

AMENDED IN SENATE SEPTEMBER 4, 2009

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JULY 8, 2009

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

AMENDED IN ASSEMBLY MARCH 23, 2009

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, to add Chapter 8.5 (commencing with Section 95000) to, 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was repealed on January 1, 2008, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs.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Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, both of which were repealed on July 1, 2008.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 appropriate \$270,000 from the Private Postsecondary Education Administration Fund to the Bureau of State Audits to cover its costs of implementing the reporting requirements.

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, 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. The bill would, upon the repeal of the act, continue the Student Tuition Recovery Fund in existence under the administration of the Department of Consumer Affairs and would continuously appropriate the moneys remaining in that fund to the department for specified purposes.

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

(2) This bill would incorporate additional changes to Sections 27 and 146 of the Business and Professions Code proposed by SB 819, to be operative only if SB 819 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

The bill also would incorporate additional changes in Sections 101 and 149 of the Business and Professions Code proposed by AB 1535 and SB 819, to be operative only if this bill and one or both of the other bills are chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

(2)

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

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

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

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

- 1 SECTION 1. Section 27 of the Business and Professions Code
- 2 is amended to read:
- 3 27. (a) Each entity specified in subdivision (b) shall provide
- 4 on the Internet information regarding the status of every license
- 5 issued by that entity in accordance with the California Public
- 6 Records Act (Chapter 3.5 (commencing with Section 6250) of
- 7 Division 7 of Title 1 of the Government Code) and the Information

1 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
2 of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public
3 information to be provided on the Internet shall include information
4 on suspensions and revocations of licenses issued by the entity
5 and other related enforcement action taken by the entity relative
6 to persons, businesses, or facilities subject to licensure or regulation
7 by the entity. In providing information on the Internet, each entity
8 shall comply with the Department of Consumer Affairs Guidelines
9 for Access to Public Records. The information may not include
10 personal information, including home telephone number, date of
11 birth, or social security number. Each entity shall disclose a
12 licensee's address of record. However, each entity shall allow a
13 licensee to provide a post office box number or other alternate
14 address, instead of his or her home address, as the address of
15 record. This section shall not preclude an entity from also requiring
16 a licensee, who has provided a post office box number or other
17 alternative mailing address as his or her address of record, to
18 provide a physical business address or residence address only for
19 the entity's internal administrative use and not for disclosure as
20 the licensee's address of record or disclosure on the Internet.

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

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

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

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

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

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

37 (6) The Structural Pest Control Board shall disclose information
38 on its licensees, including applicators, field representatives, and
39 operators in the areas of fumigation, general pest and wood

1 destroying pests and organisms, and wood roof cleaning and
2 treatment.

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

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

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

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

18 (11) The Contractors' State License Board shall disclose
19 information on its licensees in accordance with Chapter 9
20 (commencing with Section 7000) of Division 3. In addition to
21 information related to licenses as specified in subdivision (a), the
22 board shall also disclose information provided to the board by the
23 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

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

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

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

33 *SEC. 1.5. Section 27 of the Business and Professions Code is*
34 *amended to read:*

35 27. (a) ~~Every~~ *Each* entity specified in subdivision (b), ~~on or~~
36 ~~after July 1, 2001,~~ shall provide on the Internet information
37 regarding the status of every license issued by that entity in
38 accordance with the California Public Records Act (Chapter 3.5
39 (commencing with Section 6250) of Division 7 of Title 1 of the
40 Government Code) and the Information Practices Act of 1977

1 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
2 4 of Division 3 of the Civil Code). The public information to be
3 provided on the Internet shall include information on suspensions
4 and revocations of licenses issued by the entity and other related
5 enforcement action taken by the entity relative to persons,
6 businesses, or facilities subject to licensure or regulation by the
7 entity. In providing information on the Internet, each entity shall
8 comply with the Department of Consumer Affairs Guidelines for
9 Access to Public Records. The information may not include
10 personal information, including home telephone number, date of
11 birth, or social security number. Each entity shall disclose a
12 licensee's address of record. However, each entity shall allow a
13 licensee to provide a post office box number or other alternate
14 address, instead of his or her home address, as the address of
15 record. This section shall not preclude an entity from also requiring
16 a licensee, who has provided a post office box number or other
17 alternative mailing address as his or her address of record, to
18 provide a physical business address or residence address only for
19 the entity's internal administrative use and not for disclosure as
20 the licensee's address of record or disclosure on the Internet.

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

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

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

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

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

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

37 (6) The Structural Pest Control Board shall disclose information
38 on its licensees, including applicators, field representatives, and
39 operators in the areas of fumigation, general pest and wood

1 destroying pests and organisms, and wood roof cleaning and
2 treatment.

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

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

12 (9) The Cemetery ~~Program~~ and Funeral Bureau shall disclose
13 information on its licensees, including cemetery brokers, cemetery
14 salespersons, ~~crematories, and cremated remains disposers~~ *cemetery*
15 *managers, crematory managers, cemetery authorities, crematories,*
16 *cremated remains disposers, embalmers, funeral establishments,*
17 *and funeral directors.*

18 (10) The ~~Funeral Directors and Embalmers Program~~
19 *Professional Fiduciaries Bureau* shall disclose information on its
20 licensees, ~~including embalmers, funeral establishments, and funeral~~
21 ~~directors.~~

22 (11) The Contractors' State License Board shall disclose
23 information on its licensees in accordance with Chapter 9
24 (commencing with Section 7000) of Division 3. In addition to
25 information related to licenses as specified in subdivision (a), the
26 board shall also disclose information provided to the board by the
27 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

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

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

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

37 SEC. 2. Section 101 of the Business and Professions Code, as
38 amended by Section 1 of Chapter 18 of the Statutes of 2009 of the
39 Fourth Extraordinary Session, is amended to read:

40 101. The department is comprised of:

- 1 (a) The Dental Board of California.
- 2 (b) The Medical Board of California.
- 3 (c) The State Board of Optometry.
- 4 (d) The California State Board of Pharmacy.
- 5 (e) The Veterinary Medical Board.
- 6 (f) The California Board of Accountancy.
- 7 (g) The California Architects Board.
- 8 (h) The Bureau of Barbering and Cosmetology.
- 9 (i) The Board for Professional Engineers and Land Surveyors.
- 10 (j) The Contractors' State License Board.
- 11 (k) The Bureau for Private Postsecondary Education.
- 12 (l) The Bureau of Electronic and Appliance Repair, Home
- 13 Furnishings, and Thermal Insulation.
- 14 (m) The Board of Registered Nursing.
- 15 (n) The Board of Behavioral Sciences.
- 16 (o) The State Athletic Commission.
- 17 (p) The Cemetery and Funeral Bureau.
- 18 (q) The State Board of Guide Dogs for the Blind.
- 19 (r) The Bureau of Security and Investigative Services.
- 20 (s) The Court Reporters Board of California.
- 21 (t) The Board of Vocational Nursing and Psychiatric
- 22 Technicians.
- 23 (u) The Landscape Architects Technical Committee.
- 24 (v) The Division of Investigation.
- 25 (w) The Bureau of Automotive Repair.
- 26 (x) The Respiratory Care Board of California.
- 27 (y) The Acupuncture Board.
- 28 (z) The Board of Psychology.
- 29 (aa) The California Board of Podiatric Medicine.
- 30 (ab) The Physical Therapy Board of California.
- 31 (ac) The Arbitration Review Program.
- 32 (ad) The Hearing Aid Dispensers Bureau.
- 33 (ae) The Physician Assistant Committee.
- 34 (af) The Speech-Language Pathology and Audiology Board.
- 35 (ag) The California Board of Occupational Therapy.
- 36 (ah) The Osteopathic Medical Board of California.
- 37 (ai) The Naturopathic Medicine Committee.
- 38 (aj) The Dental Hygiene Committee of California.
- 39 (ak) Any other boards, offices, or officers subject to its
- 40 jurisdiction by law.

1 *SEC. 2.3. Section 101 of the Business and Professions Code,*
2 *as amended by Section 1 of Chapter 18 of the Statutes of 2009 of*
3 *the Fourth Extraordinary Session, is amended to read:*

4 101. The department is comprised of:

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

- 1 (ae) The Speech-Language Pathology and Audiology Board.
2 ~~(ag)~~
3 (af) The California Board of Occupational Therapy.
4 ~~(ah)~~
5 (ag) The Osteopathic Medical Board of California.
6 ~~(ai)~~
7 (ah) The Naturopathic Medicine Committee.
8 ~~(aj)~~
9 (ai) The Dental Hygiene Committee of California.
10 ~~(ak)~~
11 (aj) Any other boards, offices, or officers subject to its
12 jurisdiction by law.
13 *SEC. 2.5. Section 101 of the Business and Professions Code,*
14 *as amended by Section 1 of Chapter 18 of the Statutes of 2009 of*
15 *the Fourth Extraordinary Session, is amended to read:*
16 101. The department is comprised of:
17 (a) The Dental Board of California.
18 (b) The Medical Board of California.
19 (c) The State Board of Optometry.
20 (d) The California State Board of Pharmacy.
21 (e) The Veterinary Medical Board.
22 (f) The California Board of Accountancy.
23 (g) The California Architects Board.
24 (h) The Bureau of Barbering and Cosmetology.
25 (i) The Board for Professional Engineers and Land Surveyors.
26 (j) The Contractors' State License Board.
27 (k) The Bureau for Private Postsecondary~~—and—Vocational~~
28 Education.
29 (l) The Bureau of Electronic and Appliance Repair, Home
30 Furnishings, and Thermal Insulation.
31 (m) The Board of Registered Nursing.
32 (n) The Board of Behavioral Sciences.
33 (o) The State Athletic Commission.
34 (p) The Cemetery and Funeral Bureau.
35 (q) The State Board of Guide Dogs for the Blind.
36 (r) The Bureau of Security and Investigative Services.
37 (s) The Court Reporters Board of California.
38 (t) The Board of Vocational Nursing and Psychiatric
39 Technicians.
40 (u) The Landscape Architects Technical Committee.

