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california legislature—2009–10 regular session

ASSEMBLY BILL No. 48

Introduced by Assembly Members Portantino and Niello
(Principal coauthor: Senator Negrete McLeod)

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: 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Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, and was repealed on January 1, 2008, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs.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Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, both of which were repealed on July 1, 2008.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 provide procedures for the resolution of student claims under the former act. The bill would impose reporting requirements on the bureau*, the Bureau of State Audits,* and the Legislative Analyst's Office regarding compliance with the act.

The bill would impose various fees 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 exempt various institutions from most of the provisions of the act, including an exemption for an institution that is accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges and, until January 1~~, 2015,~~ *2016,* an institution that is accredited by a regional accrediting agency recognized by the United States Department of Education.

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.

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

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Each entity specified in subdivision (b) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. In providing information on the Internet, each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

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

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

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

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

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

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

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

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

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

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

(11) The Contractors' State License Board shall disclose information on its licensees in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the

board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

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

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

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

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

101. The department is comprised of:

(a) The Dental Board of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Veterinary Medical Board.

(f) The California Board of Accountancy.

(g) The California Architects Board.

(h) The Bureau of Barbering and Cosmetology.

(i) The Board for Professional Engineers and Land Surveyors.

(j) The Contractors' State License Board.

(k) The Bureau for Private Postsecondary Education.

(*l*) The Structural Pest Control Board.

(m) The Bureau of Home Furnishings and Thermal Insulation.

(n) The Board of Registered Nursing.

(o) The Board of Behavioral Sciences.

(p) The State Athletic Commission.

(q) The Cemetery and Funeral Bureau.

(r) The State Board of Guide Dogs for the Blind.

(s) The Bureau of Security and Investigative Services.

(t) The Court Reporters Board of California.

(u) The Board of Vocational Nursing and Psychiatric Technicians.

(v) The Landscape Architects Technical Committee.

(w) The Bureau of Electronic and Appliance Repair.

(x) The Division of Investigation.

(y) The Bureau of Automotive Repair.
(z) The State Board of Registration for Geologists and Geophysicists.
(aa) The Respiratory Care Board of California.
(ab) The Acupuncture Board.
(ac) The Board of Psychology.
(ad) The California Board of Podiatric Medicine.
(ae) The Physical Therapy Board of California.
(af) The Arbitration Review Program.
(ag) The Hearing Aid Dispensers Bureau.
(ah) The Physician Assistant Committee.
(ai) The Speech-Language Pathology and Audiology Board.
(aj) The California Board of Occupational Therapy.
(ak) The Osteopathic Medical Board of California.
(al) The Bureau of Naturopathic Medicine.
(am) The Dental Hygiene Committee of California.
(an) Any other boards, offices, or officers subject to its jurisdiction by law.

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

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code under either of the following circumstances:
(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction, unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.
(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.
(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

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

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

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

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

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

(1) Cease the unlawful advertising.

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

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

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

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

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

(1) The Bureau of Barbering and Cosmetology.

(2) The Funeral Directors and Embalmers Program.

(3) The Veterinary Medical Board.

(4) The Hearing Aid Dispensers Advisory Commission.

(5) The Landscape Architects Technical Committee.

(6) The California Board of Podiatric Medicine.

(7) The Respiratory Care Board of California.

(8) The Bureau of Home Furnishings and Thermal Insulation.

(9) The Bureau of Security and Investigative Services.

(10) The Bureau of Electronic and Appliance Repair.

(11) The Bureau of Automotive Repair.

(12) The Tax Preparers Program.
(13) The California Architects Board.
(14) The Speech-Language Pathology and Audiology Board.
(15) The Board for Professional Engineers and Land Surveyors.
(16) The Board of Behavioral Sciences.
(17) The State Board for Geologists and Geophysicists.
(18) The Structural Pest Control Board.
(19) The Acupuncture Board.
(20) The Board of Psychology.
(21) The California Board of Accountancy.
(22) The Bureau of Naturopathic Medicine.
(23) The Bureau for Private Postsecondary Education.

