

AMENDED IN ASSEMBLY MARCH 12, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 71

Introduced by Assembly Member Wright
*(Principal coauthors: Assembly Members Alquist, Aroner,
Baca, Bowen, Knox, Kuehl, Ortiz, Vincent, and Wayne)*
*(Principal coauthors: Senators Alpert, Solis, and
Vasconcellos)*

December 12, 1996

~~An act to amend Section 94986 of, and to repeal Section 94990 of, the Education Code, and to repeal Section 32 of Chapter 62 of the Statutes of 1996, relating to postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately. An act to repeal, add, and repeal Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 71, as amended, R. Wright. ~~Private Postsecondary and Vocational Education Reform Act of 1989~~ *Private postsecondary education.*

(1) The existing Private Postsecondary and Vocational Education Reform Act of 1989, until June 30, 1997, establishes various requirements and standards for the approval of

private postsecondary educational institutions to operate in California and to award degrees and diplomas.

This bill would repeal and reenact those provisions and in doing so would make numerous substantive changes.

(2) The existing act establishes the Council for Private Postsecondary and Vocational Education with specified duties and responsibilities.

This bill would specify that, in addition to any immunity afforded by a specified section of the Civil Code, any person serving on a special committee of the council, a visiting team, or any other peer review body impaneled by the council who provides information to the council or its staff in the course and scope of evaluating any institution subject to the act or who testifies at any administrative hearing arising under the act, has the same defenses and immunities to any action arising out of information or testimony to the council which that person would have if he or she were a public employee.

(3) Under the existing act, it is a crime, punishable as specified, for any person or business entity, regardless of the form of organization, to willfully violate specified provisions of the act.

This bill, in addition, would make it a crime, punishable as specified, for any person or business entity, regardless of the form of organization, to willfully violate specified provisions governing refunds to students and requiring each institution to provide prospective students with information concerning the institution's general performance standards. Thus, because the bill would expand the scope of an existing crime, it would impose a state-mandated local program.

(4) Under the existing act, if the council has evidence that an institution has violated specified provisions governing prohibited activities and determines that immediate action is necessary to protect students, prevent misrepresentations to the public, or prevent the loss of public funds or tuition and other money paid by students, the council is authorized to suspend the approval of an institution to operate. In addition, after notice and, if requested by the institution, a hearing, if the council concludes that grounds exist for the suspension or revocation of the institution's approval to operate, the council may order probation and a penalty, or may condition the



institution's approval to operate as the council deems appropriate.

This bill, in addition, would authorize any party aggrieved by the council's final decision to seek judicial review, as specified.

(5) The bill, among other things, also would (a) exempt from the act those institutions that exclusively offer intensive English language programs, (b) revise the method for calculating student tuition refunds, (c) reenact and revise various provisions governing student protections, and (d) revise the act to provide for notices and alternative dispute resolutions, as specified.

(6) The bill would continue in existence the Private Postsecondary and Vocational Education Administration Fund and the Student Tuition Recovery Fund, both of which are continuously appropriated funds. Thus, the bill would make appropriations for the purposes of these funds.

(7) The bill would declare that the above provisions shall become operative on July 1, 1997, and as of January 1, 2003, would be repealed.

(8) Under the existing act, the California Postsecondary Education Commission was required, prior to September 1, 1995, to review and evaluate, among other things, the implementation of the act and the effectiveness of certain provisions of the act and to report to the Legislature on the results of this review and evaluation.

This bill would require the commission to conduct this review and evaluation on or before January 1, 2001, and to report to the Legislature, as specified, every 5 years.

(9) 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.

(10) The bill would declare that it would take effect immediately as an urgency statute.

~~*(1) Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, among other things, requires the California Postsecondary Education*~~



~~Commission, prior to September 1, 1995, to review and evaluate specified matters relating to the implementation of the act, and to report to the Legislature on the results of this review and evaluation.~~

~~This bill would instead require the periodic review of the effectiveness of the act and a report to the Legislature on the results of the review.~~

~~(2) Existing law renders the act inoperative on June 30, 1997, and repeals the act on January 1, 1998.~~

~~This bill would continue that existing law indefinitely. The bill would thus extend the existence of criminal penalties under the act, thereby imposing a state-mandated local program. The bill would also make an appropriation by continuing the operation of the continuous appropriation in the act.~~

~~(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.~~

~~(4) This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.~~

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

1 SECTION 1. The Legislature *hereby* finds and
2 declares that the California Postsecondary Education
3 Commission, in reviewing the effectiveness of the Private
4 Postsecondary and Vocational Education Reform Act of
5 1989, adopted and issued a report on October 30, 1995,
6 that set forth all of the following findings:

7 (a) The Private Postsecondary and Vocational
8 Education Reform Act of 1989 is California's major statute
9 for regulating and strengthening its more than 2,000
10 privately operated postsecondary educational
11 institutions, as well as out-of-state public and private
12 institutions that have operations in California. The



1 private sector educates approximately ~~412,000~~ 400,000
 2 students: ~~108,200~~ 100,000 enrolled in degree-granting
 3 institutions, and ~~304,200~~ enrolled in non-degree-granting
 4 institutions. 300,000 enrolled in nondegree-granting
 5 institutions.

6 (b) Prior to passage of the act, some degrees and
 7 diplomas awarded by California’s private postsecondary
 8 and vocational educational institutions were of
 9 questionable integrity and value. The act set minimum
 10 standards of instructional quality and institutional
 11 business practices, and mandated consumer protections
 12 for students against fraud, misrepresentation, and unfair
 13 practices by schools. These changes have restored the
 14 credibility and integrity of degrees and diplomas
 15 awarded by private schools and colleges.

16 (c) More broadly, the improvement of California’s
 17 work force preparation programs, both public and
 18 private, is of significant value to the business community
 19 in California. By ensuring high-quality preparation and
 20 training for students entering the work force, this act
 21 benefits both employers and employees.

22 ~~SEC. 2. Section 94986 of the Education Code is~~
 23 *SEC. 2. Chapter 7 (commencing with Section 94700)*
 24 *of Part 59 of the Education Code is repealed.*

25 *SEC. 3. Chapter 7 (commencing with Section 94700)*
 26 *is added to Part 59 of the Education Code to read:*

27
 28 *CHAPTER 7. PRIVATE POSTSECONDARY AND VOCATIONAL*
 29 *INSTITUTIONS*

30
 31
 32 *Article 1. General Provisions*

33
 34 *94700. This chapter shall be known, and may be cited,*
 35 *as the “Private Postsecondary and Vocational Education*
 36 *Reform Act of 1989.”*

37 *94705. It is the intent of the Legislature to promote*
 38 *the effective integration of private postsecondary*
 39 *education into all aspects of California’s educational*
 40 *system and to foster and improve the educational*



1 *programs and services of these institutions while*
2 *protecting the citizens of the state from fraudulent or*
3 *substandard operations.*

4 *It is further the intent of the Legislature to recognize*
5 *the enormous diversity of California's private*
6 *postsecondary educational enterprise, with its*
7 *approximately 2,300 privately supported institutions of*
8 *academic and vocational education.*

9 *It is further the intent of the Legislature to provide for*
10 *the protection, education, and welfare of citizens of*
11 *California, its postsecondary educational institutions, and*
12 *its students by providing for all of the following:*

13 *(a) Ensuring minimum standards of instructional*
14 *quality and institutional stability for all students in all*
15 *types of institutions, and thereby encouraging the*
16 *recognition by public and private institutions of*
17 *completed coursework and degrees and diplomas issued*
18 *by private institutions, to the end that students will be*
19 *provided equal opportunities for equal accomplishment*
20 *and ability.*

21 *(b) Establishing minimum standards concerning the*
22 *quality of education, ethical and business practices,*
23 *health and safety, and fiscal responsibility to provide*
24 *protection against substandard, transient, unethical,*
25 *deceptive, or fraudulent institutions and practices.*

26 *(c) Prohibiting the granting of false or misleading*
27 *educational credentials.*

28 *(d) Prohibiting misleading literature, advertising,*
29 *solicitation, or representations by private educational*
30 *institutions or their agents.*

31 *(e) Recognizing the importance of providing*
32 *adequate funding through application and renewal fees*
33 *and federal funding for the veteran's approval process to*
34 *support the state's activities in implementing this*
35 *chapter.*

36 *(f) Protecting the consumer and students against*
37 *fraud, misrepresentation, or other practices that may lead*
38 *to an improper loss of funds paid for educational costs,*
39 *whether financed through personal resources or state and*
40 *federal student financial aid.*



1 (g) *Establishing a path for the development of*
2 *institutions offering fields of study or methods of*
3 *instruction and innovative educational delivery systems*
4 *not previously recognized in order to encourage them to*
5 *become fully approved institutions.*

6 (h) *Recognizing and encouraging quality*
7 *nongovernmental accreditation, while not ceding to that*
8 *or any other nongovernmental process the responsibility*
9 *for state oversight for purposes of approval, if the*
10 *accreditation process fails either to protect minimum*
11 *standards of quality or to acknowledge legitimate*
12 *innovative methods in postsecondary education.*

13 (i) *Establishing an administrative agency staffed by*
14 *individuals who are knowledgeable about private*
15 *academic and vocational education, and charged with the*
16 *responsibility of developing policies and procedures for*
17 *the oversight and approval of private postsecondary and*
18 *vocational education, including the responsibility for*
19 *managing a broadly construed policy and planning*
20 *process that seeks to improve state accountability for*
21 *private postsecondary and vocational education as well as*
22 *to improve the articulation of private postsecondary and*
23 *vocational education with the public and independent*
24 *postsecondary educational community. This new body*
25 *should provide the leadership and planning needed to*
26 *maintain and develop a strong private sector of this*
27 *community.*

28

29

Article 2. Definitions

30

31 94710. *The definitions set forth in this article govern*
32 *the construction of this chapter, unless the context*
33 *requires otherwise.*

34 94711. *“Academic Year” for a degree-granting*
35 *institution means a period including a minimum of 30*
36 *weeks of instruction.*

37 94712. *“Accredited” means that an institution has*
38 *been recognized or approved as meeting the standards*
39 *established by an accrediting agency recognized by the*
40 *United States Department of Education, or the*



1 *Committee of Bar Examiners for the State of California.*
2 *It does not include those institutions that have applied for*
3 *accreditation, or are identified by accrediting associations*
4 *as candidates for accreditation or have provisional*
5 *accreditation.*

6 94713. “Agency” means any person or business entity,
7 regardless of the form of organization, that employs, or in
8 any manner contracts with, one or more agents.
9 “Agency” does not include an institution.

10 94714. “Agency approval” means a written document
11 issued by the council authorizing a business entity or an
12 institution to engage in the recruitment of students for
13 enrollment in private postsecondary and vocational
14 institutions approved under this chapter.

15 94715. “Agent” means any person who, at a place
16 away from the institution’s premises or site of instruction,
17 but within the United States, for consideration, solicits,
18 promotes, advertises, offers, or attempts to secure
19 enrollment for an institution, refers any person to that
20 institution, either for enrollment or to receive a
21 solicitation for enrollment, or accepts application fees or
22 admissions fees for education in that institution.
23 Administrators and faculty who make informational
24 public appearances, but whose primary task does not
25 include service as a paid recruiter, are not agents.

26 94716. “Agent’s permit” means a nontransferable
27 written document issued to an agent pursuant to this
28 chapter by the council.

29 94717. “Applicant” means a new institution that has
30 submitted an application but has not been evaluated by
31 the council. An applicant institution shall not enroll
32 students or offer educational services.

33 94718. “Approval” or “approval to operate” means
34 that the council has determined and certified that an
35 institution meets minimum standards established by the
36 council for integrity, financial stability, and educational
37 quality, including the offering of bona fide instruction by
38 qualified faculty and the appropriate assessment of
39 students’ achievement prior to, during, and at the end of
40 its program.



1 94719. “Branch” means a site other than the main
2 location or a satellite. Only educational services approved
3 at the main location may be offered at the branch.

4 94720. “Certificate of authorization for service”
5 means a written, nontransferable document issued by the
6 council authorizing an individual to be an instructor or
7 administrator in any private vocational postsecondary
8 educational institution in California that is approved
9 under Section 94915.

10 94721. “Change of location” means a move of up to 25
11 miles of the location at which an institution offers any
12 education, training, or instruction. A change of location
13 of 25 or more miles is deemed the establishment of a new
14 location of instruction requiring a separate approval to
15 operate, unless otherwise provided by the council.

16 94722. (a) Except as provided in subdivision (b),
17 “continuing education” means instruction offered in any
18 of the following circumstances:

19 (1) Only in subjects licensees are required to take as a
20 condition of continued licensure and solely for that
21 purpose.

22 (2) Only in subjects necessary to continue to practice
23 or work in a profession such as law or medicine and solely
24 for that purpose.

25 (3) To persons who are already in a particular
26 profession, trade, or job category for the sole purpose of
27 enhancing their skills or knowledge within that particular
28 profession, trade, or job category.

29 (b) “Continuing education” does not include any of
30 the following:

31 (1) Vocational diploma programs.

32 (2) Degree programs.

33 (3) An educational service any part of the charge for
34 which is paid from the proceeds of a loan or grant subject
35 to a governmental student financial aid program.

36 94723. “Correspondence school” or “home study
37 school” means any institution that provides
38 correspondence lessons for study and completion by a
39 student at a location separate from the institution,
40 including those institutions which offer that instruction

1 *by correspondence in combination with in-residence*
2 *instruction.*

3 94724. “Council” means the Council for Private
4 Postsecondary and Vocational Education established
5 pursuant to Section 94770.

6 94725. “Course of study” means either a single course
7 or a set of related courses for which a student enrolls.

8 94726. “Degree” means any type of 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 94727. “Degree title” means the designated subject
19 area of study that also appears on the face of the
20 document awarded to a student signifying the conferring
21 of a “degree.”

22 94728. “Diploma” means any diploma, certificate,
23 transcript, document, or other writing in any language
24 other than a degree which signifies, purports, or is
25 generally taken to signify satisfactory completion of the
26 requirements of an academic, educational, technological,
27 or professional program of study beyond the secondary
28 school level.

29 94729. “Education,” “educational services,” or
30 “educational program” includes, but is not limited to, any
31 class, course, or program of training, instruction, or study.

32 94730. “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 94731. “Institutional approval” means an institution
37 that has been evaluated by the council and has been
38 found to be in compliance with the council’s standards
39 pursuant to this chapter.



1 94732. “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 94733. (a) “Intensive English program” means any
8 program approved by the United States Immigration and
9 Naturalization Service that is offered exclusively to
10 provide English instruction to international students in
11 the United States. Courses offered under such programs
12 shall be exclusively nondegree and cannot be
13 represented to fit, or offered for the purpose of preparing
14 a student for employment in, any occupation or job title.

15 (b) Students enrolled in intensive English programs
16 cannot be either residents of the State of California or
17 citizens of the United States.

18 94734. “License and exam preparation” means that
19 the educational program is either of the following:

20 (a) Designed to assist students to prepare for an
21 examination for licensure.

22 (b) Offered for the sole purpose of providing
23 continuing education in subjects licensees are required to
24 take as a condition of continued licensure.

25 94735. “Main location” or “main site” means the
26 institution’s primary teaching location. If an institution
27 operates at only one site, that site shall be considered its
28 main location or main site.

29 94736. “Occupational Associate Degree,” “Associate
30 of Occupational Studies,” or “Associate of Applied
31 Science” designated by terms such as AOS (Associate
32 Occupational Studies), AAS (Associate Applied Science),
33 AST (Associate Specialist Technical), or ASB (Associate
34 Specialist Business) means a specialized associate degree
35 that may be awarded to students who complete an
36 occupational program that provides preparation for
37 entry-level employment in a specific occupational field.

38 94737. “Out-of-state school” means any private
39 postsecondary or vocational educational institution
40 offering career or job training programs, including both



1 *an in-residence institution and a home-study institution*
2 *that has its place of instruction or its principal location*
3 *outside the boundaries of the state, or that offers or*
4 *conducts programs of instruction or subjects on premises*
5 *maintained by the school outside the boundaries of the*
6 *state, or that provides correspondence or home-study*
7 *lesson materials from a location outside the boundaries of*
8 *this state, or that evaluates completed lesson materials or*
9 *otherwise conducts its evaluation service from a location*
10 *outside the boundaries of this state, or that otherwise*
11 *offers or provides California students with programs of*
12 *instruction or subjects through activities engaged in or*
13 *conducted outside the boundaries of the state.*

14 94738. “Person” means a natural person or any
15 business entity, regardless of the form or organization.

16 94739. (a) “Private postsecondary educational
17 institution” means any person doing business in
18 California that offers to provide or provides, for a tuition,
19 fee, or other charge, any instruction, training, or
20 education under any of the following circumstances:

21 (1) A majority of the students to whom instruction,
22 training, or education is provided during any 12-month
23 period is obtained from, or on behalf of, students who
24 have completed or terminated their secondary education
25 or are beyond the age of compulsory high school
26 attendance.

27 (2) More than 50 percent of the revenue derived from
28 providing instruction, training, or education during any
29 12-month period is obtained from, or on behalf of,
30 students who have completed or terminated their
31 secondary education or are beyond the age of compulsory
32 high school attendance.

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

38 (4) A substantial portion, as determined by the
39 council, by regulation, of the instruction, training, or
40 education provided is provided to students who have



1 *completed or terminated their secondary education or*
2 *are beyond the age of compulsory high school*
3 *attendance.*

4 *(b) The following are not considered to be private*
5 *postsecondary educational institutions under this*
6 *chapter:*

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

9 *(2) Institutions offering education solely avocational*
10 *or recreational in nature, and institutions offering this*
11 *education exclusively.*

12 *(3) Institutions offering education sponsored by a*
13 *bona fide trade, business, professional, or fraternal*
14 *organization, solely for that organization's membership.*

15 *(4) Postsecondary or vocational educational*
16 *institutions established, operated, and governed by the*
17 *federal government or by this state, or its political*
18 *subdivisions.*

19 *(5) Institutions exclusively offering continuing*
20 *education.*

21 *(6) A nonprofit institution owned, controlled, and*
22 *operated and maintained by a bona fide church or*
23 *religious denomination, lawfully operating as a nonprofit*
24 *religious corporation pursuant to Part 4 (commencing*
25 *with Section 9110) of Division 2 of Title 1 of the*
26 *Corporations Code, if the education is limited to*
27 *instruction in the principles of that church or*
28 *denomination, or to courses offered pursuant to Section*
29 *2789 of the Business and Professions Code, and the*
30 *diploma or degree is limited to evidence of completion of*
31 *that education, and the meritorious recognition upon*
32 *which any honorary degree is conferred is limited to the*
33 *principles of that church or denomination. Institutions*
34 *operating under this paragraph shall offer degrees and*
35 *diplomas only in the beliefs and practices of the*
36 *denomination, church, or religion. The enactment of this*
37 *paragraph expresses the legislative intent that the state*
38 *shall not involve itself in the content of degree programs*
39 *awarded by any institution operating under this*
40 *paragraph, as long as the institution awards degrees and*

1 diplomas only in the beliefs and practices of the
2 denomination, church, or religion. Institutions operating
3 under this paragraph shall not award degrees in any area
4 of physical science. Any degree or diploma granted in any
5 area of study under these provisions shall contain on its
6 face, in the written description of the title of the degree
7 being conferred, a reference to the theological or
8 religious aspect of the degree's subject area. Degrees
9 awarded under this paragraph shall reflect the nature of
10 the degree title, such as "Associate of Religious Studies,"
11 or "Bachelor of Religious Studies," or "Master of
12 Divinity" or "Doctor of Divinity." The use of the degree
13 titles "Associate of Arts" or "Associate of Science,"
14 "Bachelor of Arts" or "Bachelor of Science," "Master of
15 Arts" or "Master of Science," or "Doctor of Philosophy"
16 or "Ph.D." shall only be awarded by institutions approved
17 to operate under Article 8 (commencing with Section
18 94900) or meeting the requirements for an exemption
19 under Section 94750. The enactment of this paragraph is
20 intended to prevent any entity claiming to be a nonprofit
21 institution owned, controlled, and operated and
22 maintained by a bona fide church or religious
23 denomination, lawfully operating as a nonprofit religious
24 corporation pursuant to Part 4 (commencing with
25 Section 9110) of Division 2 of Title 1 of the Corporations
26 Code, from marketing and granting degrees or diplomas
27 that are represented as being linked to their church or
28 denomination but which, in reality, are degrees in secular
29 areas of study. An institution operating under this
30 paragraph shall file annually with the council evidence to
31 demonstrate its status as a nonprofit religious corporation
32 under the Corporations Code. A college or university
33 operating under this paragraph shall file annually with
34 the council evidence to demonstrate its status as a
35 nonprofit religious corporation under the Corporation
36 Code.

37 94740. "Program" or "program of instruction" means
38 a program of training, set of related courses, or education
39 for which a student enrolls.



1 94741. “Representative” means an employee, an
2 agent as defined in Section 2295 of the Civil Code, an
3 agent subject to Section 94940, an agency subject to
4 Section 94942, or any person who, for compensation, does
5 either of the following:

6 (a) Solicits, promotes, advertises, or refers or recruits
7 students or prospective students for an institution.

8 (b) Is involved with enrollment, admissions, student
9 attendance, administration, financial aid, instruction, or
10 job placement assistance on behalf of an institution.

11 94742. “Satellite” means an auxiliary classroom or a
12 teaching site. All of the following apply to a satellite:

13 (a) Only educational services that are approved at the
14 main location shall be offered at the satellite.

15 (b) The institution shall maintain no permanent
16 records of attendance or academic progress at the
17 satellite.

18 (c) Advertisement of a satellite shall indicate that the
19 satellite is an auxiliary classroom or a teaching site.

20 94743. “Site” means a main location, branch, or
21 satellite campus.

22 94744. “To offer” includes, in addition to its usual
23 meanings, advertising, publicizing, soliciting, or
24 encouraging any person, directly or indirectly, in any
25 form, to perform the act described.

26 94745. “To operate” an educational institution, or like
27 term, means to establish, keep, or maintain any facility or
28 location in this state where, or from or through which,
29 educational services are offered or educational degrees or
30 diplomas are offered or granted.

31 94746. “Vocational diploma program” means an
32 educational program having all of the following
33 characteristics:

34 (a) The educational program consists of a job-training
35 program or other instruction, training, or education that
36 the institution represents will lead to, fit, or prepare
37 students for employment in any occupation.

38 (b) The program is offered to students who do not
39 possess a bachelor’s or graduate degree in the field of
40 training.



1 (c) Students who complete all or a portion of the
2 program are awarded a diploma, certificate, or
3 occupational associate degree.

4

5

Article 3. Exempt Institutions

6

7 94750. (a) Article 4 (commencing with Section
8 94770), Article 7 (commencing with Section 94850),
9 Article 8 (commencing with Section 94900), Article 9
10 (commencing with Section 94915), Article 10
11 (commencing with Section 94932), Article 12
12 (commencing with Section 94944); Sections 94800, 94802,
13 94804, Sections 94808 to 94810, inclusive, Sections 94814 to
14 94829, inclusive, Section 94830, subdivision (c) of Section
15 94831, and Sections 94836, 94840, 94846, 94942, 94955,
16 94965, 94970, and 94975 do not apply to an institution that
17 is accredited by the Western Association of Schools and
18 Colleges, if the institution exclusively confers degrees
19 upon the completion of a program of study of two or more
20 years.

21 (b) Within 30 days of any action by any accrediting
22 agency that establishes, reaffirms, or publicly sanctions
23 the accreditation of a private institution operating in the
24 state, the accrediting agency shall notify the council of
25 that action, and provide a copy of any public statements
26 regarding the reasons for sanctions.

27 94755. Article 4 (commencing with Section 94770),
28 Article 7 (commencing with Section 94850), Article 8
29 (commencing with Section 94900), Article 9
30 (commencing with Section 94915), Article 10
31 (commencing with Section 94932), Article 12
32 (commencing with Section 94944); Sections 94800, 94802,
33 94804, Sections 94808 to 94810, inclusive, Sections 94814 to
34 94829, inclusive, Section 94830, subdivision (c) of Section
35 94831, and Sections 94836, 94840, 94846, 94942, 94955,
36 94965, 94970, and 94975 do not apply to an institution that
37 exclusively offers educational services for the sole
38 purpose of assisting students to prepare for an
39 examination for entrance into an undergraduate or



1 graduate course of study at an accredited or approved
2 college or university.

3
4 Article 4. Administration

5
6 94770. There is hereby established in state
7 government the Council for Private Postsecondary and
8 Vocational Education. The council has the responsibility
9 for approving and regulating private postsecondary
10 educational institutions and for developing state policies
11 for private postsecondary and vocational education in
12 California. The council shall represent the private
13 postsecondary educational institutions in all state-level
14 planning and policy discussions about postsecondary and
15 vocational education, and shall have as its objective the
16 development of a strong, vigorous, and widely respected
17 sector of private postsecondary and vocational education.

18 94770.1. (a) The council shall be composed of 15
19 voting members, including the following representatives:

20 (1) Two representatives from degree-granting
21 institutions approved under Article 8 (commencing with
22 Section 94900).

23 (2) Two representatives from nondegree-granting
24 institutions approved under Article 9 (commencing with
25 Section 94915).

26 (3) Two representatives from accredited private
27 postsecondary institutions operating in California. One
28 representative shall be from an out-of-state accredited
29 degree-granting institution approved under Article 8
30 (commencing with Section 94900), and one
31 representative shall be from an accredited
32 nondegree-granting institution approved under Article 9
33 (commencing with Section 94915).

34 (4) A representative of the California Student Aid
35 Commission, nominated by the executive director of the
36 commission, and appointed by the Governor.

37 (5) The Superintendent of Public Instruction, or his or
38 her designee.

39 (6) The Secretary of the State and Consumer Services
40 Agency, or his or her designee.

1 (7) Six members of the general public.

2 (b) Except as provided in subdivision (a), the
3 appointment process for the council shall be as follows:

4 (1) The Governor shall appoint one representative
5 from a degree-granting institution approved under
6 Article 8 (commencing with Section 94900), one
7 representative from a nondegree-granting institution
8 approved under Article 9 (commencing with Section
9 94915), one representative from an accredited
10 nondegree-granting institution, and three members from
11 the general public.

12 (2) The Senate Committee on Rules shall appoint one
13 representative from a degree-granting institution
14 approved under Article 8 (commencing with Section
15 94900), one representative from an out-of-state
16 accredited degree-granting institution operating in
17 California, and one member of the general public.

18 (3) The Speaker of the Assembly shall appoint one
19 representative from a nondegree-granting institution
20 approved under Article 9 (commencing with Section
21 94915), and two members of the general public.

22 (4) The institutional representatives shall be
23 appointed from a list or lists of persons nominated by
24 private postsecondary or vocational educational
25 institutions.

26 (c) In addition, the following persons shall serve as
27 nonvoting ex officio members of the council:

28 (1) The Attorney General of the State of California, or
29 his or her designee.

30 (2) The Director of Employment Development, or his
31 or her designee.

32 (3) The Director of the California Postsecondary
33 Education Commission, or his or her designee.

34 (4) The Chancellor of the California Community
35 Colleges, or his or her designee.

36 94770.2. (a) The members of the council designated
37 by the Superintendent of Public Instruction and the
38 Secretary of the State and Consumer Services Agency
39 pursuant to paragraphs (5) and (6) of subdivision (a) of
40 Section 94770.1 shall serve at the pleasure of the



1 *designating authority. All other voting members of the*
2 *council shall serve a four-year term, and no member shall*
3 *serve more than two full terms. The members of the*
4 *council serving on June 30, 1997, shall continue to serve*
5 *until the expiration of their term. Voting members of the*
6 *council whose terms have expired may continue to serve*
7 *until replaced by their appointing authority. The term of*
8 *an appointment commences from the date the previous*
9 *term expired.*

10 *(b) Any person appointed to the council as a*
11 *representative from an institution described in*
12 *paragraphs (1) to (3), inclusive, of subdivision (a) of*
13 *Section 94770.1, who no longer represents the institutions*
14 *that made him or her eligible for appointment shall*
15 *automatically and immediately forfeit his or her*
16 *membership on the council, thereby creating an*
17 *immediate vacancy. Any person appointed to the council*
18 *as a member of the general public pursuant to paragraph*
19 *(7) of subdivision (a) of Section 94770.1, who no longer*
20 *qualifies as a member of the general public shall*
21 *automatically and immediately forfeit his or her*
22 *membership on the council, thereby creating an*
23 *immediate vacancy.*

24 *(c) No person who is employed by an institution of*
25 *public or private postsecondary or vocational education,*
26 *or who is employed by a private organization owning an*
27 *interest in a private postsecondary or vocational*
28 *institution, shall be appointed to, or serve on, the council*
29 *as a member of the general public.*

30 *(d) It is the intent of the Legislature that the members*
31 *of the general public appointed to the council have a*
32 *strong interest in developing private postsecondary and*
33 *vocational education and include representation from*
34 *businesses that employ persons in positions requiring*
35 *academic, vocational, or technical education.*

36 *(e) It is the intent of the Legislature that the council*
37 *shall be broadly and equitably representative of the*
38 *general public and that it include adequate*
39 *representation on the basis of gender and on the basis of*
40 *the significant racial, ethnic, and economic groups in the*

1 state. No person appointed pursuant to Section 94770.1
2 shall, with respect to any matter before the council, vote
3 for or on behalf of, or in any way exercise the vote of, any
4 other member of the council.

5 94770.3. (a) The council shall meet as often as it
6 deems necessary to carry out its duties and
7 responsibilities.

8 (b) The council shall select a chair from among the
9 members representing the general public. The chair shall
10 hold office for a term of two years.

11 (c) The council may appoint any subcommittees or
12 advisory committees it deems necessary to advise the
13 council on matters of educational policy. The council shall
14 appoint and may remove a director in the manner
15 prescribed in this section. The director shall appoint
16 persons to any civil service staff positions authorized by
17 the council. The staffing shall include individuals with
18 responsibilities for each of the following areas:

19 (1) The approval of degree-granting institutions.

20 (2) The approval of nondegree-granting institutions.

21 (3) The approval of courses offered to veterans by
22 postsecondary institutions. For the purposes of
23 implementing the requirements of this paragraph, the
24 council is hereby designated as the state agency
25 responsible for the administration of veteran educational
26 benefit programs.

27 (4) Institutional relations to develop strong
28 relationships with agencies such as the State Department
29 of Education, the California Postsecondary Education
30 Commission, _____, the Department of Consumer
31 Affairs, and nongovernmental accrediting associations.

32 (5) Legislative and public affairs.

33 (6) Staff administrative services.

34 94770.4. It is the intent of the Legislature that the
35 council's approval and regulating responsibilities be
36 funded solely through approval fees and federal funding
37 provided to implement the approval process for courses
38 offered to veterans by approved institutions.



1 94770.5. The council shall prescribe regulations for
2 the transaction of its own affairs, subject to all the
3 following requirements and limitations:

4 (a) The votes of all members of the council shall be
5 recorded.

6 (b) Effective action shall require the affirmative vote
7 of a majority of all the duly appointed members of the
8 council, not including vacant council seats.

9 (c) The affirmative vote of two-thirds of all the duly
10 appointed members of the council, not including vacant
11 council seats, shall be necessary for the appointment or
12 removal of the director.

13 94771. The council may delegate to the director any
14 power, duty, purpose, function, or jurisdiction that the
15 council may lawfully delegate, including the authority to
16 enter into and sign contracts on behalf of the council. The
17 director may redelegate any of those powers, duties,
18 purposes, functions, or jurisdictions to his or her designee,
19 unless by statute, or regulation, the director is expressly
20 required to act personally.

21 94772. The council shall appoint from its membership
22 one subcommittee on postsecondary degree-granting
23 institutions and one subcommittee on
24 nondegree-granting institutions. All educational
25 institutions that confer degrees shall be considered by the
26 subcommittee on postsecondary degree-granting
27 institutions pursuant to the requirements of Article 8
28 (commencing with Section 94900). All educational
29 institutions that offer nondegree education and that do
30 not confer degrees shall be considered by the
31 subcommittee on nondegree education pursuant to the
32 requirements of Article 9 (commencing with Section
33 94915). Each subcommittee shall report its
34 recommendations to the council, which shall make the
35 final approval determination.

36 94773. The council shall have the following functions
37 and responsibilities in its capacity as the statewide private
38 postsecondary and vocational educational planning and
39 licensing agency:



1 (a) The establishment of policies for the
2 administration of this chapter.

3 (b) The establishment of minimum criteria for the
4 approval of private postsecondary or vocational
5 educational institutions to operate in California and
6 award degrees and diplomas, and for the approval of
7 institutions that meet the criteria.

8 (c) The adoption of regulations governing the conduct
9 of institutions under this chapter, including, but not
10 limited to, minimum state standards for refund policies,
11 advertising, enrollment agreements and contracts,
12 consumer information, attendance policies, and financial
13 responsibility.

14 (d) The adoption of procedures necessary or
15 appropriate for the conduct of its work and the
16 implementation of this chapter consistent with its
17 adopted rules and regulations, including the adoption of
18 regulations to ensure that institutions will receive
19 adequate notice and a full opportunity to be heard
20 concerning actions to deny, suspend, or revoke approval,
21 or to place an institution on probation.

22 (e) The representation of California's segment of
23 private postsecondary and vocational education in all
24 state-level discussions and planning for postsecondary
25 and vocational education, including, but not limited to,
26 representation on the California Postsecondary
27 Education Commission, and the commission's advisory
28 committee, and voluntary postsecondary or vocational
29 organizations.

30 (f) The publication biennially for public distribution of
31 a directory of all private postsecondary and vocational
32 educational institutions approved to operate in California
33 under this chapter.

34 (g) The preparation annually of a proposed budget for
35 the support of activities under this chapter and to secure
36 appropriate funding necessary for the effective
37 implementation of this chapter.

38 (h) Conducting research and planning for private
39 postsecondary and vocational education, including the



1 compilation of important institutional, faculty, and
2 student data.

3 (i) The impaneling of special committees of
4 technically qualified persons to assist the council in the
5 development of standards for education and educational
6 institutions and the evaluation of an application or
7 institutions pursuant to this chapter. The members of the
8 special committees shall receive no compensation but
9 shall be reimbursed for their actual expenses for
10 attendance at official meetings and actual expenses when
11 on official council business. The members of the special
12 committees shall serve at no expense to the state. The
13 actual travel and per diem expenses incurred by each
14 member of a special committee shall be reimbursed by
15 the institution that is the subject of inspection or
16 investigation.