- 1 (v) The Division of Investigation.
- 2 (w) The Bureau of Automotive Repair.
- 3 (x) The Respiratory Care Board of California.
- 4 (y) The Acupuncture Board.
- 5 (z) The Board of Psychology.
- 6 (aa) The California Board of Podiatric Medicine.
- 7 (ab) The Physical Therapy Board of California.
- 8 (ac) The Arbitration Review Program.
- 9 (ad) The Hearing Aid Dispensers Bureau.
- 10 (ae) The Physician Assistant Committee.
- 11 (af) The Speech-Language Pathology and Audiology Board.
- 12 (ag) The California Board of Occupational Therapy.
- 13 (ah) The Osteopathic Medical Board of California.
- 14 (ai) The Naturopathic Medicine Committee.
- 15 (aj) The Dental Hygiene Committee of California.
- 16 (ak) *The Professional Fiduciaries Bureau.*
- 17 ~~(ak)~~
- 18 (al) Any other boards, offices, or officers subject to its
- 19 jurisdiction by law.
- 20 *SEC. 2.7. Section 101 of the Business and Professions Code,*
- 21 *as amended by Section 1 of Chapter 18 of the Statutes of 2009 of*
- 22 *the Fourth Extraordinary Session, is amended to read:*
- 23 101. The department is comprised of:
- 24 (a) The Dental Board of California.
- 25 (b) The Medical Board of California.
- 26 (c) The State Board of Optometry.
- 27 (d) The California State Board of Pharmacy.
- 28 (e) The Veterinary Medical Board.
- 29 (f) The California Board of Accountancy.
- 30 (g) The California Architects Board.
- 31 (h) The Bureau of Barbering and Cosmetology.
- 32 (i) The Board for Professional Engineers and Land Surveyors.
- 33 (j) The Contractors' State License Board.
- 34 (k) The Bureau for Private Postsecondary ~~and Vocational~~
- 35 Education.
- 36 (l) The Bureau of Electronic and Appliance Repair, Home
- 37 Furnishings, and Thermal Insulation.
- 38 (m) The Board of Registered Nursing.
- 39 (n) The Board of Behavioral Sciences.
- 40 (o) The State Athletic Commission.

- 1 (p) The Cemetery and Funeral Bureau.
2 (q) The State Board of Guide Dogs for the Blind.
3 (r) The Bureau of Security and Investigative Services.
4 (s) The Court Reporters Board of California.
5 (t) The Board of Vocational Nursing and Psychiatric
6 Technicians.
7 (u) The Landscape Architects Technical Committee.
8 (v) The Division of Investigation.
9 (w) The Bureau of Automotive Repair.
10 (x) The Respiratory Care Board of California.
11 (y) The Acupuncture Board.
12 (z) The Board of Psychology.
13 (aa) The California Board of Podiatric Medicine.
14 (ab) The Physical Therapy Board of California.
15 (ac) The Arbitration Review Program.
16 ~~(ad) The Hearing Aid Dispensers Bureau.~~
17 ~~(ae)~~
18 (ad) The Physician Assistant Committee.
19 ~~(af)~~
20 (ae) The Speech-Language Pathology and Audiology Board.
21 ~~(ag)~~
22 (af) The California Board of Occupational Therapy.
23 ~~(ah)~~
24 (ag) The Osteopathic Medical Board of California.
25 ~~(ai)~~
26 (ah) The Naturopathic Medicine Committee.
27 ~~(aj)~~
28 (ai) The Dental Hygiene Committee of California.
29 (aj) *The Professional Fiduciaries Bureau.*
30 (ak) Any other boards, offices, or officers subject to its
31 jurisdiction by law.
32 SEC. 3. Section 146 of the Business and Professions Code is
33 amended to read:
34 146. (a) Notwithstanding any other provision of law, a
35 violation of any code section listed in subdivision (c) is an
36 infraction subject to the procedures described in Sections 19.6 and
37 19.7 of the Penal Code under either of the following circumstances:
38 (1) A complaint or a written notice to appear in court pursuant
39 to Chapter 5c (commencing with Section 853.5) of Title 3 of Part
40 2 of the Penal Code is filed in court charging the offense as an

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

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

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

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

15 (1) Sections 2052 and 2054.

16 (2) Section 2630.

17 (3) Section 2903.

18 (4) Section 3660.

19 (5) Sections 3760 and 3761.

20 (6) Section 4080.

21 (7) Section 4825.

22 (8) Section 4935.

23 (9) Section 4980.

24 (10) Section 4996.

25 (11) Section 5536.

26 (12) Section 6704.

27 (13) Section 6980.10.

28 (14) Section 7317.

29 (15) Section 7502 or 7592.

30 (16) Section 7520.

31 (17) Section 7617 or 7641.

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

33 (19) Section 8016.

34 (20) Section 8505.

35 (21) Section 8725.

36 (22) Section 9681.

37 (23) Section 9840.

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

39 (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. 3.5. *Section 146 of the Business and Professions Code is amended to read:*

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

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

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

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

21 (e)

22 (d) Notwithstanding any other provision of law, a violation of
23 any of the sections listed in subdivision (c) ~~or (d)~~, which is an
24 infraction, is punishable by a fine of not less than two hundred
25 fifty dollars (\$250) and not more than one thousand dollars
26 (\$1,000). No portion of the minimum fine may be suspended by
27 the court unless as a condition of that suspension the defendant is
28 required to submit proof of a current valid license, registration, or
29 certificate for the profession or vocation which was the basis for
30 his or her conviction.

31 SEC. 4. Section 149 of the Business and Professions Code, as
32 amended by Section 3 of Chapter 18 of the Statutes of 2009 of the
33 Fourth Extraordinary Session, is amended to read:

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

1 (1) Cease the unlawful advertising.

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

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

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

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

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

23 (1) The Bureau of Barbering and Cosmetology.

24 (2) The Cemetery and Funeral Bureau.

25 (3) The Veterinary Medical Board.

26 (4) The Hearing Aid Dispensers Advisory Committee.

27 (5) The Landscape Architects Technical Committee.

28 (6) The California Board of Podiatric Medicine.

29 (7) The Respiratory Care Board of California.

30 (8) The Bureau of Electronic and Appliance Repair, Home
31 Furnishings, and Thermal Insulation.

32 (9) The Bureau of Security and Investigative Services.

33 (10) The Bureau of Automotive Repair.

34 (11) The California Architects Board.

35 (12) The Speech-Language Pathology and Audiology Board.

36 (13) The Board for Professional Engineers and Land Surveyors.

37 (14) The Board of Behavioral Sciences.

38 (15) The Structural Pest Control Board within the Department
39 of Pesticide Regulation.

40 (16) The Acupuncture Board.

1 (17) The Board of Psychology.

2 (18) The California Board of Accountancy.

3 (19) The Naturopathic Medicine Committee.

4 (20) The Bureau for Private Postsecondary Education.

5 SEC. 4.3. *Section 149 of the Business and Professions Code,*
6 *as amended by Section 3 of Chapter 18 of the Statutes of 2009 of*
7 *the Fourth Extraordinary Session, is amended to read:*

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

15 (1) Cease the unlawful advertising.

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

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

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

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

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

37 (1) The Bureau of Barbering and Cosmetology.

38 (2) The Cemetery and Funeral Bureau.

39 (3) The Veterinary Medical Board.

40 ~~(4) The Hearing Aid Dispensers Advisory Committee.~~

1 ~~(5)~~
2 (4) The Landscape Architects Technical Committee.
3 ~~(6)~~
4 (5) The California Board of Podiatric Medicine.
5 ~~(7)~~
6 (6) The Respiratory Care Board of California.
7 ~~(8)~~
8 (7) The Bureau of Electronic and Appliance Repair, Home
9 Furnishings, and Thermal Insulation.
10 ~~(9)~~
11 (8) The Bureau of Security and Investigative Services.
12 ~~(10)~~
13 (9) The Bureau of Automotive Repair.
14 ~~(11)~~
15 (10) The California Architects Board.
16 ~~(12)~~
17 (11) The Speech-Language Pathology and Audiology Board.
18 ~~(13)~~
19 (12) The Board for Professional Engineers and Land Surveyors.
20 ~~(14)~~
21 (13) The Board of Behavioral Sciences.
22 ~~(15)~~
23 (14) The Structural Pest Control Board within the Department
24 of Pesticide Regulation.
25 ~~(16)~~
26 (15) The Acupuncture Board.
27 ~~(17)~~
28 (16) The Board of Psychology.
29 ~~(18)~~
30 (17) The California Board of Accountancy.
31 ~~(19)~~
32 (18) The Naturopathic Medicine Committee.
33 (19) *The Bureau for Private Postsecondary Education.*
34 *SEC. 4.5. Section 149 of the Business and Professions Code,*
35 *as amended by Section 3 of Chapter 18 of the Statutes of 2009 of*
36 *the Fourth Extraordinary Session, is amended to read:*
37 149. (a) If, upon investigation, an agency designated in
38 subdivision (e) has probable cause to believe that a person is
39 advertising in a telephone directory with respect to the offering or
40 performance of services, without being properly licensed by or

1 registered with the agency to offer or perform those services, the
2 agency may issue a citation under Section 148 containing an order
3 of correction that requires the violator to do both of the following:

4 (1) Cease the unlawful advertising.