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

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

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

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

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

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

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

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

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

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

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

(6) Prevention of the deception of the public that results from conferring, and use of, fraudulent or substandard degrees.

(e) The Legislature advises future policymakers to continually and carefully evaluate this chapter and its administration and enforcement. Where there are deficiencies in the law or regulatory oversight, the Governor and the Legislature should act quickly to 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 deemed to have elapsed from July 1, 2007, to January 1, 2010, inclusive.

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

(2) For the purposes of this subdivision, "matter" does not include a Student Tuition Recovery Fund claim.

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

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

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

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

94808. (a) Any Student Tuition Recovery Fund claims received by the former Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, that were not processed by the former Bureau for Private Postsecondary and Vocational Education and were not paid by the Department of Consumer Affairs from July 1, 2007, to June 30, 2008, inclusive, shall be processed by the bureau.

(b) Any Student Tuition Recovery Fund claims received by the Department of Consumer Affairs from July 1, 2007, to December 31, 2009, inclusive, shall be processed by the bureau.

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

(d) The student's right to recovery from the Student Tuition Recovery Fund shall be based on the law that was in effect when the student enrolled and a fee for the fund was charged as a part of tuition costs, even though that law has become inoperative, been repealed, or otherwise expired.

94809. (a) (1) An institution that had an application for an approval to operate pending with the former Bureau for Private Postsecondary and Vocational Education on June 30, 2007, may continue to operate, but shall comply with, and is subject to, this chapter, and shall submit an application for an approval to operate to the bureau pursuant to this chapter within six months of that application becoming available.

(2) If the bureau determines that the application for an approval to operate that was pending with the former Bureau for Private Postsecondary and Vocational Education on June 30, 2007, satisfies the requirements of the new application for an approval to operate, the submission of the previous application shall be deemed to satisfy the requirements of this subdivision.

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

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

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

94809.5. Notwithstanding any other provision of law:

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

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

94809.6. (a) Notwithstanding the inoperative status or repeal of the former Private Postsecondary and Vocational Education Reform Act of 1989 on or after July 1, 2007, any claim or cause of action in any manner based on the act that was commenced on or before June 30, 2007, whether or not reduced to a final judgment, shall be preserved, and any remedy that was or could have been ordered to redress a violation of the act on or before June 30, 2007, may be ordered or maintained thereafter. If a final judgment was obtained in an action commenced on or after July 1, 2007, under the authority of Chapter 635 of the Statutes of 2007, the final judgment and any legal remedy that was or could be maintained on or after July 1, 2007, under that statute, shall be preserved and maintained thereafter.

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

Article 3. Definitions

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

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

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

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

94814. "Accrediting agency" is an agency recognized by the United States Department of Education.

94815. "Annual report" means the yearly report required to be filed by institutions.

94816. "Applicant" means an institution that has submitted an application to the bureau for an approval to operate or for a renewal of an approval to operate.

94817. "Approval to operate" or "approval" means the authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs, as well as the written document issued to an institution signifying its approval to operate.

94817.5. "Approved to operate" or "approved" means that an institution has received authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs.

94818. "Avocational education" means education offered for the purpose of personal entertainment, pleasure, or enjoyment.

94819. "Branch campus" means a site other than the main campus or a satellite location.

94820. "Bureau" means the Bureau for Private Postsecondary Education in the Department of Consumer Affairs.

94821. "Change in business organization form" means a change of a business organization's original form, including, for example, a situation in which a sole proprietorship becomes a partnership or corporation, or when a business organization becomes a nonprofit public benefit corporation or forms a nonprofit public benefit corporation as a subsidiary to provide the educational programs for which the business organization has an approval to operate.

94822. "Change in control" means a change in the ownership of an institution in which a person who previously did not own at least 25 percent of the stock or interest in the institution or its parent company acquires ownership of at least 25 percent of the stock or interest in the institution or its parent company. "Change in control" does not include an ownership change between family members involving less than 51 percent of the stock or interest in the institution.

