

AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2393**

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**Introduced by Assembly Member Ammiano**

February 19, 2010

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An act to amend ~~Sections 94874.5, 94897, and Section 94928~~ of the Education Code, relating to private postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2393, as amended, Ammiano. Private postsecondary educational institutions: fair business practices.

~~(1) The~~

~~The California Private Postsecondary Education Act of 2009 provides for the regulation of private postsecondary educational institutions by the Bureau for Private Postsecondary Education, with specified exceptions. The act exempts various institutions from compliance with the provisions of the act, except that those otherwise exempt institutions are required to provide the bureau with specified records and other information prior to closure. The exceptions. The act requires private postsecondary educational institutions to comply with various fair business practices, as specified.~~

~~The act requires private postsecondary educational institutions to comply with various fair business practices, and prohibits an institution from, among other things, making an untrue or misleading change in, or untrue or misleading statement related to, a record indicating student completion, placement, employment, salaries, or financial information, including a specified list of records and documents pertaining to~~

financial reports and other records that the institution is required to file with the bureau.

~~This bill would add to the list of records and documents, in which the institution is prohibited from making an untrue or misleading statement, records related to placement, employment, salaries, or financial information regarding an occupation or job in an apprenticeship program approved by the Division of Apprenticeship Standards or a position for which the Board of Registered Nursing has established licensure requirements.~~

~~The bill would prohibit an institution from using any job or occupational name or description that suggests or implies that the job or occupation is the same as, or similar to, a job or occupation in an apprenticeable field or nursing field in documents relating to placement, employment, salaries, or financial information, unless the information in the document pertains exclusively to the placement, employment, salaries, or financial information in a job or occupation that meets specified requirements.~~

~~(2) The~~

~~The act requires private postsecondary educational institutions to annually report to the bureau, and publish various statistics including job placement rates. The act requires job placement rates to be calculated by dividing the number of graduates employed in the field by the number of graduates available for employment for specified programs. The act defines “graduates employed in the field” for the purposes of these provisions.~~

~~This bill, with respect to occupations or jobs in an apprenticeship program approved by the Division of Apprenticeship Standards of the Department of Industrial Relations or a position for which the Board of Registered Nursing has established licensure requirements, would separately define “graduates employed in the field” for purposes of the reporting requirements and the fair business practices provisions of the act.~~

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

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

- 1 SECTION 1. ~~Section 94874.5 of the Education Code is~~
- 2 ~~amended to read:~~

1 ~~94874.5. Notwithstanding Sections 94874 and 94874.1, an~~  
2 ~~institution that is otherwise exempt from this chapter shall comply~~  
3 ~~with Section 94927.5.~~

4 ~~SEC. 2. Section 94897 of the Education Code is amended to~~  
5 ~~read:~~

6 ~~94897. An institution shall not do any of the following:~~

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

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

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

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

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

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

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

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

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

36 ~~(1) The institution is affiliated with a government agency, public~~  
37 ~~or private corporation, agency, or association if it is not, in fact,~~  
38 ~~thus affiliated.~~

