known as a certificate.

36 94833. “Director” means the Director of Consumer Affairs.

37 94834. “Distance education” means transmission of instruction
38 to students at a location separate from the institution.

39 94835. “Document of record” means any document required
40 to be maintained by this chapter.

1 94836. “Educational materials” means textbooks, supplies,
2 implements, tools, machinery, computers, electronic devices, or
3 other goods related to any education, training, or experience
4 required for participation in an educational program.

5 94837. “Educational program” means a planned sequence
6 composed of a single course or module, or set of related courses
7 or modules, that provides the education, training, skill, and
8 experience leading to the award of a recognized educational
9 credential such as a degree or diploma.

10 94838. “Educational program approval” means authorization
11 by the bureau, another government agency of this state, or a federal
12 government agency, to provide educational programs, and is an
13 element of an approval to operate.

14 94839. “Enrollment” means the execution of an enrollment
15 agreement.

16 94840. “Enrollment agreement” means a written contract
17 between a student and institution concerning an educational
18 program.

19 94841. “Faculty” means the instructional staff of an institution,
20 whether these persons are employees or independent contractors.

21 94842. “Graduate” means an individual who has been awarded
22 a degree or diploma.

23 94843. “Institution” means any private postsecondary
24 educational institution, including its branch campuses and satellite
25 locations.

26 94844. “Institutional charges” means charges for an
27 educational program paid directly to an institution.

28 94845. “Institution manager” means an individual who is a
29 member of an institution’s management.

30 94846. “Instruction” means an institution’s specific, formal
31 arrangements in which its faculty present a part of the curriculum.

32 94847. “License and examination preparation” means
33 instruction designed to assist students to prepare for an
34 examination for licensure, or offered for the sole purpose of
35 providing continuing education in subjects licensees are required
36 to take as a condition of continued licensure.

37 94848. “Licensure” includes any license, certificate, permit,
38 or similar credential that a person must hold to lawfully engage
39 in a profession, occupation, trade, or career field.

- 1 94849. “Main campus” means the institution’s sole or primary
2 teaching location.
- 3 94850. “Noninstitutional charges” means charges for an
4 educational program paid to an entity other than an institution
5 that are specifically required for participation in an educational
6 program.
- 7 94851. “Owner” means an individual in the case of a sole
8 proprietorship, partners in a partnership, members in a limited
9 liability company, or shareholders in a corporation.
- 10 94852. “Ownership” means a legal or equitable interest in an
11 institution, including ownership of assets or stock.
- 12 94853. “Parent company” means a partnership, limited
13 liability company, or corporation that owns more than 50 percent
14 of the stock or interest in an institution.
- 15 94854. “Period of attendance” means a semester, quarter, or
16 trimester for educational programs measured in credit hours and
17 the entire educational program if measured in clock hours.
- 18 94855. “Person” means a natural person or a business
19 organization, irrespective of its form.
- 20 94856. “Person in control” means a person who by his or her
21 position’s authority or conduct directs the management of an
22 institution.
- 23 94857. “Postsecondary education” means a formal institutional
24 educational program whose curriculum is designed primarily for
25 students who have completed or terminated their secondary
26 education or are beyond the compulsory age of secondary
27 education, including programs whose purpose is academic,
28 vocational, or continuing professional education.
- 29 94858. “Private postsecondary educational institution” means
30 a private entity with a physical presence in this state that offers
31 postsecondary education to the public for an institutional charge.
- 32 94859. “Recruiter” means an employee of an institution whose
33 principal job responsibilities are the recruitment of students other
34 than on the institution’s premises.
- 35 94860. “Recruitment” means actions taken by recruiters
36 seeking enrollment of students.
- 37 94861. “Reporting period” means the institution’s fiscal year
38 or any yearly period designated by the bureau to be covered in
39 the institution’s annual report.

1 94862. “Satellite location” means an auxiliary classroom or
2 teaching site within 50 miles of the branch or main location.

3 94864. “Shift in control” means a change in the ownership of
4 an institution where a person who previously did not own at least
5 25 percent of the stock or interest in an institution or its parent
6 company acquires ownership of at least 25 percent of the stock or
7 interest in the institution or its parent company. Shift in control
8 does not include an ownership change between family members
9 involving less than 51 percent of the stock or interest in the
10 institution.

11 94865. “Site” means a main or branch campus or satellite
12 location.

13 94866. “Teach-out” means the arrangements an institution
14 makes for its students to complete their educational programs
15 when the institution ceases to operate.

16 94867. “Third-party payer” means an employer, government
17 program, or other entity that pays a student’s total charges when
18 no separate agreement for the repayment of the charges exists
19 between the third-party payer and the student.

20 94868. “To offer to the public” means to advertise, publicize,
21 solicit, or recruit.

22 94869. “To operate” means to establish, keep, or maintain
23 any facility or location in this state where or from which or through
24 which postsecondary educational programs are provided.

25 94870. “Total charges” means the sum of institutional and
26 noninstitutional charges.

27 94871. “Year” means a calendar year.

28
29 Article 4. Exemptions
30

31 94874. (a) The following are exempt from this chapter:

32 (1) An institution that offers solely avocational or recreational
33 educational programs.

34 (2) An institution offering educational programs sponsored by
35 a bona fide trade, business, professional, or fraternal organization,
36 solely for that organization’s membership.

37 (3) A postsecondary educational institution established,
38 operated, and governed by the federal government or by this state
39 or its political subdivisions.

40 (4) An institution offering either of the following:

1 (A) Test preparation for examinations required for admission
2 to a postsecondary educational institution.

3 (B) Continuing education or license examination preparation,
4 if the institution or the program is approved, certified, or sponsored
5 by any of the following:

6 (i) A government agency, other than the bureau, that licenses
7 persons in a particular profession, occupation, trade, or career
8 field.

9 (ii) A state-recognized professional licensing body, such as the
10 State Bar of California, that licenses persons in a particular
11 profession, occupation, trade, or career field.

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

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

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

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

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

28 (C) An institution operating under this subdivision shall not
29 award degrees in any area of physical science.

30 (D) Any degree or diploma granted under these provisions shall
31 contain on its face, in the written description of the title of the
32 degree being conferred, a reference to the theological or religious
33 aspect of the degree's subject area.

34 (E) A degree awarded under this subdivision shall reflect the
35 nature of the degree title, such as "associate of religious studies,"
36 or "bachelor of religious studies," or "master of divinity," or
37 "doctor of divinity."

38 (6) An institution that solely provides educational programs for
39 total charges of two thousand five hundred dollars (\$2,500) or
40 less when no part of the total charges is paid from state or federal

1 student financial aid programs. The bureau may adjust this cost
2 threshold based upon the California Consumer Price Index and
3 post notification of the adjusted cost threshold on its Internet Web
4 site, as the bureau determines, through the promulgation of
5 regulations, that the adjustment is consistent with the intent of this
6 chapter.

7 (7) An institution that solely offers educational programs in law
8 leading to a Juris Doctor (J.D.), Master of Laws (LL.M.), or Doctor
9 of Jurisprudence (J.S.D.) degree, or similar degrees signifying the
10 award of a bachelor's, master's, or doctorate in law.

11 (b) Notwithstanding subdivision (a), an institution that is
12 otherwise exempt from this chapter shall comply with the
13 requirements of Section 94927.5.

14 (c) The bureau shall establish, by regulation, a process pursuant
15 to which an institution that is exempt from this chapter may request,
16 and obtain, from the bureau verification that the institution is
17 exempt. The bureau shall establish a reasonable fee to reimburse
18 the bureau's costs associated with the implementation of this
19 subdivision.

20 21 Article 5. Bureau Powers and Duties

22
23 94875. The Bureau for Private Postsecondary Education, as
24 established by Section 6 of Chapter 635 of the Statutes of 2007, is
25 continued in existence and shall commence operations. This
26 chapter establishes the functions and responsibilities of the bureau,
27 for the purposes of Section 6 of Chapter 635 of the Statutes of
28 2007. The bureau shall regulate private postsecondary educational
29 institutions through the powers granted, and duties imposed, by
30 this chapter. In exercising its powers, and performing its duties,
31 the protection of the public shall be the bureau's highest priority.
32 If protection of the public is inconsistent with other interests sought
33 to be promoted, the protection of the public shall be paramount.

