

AMENDED IN ASSEMBLY APRIL 17, 1997

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 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 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) *provide for standards and evaluation procedures for institutions offering license examination preparation services*, (c) revise the method for calculating student tuition refunds, ~~(e)~~ (d) reenact and revise various provisions governing student protections, and ~~(d)~~ (e) 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.

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
13 private sector educates approximately 400,000 students:
14 100,000 enrolled in degree-granting institutions, and
15 300,000 enrolled in nondegree-granting institutions.

16 (b) Prior to passage of the act, some degrees and
17 diplomas awarded by California’s private postsecondary
18 and vocational educational institutions were of
19 questionable integrity and value. The act set minimum
20 standards of instructional quality and institutional
21 business practices, and mandated consumer protections
22 for students against fraud, misrepresentation, and unfair
23 practices by schools. These changes have restored the
24 credibility and integrity of degrees and diplomas
25 awarded by private schools and colleges.

26 (c) More broadly, the improvement of California’s
27 work force preparation programs, both public and
28 private, is of significant value to the business community
29 in California. By ensuring high-quality preparation and
30 training for students entering the work force, this act
31 benefits both employers and employees.

32 SEC. 2. Chapter 7 (commencing with Section 94700)
33 of Part 59 of the Education Code is repealed.

34 SEC. 3. Chapter 7 (commencing with Section 94700)
35 is added to Part 59 of the Education Code, to read:

36



1 CHAPTER 7. PRIVATE POSTSECONDARY AND VOCATIONAL
2 INSTITUTIONS

3
4 Article 1. General Provisions
5

6 94700. This chapter shall be known, and may be cited,
7 as the “Private Postsecondary and Vocational Education
8 Reform Act of 1989.”

9 94705. It is the intent of the Legislature to promote
10 the effective integration of private postsecondary
11 education into all aspects of California’s educational
12 system and to foster and improve the educational
13 programs and services of these institutions while
14 protecting the citizens of the state from fraudulent or
15 substandard operations.

16 It is further the intent of the Legislature to recognize
17 the enormous diversity of California’s private
18 postsecondary educational enterprise, with its
19 approximately 2,300 privately supported institutions of
20 academic and vocational education.

21 It is further the intent of the Legislature to provide for
22 the protection, education, and welfare of citizens of
23 California, its postsecondary educational institutions, and
24 its students by providing for all of the following:

25 (a) Ensuring minimum standards of instructional
26 quality and institutional stability for all students in all
27 types of institutions, and thereby encouraging the
28 recognition by public and private institutions of
29 completed coursework and degrees and diplomas issued
30 by private institutions, to the end that students will be
31 provided equal opportunities for equal accomplishment
32 and ability.

33 (b) Establishing minimum standards concerning the
34 quality of education, ethical and business practices,
35 health and safety, and fiscal responsibility to provide
36 protection against substandard, transient, unethical,
37 deceptive, or fraudulent institutions and practices.

38 (c) Prohibiting the granting of false or misleading
39 educational credentials.

1 (d) Prohibiting misleading literature, advertising,
2 solicitation, or representations by private educational
3 institutions or their agents.

4 (e) Recognizing the importance of providing
5 adequate funding through application and renewal fees
6 and federal funding for the veteran's approval process to
7 support the state's activities in implementing this
8 chapter.

9 (f) Protecting the consumer and students against
10 fraud, misrepresentation, or other practices that may lead
11 to an improper loss of funds paid for educational costs,
12 whether financed through personal resources or state and
13 federal student financial aid.

14 (g) Establishing a path for the development of
15 institutions offering fields of study or methods of
16 instruction and innovative educational delivery systems
17 not previously recognized in order to encourage them to
18 become fully approved institutions.

19 (h) Recognizing and encouraging quality
20 nongovernmental accreditation, while not ceding to that
21 or any other nongovernmental process the responsibility
22 for state oversight for purposes of approval, if the
23 accreditation process fails either to protect minimum
24 standards of quality or to acknowledge legitimate
25 innovative methods in postsecondary education.

26 (i) Establishing an administrative agency staffed by
27 individuals who are knowledgeable about private
28 academic and vocational education, and charged with the
29 responsibility of developing policies and procedures for
30 the oversight and approval of private postsecondary and
31 vocational education, including the responsibility for
32 managing a broadly construed policy and planning
33 process that seeks to improve state accountability for
34 private postsecondary and vocational education as well as
35 to improve the articulation of private postsecondary and
36 vocational education with the public and independent
37 postsecondary educational community. This new body
38 should provide the leadership and planning needed to
39 maintain and develop a strong private sector of this
40 community.



Article 2. Definitions

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

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

94712. “Accredited” means that an institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the United States Department of Education, or the Committee of Bar Examiners for the State of California. It does not include those institutions that have applied for accreditation, or are identified by accrediting associations as candidates for accreditation or have provisional accreditation.

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

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

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

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



1 94717. “Applicant” means a new institution that has
 2 submitted an application but has not been evaluated by
 3 the council. An applicant institution shall not enroll
 4 students or offer educational services.

5 94718. “Approval” or “approval to operate” means
 6 that the council has determined and certified that an
 7 institution meets minimum standards established by the
 8 council for integrity, financial stability, and educational
 9 quality, including the offering of bona fide instruction by
 10 qualified faculty and the appropriate assessment of
 11 students’ achievement prior to, during, and at the end of
 12 its program.

13 94719. “Branch” means a site other than the main
 14 location or a satellite. Only educational services approved
 15 at the main location may be offered at the branch.

16 94720. “Certificate of authorization for service”
 17 means a written, nontransferable document issued by the
 18 council authorizing an individual to be an instructor or
 19 administrator in any private vocational postsecondary
 20 educational institution in California that is approved
 21 under Section 94915.

22 94721. “Change of location” means a move of up to 25
 23 miles of the location at which an institution offers any
 24 education, training, or instruction. A change of location
 25 of 25 or more miles is deemed the establishment of a new
 26 location of instruction requiring a separate approval to
 27 operate, unless otherwise provided by the council.

28 94722. (a) Except as provided in subdivision (b),
 29 “continuing education” means instruction offered in any
 30 of the following circumstances:

31 (1) Only in subjects licensees are required to take as a
 32 condition of continued licensure and solely for that
 33 purpose.

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

37 (3) To persons who are already in a particular
 38 profession, trade, or job category for the sole purpose of
 39 enhancing their skills or knowledge within that particular
 40 profession, trade, or job category.



1 (b) “Continuing education” does not include any of
2 the following:

3 (1) Vocational diploma programs.

4 (2) Degree programs.

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

8 94723. “Correspondence school” or “home study
9 school” means any institution that provides
10 correspondence lessons for study and completion by a
11 student at a location separate from the institution,
12 including those institutions which offer that instruction
13 by correspondence in combination with in-residence
14 instruction.

15 94724. “Council” means the Council for Private
16 Postsecondary and Vocational Education established
17 pursuant to Section 94770.

18 94725. “Course of study” means either a single course
19 or a set of related courses for which a student enrolls.

20 94726. “Degree” means any type of degree or
21 honorary degree or title of any designation, mark,
22 appellation, series of letters or words such as, but not
23 limited to, associate, bachelor, master, doctor, or fellow
24 which signifies, purports, or is generally taken to signify
25 satisfactory completion of the requirements of an
26 academic, educational, technological, or professional
27 program of study beyond the secondary school level or is
28 an honorary title conferred for recognition of some
29 meritorious achievement.

30 94727. “Degree title” means the designated subject
31 area of study that also appears on the face of the
32 document awarded to a student signifying the conferring
33 of a “degree.”

34 94728. “Diploma” means any diploma, certificate,
35 ~~transcript~~, document, or other writing in any language
36 other than a degree which signifies, purports, or is
37 generally taken to signify satisfactory completion of the
38 requirements of an academic, educational, technological,
39 or professional program of study beyond the secondary
40 school level.



1 94729. “Education,” “educational services,” or
2 “educational program” includes, but is not limited to, any
3 class, course, or program of training, instruction, or study.

4 94730. “Institution” means any private postsecondary
5 educational institution. An “institution” includes its
6 branch and satellite campuses, unless otherwise provided
7 by the council.

8 94731. “Institutional approval” means an institution
9 that has been evaluated by the council and has been
10 found to be in compliance with the council’s standards
11 pursuant to this chapter.

12 94732. “Instruction” includes any specific, formal
13 arrangement by an institution or its enrollees to
14 participate in learning experiences in which the
15 institution’s faculty or contracted instructors present a
16 planned curriculum appropriate to the enrollee’s
17 educational program.

18 94733. (a) “Intensive English program” means any
19 program approved by the United States Immigration and
20 Naturalization Service that is offered exclusively to
21 provide English instruction to international students in
22 the United States. Courses offered under such programs
23 shall be exclusively nondegree and cannot be
24 represented to fit, or offered for the purpose of preparing
25 a student for employment in, any occupation or job title.

26 (b) Students enrolled in intensive English programs
27 cannot be either residents of the State of California or
28 citizens of the United States.

29 94734. “License and exam preparation” means that
30 the educational program is either of the following:

31 (a) Designed to assist students to prepare for an
32 examination for licensure.

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

36 94735. “Main location” or “main site” means the
37 institution’s primary teaching location. If an institution
38 operates at only one site, that site shall be considered its
39 main location or main site.



1 94736. “Occupational Associate Degree,” “Associate
2 of Occupational Studies,” or “Associate of Applied
3 Science” designated by terms such as AOS (Associate
4 Occupational Studies), AAS (Associate Applied Science),
5 AST (Associate Specialist Technical), or ASB (Associate
6 Specialist Business) means a specialized associate degree
7 that may be awarded to students who complete an
8 occupational program that provides preparation for
9 entry-level employment in a specific occupational field.

10 94737. “Out-of-state school” means any private
11 postsecondary or vocational educational institution
12 offering career or job training programs, including both
13 an in-residence institution and a home-study institution
14 that has its place of instruction or its principal location
15 outside the boundaries of the state, or that offers or
16 conducts programs of instruction or subjects on premises
17 maintained by the school outside the boundaries of the
18 state, or that provides correspondence or home-study
19 lesson materials from a location outside the boundaries of
20 this state, or that evaluates completed lesson materials or
21 otherwise conducts its evaluation service from a location
22 outside the boundaries of this state, or that otherwise
23 offers or provides California students with programs of
24 instruction or subjects through activities engaged in or
25 conducted outside the boundaries of the state.

26 94738. “Person” means a natural person or any
27 business entity, regardless of the form or organization.