17 94774. (a) Any person, serving on a special
18 committee of the council pursuant to subdivision (i) of
19 Section 94773, a visiting team pursuant to Section 94901
20 or 94905, or any other peer review body impaneled by the
21 council and who provides information to the council or its
22 staff in the course and scope of evaluating any institution
23 subject to this chapter or who testifies at any
24 administrative hearing arising under this chapter, has the
25 same defenses and immunities to any action arising out of
26 information or testimony to the council which that person
27 would have if he or she were a public employee.

28 (b) An individual serving on a special committee of
29 the council or a visiting team who is subject to a claim or
30 action arising out of activities described in subdivision (a)
31 is entitled to defense and indemnification from the
32 council solely with respect to that claim or action
33 pursuant to Article 4 (commencing with Section 825) of
34 Chapter 1 of Part 2 of, and Part 7 (commencing with
35 Section 995) of, Division 3.6 of Title 1 of the Government
36 Code.

37 94775. Each member of the council shall receive a
38 stipend of one hundred dollars (\$100) for each day he or
39 she attends any meeting of the council, or any meeting of
40 any committee or subcommittee of the council of which



1 *he or she is a member, and which committee or*
2 *subcommittee meeting is conducted for the purpose of*
3 *carrying out the powers and duties of the council. A*
4 *council member may elect not to receive all or any*
5 *portion of this stipend. In addition, each member of the*
6 *council shall receive his or her actual and necessary*
7 *traveling expenses incurred in the course of his or her*
8 *duties. The payments in each instance shall be made only*
9 *from the fund from which the expenses of the council are*
10 *paid and shall be subject to the availability of funds. The*
11 *licensing fees of institutions shall not be increased for the*
12 *sole purpose of paying the stipend of the council*
13 *members.*

14 94776. (a) *The initial appointments to the council*
15 *became effective on July 1, 1990, and the length of the*
16 *terms of the initial appointments were the designated*
17 *number of years beginning with January 1, 1991. All*
18 *subsequent terms begin on January 1 of the year in which*
19 *the respective terms are to commence.*

20 (b) *The council shall adopt procedures for the*
21 *recruitment and appointment of a director and staff. All*
22 *expenses associated with the operation of the council shall*
23 *be charged to and paid for from the Private*
24 *Postsecondary and Vocational Education Administration*
25 *Fund.*

26 94777. *The director may purchase annuity contracts*
27 *for permanent employees of the council and shall reduce*
28 *the salaries of the employees for whom the contracts are*
29 *purchased by the amount of the costs of the contract if all*
30 *of the following conditions are met:*

31 (a) *The annuity contract is under an annuity plan that*
32 *meets the requirements of subdivision (b) of Section 403*
33 *of the Internal Revenue Code.*

34 (b) *The employee applies to the director for the*
35 *purchase of the contract and reduction of salary.*

36 (c) *All provisions of the Insurance Code and the*
37 *Government Code applicable to the purchase of this type*
38 *of annuity are satisfied.*

39 94778. *The council may utilize the resources of*
40 *accrediting associations in gathering information about*



1 accredited postsecondary and vocational institutions,
2 including participating as an observer on accreditation
3 site visits. However, this section does not preclude or
4 relieve the council of its responsibilities under this
5 chapter and the council shall retain full authority for
6 approving all private postsecondary and vocational
7 institutions operating in California.

8 94779. The council may adopt and enforce regulations
9 that are necessary, appropriate, or useful to interpret and
10 implement this chapter. Pending the adoption of formal
11 regulations, the council may adopt emergency
12 regulations that shall become effective immediately, and
13 that shall be superseded upon the adoption of formal
14 regulations. The adoption of the emergency regulations
15 shall be subject to Chapter 3.5 (commencing with Section
16 11340) of Part 1 of Division 3 of Title 2 of the Government
17 Code, and the emergency regulations shall only be
18 effective for 180 days.

19

20 Article 5. Classification Of Educational Programs
21 Offered By Postsecondary Institutions

22

23 94780. No institution, subject to this chapter, shall
24 offer any educational service unless the institution is first
25 approved by the council and meets all of the
26 requirements in the following articles:

27 (a) This article, Article 6 (commencing with Section
28 94800), Article 10 (commencing with Section 94932),
29 Article 11 (commencing with Section 94940), and Article
30 12 (commencing with Section 94944).

31 (b) Article 8 (commencing with Section 94900), if the
32 institution offers degrees.

33 (c) Article 9 (commencing with Section 94915), if the
34 institution does not offer degrees.

35 (d) Article 7 (commencing with Section 94850), if the
36 educational programs are not exempt under Section
37 94790.

38 94785. (a) Article 7 (commencing with Section
39 94850) does not apply to an institution during a calendar



1 year if both of the following conditions are satisfied
2 during that calendar year:

3 (1) The institution enrolls 100 or fewer students.

4 (2) No part of the charges for any educational service
5 offered by the institution is paid from the proceeds of a
6 loan or grant subject to a governmental student financial
7 aid program.

8 (b) If the conditions specified in subdivision (a) are
9 not satisfied for the entire calendar year, Article 7
10 (commencing with Section 94850) shall apply to all
11 students enrolled during that calendar year except to the
12 extent that the institution or its educational services are
13 otherwise exempt.

14 94787. Article 7 (commencing with Section 94850)
15 except Sections 94872 and 94873, applies to schools that
16 offer instruction in how to prepare for, take, and pass civil
17 service examinations or other tests qualifying a student
18 for employment by a governmental entity. For the
19 purpose of determining compliance with this article,
20 schools described in this section shall be considered
21 “institutions.”

22 94790. Except as otherwise provided in this section,
23 Article 7 (commencing with Section 94850) does not
24 apply to any of the following educational services:

25 (a) Educational services that consist exclusively of
26 degree-granting programs such as an AA (Associate of
27 Arts), AS (Associate of Science), BS (Bachelor of
28 Science), BA (Bachelor of Arts), MA (Master of Arts), MS
29 (Master of Science), Ph.D. (Doctor of Philosophy), or
30 professional doctorate degrees that are scheduled to be
31 completed in not less than 18 months. This exemption
32 does not apply to, nor does it include, any of the following:

33 (1) AOS (Occupational Associate degrees or Associate
34 of Occupational Studies degrees) or AAS (Associate of
35 Applied Science degrees).

36 (2) Any vocational diploma program.

37 (b) The educational service, as defined in subdivision
38 (b) of Section 94734, is offered as continuing education in
39 subjects that licensees are required to take as a condition
40 of continued licensure.



1 (c) *The educational service is offered exclusively to*
2 *assist students to prepare for an examination for entrance*
3 *into an undergraduate or graduate course of study at an*
4 *accredited or approved college or university.*

5 (d) *The educational service, as defined in subdivision*
6 *(a) of Section 94734, is offered exclusively to assist*
7 *students, who have obtained, or who are in the process of*
8 *obtaining, degrees after completing an undergraduate or*
9 *graduate course of study at a college or university, to*
10 *prepare for an examination for licensure in a recognized*
11 *profession, such as medicine, dentistry, accounting, or*
12 *law.*

13 (e) *The educational service is three or more academic*
14 *years, is scheduled to be completed in not less than 27*
15 *months, the institution does not admit students to the*
16 *educational service more than four times during a year,*
17 *and the institution confers a diploma upon the student's*
18 *completion of the educational service.*

19 (f) *The educational service offers training exclusively*
20 *in the fine arts or performing arts, such as training to be*
21 *an actor, dancer, author, vocal or instrumental musician,*
22 *painter, sculptor, or photographer; in body arts, such as*
23 *training in body piercing or massage; or in another similar*
24 *field as designated by the council.*

25 (g) *The educational service is more than 30 months in*
26 *length, and the total charge for the educational service is*
27 *payable by the student in equal monthly installments*
28 *over the entire length of the course, and the institution*
29 *does not receive, and the student is not obligated to pay,*
30 *an advance payment for more than one month.*

31 (h) *The educational service for all students enrolled is*
32 *entirely and exclusively offered pursuant to a contract*
33 *between the institution and a community college, a high*
34 *school, or an employer who has the responsibility for*
35 *applicable cost; and the students are not required to pay,*
36 *or are not liable to pay, any part of the total charge for the*
37 *educational service.*

38 (i) *The educational service consists exclusively of*
39 *intensive English program instruction.*



1 (j) *The educational service consists exclusively of*
2 *continuing education.*

3 94795. *It is the intent of the Legislature that if any*
4 *exception provided in this article is declared by a court to*
5 *be invalid for any reason, all of the provisions of Article*
6 *7 (commencing with Section 94850) shall apply to the*
7 *institutions, programs, or educational services that would*
8 *otherwise be subject to that exception.*

9

10 *Article 6. General Standards For All Postsecondary*
11 *Institutions Approved Under This Chapter*

12

13 94800. *All institutions approved under this chapter*
14 *shall be maintained and operated, or in the case of a new*
15 *institution, shall demonstrate that it will be maintained*
16 *and operated, in compliance with all of the following*
17 *minimum standards:*

18 (a) *That the institution is financially capable of*
19 *fulfilling its commitments to its students.*

20 (b) *That upon satisfactory completion of training, the*
21 *student is given an appropriate degree, diploma, or*
22 *certificate by the institution, indicating that the course or*
23 *courses of instruction or the program or programs of*
24 *instruction or study have been satisfactorily completed*
25 *by the student.*

26 (c) *That the institution provides instruction as part of*
27 *its educational program. Instruction shall include any*
28 *specific, formal arrangement by an institution for its*
29 *enrollees to participate in learning experiences wherein*
30 *the institution's faculty or contracted instructors present*
31 *a planned curriculum appropriate to the enrollee's*
32 *educational program.*

33 94802. (a) *Each institution desiring to operate in this*
34 *state shall make application to the council, upon forms to*
35 *be provided by the council. The application shall include,*
36 *as a minimum, at least all of the following:*

37 (1) *A catalog published, or proposed to be published,*
38 *by the institution containing the information specified in*
39 *the criteria adopted by the council. The catalog shall*
40 *include specific dates as to when the catalog applies.*



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

3 (3) Copies of media advertising and promotional
4 literature.

5 (4) Copies of all student enrollment agreement or
6 contract forms and instruments evidencing
7 indebtedness.

8 (5) The name and California address of a designated
9 agent upon whom any process, notice, or demand may be
10 served.

11 (6) The information specified in Section 94808.

12 (7) The institution's most current financial report as
13 described in Section 94806.

14 (b) Each application shall be signed and certified
15 under oath by the owners of the school or, if the school is
16 incorporated, by the principal owners of the school (those
17 who own at least 10 percent of the stock), or by the
18 corporate officers or their designee.

19 (c) Following review of the application and any other
20 further information submitted by the applicant, or
21 required in conformity with Article 8 (commencing with
22 Section 94900) and Article 9 (commencing with Section
23 94915), and any investigation of the applicant as the
24 council deems necessary or appropriate, the council
25 either shall grant or deny approval to operate to the
26 applicant.

27 94804. (a) The review of a private postsecondary
28 educational institution's original application for approval,
29 or a renewal application to the council, or an approved
30 institution already in operation, shall include a
31 determination of the institution's financial responsibility.
32 An institution shall be considered financially responsible
33 if it has sufficient assets to do all of the following:

34 (1) Provide the educational services stated in its
35 official publications and statements.

36 (2) Comply with the standards and requirements
37 specified in Article 8 (commencing with Section 94900)
38 or Article 9 (commencing with Section 94915).

39 (3) Provide the administrative and financial resources
40 to fully comply with this article.



1 (4) Comply with any applicable provisions of Section
2 94855.

3 (b) An institution shall not be considered financially
4 responsible under any of the following conditions:

5 (1) The institution, under generally accepted
6 accounting principles, has had operating losses in, at a
7 minimum, the two most recent years.

8 (2) Under generally accepted accounting principles,
9 the institution had, at the end of its latest fiscal year, a
10 ratio of current assets to current liabilities of less than 1.25
11 to 1. For the purpose of this paragraph, "current assets"
12 does not include any of the following: (A) intangible
13 assets, including goodwill, going concern value,
14 organization expense, startup costs, long-term
15 prepayment of deferred charges, and nonreturnable
16 deposits, or (B) state or federal grant funds that are not
17 the property of the institution but are held for future
18 disbursement for the benefit of students. Unearned
19 tuition shall be accounted for in accordance with
20 generally accepted accounting principles.

21 (3) Under a fund accounting system, the institution's
22 unrestricted current or operating fund reflects sustained
23 material deficits over at least its two most recent fiscal
24 years.

25 (4) The institution is not in compliance either with
26 statutes or the regulations adopted by the council relating
27 to the requirements for maintaining sufficient funds to
28 cover all operating expenses.

29 (c) (1) In determining an institution's compliance
30 with subdivision (a), the council, at the institution's
31 request, may consider the financial resources of a parent
32 corporation if the parent corporation files with the
33 council, and at all times complies with, an irrevocable and
34 unconditional agreement approved by its board of
35 directors that satisfies all of the requirements of
36 paragraph (2):

37 (2) The agreement described in paragraph (1) shall
38 provide that the parent corporation do all of the
39 following:

40 (A) Consent to be sued in California.



1 (B) Consent to be subject to the administrative
2 jurisdiction of the council and the Student Aid
3 Commission in connection with the institution's
4 compliance with this chapter.

5 (C) Appoint an agent for service of process in
6 California and all notices required by this chapter.

7 (D) Agree to pay any refund, claim, penalty, or
8 judgment that the institution is obligated to pay.

9 (E) File financial reports, maintain financial records,
10 and permit the inspection and copying of financial
11 records to the same extent as is required of the institution.

12 (3) For the purposes of this subdivision, a "parent
13 corporation" means a corporation that owns more than 80
14 percent of the stock of the institution whose financial
15 resources are at issue.

16 (d) If the council determines that an institution is not
17 financially responsible, the council, under terms and
18 conditions prescribed by the council, may require the
19 institution to submit for its latest complete fiscal year and
20 its current fiscal year, each of the following:

21 (1) A financial audit of the institution conducted by a
22 licensed certified public accountant, in accordance with
23 generally accepted auditing standards.

24 (2) The institution's financial plan for establishing
25 financial responsibility.

26 (3) Any other information requested by the council.

27 This subdivision does not prevent the council from
28 taking any other actions authorized under this chapter.

29 94806. (a) This section applies to every audit, review,
30 and statement prepared by an independent accountant
31 and to every financial report required to be prepared or
32 filed by this chapter.

33 (b) Institutional audits and reviews of financial data,
34 including the preparation of financial statements, shall
35 comply with all of the following:

36 (1) An institution that collected five hundred
37 thousand dollars (\$500,000) or more in total student
38 charges in its preceding fiscal year shall file financial
39 reports prepared in accordance with generally accepted
40 accounting principles established by the American



1 *Institute of Certified Public Accountants, and audited or*
2 *reviewed by an independent certified public accountant*
3 *who is not an employee, officer, or corporate director or*
4 *member of the governing board of the institution.*

5 (2) *An institution that collected less than five hundred*
6 *thousand dollars (\$500,000) in total student charges in its*
7 *preceding fiscal year shall file financial reports prepared*
8 *in accordance with generally accepted accounting*
9 *principles established by the American Institute of*
10 *Certified Public Accountants. These financial reports*
11 *may be prepared by an individual with sufficient training*
12 *to adhere to the required accounting principles.*

13 (3) *Financial reports prepared on an annual basis shall*
14 *include a balance sheet, statement of operations,*
15 *statement of cash flow, and statement of retained*
16 *earnings or capital. Nonprofit institutions shall provide*
17 *this information in the manner required under generally*
18 *accepted accounting principles for nonprofit*
19 *organizations.*

20 (4) *The financial report shall establish whether the*
21 *institution complies with subdivision (a) of Section 94804*
22 *or subdivision (a) of Section 94855, if applicable, and*
23 *whether any of the circumstances described in*
24 *subdivision (b) of Section 94804 or subdivision (b) of*
25 *Section 94855, if applicable, exist.*

26 (5) *If an audit that is performed to determine*
27 *compliance with any federal or state student financial aid*
28 *program reveals any failure to comply with the*
29 *requirements of the program, and the noncompliance*
30 *creates any liability or potential liability for the*
31 *institution, the financial report shall reflect the liability or*
32 *potential liability.*

33 (6) *Work papers for the financial statements shall be*
34 *retained for five years from the date of the reports and*
35 *shall be made available to the council upon request after*
36 *completion of the report.*

37 (c) *Any audits shall be conducted in accordance with*
38 *generally accepted auditing standards and shall include*
39 *the matters described in subdivision (d).*



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

5 94808. (a) Each institution approved to operate under
6 this chapter shall be required to report to the council, by
7 July 1 of each year, or another date designated by the
8 council, the following information for educational
9 programs offered in the prior fiscal year:

10 (1) The total number of students enrolled, by level of
11 degree or type of diploma program.

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

14 (3) The degree levels offered.

15 (4) Program completion rates.

16 (5) The schedule of tuition and fees required for each
17 term, program, course of instruction, or degree offered.

18 (6) Financial information demonstrating compliance
19 with subdivisions (b) and (c) of Section 94804 and
20 subdivisions (b) and (c) of Section 94855, if applicable.

21 (7) Institutions having a probationary or conditional
22 status shall submit an annual report reviewing their
23 progress in meeting the standards required for approval
24 status.

25 (8) Any additional information that the council may
26 prescribe.

27 (b) Colleges and universities operating under
28 paragraph (6) of subdivision (b) of Section 94739 shall
29 comply with the reporting requirements of paragraphs
30 (1), (2), (3), and (5) of subdivision (a).

31 (c) Program completion rates and placement data
32 shall be reported in accordance with the standards and
33 criteria prescribed by the council pursuant to paragraphs
34 (1) to (4), inclusive, of subdivision (a) of Section 94816
35 and Section 94859, if applicable. Based on the review of
36 information submitted to fulfill the requirements of this
37 section, the council may initiate a compliance review and
38 may place the institution on probation pursuant to
39 subdivision (h) of Section 94901 and subdivision (i) of
40 Section 94915, and may require evidence of financial



1 *stability and responsibility pursuant to Sections 94804 and*
2 *94855, if applicable.*

3 *94810. (a) Any written contract or agreement for*
4 *educational services with an institution shall include all of*
5 *the following:*

6 *(1) On the first page of the agreement or contract, in*
7 *12-point boldface print or larger, the following statement:*

8 *“Any questions or problems concerning this school*
9 *which have not been satisfactorily answered or resolved*
10 *by the school should be directed to the Council for Private*
11 *Postsecondary and Vocational Education, (address),*
12 *Sacramento, California 95814.”*

13 *(2) In underlined capital letters on the same page of*
14 *the contract or agreement in which the student’s*
15 *signature is required, the total amount that the student is*
16 *obligated to pay for the course of instruction and all other*
17 *services and facilities furnished or made available to the*
18 *student by the school, including any charges made by the*
19 *school for tuition, room and board, books, materials,*
20 *supplies, shop and studio fees, and any other fees and*
21 *expenses that the student will incur upon enrollment.*

22 *(3) A list of any charges and deposits that are*
23 *nonrefundable clearly identified as nonrefundable*
24 *charges.*

25 *(4) The name and address of the school and the*
26 *addresses where instruction will be provided.*

27 *(5) The name and description of the program of*
28 *instruction, including the total number of credits, classes,*
29 *hours, or lessons required to complete the program of*
30 *instruction.*

31 *(6) A clear and conspicuous statement that the*
32 *agreement or contract is a legally binding instrument*
33 *when signed by the student and accepted by the school.*

34 *(7) A clear and conspicuous caption, “BUYER’S*
35 *RIGHT TO CANCEL” under which it is explained that*
36 *the student has the right to cancel the enrollment*
37 *agreement and obtain a refund, the form and means of*
38 *notice that the student should use in the event that he or*
39 *she elects to cancel the enrollment agreement, and the*



1 title and address of the school official to whom the notice
2 should be sent or delivered.

3 (8) A clear statement of the refund policy written in
4 plain English.

5 (9) The signature of the student under the following
6 statement that is presented in 12-point boldface or larger
7 print: “My signature below certifies that I have read,
8 understood, and agreed to my rights and responsibilities,
9 and that the institution’s cancellation and refund policies
10 have been clearly explained to me.”

11 (10) If the student is not a resident of California, a clear
12 statement that the student is not eligible for protection
13 under and recovery from the Student Tuition Recovery
14 Fund.

15 (b) All contracts and enrollment agreements signed
16 by the student shall be written in language that is capable
17 of being easily understood. If English is not the primary
18 language spoken by the student, the student shall have
19 the right to obtain a clear explanation of the terms and
20 conditions of the agreement and all cancellation and
21 refund policies in his or her primary language.

22 94812. Any written contract or agreement signed by
23 a prospective student shall not become operative until
24 the student attends the first class or session of instruction.

25 94814. (a) The institution shall provide to students
26 and other interested persons, prior to enrollment, a
27 catalog or brochure containing at a minimum the
28 following information:

29 (1) Descriptions of the instruction provided under
30 each course offered by the institution including the
31 length of programs offered.

32 (2) The number of credit hours or clock hours of
33 instruction or training per unit or units required for
34 completion of the educational degree or certificate
35 program.

36 (3) The attendance, dropout, and leave-of-absence
37 policies.

38 (4) The faculty and their qualifications.



1 (5) *The schedule of tuition payments, fees, and all*
2 *other charges and expenses necessary for the term of*
3 *instruction and the completion of the course of study.*

4 (6) *The cancellation and refund policies.*

5 (7) *For institutions that participate in federal and state*
6 *financial aid programs, all consumer information that the*
7 *institution is required to disclose to the student.*

8 (8) *All other material facts concerning the institution*
9 *and the program or course of instruction that are*
10 *reasonably likely to affect the decision of the student to*
11 *enroll, as prescribed by rules and regulations adopted by*
12 *the council.*

13 (b) *No written contract signed by the student shall be*
14 *enforceable unless the information specified in*
15 *subdivision (a) has been disclosed to the student.*

16 94816. (a) *Each institution offering a degree or*
17 *diploma program designed to prepare students for a*
18 *particular vocational, trade, or career field shall provide*
19 *to each prospective student a school performance fact*
20 *sheet disclosing all of the following information:*

21 (1) *The number and percentage of students who*
22 *begin the institution's program and successfully complete*
23 *the entire program. The rate shall be calculated by*
24 *determining the percentage of students enrolled in the*
25 *program who were originally scheduled, at the time of*
26 *enrollment, to complete the program in that calendar*
27 *year and who successfully completed the program.*

28 (2) *The passage rates of graduates in the program for*
29 *the most recent calendar year that ended not less than six*
30 *months prior to the date of disclosure on any licensure or*
31 *certificate examination required by the state for*
32 *employment in the particular vocational, trade, or career*
33 *field and for any licensing preparation examination as*
34 *required under subdivision (a) of Section 94734 for which*
35 *data is available.*

36 (3) *The number and percentage of students who*
37 *begin the program and secure employment in the field*
38 *for which they were trained. In calculating this rate, the*
39 *institution shall consider as not having obtained*
40 *employment, any graduate for whom the institution does*



1 not possess evidence, documented in his or her file,
2 showing that he or she has obtained employment in the
3 occupation for which the program is offered.

4 (4) The average annual starting wages or salary of
5 graduates of the institution's program, if the institution
6 makes a claim to prospective students regarding the
7 starting salaries of its graduates, or the starting salaries or
8 local availability of jobs in a field. The institution shall
9 disclose to the prospective student the objective sources
10 of information necessary to substantiate the truthfulness
11 of the claim.

12 Each school that offers or advertises placement
13 assistance for any course of instruction shall file with the
14 council its placement statistics for the 12-month period or
15 calendar year immediately preceding the date of the
16 school's application for annual review for every course of
17 instruction.

18 The council shall develop standards and criteria to be
19 used by each institution in determining the statistical
20 information required by this paragraph.

21 (b) The council shall take into consideration the
22 character of the educational program in determining
23 whether specific programs may be excluded from
24 application of this section.

25 (c) This section does not apply to educational
26 programs subject to Article 7 (commencing with Section
27 94850).

28 94818. (a) Every institution shall designate and
29 maintain an agent for service of process within this state
30 and provide the name, address, and telephone number of
31 the agent to the council. The council shall furnish the
32 agent's name, address, and telephone number to any
33 person upon request.

34 (b) If an institution is not operating in California when
35 it applies for approval to operate, the institution shall set
36 forth the name, address, and telephone number of its
37 agent for service of process in the institution's
38 application.

39 (c) If an institution fails to designate or maintain an
40 agent for service of process pursuant to subdivision (a)

1 and if service on the institution cannot reasonably be
2 effected in the manner provided in Section 415.10, 415.20,
3 415.30, or 415.40 of the Code of Civil Procedure, the
4 institution may be served by leaving a copy of the process
5 or any other document in an office of the council and by
6 sending, by first-class mail, a notice of the service upon
7 the council and a copy of the process or other document
8 to the institution at its last address on file with the council.
9 Service in this manner shall be deemed complete on the
10 10th day after that mailing to the institution. Proof of
11 service may be made by a declaration showing
12 compliance with this subdivision.

13 94820. (a) The institution shall have and maintain
14 the policy set forth in this article for the refund of the
15 unused portion of tuition fees and other charges if the
16 student does not register for the period of attendance or
17 withdraws therefrom at any time prior to completion of
18 the courses, or otherwise fails to complete the period of
19 enrollment. The institutional refund policy for students
20 who have completed 60 percent or less of the course of
21 instruction shall be a pro rata refund.

22 (b) Except as provided in subdivision (c), the refund
23 shall be calculated as follows:

24 (1) Deduct a registration fee not to exceed one
25 hundred dollars (\$100) from the total tuition charge.

26 (2) Divide this figure by the number of hours in the
27 program.

28 (3) The quotient is the hourly charge for the program.

29 (4) The amount owed by the student for the purposes
30 of calculating a refund is derived by multiplying the total
31 hours attended by the hourly charge for instruction.

32 (5) The refund shall be any amount in excess of the
33 figure derived in paragraph (4) that was paid by the
34 student.

35 (c) For an educational service offered by distance
36 learning, home study, or correspondence, the refund
37 shall be calculated as follows:

38 (1) Deduct a registration fee not to exceed one
39 hundred (\$100) from the total tuition charge.



1 (2) Divide this figure by the number of lessons in the
2 program.

3 (3) The quotient is the per-lesson charge.

4 (4) The amount owed by the student for the purposes
5 of calculating a refund is derived by multiplying the total
6 number of lessons completed by the per-lesson charge
7 calculated in paragraph (3).

8 (5) The refund shall be any amount in excess of the
9 figure derived in paragraph (4) that was paid by the
10 student.

11 94821. Institutions offering distance learning, home
12 study, or correspondence instruction may petition the
13 council for an alternative method of calculating tuition
14 refunds if they can demonstrate all of the following:

15 (a) The method of calculation set forth in subdivision
16 (c) of Section 94820 cannot be utilized.

17 (b) The proposed alternative method will result in the
18 calculation of a refund that is monetarily equivalent to or
19 greater than the results achieved by the pro rata
20 calculations described in this subdivision.

21 94822. Institutions, for all students, without penalty or
22 obligation, shall refund 100 percent of the amount paid
23 for institutional charges, less a reasonable deposit or
24 application fee not to exceed one hundred dollars (\$100),
25 if notice of cancellation is made prior to or on the first day
26 of instruction. If the first lesson in a home study or
27 correspondence course is sent to the student by mail, the
28 institution shall send it by first-class mail, postage prepaid,
29 documented by a certificate of mailing, and the student
30 shall have the right to cancel until midnight of the eighth
31 business day after the first lesson was mailed. The
32 institution shall advise each student that any notification
33 of withdrawal or cancellation and any request for a refund
34 is required to be made in writing.

35 94823. The institution shall provide a written
36 statement containing its refund policy, together with
37 examples of the application of the policy, to each student
38 prior to signing the enrollment contract, and shall make
39 its policy known to currently enrolled students.



1 94824. *The institution shall pay or credit refunds due*
2 *on a reasonable or timely basis, not to exceed 30 days*
3 *following the date upon which the student's withdrawal*
4 *has been determined.*

5 94825. *The institution shall publish a current schedule*
6 *of all student charges, a statement of the purpose for those*
7 *charges, and a statement of the cancellation and refund*
8 *policies with examples of the application of the policies,*
9 *and shall provide the schedule to all current and*
10 *prospective students prior to enrollment. The schedule*
11 *shall clearly indicate and differentiate all mandatory and*
12 *optional student charges. The institution shall include a*
13 *clear statement written in English describing the*
14 *procedures that a student is required to follow to cancel*
15 *the contract or agreement and obtain a refund. If the*
16 *institution solicited the student or negotiated the*
17 *agreement in a language other than English, the notice*
18 *to the student shall be in that same language. The*
19 *schedule shall specify the total costs of attendance which*
20 *shall include, but not be limited to, tuition, fees,*
21 *equipment costs, housing, transportation, books,*
22 *necessary supplies, materials, shop and studio fees, and*
23 *any other fees and expenses that the student will incur*
24 *upon enrollment.*

25 *The schedule shall clearly identify all charges and*
26 *deposits that are nonrefundable.*

27 94826. *Where the refund calculations set forth in this*
28 *article cannot be utilized because of the unique way in*
29 *which an educational program is structured, the council*
30 *shall determine the details of an alternative refund policy,*
31 *by regulation, and shall take into consideration the*
32 *contract for educational services entered into with the*
33 *student, as well as the length and character of the*
34 *educational program in determining standards for*
35 *refunds. The decision of the council shall be final. This*
36 *section does not apply to the refunds subject to Sections*
37 *94869 and 94870.*

38 94827. (a) *In lieu of Sections 94820 to 94826, inclusive,*
39 *or Section 94870, an institution may determine the*
40 *amount of the refund due after a student's withdrawal*



1 *pursuant to Section 1091b(b)(3) of Title 20 of the United*
2 *States Code, but only if both of the following occurs:*

3 *(1) All or a portion of the student's obligation to the*
4 *institution is to be paid through a student financial*
5 *assistance program subject to Section 1091b of Title 20 of*
6 *the United States Code.*

7 *(2) The student's total liability remaining after*
8 *withdrawal to any person or governmental entity in*
9 *connection with the educational service is less than the*
10 *liability would be if the refund were determined under*
11 *Sections 94820 to 94826, inclusive, or Section 94870,*
12 *whichever applies.*

13 *(b) This section shall remain in effect only until*
14 *January 1, 1998, and as of that date is repealed, unless a*
15 *later enacted statute, which becomes effective on or*
16 *before January 1, 1998, deletes or extends that date.*

17 *94828. In addition to withholding institutional*
18 *services as described in Section 94948, an institution may*
19 *withhold a student's transcript or grades if the student is*
20 *in default on a student tuition contract.*

21 *If the student has made partial payment of his or her*
22 *tuition obligation, the institution may only withhold that*
23 *portion of the grades or transcript that corresponds on a*
24 *pro rata basis to the amount of tuition or loan obligation*
25 *the student has not paid. If the course of study consists of*
26 *only one course, the institution may withhold the grades*
27 *or the transcript until the tuition or loan obligation is paid*
28 *in full.*

29 *94829. (a) Adequate and accurate records shall be*
30 *maintained by the institution, in accordance with*
31 *regulations adopted by the council, and satisfactory*
32 *standards shall be enforced relating to attendance,*
33 *progress, and performance.*

34 *(b) The institution shall maintain current records for*
35 *a period of not less than five years at its principal place of*
36 *business in California, that are immediately available*
37 *during normal business hours for inspection and copying*
38 *by the council or the Attorney General and showing all*
39 *of the following:*

1 (1) *The name and addresses, both local and home, of*
 2 *each of its students.*

3 (2) *The programs of study offered by the institution.*

4 (3) *The names and addresses of its faculty, together*
 5 *with a record of the educational qualifications of each.*

6 (4) *The degrees or diplomas and honorary degrees*
 7 *and diplomas granted, the date of granting, together with*
 8 *the curricula upon which the diplomas and degrees were*
 9 *based.*

10 94830. *The council may refuse to issue or renew any*
 11 *private postsecondary or vocational educational*
 12 *institution's approval to operate, or may revoke any*
 13 *approval to operate for any one, or any combination, of*
 14 *the following causes:*

15 (a) *A violation of this chapter, or any standard, rule, or*
 16 *regulation established under this chapter or by order of*
 17 *the council.*

18 (b) *Furnishing false, misleading, or incomplete*
 19 *information to the council, or the failure to furnish*
 20 *information requested by the council or required by this*
 21 *chapter.*

22 (c) *A finding that an owner, a person in control, a*
 23 *director, or an officer of an institution is not in compliance*
 24 *with Section 94804, or Sections 94855 and 94857, if*
 25 *applicable.*

26 (d) *A finding that a signatory to an application for an*
 27 *approval to operate was responsible for the closure of any*
 28 *institution in which there were unpaid liabilities to the*
 29 *state or federal government, or uncompensated*
 30 *pecuniary losses suffered by students without restitution.*

31 (e) *A finding that the applicant, owner, or persons in*
 32 *control have been found previously in any judicial or*
 33 *administrative procedure to have violated this chapter or*
 34 *admitted to having violated this chapter.*

35 (f) *A finding that there was either a denial of a*
 36 *previous application submitted by the same institution to*
 37 *the council or a revocation of the institution's approval*
 38 *and that the conditions or violations that were the cause*
 39 *of the denial or revocation have not been corrected.*



1 (g) *The failure of the institution to maintain the*
2 *minimum educational standards prescribed by this*
3 *chapter, or to maintain standards that are the same as, or*
4 *substantially equivalent to, those represented in the*
5 *school's applications and advertising.*

6 (h) *Presenting to prospective students information*
7 *that is false or misleading relating to the school, to*
8 *employment opportunities, or to enrollment*
9 *opportunities in institutions of higher learning after*
10 *entering into or completing courses offered by the school.*

11 (i) *The failure to maintain financial resources*
12 *adequate for the satisfactory conduct of the courses of*
13 *instruction offered as required by statute.*

14 (j) *The failure to provide timely and correct refunds*
15 *to students.*

16 (k) *Paying a commission or valuable consideration to*
17 *any persons for acts or services in violation of this chapter.*

18 (l) *Attempting to confer a degree, diploma, or*
19 *certificate to any student in violation of this chapter.*

20 (m) *Misrepresenting to any students or prospective*
21 *students that they are qualified, upon completion of any*
22 *course, for admission to professional examination under*
23 *any state occupational licensing provision.*

24 (n) *The failure to correct any deficiency or act of*
25 *noncompliance under this chapter, or the standards,*
26 *rules, regulations, and orders established and adopted*
27 *under this chapter within reasonable time limits set by*
28 *the council.*

29 (o) *The conducting of business or instructional*
30 *services at any location not approved by the council.*

31 (p) *Failure on the part of an institution to comply with*
32 *provisions of law or regulations governing sanitary*
33 *conditions of that institution specified in Division 2*
34 *(commencing with Section 500) and Division 3*
35 *(commencing with Section 5000) of the Business and*
36 *Professions Code.*

37 94831. *No institution, or representative of that*
38 *institution shall do any of the following:*

39 (a) *Operate in this state a postsecondary educational*
40 *institution not exempted from this chapter, unless the*



1 institution is currently approved to operate pursuant to
2 this chapter.

