

AMENDED IN ASSEMBLY MAY 22, 1995  
AMENDED IN ASSEMBLY APRIL 26, 1995  
AMENDED IN ASSEMBLY MARCH 30, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1698**

**Introduced by Assembly Member Firestone**

February 24, 1995

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An act to amend Sections 94302, *94311.1*, 94316.2, 94316.10, 94316.22, ~~and 94331~~ *94317, 94317.5, 94330, 94331, and 94346* of, and to add Section 94311.9 to, the Education Code, relating to private postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1698, as amended, Firestone. Private postsecondary and vocational education.

Existing law, the Private Postsecondary and Vocational Educational Reform Act of 1989, governs private postsecondary and vocational education in this state, as specified.

This bill would make numerous substantive and technical changes in the act, including revising the definitions of “agent,” “short-term seminar training,” and “private postsecondary education institution,” as specified.

Under the act, no private postsecondary educational institution, except as specified, may offer education services or an education program, unless the institution or the branch or satellite campus at which these programs are offered (1)

has been approved by the Council for Private Postsecondary and Vocational Education as meeting specified requirements and (2), if regulated by an agency within the Department of Consumer Affairs, has obtained and retained the approval of that agency.

This bill, in addition, would set forth specified criteria regarding every audit, review, and statement prepared and signed by independent accountants or financial statements required to be prepared or filed by the act.

Existing law, the Maxine Waters School Reform and Student Protection Act of 1989 (hereafter the act), requires each private postsecondary educational institution to provide a person with specified information before the person executes an agreement obligating that person to pay any money to the institution for a course of instruction or related equipment. The act also requires each private postsecondary educational institution to submit a copy to the Superintendent of Public Instruction, at the time of filing, of each return and report of wages required pursuant to a specified provision of the Unemployment Insurance Code and to file biennially, with the superintendent, an audit report of financial statements conducted by a licensed certified public accountant in accordance with generally accepted auditing standards.

The bill would revise the information required to be provided to a person before he or she executes an agreement, including requiring that the person be given the percentage of students completing that course of instruction and the percentage of students who completed the course of instruction and obtained employment as those percentages are set forth for the time period that is required to be covered in the institution's last annual report filed with the council. The bill would also make a change in the definitions under the act. In addition, the bill would require the aforementioned documents to be filed with the council and would change the above-described existing law to require an institution to file biennially with the council a financial report prepared in accordance with specified provisions, rather than file an audit report of financial statements conducted by a licensed



certified public accountant in accordance with generally accepted auditing standards.

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

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

1 SECTION 1. Section 94302 of the Education Code is  
2 amended to read:

3 94302. As used in this chapter, unless the context  
4 requires otherwise, the following definitions shall apply:

5 (a) “Accredited” means that an institution has been  
6 recognized or approved as meeting the standards  
7 established by an accrediting agency recognized by the  
8 United States Department of Education, or the  
9 Committee of Bar Examiners for the State of California.  
10 It shall not include those institutions that have applied for  
11 accreditation, or are identified by accrediting associations  
12 as candidates for accreditation or have provisional  
13 accreditation.

14 (b) “Agency” means any person or business entity,  
15 regardless of the form of organization, that employs, or in  
16 any manner contracts with, one or more agents.  
17 “Agency” does not include an institution.

18 (c) “Agency approval” means a written document  
19 issued by the Council for Private Postsecondary and  
20 Vocational Education authorizing a business entity or an  
21 institution to engage in the recruitment of students for  
22 enrollment in private postsecondary and vocational  
23 institutions approved under this chapter.

24 (d) “Agent” means any person who, at a place away  
25 from the institution’s premises or site of instruction, for  
26 consideration, solicits, promotes, advertises, offers, or  
27 attempts to secure enrollment for an institution, refers  
28 any person to that institution, either for enrollment or to  
29 receive a solicitation for enrollment, or accepts  
30 application fees or admissions fees for education in that  
31 institution. Administrators and faculty who make  
32 informational public appearances, but whose primary



1 task does not include service as a paid recruiter, are  
2 exempted from this definition.

3 (e) “Agent’s permit” means a nontransferable written  
4 document issued to an agent pursuant to this chapter by  
5 the Council for Private Postsecondary and Vocational  
6 Education.

7 (f) “Applicant” means a new institution that has  
8 submitted an application but has not been evaluated by  
9 the council. An applicant institution shall not enroll  
10 students or offer educational services.

11 (g) “Approval” or “approval to operate” means that  
12 the council has determined and certified that an  
13 institution meets minimum standards established by the  
14 council for integrity, financial stability, and educational  
15 quality, including the offering of bona fide instruction by  
16 qualified faculty and the appropriate assessment of  
17 students’ achievement prior to, during, and at the end of  
18 its program.

19 (h) “Branch” means a site located within 50 miles of  
20 the main location. Only educational services that are  
21 approved at the main location shall be offered at the  
22 branch. For the purpose of conducting onsite inspections  
23 and evaluations, hotel conference rooms, faculty offices,  
24 and homes are not considered branches.

25 (i) “Certificate of authorization for service” means a  
26 written, nontransferable document issued by the council  
27 authorizing an individual to be an instructor or  
28 administrator in any private vocational postsecondary  
29 educational institution in California that is approved  
30 under Section 94311.

31 (j) “Change of location” means a move of up to 25  
32 miles of the location at which an institution offers any  
33 education, training, or instruction. A change of location  
34 of 25 or more miles is deemed the establishment of a new  
35 location of instruction requiring a separate approval to  
36 operate, unless otherwise provided by the council.

37 (k) “Correspondence school” or “home study school”  
38 means any institution that provides correspondence  
39 lessons for study and completion by a student at a location  
40 separate from the institution, including those institutions



1 which offer that instruction by correspondence in  
2 combination with in-residence instruction.

3 (l) “Council” means the Council for Private  
4 Postsecondary and Vocational Education established  
5 pursuant to Section 94304.

6 (m) “Course of study” means either a single course or  
7 a set of related courses for which a student enrolls.