28 94739. (a) “Private postsecondary educational
29 institution” means any person doing business in
30 California that offers to provide or provides, for a tuition,
31 fee, or other charge, any instruction, training, or
32 education under any of the following circumstances:

33 (1) A majority of the students to whom instruction,
34 training, or education is provided during any 12-month
35 period is obtained from, or on behalf of, students who
36 have completed or terminated their secondary education
37 or are beyond the age of compulsory high school
38 attendance.

39 (2) More than 50 percent of the revenue derived from
40 providing instruction, training, or education during any



1 12-month period is obtained from, or on behalf of,
2 students who have completed or terminated their
3 secondary education or are beyond the age of compulsory
4 high school attendance.

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

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

16 (b) The following are not considered to be private
17 postsecondary educational institutions under this
18 chapter:

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

21 (2) Institutions offering education solely avocational
22 or recreational in nature, and institutions offering this
23 education exclusively.

24 (3) Institutions offering education sponsored by a
25 bona fide trade, business, professional, or fraternal
26 organization, solely for that organization's membership.

27 (4) Postsecondary or vocational educational
28 institutions established, operated, and governed by the
29 federal government or by this state, or its political
30 subdivisions.

31 (5) Institutions exclusively offering continuing
32 education.

33 (6) A nonprofit institution owned, controlled, and
34 operated and maintained by a bona fide church or
35 ~~religious denomination~~, *religious denomination, or*
36 *religious organization comprised of multid denominational*
37 *members of the same well-recognized religion*, lawfully
38 operating as a nonprofit religious corporation pursuant to
39 Part 4 (commencing with Section 9110) of Division 2 of
40 Title 1 of the Corporations Code, if the education is



1 limited to instruction in the principles of that church or
2 ~~denomination~~, *religious denomination, or religious*
3 *organization*, or to courses offered pursuant to Section
4 2789 of the Business and Professions Code, and the
5 diploma or degree is limited to evidence of completion of
6 that education, and the meritorious recognition upon
7 which any honorary degree is conferred is limited to the
8 principles of that church or ~~denomination~~, *religious*
9 *denomination, or religious organization*. Institutions
10 operating under this paragraph shall offer degrees and
11 diplomas only in the beliefs and practices of the
12 ~~denomination, church, or religion~~ *church, religious*
13 *denomination, or religious organization*. The enactment
14 of this paragraph expresses the legislative intent that the
15 state shall not involve itself in the content of degree
16 programs awarded by any institution operating under
17 this paragraph, as long as the institution awards degrees
18 and diplomas only in the beliefs and practices of the
19 ~~denomination, church, or religion~~ *church, religious*
20 *denomination, or religious organization*. Institutions
21 operating under this paragraph shall not award degrees
22 in any area of physical science. Any degree or diploma
23 granted in any area of study under these provisions shall
24 contain on its face, in the written description of the title
25 of the degree being conferred, a reference to the
26 theological or religious aspect of the degree's subject
27 area. Degrees awarded under this paragraph shall reflect
28 the nature of the degree title, such as "Associate of
29 Religious Studies," "Bachelor of Religious Studies," or
30 "Master of Divinity" or "Doctor of Divinity." The use of
31 the degree titles "Associate of Arts" or "Associate of
32 Science," "Bachelor of Arts" or "Bachelor of Science,"
33 "Master of Arts" or "Master of Science," or "Doctor of
34 Philosophy" or "Ph.D." shall only be awarded by
35 institutions approved to operate under Article 8
36 (commencing with Section 94900) or meeting the
37 requirements for an exemption under Section 94750. The
38 enactment of this paragraph is intended to prevent any
39 entity claiming to be a nonprofit institution owned,
40 controlled, and operated and maintained by a bona fide



1 church ~~or religious denomination,~~ *religious*
 2 *denomination, or religious organization comprised of*
 3 *multidenominational members of the same*
 4 *well-recognized religion,* lawfully operating as a
 5 nonprofit religious corporation pursuant to Part 4
 6 (commencing with Section 9110) of Division 2 of Title 1
 7 of the Corporations Code, from marketing and granting
 8 degrees or diplomas that are represented as being linked
 9 to their church ~~or denomination,~~ *religious denomination,*
 10 *or religious organization,* but which, in reality, are
 11 degrees in secular areas of study. An institution operating
 12 under this paragraph shall file annually with the council
 13 evidence to demonstrate its status as a nonprofit religious
 14 corporation under the Corporations Code. A college or
 15 university operating under this paragraph shall file
 16 annually with the council evidence to demonstrate its
 17 status as a nonprofit religious corporation under the
 18 Corporation Code.

19 94740. “Program” or “program of instruction” means
 20 a program of training, set of related courses, or education
 21 for which a student enrolls.

22 94741. “Representative” means an employee, an
 23 agent as defined in Section 2295 of the Civil Code, an
 24 agent subject to Section 94940, an agency subject to
 25 Section 94942, or any person who, for compensation, does
 26 either of the following:

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

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

32 94742. “Satellite” means an auxiliary classroom or a
 33 teaching site. All of the following apply to a satellite:

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

36 (b) The institution shall maintain no permanent
 37 records of attendance or academic progress at the
 38 satellite.

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



1 94743. “Site” means a main location, branch, or
2 satellite campus.

3 94744. “To offer” includes, in addition to its usual
4 meanings, advertising, publicizing, soliciting, or
5 encouraging any person, directly or indirectly, in any
6 form, to perform the act described.

7 94745. “To operate” an educational institution, or like
8 term, means to establish, keep, or maintain any facility or
9 location in this state where, or from or through which,
10 educational services are offered or educational degrees or
11 diplomas are offered or granted.

12 94746. “Vocational diploma program” means an
13 educational program having all of the following
14 characteristics:

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

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

22 (c) Students who complete all or a portion of the
23 program are awarded a diploma, certificate, or
24 occupational associate degree.

25

26 Article 3. Exempt Institutions

27

28 94750. (a) Article 4 (commencing with Section
29 94770), Article 7 (commencing with Section 94850),
30 Article 8 (commencing with Section 94900), Article 9
31 (commencing with Section 94915), Article 10
32 (commencing with Section 94932), Article 12
33 (commencing with Section 94944); Sections 94800, 94802,
34 94804, Sections 94808 to 94810, inclusive, Sections 94814 to
35 94829, inclusive, Section 94830, subdivision (c) of Section
36 94831, and Sections 94836, 94840, 94846, 94942, 94955,
37 94965, 94970, and 94975 do not apply to an institution that
38 is accredited by the Western Association of Schools and
39 Colleges, if the institution exclusively confers degrees



1 upon the completion of a program of study of two or more
2 years.

3 (b) Within 30 days of any action by any accrediting
4 agency that establishes, reaffirms, or publicly sanctions
5 the accreditation of a private institution operating in the
6 state, the accrediting agency shall notify the council of
7 that action, and provide a copy of any public statements
8 regarding the reasons for sanctions.

9 94755. Article 4 (commencing with Section 94770),
10 Article 7 (commencing with Section 94850), Article 8
11 (commencing with Section 94900), Article 9
12 (commencing with Section 94915), Article 10
13 (commencing with Section 94932), Article 12
14 (commencing with Section 94944); Sections 94800, 94802,
15 94804, Sections 94808 to 94810, inclusive, Sections 94814 to
16 94829, inclusive, Section 94830, subdivision (c) of Section
17 94831, and Sections 94836, 94840, 94846, 94942, 94955,
18 94965, 94970, and 94975 do not apply to an institution that
19 exclusively offers educational services for the sole
20 purpose of assisting students to prepare for an
21 examination for entrance into an undergraduate or
22 graduate course of study at an accredited or approved
23 college or university.

24

25 Article 4. Administration

26

27 94770. There is hereby established in state
28 government the Council for Private Postsecondary and
29 Vocational Education. The council has the responsibility
30 for approving and regulating private postsecondary
31 educational institutions and for developing state policies
32 for private postsecondary and vocational education in
33 California. The council shall represent the private
34 postsecondary educational institutions in all state-level
35 planning and policy discussions about postsecondary and
36 vocational education, and shall have as its objective the
37 development of a strong, vigorous, and widely respected
38 sector of private postsecondary and vocational education.

39 94770.1. (a) The council shall be composed of 15
40 voting members, including the following representatives:



1 (1) Two representatives from degree-granting
2 institutions approved under Article 8 (commencing with
3 Section 94900).

4 (2) Two representatives from nondegree-granting
5 institutions approved under Article 9 (commencing with
6 Section 94915).

7 (3) Two representatives from accredited private
8 postsecondary institutions operating in California. One
9 representative shall be from an out-of-state accredited
10 degree-granting institution approved under Article 8
11 (commencing with Section 94900), and one
12 representative shall be from an accredited
13 nondegree-granting institution approved under Article 9
14 (commencing with Section 94915).

15 (4) A representative of the California Student Aid
16 Commission, nominated by the executive director of the
17 commission, and appointed by the Governor.

18 (5) The Superintendent of Public Instruction, or his or
19 her designee.

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

22 (7) Six members of the general public.

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

25 (1) The Governor shall appoint one representative
26 from a degree-granting institution approved under
27 Article 8 (commencing with Section 94900), one
28 representative from a nondegree-granting institution
29 approved under Article 9 (commencing with Section
30 94915), one representative from an accredited
31 nondegree-granting institution, and three members from
32 the general public.

33 (2) The Senate Committee on Rules shall appoint one
34 representative from a degree-granting institution
35 approved under Article 8 (commencing with Section
36 94900), one representative from an out-of-state
37 accredited degree-granting institution operating in
38 California, and one member of the general public.

39 (3) The Speaker of the Assembly shall appoint one
40 representative from a nondegree-granting institution



1 approved under Article 9 (commencing with Section
2 94915), and two members of the general public.

3 (4) The institutional representatives shall be
4 appointed from a list or lists of persons nominated by
5 private postsecondary or vocational educational
6 institutions.

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

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

11 (2) The Director of Employment Development, or his
12 or her designee.

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

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

17 (d) *This section shall remain in effect only until*
18 *January 1, 1998, and as of that date is repealed, unless a*
19 *later enacted statute, that is enacted before January 1,*
20 *1998, deletes or extends that date.*

21 94770.1. *The council shall consist of _____*
22 *members composed of the following:*

23 (a) *_____ members appointed by the Governor,*
24 *_____ members appointed by the Senate Committee*
25 *on Rules, and _____ members appointed by the*
26 *Speaker of the Assembly.*

27 (b) *Each member of the council shall serve a four-year*
28 *term. No member shall serve more than two full terms.*
29 *Members of the council whose terms have expired may*
30 *continue to serve until replaced by their appointing*
31 *authority. The term of an appointment commences from*
32 *the date the previous term expired.*

33 (c) *No person may serve on the council if, at any time*
34 *during the preceding five years of their appointment,*
35 *that person (1) had any direct or indirect financial or*
36 *ownership interest in an institution or, (2) served as a*
37 *director, officer, or employee of an institution or any*
38 *entity directly or indirectly holding any financial or*
39 *ownership interest in, or involved with, the management*
40 *of any institution. For the purpose of this subdivision only,*



1 “institution” includes the institutions described in
2 subdivision (b) of Section 94739.