3 (b) Offer in this state, as or through an agent,
4 enrollment or instruction in, or the granting of
5 educational credentials from, an institution not exempted
6 from this chapter, whether that institution is within or
7 outside this state, unless that agent is a natural person and
8 has a currently valid agent's permit issued pursuant to this
9 chapter, or accept contracts or enrollment applications
10 from an agent who does not have a current permit as
11 required by this chapter. The council, however, may
12 adopt regulations to permit the rendering of legitimate
13 public information services without a permit.

14 (c) Instruct or educate, or offer to instruct or educate,
15 including soliciting for those purposes, enroll or offer to
16 enroll, contract or offer to contract with any person for
17 that purpose, or award any educational credential, or
18 contract with any institution or party to perform any act,
19 in this state, whether that person, agent, group, or entity
20 is located within or without this state, unless that person,
21 agent, group, or entity observes and is in compliance with
22 the minimum standards set forth in this article and Article
23 7 (commencing with Section 94850), if it is applicable, the
24 criteria established by the council pursuant to subdivision
25 (b) of Section 94773, and the regulations adopted by the
26 council pursuant to subdivision (c) of Section 94773.

27 (d) Use, or allow the use of, any reproduction or
28 facsimile of the Great Seal of the State of California on any
29 diploma.

30 (e) Promise or guarantee employment.

31 (f) Advertise concerning job availability, degree of
32 skill and length of time required to learn a trade or skill
33 unless the information is accurate and in no way
34 misleading.

35 (g) Advertise, or indicate in any promotional material,
36 that correspondence instruction, or correspondence
37 courses of study are offered without including in all
38 advertising or promotional material the fact that the
39 instruction or programs of study are offered by
40 correspondence or home study.



1 (h) Advertise, or indicate in any promotional material,
2 that resident instruction, or programs of study are offered
3 without including in all advertising or promotional
4 material the location where the training is given or the
5 location of the resident instruction.

6 (i) Solicit students for enrollment by causing any
7 advertisement to be published in “help wanted” columns
8 in any magazine, newspaper, or publication or use
9 “blind” advertising that fails to identify the school or
10 institution.

11 (j) Advertise, or indicate in any promotional material,
12 that the institution is accredited, unless the institution has
13 been recognized or approved as meeting the standards
14 established by an accrediting agency recognized by the
15 United States Department of Education or the
16 Committee of Bar Examiners for the State of California.

17 (k) Fail to comply with federal requirements relating
18 to the disclosure of information to students regarding
19 vocational and career training programs, as described in
20 Section 94816.

21 94832. (a) No institution or representative of an
22 institution shall make or cause to be made any statement
23 that is in any manner untrue or misleading, either by
24 actual statement, omission, or intimation.

25 (b) No institution or representative of an institution
26 shall engage in any false, deceptive, misleading, or unfair
27 act in connection with any matter, including the
28 institution’s advertising and promotion, the recruitment
29 of students for enrollment in the institution, the offer or
30 sale of a program of instruction, course length, course
31 credits, the withholding of equipment, educational
32 materials, or loan or grant funds from a student, training
33 and instruction, the collection of payments, or job
34 placement.

35 (c) An institution is liable in any civil or administrative
36 action or proceeding for any violation of this article
37 committed by a representative of the institution. An
38 institution is liable in a criminal action for violations of this
39 article committed by a representative of the institution to
40 the extent permitted by law.



1 (d) (1) No institution or representative of an
2 institution shall induce a person to enter into an
3 agreement for a program of instruction by offering to
4 compensate that person to act as the institution's
5 representative in the solicitation, referral, or recruitment
6 of others for enrollment in the institution.

7 (2) No institution or representative of an institution
8 shall offer to pay or pay any consideration to a student or
9 prospective student to act as a representative of the
10 institution with regard to the solicitation, referral, or
11 recruitment of any person for enrollment in the
12 institution in either of the following:

13 (A) During the 60-day period following the date on
14 which the student began the program.

15 (B) At any subsequent time, if the student has not
16 maintained satisfactory academic progress in acquiring
17 the necessary level of education, training, skill, and
18 experience to obtain employment in the occupation or
19 job title to which the program is represented to lead. The
20 institution shall have the burden of proof to establish that
21 the student has maintained satisfactory academic
22 progress.

23 (e) No institution shall compensate a representative
24 involved in recruitment, enrollment, admissions, student
25 attendance, or sales of equipment to students on the basis
26 of a commission, commission draw, bonus, quota, or other
27 similar method except as follows:

28 (1) If the program of instruction is scheduled to be
29 completed in 90 days or less, the institution shall pay
30 compensation related to a particular student only if that
31 student completes the course.

32 (2) If the program of instruction is scheduled to be
33 completed in more than 90 days, the institution shall pay
34 compensation related to a particular student as follows:

35 (A) No compensation shall be paid for at least 90 days
36 after that student has begun the program.

37 (B) Up to one-half of the compensation may be paid
38 before the student completes the program only if the
39 student has made satisfactory academic progress,



1 *documented by the institution in the student's file, for*
2 *more than 90 days.*

3 *(C) The remainder of the compensation shall be paid*
4 *only after the student's completion of the program. This*
5 *subdivision shall not prevent the payment at any time of*
6 *an hourly, weekly, monthly, or annual wage or salary.*

7 *(f) No institution or representative of an institution*
8 *shall pay any consideration to a person to induce that*
9 *person to sign an agreement for a program of instruction.*

10 *(g) No institution shall use a misleading name in any*
11 *manner implying any of the following:*

12 *(1) The institution is affiliated with any governmental*
13 *agency, public or private corporation, agency, or*
14 *association.*

15 *(2) The institution is a public institution.*

16 *(3) The institution grants degrees.*

17 *(h) (1) No institution or any representative of an*
18 *institution shall in any manner make any untrue or*
19 *misleading change in, or untrue or misleading statement*
20 *related to, any test score, grade, record of grades,*
21 *attendance record, record indicating student completion*
22 *or employment, financial information, including any of*
23 *the following:*

24 *(A) Any financial report required to be filed pursuant*
25 *to Sections 94804 to 94808, inclusive.*

26 *(B) Any information or record relating to the student's*
27 *eligibility for financial assistance or attendance at the*
28 *institution.*

29 *(C) Any other record or document required by this*
30 *chapter or by the council.*

31 *(2) No institution or any representative of an*
32 *institution shall falsify, destroy, or conceal any record or*
33 *other item described in paragraph (1) while that record*
34 *or item is required to be maintained by this chapter or by*
35 *the council.*

36 *(i) No institution or representative of an institution*
37 *shall use the terms "approval," "approved," "approval to*
38 *operate," or "approved to operate" without stating*
39 *clearly and conspicuously that approval to operate means*
40 *compliance with minimum state standards and does not*



1 *imply any endorsement or recommendation by the state*
2 *or by the council. If the council has granted an institution*
3 *approval to operate, the institution or its representative*
4 *may indicate that the institution is “licensed” or “licensed*
5 *to operate” but may not state or imply any of the*
6 *following:*

7 *(1) The institution or its programs of instruction are*
8 *endorsed or recommended by the state or by the council.*

9 *(2) The council’s grant to the institution of approval to*
10 *operate indicates that the institution exceeds minimum*
11 *state standards.*

12 *(3) The council or the state endorses or recommends*
13 *the institution.*

14 *(j) No institution offering programs or courses of*
15 *instruction represented to lead to occupations or job titles*
16 *requiring licensure shall enter into an agreement for a*
17 *course of instruction with a person whom the institution*
18 *knows or, by the exercise of reasonable care, should know,*
19 *would be ineligible to obtain licensure in the occupation*
20 *or job title to which the course of instruction is*
21 *represented to lead, at the time of the scheduled date of*
22 *course completion, for reasons such as age, physical*
23 *characteristics, or relevant past criminal conviction.*

24 *(k) No institution shall divide or structure a program*
25 *of instruction or educational service to avoid the*
26 *application of any provision of Article 7 (commencing*
27 *with Section 94850).*

28 *(l) No institution or representative of an institution*
29 *shall direct a representative to perform any unlawful act,*
30 *to refrain from complaining or reporting unlawful*
31 *conduct to the council or another government agency, or*
32 *to engage in any unfair act to persuade a student not to*
33 *complain to the council or another government agency.*

34 *94834. (a) Any person or business entity, regardless*
35 *of the form of organization that willfully violates Section*
36 *94800, Sections 94810 to 94826, inclusive, or Section 94828,*
37 *94829, 94831, or 94832 is guilty of a crime and shall be*
38 *subject to separate punishment for each violation either*
39 *by imprisonment in a county jail not to exceed one year,*
40 *by a fine not to exceed ten thousand dollars (\$10,000), or*



1 *by both that imprisonment and fine; or by imprisonment*
2 *in the state prison, by a fine not to exceed fifty thousand*
3 *dollars (\$50,000), or by both that imprisonment and fine.*

4 *(b) Notwithstanding any other law, any prosecution*
5 *under this section shall be commenced within three years*
6 *of the discovery of the facts constituting grounds for*
7 *commencing the prosecution.*

8 *(c) The penalties provided by this section supplement,*
9 *but do not supplant, the remedies and penalties provided*
10 *under other law.*

11 94835. *(a) The council shall review and investigate*
12 *all institutions, programs, and courses of instruction*
13 *approved under this chapter. Consideration in the*
14 *scheduling of reviews and investigations shall be afforded*
15 *to student complaints and information collected by the*
16 *Attorney General, the Student Aid Commission, any*
17 *board within the Department of Consumer Affairs, or any*
18 *other federal, state, or local agency.*

19 *(b) The approval to operate shall be issued to the*
20 *owners or the governing body of the applicant institution,*
21 *and shall be nontransferrable. Any person that makes a*
22 *proper application and complies with this chapter and*
23 *each standard and regulation pertaining to this chapter*
24 *shall be qualified to receive an approval to operate or an*
25 *approval of the transfer of ownership.*

26 94836. *(a) If there is reasonable cause to believe that*
27 *there has been a violation by a private postsecondary*
28 *educational institution of the standards prescribed by this*
29 *chapter, the council shall conduct an investigation of the*
30 *institution.*

31 *(b) Within a reasonable time after the*
32 *commencement of the investigation required in*
33 *subdivision (a), the council shall conclude its*
34 *investigation and take action against the institution*
35 *involved, as appropriate.*

36 94838. *(a) No note, other instrument of*
37 *indebtedness, or contract relating to payment for*
38 *educational services shall be enforceable by any*
39 *institution within or outside this state governed by this*
40 *chapter unless at the time of execution of that note, other*



1 *instrument of indebtedness, or contract, the institution*
2 *has a valid approval to operate pursuant to this chapter.*

3 (b) *No note, other instrument of indebtedness, or*
4 *contract relating to payment for educational services*
5 *shall be enforceable by any institution within or outside*
6 *this state governed by this chapter unless the agent, who*
7 *enrolled persons to whom educational services were to be*
8 *rendered or to whom degrees or diplomas were to be*
9 *granted pursuant to this chapter, held a valid agent's*
10 *permit at the time of execution of the note, other*
11 *instrument of indebtedness, or contract.*

12 (c) *Any school or institution governed by this chapter*
13 *extending credit or lending money to any person for*
14 *tuition, fees, or any charges whatever for educational*
15 *services to be rendered or furnished shall cause any note,*
16 *instrument, or other evidence of indebtedness taken in*
17 *connection with that loan or extension of that credit to be*
18 *conspicuously marked on the face thereof with the*
19 *following notice:*

20
21 "NOTICE

22
23 ANY HOLDER OF THIS CONSUMER CREDIT
24 CONTRACT IS SUBJECT TO ALL CLAIMS AND
25 DEFENSE WHICH THE DEBTOR COULD ASSERT
26 AGAINST THE SELLER OF GOODS OR SERVICES
27 OBTAINED PURSUANT HERETO OR WITH THE
28 PROCEEDS HEREOF, RECOVERY HEREUNDER BY
29 THE DEBTOR SHALL NOT EXCEED AMOUNTS
30 PAID BY THE DEBTOR HEREUNDER."
31

32 *In the event the school or institution fails to do so, it*
33 *shall be liable for any damage or loss suffered or incurred*
34 *by any subsequent assignee, transferee, or holder of that*
35 *evidence of indebtedness on account of the absence of*
36 *that notification.*

37 (d) *Notwithstanding the presence or absence of that*
38 *notification and notwithstanding any agreement in which*
39 *the student waives the right to assert any claim or*
40 *defense, the school or institution making that loan or*



1 extending that credit and the transferee, assignee, or
2 holder of that evidence of indebtedness, shall be subject
3 to all defenses and claims that could be asserted against
4 the school or institution that was to render or furnish
5 those educational services by any party to that evidence
6 of indebtedness or by the person to whom these
7 educational services were to be rendered or furnished up
8 to the amount remaining to be paid thereon.

9 (e) Institutions that participate in federal student
10 assistant programs and that comply with the financial
11 disclosure and notification requirements for those
12 programs shall be deemed to be in compliance with the
13 standards prescribed by this section.

14 94840. At least 90 days prior to the expiration of an
15 approval to operate, the institution shall complete and file
16 with the council an application form for renewal of its
17 approval to operate. The renewal application need only
18 contain a description of any changes made by the
19 institution since the time its last application was reviewed
20 by the council. Fees for processing the renewal
21 application shall be based on the number and types of
22 changes it contains. The renewal application shall be
23 reviewed and acted upon as provided in Sections 94802,
24 94804, and 94835, and Section 94900 or 94915, whichever
25 is applicable.

26 94841. Before any institution may be considered for
27 approval or renewal of approval to operate, the
28 institution, at a minimum, shall pay all annual fees,
29 assessments to the Student Tuition Recovery Fund, and
30 penalties in arrears retroactive to January 1, 1990. If an
31 institution that has failed to make timely payments of fees
32 and assessments is approved, the approval shall be
33 conditional, subject to any restrictions the council deems
34 appropriate, and shall be valid for a period not to exceed
35 two years.

36 94842. If a review and decision on a renewal
37 application submitted pursuant to Section 94840 cannot
38 be completed by the council prior to the expiration of the
39 institution's current pending approval, that expiration
40 date shall be extended until a time that the council

1 notifies the institution of its decision, but in no event later
2 than the time within which the council is required to act
3 on an application pursuant to Section 94900 or 94915.

4 94846. (a) If a shift in control or change of ownership
5 of an institution occurs, an application for a new approval
6 to operate for the institution under the changed
7 ownership or control shall be filed with the council at least
8 20 days prior to the shift in control or change in
9 ownership. Whenever an institution is operated at
10 different locations, an application for approval shall be
11 filed for each location.

12 (b) The application for approval to operate submitted
13 in conjunction with a change of ownership may include
14 pertinent portions of the institution's previous
15 application prepared in connection with programs or
16 courses of instruction that remain unchanged or
17 unaffected by the change in ownership.

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

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

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

38 94848. An institution may not claim an exception
39 pursuant to Section 94785 if the council finds, after notice
40 and hearing as provided in Section 94975, that the



1 *institution adopted a form of organization or method of*
2 *operation for the purpose of avoiding any provision of this*
3 *chapter.*

4

5 *Article 7. Maxine Waters Student Protection Act*

6

7 *94850. (a) This article shall be known, and may be*
8 *cited, as the Maxine Waters School Reform and Student*
9 *Protection Act of 1989.*

10 *(b) The Legislature finds and declares that students*
11 *have been substantially harmed and the public*
12 *perception of reputable institutions has been damaged*
13 *because of the fraudulent, deceptive, and unfair conduct*
14 *of some institutions that offer courses of instruction for a*
15 *term of two years or less that are supposed to prepare*
16 *students for employment in various occupations.*
17 *Students have been induced to enroll in these schools*
18 *through various misrepresentations including*
19 *misrepresentations related to the quality of education,*
20 *the availability and quality of equipment and materials,*
21 *the language of instruction and employment and salary*
22 *opportunities. Some of the most egregious*
23 *misrepresentations are made by representatives who*
24 *recruit students at places other than the institution's*
25 *premises. Some students have been enrolled who do not*
26 *have the ability to benefit from the instruction. In*
27 *addition, the quality of the education offered is often*
28 *inadequate to enable students to obtain jobs after the*
29 *completion of instruction.*

30 *(c) The Legislature further finds and declares that*
31 *many students who enroll in these schools pay their*
32 *tuition from the proceeds of loans and grants guaranteed*
33 *or provided by the state and federal governments.*
34 *Students who leave schools before the completion of*
35 *instruction, often because of misrepresentations and*
36 *inadequate instruction, do not receive adequate refunds*
37 *of tuition for the instruction not received. Students*
38 *remain liable to repay student loans but are frequently*
39 *unable to do so in part because they were unable to obtain*
40 *the proper educational preparation for jobs. Students are*



1 also harmed by the closure of institutions, often caused by
2 the fraud or mismanagement of the institution's
3 operators, because the students neither obtain the
4 education promised nor a refund of tuition and the cost
5 of materials. As a result of all of the foregoing, the state
6 and federal governments spend many millions of dollars
7 annually to satisfy loan guarantees for often inadequate
8 and misrepresented vocational school courses.

9 (d) It is the intent and purpose of this article to protect
10 students and reputable institutions, ensure appropriate
11 state control of business and operational standards,
12 ensure minimum standards for educational quality,
13 prohibit misrepresentations, require full disclosures,
14 prohibit unfair dealing, and protect student rights. It is
15 the intent and purpose of this article to save millions of
16 dollars of taxpayer's funds from being misused to
17 underwrite the activities of institutions that depart from
18 the standards of fair dealing and the requirements of this
19 article.

20 (e) This article shall be liberally construed to
21 effectuate its intent and achieve its purposes.

22 (f) To the extent of any conflict between any other law
23 and this article, this article shall prevail.

24 94851. (a) The Legislature further finds and declares
25 that students have been harmed by some institutions
26 because of the financial improprieties and
27 mismanagement of those institutions, their failure to fully
28 disclose the student's financial and contractual
29 obligations, and their failure to have sufficient resources
30 to provide the promised training. The Legislature also
31 finds that the tuition refund policies of institutions often
32 encourage unfair practices by creating a financial benefit
33 to the institution if a student drops out, and do not
34 encourage institutions to provide adequate counseling or
35 to adopt policies designed to curb student dropouts. In
36 addition, the Legislature finds that many institutions
37 have poor records of student completion and job
38 placement, even though these institutions expressly or
39 implicitly represent that students will receive sufficient
40 training and skills to obtain well-paid employment in the



1 field that is the subject of the training, and that a
2 reputable institution is one that complies with this
3 chapter. Consequently, the Legislature finds that the
4 business of providing occupational training, instruction,
5 and related equipment by commercial enterprises has a
6 substantial impact on the economy of this state and the
7 welfare of its citizens.

8 (b) It is the further intent and purpose of this article
9 to establish incentives to reduce student dropouts,
10 minimum fiscal standards, minimum standards for
11 admission based on the student's ability to be successfully
12 trained, and minimum standards for institutional
13 accountability for course completion and student
14 employment in the occupations or job titles to which the
15 training is represented to lead. The Legislature finds that
16 the accountability standards for completion and
17 employment reflect a reasonable tolerance for factors
18 outside an institution's control. It is also the intent and
19 purpose of this article to ensure that the cost to taxpayers
20 of loans and grants for vocational instruction is
21 commensurate with the benefits obtained by students
22 and flowing to the state's economy.

23 94852. The following definitions and provisions apply
24 to this article:

25 (a) "Class" means a subject, such as English or
26 mathematics, that is taught as part of a course of
27 instruction. "Class session" means the part of a day that
28 an institution conducts instruction or training in a
29 particular class, such as an hour of instruction in English
30 or mathematics offered on a particular day of the week.

31 (b) "Council" means the Council for Private
32 Postsecondary and Vocational Education established
33 pursuant to subdivision (a) of Section 94770.

34 (c) "Educational service" means any education,
35 training, or instruction offered by an institution,
36 including any equipment.

37 (d) "Equipment" includes all textbooks, supplies,
38 materials, implements, tools, machinery, computers,
39 electronic devices, or any other goods related to any



1 education, training, or instruction, or an agreement for
2 educational services or a course of instruction.

3 (e) “Licensure” includes any license, certificate,
4 permit, or similar credential that a person must hold to
5 lawfully engage in any occupation or activity.

6 (f) “Owner” means any person who has a legal or
7 equitable interest in 10 percent or more of an institution’s
8 stock or assets.

9 (g) “Person” means a natural person or any business
10 entity, regardless of the form of organization.

11 (h) “Person in control” means a person who has
12 sufficient capacity, directly or indirectly, to direct or
13 influence the management, policies, or conduct of the
14 institution so that the person can cause or prevent
15 violations of this chapter. There is a rebuttable
16 presumption affecting the burden of proof that an owner,
17 director, or officer of an institution is a person in control.

18 (i) “Private postsecondary educational institution” or
19 “institution” means any person doing business in
20 California who offers to provide or provides, for a tuition,
21 fee, or other charge, any instruction, training or
22 education primarily to people who have completed or
23 terminated their secondary education or are beyond the
24 age of compulsory high school attendance. An
25 “institution” includes its branch and satellite campuses,
26 unless otherwise provided.

27 (j) “Program” or “program of instruction” or “course”
28 or “course of instruction,” except as otherwise provided,
29 means the program of instruction, training, set of related
30 courses or education represented to lead to an occupation
31 or job title.

32 (k) “Total charge” means the total charge for a course
33 of instruction or other education, instruction, or training,
34 including the charge for tuition, equipment, finance
35 charges, and all other fees, charges, costs, and expenses.

36 (l) “Year” means a calendar year.

37 94853. (a) In addition to making any other required
38 disclosures, a representative of an institution who in any
39 manner solicits or recruits any person in person at any
40 place other than the institution’s premises or by



1 telephone for enrollment in a course of instruction shall
2 disclose the following, orally and, if the solicitation is in
3 person, in a correctly dated written document given to
4 the person and printed in at least 10-point type and signed
5 by the representative.

6 (1) The representative is a paid recruiter for an
7 institution and the institution is not a public school.

8 (2) The representative is not offering a job, making job
9 referrals, or conducting a survey.

10 (3) There is no guarantee of a job after a student
11 graduates from the course of instruction.

12 (4) The total charge for the course of instruction or if
13 the solicitation or recruitment is for more than one
14 course, the range of the total charges for the courses
15 offered.

16 (b) The representative shall make the disclosures
17 required by paragraphs (1) to (3), inclusive, of
18 subdivision (a) before attempting to solicit or recruit any
19 person. The representative shall make the disclosure
20 required by paragraph (4) of subdivision (a) before the
21 end of a solicitation or attempt to recruit any person.

22 (c) A representative who solicits or recruits any
23 person as described in subdivision (a) shall provide the
24 person with a copy of the institution's current catalog or
25 brochure, containing the information described in
26 paragraph (4) of subdivision (a) of Section 94859, which
27 the person may obtain without charge. The institution or
28 its representative shall provide the catalog or brochure
29 required by this subdivision at the time of an in-person
30 solicitation or recruitment or send the catalog brochure
31 within two days of a telephonic solicitation or
32 recruitment.

33 (d) No institution shall enter an agreement for a
34 course of instruction with, or prepare or assist in
35 preparation of a student loan or grant application for, a
36 person solicited or recruited as described in subdivision
37 (a) within three days of the date on which the person was
38 solicited or recruited.

39 (e) This section does not apply to solicitations or
40 presentations made at informational public appearances



1 directed to five or more people or to advertisements in
2 print or broadcast media.

3 94854. (a) Every institution shall meet all of the
4 following performance standards for each program
5 offered during the applicable time period described in
6 subdivision (l):

7 (1) Sixty percent or more of the students who began
8 the program, did not cancel pursuant to Section 94867,
9 and were originally scheduled at the time of enrollment
10 to complete the course during that period, shall complete
11 it.

12 (2) Seventy percent or more of the students who
13 completed the program within that period shall obtain
14 employment starting within six months after completing
15 the course in the occupations or job titles to which the
16 course of instruction was represented to lead. For the
17 purpose of this subdivision, “program” or “program of
18 instruction” or “course” or “course of instruction”
19 includes all courses of instruction, however denominated,
20 that are represented to lead to the same or closely related
21 occupations or job titles.

22 (b) Every institution shall meet all of the following
23 performance standards for all programs in the aggregate
24 offered by the institution at each of its campuses during
25 the applicable time period described in subdivision (l):

26 (1) Sixty percent or more of all the students who began
27 the programs did not cancel pursuant to Section 94867,
28 and were originally scheduled at the time of enrollment
29 to complete these programs during that time period, shall
30 complete these programs.

31 (2) Seventy percent or more of all the students who
32 completed the programs within that time period shall
33 obtain employment, starting within six months after
34 completing the programs, in the occupations or job titles
35 to which the programs of instruction were represented to
36 lead.

37 (c) For the purposes of subdivisions (a) and (b),
38 students who, as documented by the institution, have
39 been prevented from completing the program or
40 programs of instruction due to death, disability, illness,



1 pregnancy, military service, or participation in the Peace
2 Corps or Domestic Volunteer Service shall be excluded
3 from the computations used to determine whether an
4 institution has met the performance standards prescribed
5 by those subdivisions. Except as provided in Section
6 94874, an institution shall not disclose the records
7 maintained pursuant to this subdivision unless
8 production of those records are required by any law,
9 subpoena, or court order.

10 (d) An institution shall meet the standards prescribed
11 in subdivisions (a) and (b) at each site at which the
12 program or programs are offered. A determination of
13 whether a particular site meets the standards prescribed
14 in subdivisions (a) and (b) shall be based only on students
15 who attended that site. An institution shall be subject to
16 subdivisions (f) and (g) only with respect to its sites that
17 fail to meet the standards prescribed in subdivisions (a)
18 and (b).

19 (e) (1) This subdivision applies only to institutions in
20 which 15 or fewer students began a program or programs,
21 did not cancel pursuant to Section 94867, and were
22 originally scheduled to complete the program or
23 programs within the applicable time period described in
24 subdivision (l).

25 (2) If an institution described in paragraph (1) fails to
26 meet any of the standards prescribed in subdivision (a)
27 or (b), but would have met that standard if one additional
28 student had completed or obtained employment, the
29 institution shall be deemed to comply with this section. If
30 an institution described in paragraph (1) fails to meet the
31 standard for review established in subdivision (f), but
32 would have met the standard if one additional student
33 had completed or obtained employment, the institution
34 shall be deemed subject to subdivision (f).

35 (f) (1) This subdivision applies only to an institution
36 or any site that fails to meet any of the following:

37 (A) Any of the standards established in subdivision (a)
38 or (b) by 10 percent or less.

39 (B) Any of the standards established in subdivision (a)
40 by more than 10 percent but has a placement rate of 42



1 percent or more for the course in which the standard was
2 failed.

3 (C) Any of the standards established in subdivision (b)
4 by more than 10 percent but has a placement rate of 42
5 percent or more for all courses in the aggregate.

6 (2) If the institution's failure to meet the standards
7 prescribed in subdivision (a) or (b) was not caused by a
8 violation of this chapter, the council shall order, after
9 notice and, if requested, after a hearing, that the
10 institution implement a program to achieve compliance
11 with subdivisions (a) and (b). The program may include
12 any of the following:

13 (A) Limitations on enrollment for specific courses of
14 instruction.

15 (B) Revision of admission policies and screening
16 practices to ensure that students have a reasonable
17 expectation of completing courses and obtaining
18 employment.

19 (C) Increased academic counseling and other student
20 support services.

21 (D) Improved curricula, facilities, and equipment.

22 (E) Revisions to the qualifications and number of
23 faculty.

24 (F) Improved job placement services, including
25 revisions to the qualifications and number of job
26 placement personnel and the expansion of contacts with
27 employees and state and federal employment
28 development agencies.

29 (G) Any other reasonable procedure required by the
30 council.

31 (3) If an institution is subject to an order pursuant to
32 paragraph (2), the council may require that the
33 institution file information or reports requested by the
34 council. The council may also monitor the institution in
35 the manner provided in subdivision (d) of Section 94878.

36 (4) (A) An institution subject to an order pursuant to
37 paragraph (2) shall satisfy the standards established in
38 subdivisions (a) and (b) within the period designated by
39 the council. This period shall not extend more than one
40 year beyond the length of the program for



1 noncompliance with the standards prescribed by
2 subdivision (a) or more than one year beyond the longest
3 program for noncompliance with the standards
4 prescribed in subdivision (b).

5 (B) If the institution fails to satisfy the standards of
6 subdivision (a) within the period designated by the
7 council, the council shall order the institution to cease
8 offering the course of instruction at the campus where
9 that program was offered. If the institution fails to satisfy
10 the standards of subdivision (b) within the period
11 designated by the council, the council shall revoke the
12 institution's approval to operate, or approval to operate
13 the branch or satellite campus where the programs were
14 offered. No action shall be taken pursuant to this
15 paragraph without notice, and, if requested by the
16 institution, a hearing.

17 (g) If an institution fails to meet any of the standards
18 established in subdivision (a) by more than 10 percent
19 and does not have a placement rate of 42 percent or more
20 for the program in which the standard was failed, the
21 council shall order the institution to cease offering the
22 program of instruction at the campus where the course
23 was offered. If the institution fails to meet any of the
24 standards prescribed in subdivision (b) by more than 10
25 percent and does not have a placement rate of 42 percent
26 or more for all programs in the aggregate, the council
27 shall revoke the institution's approval to operate, or
28 approval to operate the branch or satellite campus where
29 the programs were offered. No action shall be taken
30 pursuant to this subdivision without notice and, if
31 requested by the institution, a hearing.

32 (h) (1) The institution shall have the burden of
33 proving its compliance with this section.

34 (2) The council shall investigate the institution
35 whenever the council deems appropriate to verify the
36 institution's compliance with this section. The
37 investigation shall include an examination of the records
38 maintained by the institution pursuant to subdivision (j)
39 and contacts with the students and employers.

1 (3) If an institution willfully falsifies, alters, destroys,
2 conceals, or provides untrue or misleading information
3 relating to compliance with this section, including
4 records maintained pursuant to subdivision (j), the
5 council shall revoke the institution's approval to operate.
6 No action shall be taken pursuant to this paragraph
7 without notice and, if requested by the institution, a
8 hearing. This provision supplements but does not
9 supplant any other penalty or remedy provided by law.

10 (4) The institution shall pay all reasonable costs and
11 expenses incurred by the council in connection with this
12 section at a time designated by the council.

13 (i) If the council, pursuant to subdivision (f) or (g),
14 orders an institution to cease offering a program of
15 instruction or revokes the approval of an institution to
16 operate or operate a branch or satellite campus, the
17 institution may apply, no sooner than two years after the
18 order to cease or the revocation became effective, for
19 approval to offer that program or for approval to operate.
20 Before the council may grant any approval, the
21 institution shall establish that it complies with this
22 chapter; each program satisfies all of the minimum
23 standards prescribed by this chapter; and the
24 circumstances surrounding the institution's failure to
25 meet the requirements of this section have sufficiently
26 changed so that the institution will be substantially likely
27 to comply with this section.

28 (j) An institution shall maintain records of the name,
29 address, and telephone number of students who enroll in
30 a program of instruction, including students who begin
31 the program and students who cancel pursuant to Section
32 94867, and of students who graduate from that program
33 of instruction. An institution shall inquire whether
34 students who complete a program of instruction obtain
35 employment starting within six months of completing the
36 program in the occupation to which the program of
37 instruction is represented to lead and continue in
38 employment for a period of at least 60 days. The inquiry
39 shall be documented by a list indicating each student's
40 name, address, and telephone number; the employer's



1 name, address, and telephone number; the name,
2 address, and telephone number of the person who
3 provided the information regarding the student's
4 employment to the institution; the name, title, or
5 description of the job; the date the student obtained
6 employment; and the duration of the student's
7 employment.

8 (k) For the purposes of this section, the following
9 definitions shall apply:

10 (1) "Annual report" means the report required to be
11 filed pursuant to Section 94861.

12 (2) "Employment" means full-time employment for
13 at least 32 hours per week, or any other time designated
14 by the council for a period of at least 60 days in the
15 occupations or job titles to which the program of
16 instruction is represented to lead.

17 (3) "Hearing" means a hearing pursuant to the
18 requirements of either Section 94965 or 94975.

19 (4) "Placement rate" means the percentage of
20 students who fulfilled the provisions of the following two
21 subparagraphs:

22 (A) Began the program, did not cancel pursuant to
23 Section 94867, and were originally scheduled at the time
24 of enrollment to complete the program during the
25 applicable time period described in subdivision (l).

26 (B) Completed the program, within the applicable
27 time period described in subdivision (l) and started
28 employment within six months of completing the
29 program or, if employment requires taking a state
30 licensure examination for which only graduates of the
31 program may apply, then (i) started employment within
32 six months of the date on which the state licensing agency
33 announces the results of the first licensure examination
34 reasonably available to students who completed the
35 program, or (ii) started employment within six months of
36 the next reasonably available licensure examination date
37 for any student who did not receive passing results on the
38 first exam. The time period determined pursuant to this
39 subparagraph shall not exceed 10 months beyond the date
40 of completion of the program of instruction. The



1 institution shall retain a record of the date of the first
2 reasonably available licensure exam following the
3 completion date of each student, the date the licensure
4 agency announces the results of the first reasonably
5 available licensure exam, and the date of the next
6 reasonably available licensure exam for each student who
7 did not pass the first exam.

8 (5) "Reporting period" means the institution's fiscal
9 year or any year period designated by the council to be
10 covered in the institution's annual report.

11 (6) "Time period" means the two most recent
12 calendar years that ended at least eight months before the
13 end of the institution's applicable reporting period.

14 (1) (1) An institution's compliance with the standards
15 prescribed in subdivisions (a) and (b) shall be
16 determined as of the date on which the institution's
17 reporting period ends.

18 (2) The institution shall report its determination of its
19 compliance with the standards established in subdivisions
20 (a) and (b) in each annual report.