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

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

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

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

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

26 (1) The Bureau of Barbering and Cosmetology.

27 (2) The Cemetery and Funeral Bureau.

28 (3) The Veterinary Medical Board.

29 (4) The Hearing Aid Dispensers Advisory Committee.

30 (5) The Landscape Architects Technical Committee.

31 (6) The California Board of Podiatric Medicine.

32 (7) The Respiratory Care Board of California.

33 (8) The Bureau of Electronic and Appliance Repair, Home
34 Furnishings, and Thermal Insulation.

35 (9) The Bureau of Security and Investigative Services.

36 (10) The Bureau of Automotive Repair.

37 (11) The California Architects Board.

38 (12) The Speech-Language Pathology and Audiology Board.

39 (13) The Board for Professional Engineers and Land Surveyors.

40 (14) The Board of Behavioral Sciences.

1 (15) The Structural Pest Control Board within the Department
2 of Pesticide Regulation.

3 (16) The Acupuncture Board.

4 (17) The Board of Psychology.

5 (18) The California Board of Accountancy.

6 (19) The Naturopathic Medicine Committee.

7 (20) *The Physical Therapy Board of California.*

8 (21) *The Bureau for Private Postsecondary Education.*

9 *SEC. 4.7. Section 149 of the Business and Professions Code,*
10 *as amended by Section 3 of Chapter 18 of the Statutes of 2009 of*
11 *the Fourth Extraordinary Session, is amended to read:*

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

19 (1) Cease the unlawful advertising.

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

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

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

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

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

- 1 (1) The Bureau of Barbering and Cosmetology.
- 2 (2) The Cemetery and Funeral Bureau.
- 3 (3) The Veterinary Medical Board.
- 4 ~~(4) The Hearing Aid Dispensers Advisory Committee.~~
- 5 ~~(5)~~
- 6 (4) The Landscape Architects Technical Committee.
- 7 ~~(6)~~
- 8 (5) The California Board of Podiatric Medicine.
- 9 ~~(7)~~
- 10 (6) The Respiratory Care Board of California.
- 11 ~~(8)~~
- 12 (7) The Bureau of Electronic and Appliance Repair, Home
- 13 Furnishings, and Thermal Insulation.
- 14 ~~(9)~~
- 15 (8) The Bureau of Security and Investigative Services.
- 16 ~~(10)~~
- 17 (9) The Bureau of Automotive Repair.
- 18 ~~(11)~~
- 19 (10) The California Architects Board.
- 20 ~~(12)~~
- 21 (11) The Speech-Language Pathology and Audiology Board.
- 22 ~~(13)~~
- 23 (12) The Board for Professional Engineers and Land Surveyors.
- 24 ~~(14)~~
- 25 (13) The Board of Behavioral Sciences.
- 26 ~~(15)~~
- 27 (14) The Structural Pest Control Board within the Department
- 28 of Pesticide Regulation.
- 29 ~~(16)~~
- 30 (15) The Acupuncture Board.
- 31 ~~(17)~~
- 32 (16) The Board of Psychology.
- 33 ~~(18)~~
- 34 (17) The California Board of Accountancy.
- 35 ~~(19)~~
- 36 (18) The Naturopathic Medicine Committee.
- 37 (19) *The Physical Therapy Board of California.*
- 38 (20) *The Bureau for Private Postsecondary Education.*
- 39 SEC. 5. Section 473.1 of the Business and Professions Code
- 40 is amended to read:

1 473.1. This chapter shall apply to all of the following:

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

5 (b) The Cemetery and Funeral Bureau.

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

8
9 CHAPTER 8. PRIVATE POSTSECONDARY INSTITUTIONS

10
11 Article 1. General Provisions

12
13 94800. This chapter shall be known, and may be cited, as the
14 California Private Postsecondary Education Act of 2009.

15 94800.5. Whenever a reference is made to the former Private
16 Postsecondary Education and Student Protection Act, the former
17 Private Postsecondary and Vocational Education Reform Act of
18 1989, or the former Chapter 7 (commencing with Section 94700)
19 of Part 59 of Division 10 of Title 3 of the Education Code, as it
20 read on June 30, 2007, by the provisions of any statute or
21 regulation, it shall be construed as referring to the provisions of
22 this chapter. Whenever a reference is made to the former Bureau
23 for Private Postsecondary and Vocational Education by the
24 provisions of any statute or regulation, it shall be construed as
25 referring to the Bureau for Private Postsecondary Education.

26 94801. The Legislature finds and declares all of the following:

27 (a) In 2007, more than 400,000 Californians attended more than
28 1,500 private postsecondary schools in California.

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

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

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

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

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

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

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

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

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

16 (e) The Legislature advises future policymakers to continually
17 and carefully evaluate this chapter and its administration and
18 enforcement. Where there are deficiencies in the law or regulatory
19 oversight, the Governor and the Legislature should act quickly to
20 correct them.

21
22 Article 2. Transition Provisions
23

24 94802. (a) An institution that had a valid approval to operate
25 on June 30, 2007, issued by the former Bureau for Private
26 Postsecondary and Vocational Education pursuant to former
27 Chapter 7 (commencing with Section 94700) of Part 59 of Division
28 10 of Title 3 of the Education Code, as it read on June 30, 2007,
29 shall maintain that approval under this chapter. For the purposes
30 of this chapter, the approval to operate shall be valid for three
31 calendar years after the expiration date of the approval, as it read
32 on June 30, 2007.

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

37 (1) Applications received prior to January 1, 2006, shall be
38 granted an approval to operate until 2012 to coincide with the
39 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 may 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

1 Vocational Education on June 30, 2007, that began operations on
2 or after July 1, 2007, may continue to operate, but shall comply
3 with, and is subject to, this chapter, and shall submit an application
4 for an approval to operate to the bureau pursuant to this chapter
5 within six months of that application becoming available.

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

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

16 94809.5. Notwithstanding any other provision of law:

17 (a) For any claims that a student had based on a violation of the
18 Private Postsecondary and Vocational Education Reform Act of
19 1989 on or before June 30, 2007, the period of time from June 30,
20 2007, to December 31, 2009, inclusive, shall be excluded in
21 determining the deadline or the statute of limitation for filing any
22 claim with the bureau or a lawsuit based on any claim.

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

29 94809.6. (a) Notwithstanding the inoperative status or repeal
30 of the former Private Postsecondary and Vocational Education
31 Reform Act of 1989 on or after July 1, 2007, any claim or cause
32 of action in any manner based on the act that was commenced on
33 or before June 30, 2007, whether or not reduced to a final
34 judgment, shall be preserved, and any remedy that was or could
35 have been ordered to redress a violation of the act on or before
36 June 30, 2007, may be ordered or maintained thereafter. If a final
37 judgment was obtained in an action commenced on or after July
38 1, 2007, under the authority of Chapter 635 of the Statutes of 2007,
39 the final judgment and any legal remedy that was or could be

1 maintained on or after July 1, 2007, under that statute, shall be
2 preserved and maintained thereafter.

3 (b) The rights, obligations, claims, causes of action, and
4 remedies described in subdivision (a) shall be determined by the
5 provisions of the former Private Postsecondary and Vocational
6 Education Reform Act of 1989 in effect on or before June 30,
7 2007, notwithstanding the inoperative status or repeal of the former
8 Private Postsecondary and Vocational Education Reform Act of
9 1989 on or after July 1, 2007.

10
11 Article 3. Definitions
12

13 94810. Unless the context requires otherwise, the definitions
14 set forth in this article govern the construction of this chapter.

15 94811. "Ability-to-benefit student" means a student who does
16 not have a certificate of graduation from a school providing
17 secondary education, or a recognized equivalent of that certificate.

18 94812. "Academic year" means a period, including a minimum
19 of 30 weeks of instructional time, in which a full-time student
20 attending an institution that measures educational program length
21 in credit hours completes 24 semester or trimester hours or 36
22 quarter hours, or an institution that measures educational program
23 length in clock hours completes at least 900 clock hours.

24 94813. "Accredited" means an institution is recognized or
25 approved by an accrediting agency recognized by the United States
26 Department of Education.

27 94814. "Accrediting agency" is an agency recognized by the
28 United States Department of Education.

29 94815. "Annual report" means the yearly report required to be
30 filed by institutions.

31 94816. "Applicant" means an institution that has submitted an
32 application to the bureau for an approval to operate or for a renewal
33 of an approval to operate.

34 94817. "Approval to operate" or "approval" means the
35 authorization pursuant to this chapter to offer to the public and to
36 provide postsecondary educational programs, as well as the written
37 document issued to an institution signifying its approval to operate.

38 94817.5. "Approved to operate" or "approved" means that an
39 institution has received authorization pursuant to this chapter to

1 offer to the public and to provide postsecondary educational
2 programs.

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

5 94819. “Branch campus” means a site other than the main
6 campus or a satellite location.

7 94820. “Bureau” means the Bureau for Private Postsecondary
8 Education in the Department of Consumer Affairs.

9 94821. “Change in business organization form” means a change
10 of a business organization’s original form, including, for example,
11 a situation in which a sole proprietorship becomes a partnership
12 or corporation, or when a business organization becomes a
13 nonprofit public benefit corporation or forms a nonprofit public
14 benefit corporation as a subsidiary to provide the educational
15 programs for which the business organization has an approval to
16 operate.

17 94822. “Change in control” means a change in the ownership
18 of an institution in which a person who previously did not own at
19 least 25 percent of the stock or interest in the institution or its
20 parent company acquires ownership of at least 25 percent of the
21 stock or interest in the institution or its parent company. “Change
22 in control” does not include an ownership change between family
23 members involving less than 51 percent of the stock or interest in
24 the institution.