3 (d) The intent of the Legislature is to have public
4 council members knowledgeable of the issues relevant to
5 the students, the schools, and the work settings program
6 graduates will enter. The public members appointed to
7 the council shall be selected from individuals who have
8 either experience in the field of higher education
9 including those possessing doctoral degrees who
10 understand the requirements of doctoral programs, who
11 are employed in industries that hire graduates from the
12 vocational schools, who have experience in work-force
13 training issues and programs, or from the field of student
14 and consumer protection. All appointees shall have a
15 minimum of five years of experience in the fields upon
16 which their appointments are based.

17 (e) This section shall become operative January 1,
18 1998.

19 94770.2. (a) The members of the council designated
20 by the Superintendent of Public Instruction and the
21 Secretary of the State and Consumer Services Agency
22 pursuant to paragraphs (5) and (6) of subdivision (a) of
23 Section 94770.1 shall serve at the pleasure of the
24 designating authority. All other voting members of the
25 council shall serve a four-year term, and no member shall
26 serve more than two full terms. The members of the
27 council serving on June 30, 1997, shall continue to serve
28 until the expiration of their term. Voting members of the
29 council whose terms have expired may continue to serve
30 until replaced by their appointing authority. The term of
31 an appointment commences from the date the previous
32 term expired.

33 (b) Any person appointed to the council as a
34 representative from an institution described in
35 paragraphs (1) to (3), inclusive, of subdivision (a) of
36 Section 94770.1, who no longer represents the institutions
37 that made him or her eligible for appointment shall
38 automatically and immediately forfeit his or her
39 membership on the council, thereby creating an
40 immediate vacancy. Any person appointed to the council

1 as a member of the general public pursuant to paragraph
2 (7) of subdivision (a) of Section 94770.1, who no longer
3 qualifies as a member of the general public shall
4 automatically and immediately forfeit his or her
5 membership on the council, thereby creating an
6 immediate vacancy.

7 (c) No person who is employed by an institution of
8 public or private postsecondary or vocational education,
9 or who is employed by a private organization owning an
10 interest in a private postsecondary or vocational
11 institution, shall be appointed to, or serve on, the council
12 as a member of the general public.

13 (d) It is the intent of the Legislature that the members
14 of the general public appointed to the council have a
15 strong interest in developing private postsecondary and
16 vocational education and include representation from
17 businesses that employ persons in positions requiring
18 academic, vocational, or technical education.

19 (e) It is the intent of the Legislature that the council
20 shall be broadly and equitably representative of the
21 general public and that it include adequate
22 representation on the basis of gender and on the basis of
23 the significant racial, ethnic, and economic groups in the
24 state. No person appointed pursuant to Section 94770.1
25 shall, with respect to any matter before the council, vote
26 for or on behalf of, or in any way exercise the vote of, any
27 other member of the council.

28 (f) *This section shall remain in effect only until*
29 *January 1, 1998, and as of that date is repealed, unless a*
30 *later enacted statute, that is enacted before January 1,*
31 *1998, deletes or extends that date.*

32 94770.3. (a) The council shall meet as often as it
33 deems necessary to carry out its duties and
34 responsibilities.

35 ~~(b) The council shall select a chair from among the~~
36 ~~members representing the general public. The chair shall~~

37 (b) *The council shall select a chair who shall hold office*
38 *for a term of two years.*

39 (c) The council may appoint any subcommittees or
40 advisory committees it deems necessary to advise the



1 council on matters of educational policy. The council shall
2 appoint and may remove a director in the manner
3 prescribed in this ~~section~~ *article*. The director shall
4 appoint persons to any civil service staff positions
5 authorized by the council. The staffing shall include
6 individuals with responsibilities for each of the following
7 areas:

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

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

10 (3) The approval of courses offered to veterans by
11 postsecondary institutions. For the purposes of
12 implementing the requirements of this paragraph, the
13 council is hereby designated as the state agency
14 responsible for the administration of veteran educational
15 benefit programs.

16 (4) Institutional relations to develop strong
17 relationships with agencies such as the State Department
18 of Education, the California Postsecondary Education
19 Commission, , the Department of Consumer
20 Affairs, and nongovernmental accrediting associations.

21 (5) Legislative and public affairs.

22 (6) Staff administrative services.

23 94770.4. It is the intent of the Legislature that the
24 council's approval and regulating responsibilities be
25 funded solely through approval fees and federal funding
26 provided to implement the approval process for courses
27 offered to veterans by approved institutions.

28 94770.5. The council shall prescribe regulations for
29 the transaction of its own affairs, subject to all the
30 following requirements and limitations:

31 (a) The votes of all members of the council shall be
32 recorded.

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

36 (c) The affirmative vote of two-thirds of all the duly
37 appointed members of the council, not including vacant
38 council seats, shall be necessary for the appointment or
39 removal of the director.



1 94771. The council may delegate to the director any
 2 power, duty, purpose, function, or jurisdiction that the
 3 council may lawfully delegate, including the authority to
 4 enter into and sign contracts on behalf of the council. The
 5 director may redelegate any of those powers, duties,
 6 purposes, functions, or jurisdictions to his or her designee,
 7 unless by statute, or regulation, the director is expressly
 8 required to act personally.

9 94772. The council shall appoint from its membership
 10 one subcommittee on postsecondary degree-granting
 11 institutions and one subcommittee on
 12 nondegree-granting institutions. All educational
 13 institutions that confer degrees shall be considered by the
 14 subcommittee on postsecondary degree-granting
 15 institutions pursuant to the requirements of Article 8
 16 (commencing with Section 94900). All educational
 17 institutions that offer nondegree education and that do
 18 not confer degrees shall be considered by the
 19 subcommittee on nondegree education pursuant to the
 20 requirements of Article 9 (commencing with Section
 21 94915). Each subcommittee shall report its
 22 recommendations to the council, which shall make the
 23 final approval determination.

24 94773. The council shall have the following functions
 25 and responsibilities in its capacity as the statewide private
 26 postsecondary and vocational educational planning and
 27 licensing agency:

28 (a) The establishment of policies for the
 29 administration of this chapter.

30 (b) The establishment of minimum criteria for the
 31 approval of private postsecondary or vocational
 32 educational institutions to operate in California and
 33 award degrees and diplomas, and for the approval of
 34 institutions that meet the criteria.

35 (c) The adoption of regulations governing the conduct
 36 of institutions under this chapter, including, but not
 37 limited to, minimum state standards for refund policies,
 38 advertising, enrollment agreements and contracts,
 39 consumer information, attendance policies, and financial
 40 responsibility.



1 (d) The adoption of procedures necessary or
2 appropriate for the conduct of its work and the
3 implementation of this chapter consistent with its
4 adopted rules and regulations, including the adoption of
5 regulations to ensure that institutions will receive
6 adequate notice and a full opportunity to be heard
7 concerning actions to deny, suspend, or revoke approval,
8 or to place an institution on probation.

9 (e) The representation of California's segment of
10 private postsecondary and vocational education in all
11 state-level discussions and planning for postsecondary
12 and vocational education, including, but not limited to,
13 representation on the California Postsecondary
14 Education Commission, and the commission's advisory
15 committee, and voluntary postsecondary or vocational
16 organizations.

17 (f) The publication biennially for public distribution of
18 a directory of all private postsecondary and vocational
19 educational institutions approved to operate in California
20 under this chapter.

21 (g) The preparation annually of a proposed budget for
22 the support of activities under this chapter and to secure
23 appropriate funding necessary for the effective
24 implementation of this chapter.

25 (h) Conducting research and planning for private
26 postsecondary and vocational education, including the
27 compilation of important institutional, faculty, and
28 student data.

29 (i) The impaneling of special committees of
30 technically qualified persons to assist the council in the
31 development of standards for education and educational
32 institutions and the evaluation of an application or
33 institutions pursuant to this chapter. The members of the
34 special committees shall receive no compensation but
35 shall be reimbursed for their actual expenses for
36 attendance at official meetings and actual expenses when
37 on official council business. The members of the special
38 committees shall serve at no expense to the state. The
39 actual travel and per diem expenses incurred by each
40 member of a special committee shall be reimbursed by



1 the institution that is the subject of inspection or
2 investigation.

3 94774. (a) Any person, serving on a special
4 committee of the council pursuant to subdivision (i) of
5 Section 94773, a visiting team pursuant to Section 94901
6 or 94905, or any other peer review body impaneled by the
7 council and who provides information to the council or its
8 staff in the course and scope of evaluating any institution
9 subject to this chapter or who testifies at any
10 administrative hearing arising under this chapter, has the
11 same defenses and immunities to any action arising out of
12 information or testimony to the council which that person
13 would have if he or she were a public employee.

14 (b) An individual serving on a special committee of
15 the council or a visiting team who is subject to a claim or
16 action arising out of activities described in subdivision (a)
17 is entitled to defense and indemnification from the
18 council solely with respect to that claim or action
19 pursuant to Article 4 (commencing with Section 825) of
20 Chapter 1 of Part 2 of, and Part 7 (commencing with
21 Section 995) of, Division 3.6 of Title 1 of the Government
22 Code.

23 94775. Each member of the council shall receive a
24 stipend of one hundred dollars (\$100) for each day he or
25 she attends any meeting of the council, or any meeting of
26 any committee or subcommittee of the council of which
27 he or she is a member, and which committee or
28 subcommittee meeting is conducted for the purpose of
29 carrying out the powers and duties of the council. A
30 council member may elect not to receive all or any
31 portion of this stipend. In addition, each member of the
32 council shall receive his or her actual and necessary
33 traveling expenses incurred in the course of his or her
34 duties. The payments in each instance shall be made only
35 from the fund from which the expenses of the council are
36 paid and shall be subject to the availability of funds. The
37 licensing fees of institutions shall not be increased for the
38 sole purpose of paying the stipend of the council
39 members.



1 94776. (a) The initial appointments to the council
2 became effective on July 1, 1990, and the length of the
3 terms of the initial appointments were the designated
4 number of years beginning with January 1, 1991. All
5 subsequent terms begin on January 1 of the year in which
6 the respective terms are to commence.

7 (b) The council shall adopt procedures for the
8 recruitment and appointment of a director and staff. All
9 expenses associated with the operation of the council shall
10 be charged to and paid for from the Private
11 Postsecondary and Vocational Education Administration
12 Fund.