8 (n) “Degree” means any “academic degree” or  
9 “honorary degree” or title of any designation, mark,  
10 appellation, series of letters or words such as, but not  
11 limited to, associate, bachelor, master, doctor, or fellow  
12 which signifies, purports, or is generally taken to signify,  
13 satisfactory completion of the requirements of an  
14 academic, educational, technological, or professional  
15 program of study beyond the secondary school level or is  
16 an honorary title conferred for recognition of some  
17 meritorious achievement.

18 (o) “Degree title” means a discipline, major, or subject  
19 area of study, the completion of which leads to the award  
20 of a degree.

21 (p) “Diploma” means any “diploma,” “certificate,”  
22 “transcript,” “document,” or other writing in any  
23 language other than a degree which signifies, purports, or  
24 is generally taken to signify, satisfactory completion of the  
25 requirements of an academic, educational, technological,  
26 or professional program of study beyond the secondary  
27 school level.

28 (q) “Education,” or “education services,” or  
29 “educational program” includes, but is not limited to, any  
30 class, course, or programs of training, instruction, or  
31 study.

32 (r) “Institution” means any private postsecondary  
33 educational institution. An “institution” includes its  
34 branch and satellite campuses, unless otherwise provided  
35 by the council.

36 (s) “Institutional approval” means an institution that  
37 has been evaluated by the council and has been found to  
38 be in compliance with the council’s standards pursuant to  
39 this chapter.



1 (t) "Instruction" includes any specific, formal  
2 arrangement by an institution or its enrollees to  
3 participate in learning experiences in which the  
4 institution's faculty or contracted instructors present a  
5 planned curriculum appropriate to the enrollee's  
6 educational program.

7 (u) "Out-of-state school" means any private  
8 postsecondary or vocational educational institution  
9 offering career or job training programs, including both  
10 an in-residence institution and a home study institution  
11 that has its place of instruction or its principal location  
12 outside the boundaries of the state, or that offers or  
13 conducts courses of instruction or subjects on premises  
14 maintained by the school outside the boundaries of the  
15 state, or that provides correspondence or home study  
16 lesson materials from a location outside the boundaries of  
17 this state, or that evaluates completed lesson materials or  
18 otherwise conducts its evaluation service from a location  
19 outside the boundaries of this state, or that otherwise  
20 offers or provides California students with courses of  
21 instruction or subjects through activities engaged in or  
22 conducted outside the boundaries of the state.

23 (v) "Person" means a natural person or any business  
24 entity, regardless of the form or organization.

25 (w) "Private postsecondary educational institution"  
26 means any person doing business in California that offers  
27 to provide, or provides, for a tuition, fee, or other charge,  
28 any instruction, training, or education under any of the  
29 following circumstances:

30 (1) A majority of the students to whom instruction,  
31 training, or education is provided during any 12-month  
32 period have completed or terminated their secondary  
33 education or are beyond the age of compulsory high  
34 school attendance.

35 (2) More than 50 percent of the revenue derived from  
36 providing instruction, training, or education during any  
37 12-month period is obtained from, or on behalf of,  
38 students who have completed or terminated their  
39 secondary education or are beyond the age of compulsory  
40 high school attendance.



1 (3) More than 50 percent of the hours of instruction,  
2 training, or education provided during any 12-month  
3 period is provided to students who have completed or  
4 terminated their secondary education or are beyond the  
5 age of compulsory high school attendance.

6 (4) A substantial portion, as determined by the council  
7 pursuant to regulation, of the instruction, training, or  
8 education provided is provided to students who have  
9 completed or terminated their secondary education or  
10 are beyond the age of compulsory high school  
11 attendance.

12 The following are not considered to be private  
13 postsecondary educational institutions under this  
14 chapter:

15 (1) Institutions exclusively offering instruction at any  
16 or all levels from preschool through the 12th grade.

17 (2) Education solely avocational or recreational in  
18 nature, and institutions offering this education  
19 exclusively.

20 (3) Education sponsored by a bona fide trade,  
21 business, professional, or fraternal organization, solely for  
22 that organization's membership.

23 (4) Postsecondary or vocational educational  
24 institutions established, operated, and governed by the  
25 federal government or by this state, or its political  
26 subdivisions.

27 (5) A nonprofit institution owned, controlled, and  
28 operated and maintained by a bona fide church or  
29 religious denomination, lawfully operating as a nonprofit  
30 religious corporation pursuant to Part 4 (commencing  
31 with Section 9110) of Division 2 of Title 1 of the  
32 Corporations Code, if the education is limited to  
33 instructions in the principles of that church or  
34 denomination, or to courses offered pursuant to Section  
35 2789 of the Business and Professions Code, and the  
36 diploma or degree is limited to evidence of completion of  
37 that education, and the meritorious recognition upon  
38 which any honorary degree is conferred is limited to the  
39 principles of that church or denomination. Institutions  
40 operating under this paragraph shall offer degrees and



1 diplomas only in the beliefs and practices of the  
2 denomination, church, or religion. The enactment of this  
3 paragraph expresses legislative intent that the state shall  
4 not involve itself in the content of degree programs  
5 awarded by any institution operating under this  
6 paragraph, as long as the institution awards degrees and  
7 diplomas only in areas specified in the previous sentence.  
8 Institutions operating under this paragraph shall not  
9 award degrees in any area of physical science. Any degree  
10 or diploma granted in any area of study under these  
11 provisions shall contain on its face, in the written  
12 description of the title of the degree being conferred, a  
13 reference to the theological or religious aspect of the  
14 degree's subject area. The enactment of this paragraph is  
15 intended to prevent any entity claiming to be a nonprofit  
16 institution owned, controlled, and operated and  
17 maintained by a bona fide church or religious  
18 denomination, lawfully operating as a nonprofit religious  
19 corporation pursuant to Part 4 (commencing with  
20 Section 9110) of Division 2 of Title 1 of the Corporations  
21 Code, from marketing and granting degrees or diplomas  
22 that are represented as being linked to their church or  
23 denomination but which, in reality, are degrees in secular  
24 areas of study.