25 94823. “Change in ownership” means the acquisition by a
26 person of more than 50 percent of an interest in or stock of a parent
27 company.

28 94823.5. “Change of location” means a move or relocation
29 more than 10 miles from the site at which the institution offers
30 instruction.

31 94824. “Class day” means a day a student is scheduled to attend
32 a class session, or for students receiving instruction through
33 distance education, any calendar day except Saturday, Sunday, or
34 any holiday enumerated in Section 6700 of the Government Code.

35 94825. “Class session” means part of a class day that an
36 institution conducts instruction in a particular subject.

37 94826. “Commence operations” means an institution has begun
38 to provide educational programs.

39 94827. “Continuing education” means instruction in subjects
40 that licensees are required to take solely for the purpose of

1 continued licensure, or to enhance their skills and knowledge within
2 their particular profession, occupation, trade, or career field.

3 94828. "Curriculum" means an organized set of courses or
4 modules of instruction that are prerequisites to the award of a
5 degree or diploma.

6 94829. "Default" means failure of a borrower and endorser, if
7 any, to make an installment payment for a loan received under the
8 federal student financial aid programs when due, or to meet other
9 terms of the promissory note, provided that this failure persists for
10 270 days if payment is due monthly or 360 days if payment is due
11 less frequently.

12 94830. "Degree" means a recognized educational credential
13 awarded by an institution that signifies satisfactory completion of
14 the requirements of a postsecondary educational program at the
15 associate's level or above.

16 94831. "Degree title" means the designated subject area of the
17 educational program that appears on the face of the document
18 awarded to a student.

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

24 94833. "Director" means the Director of Consumer Affairs.

25 94834. "Distance education" means transmission of instruction
26 to students at a location separate from the institution.

27 94835. "Document of record" means any document required
28 to be maintained by this chapter.

29 94836. "Educational materials" means textbooks, supplies,
30 implements, tools, machinery, computers, electronic devices, or
31 other goods related to any education, training, or experience
32 required for participation in an educational program.

33 94837. "Educational program" means a planned sequence
34 composed of a single course or module, or set of related courses
35 or modules, that provides the education, training, skills, and
36 experience leading to the award of a recognized educational
37 credential such as a degree or diploma.

38 94838. "Educational program approval" means authorization
39 by the bureau, another government agency of this state, or a federal

1 government agency, to provide educational programs, and is an
2 element of an approval to operate.

3 94839. “Enrollment” means the execution of an enrollment
4 agreement.

5 94840. “Enrollment agreement” means a written contract
6 between a student and institution concerning an educational
7 program.

8 94841. “Faculty” means the instructional staff of an institution,
9 whether these persons are employees or independent contractors.

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

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

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

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

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

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

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

29 94849. “Main campus” means the institution’s sole or primary
30 teaching location.

31 94850. “Noninstitutional charges” means charges for an
32 educational program paid to an entity other than an institution that
33 are specifically required for participation in an educational
34 program.

35 94851. “Owner” means an individual in the case of a sole
36 proprietorship, partners in a partnership, members in a limited
37 liability company, or shareholders in a corporation.

38 94852. “Ownership” means a legal or equitable interest in an
39 institution, including ownership of assets or stock.

1 94853. "Parent company" means a partnership, limited liability
2 company, or corporation that owns more than 50 percent of the
3 stock or interest in an institution.

4 94854. "Period of attendance" means a semester, quarter, or
5 trimester for educational programs measured in credit hours and
6 the entire educational program if measured in clock hours.

7 94855. "Person" means a natural person or a business
8 organization, irrespective of its form.

9 94856. "Person in control" means a person who, by his or her
10 position's authority or conduct, directs the management of an
11 institution.

12 94857. "Postsecondary education" means a formal institutional
13 educational program whose curriculum is designed primarily for
14 students who have completed or terminated their secondary
15 education or are beyond the compulsory age of secondary
16 education, including programs whose purpose is academic,
17 vocational, or continuing professional education.

18 94858. "Private postsecondary educational institution" means
19 a private entity with a physical presence in this state that offers
20 postsecondary education to the public for an institutional charge.

21 94859. "Recruiter" means an employee of an institution whose
22 principal job responsibilities are the recruitment of students other
23 than on the institution's premises.

24 94860. "Recruitment" means actions taken by recruiters seeking
25 enrollment of students.

26 94861. "Reporting period" means the institution's fiscal year
27 or any yearly period designated by the bureau to be covered in the
28 institution's annual report.

29 94862. "Satellite location" means an auxiliary classroom or
30 teaching site within 50 miles of the branch or main location.

31 94865. "Site" means a main or branch campus or satellite
32 location.

33 94866. "Teach-out" means the arrangements an institution
34 makes for its students to complete their educational programs when
35 the institution ceases to operate.

36 94867. "Third-party payer" means an employer, government
37 program, or other entity that pays a student's total charges when
38 no separate agreement for the repayment of the charges exists
39 between the third-party payer and the student.

1 94868. “To offer to the public” means to advertise, publicize,
2 solicit, or recruit.

3 94869. “To operate” means to establish, keep, or maintain any
4 facility or location in this state where, or from which, or through
5 which, postsecondary educational programs are provided.

6 94870. “Total charges” means the sum of institutional and
7 noninstitutional charges.

8 94871. “Year” means a calendar year.

9

10 Article 4. Exemptions

11

12 94874. The following are exempt from this chapter:

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

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

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

21 (d) An institution offering either of the following:

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

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

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

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

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

33 (e) (1) An institution owned, controlled, and operated and
34 maintained by a religious organization lawfully operating as a
35 nonprofit religious corporation pursuant to Part 4 (commencing
36 with Section 9110) of Division 2 of Title 1 of the Corporations
37 Code, that meets all of the following requirements:

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

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

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

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

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

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

16 (f) An institution that does not award degrees and that solely
17 provides educational programs for total charges of two thousand
18 five hundred dollars (\$2,500) or less when no part of the total
19 charges is paid from state or federal student financial aid programs.
20 The bureau may adjust this cost threshold based upon the California
21 Consumer Price Index and post notification of the adjusted cost
22 threshold on its Internet Web site, as the bureau determines,
23 through the promulgation of regulations, that the adjustment is
24 consistent with the intent of this chapter.

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

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

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

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

37 (3) Is accredited by an accrediting organization for workforce
38 development or rehabilitation services recognized by the
39 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) This section 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.

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, identify material or repeated violations of this chapter and regulations implementing this chapter, 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 be developed in a manner that allows the user to search by institution and 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. The Student Performance Fact Sheet shall be maintained on the directory for at least five years after the date of its submission to the bureau.

(iii) The disciplinary history of the institution, which shall include, but shall not be limited to, all of the following:

(I) Pending formal accusations filed by the bureau.

(II) Suspensions, revocations, citations, fines, infractions, probations, pending litigation filed by the bureau, and final judgments resulting from litigation filed by the bureau.

(III) Pending or final criminal cases filed by the Attorney General, a city attorney, a district attorney, or a federal law enforcement official, of which the bureau has received notice.

(IV) Final administrative actions by the United State Department of Education, including orders requiring restitution to students.

(V) Final disciplinary actions by an accreditation agency, of which the bureau has received notice pursuant to Section 94934.

(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. (a) There is within the bureau ~~an 11-member~~ a 12-member advisory committee. On or before July 1, 2010, the members of the committee shall be appointed as follows:

(1) Three members, who shall have a demonstrated record of advocacy on behalf of consumers, of which the ~~bureau~~ Director of Consumer Affairs, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint one member.

1 (2) Two members, who shall be current or past students of
2 institutions, appointed by the ~~bureau~~ *Director of Consumer Affairs*.

3 (3) ~~Two~~ *Three* members, who shall be representatives of
4 institutions, appointed by the ~~bureau~~ *Director of Consumer Affairs*.

5 (4) Two members, which shall be employers that hire students,
6 appointed by the ~~bureau~~ *Director of Consumer Affairs*.

7 (5) One public member appointed by the Senate Committee on
8 Rules.

9 (6) One public member appointed by the Speaker of the
10 Assembly.

11 ~~(b) The advisory committee shall do all of the following:~~

12 ~~(1) Advise~~ *(b) The advisory committee shall advise* the bureau
13 with respect to *matters relating to private postsecondary education*
14 *and* the administration of this chapter, including annually reviewing
15 the fee schedule, licensing, and enforcement provisions of this
16 chapter.

17 ~~(2) Consider and make appropriate recommendations to the~~
18 ~~bureau in all matters relating to private postsecondary education~~
19 ~~in the state.~~

20 (c) The bureau shall actively seek input from, and consult with,
21 the advisory committee regarding the development of regulations
22 to implement this chapter.

23 94881. The bureau may conduct workshops to provide
24 applicants and institutions information on application processes,
25 compliance with this chapter, best practices for providing
26 postsecondary educational programs, and other subjects concerning
27 postsecondary education.

28 94882. The bureau may empanel visiting committees to assist
29 in evaluating an institution's application for an approval to operate.
30 The members of visiting committees shall serve at no expense to
31 the state, except that the bureau may reimburse the members of
32 visiting committees for actual travel and per diem expenses
33 incurred during the evaluation. The bureau may seek
34 reimbursement for the travel and per diem costs from the institution
35 that is the subject of an evaluation.

36 94883. (a) Any individual serving on a visiting committee
37 who provides information to the bureau, or its staff, in the course
38 of evaluating any institution, or who testifies in any administrative
39 hearing arising under this chapter, is entitled to a defense and

1 indemnification in any action arising out of the information or
2 testimony provided as if he or she were a public employee.