13 94777. The director may purchase annuity contracts
14 for permanent employees of the council and shall reduce
15 the salaries of the employees for whom the contracts are
16 purchased by the amount of the costs of the contract if all
17 of the following conditions are met:

18 (a) The annuity contract is under an annuity plan that
19 meets the requirements of subdivision (b) of Section 403
20 of the Internal Revenue Code.

21 (b) The employee applies to the director for the
22 purchase of the contract and reduction of salary.

23 (c) All provisions of the Insurance Code and the
24 Government Code applicable to the purchase of this type
25 of annuity are satisfied.

26 94778. The council may utilize the resources of
27 accrediting associations in gathering information about
28 accredited postsecondary and vocational institutions,
29 including participating as an observer on accreditation
30 site visits. However, this section does not preclude or
31 relieve the council of its responsibilities under this
32 chapter and the council shall retain full authority for
33 approving all private postsecondary and vocational
34 institutions operating in California.

35 94779. The council may adopt and enforce regulations
36 that are necessary, appropriate, or useful to interpret and
37 implement this chapter. Pending the adoption of formal
38 regulations, the council may adopt emergency
39 regulations that shall become effective immediately, and
40 that shall be superseded upon the adoption of formal



1 regulations. The adoption of the emergency regulations
 2 shall be subject to Chapter 3.5 (commencing with Section
 3 11340) of Part 1 of Division 3 of Title 2 of the Government
 4 Code, and the emergency regulations shall only be
 5 effective for 180 days.

6 *94779.5. Each regulation set forth in Division 7.5 of*
 7 *Title 5 of the California Code of Regulations on the*
 8 *effective date of this chapter shall remain in full force and*
 9 *effect except to the extent that the statutory provision*
 10 *interpreted or implemented by the regulation has not*
 11 *been substantially reenacted in this chapter.*

12
 13 Article 5. Classification of Educational Programs
 14 Offered by Postsecondary Institutions

15
 16 94780. No institution, subject to this chapter, shall
 17 offer any educational service unless the institution is first
 18 approved by the council and meets all of the
 19 requirements in the following articles:

20 (a) This article, Article 6 (commencing with Section
 21 94800) *except as provided for institutions approved*
 22 *under Article 9.5 (commencing with Section 94931),*
 23 Article 10 (commencing with Section 94932), Article 11
 24 (commencing with Section 94940), and Article 12
 25 (commencing with Section 94944).

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

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

30 (d) *Article 9.5 (commencing with Section 94931), if*
 31 *the institution exclusively offers educational services to*
 32 *assist students to prepare for an examination for*
 33 *licensure.*

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

37 94785. (a) Article 7 (commencing with Section
 38 94850) does not apply to an institution during a calendar
 39 year if both of the following conditions are satisfied
 40 during that calendar year:



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

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

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

12 (c) *Article 7 (commencing with Section 94850) does*
13 *not apply to an institution that is incorporated and has*
14 *continuously lawfully operated for at least five years as a*
15 *nonprofit public benefit corporation pursuant to Part 2*
16 *(commencing with Section 5110), or as a nonprofit*
17 *religious corporation pursuant to Part 4 (commencing*
18 *with Section 9110), of Division 2 of Title 1 of the*
19 *Corporations Code and is not managed or administered*
20 *by any entity for profit.*

21 94786. *Article 7 (commencing with Section 94850)*
22 *does not apply to an educational service if the total*
23 *charge, as defined in subdivision (k) of Section 94852, for*
24 *that educational service is one thousand dollars (\$1,000)*
25 *or less, and no part of the total charge is paid from the*
26 *proceeds of a loan or grant subject to a governmental*
27 *student financial aid program.*

28 94787. Article 7 (commencing with Section 94850)
29 except Sections 94872 and 94873, applies to schools that
30 offer instruction in how to prepare for, take, and pass civil
31 service examinations or other tests qualifying a student
32 for employment by a governmental entity. For the
33 purpose of determining compliance with this article,
34 schools described in this section shall be considered
35 “institutions.”

36 94790. Except as otherwise provided in this section,
37 Article 7 (commencing with Section 94850) does not
38 apply to any of the following educational services:

39 (a) Educational services that consist exclusively of
40 degree-granting programs such as an AA (Associate of



1 Arts), AS (Associate of Science), BS (Bachelor of
2 Science), BA (Bachelor of Arts), MA (Master of Arts), MS
3 (Master of Science), Ph.D. (Doctor of Philosophy), or
4 professional doctorate degrees that are scheduled to be
5 completed in not less than 18 months. This exemption
6 does not apply to, nor does it include, any of the following:

7 (1) AOS (Occupational Associate degrees or Associate
8 of Occupational Studies degrees) or AAS (Associate of
9 Applied Science degrees).

10 (2) Any vocational diploma program.

11 (b) The educational service, as defined in subdivision
12 (b) of Section 94734, is offered as continuing education in
13 subjects that licensees are required to take as a condition
14 of continued licensure.

15 (c) The educational service is offered exclusively to
16 assist students to prepare for an examination for entrance
17 into an undergraduate or graduate course of study at an
18 accredited or approved college or university.

19 (d) The educational service, as defined in subdivision
20 (a) of Section 94734, is offered exclusively to assist
21 students, who have obtained, or who are in the process of
22 obtaining, degrees after completing an undergraduate or
23 graduate course of study at a college or university, to
24 prepare for an examination for licensure in a recognized
25 profession, such as medicine, dentistry, accounting, or
26 law.

27 (e) The educational service is three or more academic
28 years, is scheduled to be completed in not less than 27
29 months, the institution does not admit students to the
30 educational service more than four times during a year,
31 and the institution confers a diploma upon the student's
32 completion of the educational service.

33 (f) The educational service offers training exclusively
34 in the fine arts or performing arts, such as training to be
35 an actor, dancer, author, vocal or instrumental musician,
36 painter, sculptor, or photographer; in body arts, such as
37 training in body piercing or massage; or in another similar
38 field as designated by the council.

39 (g) The educational service is more than 30 months in
40 length, and the total charge for the educational service is



1 payable by the student in equal monthly installments
2 over the entire length of the course, and the institution
3 does not receive, and the student is not obligated to pay,
4 an advance payment for more than one month.

5 (h) The educational service for all students enrolled is
6 entirely and exclusively offered pursuant to a contract
7 between the institution and a community college, a high
8 school, or an employer who has the responsibility for
9 applicable cost; and the students are not required to pay,
10 or are not liable to pay, any part of the total charge for the
11 educational service.

12 (i) The educational service consists exclusively of
13 intensive English program instruction.

14 (j) The educational service consists exclusively of
15 continuing education.

16 94795. It is the intent of the Legislature that if any
17 exception provided in this article is declared by a court to
18 be invalid for any reason, all of the provisions of Article
19 7 (commencing with Section 94850) shall apply to the
20 institutions, programs, or educational services that would
21 otherwise be subject to that exception.

22

23 Article 6. General Standards for All Postsecondary
24 Institutions Approved Under This Chapter

25

26 94800. All institutions approved under this chapter
27 shall be maintained and operated, or in the case of a new
28 institution, shall demonstrate that it will be maintained
29 and operated, in compliance with all of the following
30 minimum standards:

31 (a) That the institution is financially capable of
32 fulfilling its commitments to its students.

33 (b) That upon satisfactory completion of training, the
34 student is given an appropriate degree, diploma, or
35 certificate by the institution, indicating that the course or
36 courses of instruction or the program or programs of
37 instruction or study have been satisfactorily completed
38 by the student.

39 (c) That the institution provides instruction as part of
40 its educational program. Instruction shall include any



1 specific, formal arrangement by an institution for its
2 enrollees to participate in learning experiences wherein
3 the institution's faculty or contracted instructors present
4 a planned curriculum appropriate to the enrollee's
5 educational program.

6 94802. (a) Each institution desiring to operate in this
7 state shall make application to the council, upon forms to
8 be provided by the council. The application shall include,
9 as a minimum, at least all of the following:

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

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

16 (3) Copies of media advertising and promotional
17 literature.

18 (4) Copies of all student enrollment agreement or
19 contract forms and instruments evidencing
20 indebtedness.

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

24 (6) The information specified in Section 94808.

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

27 (b) Each application shall be signed and certified
28 under oath by the owners of the school or, if the school is
29 incorporated, by the principal owners of the school (those
30 who own at least 10 percent of the stock), or by the
31 corporate officers or their designee.

32 (c) Following review of the application and any other
33 further information submitted by the applicant, or
34 required in conformity with Article 8 (commencing with
35 Section 94900) and Article 9 (commencing with Section
36 94915), and any investigation of the applicant as the
37 council deems necessary or appropriate, the council
38 either shall grant or deny approval to operate to the
39 applicant.



1 94804. (a) The review of a private postsecondary
2 educational institution's original application for approval,
3 or a renewal application to the council, or an approved
4 institution already in operation, shall include a
5 determination of the institution's financial responsibility.
6 An institution shall be considered financially responsible
7 if it has sufficient assets to do all of the following:

8 (1) Provide the educational services stated in its
9 official publications and statements.

10 (2) Comply with the standards and requirements
11 specified in Article 8 (commencing with Section 94900)
12 ~~or Article 9 (commencing with Section 94915),~~ *Article 9*
13 *(commencing with Section 94915), or Article 9.5*
14 *(commencing with Section 94931), whichever is*
15 *applicable.*

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

18 (4) Comply with any applicable provisions of Section
19 94855.

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

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

25 (2) Under generally accepted accounting principles,
26 the institution had, at the end of its latest fiscal year, a
27 ratio of current assets to current liabilities of less than 1.25
28 to 1. For the purpose of this paragraph, "current assets"
29 does not include any of the following: (A) intangible
30 assets, including goodwill, going concern value,
31 organization expense, startup costs, long-term
32 prepayment of deferred charges, and nonreturnable
33 deposits, or (B) state or federal grant funds that are not
34 the property of the institution but are held for future
35 disbursement for the benefit of students. Unearned
36 tuition shall be accounted for in accordance with
37 generally accepted accounting principles.

38 (3) Under a fund accounting system, the institution's
39 unrestricted current or operating fund reflects sustained



1 material deficits over at least its two most recent fiscal
2 years.

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

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

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

18 (A) Consent to be sued in California.

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

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

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

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

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

34 (d) If the council determines that an institution is not
35 financially responsible, the council, under terms and
36 conditions prescribed by the council, may require the
37 institution to submit for its latest complete fiscal year and
38 its current fiscal year, each of the following:



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

4 (2) The institution's financial plan for establishing
5 financial responsibility.

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

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

9 94806. (a) This section applies to every audit, review,
10 and statement prepared by an independent accountant
11 and to every financial report required to be prepared or
12 filed by this chapter.