25 (x) "Satellite" means an auxiliary classroom located  
26 within 50 miles of a branch or the main location. A satellite  
27 is a facility whose sole purpose is to function as a teaching  
28 site. All of the following shall apply to a satellite:

29 (1) Only educational services that are approved at the  
30 main location shall be offered at the satellite.

31 (2) The institution shall maintain no permanent  
32 records of attendance or academic progress at the  
33 satellite.

34 (3) No solicitation or enrollment of students shall  
35 occur at the satellite.

36 (4) The satellite shall not be identified in any  
37 advertising.

38 For the purpose of conducting onsite inspections and  
39 evaluations, hotel conference rooms, faculty offices, and  
40 homes are not considered satellites.



1 (y) (1) “Short-term seminar training” means an  
2 educational service offered at a main location, branch, or  
3 satellite, or any other location, consisting of either of the  
4 following:

5 (A) Fifty hours or less of instruction, the total charge  
6 for which is less than five hundred dollars (\$500).

7 (B) Instruction approved by a governmental licensing  
8 authority to be offered exclusively as continuing  
9 education in subjects licensees are required to take as a  
10 condition of continued licensure.

11 (2) “Short-term seminar training” does not include  
12 any of the following:

13 (A) Instruction in how to prepare for, take, or pass a  
14 licensing examination or other test qualifying a person for  
15 employment.

16 (B) Instruction in which the institution awards any  
17 credits or units other than continuing education units  
18 pursuant to instruction described in subparagraph (B) of  
19 paragraph (1).

20 (C) Instruction that is represented to lead to an  
21 occupation or job title.

22 (D) Any educational service, other than instruction  
23 described in subparagraph (B) of paragraph (1),  
24 consisting of more than 50 hours of instruction or costing  
25 five hundred dollars (\$500) or more in total charges that  
26 is divided or structured into one or more segments that  
27 consist of 50 or fewer hours of instruction, the total charge  
28 for which is less than five hundred dollars (\$500).

29 (z) “To offer” includes, in addition to its usual  
30 meanings, advertising, publicizing, soliciting, or  
31 encouraging any person, directly or indirectly, in any  
32 form, to perform the act described.

33 (aa) “To operate” an educational institution, or like  
34 term, means to establish, keep, or maintain any facility or  
35 location in this state where, or from or through which,  
36 educational services are offered or educational degrees or  
37 diplomas are offered or granted.

38 SEC. 2. *Section 94311.1 of the Education Code is*  
39 *amended to read:*



1 94311.1. (a) Each individual submitting an  
2 application for a certificate of authorization for service,  
3 pursuant to paragraph (3) of subdivision (a) of Section  
4 94311, shall provide the council with the following  
5 information:

6 (1) A completed application as supplied by the  
7 council.

8 (2) Certified copies of educational transcripts, where  
9 applicable.

10 (3) Verified employment history.

11 (4) Other documentation of prior experience or  
12 education as may be required for verification.

13 (b) To be eligible for a certificate of authorization for  
14 service, the applicant shall fulfill the applicable  
15 requirements as follows:

16 (1) Instructors shall have all of the following  
17 qualifications:

18 (A) No record of any violations of this chapter.

19 (B) Verification that he or she possesses a combination  
20 of at least three years' experience and training or  
21 education in the occupation or job title category for  
22 which certification is sought.

23 (C) An instructor for a program which leads to a  
24 degree shall possess a degree of equal or higher level in  
25 the occupation for which certification is sought.

26 (2) Directors shall have both of the following  
27 qualifications:

28 (A) ~~Five~~ *Three* years' experience in an administrative  
29 position in a public or an approved private postsecondary  
30 school.

31 (B) No record of any violations of this chapter.

32 (3) Associate directors shall have both of the following  
33 qualifications:

34 (A) Two years' experience in an administrative or  
35 other responsible position in a public or state approved  
36 private postsecondary school.

37 (B) No record of any violations of this chapter.

38 (4) Financial aid directors shall have all of the  
39 following qualifications:



1 (A) Five years' experience in an administrative  
2 position in the financial aid office of a public or approved  
3 private postsecondary school.

4 (B) Verification of completion within the previous  
5 two years of a training seminar or workshop certified by  
6 the California Student Aid Commission as providing  
7 up-to-date comprehensive information on financial aid  
8 programs and policies.

9 (C) No record of any violations of this chapter.

10 (D) Any other requirements the council deems  
11 necessary.

12 (5) Financial aid officers shall possess all of the  
13 following qualifications:

14 (A) Verification of completion within the previous  
15 two years of a training seminar or workshop certified by  
16 the California Student Aid Commission as providing  
17 up-to-date comprehensive information on financial aid  
18 programs and policies.

19 (B) No record of any violations of this chapter.

20 (C) Other requirements the council deems necessary.

21 (c) *An individual who is the sole owner of an*  
22 *institution may serve in the capacity of director for three*  
23 *years prior to meeting the qualifications of paragraph (2)*  
24 *of subdivision (b).*

25 (d) *Any individual filling a position left vacant by a*  
26 *previously certified financial aid director or financial aid*  
27 *officer shall verify with the council completion of the*  
28 *training referred to in subparagraph (A) of paragraph*  
29 *(5) of subdivision (b) within one year of accepting that*  
30 *position.*

31 (e) Each individual certified for authorization for  
32 service in the positions listed in paragraphs (1), (4), and  
33 (5) of subdivision (b) shall maintain at each private  
34 postsecondary educational institution where he or she is  
35 employed a validated transcript evidencing the  
36 successful completion of three continuing education units  
37 of recognized in-service training in their education, job  
38 title category, or employment field during every period  
39 of certification. These units may be completed through  
40 in-service training offered by accrediting associations,



1 professional organizations, or council-approved  
2 programs.

3 ~~(d)~~

4 (f) Every certificate of authorization issued to a person  
5 who possesses the qualifications described in paragraphs  
6 (1), (4), and (5) of subdivision (b) shall be valid for a  
7 period of three years.