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

7 94884. The bureau is subject to Section 27 of the Business and
8 Professions Code.

9
10 Article 6. Approval to Operate

11
12 94885. The bureau shall, by January 1, 2011, adopt by
13 regulation minimum operating standards for an institution that
14 shall reasonably ensure that all of the following occur:

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

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

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

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

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

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

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

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

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

36 94886. Except as exempted in Article 4 (commencing with
37 Section 94874) or in compliance with the transition provisions in
38 Article 2 (commencing with Section 94802), a person shall not
39 open, conduct, or do business as a private postsecondary

1 educational institution in this state without obtaining an approval
2 to operate under this chapter.

3 94887. An approval to operate shall be granted only after an
4 applicant has presented sufficient evidence to the bureau, and the
5 bureau has independently verified the information provided by the
6 applicant through site visits or other methods deemed appropriate
7 by the bureau, that the applicant has the capacity to satisfy the
8 minimum operating standards. The bureau shall deny an application
9 for an approval to operate if the application does not satisfy those
10 standards.

11 94888. (a) The bureau shall, by January 1, 2011, adopt by
12 regulation both of the following:

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

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

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

25 94889. Except as provided in subdivision (b) of Section 94890,
26 an approval to operate shall be for a term of five years.

27 94890. (a) (1) The bureau shall grant an institution that is
28 accredited an approval to operate by means of its accreditation.

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

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

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

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

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

7 94892. If an agency of this state other than the bureau or of
8 the federal government provides an approval to offer an educational
9 program and the institution already has a valid approval to operate
10 issued by the bureau, that agency's educational program approval
11 may satisfy the requirements of this article without any further
12 review by the bureau. The bureau may incorporate that educational
13 program into the institution's approval to operate when the bureau
14 receives documentation signifying the conferral of the educational
15 program approval by that agency.

16
17 Article 7. Substantive Changes to an Approval to Operate
18

19 94893. If an institution intends to make a substantive change
20 to its approval to operate, the institution shall receive prior
21 authorization from the bureau. Except as provided in subdivision
22 (a) of Section 94896, if the institution makes the substantive change
23 without prior bureau authorization, the institution's approval to
24 operate may be suspended or revoked.

25 94894. The following changes to an approval to operate are
26 considered substantive changes and require prior authorization:

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

30 (b) A change in ownership.

31 (c) A change in control.

32 (d) A change in business organization form.

33 (e) A change of location.

34 (f) A change of name.

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

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

38 94895. The bureau shall, by January 1, 2011, adopt by
39 regulation the process and procedures whereby an institution shall

1 seek authorization for substantive changes to an approval to
2 operate.

3 94896. (a) An institution that has been granted an approval to
4 operate by means of accreditation shall only make a substantive
5 change in accordance with the institution's accreditation standards.

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

8
9 Article 8. Fair Business Practices

10
11 94897. An institution shall not do any of the following:

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

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

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

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

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

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

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

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

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

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

4 (2) The institution is a public institution.

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

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

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

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

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

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

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

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

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

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

36 (n) Compensate an employee involved in recruitment,
37 enrollment, admissions, student attendance, or sales of educational
38 materials to students on the basis of a commission, commission
39 draw, bonus, quota, or other similar method related to the
40 recruitment, enrollment, admissions, student attendance, or sales

1 of educational materials to students, except as provided in
2 paragraph (1) or (2):

3 (1) If the educational program is scheduled to be completed in
4 90 days or less, the institution shall pay compensation related to
5 a particular student only if that student completes the educational
6 program.

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

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

20 94898. (a) An institution shall not merge classes unless all of
21 the students have received the same amount of instruction. This
22 subdivision does not prevent the placement of students, who are
23 enrolled in different educational programs, in the same class if that
24 class is part of each of the educational programs and the placement
25 in a merged class will not impair the students' learning of the
26 subject matter of the class.

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

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

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

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

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

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

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

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

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

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

33 94899. If an institution offers an educational program in a
34 profession, occupation, trade, or career field that requires licensure
35 in this state, the institution shall have an educational program
36 approval from the appropriate state licensing agency to conduct
37 that educational program in order that a student who completes
38 the educational program, except as provided in Section 94905, is
39 eligible to sit for any required licensure examination.

1 94899.5. (a) Institutions that offer short-term programs
2 designed to be completed in one term or four months, whichever
3 is less, may require payment of all tuition and fees on the first day
4 of instruction.

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

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

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

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

22 Article 9. Recordkeeping

23
24 94900. (a) An institution shall maintain records of the name,
25 address, e-mail address, and telephone number of each student
26 who is enrolled in an educational program in that institution.

27 (b) An institution shall maintain, for each student granted a
28 degree or certificate by that institution, permanent records of all
29 of the following:
30

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

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

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

36 94900.5. An institution shall maintain, for a period of not less
37 than five years, at its principal place of business in this state,
38 complete and accurate records of all of the following information:

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

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

4 (c) Any other records required to be maintained by this chapter,
5 including, but not limited to, records maintained pursuant to Article
6 16 (commencing with Section 94928).

7 94900.7. The recordkeeping requirements of this article shall
8 not apply to an institution that is accredited, if the recordkeeping
9 requirements of the accrediting organization are substantially
10 similar to the recordkeeping requirements of this article, as
11 determined by the bureau.

12
13 Article 10. Recruiters

14
15 94901. (a) An institution's recruiters shall be employees.

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

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

20
21 Article 11. Enrollment Agreements and Disclosures

22
23 94902. (a) A student shall enroll solely by means of executing
24 an enrollment agreement. The enrollment agreement shall be signed
25 by the student and by an authorized employee of the institution.

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

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

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

32 (3) Prior to the execution of the enrollment agreement, the
33 ~~institution has orally disclosed to the student the information~~
34 ~~required pursuant Section 94912. student and the institution have~~
35 ~~signed and dated the information required to be disclosed in the~~
36 ~~Student Performance Fact Sheet pursuant to subdivisions (a) to~~
37 ~~(d), inclusive, of Section 94910. Each of these items in the Student~~
38 ~~Performance Fact Sheet shall include a line for the student to~~
39 ~~initial and shall be initialed and dated by the student.~~

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

4 94903. A student may not waive any term or receipt of any
5 disclosure required by this article.

6 94904. Before an ability-to-benefit student may execute an
7 enrollment agreement, the institution shall have the student take
8 an independently administered examination from the list of
9 examinations prescribed by the United States Department of
10 Education pursuant to Section 484(d) of the federal Higher
11 Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.) as it is, from
12 time to time, amended. The student may not enroll unless the
13 student achieves a score, as specified by the United States
14 Department of Education, demonstrating that the student may
15 benefit from the education and training being offered.

16 94905. (a) During the enrollment process, an institution
17 offering educational programs designed to lead to positions in a
18 profession, occupation, trade, or career field requiring licensure
19 in this state shall exercise reasonable care to determine if the
20 student will not be eligible to obtain licensure in the profession,
21 occupation, trade, or career field at the time of the student's
22 graduation and shall provide all students enrolled in those programs
23 with a written copy of the requirements for licensure established
24 by the state, including any applicable course requirements
25 established by the state. If the minimum course requirements of
26 the institution exceed the minimum requirements for state licensure,
27 the institution shall disclose this information, including a list of
28 those courses that are not required for state licensure. The
29 institution shall not execute an enrollment agreement with a student
30 that is known to be ineligible for licensure, unless the student's
31 stated objective is other than licensure.

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

1 94906. (a) An enrollment agreement shall be written in
2 language that is easily understood. If English is not the student's
3 primary language, and the student is unable to understand the terms
4 and conditions of the enrollment agreement, the student shall have
5 the right to obtain a clear explanation of the terms and conditions
6 and all cancellation and refund policies in his or her primary
7 language.

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

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

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

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

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

24 (2) Except as specified in Article 2 (commencing with Section
25 94802), a statement that the institution is a private institution and
26 that it is approved to operate by the bureau.

27 (3) The following statements:

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

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

37 (C) "A student or any member of the public may file a complaint
38 about this institution with the Bureau for Private Postsecondary
39 Education by calling (toll-free telephone number) or by completing

1 a complaint form, which can be obtained on the bureau's Internet
2 Web site (Internet Web site address)."

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

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

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

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

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

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

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

35 (C) Probation and dismissal policies.

36 (D) Attendance policies.

37 (E) Leave-of-absence policies.

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

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

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

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

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

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

28 (15) The following statement:

29
30 "NOTICE CONCERNING TRANSFERABILITY OF
31 CREDITS AND CREDENTIALS EARNED AT OUR
32 INSTITUTION

33 The transferability of credits you earn at (name of institution)
34 is at the complete discretion of an institution to which you
35 may seek to transfer. Acceptance of the (degree, diploma, or
36 certificate) you earn in (name of educational program) is also
37 at the complete discretion of the institution to which you may
38 seek to transfer. If the (credits or degree, diploma, or
39 certificate) that you earn at this institution are not accepted at
40 the institution to which you seek to transfer, you may be

1 required to repeat some or all of your coursework at that
2 institution. For this reason you should make certain that your
3 attendance at this institution will meet your educational goals.
4 This may include contacting an institution to which you may
5 seek to transfer after attending (name of institution) to
6 determine if your (credits or degree, diploma or certificate)
7 will transfer.”