21 (3) The council may adjust the meaning of "time
22 period" if the council finds that an adjustment is
23 necessary for the efficient administration of this section.
24 If any adjustment is made in the annual reporting periods,
25 the council may adjust when the time period commences
26 but shall not alter the two-year length of the period.

27 (m) In determining the placement rate for a
28 particular time period as described in subdivision (l), an
29 institution may exclude from the determination a student
30 whose completion date was extended beyond that time
31 period if the extension was requested by the student in
32 writing on an enrollment agreement modification
33 request form that meets specifications established by the
34 council. The form shall include instructions to the student
35 indicating that, when signed by both the student and the
36 institution, the request modifies the existing agreement.
37 The form shall not be valid unless it provides space for the
38 student to complete a handwritten description, in the
39 student's handwriting, of the reasons necessitating the
40 extension that are distinctly personal to the student and



1 *unrelated to the provision of educational services or*
2 *activities of the institution, contains the new expected*
3 *completion date of the program, and is signed and dated*
4 *by the student and the institution. The institution shall*
5 *provide the student a copy of the signed modification*
6 *request form. The institution shall retain the student's*
7 *original written request to modify the enrollment*
8 *agreement with the original enrollment agreement. A*
9 *student excluded from the placement rate determination*
10 *for a particular time period pursuant to this subdivision*
11 *shall be included in the placement rate determination for*
12 *the next immediately following time period. The*
13 *institution shall state in the institution's annual report the*
14 *number of students for whom an extension was granted.*

15 *(n) If an order to cease offering a program or a*
16 *revocation is issued pursuant to this section, the council*
17 *may permit the institution to continue to offer the*
18 *program or programs of instruction to the students who*
19 *had begun the course or courses before the effective date*
20 *of the order or revocation or may order the institution to*
21 *cease instruction and provide a refund of tuition and all*
22 *other charges to students.*

23 *94855. (a) As a condition of maintaining its approval*
24 *to operate, an institution offering any educational*
25 *programs or educational services subject to this article*
26 *shall meet the following financial resource requirements*
27 *in addition to the financial requirements of Section 94804.*

28 *(1) Satisfy minimum standards prescribed by Section*
29 *94900, 94905, or 94915, whichever is applicable.*

30 *(2) Provide the education, training, skill, and*
31 *experience that the institution, in any manner*
32 *represented it would provide.*

33 *(3) Pay timely refunds as required by Sections 94867,*
34 *94869, 94870, 94873, and 94877.*

35 *(b) The council may find that an institution does not*
36 *have sufficient financial resources to comply with*
37 *subdivision (a) if any of the following occur:*

38 *(1) The institution fails to have available sufficient*
39 *funds and accounts receivable to pay all operating*
40 *expenses due within 30 days. For the purpose of this*



1 paragraph, “funds” means cash or assets that can be
2 converted into cash within seven days.

3 (2) The institution’s liabilities exceed its assets.
4 “Assets” shall not include any item described in
5 subparagraphs (A) and (B) of paragraph (2) of
6 subdivision (b) of Section 94804. “Liabilities” shall
7 include unearned tuition.

8 (c) (1) In determining an institution’s compliance
9 with subdivision (a), the council, at the institution’s
10 request, may consider the financial resources of a parent
11 corporation if the parent corporation files with the
12 council, and at all times complies with, an irrevocable and
13 unconditional agreement approved by its board of
14 directors that satisfies all of the requirements of
15 paragraph (2).

16 (2) The agreement described in paragraph (1) shall
17 provide that the parent corporation do all of the
18 following:

19 (A) Consent to be sued in California.

20 (B) Consent to be subject to the administrative
21 jurisdiction of the council and the Student Aid
22 Commission in connection with the institution’s
23 compliance with this chapter.

24 (C) Appoint an agent for service of process in
25 California and all notices required by this chapter.

26 (D) Agree to pay any refund, claim, penalty, or
27 judgment that the institution is obligated to pay.

28 (E) File financial reports, maintain financial records,
29 and permit the inspection and copying of financial
30 records to the same extent as is required of the institution.

31 (3) For the purposes of this subdivision, a “parent
32 corporation” means a corporation that owns more than 80
33 percent of the stock of the institution whose financial
34 resources are at issue.

35 (d) If an institution does not comply with subdivision
36 (b) or Section 94804, the council may do any or any
37 combination of the following:

38 (1) Require the institution to establish and implement
39 a financial plan to ensure compliance with subdivision
40 (b) or Section 94804.



1 (2) Require the institution to post satisfactory security
2 for the performance of its financial obligations pursuant
3 to subdivision (b) or Section 94804.

4 (3) Require the institution to furnish additional
5 information such as an audit report of financial
6 statements prepared by a California licensed certified
7 public accountant who is not an employee, officer, or
8 director of the institution.

9 (4) Proceed pursuant to Section 94879.

10 (e) In any action or proceeding involving an
11 institution's failure to comply with subdivision (b) or
12 Section 94804, there shall be a presumption affecting the
13 burden of proof that the institution does not have
14 sufficient financial resources if the institution fails to meet
15 any of the standards set forth in subdivision (b) or Section
16 94804.

17 94856. If any person willfully violates this article and
18 the violation results in the closure of an institution, that
19 person shall pay to all students of the closed institution full
20 refunds or full compensation for actual damages resulting
21 from the closure that were not paid by the closed
22 institution.

23 94857. No institution shall establish a branch or
24 satellite campus unless the branch or satellite campus is
25 located within 50 miles of the main location and has been
26 approved first by the council as complying with the
27 minimum criteria prescribed in Section 94915 or 94920,
28 whichever is applicable, and unless the institution
29 complies with this chapter.

30 94859. (a) Before a person executes an agreement
31 obligating that person to pay any money to an institution
32 for a program of instruction or related equipment, the
33 institution shall provide the person with all of the
34 following:

35 (1) A copy of the agreement containing all of the
36 information required by Section 94871.

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

1 (A) *The percentage of students completing that*
2 *program of instruction as determined pursuant to Section*
3 *94854, for the time period that is required to be covered*
4 *in the last annual report that institution was required to*
5 *file with the council pursuant to Section 94861.*

6 (B) *The percentage of students who completed the*
7 *program of instruction and obtained employment as*
8 *determined pursuant to Section 94854, for the time*
9 *period that is required to be covered in the last annual*
10 *report that the institution was required to file with the*
11 *council pursuant to Section 94861.*

12 (C) *Any other information necessary to substantiate*
13 *the truth of any claim made by the institution as to job*
14 *placement.*

15 (D) *If the institution or a representative of the*
16 *institution makes any express or implied claim about the*
17 *salary that may be earned after completing a program of*
18 *instruction, such as a claim that the student may be able*
19 *to repay a student loan from the salary received at a job*
20 *obtained following completion of the program of*
21 *instruction, the following disclosures, orally and in*
22 *writing:*

23 (i) *The percentage of students who were originally*
24 *scheduled, at the time of enrollment, to complete the*
25 *program of instruction in the most recent calendar year*
26 *that ended not less than six months prior to the date of*
27 *disclosure who earn salaries at or above the claimed level.*

28 (ii) *The ranges of monthly salaries earned by these*
29 *students in two hundred dollar (\$200) increments and*
30 *the number of these students in each salary range.*

31 (E) *If the institution or a representative of the*
32 *institution in any manner represents that the program of*
33 *instruction might lead to employment in an occupation*
34 *or job title for which a state licensing examination is*
35 *required, the following disclosures, orally and in writing:*

36 (i) *All licensure or certification requirements*
37 *established by the state for the occupation or job title*
38 *category.*

39 (ii) *The pass rate of graduates of the program of*
40 *instruction offered by that institution for the most recent*



1 calendar year that ended not less than six months prior to
2 the date of disclosure on any licensure or certification
3 examination required by the state for the particular
4 occupation or job title.

5 (3) If the institution has offered the program of
6 instruction for less than one calendar year, the following
7 statement: “This program is new. We are not able to tell
8 you how many students graduate, how many students
9 find jobs, or how much money you can earn after finishing
10 this course.”

11 (4) A current catalog or brochure containing
12 information describing the courses offered, all of the
13 occupations or job titles, if any, to which the program of
14 instruction is represented to lead, length of program,
15 faculty and their qualifications, schedule of tuition
16 payments, fees, and all other charges and expenses
17 necessary for completion of the course of instruction,
18 cancellation and refund rights, the total cost of tuition
19 over the entire period, a description of the student’s
20 rights under the Student Tuition Recovery Fund
21 established pursuant to Section 94944, and all other
22 material facts concerning the institution and the program
23 of instruction that might reasonably affect the student’s
24 decision to enroll.

25 (5) If applicable, the following disclosures, orally and
26 in writing:

27 (A) If the student obtains a loan to pay for the course
28 of instruction, the student will have the responsibility to
29 repay the full amount of the loan plus interest, less the
30 amount of any refund.

31 (B) If the student is eligible for a loan guaranteed or
32 reinsured by the state or federal government and the
33 student defaults on the loan:

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

38 (ii) The student may not be eligible for any other
39 federal financial assistance for education at a different



1 school or for government housing assistance until the loan
2 is repaid.

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

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

6 (6) A written statement set forth in a table of the
7 amount of the refund to which the student would be
8 entitled if the student withdrew from the program after
9 completing a period of days or weeks of instruction
10 equivalent to 10 percent, 25 percent, 50 percent, 60
11 percent, and 75 percent of the program of instruction.
12 The disclosures required by this paragraph may be set
13 forth in the agreement for the course.

14 (b) The information required by paragraph (2) of
15 subdivision (a) shall be documented by the institution
16 with all facts needed to substantiate that information. Any
17 information regarding a student's employment shall be
18 based on an inquiry by the institution and shall be
19 documented by a list indicating the student's name,
20 address, and telephone number; the employer's name,
21 address, and telephone number; the name and address or
22 telephone number of the person who provided the
23 information regarding the student's employment to the
24 institution; the name, title, or description of the job; the
25 date the student obtained the job; the duration of the
26 student's employment; and the amount of the salary, if
27 any salary claim has been made. Except as provided in
28 Section 94874, an institution shall not disclose the records
29 maintained pursuant to this subdivision unless
30 production of those records are required by any law or by
31 subpoena or court order.

32 (c) No institution which has offered a course of
33 instruction for less than one year shall make any express
34 or implied claims about the salary that a student may earn
35 after completing the course of instruction.

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

39 (e) The written disclosure of information required by
40 subparagraphs (A), (B), and (C) of paragraph (2) of



1 subdivision (a) may be made in accordance with the
2 chart in Appendix A of Part 668 of Title 34 of the Code of
3 Federal Regulations, or any other similar form prescribed
4 by law for the disclosure of that information.

5 (f) No institution shall obtain the signature of any
6 person to an agreement obligating that person to pay any
7 money to the institution until the person has had a
8 reasonable opportunity to read and review all of the items
9 described in subdivision (a).

10 (g) The disclosure of any information pursuant to
11 Section 94853 shall not relieve any institution of any
12 obligation to make any disclosure required under this
13 section.

14 (h) Notwithstanding any provision of this section, an
15 institution offering a home study or correspondence
16 course need not orally make the disclosures required by
17 this section in connection with that course if the
18 institution did not orally solicit or recruit the student for
19 enrollment and the student enrolled by mail.

20 94860. If a state board, bureau, department, or agency
21 has established the minimum number of classes or class
22 hours or the minimum criteria of a course of instruction
23 necessary for licensure in an occupation and an institution
24 offers a course of instruction differing from the state
25 entity's minimum requirements, the institution shall
26 disclose orally and in writing the state entity's minimum
27 requirements and how the course of instruction differs
28 from those criteria. The institution shall make this
29 disclosure before a prospective student executes an
30 agreement obligating that person to pay any money to
31 the institution for the course of instruction.

32 94861. (a) Every institution shall file annually with
33 the council, on July 1, or another date designated by the
34 council, a report subscribed under penalty of perjury that
35 contains all of the following:

36 (1) The information described in subdivisions (a) and
37 (b) of Section 94854.

38 (2) The information described in paragraph (2) of
39 subdivision (a) of Section 94859.

1 (3) A statement that the information is documented as
2 provided in subdivision (c) of Section 94854 and
3 subdivision (b) of Section 94859.

4 (4) Financial information demonstrating compliance
5 with Section 94855.

6 (5) Any additional information that the council may
7 prescribe.

8 (b) The council shall maintain each report for 10 years
9 and shall provide copies of the reports to any person upon
10 request.

11 (c) Based on the review of the information submitted
12 pursuant to this section, the council may initiate a
13 compliance review, may take action including placing
14 the institution on probation as provided in Section 94878,
15 or may require evidence of compliance with this article
16 in a form satisfactory to the council.

17 94862. The institution shall file biennially with the
18 council a financial report prepared pursuant to Section
19 94806. The report shall include the financial information
20 required by Section 94855 and average monthly
21 expenditures. Work papers for the audit shall be retained
22 for five years from the date of the audit report and shall
23 be made available to the council upon request after the
24 completion of the audit.

25 94863. (a) No institution shall pay any consideration
26 to any agent subject to Section 94940 who has not
27 complied with that section, or enter into an agreement,
28 as described in Section 94871, with any person who was
29 recruited or solicited to enroll in that institution by an
30 agent who was not in compliance with Section 94940 at
31 the time of the recruitment or solicitation.

32 (b) No institution shall pay any consideration to any
33 agency subject to Section 94942 that has not complied
34 with that section, or enter into an agreement, as
35 described in Section 94871, with any person who was
36 recruited or solicited to enroll in that institution by an
37 agency or by an agent employed by or under contract
38 with the agency if the agency was not in compliance with
39 Section 94942 at the time of the recruitment or
40 solicitation.



1 94864. *The enrollment, course completion, and*
2 *employment data used to determine compliance with*
3 *subdivisions (a) and (b) of Section 94854 and paragraph*
4 *(2) of subdivision (a) of Section 94859 shall continue to*
5 *apply to an institution notwithstanding a change in the*
6 *institution's ownership, name, or identification number.*

7 94865. (a) *As used in this section, "ESL instruction"*
8 *means any educational service involving instruction in*
9 *English as a second language.*

10 (b) *No institution shall offer ESL instruction without*
11 *the prior approval of the council.*

12 (c) *The council shall not approve an institution's*
13 *offering of ESL instruction unless that institution*
14 *complies with the minimum standards established in*
15 *subdivision (a) of Section 94915.*

16 (d) *An institution that offers ESL instruction to a*
17 *student shall not enroll the student in any educational*
18 *service presented in the English language unless the*
19 *student passes a test indicating that he or she has attained*
20 *adequate proficiency in oral and written English to*
21 *comprehend instruction in English.*

22 (e) *A student who has completed ESL instruction at*
23 *an institution shall not be enrolled in any course of*
24 *instruction presented in the English language at that*
25 *institution unless the student passes a test indicating that*
26 *he or she has attained adequate proficiency in oral and*
27 *written English to be successfully trained by English*
28 *language instruction to perform tasks associated with the*
29 *occupations or job titles to which the educational*
30 *program is represented to lead.*

31 (f) *If an institution offers ESL instruction to a student*
32 *to enable the student to use already existing knowledge,*
33 *training, or skills in the pursuit of an occupation, the*
34 *institution shall test the student after the student*
35 *completes the ESL instruction to determine that the*
36 *student has attained adequate proficiency in oral and*
37 *written English to use his or her existing knowledge,*
38 *training, or skills. Before enrolling the student in ESL*
39 *instruction, the institution shall document the nature of*
40 *the student's existing knowledge, training, or skills and*



1 *that the ESL instruction is necessary to enable the*
2 *student to use that existing knowledge, training, or skills.*

3 (g) *If an institution offers ESL instruction to a student*
4 *in connection with a course of instruction leading to*
5 *employment in any occupation requiring licensure*
6 *awarded after the passage of an examination offered in*
7 *English, the institution shall test the student after the*
8 *student completes the ESL instruction to determine that*
9 *the student has attained a level of proficiency in English*
10 *reasonably equivalent to the level of English in which the*
11 *licensure examination is offered.*

12 (h) *If the results of a test administered pursuant to*
13 *subdivision (d), (e), (f), or (g) indicate that the student*
14 *has not attained adequate English language proficiency*
15 *after the completion of ESL instruction, the institution*
16 *shall (1) make a full refund of the total charge for the ESL*
17 *instruction, or (2) offer the student the choice of either*
18 *enrolling without charge in additional ESL instruction*
19 *until the student attains adequate English language*
20 *proficiency or obtaining a full refund of the total charge*
21 *for the ESL instruction. The institution shall pay refunds*
22 *within 30 days and shall comply with subdivisions (c) and*
23 *(d) of Section 94869.*

24 (i) *This section does not apply to educational services*
25 *exempted from this article under subdivision (c) of*
26 *Section 94790 or to grantees funded under Section 1672*
27 *of Title 29 of the United States Code.*

28 (j) *The institution, for five years, shall retain an*
29 *exemplar of each language proficiency test administered*
30 *pursuant to this section, an exemplar of the answer sheet*
31 *for each test, a record of the score for each test, the*
32 *answer sheets or other responses submitted by each*
33 *person who took each test, and the documentation*
34 *required by subdivision (f).*

35 (k) (1) *In addition to any applicable provisions of this*
36 *chapter, this article, except for Section 94854,*
37 *subparagraph (B) of paragraph (2) of subdivision (a) of*
38 *Section 94859, and Section 94872, applies to any program*
39 *in which ESL instruction is offered.*



1 (2) For the purpose of determining compliance with
2 this article, ESL instruction shall be deemed a course, and
3 a charge shall be deemed to be made for ESL instruction
4 if a student is obligated to make any payment in
5 connection with the educational service, including, but
6 not limited to, the ESL instruction that is offered by the
7 institution.

8 (l) The tests used by an institution pursuant to this
9 section shall be tests that are approved by the United
10 States Department of Education or tests such as the Test
11 of English as a Foreign Language and the Comprehensive
12 Adult Student Assessment System that are generally
13 recognized by public and private institutions of higher
14 learning in this state for the evaluation of English
15 language proficiency. An institution shall demonstrate to
16 the council that the tests and passing scores that it uses
17 establish that students have acquired the degree of
18 proficiency in oral and written English required by
19 subdivision (d), (e), (f), or (g), whichever is applicable.
20 The required level of proficiency in oral and written
21 English shall not be lower than the sixth grade level.

22 (m) All tests shall be independently administered,
23 without charge to the student and in accordance with the
24 procedures specified by the test publisher. The tests shall
25 not be administered by a previous or current owner,
26 director, consultant, or representative of the institution
27 or by any person who previously had, or currently has, a
28 direct or indirect financial interest in the institution other
29 than the arrangement to administer the test. The council
30 shall adopt regulations that contain criteria to ensure
31 independent test administration including the criteria
32 established by the United States Department of
33 Education and set forth on pages 52160 and 52161 of
34 Volume 55 of the Federal Register, dated December 19,
35 1990.

36 94866. (a) When a person executes an agreement
37 obligating that person to pay any money to an institution
38 for a course program of instruction or related equipment,
39 the institution shall provide the person with a document
40 containing only the following notice:

1 (c) A copy of the notice, in each language in which the
2 notice was printed pursuant to subdivision (b), shall be
3 posted at all times in a conspicuous place at the main
4 entrance of the institution, in each admissions office, and
5 in each room used for instruction. The council may
6 prescribe the size and format of the posted notice. This
7 subdivision does not apply to an institution that
8 exclusively offers correspondence or home study courses.

9 (d) Upon request, the institution shall provide a
10 student with a copy of a Notice of Cancellation form, a
11 written description of the student's refund rights, a copy
12 of the contract executed by the student, a copy of
13 documents relating to loans or grants for the student, and
14 a copy of any document executed by the student.

15 (e) The council may provide for the inclusion of
16 additional information in the notice set forth in
17 subdivision (a).

18 94867. (a) (1) In addition to any other right of
19 rescission, for programs in excess of 50 days, the student
20 shall have the right to cancel an agreement for a program
21 of instruction including any equipment, until midnight of
22 the fifth business day after the day on which the student
23 did any of the following:

24 (A) Attended the first class of the program of
25 instruction that is the subject of the agreement or
26 received the first lesson in a home study or
27 correspondence course.

28 (B) Received a copy of the notice of cancellation as
29 provided in Section 94868.

30 (C) Received a copy of the agreement and the
31 disclosures as required by subdivision (a) of Section
32 94859, whichever is later.

33 (2) For programs of 50 or fewer days, the student shall
34 have the right to cancel the agreement until midnight of
35 the date that is one business day for every 10 days of
36 scheduled program length, rounded up for any fractional
37 increments thereof.

38 If the first lesson in a home-study or correspondence
39 course is sent to the student by mail, the institution shall
40 send it by first class mail, postage prepaid, documented



1 by a certificate of mailing, and the student shall have a
2 right to cancel until midnight of the eighth business day
3 after the first lesson was mailed.

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

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

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

14 (e) Except as provided in subdivision (f), if the
15 student cancels the agreement, the student shall have no
16 liability, and the institution shall refund any consideration
17 paid by the student within 10 days after the institution
18 receives notice of the cancellation.

19 (f) If the institution gave the student any equipment,
20 the student shall return the equipment within 10 days
21 following the date of the Notice of Cancellation. If the
22 student fails to return the equipment within this 10
23 day-period, the institution may retain that portion of the
24 consideration paid by the student equal to the
25 documented cost to the institution of the equipment and
26 shall refund the portion of the consideration exceeding
27 the documented cost to the institution of the equipment
28 within 10 days after the period within which the student
29 is required to return the equipment. The student may
30 retain the equipment without further obligation to pay
31 for it.

32 (g) For the purpose of determining the time within
33 which a student may cancel that student's agreement for
34 a course, as described in Sections 94866, 94867, and 94868,
35 "business day" means the following:

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

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



1 94868. The institution shall provide the student with
 2 two cancellation forms at the first class attended by the
 3 student or with the first lesson in a home study course
 4 submitted by the student. The form shall be completed
 5 in duplicate, captioned "Notice of Cancellation," and
 6 shall contain the following statement:

7
 8 "Notice of Cancellation

9 _____
 10 (Date)

11 [Enter date of first class, date first
 12 lesson received, or date first lesson was
 13 mailed, whichever is applicable]

14
 15 "You may cancel this contract for school, without any
 16 penalty or obligation by the date stated below.

17 "If you cancel, any payment you have made and any
 18 negotiable instrument signed by you shall be returned to
 19 you within 30 days following the school's receipt of your
 20 cancellation notice.

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

34 "To cancel the contract for school, mail or deliver a
 35 signed and dated copy of this cancellation notice, or any
 36 other written notice, or send a telegram to:

37
 38 _____, at _____.
 39 (name of institution) (address of institution)



1 “NOT LATER THAN

2 _____
3 [Enter midnight of the date that is the fifth
4 business day following the day of the first
5 class or the day the first lesson was re-
6 ceived; or, if the program is fifty or fewer
7 days, midnight of the date that is one busi-
8 ness day for every 10 days of scheduled pro-
9 gram length, rounded up for any fractional
10 increment thereof; or, if the lesson was
11 sent by mail, the eighth business day fol-
12 lowing the day of mailing, whichever is ap-
13 plicable]

14 “I cancel the contract for school.

15 _____
16
17 (Date)
18 _____
19 (Student’s signature)

20
21 “REMEMBER, YOU MUST CANCEL IN WRITING.
22 You do not have the right to cancel by just telephoning
23 the school or by not coming to class.

24 “If you have any complaints, questions, or problems
25 which you cannot work out with the school, write or call
26 the Council for Private Postsecondary and Vocational
27 Education:

28 _____
29
30 (insert address and telephone number of the Council
31 for Private Postsecondary and Vocational Education)”
32

33 94869. (a) Each student of an institution has the right
34 to withdraw from a program of instruction at any time.

35 (b) If a student withdraws from a program of
36 instruction after the period described in subdivision (a)
37 of Section 94867, the institution shall remit a refund as
38 provided in Section 94870 within 30 days following the
39 student’s withdrawal.



1 (c) If any portion of the tuition was paid from the
2 proceeds of a loan, the refund shall be sent to the lender
3 or, if appropriate, to the state or federal agency that
4 guaranteed or reinsured the loan. Any amount of the
5 refund in excess of the unpaid balance of the loan shall be
6 first used to repay any student financial aid program from
7 which the student received benefits, in proportion to the
8 amount of the benefits received, and any remaining
9 amount shall be paid to the student.

10 (d) Within 10 days of the day on which the refund is
11 made, the institution shall notify the student in writing of
12 the date on which the refund was made, the amount of
13 the refund, the method of calculating the refund, and the
14 name and address of the entity to which the refund was
15 sent. The following statement shall be placed at the top
16 of the notice in at least 10-point bold face type: “This
17 Notice is Important. Keep It For Your Records.”

18 94870. (a) (1) Except as provided in paragraph (2),
19 the refund to be paid to a student for a program of
20 instruction subject to this article shall be calculated as
21 follows:

22 (A) Deduct a registration fee not exceeding
23 seventy-five dollars (\$75) from the total tuition charge.

24 (B) Divide this figure by the number of hours in the
25 program.

26 (C) The quotient is the hourly charge for the program.

27 (D) The amount owed by the student for purposes of
28 calculating a refund is derived by multiplying the total
29 hours attended by the hourly charge for instruction.

30 (E) The refund would be any amount in excess of the
31 figure derived in subparagraph (D) that was paid by the
32 student.

33 (F) The refund amount shall be adjusted as provided
34 in subdivision (b) or (c) for equipment, if applicable.

35 (2) For an educational service offered by home study
36 or correspondence, the refund shall be the amount the
37 student paid for lessons less a registration fee not
38 exceeding seventy-five dollars (\$75), multiplied by a
39 fraction, the numerator of which is the number of lessons
40 for which the student has paid but which the student has

1 not completed and submitted, and the denominator of
2 which is the total number of lessons for which the student
3 has paid. The refund amount shall be adjusted as provided
4 in subdivision (b) or (c) for equipment and as provided
5 in subdivision (d) for resident instruction, if applicable.

6 (3) Notwithstanding any provision in any agreement,
7 all of the following shall apply:

8 (A) All amounts that the student has paid, however
9 denominated, shall be deemed to have been paid for
10 instruction, unless the student has paid a specific charge
11 for equipment set forth in the agreement for the program
12 of instruction.

13 (B) In the case of an educational service offered by
14 home study or correspondence, all amounts that the
15 student has paid, however denominated, shall be deemed
16 to have been paid for lessons unless the student has paid
17 a specific charge for equipment or resident instruction as
18 set forth in the agreement for the educational service.

19 (C) The total number of hours necessary to complete
20 each lesson of home study or correspondence instruction
21 shall be substantially equivalent to each other lesson
22 unless otherwise permitted by the council.

23 (D) An equal charge shall be deemed to have been
24 made for each hour of instruction or each lesson.

25 (b) If the institution specifies in the agreement a
26 separate charge for equipment that the student actually
27 obtains and the student returns that equipment in good
28 condition, allowing for reasonable wear and tear, within
29 30 days following the date of the student's withdrawal, the
30 institution shall refund the charge for the equipment paid
31 by the student. If the student fails to return that
32 equipment in good condition, allowing for reasonable
33 wear and tear, within 30 days following the date of the
34 student's withdrawal, the institution may offset against
35 the refund calculated under subdivision (a) the
36 documented cost to the institution of that equipment.
37 The student shall be liable for the amount, if any, by
38 which the documented cost for equipment exceeds the
39 refund amount calculated under subdivision (a). For the
40 purpose of this subdivision, equipment cannot be



1 returned in good condition if the equipment cannot be
2 reused because of clearly recognized health and sanitary
3 reasons and this fact is clearly and conspicuously disclosed
4 in the agreement.

5 (c) If the institution specifies in the agreement a
6 separate charge for equipment, which the student has not
7 obtained at the time of the student's withdrawal, the
8 refund also shall include the amount paid by the student
9 that is allocable to that equipment.

10 (d) If an agreement for educational service offered by
11 home study or correspondence includes a separate
12 charge for resident instruction, which the student has not
13 begun at the time of the student's withdrawal, the
14 institution shall refund the charge for the resident
15 instruction paid by the student. If the student withdraws
16 from the educational service after beginning the resident
17 instruction, the institution shall pay a refund equal to the
18 amount the student paid for the resident instruction
19 multiplied by a fraction, the numerator of which is the
20 number of hours of resident instruction which the student
21 has not received but for which the student has paid, and
22 the denominator of which is the total number of hours of
23 resident instruction for which the student has paid.

24 (e) For the purpose of determining a refund under
25 this section, a student shall be deemed to have withdrawn
26 from a program of instruction when any of the following
27 occurs:

28 (1) The student notifies the institution of the student's
29 withdrawal or of the date of the student's withdrawal,
30 whichever is later.

31 (2) The institution terminates the student's
32 enrollment as provided in the agreement.

33 (3) The student has failed to attend classes for a
34 three-week period. For the purpose of subdivision (a) of
35 Section 94869 and for determining the amount of the
36 refund, the date of the student's withdrawal shall be
37 deemed the last date of recorded attendance. For the
38 purpose of determining when the refund must be paid
39 pursuant to subdivision (b) of Section 94869, the student

1 shall be deemed to have withdrawn at the end of the
2 three-week period.

3 (4) The student has failed to submit three consecutive
4 lessons or has failed to submit a completed lesson within
5 60 days of its due date as set by an educational service
6 offered by home study or correspondence. For the
7 purpose of this paragraph, the date of the student's
8 withdrawal shall be deemed to be the date on which the
9 student submitted the last completed lesson.

10 (f) An institution shall have the burden of proof to
11 establish the validity of the amount of every refund. The
12 institution shall maintain records for five years of all the
13 evidence on which the institution relies.

14 94871. (a) No institution shall offer any program of
15 instruction to any person, or receive any consideration
16 from any person for a course of instruction, except
17 pursuant to a written agreement as described in this
18 section. Every agreement for a program of instruction
19 shall provide the following:

20 (1) A general description of the program of instruction
21 and any equipment to be provided.

22 (2) The total number of classes, hours, or lessons
23 required to complete the program of instruction.

24 (3) The total amount that the student is obligated to
25 pay including all fees, charges, and expenses separately
26 itemized that must be paid to complete the program of
27 instruction. The total amount shall be underlined and
28 shall appear immediately above the following notice,
29 which shall be printed above the space on the agreement
30 that is reserved for the student's signature:

31 "YOU ARE RESPONSIBLE FOR THIS AMOUNT, IF
32 YOU GET A STUDENT LOAN, YOU ARE
33 RESPONSIBLE FOR REPAYING THE LOAN
34 AMOUNT PLUS ANY INTEREST."

35 (4) The total amount charged for each item of
36 equipment shall be separately stated. The amount
37 charged for each item of equipment shall not exceed the
38 equipment's fair market value. The institution shall have
39 the burden of proof to establish the equipment's fair
40 market value.



1 (5) A schedule of payments.

2 (6) The student's right to withdraw from the program
3 of instruction and obtain a refund and an explanation of
4 refund rights and of how the amount of the refund will be
5 determined including a hypothetical example.

6 (7) A detailed explanation of the student's right to
7 cancel the agreement as provided in Section 94867.

8 (8) If the student is not a resident of California, a clear
9 statement that the student is not eligible for protection
10 under, and recovery from, the Student Tuition Recovery
11 Fund.

12 (9) The following statement shall be printed in
13 12-point boldface type on the first page of the agreement:
14 'If you have any complaints, questions, or problems which
15 you cannot work out with the school, write or call the
16 Council for Private Postsecondary and Vocational
17 Education:

18

19

20 (insert address and telephone number of the Council for
21 Private Postsecondary and Vocational Education)"

22

23 (b) Unless otherwise provided in subdivision (a), the
24 institution shall provide the information required under
25 Sections 94859, 94867, and 94868, in at least 10-point type
26 in English and, if any solicitation or negotiation leading to
27 the agreement for a course of instruction was in a
28 language other than English, in that other language.

29 (c) When a student is a client of a third-party
30 organization and that organization pays all of the
31 student's tuition and fees, the institution may substitute
32 for the enrollment agreement required by this section a
33 form provided to the student that contains the
34 information required by subdivision (b) and paragraphs
35 (1), (2) and (9) of subdivision (a). The form also shall
36 contain a statement that students whose entire tuition
37 and fees are paid by a third party organization are not
38 eligible for payments from the Student Tuition Recovery
39 Fund.

1 94872. (a) An institution shall not enter into an
2 agreement for a program of instruction with a student
3 unless the institution first administers to the student and
4 the student passes a test as provided in subdivision (b).

5 (b) (1) The test required by subdivision (a) shall be
6 a standardized test that is designed to measure and that
7 reliably and validly measures the student's ability to be
8 successfully trained to perform the tasks associated with
9 the occupations or job titles to which the program of
10 instruction is represented to lead. The student's
11 performance on the test must demonstrate that ability.

12 (2) Nothing in paragraph (1) precludes an institution
13 from using additional tests to determine a student's ability
14 to be trained to perform tasks associated with the
15 occupations and job titles for which training is offered as
16 described in paragraph (1).

17 (3) (A) If no standardized test is available that
18 satisfies paragraph (1), the institution shall use other
19 appropriate tests to determine the student's ability to be
20 trained to perform the tasks associated with the
21 occupations and job titles for which training is offered as
22 described in paragraph (1). Within 30 days of
23 determining that no standardized test satisfies paragraph
24 (1), the institution shall so inform the council and shall
25 describe and, if possible, furnish the council with the test
26 to be used in lieu of the test required by paragraph (1).

27 (B) Upon reasonable notice to the institution, the
28 council may order the institution to demonstrate to the
29 reasonable satisfaction of the council that the test and
30 passing score are an appropriate measure of the student's
31 ability to be trained to perform the tasks associated with
32 the occupations or job titles to which the course is
33 represented to lead. If the test is not an appropriate
34 measure, the council, after notice, and if requested, a
35 hearing as provided in Section 94965 or 94975, shall order
36 that the institution cease administering the test.