94823. "Change in ownership" means the acquisition by a person of more than 50 percent of an interest in or stock of a parent company.

94823.5. "Change of location" means a move or relocation more than 10 miles from the site at which the institution offers instruction.

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

94825. "Class session" means part of a class day that an institution conducts instruction in a particular subject.

94826. "Commence operations" means an institution has begun to provide educational programs.

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

94828. "Curriculum" means an organized set of courses or modules of instruction that are prerequisites to the award of a degree or diploma.

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

94830. "Degree" means a recognized educational credential awarded by an institution that signifies satisfactory completion of the requirements of a postsecondary educational program at the associate's level or above.

94831. "Degree title" means the designated subject area of the educational program that appears on the face of the document awarded to a student.

94832. "Diploma" means a recognized educational credential, other than a degree, awarded by an institution that signifies satisfactory completion of the requirements of a postsecondary educational program below the associate's level. A diploma is also known as a certificate.

94833. "Director" means the Director of Consumer Affairs.

94834. "Distance education" means transmission of instruction to students at a location separate from the institution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

94849. “Main campus” means the institution’s sole or primary teaching location.

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

94851. “Owner” means an individual in the case of a sole proprietorship, partners in a partnership, members in a limited liability company, or shareholders in a corporation.

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

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

94854. “Period of attendance” means a semester, quarter, or trimester for educational programs measured in credit hours and the entire educational program if measured in clock hours.

94855. “Person” means a natural person or a business organization, irrespective of its form.

94856. “Person in control” means a person who, by his or her position’s authority or conduct, directs the management of an institution.

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

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

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

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

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

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

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

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

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

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

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

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

94871. “Year” means a calendar year.

Article 4. Exemptions

94874. The following are exempt from this chapter:

(a) An institution that offers solely avocational or recreational educational programs.

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

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

(d) An institution offering either of the following:

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

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

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

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

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

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

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

(B) The diploma or degree is limited to evidence of completion of that education.

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

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

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

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

(f) An institution that solely provides educational programs for total charges of two thousand five hundred dollars ($2,500) or less when no part of the total charges is paid from state or federal student financial aid programs. The bureau may adjust this cost threshold based upon the California Consumer Price Index and post notification of the adjusted cost threshold on its Internet Web site, as the bureau determines, through the promulgation of regulations, that the adjustment is consistent with the intent of this chapter.

(g) A law school that is accredited by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association or a law school or law study program that is subject to the approval, regulation, and oversight of the Committee of Bar Examiners, pursuant to Sections 6046.7 and 6060.7 of the Business and Professions Code.

(h) A nonprofit public benefit corporation that satisfies all of the following criteria:

(1) Is qualified under Section 501(c)(3) of the United States Internal Revenue Code.

(2) Is organized specifically to provide workforce development or rehabilitation services.

(3) Is accredited by an accrediting organization for workforce development or rehabilitation services recognized by the Department of Rehabilitation.

(i) An institution that is accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

(j) An institution that satisfies all of the following criteria:

(1) The institution has been accredited, for at least 10 years, by an accrediting agency that is recognized by the United States Department of Education.

(2) The institution has operated continuously in this state for at least 25 years.

(3) During its existence, the institution has not filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(4) The institution's cohort default rate on guaranteed student loans does not exceed 10 percent for the most recent three years, as published by the United States Department of Education.

(5) The institution maintains a composite score of 1.5 or greater on its equity, primary reserve, and net income ratios, as provided under Section 668.172 of Title 34 of the Code of Federal Regulations.

(6) The institution provides a pro rata refund of unearned institutional charges to students who complete 75 percent or less of the period of attendance.

(7) The institution provides to all students the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the second class session, or the 14th day after enrollment, whichever is later.

(8) The institution submits to the bureau copies of its most recent IRS Form 990, the institution's Integrated Postsecondary Education Data System Report of the United States Department of Education, and its accumulated default rate.