8
9 *(b) If the institution has a general student brochure, the*
10 *institution shall provide that brochure to the prospective student*
11 *prior to enrollment. In addition, if the institution has a*
12 *program-specific student brochure for the program in which the*
13 *prospective student seeks to enroll, the institution shall provide*
14 *the program-specific student brochure to the prospective student*
15 *prior to enrollment.*

16 ~~(b)~~

17 *(c) An institution shall provide the school catalog to any person*
18 *upon request. In addition, if the institution has a student brochure*
19 *student brochures, the institution shall disclose the brochure to the*
20 *student or any other interested person. the requested brochures to*
21 *any interested person upon request.*

22 94910. Prior to enrollment, an institution shall provide a
23 prospective student with a School Performance Fact Sheet
24 containing, at a minimum, the following information, as it relates
25 to the educational program:

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

28 (b) Placement rates, as calculated pursuant to Article 16
29 (commencing with Section 94928), if the educational program is
30 designed to lead to, or the institution makes any express or implied
31 claim related to preparing students for, a particular career,
32 occupation, vocation, job, or job title.

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

37 (d) *(1) Salary or wage information, as calculated pursuant to*
38 *Article 16 (commencing with Section 94928), if the institution*
39 *offers educational programs designed to lead to, or makes any*
40 *express or implied claims related to preparing students for, a*

1 particular career, occupation, vocation, trade, job, or job title. if
2 the institution or a representative of the institution makes any
3 express or implied claim about the salary that may be earned after
4 completing the educational program.

5 (2) Additionally, each institution that offers an educational
6 program designed to lead to a particular career, occupation,
7 vocation, trade, job, or job title shall disclose the wage and salary
8 data for the particular career, occupation, trade, job, or job title,
9 as provided by the Employment Development Department's
10 Occupational Employment Statistics, if that data is available.

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

20 (f) All of the following:

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

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

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

35 (g) The following statements:

36 (1) "This fact sheet is filed with the Bureau for Private
37 Postsecondary Education. Regardless of any information you may
38 have relating to completion rates, placement rates, starting salaries,
39 or license exam passage rates, this fact sheet contains the
40 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, “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.

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

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

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

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

14 (i) (1) The following statement: “Prior to signing this enrollment
15 agreement, you must be given a catalog or brochure and a School
16 Performance Fact Sheet, which you are encouraged to review prior
17 to signing this agreement. These documents contain important
18 policies and performance data for this institution. This institution
19 is required to orally communicate to you *have you sign and date*
20 the information included in the School Performance Fact Sheet
21 relating to completion rates, placement rates, license examination
22 passage rates, and salaries or wages, prior to signing this
23 agreement.”

24 (2) Immediately following the statement required by paragraph
25 (1), a line for the student to initial, including the following
26 statement: “I certify that I have received the catalog, School
27 Performance Fact Sheet, and ~~oral disclosure of information~~
28 *regarding* completion rates, placement rates, license examination
29 passage rates, and salary or wage information included in the
30 School Performance Fact sheet, *and have signed, initialed, and*
31 *dated the information provided in the School Performance Fact*
32 *Sheet.*”

33 (j) The following statements:
34

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

1
2 (2) “A student or any member of the public may file a complaint
3 about this institution with the Bureau for Private Postsecondary
4 Education by calling (toll-free telephone number) or by completing
5 a complaint form, which can be obtained on the bureau’s Internet
6 Web site (Internet Web site address).”

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

9
10 “I understand that this is a legally binding contract. My
11 signature below certifies that I have read, understood, and
12 agreed to my rights and responsibilities, and that the
13 institution’s cancellation and refund policies have been clearly
14 explained to me.”

15
16 94912. ~~An institution shall orally disclose, prior~~ Prior to the
17 execution of an enrollment agreement, the information required
18 to be disclosed pursuant to subdivisions (a) to (d), inclusive, of
19 Section 94910 *shall be signed and dated by the institution and the*
20 *student. Each of these items shall also be initialed and dated by*
21 *the student.*

22
23 Article 12. Consumer Loans to Students
24

25 94916. An institution extending credit or lending money to an
26 individual for institutional and noninstitutional charges for an
27 educational program shall cause any note, instrument, or other
28 evidence of indebtedness taken in connection with that extension
29 of credit or loan to be conspicuously marked on its face in at least
30 12-point type with the following notice:

31
32 “NOTICE
33 YOU MAY ASSERT AGAINST THE HOLDER OF THE
34 PROMISSORY NOTE YOU SIGNED IN ORDER TO
35 FINANCE THE COST OF THE EDUCATIONAL
36 PROGRAM ALL OF THE CLAIMS AND DEFENSES THAT
37 YOU COULD ASSERT AGAINST THIS INSTITUTION,
38 UP TO THE AMOUNT YOU HAVE ALREADY PAID
39 UNDER THE PROMISSORY NOTE.”
40

1 94917. A note, instrument, or other evidence of indebtedness
2 relating to payment for an educational program is not enforceable
3 by an institution unless, at the time of execution of the note,
4 instrument, or other evidence of indebtedness, the institution held
5 an approval to operate.

6 94918. In making consumer loans to students, an institution
7 shall also comply with the requirements of the Federal Truth in
8 Lending Act pursuant to Title 15 of the United States Code.

9
10 Article 13. Cancellations, Withdrawals, and Refunds
11

12 94919. (a) An institution that participates in the federal student
13 financial aid programs complies with this article by complying
14 with applicable regulations of the federal student financial aid
15 programs under Title IV of the federal Higher Education Act of
16 1965.

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

22 (c) The institution shall also provide a pro rata refund of
23 nonfederal student financial aid program moneys paid for
24 institutional charges to students who have completed 60 percent
25 or less of the period of attendance.

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

31 94920. An institution that does not participate in the federal
32 student financial aid programs shall do all of the following:

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

38 (b) Institutions shall refund 100 percent of the amount paid for
39 institutional charges, less a reasonable deposit or application fee
40 not to exceed two hundred fifty dollars (\$250), if notice of

1 cancellation is made through attendance at the first class session,
2 or the seventh class day after enrollment, whichever is later.

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

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

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

13 94921. An institution offering an educational program for
14 which the refund calculations set forth in this article cannot be
15 utilized because of the unique way in which the educational
16 program is structured, may petition the bureau for an alternative
17 method of calculating tuition refunds.

18 94922. A student may not waive any provision of this article.

19 20 Article 14. Student Tuition Recovery Fund

21
22 94923. The bureau shall, by January 1, 2011, adopt by
23 regulation procedures governing the administration and
24 maintenance of the Student Tuition Recovery Fund, including
25 requirements relating to assessments on students and student claims
26 against the Student Tuition Recovery Fund.

27 94924. All assessments collected pursuant to this article shall
28 be credited to the Student Tuition Recovery Fund, along with any
29 accrued interest, for the purpose of this article. Notwithstanding
30 Section 13340 of the Government Code, the moneys in the Student
31 Tuition Recovery Fund are continuously appropriated to the bureau,
32 without regard to fiscal year, for the purposes of this article.

33 94925. The amount in the Student Tuition Recovery Fund shall
34 not exceed twenty-five million dollars (\$25,000,000) at any time.

35 36 Article 15. Orderly Institutional Closure and Teach-outs

37
38 94926. At least 30 days prior to closing, the institution shall
39 notify the bureau in writing of its intention to close. The notice

1 shall be accompanied by a closure plan, which shall include, but
2 not necessarily be limited to, all of the following:

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

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

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

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

16 94927. An institution shall be considered in default of the
17 enrollment agreement when an educational program is discontinued
18 or canceled or the institution closes prior to completion of the
19 educational program. When an institution is in default, student
20 institutional charges may be refunded on a pro rata basis if the
21 bureau determines that the school has made provision for students
22 enrolled at the time of default to complete a comparable educational
23 program at another institution at no additional charge to the
24 students beyond the amount of the total charges in the original
25 enrollment agreement. If the institution does not make that
26 provision, a total refund of all institutional charges shall be made
27 to students.

28 94927.5. (a) Prior to closing, an institution shall provide the
29 bureau with the following:

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

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

37 (b) Subdivision (a) applies to all private postsecondary
38 institutions, including institutions that are otherwise exempt from
39 this chapter pursuant to Article 4 (commencing with Section
40 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. An institution may 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. Completion information shall be separately stated for each campus or branch of the institution.

(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 a position for which the skills obtained through the education and training provided by the institution are required *or provided a significant advantage to the graduate in obtaining the position*.

(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

1 provided in subdivision (b), the completion rate shall be calculated
2 by dividing the number of graduates by the number of students
3 available for graduation.

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

8 94929.5. An institution shall annually report to the bureau, as
9 part of the annual report, and shall publish in its School
10 Performance Fact Sheet, all of the following:

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

16 (b) The license examination passage rates for the immediately
17 preceding two years for programs leading to employment for which
18 passage of a state licensing examination is required, calculated by
19 dividing the number of graduates who pass the examination by the
20 number of graduates who take the licensing examination the first
21 time that the examination is available after completion of the
22 educational program. The institution shall use state agency
23 licensing data to calculate license examination passage rates. If
24 those data are unavailable, the institution shall calculate the license
25 examination passage rate in a manner consistent with regulations
26 adopted by the bureau.

27 (c) Salary and wage information, consisting of the total number
28 of graduates employed in the field ~~for each of the immediately~~
29 ~~preceding five years~~ and the annual wages or salaries of those
30 graduates stated in increments of five thousand dollars (\$5,000).

31 94929.7. (a) The information used to substantiate the rates
32 calculated pursuant to Sections 94929 and 94929.5 shall be
33 documented and maintained by the institution for five years from
34 the date of the publication of those rates. An institution may retain
35 this information in an electronic format.