34 94876. (a) The powers and duties set forth in this chapter are
35 vested in the Director of Consumer Affairs, who may delegate them
36 to a bureau chief, subject to the provisions of this section.

37 (b) The bureau chief shall be appointed by the Governor, and
38 is exempt from the State Civil Service Act pursuant to Part 2
39 (commencing with Section 18500) of Division 5 of Title 2 of the
40 Government Code.

1 (c) Each power granted to, or duty imposed upon, the bureau
2 under this chapter shall be exercised and performed in the name
3 of the bureau, subject to any conditions and limitations the director
4 may prescribe. The bureau chief may delegate any powers or duties
5 to a designee.

6 (d) As may be necessary to carry out this chapter, the director,
7 in accordance with the State Civil Service Act, may appoint and
8 fix the compensation of personnel.

9 94877. (a) The bureau shall adopt, on or before January 1,
10 2011, and shall enforce, regulations to implement this chapter
11 pursuant to the Administrative Procedure Act in Chapter 3.5
12 (commencing with Section 11340) of Part 1 of Division 3 of Title
13 2 of the Government Code.

14 (b) The bureau shall develop and implement an enforcement
15 program, pursuant to Article 18 (commencing with Section 94932)
16 to implement this chapter. The enforcement program shall include
17 a plan for investigating complaints filed with the bureau.

18 (c) The bureau shall establish a program to proactively identify
19 unlicensed institutions and take all appropriate legal action.

20 94878. (a) On or before June 30, 2010, the bureau shall
21 establish an Internet Web site that includes at least all of the
22 following information:

23 (1) An explanation of the bureau's transition plan for the
24 reconstituted bureau and an explanation of the bureau's scope of
25 authority.

26 (2) (A) A directory of approved institutions, and a link, if
27 feasible, to the Internet Web site of each institution.

28 (B) For each institution, the directory shall include all of the
29 following information:

30 (i) The status of the institution's approval to operate.

31 (ii) The information provided by the institutions including, but
32 not limited to, all of the following: in the annual report, as required
33 by Section 94934, including the school catalog and the Student
34 Performance Fact Sheet.

35 (iii) The disciplinary history of the institution pursuant to
36 subdivision (b) of Section 94884.

37 (iv) A notice to students that, upon request to the bureau, the
38 student may receive a summary of all complaints within the last
39 five years against an institution that have reached final disposition,
40 pursuant to subdivision (a) of Section 94884.

1 (b) The bureau shall maintain the Internet Web site described
2 in subdivision (a). The bureau shall ensure that the information
3 specified in subdivision (a) is kept current. The bureau shall update
4 the Internet Web site at least annually, to coincide with the
5 submission of annual reports by the institutions pursuant to Section
6 94934.

7 (c) In addition to maintaining the Internet Web site described
8 in subdivision (a), the bureau may provide the information
9 described in paragraph (2) of subdivision (a) to the California
10 Postsecondary Education Commission (CPEC), and the CPEC
11 may include that information in an Internet Web site directory of
12 school performance data maintained by the CPEC.

13 94879. The bureau shall conduct an outreach program to
14 secondary school students as well as prospective and current
15 private postsecondary students, to provide them with information
16 on how to best select a private postsecondary institution, how to
17 enter into enrollment agreements, how to make informed decisions
18 in the private postsecondary education marketplace, and how to
19 contact the bureau for assistance. The bureau may accomplish the
20 purposes of this section in cooperation with the department.

21 94880. The bureau shall appoint an advisory committee that
22 shall consist of, but not necessarily be limited to, representatives
23 of institutions, student representatives, and employers who hire
24 students.

25 94881. The bureau may conduct workshops to provide
26 applicants and institutions information on application processes,
27 compliance with this chapter, best practices for providing
28 postsecondary educational programs, and other subjects
29 concerning postsecondary education.

30 94882. The bureau may empanel visiting committees to assist
31 in evaluating an institution's application for an approval to
32 operate. The members of visiting committees shall serve at no
33 expense to the state, except that the bureau may reimburse the
34 members of visiting committees for actual travel and per diem
35 expenses incurred during the evaluation. The bureau may seek
36 reimbursement for the travel and per diem costs from the institution
37 that is the subject of an evaluation.

38 94883. (a) Any individual serving on a visiting committee who
39 provides information to the bureau, or its staff, in the course of
40 evaluating any institution, or who testifies in any administrative

1 hearing arising under this chapter, is entitled to a defense and
2 indemnification in any action arising out of the information or
3 testimony provided as if he or she were a public employee.

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

8 94884. (a) For all complaints that have reached final
9 disposition, the bureau shall, upon request, make available to
10 members of the public a summary of the nature and disposition of
11 complaints against an institution within the last five years.

12 (b) The bureau is subject to Section 27 of the Business and
13 Professions Code.

14
15 Article 6. Approval to Operate
16

17 94885. The bureau shall, by January 1, 2011, adopt by
18 regulation minimum operating standards for an institution that
19 shall reasonably ensure that all of the following occur:

20 (a) The content of each educational program can achieve its
21 stated objective.

22 (b) The institution maintains specific written standards for
23 student admissions for each educational program and those
24 standards are related to the particular educational program.

25 (c) The facilities, instructional equipment, and materials are
26 sufficient to enable students to achieve the educational program's
27 goals.

28 (d) The institution maintains a withdrawal policy and provides
29 refunds.

30 (e) The directors, administrators, and faculty are properly
31 qualified.

32 (f) The institution is financially sound and capable of fulfilling
33 its commitments to students.

34 (g) That, upon satisfactory completion of an educational
35 program, the institution gives students a document signifying the
36 degree or diploma awarded.

37 (h) Adequate records and standard transcripts are maintained
38 and are available to students.

39 (i) The institution is maintained and operated in compliance
40 with this chapter and all other applicable ordinances and laws.

1 94886. *Except as exempted in Article 4 (commencing with*
2 *Section 94874) or in compliance with the transition provisions in*
3 *Article 2 (commencing with Section 94802), a person shall not*
4 *open, conduct, or do business as a private postsecondary*
5 *educational institution in this state without obtaining an approval*
6 *to operate under this chapter.*

7 94887. *An approval to operate shall be granted only after an*
8 *applicant has presented sufficient evidence to the bureau, and the*
9 *bureau has independently verified the information provided by the*
10 *applicant through site visits or other methods deemed appropriate*
11 *by the bureau, that the applicant has the capacity to satisfy the*
12 *minimum operating standards. The bureau shall deny an*
13 *application for an approval to operate if the application does not*
14 *satisfy those standards.*

15 94888. *(a) The bureau shall, by January 1, 2011, adopt by*
16 *regulation both of the following:*

17 *(1) The process and procedures whereby an institution seeking*
18 *approval to operate may apply for and obtain an approval to*
19 *operate.*

20 *(2) The process and procedures governing the bureau's approval*
21 *and denial of applications for approval to operate, including the*
22 *process and procedures whereby an applicant for which an*
23 *application has been denied may appeal that denial.*

24 *(b) The bureau shall, by regulation, establish a process for*
25 *issuing a notification of a denial of an approval to operate to an*
26 *institution that submits an application for approval to operate and*
27 *for which that application is denied. The notification of denial*
28 *shall include a statement of reasons for the denial.*

29 94889. *Except as provided in subdivision (b) of Section 94890,*
30 *an approval to operate shall be for a term of five years.*

31 94890. *(a) (1) The bureau shall grant an institution that is*
32 *accredited an approval to operate by means of its accreditation.*

33 *(2) The bureau shall, by January 1, 2011, adopt by regulation,*
34 *the process and procedures whereby an institution that is*
35 *accredited may apply for and obtain an approval by means of that*
36 *accreditation.*

37 *(b) The term of an approval to operate pursuant to this section*
38 *shall be coterminous with the term of accreditation. Upon renewal*
39 *of the institution's accreditation, the institution shall submit*

1 verification to the bureau, on a form provided by the bureau, that
2 the institution's accreditation has been renewed.

3 (c) Institutions that are granted an approval to operate by means
4 of the institution's accreditation shall comply with all other
5 applicable requirements in this chapter.