37 (c) The institution shall have the burden of proof that
38 the test complies with subdivision (b). If no minimum
39 passing score is established by the test developer or if the
40 minimum passing score used by the institution is below



1 *the minimum passing score established by the test's*
2 *developer, the institution shall have the burden of proof*
3 *that the student's achievement of the minimum passing*
4 *score reasonably measures the student's ability to be*
5 *successfully trained to perform the tasks associated with*
6 *the occupations and job titles to which the course of*
7 *instruction is represented to lead. The test shall be*
8 *administered in accordance with the test's instructions,*
9 *rules, and time limits.*

10 *(d) (1) The test shall be completed solely by the*
11 *student.*

12 *(2) No institution or any person in any manner*
13 *associated with the institution shall do any of the*
14 *following:*

15 *(A) Answer any of the test questions.*

16 *(B) Read any of the test questions to the student.*

17 *(C) Provide any assistance whatsoever to the student*
18 *in answering test questions.*

19 *Nothing in this subparagraph prevents an institution*
20 *from providing nonsubstantive assistance to*
21 *accommodate the disability of a handicapped person*
22 *otherwise qualified to take the test.*

23 *(3) The test shall be given by the institution on its*
24 *premises or by an independent testing service. The site*
25 *requirement does not apply to an institution offering a*
26 *home study or correspondence course.*

27 *(4) If a prospective student has failed a test, the*
28 *institution or the testing service that administered the*
29 *test shall not administer another test to that prospective*
30 *student for at least the period specified by the test*
31 *developer or one week, whichever is longer. Any*
32 *subsequent test administered by an institution to the*
33 *same prospective student shall be a substantially different*
34 *form of the same test or a substantially different test than*
35 *the preceding test and shall satisfy the requirements of*
36 *paragraph (1) or, if applicable, paragraph (3) of*
37 *subdivision (b).*

38 *(e) An institution's application for approval to operate*
39 *shall do all of the following:*

40 *(1) Identify the test used to comply with this section.*



1 (2) State the minimum score, if any, that the test's
2 developer indicates a prospective student must achieve
3 to demonstrate an ability to be successfully trained to
4 perform the tasks associated with the occupations or job
5 titles to which the course is represented to lead.

6 (3) State the minimum passing score used by the
7 institution.

8 (4) If the institution accepts a lower minimum passing
9 score than is indicated by the test's developer, state an
10 explanation of why the institution accepts a lower
11 minimum passing score.

12 (f) The institution shall, for five years, retain an
13 exemplar of each test administered by the institution
14 pursuant to this section, an exemplar of the answer sheet
15 for each test, a record of the passing score for each test,
16 and the answer sheets or other responses submitted by
17 each person who took each test.

18 94873. (a) If a program of instruction is based on a
19 sequence of classes, class sessions, or lessons and the
20 learning experience to be derived from any class, class
21 sessions, or lesson within the sequence is based in any
22 manner on a student's attendance at or completion of a
23 prior class, class session, or lesson, an institution shall not
24 enroll a student in that program of instruction unless the
25 instruction begins with the first class, class session, or
26 lesson and proceeds in the appropriate sequence.

27 (b) (1) If a program of instruction is based on a series
28 of modules comprised of class sessions or lessons and the
29 learning experience to be derived from any module is
30 based in a manner on a student's attendance at, or
31 completion of, any class sessions or lessons in any other
32 module, an institution shall not enroll a student in that
33 course of instruction unless the student begins and
34 proceeds in the appropriate sequence.

35 (2) If a program of instruction is based on a series of
36 modules comprised of class sessions or lessons and the
37 learning experience to be derived from any module is not
38 based on a student's attendance at, or completion of, any
39 classes or lessons in any other module, an institution shall
40 only enroll a student in the program of instruction if the



1 student begins with the first class session or lesson in a
2 module.

3 (c) Notwithstanding subdivisions (a) and (b), if a class
4 or a module consists of more than 60 days of instruction,
5 the institution may enroll a student to begin no later than
6 the fifth class session of the first class or the fifth class
7 session in the appropriate module.

8 (d) The council, at any time, may determine whether
9 the learning experience to be derived from any class
10 session or lesson in a sequence of class sessions or lessons
11 or from any module is based in any manner on a student's
12 attendance at, or completion of, a prior class session or
13 lesson in the sequence or any class sessions or lessons in
14 any other module. The council may make the
15 determination described in this subdivision upon the
16 application of any person or when the council deems that
17 a determination is appropriate. The institution shall have
18 the burden to establish compliance with this section.

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

27 (f) After a student has enrolled in a program of
28 instruction, the institution shall not do any of the
29 following:

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

33 (2) Change the day or time in which any class is
34 offered to a day when the student is not scheduled to
35 attend the institution or to a time that is outside of the
36 range of time that the student is scheduled to attend the
37 institution on the day for which the change is proposed
38 unless at least 90 percent of the students who are enrolled
39 consent to the change and the institution offers full
40 refunds to the students who do not consent to the change.



1 For the purpose of this paragraph, “range of time” means
2 the period beginning with the time at which the student’s
3 first scheduled class session for the day is set to start and
4 ending with the time the student’s last scheduled class
5 session for that day is set to finish.

6 (g) If an institution enrolls a student in a program of
7 instruction that is not offered or designed as a home study
8 or correspondence course at the time of enrollment, the
9 institution shall not convert the program of instruction
10 from classroom instruction to a home study or
11 correspondence course.

12 (h) An institution shall not move the class instruction
13 to a location more than five miles from the location of
14 instruction at the time of enrollment unless any of the
15 following occur:

16 (1) The institution discloses orally and clearly and
17 conspicuously in writing to each student before
18 enrollment in the program that the location of instruction
19 will change after the program begins and the address of
20 the proposed location.

21 (2) The institution applies for, and the council grants,
22 approval to change the location. The council shall grant
23 the application within 30 days if the council, after notice
24 to affected students and an opportunity for them to be
25 heard as prescribed by the council, concludes that the
26 change in location would not be unfair or unduly
27 burdensome to students. The council may grant approval
28 to change the location which shall be subject to
29 reasonable conditions, such as requiring the institution to
30 provide transportation, transportation costs, or refunds to
31 adversely affected students.

32 (3) The institution offers a full refund to students
33 enrolled in the program of instruction who do not
34 voluntarily consent to the change.

35 94874. (a) Every institution shall maintain for a
36 period of not less than five years at its principal place of
37 business in California accurate records that show all of the
38 following:

39 (1) The names, telephone numbers, and home and
40 local addresses of each student.



1 (2) *The courses of instruction offered by the*
2 *institution and the curriculum for each course.*

3 (3) *The name, address, and educational qualifications*
4 *of each member of its faculty.*

5 (4) *The information required by subdivision (j) of*
6 *Section 94854 and subdivision (b) of Section 94859.*

7 (5) *All information and records required by this*
8 *chapter or required by the council.*

9 (b) *All records that an institution is required to*
10 *maintain by this chapter or that relate to the institution's*
11 *compliance with this chapter shall be made immediately*
12 *available by the institution for inspection and copying*
13 *during normal business hours by the council, the*
14 *Attorney General, any district attorney or city attorney,*
15 *and the Student Aid Commission.*

16 (c) *An institution shall make available to a student, or*
17 *a person designated by the student, all of the student's*
18 *records, except for transcripts of grades as described in*
19 *subdivision (d) and (e).*

20 (d) *As provided in Section 94948, an institution may*
21 *withhold a student's transcript or grades if the student is*
22 *in default on a student tuition contract.*

23 (e) *If the student has made partial payment of his or*
24 *her tuition obligation, the institution may only withhold*
25 *that portion of the grades or transcript that corresponds*
26 *on a pro rata basis to the amount of tuition or loan*
27 *obligation that the student has not paid. If the course of*
28 *study consists of only one course, the institution may*
29 *withhold the grades or the transcript until the tuition or*
30 *loan obligation is paid in full.*

31 (f) *Each institution shall be deemed to have*
32 *authorized the accrediting agency that accredited the*
33 *institution to provide to the council, the Attorney*
34 *General, any district attorney or city attorney, or the*
35 *Student Aid Commission, within 30 days of written notice,*
36 *copies of all documents and other material concerning*
37 *the institution that is maintained by the accrediting*
38 *agency.*

39 (g) *Within 30 days of receiving written notice from the*
40 *council, the Attorney General, any district attorney or*



1 city attorney, or the Student Aid Commission, an
2 accrediting agency shall provide the requesting official
3 with all documents or other material concerning an
4 institution accredited by that accrediting agency that are
5 designated specifically or by category in the written
6 notice.

7 (h) If the council, the Attorney General, any district
8 attorney or city attorney, or the Student Aid Commission
9 is conducting a confidential investigation of an institution
10 and so informs the accrediting agency, the accrediting
11 agency shall not inform that institution of the
12 investigation.

13 (i) If an accrediting agency willfully fails to comply
14 with this section, the accrediting agency shall be liable for
15 a civil penalty of not less than two thousand five hundred
16 dollars (\$2,500) or more than twenty-five thousand
17 dollars (\$25,000) for each violation. Penalties awarded
18 pursuant to this section shall be deposited in the Private
19 Postsecondary and Vocational Education Administration
20 Fund or any successor fund.

21 94875. (a) The institution shall provide sufficient
22 instruction and materials pursuant to a planned
23 curriculum appropriate to the student's educational
24 program and establish sufficient student attendance,
25 progress, and performance standards to reasonably
26 ensure that students acquire the necessary level of
27 education, training, skill, and experience to obtain
28 employment in the occupation or job title to which the
29 course of instruction is represented to lead.

30 (b) The institution shall provide each student with
31 sufficient materials, including current publications and
32 equipment, not later than the time the materials are
33 appropriate for use in the course of instruction.

34 (c) If a student has begun a course of instruction and
35 any portion of the student's tuition is to be paid from the
36 proceeds of a loan or grant, the institution shall not
37 withhold any instruction, equipment, or materials from
38 the student pending approval of the loan or grant or the
39 disbursement of any portion of the proceeds of the loan
40 or grant.



1 94876. No student may waive any provision of this
2 article. Any waiver or limitation of any substantive or
3 procedural right or remedy is in violation of this section
4 and is void and unenforceable.

5 94877. (a) If an institution violates this article or
6 Section 94832 or commits an act as set forth in Section
7 94830 in connection with an agreement for a course of
8 instruction, that agreement shall be unenforceable, and
9 the institution shall refund all consideration paid by or on
10 behalf of the student.

11 (b) Notwithstanding any provision in an agreement, a
12 student may bring an action for a violation of this article
13 or Section 94832 or an institution's failure to perform its
14 legal obligations and upon prevailing shall be entitled to
15 the recovery of damages, equitable relief, any other relief
16 authorized by this article, and reasonable attorney's fees
17 and costs.

18 (c) If a court finds that a violation was willfully
19 committed or that the institution failed to refund all
20 consideration as required by subdivision (a) on the
21 student's written demand, the court, in addition to the
22 relief awarded under subdivision (b), shall award a civil
23 penalty of up to two times the amount of the damages
24 sustained by the student.

25 (d) The remedies provided in this article supplement,
26 but do not supplant, the remedies provided under other
27 provisions of law.

28 (e) An action brought under this section shall be
29 commenced within three years of the discovery of the
30 facts constituting grounds for commencing the action.

31 (f) Any provision in any agreement that purports to
32 require a student to invoke any grievance dispute
33 procedure established by the institution or any other
34 procedure before bringing an action to enforce any right
35 or remedy is void and unenforceable.

36 (g) A student may assign his or her causes of action for
37 a violation of this article to the council, or to any state or
38 federal agency that guaranteed or reinsured a loan for the
39 student or provided any grant or other financial aid.

1 (h) This section applies to any action pending under
2 former Chapter 7 (commencing with Section 94700) on
3 January 1, 1990.

4 94878. (a) An institution is legally authorized to
5 provide courses of instruction if the institution complies
6 with both this article and Sections 94831, 94832, and 94985,
7 or former Section 94320 as that section was in effect on
8 January 1, 1991, has received approval from the council,
9 and has not been found to be in violation of this article by
10 the council, the Student Aid Commission, or a court. No
11 institution shall offer any course of instruction if the
12 institution's approval to offer that course of instruction
13 has been suspended or revoked.

14 (b) (1) The council, after notice and, if requested by
15 the institution, a hearing as provided in Section 94965 or
16 94975, may suspend or revoke an institution's approval to
17 operate or approval to operate a branch or satellite
18 campus or may order that an institution cease offering a
19 class or course of instruction because of any violation of
20 this article, Section 94831, 94832, or 94985, or former
21 Section 94320 as that section was in effect on January 1,
22 1991, or any regulation or order issued pursuant to this
23 article.

24 (2) If the council takes any of the actions described in
25 paragraph (1), the council may permit the institution to
26 continue to offer the class or course of instruction to
27 students already enrolled or may order the institution to
28 cease instruction and provide a refund of tuition and all
29 other charges to students.

30 (c) If the council determines after notice and if
31 requested by the institution, a hearing, that an institution
32 has violated this article, Section 94831, 94832, or 94985, or
33 former Section 94320 as that section was in effect on
34 January 1, 1991, but that the institution's approval to
35 operate, or approval to operate a branch or satellite
36 campus should not be suspended or revoked, or that the
37 institution should not be ordered to cease offering a class
38 or program of instruction, the council may do any or all
39 of the following:



1 (1) Place the institution, or branch or satellite campus,
2 on probation under reasonable terms and conditions for
3 a specified period of time not to exceed two years.

4 (2) Order the institution to post a bond.

5 (3) Order the institution not to enter into new
6 agreements for courses of instruction.

7 (d) During the period of probation, the institution, or
8 the branch or satellite or both the institution and the
9 branch or satellite campus, shall be subject to monitoring
10 that may include the required submission of periodic
11 reports, as prescribed by the council and special onsite
12 inspections to determine progress toward compliance.
13 The onsite inspections may include an inspection of the
14 institution's facilities and records, interviews of
15 administrators, faculty, and students, and observation of
16 class instruction. The council shall order the institution to
17 reimburse all reasonable costs and expenses incurred by
18 the council in connection with this subdivision. The
19 council may make the payment of the order for
20 reimbursement a condition of probation.

21 (e) If, at the period of probation, the council is not
22 satisfied with the steps taken by the institution to
23 eliminate the violations of this article, Sections 94831,
24 94832, and 94985, or former Section 94320 as that section
25 was in effect on January 1, 1991, upon which the probation
26 was based, the council may revoke the institution's
27 approval to operate or the institution's approval to
28 operate a branch or satellite campus.

29 (f) The council may assess a penalty of up to ten
30 thousand dollars (\$10,000) as part of a probation order for
31 violations of this article, Sections 94831, 94832, and 94985,
32 or former Section 94320 as that section was in effect on
33 January 1, 1991. In determining the amount of that
34 penalty, the council shall consider the number and
35 gravity of the violations, the degree of the institution's
36 good faith or culpability, the history of the institution's
37 previous violations, and the institution's ability to pay. If
38 the institution fails to pay a penalty within the time
39 prescribed by the council the institution's approval to
40 operate the institution, or approval to operate a branch



1 or satellite campus, shall be automatically suspended
2 until the penalty is paid in full.

3 (g) (1) Any bond ordered by the council shall be
4 issued by an admitted surety insurer in an amount
5 established at the discretion of the council that is
6 sufficient to protect students from the potential
7 consequences of the violation.

8 (2) The bond shall be in favor of the State of California
9 for the indemnification of any person for any loss,
10 including the loss of prepaid tuition, suffered as a result
11 of the occurrence of any violation of this chapter during
12 the period of coverage.

13 (3) Liability on the bond may be enforced after a
14 hearing before the council, after 30 days' advance written
15 notice to the principal and surety. The council shall adopt
16 regulations establishing the procedure for administrative
17 enforcement of liability. This paragraph supplements,
18 but does not supplant, any other rights or remedies to
19 enforce liability on the bond.

20 (4) The council may order the institution to file
21 reports at any interval the council deems necessary to
22 enable the council to monitor the adequacy of the bond
23 coverage and to determine whether further action is
24 appropriate.

25 (h) The council shall determine an institution's
26 compliance, including the compliance of its branch and
27 satellite campuses, with this article, Sections 94831, 94832,
28 and 94985, or former Section 94320 as that section was in
29 effect on January 1, 1991, and shall not be bound by the
30 findings or conclusions of any accrediting agency.

31 (i) The council may revoke the approval to operate of
32 any institution that fails to pay an order imposing a
33 penalty or an order for the reimbursement of costs and
34 expenses. The council may enforce any administrative
35 order requiring the payment of money in the same
36 manner as if it were a money judgment pursuant to Title
37 9 (commencing with Section 680.010) of Part 1 of the
38 Code of Civil Procedure. All penalties and
39 reimbursements paid pursuant to this section shall be
40 deposited in the vocational education account in the



1 *Private Postsecondary and Vocational Education*
2 *Administration Fund established pursuant to Section*
3 *94932.*

4 *(j) Proceedings by the council under this section shall*
5 *be conducted in accordance with regulations adopted by*
6 *the council or, if there are no regulations establishing*
7 *hearing procedures, Section 94965 or 94975, and the*
8 *council shall have all of the powers granted therein.*

9 *94879. The council may suspend or revoke an*
10 *institution's approval to operate or order probation or the*
11 *posting of a bond, as provided in Section 94878, for any of*
12 *the following reasons:*

13 *(a) The institution has failed to make timely refunds*
14 *to, or on behalf of students, as required by Sections 94867,*
15 *94869, 94870, and 94877, or has not satisfied, within 30 days*
16 *of its issuance, a final judgment obtained by a student*
17 *against the institution.*

18 *(b) The institution or an owner, person in control,*
19 *director, or officer of the institution is, or has been, found*
20 *in any criminal, civil, or administrative proceeding, after*
21 *notice and an opportunity to be heard, to have violated*
22 *any law regarding the obtaining, maintenance, or*
23 *disbursement of state or federal loan or grant funds, or*
24 *any other law substantially related to the operation of the*
25 *institution.*

26 *(c) The institution, or a person in control of the*
27 *institution is, or has been, found in any criminal, civil, or*
28 *administrative proceeding, after notice and an*
29 *opportunity to be heard, to have unpaid financial*
30 *liabilities involving the refund or unlawful acquisition,*
31 *use, or expenditure of state or federal financial aid funds.*

32 *(d) (1) All of the following are, or have been, found*
33 *in any criminal, civil, or administrative proceeding:*

34 *(A) A person in control of the institution was a person*
35 *in control of another institution within one year before*
36 *that institution's closure.*

37 *(B) While the person was acting as a person in control*
38 *of the other institution, the person knew or, by the*
39 *exercise of reasonable care, should have known that the*
40 *institution violated this chapter.*



1 (C) That violation was a cause of that institution's
2 closure or of damage to students.

3 (D) That institution did not pay to all students refunds
4 owed as a result of the closure and full compensation for
5 actual damages from that violation.

6 (E) The person in control has not paid to all students
7 of the closed institution refunds owed and full
8 compensation for actual damages resulting from the
9 closure that were not paid by the closed institution. For
10 the purpose of this subdivision, "closure" includes closure
11 of a branch or satellite campus, the termination of either
12 the correspondence or residence portion of a home-study
13 or correspondence course, and the termination of a
14 course of instruction for some or all of the students
15 enrolled in the course before the time these students
16 were originally scheduled to complete it, or before a
17 student who has been continually enrolled in a course of
18 instruction has been permitted to complete all the
19 educational services, and the classes that comprise the
20 course.

21 94880. (a) The council may bring an action for
22 equitable relief for any violation of this article in addition
23 to, or instead of, any other remedy or procedure.

24 (b) The suspension or revocation of an institution's
25 approval to operate also may be embraced in any action
26 otherwise proper in any court involving the institution's
27 compliance with this chapter or performance of its legal
28 obligations.

29 94881. (a) For the purposes of this section, the
30 following definitions apply:

31 (1) "Document or record" means any test score,
32 grade, record of grades, attendance record, record
33 indicating student course completion or employment,
34 financial information, including any financial report
35 required to be filed pursuant to Sections 94861 and 94862,
36 information or records relating to the student's eligibility
37 for financial assistance or attendance at the institution, or
38 any other record or document required by this chapter
39 or by the council.



1 (2) "Person" means a natural person and any business
2 entity, regardless of the form of organization.

3 (b) Any person who, in any manner, makes or causes
4 to be made any untrue or misleading statement in
5 connection with offering or providing a course of
6 instruction, or who makes or causes to be made any
7 untrue or misleading change in any document or record
8 and who knows or, by the exercise of reasonable care,
9 should know that the statement or change is untrue or
10 misleading is guilty of a crime, punishable as provided in
11 subdivision (e).

12 (c) Any person who willfully falsifies, destroys, fails to
13 maintain, or conceals any document or record that is
14 required to be maintained by this chapter or by the
15 council is guilty of a crime, punishable as provided in
16 subdivision (e).

17 (d) Any person who is required to file any report
18 required by paragraph (3) of subdivision (f) of Section
19 94854, 94861, or 94862 and who willfully fails to file that
20 report as required, or willfully violates or causes the
21 violation of subdivision (b) of Section 94874, is guilty of a
22 crime and is subject to punishment for each violation as
23 provided in paragraph (2) of subdivision (e).

24 (e) Any person who violates subdivision (b) or (c), or
25 who willfully violates Section 94831, 94832, 94853, or
26 94985, or former Section 94320 as that section was in effect
27 January 1, 1991, is guilty of a crime and is subject to
28 separate punishment for each violation either by:

29 (1) Imprisonment in the state prison, by a fine not to
30 exceed fifty thousand dollars (\$50,000), or by both that
31 imprisonment and fine.

32 (2) Imprisonment in a county jail not to exceed one
33 year, by a fine not to exceed ten thousand dollars
34 (\$10,000), or by both that imprisonment and fine.

35 (f) Notwithstanding any other law, any prosecution
36 under this section shall be commenced within three years
37 of the discovery of the facts constituting grounds for
38 commencing the prosecution.

1 (g) *The penalties provided by this section*
 2 *supplement, but do not supplant, the remedies and*
 3 *penalties provided under other law.*
 4 *94882. The council may adopt and enforce regulations*
 5 *as may be necessary, appropriate, or useful to interpret*
 6 *and otherwise implement this article. Pending the*
 7 *adoption of regulations, the council may adopt*
 8 *emergency regulations, which shall be immediately*
 9 *effective, notwithstanding any other provision of law, and*
 10 *which shall be superseded upon the adoption of*
 11 *subsequent regulations.*

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*Article 8. Standards and Evaluation Procedures for
 Degree-Granting Institutions*

16 *94900. (a) No private postsecondary educational*
 17 *institution may issue, confer, or award an academic or*
 18 *honorary degree unless the institution is approved by the*
 19 *council to operate in California and award degrees.*

20 *The council shall not issue an approval under*
 21 *paragraph (1) of subdivision (c) of Section 94901 or a*
 22 *conditional approval under paragraph (2) of subdivision*
 23 *(c) of Section 94901 until it has conducted a qualitative*
 24 *review and assessment of, and has approved, each degree*
 25 *program offered by the institution, and all of the*
 26 *operations of the institution, and has determined all of the*
 27 *following:*

28 *(1) The institution has the facilities, financial*
 29 *resources, administrative capabilities, faculty, and other*
 30 *necessary educational expertise and resources to ensure*
 31 *its capability of fulfilling the program or programs for*
 32 *enrolled students.*

33 *(2) The faculty are fully qualified to undertake the*
 34 *level of instruction that they are assigned and shall possess*
 35 *appropriate degrees or credentials of intellectual*
 36 *equivalency and have demonstrated professional*
 37 *achievement in the major field or fields offered, in*
 38 *sufficient numbers to provide the educational services.*

39 *(3) The education services and curriculum clearly*
 40 *relate to the objectives of the proposed program or*



1 *programs and offer students the opportunity for a quality*
2 *education.*

3 (4) *The facilities are appropriate for the defined*
4 *educational objectives and are sufficient to ensure quality*
5 *educational services to the students enrolled in the*
6 *program or programs.*

7 (5) *The program of study for which the degree is*
8 *granted provides the curriculum necessary to achieve its*
9 *professed or claimed academic objective for higher*
10 *education, and the institution requires a level of academic*
11 *achievement appropriate to that degree.*

12 (6) *The institution provides adequate student*
13 *advisement services, academic planning and curriculum*
14 *development activities, research supervision for students*
15 *enrolled in Ph.D. programs, and clinical supervision for*
16 *students enrolled in various health profession programs.*

17 (7) *If the institution offers credit for prior experiential*
18 *learning it may do so only after an evaluation by qualified*
19 *faculty and only in disciplines within the institution's*
20 *curricular offerings that are appropriate to the degree to*
21 *be pursued. The council shall develop specific standards*
22 *regarding the criteria for awarding credit for prior*
23 *experiential learning at the graduate level, including the*
24 *maximum number of hours for which credit may be*
25 *awarded.*

26 (b) *The approval process shall include a qualitative*
27 *review and assessment of all of the following:*

28 (1) *Institutional purpose, mission, and objectives.*

29 (2) *Governance and administration.*

30 (3) *Curriculum.*

31 (4) *Instruction.*

32 (5) *Faculty, including their qualifications.*

33 (6) *Physical facilities.*

34 (7) *Administrative personnel.*

35 (8) *Procedures for keeping educational records.*

36 (9) *Tuition, fee, and refund schedules.*

37 (10) *Admissions standards.*

38 (11) *Financial aid policies and practices.*

39 (12) *Scholastic regulations and graduation*
40 *requirements.*



1 (13) *Ethical principles and practices.*

2 (14) *Library and other learning resources.*

3 (15) *Student activities and services.*

4 (16) *Degrees offered.*

5 *The standards and procedures utilized by the council*
6 *shall foster the development of high quality, innovative*
7 *educational programs and emerging new fields of study*
8 *within postsecondary education. In addition, the*
9 *standards and procedures utilized by the council shall not*
10 *unreasonably hinder educational innovation and*
11 *competition.*

12 (c) *The council may delegate the responsibilities for*
13 *regulation and oversight of accredited degree-granting*
14 *law schools that exclusively offer Juris Doctor degrees to*
15 *the Committee of Bar Examiners for the State of*
16 *California, and that accreditation may be accepted by the*
17 *council in lieu of council approval.*

18 94901. (a) *The council shall conduct a qualitative*
19 *review and assessment of the institution. It also shall*
20 *conduct a qualitative review and assessment of all*
21 *programs offered except continuing education programs*
22 *and programs that are exclusively avocational or*
23 *recreational in nature. The review shall include the items*
24 *listed in subdivision (b) of Section 94900, through a*
25 *comprehensive onsite review process, performed by a*
26 *qualified visiting committee impaneled by the council for*
27 *that purpose.*

28 *An institution may include some or all of its separate*
29 *operating sites under one application. Alternately, it may*
30 *submit separate applications for any one site or*
31 *combination of sites. The satellites or branches included*
32 *in either an initial or renewal application shall be*
33 *considered by the council to comprise a separate, single*
34 *institution for purposes of regulation, approval, and*
35 *compliance under this chapter.*

36 *The application shall include a single fee based on the*
37 *number of branches, satellites, and programs included*
38 *within a single application in order to cover the costs*
39 *involved for those multisite and multiprogram reviews. If*
40 *the application is for renewal of an existing approval, the*



1 institution need only submit information necessary to
2 document any changes made since the time its previous
3 application was filed with the council. Fees for renewal
4 applications will be based on the actual costs involved in
5 the administrative review process.

6 (b) The number of sites inspected by the council as
7 part of its review process shall be subject to the following
8 considerations:

9 (1) If the application for approval includes branches
10 and satellites, the council shall inspect each branch and
11 may inspect any satellite campus.

12 (2) If the application is for approval to operate a
13 branch or a satellite, the council, in addition to inspecting
14 the branch or satellite, also may inspect the institution
15 operating the branch or satellite campus.

16 (c) The council may waive or modify the onsite
17 inspection for institutions offering home study or
18 correspondence courses. The visiting committee shall be
19 impaneled by the council within 90 days of the date of the
20 receipt of a completed application and shall be composed
21 of educators, and other individuals with expertise in the
22 areas listed in subdivision (b) of Section 94900, from
23 degree-granting institutions legally operating within the
24 state. Within 90 days of the receipt of the visiting
25 committee's evaluation report and recommendations, or
26 any reasonable extension of time not to exceed 90 days,
27 the council shall take one of the following actions:

28 (1) If the institution is in compliance with this chapter
29 and has not operated within three years before the filing
30 of the application in violation of this chapter then in
31 effect, the council may grant an approval to operate for
32 a period not to exceed five years.

33 (2) If the institution is in compliance with this chapter,
34 but has operated within three years before the filing of
35 the application in violation of this chapter then in effect,
36 or if the council determines that an unconditional grant
37 of approval to operate is not in the public interest, the
38 council may grant a conditional approval to operate
39 subject to whatever restrictions the council deems
40 appropriate. The council shall notify the institution of the



1 restrictions or conditions, the basis for the restrictions or
2 conditions, and the right to request a hearing to contest
3 them. Conditional approval shall not exceed two years.

4 (3) The council may deny the application. If the
5 application is denied, the council may permit the
6 institution to continue offering the program of
7 instruction to students already enrolled or may order the
8 institution to cease instruction and provide a refund of
9 tuition and all other charges to students.

10 (d) When evaluating an institution whose purpose is to
11 advance postsecondary education through innovative
12 methods, the visiting committee shall comprise educators
13 who are familiar with, and receptive to, evidence bearing
14 on the educational quality and accomplishments of those
15 methods.

16 (e) The standards and procedures utilized by the
17 council shall not unreasonably hinder educational
18 innovation and competition.

19 (f) Each institution or instructional program offering
20 education for entry into a health care profession in which
21 the provider has primary care responsibilities shall offer
22 that education within a professional degree program
23 which shall be subject to approval by the council pursuant
24 to this section.

25 (g) (1) If an institution is not operating in California
26 when it applies for approval to operate for itself or a
27 branch or satellite campus, the institution shall file with
28 its application an operational plan establishing that the
29 institution will satisfy the minimum standards set forth in
30 subdivision (a) of Section 94900. The operational plan also
31 shall include a detailed description of the institution's
32 program for implementing the operational plan,
33 including proposed procedures, financial resources, and
34 the qualifications of owners, directors, officers, and
35 administrators employed at the time of the filing of the
36 application. The council may request additional
37 information to enable the council to determine whether
38 the operational plan and its proposed implementation
39 will satisfy these minimum standards.



1 (2) If the council determines that the operational plan
2 satisfies the minimum standards described in subdivision
3 (a) of Section 94900, that the institution demonstrates
4 that it will implement the plan, and that no ground for
5 denial of the application exists, the council shall grant a
6 temporary approval to operate, subject to any restrictions
7 the council reasonably deems necessary to ensure
8 compliance with this chapter, pending a qualitative
9 review and assessment as provided in subdivisions (a)
10 and (b) of Section 94900. The council shall inspect,
11 pursuant to subdivision (a) of Section 94901, the
12 institution, or branch or satellite campus if approval is
13 sought for that campus between 90 days and 180 days after
14 operation has begun under the temporary approval to
15 operate. Following receipt of the visiting committee's or
16 the council staff's report, the council shall act as provided
17 in paragraph (1), (2), or (3) of subdivision (c).

18 (h) If at any time the council determines that an
19 institution has deviated from the standards for approval,
20 the council, after identifying for the institution the areas
21 in which it has deviated from the standards, and after
22 giving the institution due notice and an opportunity to be
23 heard, may place the institution on probation for a
24 prescribed period of time, not to exceed 24 calendar
25 months. During the period of probation, the institution
26 shall be subject to special monitoring. The conditions for
27 probation may include the required submission of
28 periodic reports, as prescribed by the council, and special
29 visits by authorized representatives of the council to
30 determine progress toward total compliance. If, at the
31 end of the probationary period, the institution has not
32 taken steps to eliminate the cause or causes for its
33 probation to the satisfaction of the council, the council
34 may revoke the institution's approval to award degrees
35 and provide notice to the institution to cease its
36 operations.

37 (i) An institution may not advertise itself as an
38 approved institution unless each degree program offered
39 by the institution has been approved in accordance with
40 the requirements of this section. The council shall review



1 all operations of the institution, pertaining to California
2 degrees, both within and outside of California. The
3 council may conduct site visits outside of California,
4 including the institution's foreign operations, when the
5 council deems these visits to be necessary. The institution
6 shall be responsible for the expenses of the visiting team
7 members including the council's staff liaison. The council
8 may authorize any institution approved to issue degrees
9 under this section to issue certificates for the completion
10 of courses of study that are within the institution's
11 approved degree-granting programs.

12 (j) An institution shall not offer any educational
13 program or degree title that was not offered by the
14 institution at the time the institution applied for approval
15 to operate, and shall not offer any educational program
16 or degree title at a campus that had not offered the
17 program or degree title at the time the institution applied
18 for approval to operate that campus, unless the council
19 first approves the offering of the program or degree title
20 after determining that it satisfies the minimum standards
21 established by this section.

22 94905. (a) Any public or private postsecondary
23 educational institution incorporated in another state that
24 has accreditation from a regional accrediting association
25 recognized by the United States Department of
26 Education at the time of the issuance of a degree, and that
27 is approved by the council, may issue degrees, diplomas,
28 or certificates. Except for continuing education programs
29 and programs that are exclusively avocational or
30 recreational in nature, accredited public or private
31 postsecondary educational institutions incorporated in
32 another state shall not offer degrees, diplomas, or
33 certificates in California unless they comply with this
34 section.

35 (b) The council shall not approve an institution to
36 issue degrees, diplomas, or certificates pursuant to this
37 section until the council has conducted a qualitative
38 review and assessment of, and has approved, each
39 program offered by the institution and all of its operations



1 in California, and the council has determined that the
2 institution meets all of the following standards:

3 (1) The institution has financial resources to ensure
4 the capability of fulfilling the program or programs for
5 enrolled students.

6 (2) The faculty includes personnel who possess
7 appropriate degrees from institutions accredited by a
8 regional accrediting association recognized by the United
9 States Department of Education in the degree major field
10 or fields offered, in sufficient number to provide the
11 educational services.

12 (3) The education services and curriculum clearly
13 relate to the objectives of the proposed program or
14 programs.

15 (4) The facilities are appropriate for the defined
16 educational objectives and are sufficient to ensure quality
17 educational services to the students enrolled in the
18 program or programs.

19 (5) The institution has verifiable evidence of academic
20 achievement comparable to that required of graduates of
21 other institutions operating in this state for the program
22 or programs upon which the degree, diploma, or
23 certificate is based.

24 (c) The council shall grant approved status for a period
25 consistent with the postsecondary educational
26 institution's regional accrediting association, but shall not
27 exceed five years.

28 (d) Institutions approved under this section shall offer
29 in California only programs that the institution can
30 document to have been acknowledged and favorably
31 reviewed by the home regional accrediting association.