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

1 *employed in the field for purposes of calculating job placement*
2 *rates pursuant to this article.*

3 94929.8. (a) On or before January 1, 2011, and pursuant to
4 Section 94877, the bureau shall establish, by regulation, a uniform
5 method for institutions to obtain statistically valid, current, and
6 representative data to comply with this article.

7 (b) A violation of the regulations adopted pursuant to
8 subdivision (a) is a material violation of this chapter.

10 Article 17. Fees

11
12 94930. (a) All fees collected pursuant to this article, including
13 any interest on those fees, shall be deposited in the Private
14 Postsecondary Education Administration Fund, and shall be
15 available, upon appropriation by the Legislature, for expenditure
16 by the bureau for the administration of this chapter.

17 (b) If the bureau determines by regulation that the adjustment
18 of the fees established by this article is consistent with the intent
19 of this chapter, the bureau may adjust the fees. However, the bureau
20 shall not maintain a reserve balance in the Private Postsecondary
21 Education Administration Fund in an amount that is greater than
22 the amount necessary to fund six months of authorized operating
23 expenses of the bureau in any fiscal year.

24 94930.5. An institution shall remit to the bureau for deposit in
25 the Private Postsecondary Education Administration Fund the
26 following fees, in accordance with the following schedule:

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

29 (1) Application fee for an approval to operate: five thousand
30 dollars (\$5,000).

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

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

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

37 (1) Renewal fee for the main campus of the institution: three
38 thousand five hundred dollars (\$3,500).

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

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

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

6 (1) Processing fee for authorization of a substantive change to
7 an approval to operate: five hundred dollars (\$500).

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

11 (d) (1) In addition to any fees paid to the bureau pursuant to
12 subdivisions (a) to (c), inclusive, each institution that is approved
13 to operate pursuant to this chapter shall remit both of the following:

14 (A) An annual institutional fee, in an amount equal to
15 three-quarters of one percent of the institution's annual revenues
16 derived from students in California, but not exceeding a total of
17 twenty-five thousand dollars (\$25,000) annually.

18 (B) An annual branch fee of one thousand dollars (\$1,000) for
19 each branch or campus of the institution operating in California.

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

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

29 94931. (a) A fee that is not paid on or before the 30th calendar
30 day after the due date for the payment of the fee shall be subject
31 to a 25 percent late payment penalty fee.

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

35 94931.5. (a) The bureau may propose modifications to the fee
36 schedule in Section 94930.5 to the Governor and the Legislature
37 to add or delete categories of fees related to work performed by
38 the bureau and propose to the Governor and the Legislature the
39 maximum amount to be charged for each fee category added to

1 the fee schedule. The fee schedule shall provide adequate resources
2 for the bureau to effectively implement this chapter.

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

6
7 Article 18. Compliance, Enforcement, Process, and Penalties

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

20 94932.5. (a) As part of its compliance program, the bureau
21 shall perform announced and unannounced inspections of
22 institutions at least every two years.

23 (b) On or before January 1, 2011, the bureau shall adopt
24 regulations setting forth policies and practices to ensure that
25 institutions are subject to an equal number of announced and
26 unannounced inspections for each two-year period. The regulations
27 shall also set forth policies and practices for providing notice to
28 students enrolled at an institution of the results of each inspection
29 of the institution.

30 94933. The bureau shall provide an institution with the
31 opportunity to remedy noncompliance, impose fines, place the
32 institution on probation, or suspend or revoke the institution's
33 approval to operate, in accordance with this article, as it deems
34 appropriate based on the severity of an institution's violations of
35 this chapter, and the harm caused to students.

36 94933.5. As much as is practicable, the bureau shall seek to
37 resolve instances of noncompliance, including the use of alternative
38 dispute resolution procedures in Article 5 (commencing with
39 Section 11420.10) of Chapter 4.5 of Part 1 of Division 3 of Title
40 2 of the Government Code.

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

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

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

10 (3) The degree levels and diplomas offered.

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

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

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

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

18 (8) A statement indicating whether an accrediting agency has
19 taken any final disciplinary action against the institution.

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

22 (b) The bureau, by January 1, 2011, shall prescribe the annual
23 report's format and method of delivery.

24 94935. (a) Bureau staff who, during an inspection of an
25 institution, detect a violation of this chapter, or regulations adopted
26 pursuant to this chapter, that is a minor violation as determined by
27 the bureau, pursuant to regulations adopted by January 1, 2011,
28 shall issue a notice to comply before leaving the institution. The
29 bureau shall establish a voluntary informal appeal process, by
30 regulation, within one year of the enactment of this chapter.

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

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

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

38 (e) A notice to comply shall not be issued for any minor
39 violation that is corrected immediately in the presence of the bureau
40 staff. Immediate compliance may be noted in the inspection report,

1 but the institution shall not be subject to any further action by the
2 bureau.

3 (f) A notice to comply shall be the only means the bureau shall
4 use to cite a minor violation discovered during an inspection. The
5 bureau shall not take any other enforcement action specified in
6 this chapter against an institution that has received a notice to
7 comply if the institution remedies the violation within 30 days
8 from the date of the inspection.

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

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

18 94936. (a) As a consequence of an investigation, and upon a
19 finding that the institution has committed a violation of this chapter
20 or that the institution has failed to comply with a notice to comply
21 pursuant to Section 94935, the bureau shall issue a citation to an
22 institution for violation of this chapter, or regulations adopted
23 pursuant to this chapter.

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

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

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

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

33 (B) The persistence of the violation.

34 (C) The good faith of the institution.

35 (D) The history of previous violations.

36 (E) The purposes of this chapter.

37 (F) The potential harm to students.

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

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

3 (3) If a hearing is requested, the bureau shall select an informal
4 hearing pursuant to Article 10 (commencing with Section
5 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the
6 Government Code or a formal hearing pursuant to Chapter 5
7 (commencing with Section 11500) of Part 1 of Division 3 of Title
8 2 of the Government Code.

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

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

15 (6) The bureau may enforce the administrative fine as if it were
16 a money judgment pursuant to Title 9 (commencing with Section
17 680.010) of Part 2 of the Code of Civil Procedure.

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

20 94937. (a) As a consequence of an investigation, and upon a
21 finding that an institution has committed a violation, the bureau
22 may place an institution on probation or may suspend or revoke
23 an institution's approval to operate for:

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

25 (2) A material violation or repeated violations of this chapter
26 or regulations adopted pursuant to this chapter that have resulted
27 in harm to students. For purposes of this paragraph, "material
28 violation" includes, but is not limited to, misrepresentation, fraud
29 in the inducement of a contract, and false or misleading claims or
30 advertising, upon which a student reasonably relied in executing
31 an enrollment agreement and that resulted in harm to the student.

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

35 (c) The bureau may seek reimbursement pursuant to Section
36 125.3 of the Business and Professions Code.

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

39 94938. (a) If the bureau determines that it needs to make an
40 emergency decision to protect students, prevent misrepresentation

1 to the public, or prevent the loss of public funds or moneys paid
2 by students, it may do so pursuant to Article 13 (commencing with
3 Section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title
4 2 of the Government Code.

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

8 94939. (a) The bureau may bring an action for equitable relief
9 for any violation of this chapter. The equitable relief may include
10 restitution, a temporary restraining order, the appointment of a
11 receiver, and a preliminary or permanent injunction. The action
12 may be brought in the county in which the defendant resides or in
13 which any violation has occurred or may occur.

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

17 94940. As consequence of an adverse administrative action
18 against an institution, the institution may request a hearing pursuant
19 to Article 10 (commencing with Section 11445.10) of Chapter 4.5
20 or Chapter 5 (commencing with Section 11500) of Part 1 of
21 Division 3 of Title 2 of the Government Code.

22 94941. (a) An individual who has cause to believe that an
23 institution has violated this chapter, or regulations adopted pursuant
24 to this chapter, may file a complaint with the bureau against the
25 institution. The complaint shall set forth the alleged violation, and
26 shall contain any other information as may be required by the
27 bureau.

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

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

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

1 94942. (a) The bureau shall establish a toll-free telephone
2 number staffed by a bureau employee by which a student or a
3 member of the public may file a complaint under this chapter.

4 (b) The bureau shall make a complaint form available on its
5 Internet Web site. The bureau shall permit students and members
6 of the public to file a complaint under this chapter through the
7 bureau's Internet Web site.

8 94943. The following violations of this chapter are public
9 offenses:

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

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

17 (c) Knowingly submitting, to the bureau, false information that
18 is required to be reported pursuant to Article 16 (commencing with
19 Section 94928) is an infraction subject to the procedures described
20 in Sections 19.6 and 19.7 of the Penal Code.

21 94943.5. An institution shall designate and maintain an agent
22 for service of process within this state, and provide the name,
23 address, and telephone number of the agent to the bureau. The
24 bureau shall furnish the agent's name, address, and telephone
25 number to a person upon request.

26 94944. Notwithstanding any other provision of law, the bureau
27 shall cite any person, and that person shall be subject to a fine not
28 to exceed fifty thousand dollars (\$50,000), for operating an
29 institution without proper approval to operate issued by the bureau
30 pursuant to this chapter.

31 94944.5. Each institution subject to this chapter shall be deemed
32 to have authorized its accrediting agency to provide the bureau,
33 the Attorney General, any district attorney, city attorney, or the
34 Student Aid Commission, within 30 days of written notice, copies
35 of all documents and other material concerning the institution that
36 are maintained by the accrediting agency.

37 94944.6. Within 30 days of receiving a written notice from the
38 bureau, the Attorney General, district attorney, city attorney, or
39 the Student Aid Commission pursuant to Section 94944.5, an
40 accrediting agency shall provide the requesting entity with all

1 documents or other material concerning an institution accredited
2 by that agency that are designated specifically or by category in
3 the written notice.