8 ~~(e)~~

9 (g) In addition to the requirements set forth in this  
10 section, the council may impose additional requirements  
11 by regulation.

12 *SEC. 3.* Section 94311.9 is added to the Education  
13 Code, to read:

14 94311.9. (a) This section applies to every audit,  
15 review, and statement prepared and signed by an  
16 independent accountant and to every financial report  
17 required to be prepared or filed by this chapter.

18 (b) Institutional audits and reviews of financial data,  
19 including the preparation of financial statements, shall  
20 comply with all of the following:

21 (1) An institution that collected one hundred  
22 thousand dollars (\$100,000) or more in total student  
23 charges in its preceding fiscal year shall file financial  
24 reports prepared in accordance with generally accepted  
25 accounting principles established by the American  
26 Institute of Certified Public Accountants, and audited or  
27 reviewed by an independent certified public accountant  
28 who is not an employee, officer, or corporate director or  
29 member of the governing board of the institution.

30 (2) An institution that collected less than one hundred  
31 thousand dollars (\$100,000) in total student charges in its  
32 preceding fiscal year shall file financial reports prepared  
33 in accordance with generally accepted accounting  
34 principles established by the American Institute of  
35 Certified Public Accountants. These financial reports  
36 may be prepared by any individual with sufficient  
37 training to adhere to the required accounting principles.

38 (3) Financial reports prepared on an annual basis shall  
39 include a balance sheet, statement of operations,  
40 statement of cash flow, and statement of retained



1 earnings or capital. Nonprofit institutions shall provide  
2 this information in the manner required under generally  
3 accepted accounting principles for nonprofit  
4 organizations.

5 (4) The financial report shall establish whether the  
6 institution complies with subdivision (a) of Section  
7 94311.4, or subdivision (a) of Section 94316.6, and whether  
8 any of the circumstances described in subdivision (b) of  
9 Section 94311.4, or subdivision (b) of Section 94316.6 exist.

10 (5) If an audit, that is performed to determine  
11 compliance with any federal or state student financial aid  
12 program, reveals any failure to comply with the  
13 requirements of the program, and the noncompliance  
14 creates any liability or potential liability for the  
15 institution, the financial report shall reflect the liability or  
16 potential liability.

17 (6) Work papers for the financial statements shall be  
18 retained for five years from the date of the reports and  
19 shall be made available to the council upon request after  
20 the completion of the report.

21 (c) Any audits shall be conducted in accordance with  
22 generally accepted auditing standards and shall include  
23 the matters described in subdivision (d).

24 (d) If an audit is conducted, the accountant shall  
25 obtain an understanding of the institution's internal  
26 financial control structure, assess any risks, and report any  
27 material deficiencies in the internal controls.

28 ~~SEC. 3.—~~

29 *SEC. 4.* Section 94316.2 of the Education Code is  
30 amended to read:

31 94316.2. The following definitions and provisions  
32 apply to this article:

33 (a) "Class" means a subject, such as English or  
34 mathematics, that is taught as part of a course of  
35 instruction. "Class session" means the part of a day in  
36 which an institution conducts instruction or training in a  
37 particular class, such as an hour of instruction in English  
38 or mathematics offered on a particular day of the week.



1 (b) “Council” means the Council for Private  
2 Postsecondary and Vocational Education established  
3 pursuant to Section 94304.

4 (c) “Course” or “course of instruction,” except as  
5 otherwise provided, means the program of instruction,  
6 training, or education represented to lead to an  
7 occupation or job title.

8 (d) “Educational service” means any education,  
9 training, or instruction offered by an institution,  
10 including any equipment.

11 (e) “Equipment” includes all textbooks, supplies,  
12 materials, implements, tools, machinery, computers,  
13 electronic devices, or any other goods related to any  
14 education, training, or instruction, or an agreement for  
15 educational services or a course of instruction.

16 (f) “Licensure” includes any license, certificate,  
17 permit, or similar credential that a person must hold to  
18 lawfully engage in any occupation or activity.

19 (g) “Owner” means any person who has a legal or  
20 equitable interest in 10 percent or more of an institution’s  
21 stock or assets.

22 (h) “Person” means a natural person or any business  
23 entity, regardless of the form of organization.

24 (i) “Person in control” means a person who has  
25 sufficient capacity, directly or indirectly, to direct or  
26 influence the management, policies, or conduct of the  
27 institution so that the person can cause or prevent  
28 violations of this chapter. There is a rebuttable  
29 presumption affecting the burden of proof that an owner,  
30 director, or officer of an institution is a person in control.

31 (j) “Private postsecondary educational institution” or  
32 “institution” means any person doing business in  
33 California who offers to provide or provides, for a tuition,  
34 fee, or other charge, any instruction, training, or  
35 education primarily to people who have completed or  
36 terminated their secondary education or are beyond the  
37 age of compulsory high school attendance. An  
38 “institution” includes its branch and satellite campuses,  
39 unless otherwise provided. An “institution” also includes



1 a private postsecondary educational institution as defined  
2 in subdivision (w) of Section 94302.

3 (k) “Representative” means an employee, an agent as  
4 defined in Section 2295 of the Civil Code, an agent subject  
5 to Section 94333, an agency subject to Section 94334, or  
6 any person who, for compensation, (1) solicits, promotes,  
7 advertises, or refers or recruits students or prospective  
8 students for an institution or (2) is involved with  
9 enrollment, admissions, student attendance,  
10 administration, financial aid, instruction, or job  
11 placement assistance on behalf of an institution.

12 (l) “Total charge” means the total charge for a course  
13 of instruction or other education, instruction, or training,  
14 including the charge for tuition, equipment, finance  
15 charges, and all other fees, charges, costs, and expenses.

16 (m) “Year” means a calendar year.