13 (b) Institutional audits and reviews of financial data,
14 including the preparation of financial statements, shall
15 comply with all of the following:

16 (1) An institution that collected five hundred
17 thousand dollars (\$500,000) or more in total student
18 charges in its preceding fiscal year shall file financial
19 reports prepared in accordance with generally accepted
20 accounting principles established by the American
21 Institute of Certified Public Accountants, and audited or
22 reviewed by an independent certified public accountant
23 who is not an employee, officer, or corporate director or
24 member of the governing board of the institution.

25 (2) An institution that collected less than five hundred
26 thousand dollars (\$500,000) in total student charges in its
27 preceding fiscal year shall file financial reports prepared
28 in accordance with generally accepted accounting
29 principles established by the American Institute of
30 Certified Public Accountants. These financial reports
31 may be prepared by an individual with sufficient training
32 to adhere to the required accounting principles.

33 (3) Financial reports prepared on an annual basis shall
34 include a balance sheet, statement of operations,
35 statement of cash flow, and statement of retained
36 earnings or capital. Nonprofit institutions shall provide
37 this information in the manner required under generally
38 accepted accounting principles for nonprofit
39 organizations.



1 (4) The financial report shall establish whether the
2 institution complies with subdivision (a) of Section 94804
3 or subdivision (a) of Section 94855, if applicable, and
4 whether any of the circumstances described in
5 subdivision (b) of Section 94804 or subdivision (b) of
6 Section 94855, if applicable, exist.

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

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

18 (c) Any audits shall be conducted in accordance with
19 generally accepted auditing standards and shall include
20 the matters described in subdivision (d).

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

25 94808. (a) Each institution approved to operate under
26 this chapter shall be required to report to the council, by
27 July 1 of each year, or another date designated by the
28 council, the following information for educational
29 programs offered in the prior fiscal year:

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

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

34 (3) The degree levels offered.

35 (4) Program completion rates.

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

38 (6) Financial information demonstrating compliance
39 with subdivisions (b) and (c) of Section 94804 and
40 subdivisions (b) and (c) of Section 94855, if applicable.



1 (7) Institutions having a probationary or conditional
2 status shall submit an annual report reviewing their
3 progress in meeting the standards required for approval
4 status.

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

7 (b) Colleges and universities operating under
8 paragraph (6) of subdivision (b) of Section 94739 shall
9 comply with the reporting requirements of paragraphs
10 (1), (2), (3), and (5) of subdivision (a).

11 (c) Program completion rates and placement data
12 shall be reported in accordance with the standards and
13 criteria prescribed by the council pursuant to paragraphs
14 (1) to (4), inclusive, of subdivision (a) of Section 94816
15 and Section 94859, if applicable. Based on the review of
16 information submitted to fulfill the requirements of this
17 section, the council may initiate a compliance review and
18 may place the institution on probation pursuant to
19 subdivision (h) of Section 94901 and subdivision (i) of
20 Section 94915, and may require evidence of financial
21 stability and responsibility pursuant to Sections 94804 and
22 94855, if applicable.

23 *94809. Each institution approved under this chapter*
24 *that has a continuous approval pursuant to Section 94901*
25 *or 94909, shall provide the council with copies of all*
26 *accrediting agency reports, including preliminary*
27 *reports and reports of visiting committees, all audit*
28 *reports prepared by the United States Department of*
29 *Education and student loan guaranty agencies, including*
30 *all preliminary reports, and the institution's written*
31 *responses to the reports described in this section, if*
32 *applicable. The institution shall provide a copy of each*
33 *report within 15 days of the institution's receipt of the*
34 *report and a copy of the institution's response within 15*
35 *days of the institution's submission of its response.*

36 94810. (a) Any written contract or agreement for
37 educational services with an institution shall include all of
38 the following:

39 (1) On the first page of the agreement or contract, in
40 12-point boldface print or larger, the following statement:



1 “Any questions or problems concerning this school
2 which have not been satisfactorily answered or resolved
3 by the school should be directed to the Council for Private
4 Postsecondary and Vocational Education, (address),
5 Sacramento, California 95814.”

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

15 (3) A list of any charges and deposits that are
16 nonrefundable clearly identified as nonrefundable
17 charges.

18 (4) The name and address of the school and the
19 addresses where instruction will be provided.

20 (5) The name and description of the program of
21 instruction, including the total number of credits, classes,
22 hours, or lessons required to complete the program of
23 instruction.

24 (6) A clear and conspicuous statement that the
25 agreement or contract is a legally binding instrument
26 when signed by the student and accepted by the school.

27 (7) A clear and conspicuous caption, “BUYER’S
28 RIGHT TO CANCEL” under which it is explained that
29 the student has the right to cancel the enrollment
30 agreement and obtain a refund, the form and means of
31 notice that the student should use in the event that he or
32 she elects to cancel the enrollment agreement, and the
33 title and address of the school official to whom the notice
34 should be sent or delivered.

35 (8) A clear statement of the refund policy written in
36 plain English.

37 (9) The signature of the student under the following
38 statement that is presented in 12-point boldface or larger
39 print: “My signature below certifies that I have read,
40 understood, and agreed to my rights and responsibilities,



1 and that the institution's cancellation and refund policies
2 have been clearly explained to me.”

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

7 (b) All contracts and enrollment agreements signed
8 by the student shall be written in language that is capable
9 of being easily understood. If English is not the primary
10 language spoken by the student, the student shall have
11 the right to obtain a clear explanation of the terms and
12 conditions of the agreement and all cancellation and
13 refund policies in his or her primary language.

14 94812. Any written contract or agreement signed by
15 a prospective student shall not become operative until
16 the student attends the first class or session of instruction.
17 *This provision does not apply to correspondence schools*
18 *or other distance-learning programs.*

19 94814. (a) The institution shall provide to students
20 and other interested persons, prior to enrollment, a
21 catalog or brochure containing at a minimum the
22 following information:

23 (1) Descriptions of the instruction provided under
24 each course offered by the institution including the
25 length of programs offered.

26 (2) The number of credit hours or clock hours of
27 instruction or training per unit or units required for
28 completion of the educational degree or certificate
29 program.

30 (3) The attendance, dropout, and leave-of-absence
31 policies.

32 (4) The faculty and their qualifications.

33 (5) The schedule of tuition payments, fees, and all
34 other charges and expenses necessary for the term of
35 instruction and the completion of the course of study.

36 (6) The cancellation and refund policies.

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



1 (8) All other material facts concerning the institution
2 and the program or course of instruction that are
3 reasonably likely to affect the decision of the student to
4 enroll, as prescribed by rules and regulations adopted by
5 the council.

6 (b) No written contract signed by the student shall be
7 enforceable unless the information specified in
8 subdivision (a) has been disclosed to the student.

9 94816. (a) Each institution offering a degree or
10 diploma program designed to prepare students for a
11 particular vocational, trade, or career field shall provide
12 to each prospective student a school performance fact
13 sheet disclosing all of the following information:

14 (1) The number and percentage of students who
15 begin the institution's program and successfully complete
16 the entire program. The rate shall be calculated by
17 determining the percentage of students enrolled in the
18 program who were originally scheduled, at the time of
19 enrollment, to complete the program in that calendar
20 year and who successfully completed the program.

21 (2) The passage rates of graduates in the program for
22 the most recent calendar year that ended not less than six
23 months prior to the date of disclosure on any licensure or
24 certificate examination required by the state for
25 employment in the particular vocational, trade, or career
26 field and for any licensing preparation examination as
27 required under subdivision (a) of Section 94734 for which
28 data is available.

29 (3) The number and percentage of students who
30 begin the program and secure employment in the field
31 for which they were trained. In calculating this rate, the
32 institution shall consider as not having obtained
33 employment, any graduate for whom the institution does
34 not possess evidence, documented in his or her file,
35 showing that he or she has obtained employment in the
36 occupation for which the program is offered.

37 (4) The average annual starting wages or salary of
38 graduates of the institution's program, if the institution
39 makes a claim to prospective students regarding the
40 starting salaries of its graduates, or the starting salaries or



1 local availability of jobs in a field. The institution shall
2 disclose to the prospective student the objective sources
3 of information necessary to substantiate the truthfulness
4 of the claim.

5 Each school that offers or advertises placement
6 assistance for any course of instruction shall file with the
7 council its placement statistics for the 12-month period or
8 calendar year immediately preceding the date of the
9 school's application for annual review for every course of
10 instruction.

11 The council shall develop standards and criteria to be
12 used by each institution in determining the statistical
13 information required by this paragraph.

14 (b) The council shall take into consideration the
15 character of the educational program in determining
16 whether specific programs may be excluded from
17 application of this section.

18 (c) This section does not apply to educational
19 programs subject to Article 7 (commencing with Section
20 94850).

21 94818. (a) Every institution shall designate and
22 maintain an agent for service of process within this state
23 and provide the name, address, and telephone number of
24 the agent to the council. The council shall furnish the
25 agent's name, address, and telephone number to any
26 person upon request.

27 (b) If an institution is not operating in California when
28 it applies for approval to operate, the institution shall set
29 forth the name, address, and telephone number of its
30 agent for service of process in the institution's
31 application.

32 (c) If an institution fails to designate or maintain an
33 agent for service of process pursuant to subdivision (a)
34 and if service on the institution cannot reasonably be
35 effected in the manner provided in Section 415.10, 415.20,
36 415.30, or 415.40 of the Code of Civil Procedure, the
37 institution may be served by leaving a copy of the process
38 or any other document in an office of the council and by
39 sending, by first-class mail, a notice of the service upon
40 the council and a copy of the process or other document



1 to the institution at its last address on file with the council.
2 Service in this manner shall be deemed complete on the
3 10th day after that mailing to the institution. Proof of
4 service may be made by a declaration showing
5 compliance with this subdivision.

6 94820. (a) The institution shall have and maintain
7 the policy set forth in this article for the refund of the
8 unused portion of tuition fees and other charges if the
9 student does not register for the period of attendance or
10 withdraws therefrom at any time prior to completion of
11 the courses, or otherwise fails to complete the period of
12 enrollment. The institutional refund policy for students
13 who have completed 60 percent or less of the course of
14 instruction shall be a pro rata refund.

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

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

19 (2) Divide this figure by the number of hours in the
20 program.

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

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

25 (5) The refund shall be any amount in excess of the
26 figure derived in paragraph (4) that was paid by the
27 student.

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

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

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

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

36 (4) The amount owed by the student for the purposes
37 of calculating a refund is derived by multiplying the total
38 number of lessons ~~completed~~ *received* by the per-lesson
39 charge calculated in paragraph (3).



1 (5) The refund shall be any amount in excess of the
2 figure derived in paragraph (4) that was paid by the
3 student.