4 94945. (a) This chapter does not limit or preclude the
5 enforcement of rights or remedies under any other applicable statute
6 or law.

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

10 11 Article 19. Severability 12

13 94946. The provisions of this chapter are severable. If any
14 provision of this chapter or its application is held invalid, that
15 invalidity shall not affect other provisions or applications that can
16 be given effect without the invalid provision or application.

17 18 Article 20. Reporting 19

20 94948. In addition to any other reporting requirements under
21 this chapter, the bureau shall provide regular updates to the
22 Legislature by participating in annual oversight hearings conducted
23 by the appropriate policy committees and budget subcommittees
24 of the Senate and Assembly. The updates shall describe the
25 bureau's progress in adopting and enforcing regulations and the
26 provisions of this chapter.

27 94949. (a) On or before October 1, 2013, the Legislative
28 Analyst's Office shall report to the Legislature and the Governor
29 on the appropriateness of the exemptions provided in this chapter,
30 with particular attention to the exemptions provided by Article 4
31 (commencing with Section 94874) that are based on accreditation.
32 The report shall examine and make recommendations regarding
33 the degree to which regional and national accrediting agencies
34 provide oversight of institutions and protection of student interests,
35 whether that oversight results in the same level of protection of
36 students as provided by this chapter, and whether the exemptions
37 provided in Article 4 (commencing with Section 94874) that are
38 based on accreditation should be continued, adjusted, or removed.

39 (b) (1) On or before August 1, 2013, the bureau shall contract
40 with the Bureau of State Audits to conduct a performance audit to

1 evaluate the effectiveness and efficiency of the bureau's operations,
2 consistent with the requirements of this chapter, and the Bureau
3 of State Audits shall report the results of that audit to the
4 Legislature and the Governor.

5 (2) The performance audit required by paragraph (1) shall
6 include, but shall not be limited to, an evaluation of all of the
7 following:

8 (A) The Student Tuition Recovery Fund, including the adequacy
9 of its balance; the quality, timeliness, and consistency of claims
10 processing; and the degree to which it has been, or will be, able
11 to reimburse tuition for students.

12 (B) The bureau's enforcement program, including the means
13 by which the bureau makes students and school employees aware
14 of their ability to file complaints; the average time for investigating
15 complaints; the standards for referring complaints to investigation;
16 the average time to complete investigations; the adequacy of the
17 bureau's inspections; the bureau's record of imposing discipline;
18 the bureau's record of initiating investigations based upon publicly
19 available information; the bureau's record of coordinating with
20 law enforcement and public prosecutors; and whether the bureau
21 has the enforcement resources necessary to protect consumers and
22 ensure a fair and prompt resolution of complaints and investigations
23 for both students and institutions.

24 (C) ~~The quality of the~~ bureau's efforts with respect to, and extent
25 of institution compliance with, the public and student disclosure
26 requirements of this chapter.

27 (c) Bureau staff and management shall cooperate with the
28 Legislative Analyst's Office and the Bureau of State Audits and
29 shall provide those agencies with access to data, case files,
30 employees, and information as those agencies may, in their
31 discretion, require for the purposes of this section.

32 Article 21. Termination

33
34 94950. This chapter shall remain in effect only until January
35 1, 2016, and as of that date is repealed, unless a later enacted
36 statute, that is enacted before January 1, 2016, deletes or extends
37 that date.

38
39 SEC. 7. Chapter 8.5 (commencing with Section 95000) is added
40 to Part 59 of Division 10 of Title 3 of the Education Code, to read:

1 CHAPTER 8.5. CONTINUATION OF THE STUDENT TUITION
2 RECOVERY FUND
3

4 Article 1. General Provisions
5

6 95000. (a) Notwithstanding any other law, upon the repeal of
7 Chapter 8 (commencing with Section 94800), the Student Tuition
8 Recovery Fund shall be continued in existence under the
9 administration of the Department of Consumer Affairs, and the
10 moneys remaining in the fund shall be continuously appropriated
11 to the Department of Consumer Affairs for the purpose of paying
12 claims filed under Chapter 8 (commencing with Section 94800).

13 (b) Notwithstanding any other law, upon the repeal of Chapter
14 8 (commencing with Section 94800), the Department of Consumer
15 Affairs shall continue to process and pay claims against the Student
16 Tuition Recovery Fund until all claims pending as of the repeal of
17 Chapter 8 (commencing with Section 94800) are processed, or
18 until the moneys remaining in the fund are exhausted, whichever
19 occurs first.
20

21 Article 2. Operative Date
22

23 95010. This chapter shall become operative upon the repeal of
24 Chapter 8 (commencing with Section 94800), as added by
25 Assembly Bill 48 of the 2009–10 Regular Session.

26 SEC. 8. (a) Notwithstanding any other provision of law, and
27 notwithstanding the repeal of the former Private Postsecondary
28 and Vocational Education Reform Act of 1989, the sum of five
29 hundred eighty thousand dollars (\$580,000) is hereby appropriated
30 from the Private Postsecondary and Vocational Education
31 Administration Fund to the Bureau for Private Postsecondary
32 Education, for the purpose of funding five private postsecondary
33 education specialist and senior specialist positions.

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

37 SEC. 9. The sum of two hundred seventy thousand dollars
38 (\$270,000) from the moneys which will be deposited into the
39 Private Postsecondary Education Administration Fund, pursuant
40 to Section 94806 of the Education Code, is hereby appropriated

to the Bureau of State Audits for purposes of Section 94949 of the Education Code, to be expended in the 2012–13 fiscal year. Any moneys appropriated pursuant to this section that are not expended as of July 1, 2013, shall be deposited in the Private Postsecondary Education Administration Fund.

SEC. 10. Section 1.5 of this bill incorporates amendments to Section 27 of the Business and Professions Code proposed by this bill and SB 819. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 27 of the Business and Professions Code, and (3) this bill is enacted after SB 819, in which case Section 27 of the Business and Professions Code, as amended by SB 819, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 11. (a) Section 2.3 of this bill incorporates amendments to Section 101 of the Business and Professions Code proposed by both this bill and AB 1535. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 101 of the Business and Professions Code, and (3) SB 819 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1535, in which case Sections 2, 2.5, and 2.7 of this bill shall not become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 101 of the Business and Professions Code proposed by both this bill and SB 819. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 101 of the Business and Professions Code, (3) AB 1535 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 819, in which case Section 101 of the Business and Professions Code, as amended by SB 819, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Sections 2, 2.3, and 2.7 of this bill shall not become operative.

(c) Section 2.7 of this bill incorporates amendments to Section 101 of the Business and Professions Code proposed by this bill, AB 1535, and SB 819. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2010, (2) all three bills amend Section 101 of the Business and

1 Professions Code, and (3) this bill is enacted after AB 1535 and
2 SB 819, in which case Section 101 of the Business and Professions
3 Code, as amended by SB 819, shall remain operative only until
4 the operative date of this bill, at which time Section 2.7 of this bill
5 shall become operative, and Sections 2, 2.3, and 2.5 of this bill
6 shall not become operative.

7 SEC. 12. Section 3.5 of this bill incorporates amendments to
8 Section 146 of the Business and Professions Code proposed by
9 this bill and SB 819. It shall only become operative if (1) both bills
10 are enacted and become effective on or before January 1, 2010,
11 (2) each bill amends Section 146 of the Business and Professions
12 Code, and (3) this bill is enacted after SB 819, in which case
13 Section 146 of the Business and Professions Code, as amended by
14 SB 819, shall remain operative only until the operative date of this
15 bill, at which time Section 3.5 of this bill shall become operative,
16 and Section 3 of this bill shall not become operative.

17 SEC. 13. (a) Section 4.3 of this bill incorporates amendments
18 to Section 149 of the Business and Professions Code proposed by
19 both this bill and AB 1535. It shall only become operative if (1)
20 both bills are enacted and become effective on or before January
21 1, 2010, (2) each bill amends Section 149 of the Business and
22 Professions Code, and (3) SB 819 is not enacted or as enacted
23 does not amend that section, and (4) this bill is enacted after AB
24 1535, in which case Sections 4, 4.5, and 4.7 of this bill shall not
25 become operative.

26 (b) Section 4.5 of this bill incorporates amendments to Section
27 149 of the Business and Professions Code proposed by both this
28 bill and SB 819. It shall only become operative if (1) both bills are
29 enacted and become effective on or before January 1, 2010, (2)
30 each bill amends Section 149 of the Business and Professions
31 Code, (3) AB 1535 is not enacted or as enacted does not amend
32 that section, and (4) this bill is enacted after SB 819 in which case
33 Section 149 of the Business and Professions Code, as amended by
34 SB 819, shall remain operative only until the operative date of this
35 bill, at which time Section 4.5 of this bill shall become operative,
36 and Sections 4, 4.3, and 4.7 of this bill shall not become operative.

37 (c) Section 4.7 of this bill incorporates amendments to Section
38 149 of the Business and Professions Code proposed by this bill,
39 AB 1535, and SB 819. It shall only become operative if (1) all three
40 bills are enacted and become effective on or before January 1,

1 2010, (2) all three bills amend Section 149 of the Business and
2 Professions Code, and (3) this bill is enacted after AB 1535 and
3 SB 819, in which case Section 149 of the Business and Professions
4 Code, as amended by SB 819, shall remain operative only until
5 the operative date of this bill, at which time Section 4.7 of this bill
6 shall become operative, and Sections 4, 4.3, and 4.5 of this bill
7 shall not become operative.

8 ~~SEC. 10.~~

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