32 (e) In reviewing the out-of-state accredited
33 institutions, the council shall use as guidelines the
34 standards and procedures developed by the special
35 committee created pursuant to paragraph (5) of
36 subdivision (b) of Section 94310.1, as in effect on
37 December 31, 1989, and adopted by the California
38 Postsecondary Education Commission. These standards
39 and procedures were based on all of the following
40 principles:

1 (1) Following the initial site review, subsequent onsite
2 reviews by the council may be conducted in conjunction
3 with institutional reviews by the regional accrediting
4 association. However, if there is substantial evidence that
5 the institution is not in compliance with state standards,
6 the council may initiate a special review of the California
7 operations of the institution.

8 (2) Each institution may include some, or all, of its
9 separate operating sites under one application.
10 Alternately, it may submit separate applications for any
11 one site or combination of sites. The satellites or branches
12 included in either an initial or renewal application shall
13 be considered by the council to comprise a separate,
14 single institution for purposes of regulation, approval, and
15 compliance under this chapter.

16 (3) The application shall include a single fee based on
17 the number of branches, satellites, and programs
18 included within a single application in order to cover the
19 costs involved for such multisite and multiprogram
20 reviews.

21 (4) If the application is for renewal of an existing
22 approval, the institution need only submit information
23 necessary to document any changes made since the time
24 its previous application was filed with the council. Fees
25 for reapproval applications will be based on the actual
26 costs involved in the administrative review process.

27 (5) The council shall develop a procedural rationale to
28 justify the number of sites to be visited by the state in the
29 review of the institution's operations in California. The
30 number of sites visited shall be subject to the following
31 considerations:

32 (A) If the application for approval includes branches
33 and satellites, the council shall inspect each branch and
34 may inspect any satellite campus.

35 (B) If the application is for approval to operate a
36 branch or a satellite, the council, in addition to inspecting
37 the branch or satellite, also may inspect the institution
38 operating the branch or satellite campus.



1 (C) The council may waive or modify the onsite
2 inspection for institutions offering home study or
3 correspondence courses.

4 (D) The purpose of the onsite review by the council
5 shall be to determine that operations by the institution in
6 California meet the minimum state standards identified
7 in statute.

8 (E) The standards and procedures shall not
9 unreasonably hinder educational innovation and
10 competition.

11
12 Article 9. Standards and Evaluation Procedures for
13 Nondegree-Granting Institutions
14

15 94915. (a) No private postsecondary educational
16 institution, except those offering degrees and approved
17 under Article 8 (commencing with Section 94900), may
18 offer educational services or programs unless the
19 institution or locations at which these services or
20 programs are offered have been approved by the council
21 as meeting the requirements of this section. In addition,
22 if the institution is regulated by any other state licensing
23 agency, the institution shall have obtained and retained
24 the approval of that agency.

25 (b) If an institution is operating under the council's
26 prior approval and the institution has applied for
27 approval to operate for itself or a branch or satellite
28 campus that is operating, the council shall not grant
29 approval to operate until the council has conducted a
30 qualitative review and assessment of the operations of the
31 institution in California and determined that all of the
32 following minimum standards have been satisfied.

33 (1) The quality and content of each course or program
34 of instruction, training, or study may reasonably and
35 adequately be expected to achieve the objective for
36 which the course or program is offered. Except for
37 continuing education programs and programs that are
38 exclusively avocational or recreational in nature, all
39 programs offered by the institution shall meet the
40 minimum standards prescribed by this subdivision. If an



1 institution represents that a course or program leads to
2 employment, the quality, content, and instruction of the
3 course or program shall be sufficient to ensure that
4 students may acquire the necessary level of education,
5 training, skill, and experience to obtain employment in
6 the occupation or job title to which the course or program
7 of instruction is represented to lead.

8 (2) The institution has adequate space, equipment,
9 instructional material, and instructor personnel to
10 provide training of the quality needed to attain the
11 objective described in paragraph (1).

12 (3) Every instructor and administrator possesses
13 adequate academic, experiential, and professional
14 qualifications to teach the course or to perform the duties
15 that the person is assigned, satisfies all standards
16 established by the council by regulation, and holds an
17 applicable and valid certificate of authorization for
18 service issued by the council in the specified competence
19 area in which the individual will serve. No person shall
20 serve as an instructor or member of the administrative
21 staff if that person has been convicted of, or has pled *nolo*
22 *contendere* or guilty to, a crime involving the acquisition,
23 use, or expenditure of federal or state funds, or who has
24 been judicially or administratively determined to have
25 committed any violation of this chapter or of any law
26 involving state or federal funds.

27 (4) The institution maintains for at least five years
28 written records of each student's previous education and
29 training, where applicable.

30 (5) A copy of the course outline, description of the
31 occupations or job titles, if any, to which the course of
32 instruction is represented to lead, schedule of tuition, fees
33 and other charges, refund policy, regulations pertaining
34 to tardiness, absences, and the grading policy, and rules
35 of operation and conduct is given to students prior to
36 enrollment.

37 (6) The institution maintains and enforces adequate
38 standards relating to, and maintains records of,
39 attendance, satisfactory academic progress, and student



1 *performance to achieve the objective described in*
2 *paragraph (1).*

3 *(7) The institution complies with all local city, county,*
4 *municipal, state, and federal regulations relative to the*
5 *safety and health of all persons upon the premises such as*
6 *fire, building, and sanitation codes. The council may*
7 *require evidence of compliance.*

8 *(8) The institution does not exceed enrollment that*
9 *the facilities and equipment of the institution can*
10 *reasonably handle.*

11 *(9) The institution's officers, directors, and owners*
12 *demonstrate financial and fiduciary responsibility, as*
13 *prescribed by statute, or by regulations adopted by the*
14 *council.*

15 *(10) The institution is in compliance with this chapter*
16 *and has developed policies and procedures designed to*
17 *ensure that compliance.*

18 *(11) No circumstances exist that may constitute*
19 *grounds for the revocation or suspension of an approval*
20 *to operate.*

21 *(12) The institution complies with Article 7*
22 *(commencing with Section 94850) if that article is*
23 *applicable to any educational program it offers.*

24 *(13) Application for approval shall be made in writing*
25 *on forms prescribed by the council. The application for*
26 *approval shall include, if applicable to the institution, a*
27 *statement of whether the institution claims that it is*
28 *exempt or that a course or other educational service it*
29 *offers is exempt from Article 7 (commencing with*
30 *Section 94850), and the information required by*
31 *subdivision (f) of Section 94873.*

32 *An institution may include some, or all, of its separate*
33 *operating sites under one application. Alternately, it may*
34 *submit separate applications for any one site or*
35 *combination of sites. The satellites or branches included*
36 *in either an initial or renewal application shall be*
37 *considered by the council to comprise a separate, single*
38 *institution for purposes of regulation, approval, and*
39 *compliance under this chapter. The application shall*
40 *include a single fee based on the number of branches,*



1 satellites, and programs included within a single
2 application in order to cover the costs involved for those
3 multisite and multiprogram reviews.

4 (c) Within 90 days following the receipt of an
5 application from an institution and prior to granting any
6 approval, a representative of the council shall personally
7 inspect the institution and verify the institution's
8 compliance with the standards prescribed by this
9 chapter. The council may use a qualified visiting
10 committee in the initial review of programs and in
11 subsequent reviews. The visiting committee may include
12 employers with expertise related to the program being
13 reviewed. The institution seeking approval shall
14 reimburse the council for the expenses of the visiting
15 committee. The onsite inspection shall include an
16 inspection of the institution's facilities and records,
17 interviews of administrators, faculty, and students, and an
18 observation of class instruction, as determined to be
19 appropriate by the council.

20 (1) If the application for approval includes branch or
21 satellite campuses, the council shall inspect each branch
22 campus and may inspect any satellite campus.

23 (2) If the application is for approval to operate a
24 branch or a satellite, the council, in addition to inspecting
25 the branch or satellite, also may inspect the institution
26 operating the branch or satellite campus.

27 (3) The council may waive or modify the requirement
28 for onsite inspections of branch campuses located outside
29 of California or for an institution offering home study or
30 correspondence courses.

31 (4) If the application is for reapproval of an existing
32 approval, the institution need only submit information
33 necessary to document any changes made since the time
34 its previous application was filed with the council. Fees
35 for reapproval applications shall be based on the actual
36 costs involved in the administrative review process.

37 (d) The council shall review all operations of the
38 institution both within and outside of California. The
39 council may conduct site visits outside of California,
40 including the institution's foreign operations, when the



1 council deems these visits to be necessary. The institution
2 shall be responsible for the expenses of any visiting team
3 members including the council's staff liaison.

4 (e) Within 90 days following the inspection described
5 in subdivision (c) or any reasonable extension of time not
6 to exceed 90 days, the council shall reach a decision on the
7 merits and shall do one of the following:

8 (1) If the institution is in compliance with this chapter
9 and has not operated within three years before the filing
10 of the application in violation of this chapter then in
11 effect, the council may grant approval for a period not to
12 exceed five years.

13 (2) If the institution is in compliance with this chapter,
14 but has operated within three years before the filing of
15 the application in violation of this chapter then in effect,
16 or if the council determines that an unconditional grant
17 of approval to operate is not in the public interest, the
18 council may grant a conditional approval to operate
19 subject to whatever restrictions the council deems
20 appropriate. The council shall notify the institution of the
21 restrictions, the basis for the restrictions, and the right to
22 request a hearing to contest the restrictions.

23 (3) The council may deny the application if the
24 institution does not comply with this chapter, including
25 the minimum standards established in subdivision (b), or
26 has operated within three years before the filing of the
27 application in violation of this chapter then in effect. If
28 the application is denied, the council may permit the
29 institution to continue offering the course or courses of
30 instruction to students already enrolled or may order the
31 institution to cease all instruction and provide a refund of
32 tuition and all other charges to students. The council shall
33 notify the institution of the denial, the basis for the denial,
34 and the right of the institution to request a hearing to
35 contest the denial.

36 (f) (1) If an institution is not operating in California
37 when it applies for approval to operate for itself or a
38 branch or satellite campus, the institution shall file with
39 its application an operational plan establishing that the
40 institution will satisfy the minimum standards set forth in



1 subdivision (b). The operational plan also shall include a
2 detailed description of the institution's program for
3 implementing the operational plan, including proposed
4 procedures, financial resources, and the qualifications of
5 owners, directors, officers, and administrators employed
6 at the time of the application's filing. The council may
7 request additional information to enable the council to
8 determine whether the operational plan and its proposed
9 implementation will satisfy these minimum standards.

10 (2) If the council determines that the operational plan
11 satisfies the minimum standards described in subdivision
12 (b), that the institution demonstrates that it will
13 implement the plan, and that no ground for denial of the
14 application exists, the council shall grant a temporary
15 approval to operate, subject to any restrictions the
16 council reasonably deems necessary to ensure
17 compliance with this chapter, pending a qualitative
18 review and assessment as provided in subdivisions (b)
19 and (c). The council shall inspect the institution, or
20 branch or satellite campus if approval is sought for that
21 campus, between 90 days and 180 days after operation has
22 begun under the temporary approval to operate. Within
23 90 days following the council's inspection of the
24 institution, the council shall act as provided in subdivision
25 (e).

26 (g) If an institution approved to operate in California
27 applies for approval to operate an additional site location
28 that has not been previously approved by the council, the
29 institution shall file an operational plan for the additional
30 site location as described in subdivision (f). The council
31 shall evaluate the additional site location as provided in
32 subdivision (f). The council also may evaluate the
33 institution as provided in subdivisions (b) and (c) before
34 determining whether to grant to the institution
35 temporary or final approval to operate the additional site
36 location. If the institution or the additional site location
37 does not meet the requirements of this chapter or if the
38 institution has operated within three years before the
39 filing of the application in violation of this chapter then
40 in effect, the council may deny the application for



1 approval to operate the additional site location or may
2 grant a conditional approval to operate the additional site
3 location subject to any restrictions it deems appropriate.
4 The provisions for notice and hearing described in
5 paragraphs (2) and (3) of subdivision (e) shall apply.

6 (h) No institution shall offer a course or program of
7 instruction, training, or study at a campus that had not
8 offered the course or program at the time the institution
9 applied for approval to operate that campus unless the
10 council first approves the offering of the course or
11 program after determining that it satisfies the minimum
12 standards established in subdivision (b).

13 (i) The council may enter into an agreement for the
14 regulation and oversight of nondegree-granting private
15 postsecondary institutions with the Federal Aviation
16 Administration or with the state agency responsible for
17 administering Article 1 (commencing with Section 1250)
18 of Chapter 2 of Division 2 of the Health and Safety Code.

19 The council may enter into a regulatory agreement
20 only when the appropriate agency can demonstrate that
21 its standards and procedures for the review of institutions
22 encompass the standards and consumer protection
23 requirements prescribed by this chapter and that these
24 standards and procedures are rigorously enforced.
25 Nothing in this section shall modify the existing authority
26 of regulatory agencies within the Department of
27 Consumer Affairs relating to schools or programs.

28 (j) If at any time the council determines that an
29 institution has deviated from the standards for approval,
30 the council, after giving the institution due notice and an
31 opportunity to be heard, may place the institution on
32 probation for a specified period of time not to exceed 24
33 calendar months. During the period of probation, the
34 institution shall be subject to special monitoring. The
35 conditions for probation may include the required
36 submission of periodic reports, as prescribed by the
37 council, and special visits by authorized representatives
38 of the council to determine progress toward total
39 compliance. If at the end of the specified probationary
40 period, the institution has not taken steps to eliminate the



1 *causes for its probation to the satisfaction of the council,*
2 *the council may revoke the institution's approval and*
3 *provide notice to the institution to cease its operations.*

4 *94920. (a) Each individual submitting an application*
5 *for a certificate of authorization for service, pursuant to*
6 *paragraph (3) of subdivision (b) of Section 94915, shall*
7 *provide the council with the following information:*

8 *(1) A completed application as supplied by the*
9 *council.*

10 *(2) Certified copies of educational transcripts, where*
11 *applicable.*

12 *(3) Verified employment history.*

13 *(4) Other documentation of prior experience or*
14 *education as required by the council for verification.*

15 *(b) To be eligible for a certificate of authorization for*
16 *service, the applicant shall fulfill the following*
17 *requirements:*

18 *(1) Instructors shall have all of the following*
19 *qualifications:*

20 *(A) No record of any violations of this chapter.*

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

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

28 *(2) Directors shall have both of the following*
29 *qualifications:*

30 *(A) Three years' experience in an administrative*
31 *position in a public or an approved private postsecondary*
32 *school.*

33 *(B) No record of any violations of this chapter.*

34 *(3) Associate directors shall have both of the following*
35 *qualifications:*

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

39 *(B) No record of any violations of this chapter.*



1 (4) Financial aid directors shall have all of the
2 following qualifications:

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

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

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

12 (D) Any other requirements the council deems
13 necessary.

14 (5) Financial aid officers shall possess all of the
15 following qualifications:

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

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

22 (C) Other requirements the council deems necessary.

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

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

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



1 of certification. These units may be completed through
 2 in-service training offered by accrediting associations,
 3 professional organizations, or council-approved
 4 programs.

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

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

12 94925. No person shall own or operate a school, or give
 13 instruction, for the driving of motor trucks of three or
 14 more axles that are more than 6,000 pounds unladen
 15 weight unless all of the following conditions are met:

16 (a) The school or instruction has been approved by the
 17 council.

18 (b) The school, at the time of application and
 19 thereafter, maintains both of the following:

20 (1) Proof of compliance with liability insurance
 21 requirements that are the same as those established by
 22 the Department of Motor Vehicles for a driving school
 23 owner, pursuant to Section 11103 of the Vehicle Code,
 24 unless the council deems it necessary to establish a higher
 25 level of insurance coverage.

26 (2) A satisfactory safety rating by the Department of
 27 the California Highway Patrol is established pursuant to
 28 Division 14.8 (commencing with Section 34500) of the
 29 Vehicle Code.

30 (3) Proof that vehicles used in driver training are
 31 maintained in safe mechanical condition at all times.

32 (c) The driving instructors meet the requirements set
 33 forth in Section 11104 of the Vehicle Code.

34 (d) Any other terms and conditions required by the
 35 council to protect the public safety or to meet the
 36 requirements of this chapter.

37 94930. (a) All institutions that were certified to offer
 38 flight instruction by the Federal Aviation Administration
 39 (FAA) and that operated in California on December 31,
 40 1990, pursuant to prior authority of subdivision (a) or (b)



1 of former Section 94311, shall receive approval from the
 2 council for a period not to exceed three years. On or
 3 before June ____, the council shall work in
 4 cooperation with the FAA to review each of these
 5 institutions to determine whether the institution is in
 6 compliance with the requirements of this chapter. It is
 7 the intent of the Legislature that all institutions whose
 8 cumulative gross student loan default rate is above 40
 9 percent, as determined by the Student Aid Commission,
 10 shall be reviewed by the FAA and the council to
 11 determine if these institutions are in compliance with the
 12 requirements of this chapter and should continue to be
 13 approved to offer educational programs in California.

14 (b) Institutions certified to offer flight instruction by
 15 the FAA, or its successor agency, shall comply with all of
 16 the requirements of Sections 94800, 94810, 94814, and
 17 94816, Sections 94820, to 94826, inclusive, and Sections
 18 94828 and 94829 and Article 7 (commencing with Section
 19 94850) if applicable, but shall not be required to file any
 20 materials with the council that are not required by the
 21 FAA or its successor agency, except those minimally
 22 necessary to administer the Student Tuition Recovery
 23 Fund as determined by the council. The responsibility for
 24 monitoring and enforcing institutional compliance for
 25 these institutions shall be with the council.

26 (c) This chapter does not apply to individual flight
 27 instructors not requiring any advance payments, who do
 28 not negotiate a formal contract of indebtedness, and who
 29 do not have an established place of business other than
 30 their residences.

31
 32
 33

Article 10. Fees

34 94932. The Private Postsecondary and Vocational
 35 Education Administration Fund is continued in
 36 existence. All fees collected pursuant to this section shall
 37 be credited to this fund along with any interest on the
 38 money, for the administration of this chapter.
 39 Notwithstanding Section 13340 of the Government Code,
 40 the money in the fund is continuously appropriated to the



1 council without regard to fiscal years for the purposes of
2 this chapter. However, if the Legislature makes an
3 appropriation for the support of the council in the Budget
4 Act of any fiscal year, the amount for the support of the
5 council expended from the fund during the fiscal year
6 shall not exceed the amount appropriated by the Budget
7 Act.

8 For the approval of private institutions operating
9 under this chapter, the council shall charge an amount
10 not to exceed the actual costs of approving or renewing
11 the approval of the private institutions. The council shall
12 adopt a fee schedule for all institutions approved under
13 this chapter, including the maximum amounts to be
14 charged for an institution's initial application and annual
15 renewal. The council may propose modifications to the
16 fee schedule to the Governor and the Legislature to add
17 or delete categories of fees related to work performed by
18 the council and propose to the Governor and the
19 Legislature the maximum amount to be charged for each
20 fee category added to the fee schedule. The fee schedule
21 shall provide adequate resources for the council to
22 implement this chapter effectively. It is the intent of the
23 Legislature that the council shall adopt a fee schedule
24 that reflects the size of the institution, with institutions
25 enrolling a larger number of students being required to
26 pay a larger annual fee than those with smaller student
27 enrollments. The fee schedule, consistent with this
28 section, also may contain provisions for fees assessed in
29 conjunction with the evaluation of an application for a
30 certificate of authorization for service issued pursuant to
31 paragraph (3) of subdivision (b) of Section 94915. The
32 council shall annually present its proposed budget and fee
33 schedule, penalty fees assessed for delinquent payments
34 pursuant to regulations adopted by the council and
35 additions and deletions of fee categories to the
36 Department of Finance and the Joint Legislative Budget
37 Committee for their review and approval as part of the
38 annual budget process. The council shall annually publish
39 a schedule of the current fees to be charged pursuant to
40 this section and shall make this schedule generally



1 available to the public. The fees may be increased
2 annually up to the maximum allowable level by a majority
3 vote of the council, without any additional review and
4 approval by the Office of Administrative Law. The
5 adoption of the annual fee schedule, any modification of
6 the fee schedule, and any increase in fees up to the
7 maximum allowable level shall not be subject to Article
8 5 (commencing with Section 11346) of Chapter 3.5 of Part
9 1 of Division 3 of Title 2 of the Government Code.
10 Increases above the maximum level shall be changed
11 through legislation enacted by the Legislature and signed
12 by the Governor.

13 94934. Any institution more than 30 days delinquent
14 in the payment of any fee may be assessed a penalty fee
15 by the council.

16 94936. The effective date of any statutory
17 amendment to this chapter affecting revenues payable to
18 the council from any service shall be delayed for a period
19 of twelve months in order to enable the council to make
20 the necessary adjustments in its fee schedule through the
21 regulatory adoption process.

22

23

Article 11. Agents and Agencies

24

25 94940. (a) Notwithstanding any other provision of
26 this chapter concerning agents, the owner of at least 51
27 percent of the equitable interest in an institution shall be
28 exempt from this section if the institution is approved to
29 operate pursuant to Article 8 (commencing with Section
30 94900) or Article 9 (commencing with Section 94915).

31 No person may act as an agent, unless that person holds
32 a valid permit issued by the council and maintains at all
33 times a surety bond as described in paragraph (2).
34 Administrators or faculty, or both, who make
35 informational public appearance, but whose primary task
36 is not to serve as a paid recruiter, are exempt from this
37 section.

38 The application for a permit shall be furnished by the
39 council and shall include the following:



1 (1) A statement signed by the applicant that he or she
2 has read this chapter and the regulations adopted
3 pursuant thereto.

4 (2) A surety bond issued by an admitted surety insurer
5 in favor of the State of California for the indemnification
6 of any person for any loss suffered as a result of the
7 occurrence, during the period of coverage, of any fraud
8 or misrepresentation used in connection with the
9 solicitation for the sale or the sale of any program of study,
10 or as a result of any violation of this chapter. The term of
11 the bond shall extend over the period of the permit. The
12 bond may be supplied by the institution or by the person
13 for whom the issuance of the permit is sought and may
14 extend to cover individuals separately or to provide
15 blanket coverage for all persons to be engaged as
16 representatives of the institution. The bond shall provide
17 for liability in the penal sum of twenty-five thousand
18 dollars (\$25,000) for each agent to whom coverage is
19 extended by its terms. Neither the principal nor the
20 surety on a bond may terminate the coverage of the bond,
21 except upon giving 30 days' prior written notice to the
22 council, and contemporaneously surrendering the
23 agent's permit. Liability on the bond may be enforced
24 after a hearing before the council, after 30 days' advance
25 written notice to the principal and surety. The council
26 shall adopt regulations establishing the procedure for
27 administrative enforcement of liability. This paragraph
28 supplements, but does not supplant, any other rights or
29 remedies to enforce liability on the bond.

30 (3) A fee as required by Section 94932.

31 (b) An agent representing more than one institution
32 shall obtain a separate agent's permit and bond for each
33 institution represented.

34 (c) No person shall be issued a permit if he or she
35 previously has been found in any judicial or
36 administrative proceeding to have violated this chapter,
37 or there exists any of the grounds for denial set forth in
38 Section 480 of the Business and Professions Code.

39 (d) A permit shall be valid for the calendar year in
40 which it is issued, unless sooner revoked or suspended by



1 *the council for fraud or misrepresentation in connection*
2 *with the solicitation for the sale of any course of study, for*
3 *any violation of this chapter, or for the existence of any*
4 *condition in respect to the permittee or the school he or*
5 *she represents which, if in existence at the time the*
6 *permit was issued, would have been grounds for denial of*
7 *the permit.*

8 *(e) The permittee shall carry the permit with him or*
9 *her for identification purposes when engaged in the*
10 *solicitation of sales and the selling of courses of study away*
11 *from the premises of the school, and shall produce the*
12 *permit for inspection upon the request of any person.*

13 *(f) Chapter 5 (commencing with Section 11500) of*
14 *Part 1 of Division 3 of Title 2 of the Government Code or*
15 *Section 94975 shall apply to any determination of the*
16 *council made pursuant to this section.*

17 *(g) The issuance of a permit pursuant to this section*
18 *shall not be interpreted as, and it shall be unlawful for any*
19 *individual holding any permit to expressly or impliedly*
20 *represent by any means whatsoever, that the council has*
21 *made any evaluation, recognition, accreditation, or*
22 *endorsement of any course of study being offered for sale*
23 *by the individual.*

24 *(h) It is unlawful for any individual holding a permit*
25 *under this section to expressly or impliedly represent, by*
26 *any means whatsoever, that the issuance of the permit*
27 *constitutes an assurance by the council that any course of*
28 *study being offered for sale by the individual will provide*
29 *and require of the student a course of education or*
30 *training necessary to reach a professional, educational, or*
31 *vocational objective, or will result in employment or*
32 *personal earnings for the student.*

33 *(i) No agent shall make any untrue or misleading*
34 *statement or engage in sales, collection, credit, or other*
35 *practices of any type that are false, deceptive, misleading,*
36 *or unfair.*

37 *(j) The council shall maintain records for five years of*
38 *each application for a permit, each bond, and each*
39 *issuance, denial, termination, suspension, and revocation*
40 *of a temporary permit or permit.*



1 (k) A student may bring an action for an agent's
2 violation of this chapter or any fraud or misrepresentation
3 and, upon prevailing, is entitled to the recovery of
4 damages, reasonable attorney's fees, and costs. If a court
5 finds that the violation was willfully committed, the court,
6 in addition to the award of damages, shall award a civil
7 penalty of up to two times the amount of damages
8 sustained by the student.

9 (l) Any person who violates this section is guilty of a
10 misdemeanor, punishable by imprisonment in a county
11 jail not exceeding six months, by a fine not to exceed five
12 thousand dollars (\$5,000), or by both that imprisonment
13 and fine.

14 94942. (a) Except as provided in subdivision (g), any
15 agency shall be required to hold a valid authorization
16 issued by the council. The application for an
17 authorization shall include all of the following:

18 (1) A current financial statement prepared by a
19 California licensed certified public accountant who is not
20 an employee, officer, or director of the institution.

21 (2) Evidence of a surety bond issued in favor of the
22 State of California by an admitted surety insurer making
23 provision for indemnification of any person for any loss
24 suffered as a result of the occurrence, during the period
25 of coverage, of any fraud or misrepresentation used in
26 connection with the solicitation for the sale or the sale of
27 any program of study, or as a result of any violation of this
28 chapter. The term of the bond shall extend over the
29 period of the authorization. The bond shall provide for
30 liability in the penal sum of two hundred fifty thousand
31 dollars (\$250,000) for each agency to which coverage is
32 extended by its terms. Neither the principal nor the
33 surety on a bond may terminate the coverage of the bond
34 except upon giving 30 days' prior written notice to the
35 council, and upon contemporaneously surrendering the
36 agency's authorization to operate. Liability on the bond
37 may be enforced after a hearing before the council, after
38 30 days' advance written notice to the principal and
39 surety. The council shall adopt regulations establishing
40 the procedure for administrative enforcement of liability



1 and hearings under this section. This paragraph
2 supplements, but does not supplant, any other rights or
3 remedies to enforce liability on the bond.

4 (3) A copy of the student disclosure statement to be
5 read and signed by all prospective students referred to
6 institutions by an agency. The student disclosure
7 statement shall include, but shall not be limited to, all of
8 the following:

9 (A) A statement to the effect that no promise of
10 employment has been made by the agency.

11 (B) A statement to the effect that repayment of any
12 debt incurred by a student in connection with his or her
13 education will be the sole responsibility of the student.

14 (C) The amount and terms of any fee to be paid by the
15 student to the agency.

16 (D) A verbatim statement, as follows:

17 “Any questions or problems concerning this agency
18 should be directed to the Council for Private
19 Postsecondary and Vocational Education, Sacramento,
20 CA 95814.”

21 (E) A statement to the effect that the institution or
22 institutions to which the prospective student is referred
23 by the agency have the obligation to make available to the
24 student a catalog or brochure containing information
25 describing all of the following:

26 (i) The courses offered.

27 (ii) Program objectives.

28 (iii) Length of program.

29 (iv) The faculty and their qualifications.

30 (v) A schedule of tuition, fees, and all other charges
31 and expenses necessary for the completion of the course
32 of study.

33 (vi) The cancellation and refund policies.

34 (vii) The total cost of tuition over the period needed
35 to complete the student’s education.

36 (viii) For vocational training programs, placement
37 data, including program completion rates, placement
38 rates, and starting salaries.

39 (ix) Other material facts concerning the institution
40 and the program or course of instruction that are



1 reasonably likely to affect the decision of the student to
2 enroll in the institution.

3 (4) Identification of all employees of the agency and
4 their titles, and of all agents with whom the agency
5 contracts.

6 (5) Identification of all owners, and if the entity is a
7 corporation, the identification of all persons possessing an
8 interest equal to, or in excess, of 10 percent.

9 (6) Identification of all vendors of educational services
10 for which the agency provides recruitment services.

11 (7) A signed statement by the applicant that all
12 employees engaged in recruitment activities will be
13 required to read Sections 94831, 94832, and 94985 and, if
14 the educational program for which the agency recruits is
15 subject to Article 7 (commencing with Section 94850),
16 Section 94853.

17 (b) Within 30 days of receipt of a completed
18 application and prior to issuance of an authorization a
19 representative of the council shall inspect the applicant
20 agency and verify the application. Within 30 days of the
21 inspection, the council shall issue the authorization for a
22 one-year period, subject to annual renewal at the end of
23 that period, or deny the application. The council shall
24 deny the authorization if the agency or any owner,
25 officer, or director of the agency previously has been
26 found in any judicial or administrative proceeding to
27 have violated this chapter, or if there exists any of the
28 grounds for denial set forth in Section 480 of the Business
29 and Professions Code.

30 (c) Any employee of an authorized agency engaged in
31 student recruitment activities of an authorized agency is
32 exempt from the bond requirements of Section 94940.

33 (d) Neither the agency nor any of its employees shall
34 make any untrue or misleading statement in the course
35 of any solicitation or recruitment activity or engage in the
36 sales, collection, credit, or other practices of any type that
37 are false, deceptive, misleading, or unfair.

38 (e) An agency or an employee of an agency shall
39 provide a prospective student with the disclosure
40 statement described in paragraph (3) of subdivision (a)



1 and shall allow the prospective student a sufficient
2 opportunity to read it before soliciting or recruiting him
3 or her for enrollment or referring him or her to an
4 institution. That disclosure statement shall be printed in
5 10-point type in English and, if the solicitation,
6 recruitment, or referral is to be conducted in a language
7 other than English, in that other language.

8 (f) Any institution approved under this chapter shall
9 cease any and all recruitment activities involving the
10 agency upon action by the council to revoke or deny an
11 agency's authorization. The failure of the institution to do
12 so upon presentation of notice of the council's action shall
13 be cause to deny or revoke any approval held by that
14 institution.

15 (g) This section does not apply to any agency
16 recruiting solely for institutions described in Article 8
17 (commencing with Section 94900).

18 (h) The council shall maintain records for five years of
19 each application for an authorization, each verification by
20 the council of an application, each bond, and each denial,
21 issuance, and revocation of an authorization.

22 (i) A student may bring any action against any agency
23 if the agency or an employee of the agency violates this
24 chapter or commits any fraud or misrepresentation and,
25 upon prevailing, is entitled to the recovery of damages,
26 reasonable attorney's fees, and costs. If a court finds that
27 the violation was willfully committed, the court shall, in
28 addition to the award of damages, award a civil penalty
29 of up to two times the amount of damages sustained by
30 the student.

31 (j) Any person who violates this section is guilty of a
32 misdemeanor punishable by imprisonment in a county
33 jail not exceeding six months, by a fine not to exceed five
34 thousand dollars (\$5,000), or by both that imprisonment
35 and fine.

36



1 Article 12. *Student Tuition Recovery Fund and*
2 *Student Obligations*

3
4 94944. (a) *The Student Tuition Recovery Fund is*
5 *continued in existence. All assessments collected*
6 *pursuant Section _____ shall be credited to this fund*
7 *along with any interest on the money, for the*
8 *administration of this article. Notwithstanding Section*
9 *13340 of the Government Code, the money in the fund is*
10 *continuously appropriated to the council without regard*
11 *to fiscal years for the purposes of this chapter. The fund*
12 *shall consist of a degree-granting postsecondary*
13 *educational institution account and a vocational*
14 *educational institution account, for the purpose of*
15 *relieving or mitigating pecuniary losses suffered by any*
16 *California resident who is a student of an approved*
17 *institution and who meets either of the following*
18 *conditions:*

19 (1) *The student was enrolled in an institution, prepaid*
20 *tuition, and suffered loss as a result of, (A) the closure of*
21 *the institution, (B) the institution's failure to pay refunds*
22 *or charges on behalf of a student to a third party for*
23 *license fees or any other purposes, or to provide*
24 *equipment or materials for which a charge was collected*
25 *within 180 days before the institution's closure, (C) the*
26 *institution's failure to pay or reimburse loan proceeds*
27 *under a federally guaranteed student loan program as*
28 *required by law or to pay or reimburse proceeds received*
29 *by the institution prior to closure in excess of tuition and*
30 *other costs, (D) the institution's breach or anticipatory*
31 *breach of the agreement for the course of instruction, or*
32 *(E) a decline in the quality or value of the course of*
33 *instruction within the 30-day period before the*
34 *institution's closure or, if the decline began before that*
35 *period, the period of decline determined by the council.*
36 *For the purpose of this section, "closure" includes closure*
37 *of a branch or satellite campus, the termination of either*
38 *the correspondence or residence portion of a home study*
39 *or correspondence course, and the termination of a*
40 *course of instruction for some or all of the students*



1 enrolled in the course before the time these students
2 were originally scheduled to complete it, or before a
3 student who has been continuously enrolled in a course
4 of instruction has been permitted to complete all the
5 educational services and classes that comprise the course.

6 (2) The student obtained a judgment against the
7 institution for any violation of this chapter and the
8 student certifies that the judgment cannot be collected
9 after diligent collection efforts.

10 (b) Payments from the fund to any student shall be
11 made from the appropriate account with the fund, as
12 determined by the type of institution into which the
13 student has paid his or her fees, and shall be subject to any
14 regulations and conditions as the council shall prescribe.

15 (c) (1) The institution shall provide to the council, at
16 the time of the institution's closure, the names and
17 addresses of persons who were students of an institution
18 within 60 days prior to its closure, and shall notify these
19 students, within 30 days of the institution's closure, of
20 their rights under the fund and how to apply for payment.
21 If the institution fails to comply with this subdivision, the
22 council shall attempt to obtain the names and addresses
23 of these students and shall notify them, within 90 days of
24 the institution's closure, of their rights under the fund and
25 how to apply for payment.