(9) The institution is incorporated and lawfully operates as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and is not managed or administered by an entity for profit.

94874.1. (a) An institution that is accredited by a regional accrediting agency that is recognized by the United States Department of Education, and is not an agency described in subdivision (i) of Section 94874, is exempt from this chapter, except Article 14 (commencing with Section 94923).

~~(b) On or before January 1, 2013, the Legislative Analyst's Office shall report to the Governor and the Legislature regarding the exemption provided in subdivision (a) and shall make one of the following recommendations:~~

~~(1) Continue the exemption.~~

~~(2) Remove the exemption.~~

~~(3) Adjust the exemption to exclude institutions accredited by regional accrediting agencies that do not provide sufficient oversight of institutions and protection of student interests.~~

~~(c)~~

(b) This section shall remain in effect only until January 1, ~~2015~~ *2016*, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2015~~ *2016*, deletes or extends that date.

94874.5. Notwithstanding Sections 94874 and 94874.1, an institution that is otherwise exempt from this chapter shall comply with the requirements of Section 94927.5.

94874.7. The bureau shall establish, by regulation, a process pursuant to which an institution that is exempt from this chapter may request, and obtain, from the bureau verification that the institution is exempt. The bureau shall establish a reasonable fee to reimburse the bureau's costs associated with the implementation of this section.

Article 5. Bureau Powers and Duties

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The information provided by the institutions including, but not limited to, the annual report, as required by Section 94934, including the school catalog and the Student Performance Fact Sheet.

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

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

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

(c) In addition to maintaining the Internet Web site described in subdivision (a), the bureau shall provide the information described in paragraph (2) of subdivision (a) to the California Postsecondary Education Commission (CPEC), and the CPEC shall include that information in an Internet Web site directory of school performance data maintained by the CPEC. *To the extent possible, the bureau shall provide this information consistent with the information collected for reporting to the Integrated Postsecondary Education Data System of the United States Department of Education, including institutional characteristics, completion, annual enrollment, and graduation rates.*

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

94880. The bureau shall appoint an advisory committee that shall consist of, but not necessarily be limited to, representatives of institutions, student representatives, consumer advocates, and employers who hire students. *The advisory committee shall advise the bureau on the administration of this chapter, including annually reviewing the fee schedule, licensing, and enforcement provisions of this chapter.*

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

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

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

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

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

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

Article 6. Approval to Operate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The term of an approval to operate pursuant to this section shall be coterminous with the term of accreditation. Upon renewal of the institution's accreditation, the institution shall submit verification to the bureau, on a form provided by the bureau, that the institution's accreditation has been renewed.

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

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

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

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

Article 7. Substantive Changes to an Approval to Operate

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

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

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

(b) A change in ownership.

(c) A change in control.

(d) A change in business organization form.

(e) A change of location.

(f) A change of name.

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

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

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

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

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

Article 8. Fair Business Practices

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

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

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

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

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

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

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

(g) Offer to compensate a student to act as an agent of the institution with regard to the solicitation, referral, or recruitment of any person for enrollment in the institution, except that an institution may award a token gift to a student for referring an individual, provided that the gift is not in the form of money, no more than one gift is provided annually to a student, and the gift's cost is not more than one hundred dollars ($100).

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

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

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

(2) The institution is a public institution.

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

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

(1) A financial report filed with the bureau.

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

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

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

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

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

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

(m) Direct any individual to perform an act that violates this chapter, to refrain from reporting unlawful conduct to the bureau or another government agency, or to engage in any unfair act to persuade a student not to complain to the bureau or another government agency.

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

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

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

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

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

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

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

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

and ending with the time the student's last scheduled class session for that day is set to finish.

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

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

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

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

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

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

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

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

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

(c) The limitations in this section shall not apply to any funds received by an institution through federal and state student financial aid grant and loan programs, or through any other federal or state programs.

(d) An institution that provides private institutional loan funding to a student shall ensure that the student is not obligated for indebtedness that exceeds the total charges for the current period of attendance.