6 94891. (a) The bureau shall, by January 1, 2011, adopt by
7 regulation the process and procedures whereby an institution may
8 obtain a renewal of an approval to operate.

9 (b) To be granted a renewal of an approval to operate, the
10 institution shall demonstrate its continued capacity to meet the
11 minimum operating standards.

12 94892. If an agency of this state other than the bureau or of
13 the federal government provides an approval to offer an
14 educational program and the institution already has a valid
15 approval to operate issued by the bureau, that agency's educational
16 program approval may satisfy the requirements of this article
17 without any further review by the bureau. The bureau may
18 incorporate that educational program into the institution's
19 approval to operate when the bureau receives documentation
20 signifying the conferral of the educational program approval by
21 that agency.

22
23 Article 7. Substantive Changes to an Approval to Operate
24

25 94893. If an institution intends to make a substantive change
26 to its approval to operate, the institution shall receive prior
27 authorization from the bureau. Except as provided in subdivision
28 (a) of Section 94896, if the institution makes the substantive change
29 without prior bureau authorization, the institution's approval to
30 operate may be suspended or revoked.

31 94894. The following changes to an approval to operate are
32 considered substantive changes and require prior authorization:

33 (a) A change in educational objectives, including an addition
34 of a new diploma or a degree educational program unrelated to
35 the approved educational programs offered by the institution.

36 (b) A change in ownership.

37 (c) A change in control.

38 (d) A change in business organization form.

39 (e) A change of location.

40 (f) A change of name.

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

2 (h) An addition of a separate branch more than five miles from
3 the main or branch campus.

4 94895. The bureau shall, by January 1, 2011, adopt by
5 regulation the process and procedures whereby an institution shall
6 seek authorization for substantive changes to an approval to
7 operate.

8 94896. (a) An institution that has been granted an approval
9 to operate by means of accreditation shall only make a substantive
10 change in accordance with the institution's accreditation
11 standards.

12 (b) The institution shall notify the bureau of the substantive
13 change on a form provided by the bureau.

14
15 Article 8. Fair Business Practices

16
17 94897. An institution shall not do any of the following:

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

20 (b) Promise or guarantee employment, or otherwise overstate
21 the availability of jobs upon graduation.

22 (c) Advertise concerning job availability, degree of skill, or
23 length of time required to learn a trade or skill unless the
24 information is accurate and not misleading.

25 (d) Advertise, or indicate in promotional material, without
26 including the fact that the educational programs are delivered by
27 means of distance education if the educational programs are so
28 delivered.

29 (e) Advertise, or indicate in promotional material, that the
30 institution is accredited, unless the institution has been accredited
31 by an accrediting agency.

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

36 (g) Offer to compensate a student to act as an agent of the
37 institution with regard to the solicitation, referral, or recruitment
38 of any person for enrollment in the institution, except that an
39 institution may award a token gift to a student for referring an
40 individual, provided that the gift is not in the form of money, no

1 more than one gift is provided annually to a student, and the gift's
2 cost is not more than one hundred dollars (\$100).

3 (h) Pay any consideration to a person to induce that person to
4 sign an enrollment agreement for an educational program.

5 (i) Use a name in any manner improperly implying any of the
6 following:

7 (1) The institution is affiliated with any government agency,
8 public or private corporation, agency, or association if it is not,
9 in fact, thus affiliated.

10 (2) The institution is a public institution.

11 (3) The institution grants degrees, if the institution does not
12 grant degrees.

13 (j) In any manner make an untrue or misleading change in, or
14 untrue or misleading statement related to, a test score, grade or
15 record of grades, attendance record, record indicating student
16 completion, placement, employment, salaries, or financial
17 information, including any of the following:

18 (1) A financial report filed with the bureau.

19 (2) Information or records relating to the student's eligibility
20 for student financial aid at the institution.

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

23 (k) Willfully falsify, destroy, or conceal any document of record
24 while that document of record is required to be maintained by this
25 chapter.

26 (l) Use the terms "approval," "approved," "approval to
27 operate," or "approved to operate" without stating clearly and
28 conspicuously that approval to operate means compliance with
29 state standards as set forth in this chapter. If the bureau has
30 granted an institution approval to operate, the institution may
31 indicate that the institution is "licensed" or "licensed to operate,"
32 but may not state or imply either of the following:

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

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

37 (m) Direct any individual to perform an act that violates this
38 chapter, to refrain from reporting unlawful conduct to the bureau
39 or another government agency, or to engage in any unfair act to

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

3 *(n) Compensate an employee involved in recruitment,*
4 *enrollment, admissions, student attendance, or sales of educational*
5 *materials to students on the basis of a commission, commission*
6 *draw, bonus, quota, or other similar method related to the*
7 *recruitment, enrollment, admissions, student attendance, or sales*
8 *of educational materials to students, except as provided in*
9 *paragraph (1) or (2):*

10 *(1) If the educational program is scheduled to be completed in*
11 *90 days or less, the institution shall pay compensation related to*
12 *a particular student only if that student completes the educational*
13 *program.*

14 *(2) For institutions participating in the federal student financial*
15 *aid programs, this subdivision shall not prevent the payment of*
16 *compensation to those involved in recruitment, admissions, or the*
17 *award of financial aid if those payments are in conformity with*
18 *federal regulations governing an institution's participation in the*
19 *federal student financial aid programs.*

20 *(o) Require a prospective student to provide personal contact*
21 *information in order to obtain, from the institution's Internet Web*
22 *site, educational program information that is required to be*
23 *contained in the school catalog or any information required*
24 *pursuant to the consumer information requirements of Title IV of*
25 *the federal Higher Education Act of 1965, and any amendments*
26 *thereto.*

27 *(p) Require a student to sign an enrollment agreement without*
28 *providing the student with a period of at least three days to review*
29 *the catalog, the School Performance Fact Sheet, and the enrollment*
30 *agreement specified in Article 11 (commencing with Section*
31 *94902).*

32 *94898. (a) An institution shall not merge classes unless all of*
33 *the students have received the same amount of instruction. This*
34 *subdivision does not prevent the placement of students, who are*
35 *enrolled in different educational programs, in the same class if*
36 *that class is part of each of the educational programs and the*
37 *placement in a merged class will not impair the students' learning*
38 *of the subject matter of the class.*

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

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

3 (2) *Change the day or time during the period of attendance in*
4 *which any class is offered to a day when the student is not*
5 *scheduled to attend the institution or to a time that is outside of*
6 *the range of time that the student is scheduled to attend the*
7 *institution on the day for which the change is proposed unless at*
8 *least 90 percent of the students who are enrolled consent to the*
9 *change and the institution offers full refunds to the students who*
10 *do not consent to the change. For the purpose of this paragraph,*
11 *"range of time" means the period beginning with the time at which*
12 *the student's first scheduled class session for the day is set to start*
13 *and ending with the time the student's last scheduled class session*
14 *for that day is set to finish.*

15 (c) *If an institution enrolls a student in an educational program*
16 *that is conducted at a specific site at the time of enrollment, the*
17 *institution shall not convert the educational program to another*
18 *method of delivery, such as by means of distance education. This*
19 *subdivision does not apply to an educational program that also*
20 *includes a distance education component, if the student is notified*
21 *during the enrollment process, in writing, that the program*
22 *contains a distance education component.*

23 (d) *An institution shall not move the location of class instruction*
24 *more than 25 miles from the location of instruction at the time of*
25 *enrollment unless any of the following occur:*

26 (1) *The institution discloses in writing to each student before*
27 *enrollment in the educational program that the location of*
28 *instruction will change after the educational program begins and*
29 *the address of the new location.*

30 (2) *The institution applies for, and the bureau grants, approval*
31 *to change the location. The bureau shall grant the application*
32 *within 60 days if the bureau, after notice to affected students and*
33 *an opportunity for them to be heard as prescribed by the bureau,*
34 *concludes that the change in location would not be unfair or unduly*
35 *burdensome to students. The bureau may grant approval to change*
36 *the location subject to reasonable conditions, such as requiring*
37 *the institution to provide transportation, transportation costs, or*
38 *refunds to adversely affected students.*

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

4 (4) An unforeseeable and unavoidable circumstance outside of
5 the control of the institution requires the change in the location
6 of instruction.