26 The council shall develop a form in English and Spanish
27 fully explaining a student's rights, which shall be used by
28 the institution or the council to comply with this
29 paragraph. The form shall include, or be accompanied by,
30 a claim application and an explanation of how to
31 complete the application.

32 (2) If an institution fails to comply with paragraph (1),
33 the council shall order the institution, or any person
34 responsible for the failure to provide notice as required
35 by paragraph (1), to reimburse the council for all
36 reasonable costs and expenses incurred in notifying
37 students as required in paragraph (1). In addition, the
38 council may impose a penalty of up to five thousand
39 dollars (\$5,000) against the institution and any person
40 found responsible for the failure to provide notice. The



1 amount of the penalty shall be based on the degree of
2 culpability and the ability to pay. Any order may impose
3 joint and several liability. Before any order is made
4 pursuant to this paragraph, the council shall provide
5 written notice to the institution and any person from
6 whom the council seeks recovery of the council's claim
7 and of the right to request a hearing within 30 days of the
8 service of the notice.

9 If a hearing is not requested within 30 days of service
10 of the notice, the council may order payment in the
11 amount of the claim. If a hearing is requested, Chapter 5
12 (commencing with Section 11500) of Part 1 of Division 3
13 of Title 2 of the Government Code shall apply, and the
14 council shall have all of the powers therein prescribed.
15 Within 30 days after the effective date of the issuance of
16 an order, the council may enforce the order in the same
17 manner as if it were a money judgment pursuant to Title
18 9 (commencing with Section 680.010) of Part 2 of the
19 Code of Civil Procedure. All penalties and
20 reimbursements paid pursuant to this section shall be
21 deposited in the Private Postsecondary and Vocational
22 Education Administration Fund established pursuant to
23 Section 94932 or any successor fund.

24 (d) (1) Students entitled to payment as provided in
25 paragraph (1) of subdivision (a) shall file with the council
26 a verified application indicating each of the following:

27 (A) The student's name, address, telephone number,
28 and social security number.

29 (B) If any portion of the tuition was paid from the
30 proceeds of a loan, the name of the lender, and any state
31 or federal agency that guaranteed or reinsured the loan.

32 (C) The amount of the prepaid tuition, the amount
33 and description of the student's loss, and the amount of
34 the student's claim.

35 (D) The date the student started and ceased attending
36 the institution.

37 (E) A description of the reasons the student ceased
38 attending the institution.

39 (F) If the student ceased attending because of a
40 breach or anticipatory breach or because of the decline



1 *in the quality or value of the course of instruction as*
2 *described in subparagraph (E) of paragraph (1) of*
3 *subdivision (a), a statement describing in detail the*
4 *nature of the loss incurred. The application shall be filed*
5 *within one year of the council's service on the student of*
6 *the notice described in paragraph (1) of subdivision (c)*
7 *or, if no notice is served, within four years of the*
8 *institution's closure.*

9 (2) *Students entitled to payment as provided in*
10 *paragraph (2) of subdivision (a) shall file with the council*
11 *a verified application indicating the student's name,*
12 *address, telephone number, and social security number,*
13 *the amount of the judgment obtained against the*
14 *institution, a statement that the judgment cannot be*
15 *collected, and a description of the efforts attempted to*
16 *enforce the judgment. The application shall be*
17 *accompanied by a copy of the judgment and any other*
18 *documents indicating the student's efforts made to*
19 *enforce the judgment.*

20 *The application shall be filed within two years after the*
21 *date upon which the judgment became final.*

22 (3) *The council may require additional information*
23 *designed to facilitate payment to entitled students. The*
24 *council shall relieve a student from the requirement to*
25 *provide all of the information required by this subdivision*
26 *if the council has the information or the information is not*
27 *reasonably necessary for the resolution of a student's*
28 *claim.*

29 (e) *Within 60 days of the council's receipt of a*
30 *completed application for payment, the council shall pay*
31 *the claim from the Student Tuition Recovery Fund or*
32 *deny the claim. The council, for good cause, may extend*
33 *the time period for up to an additional 90 days to*
34 *investigate the accuracy of the claim.*

35 (f) (1) *If the council pays the claim, the amount of the*
36 *payment shall be (A) the greater of either (i) the total*
37 *guaranteed student loan debt incurred by the student in*
38 *connection with attending the institution, or (ii) the total*
39 *of the student's tuition and the cost of equipment and*
40 *materials related to the course of instruction, less (B) the*



1 amount of any refund, reimbursement, indemnification,
2 restitution, compensatory damages, settlement, debt
3 forgiveness, discharge, cancellation, or compromise, or
4 any other benefit received by, or on behalf of, the student
5 before the council's payment of the claim in connection
6 with the student loan debt or cost of tuition, equipment,
7 and materials. The payment also shall include the amount
8 the institution collected and failed to pay to third parties
9 on behalf of the student for license fees or any other
10 purpose. However, if the claim is based solely on the
11 circumstances described in subparagraph (B) or (C) of
12 paragraph (1) of subdivision (a), the amount of the
13 payment shall be the amount of the loss suffered by the
14 student.

15 In addition to the amount determined under this
16 paragraph, the amount of the payment shall include all
17 interest and collection costs on all student loan debt
18 incurred by the student in connection with attending the
19 institution.

20 (2) The council may reduce the total amount specified
21 in paragraph (1) by the value of the benefit, if any, of the
22 education obtained by the student before the closure of
23 the institution. If the council makes any reduction
24 pursuant to this paragraph, the council shall notify the
25 claimant in writing at the time the claim is paid of the
26 basis of its decision and provide a brief explanation of the
27 reasons upon which the council relied in computing the
28 amount of the reduction.

29 (3) No reduction shall be made to the amount
30 specified in paragraph (1) if (A) the student did not
31 receive adequate instruction to obtain the training, skills,
32 or experience, or employment to which the instruction
33 was represented to lead, or (B) credit for the instruction
34 obtained by the student is not generally transferable to
35 other institutions approved by the council.

36 (4) The amount of the payment determined under
37 this subdivision is not dependent on the amount of the
38 refund to which the student would have been entitled
39 after a voluntary withdrawal.



1 (5) Upon payment of the claim, all of the student's
2 rights against the institution shall be deemed assigned to
3 the council to the extent of the amount of the payment.

4 (g) (1) The director of the council may negotiate with
5 a lender, holder, guarantee agency, or the United States
6 Department of Education for the full compromise or
7 write-off of student loan obligations to relieve students of
8 loss and thereby reduce the amount of student claims.

9 (2) The director of the council, with the student's
10 permission, may pay a student's claim directly to the
11 lender, holder, guarantee agency, or the United States
12 Department of Education under a federally guaranteed
13 student loan program only if the payment of the claim
14 fully satisfies all of the student's loan obligations related
15 to attendance at the institution for which the claim was
16 filed.

17 (3) Notwithstanding subdivision (e), the council may
18 delay the payment of a claim pending the resolution of
19 the council's attempt to obtain a compromise or write-off
20 of the claimant's student loan obligation. However, the
21 council shall immediately pay the claim in the event any
22 adverse action that is not stayed is taken against the
23 claimant, including the commencement of a civil or
24 administrative action, tax offset, the enforcement of a
25 judgment, or the denial of any government benefit.

26 (h) If the council denies the claim, or reduces the
27 amount of the claim pursuant to paragraph (2) of
28 subdivision (f), the council shall notify the student of the
29 denial or reduction and of the student's right to request
30 a hearing within 60 days or any longer period permitted
31 by the council. If a hearing is not requested within 60 days
32 or any additional period reasonably requested by the
33 student, the council's decision shall be final. If a hearing
34 is requested, Chapter 5 (commencing with Section
35 11500) of Part 1 of Division 3 of Title 2 of the Government
36 Code shall apply.

37 It is the intent of the Legislature that, when a student
38 is enrolled in an institution that closes prior to the
39 completion of the student's program, the student shall
40 have the option for a teach-out at another institution



1 approved by the council. The council shall seek to
2 promote teach-out opportunities wherever possible and
3 shall inform the student of his or her rights, including
4 payment from the fund, transfer opportunities, and
5 available teach-out opportunities, if any.

6 (i) This section applies to all claims filed or pending
7 under former Chapter 7 (commencing with Section
8 94700) after January 1, 1990.

9 94945. (a) The council shall assess each institution
10 that collects any moneys in advance of rendering
11 services.

12 (1) The amount assessed each institution shall be
13 calculated only for those students who are California
14 residents and who are eligible to be reimbursed from the
15 fund. It shall be based on the actual amount charged each
16 of these students for total course cost, regardless of the
17 portion that is prepaid. The assessment shall be as follows:

18 (A) For a total course cost of one cent (\$0.01) to two
19 thousand nine hundred ninety-nine dollars and
20 ninety-nine cents (\$2,999.99), inclusive, the assessment is
21 two dollars and fifty cents (\$2.50) per student.

22 (B) For a total course cost of three thousand dollars
23 (\$3,000) to five thousand nine hundred ninety-nine
24 dollars and ninety-nine cents (\$5,999.99), inclusive, the
25 assessment is three dollars and fifty cents (\$3.50) per
26 student.

27 (C) For a total course cost of six thousand dollars
28 (\$6,000) to eight thousand nine hundred ninety-nine
29 dollars and ninety-nine cents (\$8,999.99), inclusive, the
30 assessment is four dollars and fifty cents (\$4.50) per
31 student.

32 (D) For a total course cost of nine thousand dollars
33 (\$9,000) or more, the assessment is five dollars and fifty
34 cents (\$5.50) per student.

35 (2) The council shall levy additional reasonable
36 assessments only if they are required to ensure that
37 sufficient funds are available to satisfy the anticipated
38 costs of paying student claims pursuant to Section 94944.

39 (3) The assessments shall be paid into the Student
40 Tuition Recovery Fund and credited to the appropriate



1 account in the fund, and the deposits shall be allocated,
2 except as otherwise provided for in this chapter, solely for
3 the payment of valid claims to students. Unless additional
4 reasonable assessments are required, no assessments for
5 the degree-granting postsecondary educational
6 institution account shall be levied during any fiscal year
7 if, as of June 30 of the prior fiscal year, the balance in that
8 account of the fund exceeds one million dollars
9 (\$1,000,000). Unless additional reasonable assessments
10 are required, no assessments for the vocational
11 educational institution account shall be levied during any
12 fiscal year if, as of June 30 of the prior fiscal year, the
13 balance in that account exceeds three million dollars
14 (\$3,000,000). However, regardless of the balance in the
15 fund, assessments shall be made on any newly approved
16 institution. Notwithstanding Section 13340 of the
17 Government Code, the moneys so deposited in the fund
18 are continuously appropriated to the council for the
19 purpose of paying claims to students pursuant to Section
20 94944.

21 (b) The council may deduct from the fund the
22 reasonable costs of administration of the tuition recovery
23 program authorized by Section 94944 and this section.
24 The maximum amount of administrative costs that may
25 be deducted from the fund, in a fiscal year, shall not
26 exceed one hundred thousand dollars (\$100,000) from the
27 degree-granting postsecondary educational institution
28 account and three hundred thousand dollars (\$300,000)
29 from the vocational educational institution account, plus
30 the interest earned on money in the fund that is credited
31 to the fund. Prior to the council's expenditure of any
32 amount in excess of one hundred thousand dollars
33 (\$100,000) from the fund for administration of the tuition
34 recovery program, the council shall develop a plan
35 itemizing that expenditure. The plan shall be subject to
36 the approval of the Department of Finance. Institutions,
37 except for schools of cosmetology licensed pursuant to
38 Article 8 (commencing with Section 7362) of Chapter 10
39 of Division 3 of the Business and Professions Code and
40 institutions that offer vocational or job training programs,



1 that meet the student tuition indemnification
2 requirements of a California state agency, or that
3 demonstrate to the council that an acceptable alternative
4 method of protecting their students against loss of
5 prepaid tuition has been established, shall be exempted
6 from this section.

7 (c) Reasonable costs in addition to those permitted
8 under subdivision (___) may be deducted from the fund
9 for any of the following purposes:

10 (1) To make and maintain copies of student records
11 from institutions which close.

12 (2) To reimburse the council or a third party serving
13 as the custodian of records.

14 (3) To review records in order to determine whether
15 a student improperly received a loan due to false
16 certification, in which case the student would be eligible
17 for a loan write-off or discharge in lieu of reimbursement
18 in whole or in part from the fund.

19 (d) In the event of a closure by any approved
20 institution under this chapter, any assessments that have
21 been made against those institutions, but have not been
22 paid into the fund, shall be recovered. Any payments
23 from the fund made to students on behalf of any
24 institution shall be recovered from that institution.

25 (e) In addition to civil remedies, the council may order
26 an institution to pay previously unpaid assessments or to
27 reimburse the council for any payments made from the
28 fund in connection with the institution. Before any order
29 is made pursuant to this section, the council shall provide
30 written notice to the institution and notice of the
31 institution's right to request a hearing within 30 days of
32 the service of the notice. If a hearing is not requested
33 within 30 days of the service of the notice, the council may
34 order payment. If a hearing is requested, Chapter 5
35 (commencing with Section 11500) of Part 1 of Division 3
36 of Title 2 of the Government Code shall apply, and the
37 council shall have all powers prescribed in that chapter.
38 Within 30 days after the effective date of the issuance of
39 the order, the council may enforce the order in the same
40 manner as if it were a money judgment pursuant to Title



1 9 (commencing with Section 680.010) of Part 2 of the
2 Code of Civil Procedure.

3 (f) In addition to any other action that the council may
4 take under this chapter, the council may suspend or
5 revoke an institution's approval to operate because of the
6 institution's failure to pay assessments when due or failure
7 to pay reimbursement for any payments made from the
8 fund within 30 days of the council's demand for payment.

9 (g) The moneys deposited in the fund is exempt from
10 execution and shall not be the subject of litigation or
11 liability on the part of creditors of those institutions or
12 students.

13 (h) This section shall become inoperative on January
14 1, 1999, and on that date is repealed unless a later enacted
15 statute, which becomes effective on or before January 1,
16 1999, deletes or extends these dates.

17 94945. (a) The council shall assess each institution
18 that collects any moneys in advance of rendering
19 services.

20 (1) The amount assessed each institution shall be
21 calculated only for those students who are California
22 residents and who are eligible to be reimbursed from the
23 fund. It shall be based on the actual amount charged each
24 of these students for total course cost, regardless of the
25 portion that is prepaid. The assessment shall be as follows:

26 (A) For a total course cost of one cent (\$0.01) to two
27 thousand nine hundred ninety-nine dollars and
28 ninety-nine cents (\$2,999.99), inclusive, the assessment is
29 two dollars and fifty cents (\$2.50) per student.

30 (B) For a total course cost of three thousand dollars
31 (\$3,000) to five thousand nine hundred ninety-nine
32 dollars and ninety-nine cents (\$5,999.99), inclusive, the
33 assessment is three dollars and fifty cents (\$3.50) per
34 student.

35 (C) For a total course cost of six thousand dollars
36 (\$6,000) to eight thousand nine hundred ninety-nine
37 dollars and ninety-nine cents (\$8,999.99), inclusive, the
38 assessment is four dollars and fifty cents (\$4.50) per
39 student.



1 (D) For a total course cost of nine thousand dollars
2 (\$9,000) or more, the assessment is five dollars and fifty
3 cents (\$5.50) per student.

4 (2) The council shall levy additional reasonable
5 assessments only if they are required to ensure that
6 sufficient funds are available to satisfy the anticipated
7 costs of paying student claims pursuant to Section 94944.

8 (3) The assessments shall be paid into the Student
9 Tuition Recovery Fund and credited to the appropriate
10 account in the fund, and the deposits shall be allocated,
11 except as otherwise provided for in this chapter, solely for
12 the payment of valid claims to students. Unless additional
13 reasonable assessments are required, no assessments for
14 the degree-granting postsecondary educational
15 institution account shall be levied during any fiscal year
16 if, as of June 30 of the prior fiscal year, the balance in that
17 account of the fund exceeds one million dollars
18 (\$1,000,000). Unless additional reasonable assessments
19 are required, no assessments for the vocational
20 educational institution account shall be levied during any
21 fiscal year if, as of June 30 of the prior fiscal year, the
22 balance in that account exceeds three million dollars
23 (\$3,000,000). However, regardless of the balance in the
24 fund, assessments shall be made on any newly approved
25 institution. Notwithstanding Section 13340 of the
26 Government Code, the moneys so deposited in the fund
27 are continuously appropriated to the council for the
28 purpose of paying claims to students pursuant to Section
29 94944.

30 (b) The council may deduct from the fund the
31 reasonable costs of administration of the tuition recovery
32 program authorized by Section 94944 and this section.
33 The maximum amount of administrative costs that may
34 be deducted from the fund, in a fiscal year, shall not
35 exceed one hundred thousand dollars (\$100,000) from the
36 degree-granting postsecondary educational institution
37 account and three hundred thousand dollars (\$300,000)
38 from the vocational educational institution account, plus
39 the interest earned on money in the fund that is credited
40 to the fund. Prior to the council's expenditure of any



1 amount in excess of one hundred thousand dollars
2 (\$100,000) from the fund for administration of the tuition
3 recovery program, the council shall develop a plan
4 itemizing that expenditure. The plan shall be subject to
5 the approval of the Department of Finance. Institutions,
6 except for schools of cosmetology licensed pursuant to
7 Article 8 (commencing with Section 7362) of Chapter 10
8 of Division 3 of the Business and Professions Code and
9 institutions that offer vocational or job training programs,
10 that meet the student tuition indemnification
11 requirements of a California state agency, or that
12 demonstrate to the council that an acceptable alternative
13 method of protecting their students against loss of
14 prepaid tuition has been established, shall be exempted
15 from this section.

16 (c) Reasonable costs in addition to those permitted
17 under subdivision (___) may be deducted from the fund
18 for any of the following purposes:

19 (1) To make and maintain copies of student records
20 from institutions which close.

21 (2) To reimburse the council or a third party serving
22 as the custodian of records.

23 (d) In the event of a closure by any approved
24 institution under this chapter, any assessments that have
25 been made against those institutions, but have not been
26 paid into the fund, shall be recovered. Any payments
27 from the fund made to students on behalf of any
28 institution shall be recovered from that institution.

29 (e) In addition to civil remedies, the council may order
30 an institution to pay previously unpaid assessments or to
31 reimburse the council for any payments made from the
32 fund in connection with the institution. Before any order
33 is made pursuant to this section, the council shall provide
34 written notice to the institution and notice of the
35 institution's right to request a hearing within 30 days of
36 the service of the notice. If a hearing is not requested
37 within 30 days of the service of the notice, the council may
38 order payment. If a hearing is requested, Chapter 5
39 (commencing with Section 11500) of Part 1 of Division 3
40 of Title 2 of the Government Code shall apply, and the



1 council shall have all powers prescribed in that chapter.
2 Within 30 days after the effective date of the issuance of
3 the order, the council may enforce the order in the same
4 manner as if it were a money judgment pursuant to Title
5 9 (commencing with Section 680.010) of Part 2 of the
6 Code of Civil Procedure.

7 (f) In addition to any other action that the council may
8 take under this chapter, the council may suspend or
9 revoke an institution's approval to operate because of the
10 institution's failure to pay assessments when due or failure
11 to pay reimbursement for any payments made from the
12 fund within 30 days of the council's demand for payment.

13 (g) The moneys deposited in the fund shall be exempt
14 from execution and shall not be the subject of litigation
15 or liability on the part of creditors of those institutions or
16 students.

17 (h) This section shall become operative on January 1,
18 1999.

19 94946. (a) Any institution that willfully violates
20 Section 94945 shall be subject to all of the following:

21 (1) The institution shall lose all rights to enforce the
22 terms of any contract or agreement arising from the
23 transaction in which the violation occurred.

24 (2) The institution shall refund to the student any fees
25 that it has collected from that student.

26 (b) An institution's willful violation of Section 94945
27 may be grounds for the revocation of that institution's
28 approval to operate in this state.

29 94947. Students enrolling in institutions that come
30 under Sections 94944 and 94945, shall disclose in writing,
31 if applicable, the source of any and all guaranteed or
32 insured loans granted for the purposes of paying tuition
33 to that institution. In the event of a closure of any
34 institution, the council shall provide any lending
35 institution that is the source of any guaranteed or insured
36 student loan with the names of students maintaining
37 loans with that lending institution.

38 94948. (a) The governing board or other governing
39 authority of any private postsecondary or vocational
40 educational institution shall adopt rules providing for the



1 *withholding of institutional services from students or*
2 *former students who have been notified, in writing, at the*
3 *student's or former student's last known address, that he*
4 *or she is in default on a loan or loans under either of the*
5 *following loan programs:*

6 *(1) The Stafford Student Loan program.*

7 *(2) The Supplemental Loans for Students program.*

8 *(3) Any program directly or indirectly financed by the*
9 *California Educational Facilities Authority.*

10 *"Default," as used in this section, with respect to a loan*
11 *under the Stafford Student Loan program or*
12 *Supplemental Loans for Students program means the*
13 *failure of a borrower to make an installment payment*
14 *when due, or to meet other terms of the promissory note*
15 *under circumstances where the guarantee agency finds*
16 *it reasonable to conclude that the borrower no longer*
17 *intends to honor the obligation to repay, provided that*
18 *this failure persists for 180 days for a loan repayable in*
19 *monthly installments, or 240 days for a loan repayable in*
20 *less frequent installments. "Default," as used in this*
21 *section, with respect to a program directly or indirectly*
22 *financed by the California Educational Facilities*
23 *Authority, means the failure of a borrower to make an*
24 *installment payment when due, or to meet other terms*
25 *of the loan, within that period and under the*
26 *circumstances determined by the California Educational*
27 *Facilities Authority with respect to that program.*

28 *(b) The rules adopted pursuant to subdivision (a) shall*
29 *provide that the services withheld may be provided*
30 *during a period when the facts are in dispute and when*
31 *the student or former student demonstrates to either the*
32 *governing board or other appropriate governing*
33 *authority of the institution, or the Student Aid*
34 *Commission and the appropriate entity or its designee,*
35 *that reasonable progress has been made to repay the loan*
36 *or that there exists a reasonable justification for the delay*
37 *as determined by the institution. The rules shall specify*
38 *the services to be withheld from the student and may*
39 *include, but are not limited to, the following:*

40 *(1) The provision of grades.*

1 (2) *The provision of transcripts.*

2 (3) *The provision of diplomas.*

3 *The rules shall not include the withholding of*
4 *registration privileges.*

5 (c) *When it has been determined that an individual is*
6 *in default on a loan or loans under either of the loan*
7 *programs specified in subdivision (a), the Student Aid*
8 *Commission shall give notice of the default to all*
9 *institutions through which that individual acquired the*
10 *loan or loans.*

11 (d) *Guarantors, or those who act as their agents or act*
12 *under their control, who provide information to*
13 *institutions pursuant to this section, shall defend,*
14 *indemnify, and hold harmless the governing board or*
15 *other governing authority of the institutions from action*
16 *resulting from compliance with this section when the*
17 *action arises as a result of incorrect, misleading, or*
18 *untimely information provided to the institution by the*
19 *guarantors, their agents, or those acting under the control*
20 *of the guarantors.*

21

22 *Article 13. Administrative and Judicial Procedures*

23

24 94950. (a) *The procedures set forth in Section 94965*
25 *or, alternatively, in Section 94975 govern the following*
26 *types of administrative actions:*

27 (1) *Denial of an application for an approval or renewal*
28 *of an approval.*

29 (2) *Suspension or revocation of an existing approval.*

30 (3) *Appeals of conditional approvals.*

31 (b) *In lieu of the procedures set forth in Section 94965*
32 *or 94975, an institution may voluntarily elect to utilize the*
33 *procedures set forth in Section 94980 if it appeals a*
34 *conditional approval by the council.*

35 (c) *The procedures set forth in Section 94970 govern*
36 *emergency suspensions of an institution's approval to*
37 *operate initiated by the council.*

38 (d) *Sections 94952 and 94955 authorize the council and*
39 *the Attorney General to seek various forms of judicial*
40 *relief in order to enforce this chapter.*



1 (e) Section 94960 governs actions based on student
2 complaints.

3 (f) Section 94985 authorizes civil remedies for
4 individual students in addition to those available under
5 other provisions of law.

6 (g) Procedures established pursuant to regulations
7 adopted by the council shall govern the following types
8 of administrative appeals:

9 (1) Probationary actions.

10 (2) Decisions by the council denying an institution's
11 claim for an exemption or exclusion from this chapter or
12 any provision thereof.

13 94952. (a) The Attorney General, or any district
14 attorney, or city attorney, may make investigations as
15 may be necessary to carry out this chapter, including, but
16 not limited to, investigations of complaints. The council
17 may jointly bring actions as necessary to enforce this
18 chapter, including, but not limited to, civil actions for
19 injunctive relief. In actions brought pursuant to this
20 subdivision, the council shall be represented by the
21 Attorney General.

22 (b) The Attorney General shall represent the council
23 in the following administrative proceedings arising under
24 this chapter:

25 (1) Suspension or revocation of an institution's
26 approval.

27 (2) Denial of an institution's application for approval.

28 (3) An appeal of a conditional approval to operate
29 issued following a review of an institution's application for
30 approval.

31 (c) Nothing in this section or this chapter shall
32 preclude the Attorney General, or any district attorney
33 or city attorney, from any of the following:

34 (1) Bringing any action on behalf of the people as he
35 or she is empowered by law to bring, including, but not
36 limited to, actions based upon alleged violations of
37 Chapter 5 (commencing with Section 17200) of Part 2,
38 and Chapter 1 (commencing with Section 17500) of Part
39 3, of Division 7 of the Business and Professions Code.



1 (2) Conducting investigations necessary to determine
2 whether there have been violations of law specified in
3 paragraph (1).

4 (3) Conducting any investigations that he or she is
5 authorized to conduct, including, but not limited to,
6 investigations authorized under Section 11180 of the
7 Government Code.

8 (4) In the case of the Attorney General, delegating his
9 or her representation authority under subdivision (b) to
10 staff attorneys of the council.

11 (5) Entering into an agreement or understanding with
12 the council with respect to representation in any judicial
13 or administrative proceeding not expressly enumerated
14 herein.

15 94955. (a) The council may bring an action for
16 equitable relief for any violation of this chapter. The
17 equitable relief may include restitution, a temporary
18 restraining order, the appointment of a receiver, and a
19 preliminary or permanent injunction. The action may be
20 brought in the county in which the defendant resides or
21 in which any violation has occurred or may occur.

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

25 (c) In actions brought pursuant to this section, the
26 council shall be represented by the Attorney General.

27 94960. (a) Any person claiming damage or loss as a
28 result of any act or practice by a postsecondary or
29 vocational educational institution or its agent, or both,
30 that is a violation of this chapter or of the rules and
31 regulations adopted pursuant to this chapter, may file
32 with the council a verified complaint against that
33 institution or its agent, or both.

34 The complaint shall set forth the alleged violation and
35 shall contain any other information as may be required by
36 the council.

37 (b) The council shall investigate any complaint and
38 may attempt to effectuate settlement by persuasion and
39 conciliation.



1 (c) If, upon all the evidence at a hearing, the council
2 finds that an institution or its agent, or both, have
3 engaged in or are engaging in, any act or practice that
4 violates this chapter or the regulations adopted pursuant
5 to this chapter, the council shall report that evidence to
6 the Attorney General. The council, based on its own
7 investigation or the evidence adduced at a hearing, or
8 both, also may commence an action to revoke an
9 institution's approval to operate or an agent's permit.

10 (d) Complaints received by the council pertaining to
11 institutions accredited by the Western Association of
12 Schools and Colleges shall be forwarded to the
13 association. Actions by the council relating to complaints
14 against these institutions shall be limited to the
15 transmittal of this information.

16 (e) A person entitled to bring an action for the
17 recovery of damages or other relief shall not be required
18 to file a complaint pursuant to this section, or to pursue
19 or exhaust any administrative process or remedy before
20 bringing the action.

21 94965. (a) Proceedings in connection with the denial
22 of an application to operate, the grant of a conditional
23 approval to operate, or the revocation of an approval to
24 operate shall be conducted in accordance with Chapter
25 5 (commencing with Section 11500) of Part 1 of Division
26 3 of Title 2 of the Government Code, and the council shall
27 have all of the powers granted in that chapter. Any action
28 by the council to place an institution on probation shall be
29 subject to appeal to the full council, and the council shall
30 establish procedures that provide the institution with
31 adequate notice and an opportunity to be heard and to
32 present evidence as to why the action recommended by
33 staff or by a visiting committee shall not be taken.

34 (b) Upon taking any action to suspend or revoke an
35 institution's approval to operate, or to deny an application
36 for renewal of an approval to operate, the council shall
37 provide written notice to the Student Aid Commission,
38 the United States Department of Education, and to any
39 appropriate accrediting association.



1 94970. (a) If an institution has violated this chapter
2 and determines that immediate action is necessary to
3 protect students, prevent misrepresentations to the
4 public, or prevent the loss of public funds, tuition, or other
5 money paid by students, the council may institute an
6 emergency action to suspend the approval of an
7 institution to operate, or the approval to operate a branch
8 or satellite campus, for not more than 30 days' unless the
9 council initiates a proceeding to suspend or revoke the
10 approval to operate within that period.

11 (b) (1) The council shall provide notice of the
12 emergency action to the institution by certified mail, if
13 the effective date of the emergency action is 10 or more
14 working days after mailing, or personal service, if the
15 effective date of the emergency action is five or more
16 days after service.

17 (2) The notice shall specify all of the following:

18 (A) The violations upon which the emergency action
19 is based.

20 (B) The nature and grounds of the emergency action,
21 including whether the action applies to the continuation
22 of instruction to enrolled students or to the enrollment of
23 new students.

24 (C) The effective date of the action, which shall not be
25 less than five days after the notice is provided.

26 (D) The institution's right to show cause that the
27 emergency action is unwarranted by submitting to the
28 council, at least two days before the effective date of the
29 emergency action, declarations, documentary evidence,
30 and written arguments demonstrating that the violations
31 did not occur or that immediate action is not required.

32 (E) The right of the institution to request, in writing,
33 within 30 days of the service of the notice, a hearing.

34 (c) The council may (1) continue the effective date of
35 an emergency action or (2) terminate the emergency
36 action at any time if the council concludes that the
37 institution has shown cause that the emergency action is
38 unwarranted or that the grounds for instituting the
39 emergency action no longer remain. The council shall



1 *provide written notice of a continuance or termination of*
2 *an emergency action to the institution.*

3 *(d) (1) If the institution does not take the opportunity*
4 *to show cause why the emergency action is unwarranted,*
5 *the emergency action shall become effective on the date*
6 *specified in the notice or notice of continuance.*

7 *(2) If the institution takes the opportunity to show*
8 *cause and the council decides, after a consideration of the*
9 *declarations, documentary evidence and written*
10 *argument submitted by the institution, that the*
11 *emergency action should become effective, the*
12 *emergency action shall be effective on the date specified*
13 *in the notice or notice of continuance. The council shall*
14 *notify the institution of the decision at least one day*
15 *before the effective date, and the institution may*
16 *thereafter seek judicial relief upon notice to the council*
17 *and the Attorney General.*

18 *(e) (1) If a hearing is requested within the 30-day*
19 *period specified in subdivision (b) the council shall set a*
20 *date for the hearing within 20 days after receipt of the*
21 *request.*

22 *(2) If the institution does not request a hearing within*
23 *the 30-day period specified in subdivision (b) or if the*
24 *council concludes after a hearing requested by the*
25 *institution that grounds exist for the suspension or*
26 *revocation of the institution's approval to operate or*
27 *approval to operate a branch or satellite campus, the*
28 *council may extend the suspension or revoke the*
29 *institution's approval to operate or approval to operate a*
30 *branch or satellite campus, order probation and a penalty,*
31 *order the posting of a bond, or condition the institution's*
32 *approval to operate or approval to operate a branch or*
33 *satellite campus as the council deems appropriate.*

34 *(f) During the pendency of an emergency action, the*
35 *council may investigate the institution's compliance with*
36 *this chapter, including an onsite inspection, and may*
37 *institute a proceeding pursuant to Section 94878, if*
38 *applicable, or Section 94965 or 94975 to suspend or revoke*
39 *an institution's approval to operate or approval to operate*
40 *a branch or satellite campus, order a bond, or order*



1 *probation and a penalty, based on any violation of this*
2 *chapter.*

3 *(g) This section supplements, but does not supplant,*
4 *the authority of the council to seek judicial relief,*
5 *including a temporary restraining order and injunction,*
6 *to redress any violation of this chapter.*

7 *94975. (a) This section establishes the procedure for*
8 *notice and hearing required under this chapter and,*
9 *except as provided in Section 94970, may be used in lieu*
10 *of other notice or hearing requirements provided in this*
11 *chapter.*

12 *(b) If notice of administrative action is required by this*
13 *chapter, the council shall serve notice stating the*
14 *following:*

15 *(1) The action, including the penalties and*
16 *administrative sanctions sought.*

17 *(2) The grounds for the action with sufficient*
18 *particularity to give notice of the transactions,*
19 *occurrences, violations, or other matters on which the*
20 *action is based.*

21 *(3) The right to a hearing and the time period within*
22 *which the party subject to the notice may request a*
23 *hearing in writing. The time period shall not be less than*
24 *15 days after service of the notice unless a longer period*
25 *is provided by statute.*

26 *(4) The right to be present at the hearing, to be*
27 *represented by counsel, to cross-examine witnesses, and*
28 *to present evidence.*

29 *(5) That, if the party subject to the notice does not*
30 *request a hearing in writing within the time period*
31 *expressed in the notice, he or she will waive or forfeit his*
32 *or her right to an administrative hearing and the action*
33 *will become final.*

34 *(c) If a party subject to a notice provided pursuant to*
35 *subdivision (b) requests a hearing in writing within the*
36 *time period specified in subparagraph (3) of paragraph*
37 *(b), then within 10 days of receiving this request, the*
38 *council shall schedule a hearing. The hearing shall be held*
39 *in a location determined pursuant to Section 11508 of the*
40 *Government Code. The council shall serve reasonable*



1 notice of the time and place for the hearing at least 10
2 days before the hearing. The council may continue the
3 date of the hearing upon a showing of good cause.

4 (d) (1) Any party, including the council, may submit
5 a written request to any other party before the hearing
6 to obtain the names and addresses of any person who has
7 personal knowledge, or who the party receiving the
8 request claims to have personal knowledge, of any of the
9 transactions, occurrences, violations, or other matters
10 that are the basis of the administrative action. In addition,
11 the requesting party shall have the right to inspect and
12 copy any written statement made by that person and any
13 writing, as defined by Section 250 of the Evidence Code,
14 or thing that is in the custody, or under the control, of the
15 party receiving the request and that is relevant and not
16 privileged. This subdivision shall constitute the exclusive
17 method for prehearing discovery. However, nothing in
18 this paragraph shall affect the council's authority, at any
19 time, to investigate, inspect, monitor, or obtain and copy
20 information under any provision of this chapter.