4 94821. Institutions offering distance learning, home
5 study, or correspondence instruction may petition the
6 council for an alternative method of calculating tuition
7 refunds if they can demonstrate all of the following:

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

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

14 94822. Institutions, for all students, without penalty or
15 obligation, shall refund 100 percent of the amount paid
16 for institutional charges, less a reasonable deposit or
17 application fee not to exceed one hundred dollars (\$100),
18 if notice of cancellation is made prior to or on the first day
19 of instruction. If the first lesson in a home study or
20 correspondence course is sent to the student by mail, the
21 institution shall send it by first-class mail, postage prepaid,
22 documented by a certificate of mailing, and the student
23 shall have the right to cancel until midnight of the eighth
24 business day after the first lesson was mailed. The
25 institution shall advise each student that any notification
26 of withdrawal or cancellation and any request for a refund
27 is required to be made in writing.

28 94823. The institution shall provide a written
29 statement containing its refund policy, together with
30 examples of the application of the policy, to each student
31 prior to signing the enrollment contract, and shall make
32 its policy known to currently enrolled students.

33 94824. The institution shall pay or credit refunds due
34 on a reasonable or timely basis, not to exceed 30 days
35 following the date upon which the student's withdrawal
36 has been determined.

37 94825. The institution shall publish a current schedule
38 of all student charges, a statement of the purpose for those
39 charges, and a statement of the cancellation and refund
40 policies with examples of the application of the policies,



1 and shall provide the schedule to all current and
2 prospective students prior to enrollment. The schedule
3 shall clearly indicate and differentiate all mandatory and
4 optional student charges. The institution shall include a
5 clear statement written in English describing the
6 procedures that a student is required to follow to cancel
7 the contract or agreement and obtain a refund. If the
8 institution solicited the student or negotiated the
9 agreement in a language other than English, the notice
10 to the student shall be in that same language. The
11 schedule shall specify the total costs of attendance which
12 shall include, but not be limited to, tuition, fees,
13 equipment costs, housing, transportation, books,
14 necessary supplies, materials, shop and studio fees, and
15 any other fees and expenses that the student will incur
16 upon enrollment.

17 The schedule shall clearly identify all charges and
18 deposits that are nonrefundable.

19 94826. Where the refund calculations set forth in this
20 article cannot be utilized because of the unique way in
21 which an educational program is structured, the council
22 shall determine the details of an alternative refund policy,
23 by regulation, and shall take into consideration the
24 contract for educational services entered into with the
25 student, as well as the length and character of the
26 educational program in determining standards for
27 refunds. The decision of the council shall be final. This
28 section does not apply to the refunds subject to Sections
29 94869 and 94870.

30 94827. (a) In lieu of Sections 94820 to 94826, inclusive,
31 or Section 94870, an institution may determine the
32 amount of the refund due after a student's withdrawal
33 pursuant to Section 1091b(b)(3) of Title 20 of the United
34 States Code, but only if both of the following occurs:

35 (1) All or a portion of the student's obligation to the
36 institution is to be paid through a student financial
37 assistance program subject to Section 1091b of Title 20 of
38 the United States Code.

39 (2) The student's total liability remaining after
40 withdrawal to any person or governmental entity in



1 connection with the educational service is less than the
2 liability would be if the refund were determined under
3 Sections 94820 to 94826, inclusive, or Section 94870,
4 whichever applies.

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

9 94828. In addition to withholding institutional
10 services as described in Section 94948, an institution may
11 withhold a student's transcript or grades if the student is
12 in default on a student tuition contract.

13 If the student has made partial payment of his or her
14 tuition obligation, the institution may only withhold that
15 portion of the grades or transcript that corresponds on a
16 pro rata basis to the amount of tuition or loan obligation
17 the student has not paid. If the course of study consists of
18 only one course, the institution may withhold the grades
19 or the transcript until the tuition or loan obligation is paid
20 in full.

21 94829. (a) Adequate and accurate records shall be
22 maintained by the institution, in accordance with
23 regulations adopted by the council, and satisfactory
24 standards shall be enforced relating to attendance,
25 progress, and performance.

26 (b) The institution shall maintain current records for
27 a period of not less than five years at its principal place of
28 business in California, that are immediately available
29 during normal business hours for inspection and copying
30 by the council or the Attorney General and showing all
31 of the following:

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

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

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

37 (4) The degrees or diplomas and honorary degrees
38 and diplomas granted, the date of granting, together with
39 the curricula upon which the diplomas and degrees were
40 based.



1 94830. The council may refuse to issue or renew any
2 private postsecondary or vocational educational
3 institution's approval to operate, or may revoke any
4 approval to operate for any one, or any combination, of
5 the following causes:

6 (a) A violation of this chapter, or any standard, rule, or
7 regulation established under this chapter ~~or by order of~~
8 ~~the council~~, *or an order of the council made under this*
9 *chapter.*

10 (b) Furnishing false, misleading, or incomplete
11 information to the council, or the failure to furnish
12 information requested by the council or required by this
13 chapter.

14 (c) A finding that an owner, a person in control, a
15 director, or an officer of an institution is not in compliance
16 ~~with Section 94804, or Sections 94855 and 94857, if~~
17 ~~applicable~~; *with this chapter or was not in compliance*
18 *with applicable law while serving as an owner, person in*
19 *control, director, or officer of an institution within the*
20 *previous five-year period.*

21 (d) A finding that a signatory to an application for an
22 approval to operate was responsible for the closure of any
23 institution in which there were unpaid liabilities to the
24 state or federal government, or uncompensated
25 pecuniary losses suffered by students without restitution.

26 (e) A finding that the applicant, owner, or persons in
27 control have been found previously in any judicial or
28 administrative procedure to have violated this chapter or
29 admitted to having violated this chapter.

30 (f) A finding that there was either a denial of a
31 previous application submitted by the same institution to
32 the council or a revocation of the institution's approval
33 and that the conditions or violations that were the cause
34 of the denial or revocation have not been corrected.

35 (g) The failure of the institution to maintain the
36 minimum educational standards prescribed by this
37 chapter, or to maintain standards that are the same as, or
38 substantially equivalent to, those represented in the
39 school's applications and advertising.



1 (h) Presenting to prospective students information
2 that is false or misleading relating to the school, to
3 employment opportunities, or to enrollment
4 opportunities in institutions of higher learning after
5 entering into or completing courses offered by the school.

6 (i) The failure to maintain financial resources
7 adequate for the satisfactory conduct of the courses of
8 instruction offered as required by statute.

9 (j) The failure to provide timely and correct refunds
10 to students.

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

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

15 (m) Misrepresenting to any students or prospective
16 students that they are qualified, upon completion of any
17 course, for admission to professional examination under
18 any state occupational licensing provision.

19 (n) The failure to correct any deficiency or act of
20 noncompliance under this chapter, or the standards,
21 rules, regulations, and orders established and adopted
22 under this chapter within reasonable time limits set by
23 the council.

24 (o) The conducting of business or instructional
25 services at any location not approved by the council.

26 (p) Failure on the part of an institution to comply with
27 provisions of law or regulations governing sanitary
28 conditions of that institution specified in Division 2
29 (commencing with Section 500) and Division 3
30 (commencing with Section 5000) of the Business and
31 Professions Code.

32 (q) *The failure to pay any fees, order for costs and*
33 *expenses under Section _____, assessments, or*
34 *penalties owed to the council, as provided in this chapter.*

35 94831. No institution, or representative of that
36 institution shall do any of the following:

37 (a) Operate in this state a postsecondary educational
38 institution not exempted from this chapter, unless the
39 institution is currently approved to operate pursuant to
40 this chapter.



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

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

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

28 (e) Promise or guarantee employment.

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

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

39 (h) Advertise, or indicate in any promotional material,
40 that resident instruction, or programs of study are offered



1 without including in all advertising or promotional
2 material the location where the training is given or the
3 location of the resident instruction.

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

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

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

19 94832. (a) No institution or representative of an
20 institution shall make or cause to be made any statement
21 that is in any manner untrue or misleading, either by
22 actual statement, omission, or intimation.

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

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

39 (d) (1) No institution or representative of an
40 institution shall induce a person to enter into an



1 agreement for a program of instruction by offering to
2 compensate that person to act as the institution's
3 representative in the solicitation, referral, or recruitment
4 of others for enrollment in the institution.

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

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

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

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

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

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

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

35 (B) Up to one-half of the compensation may be paid
36 before the student completes the program only if the
37 student has made satisfactory academic progress,
38 documented by the institution in the student's file, for
39 more than 90 days.



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

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

8 (g) No institution shall use a misleading name in any
9 manner implying any of the following:

10 (1) The institution is affiliated with any governmental
11 agency, public or private corporation, agency, or
12 association.

13 (2) The institution is a public institution.

14 (3) The institution grants degrees.

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

22 (A) Any financial report required to be filed pursuant
23 to Sections 94804 to 94808, inclusive.

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

27 (C) Any other record or document required by this
28 chapter or by the council.

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

34 (i) No institution or representative of an institution
35 shall use the terms "approval," "approved," "approval to
36 operate," or "approved to operate" without stating
37 clearly and conspicuously that approval to operate means
38 compliance with minimum state standards and does not
39 imply any endorsement or recommendation by the state
40 or by the council. If the council has granted an institution



1 approval to operate, the institution or its representative
 2 may indicate that the institution is “licensed” or “licensed
 3 to operate” but may not state or imply any of the
 4 following:

5 (1) The institution or its programs of instruction are
 6 endorsed or recommended by the state or by the council.

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

10 (3) The council or the state endorses or recommends
 11 the institution.

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

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

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

33 94834. (a) Any person or business entity, regardless
 34 of the form of organization that willfully violates Section
 35 94800, Sections 94810 to 94826, inclusive, or Section 94828,
 36 94829, 94831, or 94832 is guilty of a crime and shall be
 37 subject to separate punishment for each violation either
 38 by imprisonment in a county jail not to exceed one year,
 39 by a fine not to exceed ten thousand dollars (\$10,000), or
 40 by both that imprisonment and fine; or by imprisonment



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

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

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

10 94835. (a) The council shall review and investigate
11 all institutions, programs, and courses of instruction
12 approved under this chapter. Consideration in the
13 scheduling of reviews and investigations shall be afforded
14 to student complaints and information collected by the
15 Attorney General, the Student Aid Commission, any
16 board within the Department of Consumer Affairs, or any
17 other federal, state, or local agency.

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

25 94836. (a) If there is reasonable cause to believe that
26 there has been a violation by a private postsecondary
27 educational institution of the standards prescribed by this
28 chapter, the council shall conduct an investigation of the
29 institution.

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

35 94838. (a) No note, other instrument of
36 indebtedness, or contract relating to payment for
37 educational services shall be enforceable by any
38 institution within or outside this state governed by this
39 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,
30 *orders for costs and expenses under Section _____*,
31 and penalties in arrears retroactive to January 1, 1990. If
32 an institution that has failed to make timely payments of
33 fees and assessments is approved, the approval shall be
34 conditional, subject to any restrictions the council deems
35 appropriate, and shall be valid for a period not to exceed
36 two years.