7 94899. If an institution offers an educational program in a
8 profession, occupation, trade, or career field that requires
9 licensure in this state, the institution shall have an educational
10 program approval from the appropriate state licensing agency to
11 conduct that educational program in order that a student who
12 completes the educational program, except as provided in Section
13 94905, is eligible to sit for any required licensure examination.

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

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

22 (c) The limitations in this section shall not apply to federal and
23 state financial aid payments received by an institution.

24 (d) At the student's option, an institution may accept payment
25 in full for tuition and fees after the student has been accepted and
26 enrolled and the date of the first class session is disclosed on the
27 enrollment agreement.

28 (e) An institution that provides private loan funding shall ensure
29 that the student is not obligated for indebtedness that exceeds the
30 total charges for the current period of attendance.

31
32 Article 9. Recordkeeping
33

34 94900. (a) An institution shall maintain records of the name,
35 address, e-mail address, and telephone number of each student
36 who is enrolled in an educational program in that institution.

37 (b) An institution shall maintain, for each student granted a
38 degree or certificate by that institution, permanent records of all
39 of the following:

1 (1) *The degree or certificate granted and the date on which that*
2 *degree or certificate was granted.*

3 (2) *The courses and units on which the certificate or degree*
4 *was based.*

5 (3) *The grades earned by the student in each of those courses.*

6 94900.5. *An institution shall maintain, for a period of not less*
7 *than five years, at its principal place of business in this state,*
8 *complete and accurate records of all of the following information:*

9 (a) *The educational programs offered by the institution and the*
10 *curriculum for each.*

11 (b) *The names and addresses of the members of the institution's*
12 *faculty and records of the educational qualifications of each*
13 *member of the faculty.*

14 (c) *Any other records required to be maintained by this chapter,*
15 *including, but not limited to, records maintained pursuant to Article*
16 *16 (commencing with Section 94928).*

17 94900.7. *The recordkeeping requirements of this article shall*
18 *not apply to an institution that is accredited, if the recordkeeping*
19 *requirements of the accrediting organization are substantially*
20 *similar to the recordkeeping requirements of this article, as*
21 *determined by the bureau.*

22
23 *Article 10. Recruiters*
24

25 94901. (a) *An institution's recruiters shall be employees.*

26 (b) (1) *An institution shall issue identification to each recruiter*
27 *identifying the recruiter and the institution.*

28 (2) *The recruiter shall have the issued identification with him*
29 *or her while recruiting.*
30

31 *Article 11. Enrollment Agreements and Disclosures*
32

33 94902. (a) *A student shall enroll solely by means of executing*
34 *an enrollment agreement. The enrollment agreement shall be*
35 *signed by the student and by an authorized employee of the*
36 *institution.*

37 (b) *An enrollment agreement is not enforceable unless both of*
38 *the following requirements are met:*

39 (1) *The student has received the institution's catalog and School*
40 *Performance Fact Sheet prior to signing the enrollment agreement.*

1 (2) *At the time of the execution of the enrollment agreement,*
2 *the institution held a valid approval to operate.*

3 (c) *A student shall receive a copy of the signed enrollment*
4 *agreement, in writing or electronically, regardless of whether total*
5 *charges are paid by the student.*

6 (d) *An enrollment agreement shall become operative when the*
7 *student attends the first class session.*

8 94903. *A student may not waive any term or receipt of any*
9 *disclosure required by this article.*

10 94904. *Before an ability-to-benefit student may execute an*
11 *enrollment agreement, the institution shall have the student take*
12 *an independently administered examination from the list of*
13 *examinations prescribed by the United States Department of*
14 *Education pursuant to Section 484(d) of the federal Higher*
15 *Education Act of 1965, (20 U.S.C. Sec. 1070a et seq.) as it is, from*
16 *time to time, amended. The student may not enroll unless the*
17 *student achieves a score, as specified by the United States*
18 *Department of Education, demonstrating that the student may*
19 *benefit from the education and training being offered.*

20 94905. (a) *During the enrollment process, an institution*
21 *offering educational programs designed to lead to positions in a*
22 *profession, occupation, trade, or career field requiring licensure*
23 *in this state shall exercise reasonable care to determine if the*
24 *student will not be eligible to obtain licensure in the profession,*
25 *occupation, trade, or career field at the time of the student's*
26 *graduation and shall provide the student with a written copy of*
27 *the requirements for licensure established by the state. The*
28 *institution shall not execute an enrollment agreement with a student*
29 *that is known to be ineligible for licensure, unless the student's*
30 *stated objective is other than licensure.*

31 (b) *During the enrollment process, an institution may discuss*
32 *internships and student jobs available to the student during the*
33 *student's attendance at the institution. If the institution discusses*
34 *internships and student jobs, the institution shall disclose the*
35 *number of requests for internship and student job placement*
36 *assistance received by the institution during the immediately*
37 *preceding calendar year and the number of actual placements*
38 *during that year.*

39 94906. (a) *An enrollment agreement shall be written in*
40 *language that is easily understood. If English is not the student's*

1 *primary language, and the student is unable to understand the*
2 *terms and conditions of the enrollment agreement, the student*
3 *shall have the right to obtain a clear explanation of the terms and*
4 *conditions and all cancellation and refund policies in his or her*
5 *primary language.*

6 *(b) If the recruitment leading to enrollment was conducted in*
7 *a language other than English, the enrollment agreement,*
8 *disclosures, and statements shall be in that language.*

9 *94907. An enrollment agreement shall not contain a provision*
10 *that requires a student to invoke an internal institutional dispute*
11 *procedure before enforcing any contractual or other legal rights*
12 *or remedies.*

13 *94908. Any information or statement required by this article*
14 *to be included in the catalog, School Performance Fact Sheet, or*
15 *enrollment agreement shall be printed in at least the same size*
16 *font as the majority of the text in that document.*

17 *94909. (a) Prior to enrollment, an institution shall provide a*
18 *prospective student, either in writing or electronically, with a*
19 *school catalog containing, at a minimum, all of the following:*

20 *(1) The name, address, telephone number, and, if applicable,*
21 *Internet Web site address of the institution.*

22 *(2) Except as specified in Article 2 (commencing with Section*
23 *94802), a statement that the institution is a private institution and*
24 *that it is approved to operate by the bureau.*

25 *(3) The following statements:*

26 *(A) "Any questions a student may have regarding this catalog*
27 *that have not been satisfactorily answered by the institution may*
28 *be directed to the Bureau for Private Postsecondary Education at*
29 *(address), Sacramento, CA (ZIP Code), (Internet Web site address),*
30 *(telephone and fax numbers)."*

31 *(B) "As a prospective student, you are encouraged to review*
32 *this catalog prior to signing an enrollment agreement. You are*
33 *also encouraged to review the School Performance Fact Sheet,*
34 *which must be provided to you prior to signing an enrollment*
35 *agreement."*

36 *(4) The address or addresses where class sessions will be held.*

37 *(5) A description of the programs offered and the requirements*
38 *for completion of each program, including required courses, any*
39 *final tests or examinations, any required internships or externships,*

1 and the total number of credit hours, clock hours, or other
2 increments required for completion.

3 (6) If the educational program is designed to lead to positions
4 in a profession, occupation, trade, or career field requiring
5 licensure in this state, a notice to that effect and a list of the
6 requirements for eligibility for licensure.

7 (7) Information regarding the faculty and their qualifications.

8 (8) A detailed description of institutional policies in the
9 following areas:

10 (A) Admissions policies, including the institution's policies
11 regarding the acceptance of credits earned at other institutions
12 or through challenge examinations and achievement tests,
13 admissions requirements for ability-to-benefit students, and a list
14 describing any transfer or articulation agreements between the
15 institution and any other college or university that provides for
16 the transfer of credits earned in the program of instruction. If the
17 institution has not entered into an articulation or transfer
18 agreement with any other college or university, the institution shall
19 disclose that fact.