39 ~~(2) The institution is a public institution.~~

- 1     ~~(3) The institution grants degrees, if the institution does not~~  
2     ~~grant degrees.~~
- 3     ~~(j) In any manner make an untrue or misleading change in, or~~  
4     ~~untrue or misleading statement related to, a test score, grade or~~  
5     ~~record of grades, attendance record, record indicating student~~  
6     ~~completion, placement, employment, salaries, or financial~~  
7     ~~information, including any of the following:~~
- 8         ~~(1) A financial report filed with the bureau.~~
- 9         ~~(2) Information or records relating to the student's eligibility~~  
10        ~~for student financial aid at the institution.~~
- 11        ~~(3) Information or records relating to placement, employment,~~  
12        ~~salaries, or financial information relating to any occupation or job~~  
13        ~~described in subdivision (p).~~
- 14        ~~(4) Any other record or document required by this chapter or~~  
15        ~~by the bureau.~~
- 16     ~~(k) Willfully falsify, destroy, or conceal any document of record~~  
17     ~~while that document of record is required to be maintained by this~~  
18     ~~chapter.~~
- 19     ~~(l) Use the terms "approval," "approved," "approval to operate,"~~  
20     ~~or "approved to operate" without stating clearly and conspicuously~~  
21     ~~that approval to operate means compliance with state standards as~~  
22     ~~set forth in this chapter. If the bureau has granted an institution~~  
23     ~~approval to operate, the institution may indicate that the institution~~  
24     ~~is "licensed" or "licensed to operate," but may not state or imply~~  
25     ~~either of the following:~~
- 26         ~~(1) The institution or its educational programs are endorsed or~~  
27         ~~recommended by the state or by the bureau.~~
- 28         ~~(2) The approval to operate indicates that the institution exceeds~~  
29         ~~minimum state standards as set forth in this chapter.~~
- 30     ~~(m) Direct any individual to perform an act that violates this~~  
31     ~~chapter, to refrain from reporting unlawful conduct to the bureau~~  
32     ~~or another government agency, or to engage in any unfair act to~~  
33     ~~persuade a student not to complain to the bureau or another~~  
34     ~~government agency.~~
- 35     ~~(n) Compensate an employee involved in recruitment,~~  
36     ~~enrollment, admissions, student attendance, or sales of educational~~  
37     ~~materials to students on the basis of a commission, commission~~  
38     ~~draw, bonus, quota, or other similar method related to the~~  
39     ~~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 (p) (1) Use a job or occupational name or description that  
21 suggests or implies that the job or occupation is the same as, or  
22 similar to, a job or occupation in an apprenticeable field in a  
23 document relating to placement, employment, salaries, or financial  
24 information, unless the information in the document pertains  
25 exclusively to the placement, employment, salaries, or financial  
26 information for a job or occupation that the Division of  
27 Apprenticeship Standards of the Department of Industrial Relations  
28 has approved as an apprenticeship program, and the job duties  
29 meet all of the criteria for an apprenticeable job or occupation, as  
30 set forth by the Division of Apprenticeship Standards of the  
31 Department of Industrial Relations.

32 (2) Use a job or occupational name or description that suggests  
33 or implies that the job or occupation is the same as, or similar to,  
34 a job or occupation in a nursing field in a document relating to  
35 placement, employment, salaries, or financial information, unless  
36 the information in the document pertains exclusively to the  
37 placement, employment, salaries, or financial information for a  
38 job or occupation for which the Board of Registered Nursing has  
39 established licensure requirements, and the job duties are within  
40 the scope of the duties set forth in those licensure requirements.

1     ~~SEC. 3.~~

2     ~~SECTION 1.~~ Section 94928 of the Education Code is amended  
3 to read:

4     94928. As used in this article, the following terms have the  
5 following meanings:

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

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

11     (c) “Graduates” means the number of students who complete a  
12 program within 100 percent of the published program length. An  
13 institution may separately state completion information for students  
14 completing the program within 150 percent of the original  
15 contracted time, but that information may not replace completion  
16 information for students completing within the original scheduled  
17 time. Completion information shall be separately stated for each  
18 campus or branch of the institution.

19     (d) “Graduates available for employment” means the number  
20 of graduates minus the number of graduates unavailable for  
21 employment.

22     (e) (1) Except as provided in paragraphs (2) and (3), “graduates  
23 employed in the field” means graduates who are gainfully  
24 employed within six months of graduation in a position for which  
25 the skills obtained through the education and training provided by  
26 the institution are required or provided a significant advantage to  
27 the graduate in obtaining the position.

28     (2) With respect to an occupation or job for which the Division  
29 of Apprenticeship Standards of the Department of Industrial  
30 Relations has approved a certified apprenticeship program,  
31 “graduates employed in the field” means graduates who are  
32 gainfully employed for not less than 60 days within six months of  
33 graduation in a position with job duties meeting all of the criteria  
34 of the apprenticeable occupation or job set forth by the Division  
35 of Apprenticeship Standards.

36     (3) With respect to an occupation or job for which the Board of  
37 Registered Nursing has established licensure requirements,  
38 “graduates employed in the field” means graduates who are  
39 gainfully employed for not less than 60 days within six months of  
40 graduation in a position with job duties meeting all of the criteria

1 of the licensed occupation or job set forth by the Board of  
2 Registered Nursing.

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

9 (g) “Students available for graduation” means the cohort  
10 population minus the number of students unavailable for  
11 graduation.

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

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