(e) At the student's option, an institution may accept payment in full for tuition and fees, including any funds received through institutional loans, after the student has been accepted and enrolled and the date of the first class session is disclosed on the enrollment agreement.

Article 9. Recordkeeping

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

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

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

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

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

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

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

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

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

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

Article 10. Recruiters

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

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

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

Article 11. Enrollment Agreements and Disclosures

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

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

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

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

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

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

94904. Before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed by the United States Department of

Education pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.) as it is, from time to time, amended. The student may not enroll unless the student achieves a score, as specified by the United States Department of Education, demonstrating that the student may benefit from the education and training being offered.

94905. (a) During the enrollment process, an institution offering educational programs designed to lead to positions in a profession, occupation, trade, or career field requiring licensure in this state shall exercise reasonable care to determine if the student will not be eligible to obtain licensure in the profession, occupation, trade, or career field at the time of the student's graduation and shall provide ~~the student~~ *all students enrolled in those programs* with a written copy of the requirements for licensure established by the ~~state.~~ *state, including any applicable course requirements established by the state. If the minimum course requirements of the institution exceed the minimum requirements for state licensure, the institution shall disclose this information, including a list of those courses that are not required for state licensure.* The institution shall not execute an enrollment agreement with a student that is known to be ineligible for licensure, unless the student's stated objective is other than licensure.

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

94906. (a) An enrollment agreement shall be written in language that is easily understood. If English is not the student's primary language, and the student is unable to understand the terms and conditions of the enrollment agreement, the student shall have the right to obtain a clear explanation of the terms and conditions and all cancellation and refund policies in his or her primary language.

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

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

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

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

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

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

(3) The following statements:

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

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

(C) "A student or any member of the public may file a complaint about this institution with the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by completing a complaint form, which can be obtained on the bureau's Internet Web site (Internet Web site address)."

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

(5) A description of the programs offered and *a description of the instruction provided in each of the courses offered by the institution*, the requirements for completion of each program, including required courses, any final tests or examinations, any required internships or externships, and the total number of credit hours, clock hours, or other increments required for completion.

(6) If the educational program is designed to lead to positions in a profession, occupation, trade, or career field requiring licensure

in this state, a notice to that effect and a list of the requirements for eligibility for licensure.

(7) Information regarding the faculty and their qualifications.

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

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

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

(C) Probation and dismissal policies.

(D) Attendance policies.

(E) Leave-of-absence policies.

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

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

(11) A statement specifying that, if a student obtains a loan to pay for an educational program, the student will have the responsibility to repay the full amount of the loan plus interest, less the amount of any refund, and that, if the student has received federal student financial aid funds, the student is entitled to a refund of the moneys not paid from federal student financial aid program funds.

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

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

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

(15) The following statement:

"NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS EARNED AT OUR INSTITUTION

The transferability of credits you earn at (name of institution) is at the complete discretion of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or certificate) you earn in (name of educational program) is also at the complete discretion of the institution to which you may seek to transfer. *If the credits or (degree, diploma, or certificate) that you earn at this institution are not accepted at the institution to which you seek to transfer, you may be required to repeat some or all of your coursework at that institution.* For this reason you should make certain that your attendance at this institution will meet your educational goals. This may include contacting an institution to which you may seek to transfer after attending (name of institution) to determine if your (credits or degree, diploma or certificate) will transfer."

(b) An institution shall provide the school catalog to any person upon request. *In addition, if the institution has a student brochure,* *the institution shall disclose the brochure to the student or any other interested person.*

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

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

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

(c) License examination passage rates for programs leading to employment for which passage of a state licensing examination is required, as calculated pursuant to Article 16 (commencing with Section 94928).

(d) Salaries, if the institution, or a representative of the institution, makes any express or implied claim about the salary that may be earned after completing a program, as calculated pursuant to Article 16 (commencing with Section 94928).