20 (B) Cancellation, withdrawal, and refund policies, including
21 an explanation that the student has the right to cancel the
22 enrollment agreement and obtain a refund of charges paid through
23 attendance at the first class session, or the seventh day after
24 enrollment, whichever is later. The text shall also include a
25 description of the procedures that a student is required to follow
26 to cancel the enrollment agreement or withdraw from the institution
27 and obtain a refund consistent with the requirements of Article 13
28 (commencing with Section 94919).

29 (C) Probation and dismissal policies.

30 (D) Attendance policies.

31 (E) Leave-of-absence policies.

32 (9) The schedule of total charges for a period of attendance and
33 an estimated schedule of total charges for the entire educational
34 program.

35 (10) A statement reporting whether the institution participates
36 in federal and state financial aid programs, and if so, all consumer
37 information that is required to be disclosed to the student pursuant
38 to the applicable federal and state financial aid programs.

39 (11) A statement specifying that, if a student obtains a loan to
40 pay for an educational program, the student will have the

1 responsibility to repay the full amount of the loan plus interest,
2 less the amount of any refund, and that, if the student has received
3 federal student financial aid funds, the student is entitled to a
4 refund of the moneys not paid from federal student financial aid
5 program funds.

6 (12) A statement specifying whether the institution has a pending
7 petition in bankruptcy, is operating as a debtor in possession, has
8 filed a petition within the preceding five years, or has had a petition
9 in bankruptcy filed against it within the preceding five years that
10 resulted in reorganization under Chapter 11 of the United States
11 Bankruptcy Code (11 U.S.C. Sec. 1101 et seq.).

12 (13) If the institution provides placement services, a description
13 of the nature and extent of the placement services.

14 (14) A description of the student's rights and responsibilities
15 with respect to the Student Tuition Recovery Fund. This statement
16 shall specify that it is a state requirement that a student who pays
17 his or her tuition is required to pay a state-imposed assessment
18 for the Student Tuition Recovery Fund. This statement shall also
19 describe the purpose and operation of the Student Tuition Recovery
20 Fund and the requirements for filing a claim against the Student
21 Tuition Recovery Fund.

22 (15) The following statement:

23
24 “NOTICE CONCERNING TRANSFERABILITY OF CREDITS
25 AND CREDENTIALS EARNED AT OUR INSTITUTION

26 The transferability of credits you earn at (name of institution)
27 is at the complete discretion of an institution to which you may
28 seek to transfer. Acceptance of the (degree, diploma, or
29 certificate) you earn in (name of educational program) is also
30 at the complete discretion of the institution to which you may
31 seek to transfer. For this reason you should make certain that
32 your attendance at this institution will meet your educational
33 goals. This may include contacting an institution to which you
34 may seek to transfer after attending (name of institution) to
35 determine if your (credits or degree, diploma or certificate)
36 will transfer.”

37
38 (b) An institution shall provide the school catalog to any person
39 upon request.

1 94910. Prior to enrollment, an institution shall provide a
2 prospective student with a School Performance Fact Sheet
3 containing, at a minimum, the following information, as it relates
4 to the educational program:

5 (a) Completion rates, as calculated pursuant to Article 16
6 (commencing with Section 94928).

7 (b) Placement rates, as calculated pursuant to Article 16
8 (commencing with Section 94928), if the educational is designed
9 to lead to a particular career or the institution makes a claim to
10 students regarding placement rates.

11 (c) License examination passage rates for programs leading to
12 employment for which passage of a state licensing examination is
13 required, as calculated pursuant to Article 16 (commencing with
14 Section 949228).

15 (d) Salaries, if the institution, or a representative of the
16 institution, makes any express or implied claim about the salary
17 that may be earned after completing a program, as calculated
18 pursuant to Article 16 (commencing with Section 949228).

19 (e) If a program is too new to provide data for any of the
20 categories listed in this subdivision, the institution shall state on
21 its fact sheet: "This program is new. Therefore, the number of
22 students who graduate, the number of students who are placed, or
23 the starting salary you can earn after finishing the educational
24 program are unknown at this time. Information regarding general
25 salary and placement statistics may be available from government
26 sources or from the institution, but is not equivalent to actual
27 performance data."

28 (f) At least one of the following:

29 (1) A description of how the figures described in subdivisions
30 (a) to (d), inclusive, are calculated.

31 (2) A statement informing the reader of where he or she may
32 obtain a description of how the figures described in subdivisions
33 (a) to (d), inclusive, are calculated.

34 (g) The following statements:

35 (1) "This fact sheet is filed with the Bureau for Private
36 Postsecondary Education. Regardless of any information you may
37 have relating to completion rates, placement rates, starting
38 salaries, or license exam passage rates, this fact sheet contains
39 the information as calculated pursuant to state law."

1 (2) “Any questions a student may have regarding this fact sheet
2 that have not been satisfactorily answered by the institution may
3 be directed to the Bureau for Private Postsecondary Education at
4 (address), Sacramento, CA (ZIP Code), (Internet Web site address),
5 (telephone and fax numbers).”

6 94911. An enrollment agreement shall include, at a minimum,
7 all of the following:

8 (a) The name of the institution and the name of the educational
9 program, including the total number of credit hours, clock hours,
10 or other increment required to complete the educational program.

11 (b) A schedule of total charges, including a list of any charges
12 that are nonrefundable and the student’s obligations to the Student
13 Tuition Recovery Fund, clearly identified as nonrefundable
14 charges.

15 (c) In underlined capital letters on the same page of the
16 enrollment agreement in which the student’s signature is required,
17 the total charges that the student is obligated, upon enrollment,
18 to pay for the entire educational program.

19 (d) A clear and conspicuous statement that the enrollment
20 agreement is legally binding when signed by the student and
21 accepted by the institution.

22 (e) (1) A disclosure with a clear and conspicuous caption,
23 “BUYER’S RIGHT TO CANCEL,” under which it is explained
24 that the student has the right to cancel the enrollment agreement
25 and obtain a refund of charges paid through attendance at the
26 first class session, or the seventh day after enrollment, whichever
27 is later.

28 (2) The disclosure shall contain the institution’s refund policy
29 and a statement that, if the student has received federal student
30 financial aid funds, the student is entitled to a refund of moneys
31 not paid from federal student financial aid program funds.

32 (3) The text shall also include a description of the procedures
33 that a student is required to follow to cancel the enrollment
34 agreement or withdraw from the institution and obtain a refund.

35 (f) A statement specifying that, if the student obtains a loan to
36 pay for an educational program, the student will have the
37 responsibility to repay the full amount of the loan plus interest,
38 less the amount of any refund.

1 (g) A statement specifying that, if the student is eligible for a
2 loan guaranteed by the federal or state government and the student
3 defaults on the loan, both of the following may occur:

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

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

11 (h) (1) The following statement: “Prior to signing this
12 enrollment agreement, you must be given a catalog or brochure
13 and a School Performance Fact Sheet, which you are encouraged
14 to review prior to signing this agreement. These documents contain
15 important policies and performance data for this institution.”

16 (2) Immediately following the statement required by paragraph
17 (1), a line for the student to initial, including the following
18 statement: “I certify that I have received the catalog and School
19 Performance Fact Sheet.”

20 (i) The following statement:

21
22 “Any questions a student may have regarding this enrollment
23 agreement that have not been satisfactorily answered by the
24 institution may be directed to the Bureau for Private
25 Postsecondary Education at (address), Sacramento, CA (ZIP
26 Code), (Internet Web site address), (telephone and fax
27 numbers).”

28
29 (j) The following statement above the space for the student’s
30 signature:

31
32 “I understand that this is a legally binding contract. My
33 signature below certifies that I have read, understood, and
34 agreed to my rights and responsibilities, and that the
35 institution’s cancellation and refund policies have been clearly
36 explained to me.”
37

Article 12. Consumer Loans to Students

94916. An institution extending credit or lending money to an individual for institutional and noninstitutional charges for an educational program shall cause any note, instrument, or other evidence of indebtedness taken in connection with that extension of credit or loan to be conspicuously marked on its face in at least 12-point type with the following notice:

“NOTICE

YOU MAY ASSERT AGAINST THE HOLDER OF THE PROMISSORY NOTE YOU SIGNED IN ORDER TO FINANCE THE COST OF THE EDUCATIONAL PROGRAM ALL OF THE CLAIMS AND DEFENSES THAT YOU COULD ASSERT AGAINST THIS INSTITUTION, UP TO THE AMOUNT YOU HAVE ALREADY PAID UNDER THE PROMISSORY NOTE.”