17 ~~SEC. 4.—~~

18 *SEC. 5.* Section 94316.10 of the Education Code is  
19 amended to read:

20 94316.10. (a) Before a person executes an agreement  
21 obligating that person to pay any money to an institution  
22 for a course of instruction or related equipment, the  
23 institution shall provide the person with all of the  
24 following:

25 (1) A copy of the agreement containing all of the  
26 information required by Section 94319.

27 (2) If the institution has offered the course of  
28 instruction for at least one calendar year, it shall provide  
29 orally and in writing all of the following information:

30 (A) The percentage of students completing that  
31 course of instruction, as determined pursuant to Section  
32 94316.5, for the time period that is required to be covered  
33 in the last annual report that the institution was required  
34 to file with the council pursuant to Section 94316.14.

35 (B) The percentage of students who completed the  
36 course of instruction and obtained employment, as  
37 determined pursuant to Section 94316.5, for the time  
38 period that is required to be covered in the last annual  
39 report that the institution was required to file with the  
40 council pursuant to Section 94316.14.



1 (C) Any other information necessary to substantiate  
2 the truth of any claim made by the institution as to job  
3 placement.

4 (D) If the institution or a representative of the  
5 institution makes any express or implied claim about the  
6 salary which may be earned after completing a course of  
7 instruction, such as a claim that the student may be able  
8 to repay a student loan from the salary received at a job  
9 obtained following completion of the course of  
10 instruction, the following disclosures orally and in  
11 writing:

12 (i) The percentage of students who were originally  
13 scheduled, at the time of enrollment, to complete the  
14 course of instruction in the most recent calendar year that  
15 ended not less than six months prior to the date of  
16 disclosure who earn salaries at or above the claimed level.

17 (ii) The ranges of monthly salaries earned by these  
18 students in two hundred dollar (\$200) increments and the  
19 number of these students in each salary range.

20 (E) If the institution or a representative of the  
21 institution in any manner represents that the course of  
22 instruction might lead to employment in an occupation  
23 or job title for which a state licensing examination is  
24 required, the following disclosures orally and in writing:

25 (i) All licensure or certification requirements  
26 established by the state for the occupation or job title  
27 category.

28 (ii) The pass rate of graduates of the course of  
29 instruction offered by that institution for the most recent  
30 calendar year that ended not less than six months prior to  
31 the date of disclosure on any licensure or certification  
32 examination required by the state for the particular  
33 occupation or job title.

34 (3) If the institution has offered the course of  
35 instruction for less than one calendar year, the following  
36 statement: "This course is new. We are not able to tell you  
37 how many students graduate, how many students find  
38 jobs, or how much money you can earn after finishing this  
39 course."



1 (4) A current catalog or brochure containing  
2 information describing the courses offered, all of the  
3 occupations or job titles, if any, to which the course of  
4 instruction is represented to lead, length of program,  
5 faculty and their qualifications, schedule of tuition  
6 payments, fees, and all other charges and expenses  
7 necessary for completion of the course of instruction,  
8 cancellation and refund rights, the total cost of tuition  
9 over the entire period, a description of the student's  
10 rights under the Student Tuition Recovery Fund  
11 established pursuant to Section 94342, and all other  
12 material facts concerning the institution and the course  
13 of instruction that might reasonably affect the student's  
14 decision to enroll.

15 (5) If applicable, the following disclosures orally and in  
16 writing:

17 (A) If the student obtains a loan to pay for the course  
18 of instruction, the student will have the responsibility to  
19 repay the full amount of the loan plus interest, less the  
20 amount of any refund.

21 (B) If the student is eligible for a loan guaranteed or  
22 reinsured by the state or federal government and the  
23 student defaults on the loan:

24 (i) The federal or state government or the loan  
25 guarantee agency can take action against the student,  
26 including applying any income tax refund to which the  
27 person is entitled to reduce the balance owed on the loan.

28 (ii) The student may not be eligible for any other  
29 federal financial assistance for education at a different  
30 school or for government housing assistance until the loan  
31 is repaid.

32 (C) The institution is not a public institution.

33 (D) The institution has filed, or has had filed against it,  
34 a petition in bankruptcy.

35 (6) A written statement set forth in a table of the  
36 amount of the refund to which the student would be  
37 entitled if the student withdrew from the course after  
38 completing a period of days or weeks of instruction  
39 equivalent to 10 percent, 25 percent, 50 percent, 60  
40 percent, and 75 percent of the course of instruction. The



1 disclosures required by this paragraph may be set forth in  
2 the agreement for the course.

3 (b) The information required by paragraph (2) of  
4 subdivision (a) shall be documented by the institution  
5 with all facts needed to substantiate that information. Any  
6 information regarding a student's employment shall be  
7 based on an inquiry by the institution and shall be  
8 documented by a list indicating the student's name,  
9 address, and telephone number; the employer's name,  
10 address, and telephone number; the name and address or  
11 telephone number of the person who provided the  
12 information regarding the student's employment to the  
13 institution; the name, title, or description of the job; the  
14 date the student obtained the job; the duration of the  
15 student's employment; and the amount of the salary, if  
16 any salary claim has been made.

17 (c) No institution that has offered a course of  
18 instruction for less than one year shall make any express  
19 or implied claims about the salary that a student may earn  
20 after completing the course of instruction.

21 (d) The institution shall provide the catalog or  
22 brochure described in paragraph (4) of subdivision (a) to  
23 any person upon request.

24 (e) The written disclosure of information required by  
25 subparagraphs (A), (B), and (E) of paragraph (2) of  
26 subdivision (a) may be made on any form prescribed by  
27 law for the disclosure of that information.

28 (f) No institution shall obtain the signature of any  
29 person to an agreement obligating that person to pay any  
30 money to the institution until the person has had a  
31 reasonable opportunity to read and review all of the items  
32 described in subdivision (a).

33 (g) The disclosure of any information pursuant to  
34 Section 94316.4 shall not relieve any institution of any  
35 obligation to make any disclosure required under this  
36 section.