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

~~(f) At least one of the following:~~

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

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

(f) All of the following:

(1) A description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are calculated or a statement informing the reader of where he or she may obtain a description

of the manner in which the figures described in subdivisions (a) to (d), inclusive, are calculated.

(2) A statement informing the reader of where he or she may obtain from the institution a list of the employment positions determined to be within the field for which a student received education and training for the calculation of job placement rates as required by subdivision (b).

(3) A statement informing the reader of where he or she may obtain from the institution a list of the objective sources of information used to substantiate the salary disclosure as required by subdivision (d).

(g) The following statements:

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

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

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

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

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

(c) In underlined capital letters on the same page of the enrollment agreement in which the student's signature is required, the total charges for the current period of attendance, the estimated total charges for the entire educational program, and the total charges the student is obligated to pay upon enrollment.

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

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

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

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

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

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

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

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

(h) The transferability disclosure that is required to be included in the school catalog, as specified in paragraph (15) of subdivision (a) of Section 94909.

~~(h)~~

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

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

~~(i)~~

(j) The following ~~statement~~ *statements*:

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

(2) “A student or any member of the public may file a complaint about this institution with the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by completing a complaint form, which can be obtained on the bureau’s Internet Web site (Internet Web site address).”

~~(j)~~

(k) The following statement above the space for the student’s signature:

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

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

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

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

(a) 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.

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

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

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

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

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

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

Article 14. Student Tuition Recovery Fund

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

94924. All assessments collected pursuant to this article shall be credited to the Student Tuition Recovery Fund, along with any accrued interest, for the purpose of this article. Notwithstanding Section 13340 of the Government Code, the moneys in the Student Tuition Recovery Fund are continuously appropriated to the bureau, without regard to fiscal year, for the purposes of this article.

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

Article 15. Orderly Institutional Closure and Teach-outs

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

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

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

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

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

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

94927.5. (a) Prior to closing, an institution shall provide the bureau with the following:

(1) Pertinent student records, including transcripts, as determined by the bureau, pursuant to regulations adopted by the bureau.

(2) If the institution is an accredited institution, a plan for the retention of records and transcripts, approved by the institution's accrediting agency, that provides information as to how a student may obtain a transcript or any other information about the student's coursework and degrees completed.

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

Article 16. Completion, Placement, Licensure, and Salary Disclosure Requirements

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

(a) "Cohort population" means the number of students that began a program on a cohort start date.

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

(c) "Graduates" means the number of students who complete a program within 100 percent of the published program length. A school may ~~include~~ *separately state* completion information for students completing the program within 150 percent of the original contracted time, but that information may not replace completion information for students completing within the original scheduled time.

(d) "Graduates available for employment" means the number of graduates minus the number of graduates unavailable for employment.

(e) "Graduates employed in the field" means graduates who are gainfully employed within six months of graduation in the field for which they received education and training.

(f) "Graduates unavailable for employment" means graduates who, after graduation, die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the United States, or are continuing their education at an accredited or bureau-approved postsecondary institution.

(g) "Students available for graduation" means the cohort population minus the number of students unavailable for graduation.

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

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

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

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

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

(b) To the extent that the state licensing entity provides the institution with access to the relevant data, the license examination passage rates for programs leading to employment for which passage of a state licensing examination is required, calculated by dividing the number of graduates who pass the examination by the number of graduates who take the licensing examination the first time that the examination is available after completion of the educational program.

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

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

(b) An institution shall provide a list of employment positions determined to be within the field for which a student received education and training, as outlined by this article, for the 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. However, the bureau shall not implement any increase in any fee established by this article without express legislative approval.

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:~~ *operate:* five thousand dollars ($5,000).

(2) Application fee for the approval to operate a new branch of the institution: three thousand dollars ($3,000).

(3) Application fee for an approval to operate by means of accreditation: seven hundred fifty dollars ($750).

(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: three thousand five hundred dollars ($3,500).

(2) Renewal fee for a branch of the institution: three thousand dollars ($3,000).

(3) Renewal fee for an institution that is approved to operate by means of accreditation: five hundred dollars ($500).