21 (2) The written request described in paragraph (1)
22 shall be made before the hearing and within 30 days of the
23 service of the notice described in subdivision (b). Each
24 recipient of a request shall comply with the request
25 within 15 days of its service by providing the names and
26 addresses requested and by producing at a reasonable
27 time at the council's office, or other mutually agreed
28 reasonable place, the requested writings and things. The
29 council may extend the time for response upon a showing
30 of good cause.

31 (3) Except as provided in this paragraph, no party may
32 introduce the testimony or statement of any person or
33 any writing or thing into evidence at the hearing if that
34 party failed to provide the name and address of the
35 person or to produce the writing or thing for inspection
36 and copying as provided by this subdivision. A party may
37 introduce the testimony, statement, writing, or thing that
38 was not identified or produced as required herein only if
39 there is no objection or if the party establishes that the
40 person, writing, or thing was unknown at the time when



1 *the response was made to the written request, the party*
2 *could not have informed other parties within a reasonable*
3 *time after learning of the existence of the person, writing,*
4 *or thing, and no party would be prejudiced by the*
5 *introduction of the evidence.*

6 *(e) Before the hearing has commenced, the council*
7 *shall issue subpoenas at the written request of any party*
8 *for the attendance of witnesses or the production of*
9 *documents or other things in the custody or under the*
10 *control of the person subject to the subpoena. Subpoenas*
11 *issued pursuant to this section are subject to Section 11510*
12 *of the Government Code.*

13 *(f) (1) The council shall designate an impartial*
14 *hearing officer to conduct the hearing. The hearing*
15 *officer may administer oaths and affirmations, regulate*
16 *the course of the hearing, question witnesses, and*
17 *otherwise investigate the issues, take official notice*
18 *according to the procedure provided in Division 4*
19 *(commencing with Section 450) of the Evidence Code of*
20 *any technical or educational matter in the council's*
21 *special field of expertise and of any matter that may be*
22 *judicially noticed, set the time and place for continued*
23 *hearings, fix the time for the filing of briefs and other*
24 *documents, direct any party to appear and confer to*
25 *consider the simplification of issues by consent, and*
26 *prepare a statement of decision.*

27 *(2) Neither a hearing officer nor any person who has*
28 *a direct or indirect interest in the outcome of the hearing*
29 *shall communicate directly or indirectly with each other*
30 *regarding any issue involved in the hearing while the*
31 *proceeding is pending without notice and opportunity for*
32 *all parties to participate in the communication. A hearing*
33 *officer who receives any ex parte communication shall*
34 *immediately disclose the communication to the council*
35 *and all other parties. The council may disqualify the*
36 *hearing officer if necessary to eliminate the effect of the*
37 *ex parte communication. If the council finds that any*
38 *party willfully violated, or caused the violation of, this*
39 *paragraph, the council shall enter that party's default and*



1 *impose the administrative sanction set forth in the notice*
2 *provided pursuant to subdivision (b).*

3 *(g) (1) Each party at the hearing shall be afforded an*
4 *opportunity to present evidence, respond to evidence*
5 *presented by other parties, cross-examine, and present*
6 *written argument or, if permitted by the hearing officer,*
7 *oral argument on the issues involved in the hearing. The*
8 *council may call any party as a witness who may be*
9 *examined as if under cross-examination.*

10 *(2) Each party may appear through its representative*
11 *or through legal counsel.*

12 *(3) The technical rules relating to evidence and*
13 *witnesses shall not apply. However, only relevant*
14 *evidence is admissible.*

15 *(4) Oral evidence shall be taken only upon oath or*
16 *affirmation. The hearing shall be conducted in the*
17 *English language. The proponent of any testimony to be*
18 *offered by a witness who is not proficient in English shall*
19 *provide, at the proponent's cost, an interpreter proficient*
20 *in English and the language in which the witness will*
21 *testify.*

22 *(5) The hearing shall be recorded by tape recording or*
23 *other phonographic means unless all parties agree to*
24 *another method of recording the proceedings.*

25 *(6) (A) At any time 10 or more days before the*
26 *hearing, any party may serve on the other parties a copy*
27 *of any declaration that the party proposes to introduce in*
28 *evidence.*

29 *(B) The declaration shall be accompanied by a notice*
30 *indicating the date of service of the notice and stating that*
31 *the declarations will be offered into evidence, the*
32 *declarants will not be called as witnesses, and there will*
33 *be no right of cross-examination unless the party*
34 *receiving the notice requests the right to cross-examine,*
35 *in writing, within seven days of the service of the*
36 *declarations and notice.*

37 *(C) If no request for cross-examination is served*
38 *within seven days of the service of the declarations and*
39 *notice described in subparagraph (B), the right to*
40 *cross-examination is deemed waived and the declaration*



1 shall have the same effect as if the declarant testified
2 orally. Notwithstanding this paragraph, a declaration may
3 be admitted as hearsay evidence without
4 cross-examination.

5 (7) Disposition of any issues involved in the hearing
6 may be made by stipulation or settlement.

7 (8) If a party fails to appear at a hearing, that party's
8 default shall be taken and the party shall be deemed to
9 have waived the hearing and agreed to the administrative
10 action and the grounds for that action described in the
11 notice given pursuant to subdivision (b). The council
12 shall serve the party with an order of default including the
13 administrative action ordered. The order shall be
14 effective upon service or at any other time designated by
15 the council. The council may relieve a party from an
16 order of default if the party applies for relief within 15
17 days after the service of an order of default and establishes
18 good cause for relief. An application for relief from
19 default shall not stay the effective date of the order unless
20 expressly provided by the council.

21 (h) (1) At any time before the matter is submitted for
22 decision, the council may amend the notice provided
23 pursuant to subdivision (b) to set forth any further
24 grounds for the originally noticed administrative action
25 or any additional administrative action and the grounds
26 therefor. The statement of the further grounds for the
27 originally noticed administrative action, or of the grounds
28 for any additional administrative action, shall be made
29 with sufficient particularity to give notice of the
30 transactions, occurrences, violations, or other matters on
31 which the action or additional action is based. The
32 amended notice shall be served on all parties. All parties
33 affected by the amended notice shall be given reasonable
34 opportunity to respond to the amended notice as
35 provided in this section.

36 (2) The council may amend the notice after the case
37 is submitted for decision. The council shall serve each
38 party with notice of the intended amendment and shall
39 provide the party with an opportunity to show that the
40 party will be prejudiced by the amendment unless the



1 case is reopened to permit the party to introduce
2 additional evidence. If prejudice is shown, the council
3 shall reopen the case to permit the introduction of
4 additional evidence.

5 (i) (1) Within 30 days after the conclusion of the
6 hearing or at another time established by the council, the
7 hearing officer shall submit a written statement of
8 decision setting forth a recommendation for a final
9 decision and explaining the factual and legal basis for the
10 decision as to each of the grounds for the administrative
11 action set forth in the notice or amended notice. The
12 council shall serve the hearing officer's statement of
13 decision on each party and its counsel within 10 days of its
14 submission by the hearing officer.

15 (2) The council shall make the final decision which
16 shall be based exclusively on evidence introduced at the
17 hearing. The final decision shall be supported by
18 substantial evidence in the record. The council also shall
19 issue a statement of decision explaining the factual and
20 legal basis for the final decision as to each of the grounds
21 for the administrative action set forth in the notice or
22 amended notice. The council shall issue an order based on
23 its decision which shall be effective upon service or at any
24 other time designated by the council. The council shall
25 serve a copy of the final decision and order, within 10 days
26 of their issuance, on each party and its counsel.

27 (3) The council may hold a closed session to deliberate
28 on a decision to be reached based upon evidence
29 introduced at the hearing.

30 (4) The council shall serve a certified copy of the
31 complete record of the hearing, or any part thereof
32 designated by a party, within 30 days after receiving the
33 party's written request and payment of the cost of
34 preparing the requested portions of the record. The
35 complete record shall include all notices and orders
36 issued by the council, a transcript of the hearing, the
37 exhibits admitted or rejected, the written evidence and
38 any other papers in the case, the hearing officer's
39 statement of decision, and the final decision and order.

1 (j) *The council shall serve all notices and other*
2 *documents that are required to be served by this section*
3 *on each party by personal delivery, by certified mail,*
4 *return receipt requested, or by any other means*
5 *designated by the council.*

6 (k) (1) *Any party aggrieved by the council's final*
7 *decision and order may seek judicial review by filing a*
8 *petition for a writ of mandate pursuant to Section 1085 of*
9 *the Code of Civil Procedure within 30 days of the issuance*
10 *of the final decision and order. If review is not sought*
11 *within that period, the party's right to review shall be*
12 *deemed waived.*

13 (2) *The aggrieved party shall present the complete*
14 *record of the hearing or all portions of the record*
15 *necessary for the court's review of the council's final*
16 *decision and order. The court shall deny the petition for*
17 *a writ of mandate if the record submitted by the party is*
18 *incomplete. The court shall not consider any matter not*
19 *contained in the record. The factual basis supporting the*
20 *final decision set forth in the council's statement of*
21 *decision shall be conclusive if supported by substantial*
22 *evidence on the record considered as a whole.*

23 (3) *The final order shall not be stayed or enjoined*
24 *during review except upon the court's grant of an order*
25 *on a party's application after due notice to the council and*
26 *the Attorney General. The order shall be granted only if*
27 *the party establishes the substantial likelihood that it will*
28 *prevail on the merits and posts a bond sufficient to*
29 *protect fully the interests of the students, the council, and*
30 *the fund, from any loss.*

31 (l) *The council may adopt regulations establishing*
32 *alternative means of providing notice and an opportunity*
33 *to be heard in circumstances in which a full hearing is not*
34 *required by law.*

35 (m) *For the purposes of this section, "good cause" shall*
36 *require sufficient ground or reason for the determination*
37 *to be made by the council.*

38 94980. (a) *If the council, through the executive*
39 *director, denies an institution's application for approval,*
40 *grants a conditional approval, or initiates a proceeding to*



1 *suspend or revoke an institution's approval to operate,*
2 *the institution may request a hearing pursuant to this*
3 *section in lieu of the hearing procedure designated by the*
4 *council under Section 94965 or 94975.*

5 *(b) At the time the council provides notice to an*
6 *institution of its right to a hearing under Section 94965 or*
7 *94975 in connection with the denial of an application for*
8 *approval to operate, the issuance of a conditional*
9 *approval to operate, or a proposed suspension or*
10 *revocation of approval to operate, the council also shall*
11 *provide notice of the provisions of this section.*

12 *(c) Within 15 days after service of the notice described*
13 *in subdivision (b), the institution may request in writing*
14 *a hearing under this section in lieu of the hearing*
15 *procedure in Section 94965 or 94975. The request shall*
16 *acknowledge that by electing to proceed under this*
17 *section, the institution is knowingly waiving all rights*
18 *under the hearing procedure otherwise provided by the*
19 *council.*

20 *(d) After receiving the institution's request for a*
21 *hearing under this section, the council shall provide the*
22 *institution or its representative with copies of all the*
23 *documents, testimony in declaration form, and written*
24 *arguments on which the council relies to support its*
25 *proposed administrative action.*

26 *(e) The institution shall have 30 days from the service*
27 *of the council's written evidence and arguments to*
28 *submit all the documents, testimony in declaration form,*
29 *and written arguments on which the institution relies in*
30 *opposition to the council's proposed administrative*
31 *action.*

32 *(f) Neither the council nor the institution has any right*
33 *to discovery or to compel the production of documents or*
34 *the testimony of witnesses by subpoena.*

35 *(g) The executive director shall review all of the*
36 *documents, declarations, and arguments and shall render*
37 *a proposed decision in writing based solely on the written*
38 *evidence and arguments that set forth the proposed*
39 *administrative action and the factual and legal bases for*
40 *it.*



1 (h) Within 10 days of the service of the executive
2 director's decision, the institution may request in writing
3 to have the matter reviewed by the members of the
4 council and may also request oral argument, as described
5 in subdivision (i). If a timely request for review is not
6 submitted, the executive director's decision shall be
7 deemed the final decision of the council. If a timely
8 request for review is submitted without a request for oral
9 argument, the right to make oral argument is deemed
10 waived.

11 (i) If a timely request for review is made, the matter
12 shall be considered by the members of the council based
13 solely on the written evidence and arguments submitted
14 to the executive director and, if oral argument was timely
15 requested, any oral argument permitted by the council.
16 No new evidence may be presented during oral
17 argument. An institution requesting oral argument shall
18 receive at least 10 days advance notice of the council
19 meeting at which time oral argument may be made. The
20 council members may deliberate on the decision to be
21 reached in a closed session as provided in paragraph (3)
22 of subdivision (c) of Section 11126 of the Government
23 Code. The council shall issue its final decision within 30
24 days after the council meeting at which the matter was
25 reviewed. The executive director's proposed decision
26 shall be sustained if it is supported by substantial evidence
27 on the record considered as a whole.

28 (j) The council shall serve the institution with a
29 written decision setting forth the administrative action
30 taken and the legal and factual bases for it. The decision
31 shall become final within 30 days unless another time is
32 specified by the council.

33 (k) The council shall serve a certified copy of the
34 complete record, or any part thereof designated by an
35 institution, within 30 days after receiving the institution's
36 written request and payment of the cost of preparing the
37 requested record or portions thereof. The complete
38 record shall consist of all notices and orders of the council,
39 the documents, declarations, and written argument



1 *submitted, a transcript of any oral argument, and the final*
2 *decision and order.*

3 *(l) Any party aggrieved by the council's final decision*
4 *and order may seek judicial review as provided in, and*
5 *subject to, the requirements of subdivision (k) of Section*
6 *94975.*

7 *(m) All documents required by this section to be*
8 *served by the council shall be served on the institution,*
9 *its counsel, or authorized representative by any means*
10 *authorized for service pursuant to Chapter 5*
11 *(commencing with Section 1010) of Title 14 of Part 2 of*
12 *the Code of Civil Procedure.*

13 *94985. (a) Any institution that willfully violates any*
14 *provision of Section 94800, 94810, 94814, or 94816, Sections*
15 *94820 to 94826, inclusive, Section 94829, 94831, or 94832*
16 *may not enforce any contract or agreement arising from*
17 *the transaction in which the violation occurred, and any*
18 *willful violation is a ground for revoking an approval to*
19 *operate in this state or for denying a renewal application.*

20 *(b) Notwithstanding any provision of the contract or*
21 *agreement, a student may bring an action for a violation*
22 *of this article or for an institution's failure to perform its*
23 *legal obligations and, upon prevailing thereon, is entitled*
24 *to the recovery of damages, equitable relief, or any other*
25 *relief authorized by this article, and reasonable attorney's*
26 *fees and costs.*

27 *(c) If a court finds that a violation was willfully*
28 *committed or that the institution failed to refund all*
29 *consideration as required by subdivision (b) on the*
30 *student's written demand, the court, in addition to the*
31 *relief authorized under subdivision (b), shall award a civil*
32 *penalty of up to two times the amount of the damages*
33 *sustained by the student.*

34 *(d) The remedies provided in this article supplement,*
35 *but do not supplant, the remedies provided under any*
36 *other provision of law.*

37 *(e) An action brought under this section shall be*
38 *commenced within three years of the discovery of the*
39 *facts constituting grounds for commencing the action.*



1 (f) Any provision in any agreement that purports to
 2 require a student to invoke any grievance dispute
 3 procedure established by the institution before enforcing
 4 any right or remedy is void and unenforceable.

5 (g) A student may assign his or her cause of action for
 6 a violation of this article to the council, or to any state or
 7 federal agency that guaranteed or reinsured a loan for the
 8 student or that provided any grant or other financial aid.

9 (h) This section applies to any action pending on the
 10 effective date of this section.

11 (i) This section supplements but does not supplant, the
 12 authority granted the Division of Labor Law
 13 Enforcement under Section 1700.4 of the Labor Code to
 14 the extent that placement activities of trade schools are
 15 subject to regulation by the division under the Labor
 16 Code.

17
 18 Article 14. Council Reports
 19

20 94990. On or before January 1, 2001, and every five
 21 years thereafter, the California Postsecondary Education
 22 Commission shall review the effectiveness of this chapter,
 23 and notwithstanding Section 7550.5 of the Government
 24 Code, shall report to the Legislature on the results of this
 25 review.

26 The commission shall present any recommendations
 27 for revising this chapter as it deems appropriate.

28 94995. (a) Notwithstanding Section 7550.5 of the
 29 Government Code, on or before January 31 of each
 30 calendar year, the council shall submit a written report to
 31 the Legislature and to the California Postsecondary
 32 Education Commission, summarizing its activities during
 33 the previous fiscal year.

34 (b) Annual reports prepared pursuant to this section
 35 shall include, but shall not necessarily be limited to, all of
 36 the following:

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

39 (2) Statistics providing a composite picture of the
 40 private postsecondary educational community, including



1 *data on how many schools, as classified by subject matter,*
2 *and how many students there are within the scope of the*
3 *activities of the council.*

4
5 *Article 15. Severability*

6
7 *94998. The provisions of this chapter are severable. If*
8 *any provision of this chapter or its application is held*
9 *invalid, that invalidity shall not affect other provisions or*
10 *applications that can be given effect without the invalid*
11 *provision or application.*

12
13 *Article 16. Termination*

14
15 *94999. This chapter shall become operative on July 1,*
16 *1997, and as of January 1, 2003, is repealed, unless a later*
17 *enacted statute, that is enacted before January 1, 2003,*
18 *deletes or extends that date.*

19 *SEC. 4. Section 1095 of the Unemployment Insurance*
20 *Code is amended to read:*

21 1095. The director shall permit the use of any
22 information in his or her possession to the extent
23 necessary for any of the following purposes:

24 (a) To properly present a claim for benefits.

25 (b) To acquaint a worker or his or her authorized
26 agent with his or her existing or prospective right to
27 benefits.

28 (c) To furnish an employer or his or her authorized
29 agent with information to enable him or her to fully
30 discharge his or her obligations or safeguard his or her
31 rights under this division or Division 3 (commencing with
32 Section 9000). This subdivision, as it relates to Division 3
33 (commencing with Section 9000), applies only to
34 subdivision (j) of this section.

35 (d) To enable an employer to receive a reduction in
36 contribution rate.

37 (e) To enable the Director of Social Services or his or
38 her representatives or the Director of Health Services or
39 his or her representatives, subject to federal law, to verify
40 or determine the eligibility or entitlement of an applicant

1 for, or a recipient of, public social services provided
2 pursuant to the Welfare and Institutions Code, and
3 directly connected with, and limited to, the
4 administration of public social services.

5 (f) To enable county administrators of general relief or
6 assistance, or their representatives, to determine
7 entitlement to locally provided general relief or
8 assistance, where the determination is directly connected
9 with, and limited to, the administration of general relief
10 or assistance.

11 (g) To enable county district attorneys, or their
12 representatives, to seek criminal, civil, or administrative
13 remedies in connection with the unlawful application for,
14 or receipt of, relief provided under Division 9
15 (commencing with Section 10000) of the Welfare and
16 Institutions Code.

17 (h) To enable the director or his or her representative
18 to carry out his or her responsibilities under this code.

19 (i) To enable county departments of collection or their
20 representatives to determine entitlement to medical
21 assistance services rendered pursuant to Part 5
22 (commencing with Section 17000) of Division 9 of the
23 Welfare and Institutions Code, and, when appropriate, to
24 enable collection for the county's expenditures for these
25 medical assistance services.

26 (j) To furnish an employer, or his or her authorized
27 agent, with information including, but not limited to, the
28 applicant's or recipient's name, social security number,
29 address, employable skills, and job placement in order to
30 enable him or her to fully discharge his or her obligations
31 or safeguard his or her rights under the elements of a joint
32 union, management, and Employment Development
33 Department agreement as are deemed necessary to assist
34 displaced workers to obtain new employment under ~~the~~
35 ~~provisions~~ of Chapter 2.9 (commencing with Section
36 9970) of Part 1 of Division 3 and related provisions of
37 Division 3 (commencing with Section 9000). The
38 information shall be limited to any information gathered
39 under these divisions by the department and authorized
40 for release by the labor organization which shall act as an



1 agent for the affected workers under terms of the
2 agreement and shall participate in defining the
3 information release provisions.

4 (k) To provide any law enforcement agency with the
5 name, address, telephone number, birth date, social
6 security number, physical description, and names and
7 addresses of present and past employers, of any victim,
8 suspect, missing person, potential witness, or person for
9 whom a felony arrest warrant has been issued, when a
10 request for this information is made by any investigator
11 or peace officer as defined by Sections 830.1 and 830.2 of
12 the Penal Code and designated by the head of the law
13 enforcement agency and who requests this information
14 in the course of and as a part of an investigation into the
15 commission of a crime where there is a reasonable
16 suspicion that the crime is a felony and that the
17 information would lead to relevant evidence. The
18 information provided pursuant to this subdivision shall be
19 provided to the extent permitted by federal law and
20 regulations, and to the extent the information is available
21 and accessible within the constraints and configurations
22 of existing department records. Any person who receives
23 any information under this subdivision shall make a
24 written report of the information to the law enforcement
25 agency that employs him or her, for filing under the
26 normal procedures of that agency. Any officer or
27 employee of the department who discloses information in
28 violation of this subdivision is guilty of a misdemeanor.
29 Any person who obtains information in violation of this
30 subdivision is guilty of a misdemeanor.

31 (1) This subdivision shall not be construed to authorize
32 the release of a general list identifying individuals
33 applying for or receiving benefits to any law enforcement
34 agency.

35 (2) The department shall maintain records pursuant
36 to this subdivision only for periods required under
37 regulations or statutes enacted for the administration of
38 its programs.

39 (3) This subdivision shall not be construed as limiting
40 the information provided to law enforcement agencies to

1 that pertaining only to applicants for, or recipients of,
2 benefits.

3 (4) The department shall notify all applicants for
4 benefits that release of confidential information from
5 their records will not be protected should there be a
6 felony arrest warrant issued against the applicant or in the
7 event of an investigation by a law enforcement agency
8 into the commission of a felony.

9 (l) Nothing in this section shall be construed to
10 authorize or permit the use of information obtained in the
11 administration of this code by any private collection
12 agency.

13 (m) To provide the State Teachers' Retirement
14 System, pursuant to Section ~~22242~~ 22327 of the Education
15 Code, with information relating to the earnings of any
16 person who is receiving a disability allowance, or
17 disability retirement allowance, from the State Teachers'
18 Retirement System. The earnings information shall be
19 released to the Teachers' Retirement Board only upon
20 written request from the board specifying that the person
21 is receiving a disability allowance or disability retirement
22 allowance from the system. The request may be made by
23 the chief executive officer of the system or by an
24 employee of the system so authorized and identified by
25 name and title by the chief executive officer in writing.

26 (n) To provide the Public Employees' Retirement
27 System, pursuant to Section ~~20143~~ 20231 of the
28 Government Code, with information relating to the
29 earnings of any person who is receiving a disability
30 retirement allowance from the Public Employees'
31 Retirement System. The earnings information shall be
32 released to the Board of Administration of the system only
33 upon written request from the board specifying that the
34 person is receiving a disability retirement allowance from
35 the system. The request may be made by the executive
36 officer of the system or by an employee of the system so
37 authorized and identified by name and title by the
38 executive officer in writing.

39 (o) To provide the University of California
40 Retirement System with information in its possession



1 relating to the earnings of any person who has applied for
2 or is receiving disability income from the system. The
3 earnings information shall be disclosed only upon written
4 request from the system specifying that the person has
5 applied for or is receiving disability income from the
6 system. The request may be made by the chief
7 administrative officer of the system or by an employee so
8 authorized and identified by name and title by the chief
9 administrative officer in writing. The system shall notify
10 applicants for and recipients of disability income that
11 earnings information from the department's records will
12 be released upon the system's request. The information
13 obtained pursuant to this subdivision shall be used or
14 disclosed by the system only to determine or to verify
15 entitlement to, or continuing eligibility for, disability
16 income. The system shall reimburse the department for
17 all reasonable administrative expenses incurred pursuant
18 to this subdivision.

19 (p) To enable the Division of Labor Standards
20 Enforcement in the Department of Industrial Relations
21 to seek criminal, civil, or administrative remedies in
22 connection with the failure to pay, or the unlawful
23 payment of, wages pursuant to Chapter 1 (commencing
24 with Section 200) of Part 1 of ~~Division 2~~ of, and Chapter
25 1 (commencing with Section 1720) of Part 7 of, Division
26 2 of, the Labor Code. The Division of Labor Standards
27 Enforcement shall reimburse the department for all
28 reasonable administrative expenses incurred pursuant to
29 this subdivision.

30 (q) To enable the federal Department of Health and
31 Human Services, Office of Child Support Enforcement,
32 Federal Parent Locator Service, to administer its child
33 support enforcement programs under Title IV of the
34 Social Security Act (42 U.S.C. Sec. 651 et seq.).

35 (r) To provide county probation departments, the
36 State Board of Control, and the United States Attorney
37 General with wage and claim information in its possession
38 that will assist those departments and agencies in the
39 location of victims of crime who, by state mandate or
40 court order, are entitled to restitution that has been, or



1 can be recovered, and to assist in the collection of money
2 owed to the county, the state, or the United States by any
3 person who has been directed by state mandate or court
4 order to pay restitution, fines, penalties, assessments, or
5 fees as a result of a violation of law. Information provided
6 about victims of crime shall be limited to data necessary
7 to assist in locating them. Nothing in this section shall be
8 construed to prevent the department from providing
9 information to the State Board of Control or the United
10 States Attorney General through electronic methods.
11 The department may charge a fee for all reasonable
12 administrative expenses incurred pursuant to this
13 subdivision. Except as provided by Section 1463.007 of the
14 Penal Code, any officer or employee of the department
15 who discloses information in violation of this subdivision
16 is guilty of a misdemeanor. Except as provided by Section
17 1463.007 of the Penal Code, any person who obtains
18 information in violation of this subdivision is guilty of a
19 misdemeanor.

20 (s) To provide the Student Aid Commission with
21 information concerning any individuals who are
22 delinquent or in default on guaranteed student loans or
23 who owe repayment of funds received through other
24 financial assistance programs administered by the
25 commission. The information obtained pursuant to this
26 subdivision shall be utilized by the commission
27 exclusively to enable the collection of defaulted loans and
28 other funds owed, pursuant to the authority granted in
29 Chapter 2 (commencing with Section 69500) of Part 42 of
30 the Education Code and Chapter 1 (commencing with
31 Section 30000) of Title 5 of the California Code of
32 Regulations. The information released by the director for
33 the purposes of this subdivision shall not include any
34 employment, wage, or other information concerning any
35 person who is receiving unemployment insurance
36 benefits. The information shall be released to the
37 commission only upon written request from the director
38 of the commission or by an employee so authorized and
39 identified by name and title by the director. The
40 commission shall reimburse the department for all



1 reasonable administrative expenses incurred pursuant to
2 this subdivision.

3 (t) To provide an authorized governmental agency
4 with any or all relevant information that relates to any
5 specific workers' compensation insurance fraud
6 investigation. The information shall be provided to the
7 extent permitted by federal law and regulations. For the
8 purposes of this subdivision, "authorized governmental
9 agency" means the district attorney of any county, the
10 office of the Attorney General, the Department of
11 Industrial Relations, and the Department of Insurance.
12 An authorized governmental agency may disclose this
13 information to the State Bar, the Medical Board of
14 California, or any other licensing board or department
15 whose licensee is the subject of a workers' compensation
16 insurance fraud investigation. This subdivision shall not
17 prevent any authorized governmental agency from
18 reporting to any board or department the suspected
19 misconduct of any licensee of that body. The Department
20 of Insurance or Department of Industrial Relations shall
21 reimburse the department for all reasonable
22 administrative expenses incurred relative to a request
23 that it submits pursuant to this subdivision. Relevant
24 information may include, but is not limited to, all of the
25 following:

26 (1) Copies of unemployment and disability insurance
27 application and claim forms and copies of any supporting
28 medical records, documentation, and records pertaining
29 thereto.

30 (2) Copies of returns or reports filed by an employer
31 pursuant to Section 1088 and copies of supporting
32 documentation.

33 (3) Copies of benefit payment checks issued to
34 claimants.

35 (4) Copies of any documentation that specifically
36 identifies the claimant by social security number,
37 residence address, or telephone number.

38 (u) *To enable the Director of the Council for Private*
39 *Postsecondary and Vocational Education, or his or her*
40 *representatives, to verify the information submitted to*

1 *the council by institutions approved under the Private*
 2 *Postsecondary and Vocational Education Reform Act of*
 3 *1989 for enforcement purposes and to carry out their*
 4 *responsibilities under that act.*

5 (v) To provide employment tax information to the tax
 6 officials of Mexico, if a reciprocal agreement exists. For
 7 purposes of this subdivision, “reciprocal agreement”
 8 means a formal agreement to exchange information
 9 between national taxing officials of Mexico and taxing
 10 authorities of the State Board of Equalization, the
 11 Franchise Tax Board, and the Employment
 12 Development Department. Furthermore, the reciprocal
 13 agreement shall be limited to the exchange of
 14 information which is essential for tax administration
 15 purposes only. Taxing authorities of the State of California
 16 shall be granted tax information only on California
 17 residents. Taxing authorities of Mexico shall be granted
 18 tax information only on Mexican nationals.

19 ~~(v)~~

20 (w) Wages as defined by Section 13009 and amounts
 21 required to be deducted and withheld under Section
 22 13020 shall not be disclosed except as provided in Article
 23 2 (commencing with Section 19542) of Chapter 7 of Part
 24 10.2 of Division 2 of the Revenue and Taxation Code.

25 ~~(w)~~

26 (x) To enable city and county planning agencies to
 27 develop economic forecasts for planning purposes. The
 28 information shall be limited to businesses within the
 29 jurisdiction of the city or county whose planning agency
 30 is requesting the information, and shall not include
 31 information regarding individual employees. The city or
 32 county planning agency receiving the information shall
 33 adhere to the same standards regarding confidentiality
 34 and the protection of proprietary information that the
 35 department is required to follow. The city and county
 36 planning agencies shall reimburse the department for all
 37 reasonable administrative expenses incurred pursuant to
 38 this subdivision.

39 ~~(x)~~



1 (y) To provide the State Department of
2 Developmental Services with wage and employer
3 information that will assist in the collection of moneys
4 owed by the recipient, parent, or any other legally liable
5 individual for services and supports provided pursuant to
6 Chapter 9 (commencing with Section 4775) of Division
7 4.5 of, and Chapter 2 (commencing with Section 7200)
8 and Chapter 3 (commencing with Section 7500) of
9 Division 7 of, the Welfare and Institutions Code. The
10 State Department of Developmental Services shall
11 reimburse the department for all reasonable
12 administrative expenses incurred pursuant to this
13 subdivision.

14 *SEC. 5. All funds in the Private Postsecondary and*
15 *Vocational Education Administration Fund and in the*
16 *Student Tuition Recovery Fund on June 30, 1997, shall*
17 *remain in those funds and may be used for the purposes*
18 *authorized by this chapter commencing July 1, 1997.*

19 *SEC. 6. Sections 2 to 5, inclusive, of this act shall*
20 *become operative on July 1, 1997.*

21 *SEC. 7. No reimbursement is required by this act*
22 *pursuant to Section 6 of Article XIII B of the California*
23 *Constitution because the only costs that may be incurred*
24 *by a local agency or school district will be incurred*
25 *because this act creates a new crime or infraction, or*
26 *changes the penalty for a crime or infraction, within the*
27 *meaning of Section 17556 of the Government Code, or*
28 *changes the definition of a crime within the meaning of*
29 *Section 6 of Article XIII B of the California Constitution.*

30 *Notwithstanding Section 17580 of the Government*
31 *Code, unless otherwise specified, the provisions of this act*
32 *shall become operative on the same date that the act*
33 *takes effect pursuant to the California Constitution.*

34 *SEC. 8. This act is an urgency statute necessary for the*
35 *immediate preservation of the public peace, health, or*
36 *safety within the meaning of Article IV of the*
37 *Constitution and shall go into immediate effect. The facts*
38 *constituting the necessity are:*

39 *The existing Private Postsecondary and Vocational*
40 *Education Reform Act of 1989 will become inoperative on*



1 *June 30, 1997. In order to continue the operation of that*
2 *body of law as soon as possible, it is necessary that this act*
3 *take effect immediately.*

4 ~~amended to read:~~

5 ~~94986. (a) The California Postsecondary Education~~
6 ~~Commission shall periodically review the effectiveness of~~
7 ~~this chapter and report to the Legislature on the results~~
8 ~~of this review.~~

9 ~~(b) The commission shall present any~~
10 ~~recommendations for revising this chapter, as it deems~~
11 ~~appropriate.~~

12 ~~SEC. 3. Section 94990 of the Education Code is~~
13 ~~repealed.~~

14 ~~SEC. 4. Section 32 of Chapter 62 of the Statutes of 1996~~
15 ~~is repealed.~~

16 ~~SEC. 5. No reimbursement is required by this act~~
17 ~~pursuant to Section 6 of Article XIII B of the California~~
18 ~~Constitution because the only costs that may be incurred~~
19 ~~by a local agency or school district will be incurred~~
20 ~~because this act creates a new crime or infraction,~~
21 ~~eliminates a crime or infraction, or changes the penalty~~
22 ~~for a crime or infraction, within the meaning of Section~~
23 ~~17556 of the Government Code, or changes the definition~~
24 ~~of a crime within the meaning of Section 6 of Article~~
25 ~~XIII B of the California Constitution.~~

26 ~~Notwithstanding Section 17580 of the Government~~
27 ~~Code, unless otherwise specified, the provisions of this act~~
28 ~~shall become operative on the same date that the act~~
29 ~~takes effect pursuant to the California Constitution.~~

30 ~~SEC. 6. This act is an urgency statute necessary for the~~
31 ~~immediate preservation of the public peace, health, or~~
32 ~~safety within the meaning of Article IV of the~~
33 ~~Constitution and shall go into immediate effect. The facts~~
34 ~~constituting the necessity are:~~

35 ~~In order to continue the operation of the Private~~
36 ~~Postsecondary and Vocational Education Reform Act of~~
37 ~~1989 as soon as possible, it necessary that this act take~~
38 ~~effect immediately.~~

O