94917. A note, instrument, or other evidence of indebtedness relating to payment for an educational program is not enforceable by an institution unless, at the time of execution of the note, instrument, or other evidence of indebtedness, the institution held an approval to operate.

94918. In making consumer loans to students, an institution shall also comply with the requirements of the Federal Truth in Lending Act pursuant to Title 15 of the United States Code.

Article 13. Cancellations, Withdrawals, and Refunds

94919. (a) An institution that participates in the federal student financial aid programs complies with this article by complying with applicable regulations of the federal student financial aid programs under Title IV of the Higher Education Act of 1965.

(b) The institution shall advise each student that a notice of cancellation shall be in writing, and that a withdrawal may be effectuated by the student’s written notice or by the student’s conduct, including, but not necessarily limited to, a student’s lack of attendance.

(c) The institution shall also provide a pro rata refund of nonfederal student financial aid program moneys paid for

1 institutional charges to students who have completed 60 percent
2 or less of the period of attendance.

3 94920. An institution that does not participate in the federal
4 student financial aid programs shall do all of the following:

5 (a) The institution shall advise each student that a notice of
6 cancellation shall be in writing, and that a withdrawal may be
7 effectuated by the student's written notice or by the student's
8 conduct, including, but not necessarily limited to, a student's lack
9 of attendance.

10 (b) Institutions shall refund 100 percent of the amount paid for
11 institutional charges, less a reasonable deposit or application fee
12 not to exceed two hundred fifty dollars (\$250), if notice of
13 cancellation is made through attendance at the first class session,
14 or the seventh class day after enrollment, whichever is later.

15 (c) The bureau may adopt by regulation a different method of
16 calculation for instruction delivered by other means, including,
17 but not necessarily limited to, distance education.

18 (d) The institution shall have a refund policy for the return of
19 unearned institutional charges if the student cancels an enrollment
20 agreement or withdraws during a period of attendance. The refund
21 policy for students who have completed 60 percent or less of the
22 period of attendance shall be a pro rata refund.

23 (e) The institution shall pay or credit refunds within 45 days of
24 a student's cancellation or withdrawal.

25 94921. An institution offering an educational program for
26 which the refund calculations set forth in this article cannot be
27 utilized because of the unique way in which the educational
28 program is structured, may petition the bureau for an alternative
29 method of calculating tuition refunds.

30 94922. A student may not waive any provision of this article.

31
32 Article 14. Student Tuition Recovery Fund
33

34 94923. The bureau shall, by January 1, 2011, adopt by
35 regulation procedures governing the administration and
36 maintenance of the Student Tuition Recovery Fund, including
37 requirements relating to assessments on students and student
38 claims against the Student Tuition Recovery Fund.

39 94924. All assessments collected pursuant to this article shall
40 be credited to the Student Tuition Recovery Fund, along with any

1 accrued interest, for the purpose of this article. Notwithstanding
2 Section 13340 of the Government Code, the moneys in the Student
3 Tuition Recovery Fund are continuously appropriated to the
4 bureau, without regard to fiscal year, for the purposes of this
5 article.

6 94925. The amount in the Student Tuition Recovery Fund shall
7 not exceed twenty-five million dollars (\$25,000,000) at any time.

8
9 Article 15. Orderly Institutional Closure and Teach-outs

10
11 94926. At least 30 days prior to closing, the institution shall
12 notify the bureau in writing of its intention to close. The notice
13 shall be accompanied by a closure plan, which shall include, but
14 not necessarily be limited to, all of the following:

15 (a) A plan for providing teach-outs of educational programs,
16 including any agreements with any other postsecondary
17 educational institutions to provide teach-outs.

18 (b) If no teach-out plan is contemplated, or for students who do
19 not wish to participate in a teach-out, arrangements for making
20 refunds within 45 days from the date of closure, or for institutions
21 that participant in federal student financial aid programs
22 arrangements for making refunds and returning federal student
23 financial aid program funds.

24 (c) If the institution is a participant in federal student financial
25 aid programs, it shall provide students information concerning
26 these programs and institutional closures.

27 (d) A plan for the disposition of student records.

28 94927. An institution shall be considered in default of the
29 enrollment agreement when an educational program is
30 discontinued or canceled or the institution closes prior to
31 completion of the educational program. When an institution is in
32 default, student institutional charges may be refunded on a pro
33 rata basis if the bureau determines that the school has made
34 provision for students enrolled at the time of default to complete
35 a comparable educational program at another institution at no
36 additional charge to the student beyond the amount of the total
37 charges in the original enrollment agreement. If the institution
38 does not make that provision, a total refund of all institutional
39 charges shall be made to students.

1 94927.5. (a) Prior to closing, an institution shall provide the
2 bureau with pertinent student records, including transcripts, as
3 determined by the bureau by regulation.

4 (b) Subdivision (a) applies to all private postsecondary
5 institutions, including institutions that are otherwise exempt from
6 this chapter pursuant to Section 94874.

7
8 Article 16. Completion and Placement Requirements
9

10 94928. As used in this article, the following terms have the
11 following meanings:

12 (a) “Cohort population” means the number of students that
13 began a program on a cohort start date.

14 (b) “Cohort start date” means the first class day after the
15 cancellation period during which a cohort of students attends class
16 for a specific program.

17 (c) “Graduates” means the number of students who complete
18 a program within 100 percent of the published program length. A
19 school may include completion information for students completing
20 the program within 150 percent of the original contracted time,
21 but that information may not replace completion information for
22 students completing within the original scheduled time.

23 (d) “Graduates available for employment” means the number
24 of graduates minus the number of graduates unavailable for
25 employment.

26 (e) “Graduates employed in the field” means graduates who
27 are gainfully employed within six months of graduation in the field
28 for which they received education and training and that remain
29 employed for a period of at least 60 days.

30 (f) “Graduates unavailable for employment” means graduates
31 who, after graduation, die, become incarcerated, are called to
32 active military duty, are international students that leave the United
33 States or do not have a visa allowing employment in the United
34 States, or are continuing their education at an accredited
35 postsecondary institution.

36 (g) “Students available for graduation” means the cohort
37 population minus the number of students available for graduation.

38 (h) “Students unavailable for graduation” means students who
39 have died, been incarcerated, or called to active military duty.

1 94929. (a) An institution shall annually report to the bureau,
2 as part of the annual report, and publish in its School Performance
3 Fact Sheet, the completion rate for each program. Except as
4 provided in subdivision (b), the completion rate shall be calculated
5 by dividing the number of graduates by the number of students
6 available for graduation.

7 (b) In lieu of calculating graduation data pursuant to subdivision
8 (a), an institution may report graduation data reported to, and
9 calculated by, the Integrated Postsecondary Education Data System
10 of the United States Department of Education.

11 94929.5. An institution shall annually report to the bureau, as
12 part of the annual report, and shall publish in its School
13 Performance Fact Sheet, all of the following:

14 (a) The job placement rate, calculated by dividing the number
15 of graduates employed in the field by the number of graduates
16 available for employment for each program that is either (1)
17 designed, or advertised, to lead to a particular career, or (2)
18 advertised or promoted with any claim regarding job placement
19 rates.

20 (b) The license examination passage rates for programs leading
21 to employment for which passage of a state licensing examination
22 is required, calculated by dividing the number of graduates who
23 pass the examination by the number of graduates who take the
24 licensing examination the first time that the examination is
25 available after completion of the educational program.

26 (c) If the institution or a representative of the institution makes
27 any express or implied claim about the salary that may be earned
28 after completing the educational program, the total number of
29 graduates employed in the applicable field and the percentage of
30 those graduates who have earned salaries at or above the claimed
31 level.

32 94929.7. (a) The information used to substantiate the rates
33 calculated pursuant to Sections 94929 and 94929.5 shall be
34 documented and maintained by the institution.

35 (b) An institution shall provide a list of employment positions
36 determined to be within the field for which a student received
37 education and training, as outlined by this article, for the
38 calculation of job placement rates.