(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 of a substantive change to an approval to operate: five hundred dollars ($500).

(2) Processing fee in connection with a substantive change to an approval to operate by means of accreditation: two hundred fifty dollars ($250).

(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 an amount equal to three-quarters of one percent of the institution's annual revenues derived from students in California, but not exceeding twenty-five thousand dollars ($25,000) annually.

(2) The amount of the annual fee pursuant to paragraph (1) shall be proportional to the bureau's cost of regulating the institution under this chapter.

(e) If the bureau determines that the annual cost of providing oversight and review of an institution, as required by this chapter, is less than the amount of any fees required to be paid by that institution pursuant to this article, the bureau may decrease the fees applicable to that institution to an amount that is proportional to the bureau's costs associated with that institution.

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

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

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

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

Article 18. Compliance, Enforcement, Process, and Penalties

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

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

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

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

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

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

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

(3) The degree levels and diplomas offered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Notwithstanding Section 125.9 of the Business and Professions Code, an administrative fine not to exceed five thousand dollars ($5,000) for each violation. The bureau shall base its assessment of the administrative fine on:

(A) The nature and seriousness of the violation.

(B) The persistence of the violation.

(C) The good faith of the institution.

(D) The history of previous violations.

(E) The purposes of this chapter.

(F) The potential harm to students.

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

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

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

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

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

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

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

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

(1) Obtaining an approval to operate by fraud.

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

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

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

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

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

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

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

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

94940. As consequence of an adverse administrative action against an institution, the institution may request a hearing pursuant to Article 10 (commencing with Section 11445.10) of Chapter 4.5 or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

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

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

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

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

94942. (a) The bureau shall establish a toll-free telephone number staffed by a bureau employee by which a student or a member of the public may file a complaint under this chapter.

(b) The bureau shall make a complaint form available on its Internet Web site.

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

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

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

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

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

94944.5. Each institution subject to this chapter shall be deemed to have authorized its accrediting agency to provide the bureau, the Attorney General, any district attorney~~, or city attorney,~~ *city attorney, or the Student Aid Commission,* within 30 days of written notice, copies of all documents and other material concerning the institution that are maintained by the accrediting agency.

94944.6. Within 30 days of receiving a written notice from the bureau, the Attorney General, district attorney, city attorney, or the Student Aid Commission pursuant to Section 94944.5, an accrediting agency shall provide the requesting entity with all documents or other material concerning an institution accredited by that agency that are designated specifically or by category in the written notice.

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 October 1, 2013, 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.~~

94949. (a) On or before October 1, 2013, the Legislative Analyst's Office shall report to the Legislature and the Governor on the appropriateness of the exemptions provided in this chapter, with particular attention to the exemptions provided by Article 4 (commencing with Section 94874) that are based on accreditation. The report shall examine and make recommendations regarding the degree to which regional and national accrediting agencies provide oversight of institutions and protection of student interests, whether that oversight results in the same level of protection of students as provided by this chapter, and whether the exemptions provided in Article 4 (commencing with Section 94874) that are based on accreditation should be continued, adjusted, or removed.

(b) On or before August 1, 2013, the bureau shall contract with the Bureau of State Audits to conduct a performance audit to evaluate the effectiveness and efficiency of the bureau's operations, consistent with the requirements of this chapter, and the Bureau of State Audits shall report the results of that audit to the Legislature and the Governor.

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

SEC. 7. (a) Notwithstanding any other provision of law, and notwithstanding the repeal of the former Private Postsecondary and Vocational Education Reform Act of 1989, the sum of five hundred eighty thousand dollars ($580,000) is hereby appropriated from the Private Postsecondary and Vocational Education Administration Fund to the Bureau for Private Postsecondary Education, for the purpose of funding five private postsecondary education specialist and senior specialist positions.

(b) The education specialist and senior specialist positions described in subdivision (a) shall be included in the annual budget for the Bureau for Private Postsecondary Education.

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

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