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



1 ~~date shall be extended until a time that the council~~
2 ~~notifies the institution of its decision, but in no event later~~
3 ~~than the time within which the council is required to act~~
4 ~~on an application pursuant to Section 94900 or 94915. date~~
5 *shall be extended until the date that the council notifies*
6 *the institution of its decision.*

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

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

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

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

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



1 94848. An institution may not claim an exception
2 pursuant to Section 94785 if the council finds, after notice
3 and hearing as provided in Section 94975, that the
4 institution adopted a form of organization or method of
5 operation for the purpose of avoiding any provision of this
6 chapter.

7
8
9

Article 7. Maxine Waters Student Protection Act

10 94850. (a) This article shall be known, and may be
11 cited, as the Maxine Waters School Reform and Student
12 Protection Act of 1989.

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

33 (c) The Legislature further finds and declares that
34 many students who enroll in these schools pay their
35 tuition from the proceeds of loans and grants guaranteed
36 or provided by the state and federal governments.
37 Students who leave schools before the completion of
38 instruction, often because of misrepresentations and
39 inadequate instruction, do not receive adequate refunds
40 of tuition for the instruction not received. Students



1 remain liable to repay student loans but are frequently
2 unable to do so in part because they were unable to obtain
3 the proper educational preparation for jobs. Students are
4 also harmed by the closure of institutions, often caused by
5 the fraud or mismanagement of the institution's
6 operators, because the students neither obtain the
7 education promised nor a refund of tuition and the cost
8 of materials. As a result of all of the foregoing, the state
9 and federal governments spend many millions of dollars
10 annually to satisfy loan guarantees for often inadequate
11 and misrepresented vocational school courses.

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

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

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

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



1 placement, even though these institutions expressly or
2 implicitly represent that students will receive sufficient
3 training and skills to obtain well-paid employment in the
4 field that is the subject of the training, and that a
5 reputable institution is one that complies with this
6 chapter. Consequently, the Legislature finds that the
7 business of providing occupational training, instruction,
8 and related equipment by commercial enterprises has a
9 substantial impact on the economy of this state and the
10 welfare of its citizens.

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

26 94852. The following definitions and provisions apply
27 to this article:

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

34 (b) "Council" means the Council for Private
35 Postsecondary and Vocational Education established
36 pursuant to subdivision (a) of Section 94770.

37 (c) "Educational service" means any education,
38 training, or instruction offered by an institution,
39 including any equipment.

1 (d) “Equipment” includes all textbooks, supplies,
2 materials, implements, tools, machinery, computers,
3 electronic devices, or any other goods related to any
4 education, training, or instruction, or an agreement for
5 educational services or a course of instruction.

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

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

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

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

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

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

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

39 (l) “Year” means a calendar year.



1 94853. (a) In addition to making any other required
2 disclosures, a representative of an institution who in any
3 manner solicits or recruits any person in person at any
4 place other than the institution's premises or by
5 telephone for enrollment in a course of instruction shall
6 disclose the following, orally and, if the solicitation is in
7 person, in a correctly dated written document given to
8 the person and printed in at least 10-point type and signed
9 by the representative.

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

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

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

16 (4) The total charge for the course of instruction or if
17 the solicitation or recruitment is for more than one
18 course, the range of the total charges for the courses
19 offered.

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

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

37 (d) No institution shall enter an agreement for a
38 course of instruction with, or prepare or assist in
39 preparation of a student loan or grant application for, a
40 person solicited or recruited as described in subdivision



1 (a) within three days of the date on which the person was
2 solicited or recruited.

3 (e) This section does not apply to solicitations or
4 presentations made at informational public appearances
5 directed to five or more people or to advertisements in
6 print or broadcast media.

7 94854. (a) Every institution shall meet all of the
8 following performance standards for each program
9 offered during the applicable time period described in
10 subdivision (I):

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

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

26 (b) Every institution shall meet all of the following
27 performance standards for all programs in the aggregate
28 offered by the institution at each of its campuses during
29 the applicable time period described in subdivision (I):

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

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



1 (c) For the purposes of subdivisions (a) and (b),
2 students who, as documented by the institution, have
3 been prevented from completing the program or
4 programs of instruction due to death, disability, illness,
5 pregnancy, military service, or participation in the Peace
6 Corps or Domestic Volunteer Service shall be excluded
7 from the computations used to determine whether an
8 institution has met the performance standards prescribed
9 by those subdivisions. Except as provided in Section
10 94874, an institution shall not disclose the records
11 maintained pursuant to this subdivision unless
12 production of those records are required by any law,
13 subpoena, or court order.

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

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

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

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



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

3 (B) Any of the standards established in subdivision (a)
4 by more than 10 percent but has a placement rate of 42
5 percent or more for the course in which the standard was
6 failed.

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

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

17 (A) Limitations on enrollment for specific courses of
18 instruction.

19 (B) Revision of admission policies and screening
20 practices to ensure that students have a reasonable
21 expectation of completing courses and obtaining
22 employment.

23 (C) Increased academic counseling and other student
24 support services.

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

26 (E) Revisions to the qualifications and number of
27 faculty.

28 (F) Improved job placement services, including
29 revisions to the qualifications and number of job
30 placement personnel and the expansion of contacts with
31 employees and state and federal employment
32 development agencies.

33 (G) Any other reasonable procedure required by the
34 council.

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



1 (4) (A) An institution subject to an order pursuant to
2 paragraph (2) shall satisfy the standards established in
3 subdivisions (a) and (b) within the period designated by
4 the council. This period shall not extend more than one
5 year beyond the length of the program for
6 noncompliance with the standards prescribed by
7 subdivision (a) or more than one year beyond the longest
8 program for noncompliance with the standards
9 prescribed in subdivision (b).

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

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

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

39 (2) The council shall investigate the institution
40 whenever the council deems appropriate to verify the



1 institution's compliance with this section. The
2 investigation shall include an examination of the records
3 maintained by the institution pursuant to subdivision (j)
4 and contacts with the students and employers.

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

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

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

32 (j) An institution shall maintain records of the name,
33 address, and telephone number of students who enroll in
34 a program of instruction, including students who begin
35 the program and students who cancel pursuant to Section
36 94867, and of students who graduate from that program
37 of instruction. An institution shall inquire whether
38 students who complete a program of instruction obtain
39 employment starting within six months of completing the
40 program in the occupation to which the program of



1 instruction is represented to lead and continue in
2 employment for a period of at least 60 days. The inquiry
3 shall be documented by a list indicating each student's
4 name, address, and telephone number; the employer's
5 name, address, and telephone number; the name,
6 address, and telephone number of the person who
7 provided the information regarding the student's
8 employment to the institution; the name, title, or
9 description of the job; the date the student obtained
10 employment; and the duration of the student's
11 employment.

12 (k) For the purposes of this section, the following
13 definitions shall apply:

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

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

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

23 (4) "Placement rate" means the percentage of
24 students who fulfilled the provisions of the following two
25 subparagraphs:

26 (A) Began the program, did not cancel pursuant to
27 Section 94867, and were originally scheduled at the time
28 of enrollment to complete the program during the
29 applicable time period described in subdivision (l).

30 (B) Completed the program, within the applicable
31 time period described in subdivision (l) and started
32 employment within six months of completing the
33 program or, if employment requires taking a state
34 licensure examination for which only graduates of the
35 program may apply, then (i) started employment within
36 six months of the date on which the state licensing agency
37 announces the results of the first licensure examination
38 reasonably available to students who completed the
39 program, or (ii) started employment within six months of
40 the next reasonably available licensure examination date



1 for any student who did not receive passing results on the
2 first exam. The time period determined pursuant to this
3 subparagraph shall not exceed 10 months beyond the date
4 of completion of the program of instruction. The
5 institution shall retain a record of the date of the first
6 reasonably available licensure exam following the
7 completion date of each student, the date the licensure
8 agency announces the results of the first reasonably
9 available licensure exam, and the date of the next
10 reasonably available licensure exam for each student who
11 did not pass the first exam.

12 (5) “Reporting period” means the institution’s fiscal
13 year or any year period designated by the council to be
14 covered in the institution’s annual report.

15 (6) “Time period” means the two most recent
16 calendar years that ended at least eight months before the
17 end of the institution’s applicable reporting period.

18 (l) (1) An institution’s compliance with the standards
19 prescribed in subdivisions (a) and (b) shall be
20 determined as of the date on which the institution’s
21 reporting period ends.

22 (2) The institution shall report its determination of its
23 compliance with the standards established in subdivisions
24 (a) and (b) in each annual report.

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

31 (m) In determining the placement rate for a
32 particular time period as described in subdivision (l), an
33 institution may exclude from the determination a student
34 whose completion date was extended beyond that time
35 period if the extension was requested by the student in
36 writing on an enrollment agreement modification
37 request form that meets specifications established by the
38 council. The form shall include instructions to the student
39 indicating that, when signed by both the student and the
40 institution, the request modifies the existing agreement.



1 The form shall not be valid unless it provides space for the
2 student to complete a handwritten description, in the
3 student's handwriting, of the reasons necessitating the
4 extension that are distinctly personal to the student and
5 unrelated to the provision of educational services or
6 activities of the institution, contains the new expected
7 completion date of the program, and is signed and dated
8 by the student and the institution. The institution shall
9 provide the student a copy of the signed modification
10 request form. The institution shall retain the student's
11 original written request to modify the enrollment
12 agreement with the original enrollment agreement. A
13 student excluded from the placement rate determination
14 for a particular time period pursuant to this subdivision
15 shall be included in the placement rate determination for
16 the next immediately following time period. The
17 institution shall state in the institution's annual report the
18 number of students for whom an extension was granted.

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

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

32 (1) Satisfy minimum standards prescribed by Section
33 94900, 94905, or 94915, whichever is applicable.

34 (2) Provide the education, training, skill, and
35 experience that the institution, in any manner
36 represented it would provide.

37 (3) Pay timely refunds as required by Sections 94867,
38 94869, 94870, 94873, and 94877.



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

4 (1) The institution fails to have available sufficient
5 funds and accounts receivable to pay all operating
6 expenses due within 30 days. For the purpose of this
7 paragraph, “funds” means cash or assets that can be
8 converted into cash within seven days.

9 (2) The institution’s liabilities exceed its assets.
10 “Assets” shall not include any item described in
11 subparagraphs (A) and (B) of paragraph (2) of
12 subdivision (b) of Section 94804. “Liabilities” shall
13 include unearned tuition.

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

22 (2) The agreement described in paragraph (1) shall
23 provide that the parent corporation do all of the
24 following:

25 (A) Consent to be sued in California.