Article 17. Fees

94930. (a) All fees collected pursuant to this article, including any interest on those fees, shall be deposited in the Private Postsecondary Education Administration Fund, and shall be available, upon appropriation by the Legislature, for expenditure by the bureau for the administration of this chapter.

(b) If the bureau determines by regulation that the adjustment of the fees established by this article is consistent with the intent of this chapter, the bureau may adjust the fees established by this article based upon the California Consumer Price Index and shall post notification of the adjusted fees on its Internet Web site.

94930.5. An institution shall remit to the bureau for deposit in the Private Postsecondary Education Administration Fund the following fees, in accordance with the following schedule:

(a) The following fees shall be remitted by an institution submitting an application for an approval to operate, if applicable:

(1) Application fee for an approval to operate: ____

(2) Application fee for the approval to operate a new branch of the institution: ____

(3) Application fee for an approval to operate by means of accreditation: ____

(b) The following fees shall be remitted by an institution seeking a renewal of its approval to operate, if applicable:

(1) Renewal fee for the main campus of the institution: ____

(2) Renewal fee for a branch of the institution: ____

(3) Renewal fee for an institution that is approved to operate by means of accreditation: ____

(c) The following fees shall apply to an institution seeking authorization of a substantive change to its approval to operate, if applicable:

(1) Processing fee for authorization a substantive change to an approval to operate: ____

(2) Processing fee in connection with a substantive change to an approval to operate by means of accreditation: ____

(d) (1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c), inclusive, each institution that is approved to operate pursuant to this chapter shall remit an annual fee, in accordance with the following schedule:

1 (A) For an institution with annual revenues less than
2 \$100,000:___

3 (B) For an institution with annual revenues from \$100,000 to
4 \$499,999:___

5 (C) For an institution with annual revenues from \$500,000 to
6 \$999,999:___

7 (D) For an institution with annual revenues from \$1,000,000
8 to \$9,999,999:___

9 (E) For an institution with annual revenues from \$10,000,000
10 to \$19,999,999:___

11 (F) For an institution with annual revenues from \$20,000,000
12 to \$29,999,999:___

13 (G) For an institution with annual revenues greater than
14 \$29,999,999:___

15 (2) Notwithstanding paragraph (1), the bureau shall adjust the
16 amount of the fees in paragraph (1) to reflect the type and the size
17 of the institution, with institutions enrolling a higher number of
18 students being required to pay a higher annual fee than those with
19 fewer student enrollments. The annual fee, as adjusted, shall be
20 in an amount that is proportional to the bureau's cost of regulating
21 the institution under this chapter.

22 94931. (a) A fee that is not paid on or before the 30th calendar
23 day after the due date for the payment of the fee shall be subject
24 to a 25 percent late payment penalty fee.

25 (b) A fee that is not paid on or before the 90th calendar day
26 after the due date for payment of the fee shall be subject to a 35
27 percent late payment penalty fee.

28 94931.5. (a) The bureau may propose modifications to the fee
29 schedule in Section 94930.5 to the Governor and the Legislature
30 to add or delete categories of fees related to work performed by
31 the bureau and propose to the Governor and the Legislature the
32 maximum amount to be charged for each fee category added to
33 the fee schedule. The fee schedule shall provide adequate resources
34 for the bureau to effectively implement this chapter.

35 (b) The bureau shall annually publish a schedule of the current
36 fees to be charged pursuant to this article and shall make this
37 schedule available to the public.

1 Article 18. *Compliance, Enforcement, Process, and Penalties*

2
3 94932. *The bureau shall determine an institution's compliance*
4 *with the requirements of this chapter. The bureau shall have the*
5 *power to require reports that institutions shall file with the bureau*
6 *in addition to the annual report, to send staff to an institution's*
7 *sites, and to require documents and responses from an institution*
8 *to monitor compliance. When the bureau has reason to believe*
9 *that an institution may be out of compliance, it shall conduct an*
10 *investigation of the institution. If the bureau determines, after*
11 *completing an investigation, that an institution has violated any*
12 *applicable law or regulation, the bureau shall take appropriate*
13 *action pursuant to this article.*

14 94932.5. *As part of its compliance program, the bureau shall*
15 *perform announced and unannounced inspections of institutions.*

16 94933. *The bureau shall provide an institution with the*
17 *opportunity to remedy noncompliance, impose fines, place the*
18 *institution on probation, or suspend or revoke the institution's*
19 *approval to operate, in accordance with this article, as it deems*
20 *appropriate based on the severity of an institution's violations of*
21 *this chapter, and the harm caused to students.*

22 94933.5. *As much as is practicable, the bureau shall seek to*
23 *resolve instances of noncompliance, including the use of alternative*
24 *dispute resolution procedures in Article 5 (commencing with*
25 *Section 11420.10) of Chapter 4.5 of Part 1 of Division 3 of Title*
26 *2 of the Government Code.*

27 94934. (a) *As part of the compliance program, an institution*
28 *shall submit an annual report to the bureau, under penalty of*
29 *perjury, by July 1 of each year, or another date designated by the*
30 *bureau, and it shall include the following information for*
31 *educational programs offered in the reporting period:*

32 (1) *The total number of students enrolled by level of degree or*
33 *for a diploma.*

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

35 (3) *The degree levels and diplomas offered.*

36 (4) *The Student Performance Fact Sheet, as required pursuant*
37 *to Section 94910.*

38 (5) *The school catalog, as required pursuant to Section 94909.*

39 (6) *The total charges for each educational program by period*
40 *of attendance.*

1 (7) A statement indicating whether the institution is, or is not,
2 current in remitting Student Tuition Recovery Fund assessments.

3 (8) Additional information deemed by the bureau to be
4 reasonably required to ascertain compliance with this chapter.

5 (b) The bureau shall prescribe the annual report's format and
6 method of delivery.

7 94935. (a) Bureau staff who, during an inspection of an
8 institution, detect a violation of this chapter, or regulations adopted
9 pursuant to this chapter, that is a minor violation as determined
10 by the bureau, shall issue a notice to comply before leaving the
11 institution. The bureau shall establish a voluntary informal appeal
12 process, by regulation, within one year of the enactment of this
13 chapter.

14 (b) An institution that receives a notice to comply shall have no
15 more than 30 days from the date of inspection to remedy the
16 noncompliance.

17 (c) Upon achieving compliance, the institution shall sign and
18 return the notice to comply to the bureau.

19 (d) A single notice to comply shall be issued listing separately
20 all the minor violations cited during the inspection.

21 (e) A notice to comply shall not be issued for any minor violation
22 that is corrected immediately in the presence of the bureau staff.
23 Immediate compliance may be noted in the inspection report, but
24 the institution shall not be subject to any further action by the
25 bureau.

26 (f) A notice to comply shall be the only means the bureau shall
27 use to cite a minor violation discovered during an inspection. The
28 bureau shall not take any other enforcement action specified in
29 this chapter against an institution that has received a notice to
30 comply if the institution complies with this section.

31 (g) If an institution that receives a notice to comply pursuant
32 to subdivision (a) disagrees with one or more of the alleged minor
33 violations listed in the notice to comply, an institution shall send
34 the bureau a written notice of disagreement. The agency may take
35 administrative enforcement action to seek compliance with the
36 requirements of the notice to comply.

37 (h) If an institution fails to comply with a notice to comply within
38 the prescribed time, the bureau shall take appropriate
39 administrative enforcement action.

1 94936. (a) As a consequence of an investigation, and upon a
2 finding that the institution has committed a violation of this chapter
3 or that the institution has failed to comply with a notice to comply
4 pursuant to Section 94935, the bureau shall issue a citation to an
5 institution for violation of this chapter, or regulations adopted
6 pursuant to this chapter.

7 (b) The citation may contain either of the following:

8 (1) An order of abatement that may require an institution to
9 demonstrate how future compliance with this chapter or regulations
10 adopted pursuant to this chapter will be accomplished.

11 (2) Notwithstanding Section 125.9 of the Business and
12 Professions Code, an administrative fine not to exceed ten thousand
13 dollars (\$10,000) for each violation. The bureau shall base its
14 assessment of the administrative fine on:

15 (A) The nature and seriousness of the violation.

16 (B) The persistence of the violation.

17 (C) The good faith of the institution.