37 (h) Notwithstanding any provision of this section, an  
38 institution offering a home study or correspondence  
39 course need not orally make the disclosures required by  
40 this section in connection with that course if the



1 institution did not orally solicit or recruit the student for  
2 enrollment and the student enrolled by mail.

3 ~~SEC. 5.—~~

4 *SEC. 6.* Section 94316.22 of the Education Code is  
5 amended to read:

6 94316.22. (a) The institution shall submit a copy to  
7 the council, at the time of filing, of each return and report  
8 of wages required pursuant to Section 1088 of the  
9 Unemployment Insurance Code.

10 (b) (1) The institution shall file biennially with the  
11 council a financial report prepared pursuant to Section  
12 94311.9. The report shall include the financial information  
13 required by Section 94316.6 and average monthly  
14 expenditures. Work papers for the audit shall be retained  
15 for five years from the date of the audit report and shall  
16 be made available to the council upon request after the  
17 completion of the audit.

18 (2) If an institution submits a financial report meeting  
19 the requirements of paragraph (1) to the United States  
20 Department of Education and if that report was prepared  
21 within six months of the time a report is required to be  
22 filed under paragraph (1), the institution may comply  
23 with paragraph (1) by submitting a copy of that report to  
24 the council.

25 ~~SEC. 6.—~~

26 *SEC. 7.* Section 94317 of the Education Code is  
27 amended to read:

28 94317. (a) In addition to any other right of rescission,  
29 the student shall have the right to cancel an agreement  
30 for a course of instruction including any equipment, until  
31 midnight of the fifth business day after the day on which  
32 the student (1) attended the first class of the course of  
33 instruction which is the subject of the agreement or  
34 received the first lesson in a home study or  
35 correspondence course, (2) received a copy of the notice  
36 of cancellation as provided in Section 94317.5, or (3)  
37 received a copy of the agreement and the disclosures as  
38 required by subdivision (a) of Section 94316.10,  
39 whichever is later. If the first lesson in a home study or  
40 correspondence course is sent to the student by mail, the



1 institution shall send it by first-class mail, postage prepaid,  
2 documented by a certificate of mailing, and the student  
3 shall have a right to cancel until midnight of the eighth  
4 business day after the first lesson was mailed.

5 (b) Cancellation shall occur when the student gives  
6 written notice of cancellation to the institution at the  
7 address specified in the agreement.

8 (c) The written notice of cancellation, if given by mail,  
9 is effective when deposited in the mail properly  
10 addressed with postage prepaid.

11 (d) The written notice of cancellation need not take a  
12 particular form and, however expressed, is effective if it  
13 indicates the student's desire not to be bound by the  
14 agreement.

15 (e) Except as provided in subdivision (f), if the  
16 student cancels the agreement, the student shall have no  
17 liability, and the institution shall refund any consideration  
18 paid by the student within ~~40~~ 30 days after the institution  
19 receives notice of the cancellation.

20 (f) If the institution gave the student any equipment,  
21 the student shall return the equipment within ~~40~~ 30 days  
22 following the date of the Notice of Cancellation. If the  
23 student fails to return the equipment within this ~~40-day~~  
24 30-day period, the institution may retain that portion of  
25 the consideration paid by the student equal to the  
26 documented cost to the institution of the equipment and  
27 shall refund the portion of the consideration exceeding  
28 the documented cost to the institution of the equipment  
29 within ~~40~~ 30 days after the period within which the  
30 student is required to return the equipment. The student  
31 may retain the equipment without further obligation to  
32 pay for it.

33 (g) For the purpose of determining the time within  
34 which a student may cancel that student's agreement for  
35 a course, as described in Sections 94316.20, 94317, and  
36 94317.5, "business day" means the following:

37 (1) Except as provided in paragraph (2), a day on  
38 which that student is scheduled to attend a class session.



1 (2) For home study or correspondence courses, any  
2 calendar day except Saturday, Sunday, or any holiday  
3 enumerated in Section 6700 of the Government Code.

4 *SEC. 8. Section 94317.5 of the Education Code is*  
5 *amended to read:*

6 94317.5. (a) The institution shall provide the student  
7 with two cancellation forms at the first class attended by  
8 the student or with the first lesson in a home study course  
9 submitted by the student. The form shall be completed  
10 in duplicate, captioned "Notice of Cancellation," and  
11 shall contain the following statement:

12  
13 "Notice of Cancellation

14 \_\_\_\_\_

15 (Date)

16 [Enter date of first class, date first  
17 lesson received, or date first lesson was  
18 mailed, whichever is applicable]

19  
20 "You may cancel this contract for school, without any  
21 penalty or obligation by the date stated below.

22 "If you cancel, any payment you have made and any  
23 negotiable instrument signed by you shall be returned to  
24 you within ~~40~~ 30 days following the school's receipt of  
25 your cancellation notice.

26 "But, if the school gave you any equipment, you must  
27 return the equipment within ~~40~~ 30 days of the date you  
28 signed a cancellation notice. If you do not return the  
29 equipment within this ~~40-day~~ 30-day period, the school  
30 may keep an amount out of what you paid that equals the  
31 cost of the equipment. *The total amount charged for each*  
32 *item of equipment shall be separately stated. The amount*  
33 *charged for each item of equipment shall not exceed the*  
34 *equipment's fair market value. The institution shall have*  
35 *the burden of proof to establish the equipment's fair*  
36 *market value.* The school is required to refund any  
37 amount over that as provided above, and you may keep  
38 the equipment.



1 “To cancel the contract for school, mail or deliver a  
2 signed and dated copy of this cancellation notice, or any  
3 other written notice, or send a telegram to

4  
5 \_\_\_\_\_, at \_\_\_\_\_.  
6 (name of institution) (address of institution)

7  
8 “NOT LATER THAN \_\_\_\_\_  
9 [Enter midnight of the date that is the fifth  
10 business day following the day of the first  
11 class or the day the first lesson was received  
12 or, if the lesson was sent by mail, the eighth  
13 business day following the day of mailing,  
14 whichever is applicable]

15  
16 “I cancel the contract for school.  
17  
18 \_\_\_\_\_  
19 (Date)  
20 \_\_\_\_\_  
21 (Student’s signature)

22  
23 “REMEMBER, YOU MUST CANCEL IN WRITING.  
24 You do not have the right to cancel by just telephoning  
25 the school or by not coming to class.