18 (D) The history of previous violations.

19 (E) The purposes of this chapter.

20 (F) The potential harm to students.

21 (c) (1) The citation shall be in writing and describe the nature
22 of the violation and the specific provision of law or regulation that
23 is alleged to have been violated.

24 (2) The citation shall inform the institution of its right to request
25 a hearing in writing within 30 days from service of the citation.

26 (3) If a hearing is requested, the bureau shall select an informal
27 hearing pursuant to Article 10 (commencing with Section
28 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the
29 Government Code or a formal hearing pursuant to Chapter 5
30 (commencing with Section 11500) of Part 1 of Division 3 of Title
31 2 of the Government Code.

32 (4) If a hearing is not requested, payment of the administrative
33 fine is due 30 days from the date of service, and shall not constitute
34 an admission of the violation charged.

35 (5) If a hearing is conducted and payment of an administrative
36 fine is ordered, the administrative fine is due 30 days from when
37 the final order is entered.

38 (6) The bureau may enforce the administrative fine as if it were
39 a money judgment pursuant to Title 9 (commencing with Section
40 680.010) of Part 2 of the Code of Civil Procedure.

1 (d) All administrative fines shall be deposited in the Private
2 Postsecondary Education Administration Fund.

3 94937. (a) As a consequence of an investigation, and upon a
4 finding that an institution has committed a violation, the bureau
5 may place an institution on probation or may suspend or revoke
6 an institution's approval to operate for:

7 (1) Obtaining an approval to operate by fraud.

8 (2) Material or repeated violations of this chapter or regulations
9 adopted pursuant to this chapter that have resulted in harm to
10 students.

11 (b) The bureau shall adopt regulations, within one year of the
12 enactment of this chapter, governing probation and suspension of
13 an approval to operate.

14 (c) The bureau may seek reimbursement for the costs of an
15 investigation pursuant to Section 125.3 of the Business and
16 Professions Code.

17 (d) An institution shall not be required to pay the cost of
18 investigation to more than one agency.

19 94938. (a) If the bureau determines that it needs to make an
20 emergency decision to protect students, prevent misrepresentation
21 to the public, or prevent the loss of public funds or moneys paid
22 by students, it may do so pursuant to Article 13 (commencing with
23 Section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title
24 2 of the Government Code.

25 (b) The bureau shall, by January 1, 2011, adopt regulations to
26 give this section effect pursuant to Section 11460.20 of the
27 Government Code.

28 94939. (a) The bureau may bring an action for equitable relief
29 for any violation of this chapter. The equitable relief may include
30 restitution, a temporary restraining order, the appointment of a
31 receiver, and a preliminary or permanent injunction. The action
32 may be brought in the county in which the defendant resides or in
33 which any violation has occurred or may occur.

34 (b) The remedies provided in this section supplement, and do
35 not supplant, the remedies and penalties under other provisions
36 of law.

37 94940. As consequence of an adverse administrative action
38 against an institution, the institution may request a hearing
39 pursuant to Article 10 (commencing with Section 11445.10) of

1 Chapter 4.5 or Chapter 5 (commencing with Section 11500) of
2 Part 1 of Division 3 of Title 2 of the Government Code.

3 94941. (a) An individual who has cause to believe that an
4 institution has violated this chapter, or regulations adopted
5 pursuant to this chapter, may file a complaint with the bureau
6 against the institution. The complaint shall set forth the alleged
7 violation, and shall contain any other information as may be
8 required by the bureau.

9 (b) Taking into account the nature and seriousness of the alleged
10 violation, the bureau shall take action to ascertain the facts and
11 to verify the complaint. The action may include interviewing
12 institution management, conducting an investigation, holding an
13 informal hearing, or other appropriate investigative activity.

14 (c) Upon the facts discovered, the bureau shall take appropriate
15 administrative enforcement action.

16 (d) If the bureau finds that an institution's violation of this
17 chapter has caused damage or loss to a student or group of
18 students, the bureau shall order the institution to provide
19 appropriate restitution to that student or group of students.

20 94943. The following violations of this chapter are public
21 offenses:

22 (a) Knowingly operating a private postsecondary institution
23 without an approval to operate is an infraction subject to the
24 procedures described in Sections 19.6 and 19.7 of the Penal Code.

25 (b) Knowingly providing false information to the bureau on an
26 application for an approval to operate is an infraction subject to
27 the procedures described in Sections 19.6 and 19.7 of the Penal
28 Code.

29 94943.5. An institution shall designate and maintain an agent
30 for service of process within this state, and provide the name,
31 address, and telephone number of the agent to the bureau. The
32 bureau shall furnish the agent's name, address, and telephone
33 number to a person upon request.

34 94944. Notwithstanding any other provision of law, the bureau
35 shall cite any person, and that person shall be subject to a fine not
36 to exceed fifty thousand dollars (\$50,000), for operating an
37 institution without proper approval to operate issued by the bureau
38 pursuant to this chapter.

39 94944.5. Each institution subject to this chapter shall be
40 deemed to have authorized their accrediting agency to provide the

bureau, the Attorney General, any district attorney, or city attorney, within 30 days of written notice, copies of all documents and other material concerning the institution that are maintained by the accrediting agency.

94945. (a) This chapter does not limit or preclude the enforcement of rights or remedies under any other applicable statute or law.

(b) This chapter does not limit or preclude the Attorney General, a district attorney, or a city attorney from taking any action otherwise authorized under any other applicable statute or law.

Article 19. Severability

94946. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Article 20. Reporting

94948. In addition to any other reporting requirements under this chapter, the bureau shall provide regular updates to the Legislature by participating in annual oversight hearings conducted by the appropriate policy committees and budget subcommittees of the Senate and Assembly. The updates shall describe the bureau's progress in adopting and enforcing regulations and the provisions of this chapter.

94949. On or before July 1, 2012, the Legislative Analyst's Office shall conduct a comprehensive review of the bureau and report to the Legislature and the Governor on the appropriateness of the exemptions provided in this chapter, the extent to which the bureau has implemented the provisions of this chapter, and the degree to which the provisions of this chapter and subsequent regulations adopted by the bureau meet the legislative intent of this chapter.

Article 21. Termination

94950. This chapter shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted

1 statute, that is enacted before January 1, 2016, deletes or extends
2 that date.

3 SEC. 7. (a) Notwithstanding any other provision of law, and
4 notwithstanding the repeal of the former Private Postsecondary
5 and Vocational Education Reform Act of 1989, the sum of five
6 hundred eighty thousand dollars (\$580,000) is hereby appropriated
7 from the Private Postsecondary and Vocational Education
8 Administration Fund to the Bureau for Private Postsecondary
9 Education, for the purpose of funding five education administrator
10 positions.

11 (b) The education administrator positions described in
12 subdivision (a) shall be included in the annual budget for the
13 Bureau for Private Postsecondary Education.

14 SEC. 8. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

23 ~~SECTION 1. (a) It is the intent of the Legislature to enact~~
24 ~~legislation to establish a Bureau for Private Postsecondary~~
25 ~~Education.~~

26 ~~(b) It is the intent of the Legislature that the legislation described~~
27 ~~in subdivision (a) should be clearly drafted, reasonably enforceable,~~
28 ~~and easily understandable to students, schools, and regulators.~~

29 ~~(c) It is further the intent of the Legislature to encourage the~~
30 ~~Department of Consumer Affairs to receive and respond to student~~
31 ~~complaints and to provide information to students and prospective~~
32 ~~students of private postsecondary educational institutions, until a~~
33 ~~Bureau for Private Postsecondary Education is established.~~

34 ~~SEC. 2. (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 hereby continued in~~
38 ~~existence under the administration of the Department of Consumer~~
39 ~~Affairs.~~

40 ~~(b) This section shall apply retroactively from June 30, 2008.~~

1 ~~SEC. 3. The sum of one million dollars (\$1,000,000) is hereby~~
2 ~~appropriated from the Private Postsecondary and Vocational~~
3 ~~Education Administration Fund to the Department of Consumer~~
4 ~~Affairs for purposes of receiving and responding to student~~
5 ~~complaints and providing information to students and prospective~~
6 ~~students of private postsecondary educational institutions.~~

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