26  
27 “If you have any complaints, questions, or problems  
28 which you cannot work out with the school, write or call:

29  
30 \_\_\_\_\_  
31 (insert name, address, and telephone number of the Council  
32 for Private Postsecondary and Vocational Education or  
33 Superintendent of Public Instruction, whichever applies)”  
34

35 *SEC. 9. Section 94330 of the Education Code is*  
36 *amended to read:*

37 94330. (a) Each institution desiring to operate in this  
38 state shall make application to the council, upon forms to  
39 be provided by the council. The application shall include,  
40 as a minimum, at least all of the following:



1 (1) A catalog published, or proposed to be published,  
2 by the institution containing the information specified in  
3 the criteria adopted by the council. The catalog shall  
4 include specific dates as to when the catalog applies.

5 (2) A description of the institution's placement  
6 assistance, if any.

7 (3) Copies of media advertising and promotional  
8 literature.

9 (4) Copies of all student enrollment agreement or  
10 contract forms and instruments evidencing  
11 indebtedness.

12 (5) Copies of participation agreements for state and  
13 federal financial aid programs.

14 (6) The name and California address of a designated  
15 agent upon whom any process, notice, or demand may be  
16 served.

17 (7) The information specified in Section 94312.2.

18 (8) The institution's most current profit and loss  
19 statement and current balance sheet, or an audit  
20 prepared by a licensed certified public accountant in  
21 accordance with generally accepted auditing standards.

22 (b) Each application shall be signed and certified  
23 under oath by the owners of the school or, if the school is  
24 incorporated, by the principal owners of the school (those  
25 who own at least 10 percent of the stock), or by the  
26 governing body of a nonprofit school.

27 (c) Following review of the application and any other  
28 further information submitted by the applicant, or  
29 required in conformity with Sections 94310 and 94311,  
30 and any investigation of the applicant as the council may  
31 deem necessary or appropriate, the council either, shall  
32 grant or deny approval to operate to the applicant.

33 (d) The council shall review and investigate all  
34 institutions and courses of instruction approved under  
35 this chapter. Consideration in the scheduling of reviews  
36 and investigations shall be afforded to student complaints  
37 and information collected by the Attorney General, the  
38 Student Aid Commission, any board within the  
39 Department of Consumer Affairs, or any other federal,  
40 state, or local agency.



1 (e) The approval to operate shall be issued to the  
2 owner or the governing body of the applicant institution,  
3 and shall be nontransferable. Any person that makes a  
4 proper application and complies with this chapter and  
5 each standard, rule, and regulation pertaining to this  
6 chapter shall be qualified to receive an approval to  
7 operate or an approval of the transfer of ownership.

8 (f) In the event that a shift in control or change of  
9 ownership of an institution occurs, an application for a  
10 new approval to operate for the institution under the  
11 changed ownership or control shall be filed with the  
12 council at least 20 days prior to the shift in control or  
13 change in ownership. Whenever an institution is  
14 operated at different locations, an application for  
15 approval shall be filed for each location.

16 (g) No application for ownership or transfer of  
17 ownership shall be approved for any applicant that has  
18 been found previously in any judicial or administrative  
19 proceeding to have violated this chapter, or if there exists  
20 any of the grounds for denial set forth in Section 480 of the  
21 Business and Professions Code.

22 (h) No change in ownership of the institution shall be  
23 made until the application is approved. If an application  
24 for a new approval to operate is not timely filed as  
25 required by this section, the institution's approval to  
26 operate shall terminate. Upon approval of a change in  
27 ownership, the council shall give written notice to the  
28 Student Aid Commission.

29 (i) For purposes of this section, a change in ownership  
30 occurs when there is a change of control of the institution,  
31 or where a person that previously did not own at least 25  
32 percent of the stock or controlling interest of an  
33 institution or its parent corporation, acquires ownership  
34 of at least 25 percent of the stock of the institution or its  
35 parent corporation.

36 (j) At least 60 days prior to the expiration of an  
37 approval to operate, the institution shall complete and file  
38 with the council an application form for renewal of its  
39 approval to operate. The renewal application shall be  
40 reviewed and acted upon as provided in this section.



1 (k) The council may refuse to issue or renew any  
2 private postsecondary or vocational educational  
3 institution's approval to operate, or may revoke any  
4 approval to operate for any one, or any combination, of  
5 the following causes:

6 (1) A violation of this chapter, or any standard, rule, or  
7 regulation established under this chapter.

8 (2) Furnishing false, misleading, or incomplete  
9 information to the council, or the failure to furnish  
10 information requested by the council or required by this  
11 chapter.

12 (3) A finding that an owner, a person in control, a  
13 director, or an officer of an institution is not in compliance  
14 with Section ~~94311.5~~ 94311.4, 94316.6, or 94316.8,  
15 whichever is applicable.

16 (4) A finding that a signatory to an application for an  
17 approval to operate was responsible for the closure of any  
18 institution in which there were unpaid liabilities to the  
19 state or federal government, or uncompensated  
20 pecuniary losses suffered by students without restitution.

21 (5) The failure of the institution to maintain the  
22 minimum educational standards prescribed by this  
23 chapter, or to maintain standards that are the same as, or  
24 substantially equivalent to, those represented in the  
25 school's applications and advertising.

26 (6) Presenting to prospective students information  
27 that is false or misleading relating to the school, to  
28 employment opportunities, or to enrollment  
29 opportunities in institutions of higher learning after  
30 entering into or completing courses offered by the school.

31 (7) The failure to maintain financial resources  
32 adequate for the satisfactory conduct of the courses of  
33 instruction offered as required by statute.

34 (8) The failure to provide timely and correct refunds  
35 to students.

36 (9) Paying a commission or valuable consideration to  
37 any persons for acts or services in violation of this chapter.

38 (10) Attempting to confer a degree, diploma, or  
39 certificate to any student in violation of this chapter.



1 (11) Misrepresenting to any students or prospective  
2 students that they are qualified, upon completion of any  
3 course, for admission to professional examination under  
4 any state occupational licensing provision.

5 (12) The failure to correct any deficiency or act of  
6 noncompliance under this chapter, or the standards,  
7 rules, regulations, and orders established and adopted  
8 under this chapter within reasonable time limits set by  
9 the council.

10 (13) The conducting of business or instructional  
11 services at any location not approved by the council.

12 (14) Failure on the part of an institution to comply  
13 with provisions of law or regulations governing sanitary  
14 conditions of that institution specified in Division 2  
15 (commencing with Section 500) and Division 3  
16 (commencing with Section 5000) of the Business and  
17 Professions Code.

18 If there is reasonable cause to believe that there has  
19 been a violation by a private postsecondary or vocational  
20 educational institution of the standards prescribed by this  
21 chapter, the council shall conduct an investigation of the  
22 institution.

23 (15) The applicant, owner, or persons in control have  
24 been found previously in any judicial or administrative  
25 procedure to have violated this chapter or admitted to  
26 having violated this chapter.

27 (l) Proceedings in connection with the denial of an  
28 application to operate or the revocation of an approval to  
29 operate shall be conducted in accordance with Chapter  
30 5 (commencing with Section 11500) of Part 1 of Division  
31 3 of Title 2 of the Government Code, and the council shall  
32 have all of the powers granted in that chapter. Any action  
33 by the council to place an institution on probation shall be  
34 subject to appeal to the full council, and the council shall  
35 establish procedures that provide the institution with  
36 adequate notice and an opportunity to be heard and to  
37 present evidence as to why the action recommended by  
38 staff or by a visiting committee shall not be taken.

39 (m) Upon taking any action to suspend or revoke an  
40 institution's approval to operate, *or to deny an application*



1 *for reapproval to operate*, the council shall provide  
2 written notice to the Student Aid Commission, *the United*  
3 *States Department of Education*, and to any appropriate  
4 accrediting association.

5 (n) A college or university operating under paragraph  
6 (5) of subdivision (w) of Section 94302 shall file annually  
7 with the council evidence to demonstrate its status as a  
8 nonprofit religious corporation under the Corporations  
9 Code.

10 *SEC. 10.* Section 94331 of the Education Code is  
11 amended to read:

12 94331. The council shall establish and maintain a  
13 Private Postsecondary and Vocational Education  
14 Administration Fund. The fund shall be divided into two  
15 special accounts, pursuant to the requirements of  
16 subdivision (g) of Section 94304. All fees collected  
17 pursuant to this section shall be credited to this fund,  
18 along with any interest on the money, for the  
19 administration of this chapter. Notwithstanding Section  
20 13340 of the Government Code, the money in the fund is  
21 continuously appropriated to the council without regard  
22 to fiscal years. However, if the Legislature makes an  
23 appropriation for the support of the council in the Budget  
24 Act of any fiscal year, the amount for the support of the  
25 council expended from the respective accounts of the  
26 Private Postsecondary and Vocational Education  
27 Administration Fund during that fiscal year shall not  
28 exceed the amount appropriated by the Budget Act.

29 For the application approval process of private  
30 institutions operating under this chapter, the council shall  
31 charge an amount not exceeding the actual costs of  
32 approving the private institutions. The council shall  
33 adopt a fee schedule for all institutions approved under  
34 this chapter, including the maximum amounts to be  
35 charged for an institution's initial and reapproval  
36 applications and annual renewal. The council may,  
37 subject to approval during the annual budget process as  
38 specified in this section, modify the fee schedule to add  
39 or delete categories of fees related to work performed by  
40 the council and set the maximum amount to be charged



1 for each fee category added to the fee schedule. The fee  
2 schedule shall provide adequate resources for the council  
3 to implement this chapter effectively. It is the intent of  
4 the Legislature that the council shall adopt a fee schedule  
5 that reflects the size of the institution, with institutions  
6 enrolling a larger number of students being required to  
7 pay a larger annual fee than those with smaller student  
8 enrollments. The council shall annually present its  
9 proposed budget, fee schedule, penalty fees assessed for  
10 delinquent payments pursuant to subdivision (i) of  
11 Section 94331.5, and additions and deletions of fee  
12 categories to the Department of Finance and the Joint  
13 Legislative Budget Committee for their review and  
14 approval as part of the annual budget process. The  
15 council shall annually publish a schedule of the current  
16 fees to be charged pursuant to this section and shall make  
17 this schedule generally available to the public. The fees  
18 may be increased annually up to the maximum allowable  
19 level by a majority vote of the council, without any  
20 additional review and approval by the Office of  
21 Administrative Law. The adoption of the annual fee  
22 schedule, any modification of the fee schedule, and any  
23 increase in fees up to the maximum allowable level shall  
24 not be subject to Article 5 (commencing with Section  
25 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of  
26 the Government Code. Increases above the maximum  
27 level shall be changed through legislation enacted by the  
28 Legislature and signed by the Governor.

29 *SEC. 11. Section 94346 of the Education Code is*  
30 *amended to read:*

31 94346. (a) ~~Commencing on January 31, 1992, and on~~  
32 *On or before January 31 of each calendar year thereafter,*  
33 *the council shall submit a written report to the*  
34 *Legislature and to the California Postsecondary*  
35 *Education Commission summarizing its activities of the*  
36 *previous calendar fiscal year.*

37 (b) Annual reports prepared pursuant to this section  
38 shall include, but shall not necessarily be limited to, all of  
39 the following:



1 (1) Timely information relating to the enforcement  
2 activities of the council pursuant to this chapter.

3 (2) Statistics providing a composite picture of the  
4 private postsecondary educational community, including  
5 data on how many schools, as classified by subject matter,  
6 and how many students there are, within the scope of the  
7 activities of the council.

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