26 (B) Consent to be subject to the administrative
27 jurisdiction of the council and the Student Aid
28 Commission in connection with the institution’s
29 compliance with this chapter.

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

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

34 (E) File financial reports, maintain financial records,
35 and permit the inspection and copying of financial
36 records to the same extent as is required of the institution.

37 (3) For the purposes of this subdivision, a “parent
38 corporation” means a corporation that owns more than 80
39 percent of the stock of the institution whose financial
40 resources are at issue.



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

4 (1) Require the institution to establish and implement
5 a financial plan to ensure compliance with subdivision
6 (b) or Section 94804.

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

10 (3) Require the institution to furnish additional
11 information such as an audit report of financial
12 statements prepared by a California licensed certified
13 public accountant who is not an employee, officer, or
14 director of the institution.

15 (4) Proceed pursuant to Section 94879.

16 (e) In any action or proceeding involving an
17 institution's failure to comply with subdivision (b) or
18 Section 94804, there shall be a presumption affecting the
19 burden of proof that the institution does not have
20 sufficient financial resources if the institution fails to meet
21 any of the standards set forth in subdivision (b) or Section
22 94804.

23 94856. If any person willfully violates this article and
24 the violation results in the closure of an institution, that
25 person shall pay to all students of the closed institution full
26 refunds or full compensation for actual damages resulting
27 from the closure that were not paid by the closed
28 institution.

29 94857. No institution shall establish a branch or
30 ~~satellite campus unless the branch or satellite campus is~~
31 ~~located within 50 miles of the main location and has been~~
32 ~~approved first by the council as complying with the~~
33 ~~minimum criteria prescribed in Section 94915 or 94920,~~
34 ~~whichever is applicable, and unless the institution~~
35 ~~complies with this chapter.~~ *satellite campus unless the*
36 *council approves the branch or satellite campus before*
37 *any students are enrolled for instruction, or any*
38 *instruction is offered, at that campus.*

39 (b) *The council shall not approve a branch or satellite*
40 *campus if any of the following conditions exist:*



1 (1) *The institution or the branch or satellite campus*
2 *fail to satisfy all of the standards and requirements of*
3 *Sections 94900 and 94901, or Section 94915, whichever*
4 *applies.*

5 (2) *The institution proposes to offer a course of*
6 *instruction at the branch or satellite campus that could*
7 *not be offered at another site operated by the institution*
8 *because of the institution's failure to satisfy the standards*
9 *prescribed in Section 94854.*

10 (3) *If the institution participates in a federal student*
11 *loan program, the student loan default rate attributable*
12 *to the institution for the two most recent years, as*
13 *preliminarily announced or finally determined by the*
14 *United States Department of Education, is 25 percent or*
15 *more.*

16 (4) *The establishment of a branch or satellite campus*
17 *would, in any manner, facilitate the institution's*
18 *avoidance or evasion of this chapter or of any state or*
19 *federal law applicable to a student financial aid program*
20 *in which the institution participates.*

21 94859. (a) Before a person executes an agreement
22 obligating that person to pay any money to an institution
23 for a program of instruction or related equipment, the
24 institution shall provide the person with all of the
25 following:

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

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

31 (A) The percentage of students completing that
32 program of instruction as determined pursuant to Section
33 94854, for the time period that is required to be covered
34 in the last annual report that institution was required to
35 file with the council pursuant to Section 94861.

36 (B) The percentage of students who completed the
37 program of instruction and obtained employment as
38 determined pursuant to Section 94854, for the time
39 period that is required to be covered in the last annual



1 report that the institution was required to file with the
2 council pursuant to Section 94861.

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

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

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

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

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

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

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

36 (3) If the institution has offered the program of
37 instruction for less than one calendar year, the following
38 statement: "This program is new. We are not able to tell
39 you how many students graduate, how many students



1 find jobs, or how much money you can earn after finishing
2 this course.”

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

17 (5) If applicable, the following disclosures, orally and
18 in writing:

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

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

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

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

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

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

37 (6) A written statement set forth in a table of the
38 amount of the refund to which the student would be
39 entitled if the student withdrew from the program after
40 completing a period of days or weeks of instruction



1 equivalent to 10 percent, 25 percent, 50 percent, 60
2 percent, and 75 percent of the program of instruction.
3 The disclosures required by this paragraph may be set
4 forth in the agreement for the course.

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

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

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

30 (e) The written disclosure of information required by
31 subparagraphs (A), (B), and (C) of paragraph (2) of
32 subdivision (a) may be made in accordance with the
33 chart in Appendix A of Part 668 of Title 34 of the Code of
34 Federal Regulations, or any other similar form prescribed
35 by law for the disclosure of that information.

36 (f) No institution shall obtain the signature of any
37 person to an agreement obligating that person to pay any
38 money to the institution until the person has had a
39 reasonable opportunity to read and review all of the items
40 described in subdivision (a).



1 (g) The disclosure of any information pursuant to
2 Section 94853 shall not relieve any institution of any
3 obligation to make any disclosure required under this
4 section.

5 (h) Notwithstanding any provision of this section, an
6 institution offering a home study or correspondence
7 course need not orally make the disclosures required by
8 this section in connection with that course if the
9 institution did not orally solicit or recruit the student for
10 enrollment and the student enrolled by mail.

11 94860. If a state board, bureau, department, or agency
12 has established the minimum number of classes or class
13 hours or the minimum criteria of a course of instruction
14 necessary for licensure in an occupation and an institution
15 offers a course of instruction differing from the state
16 entity's minimum requirements, the institution shall
17 disclose orally and in writing the state entity's minimum
18 requirements and how the course of instruction differs
19 from those criteria. The institution shall make this
20 disclosure before a prospective student executes an
21 agreement obligating that person to pay any money to
22 the institution for the course of instruction.

23 94861. (a) Every institution shall file annually with
24 the council, on July 1, or another date designated by the
25 council, a report subscribed under penalty of perjury that
26 contains all of the following:

27 (1) The information described in subdivisions (a) and
28 (b) of Section 94854.

29 (2) The information described in paragraph (2) of
30 subdivision (a) of Section 94859.

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

34 (4) Financial information demonstrating compliance
35 with Section 94855.

36 (5) Any additional information that the council may
37 prescribe.

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



1 (c) Based on the review of the information submitted
2 pursuant to this section, the council may initiate a
3 compliance review, may take action including placing
4 the institution on probation as provided in Section 94878,
5 or may require evidence of compliance with this article
6 in a form satisfactory to the council.

7 94862. The institution shall file biennially with the
8 council a financial report prepared pursuant to Section
9 94806. The report shall include the financial information
10 required by Section 94855 and average monthly
11 expenditures. Work papers for the audit shall be retained
12 for five years from the date of the audit report and shall
13 be made available to the council upon request after the
14 completion of the audit.

15 94863. (a) No institution shall pay any consideration
16 to any agent subject to Section 94940 who has not
17 complied with that section, or enter into an agreement,
18 as described in Section 94871, with any person who was
19 recruited or solicited to enroll in that institution by an
20 agent who was not in compliance with Section 94940 at
21 the time of the recruitment or solicitation.

22 (b) No institution shall pay any consideration to any
23 agency subject to Section 94942 that has not complied
24 with that section, or enter into an agreement, as
25 described in Section 94871, with any person who was
26 recruited or solicited to enroll in that institution by an
27 agency or by an agent employed by or under contract
28 with the agency if the agency was not in compliance with
29 Section 94942 at the time of the recruitment or
30 solicitation.

31 94864. The enrollment, course completion, and
32 employment data used to determine compliance with
33 subdivisions (a) and (b) of Section 94854 and paragraph
34 (2) of subdivision (a) of Section 94859 shall continue to
35 apply to an institution notwithstanding a change in the
36 institution's ownership, name, or identification number.

37 94865. (a) As used in this section, "ESL instruction"
38 means any educational service involving instruction in
39 English as a second language.



1 (b) No institution shall offer ESL instruction without
2 the prior approval of the council.

3 (c) The council shall not approve an institution's
4 offering of ESL instruction unless that institution
5 complies with the minimum standards established in
6 subdivision (a) of Section 94915.

7 (d) An institution that offers ESL instruction to a
8 student shall not enroll the student in any educational
9 service presented in the English language unless the
10 student passes a test indicating that he or she has attained
11 adequate proficiency in oral and written English to
12 comprehend instruction in English.

13 (e) A student who has completed ESL instruction at
14 an institution shall not be enrolled in any course of
15 instruction presented in the English language at that
16 institution unless the student passes a test indicating that
17 he or she has attained adequate proficiency in oral and
18 written English to be successfully trained by English
19 language instruction to perform tasks associated with the
20 occupations or job titles to which the educational
21 program is represented to lead.

22 (f) If an institution offers ESL instruction to a student
23 to enable the student to use already existing knowledge,
24 training, or skills in the pursuit of an occupation, the
25 institution shall test the student after the student
26 completes the ESL instruction to determine that the
27 student has attained adequate proficiency in oral and
28 written English to use his or her existing knowledge,
29 training, or skills. Before enrolling the student in ESL
30 instruction, the institution shall document the nature of
31 the student's existing knowledge, training, or skills and
32 that the ESL instruction is necessary to enable the
33 student to use that existing knowledge, training, or skills.

34 (g) If an institution offers ESL instruction to a student
35 in connection with a course of instruction leading to
36 employment in any occupation requiring licensure
37 awarded after the passage of an examination offered in
38 English, the institution shall test the student after the
39 student completes the ESL instruction to determine that
40 the student has attained a level of proficiency in English



1 reasonably equivalent to the level of English in which the
2 licensure examination is offered.

3 (h) If the results of a test administered pursuant to
4 subdivision (d), (e), (f), or (g) indicate that the student
5 has not attained adequate English language proficiency
6 after the completion of ESL instruction, the institution
7 shall (1) make a full refund of the total charge for the ESL
8 instruction, or (2) offer the student the choice of either
9 enrolling without charge in additional ESL instruction
10 until the student attains adequate English language
11 proficiency or obtaining a full refund of the total charge
12 for the ESL instruction. The institution shall pay refunds
13 within 30 days and shall comply with subdivisions (c) and
14 (d) of Section 94869.

15 (i) This section does not apply to educational services
16 exempted from this article under subdivision (c) of
17 Section 94790 or to grantees funded under Section 1672
18 of Title 29 of the United States Code.

19 (j) The institution, for five years, shall retain an
20 exemplar of each language proficiency test administered
21 pursuant to this section, an exemplar of the answer sheet
22 for each test, a record of the score for each test, the
23 answer sheets or other responses submitted by each
24 person who took each test, and the documentation
25 required by subdivision (f).

26 (k) (1) In addition to any applicable provisions of this
27 chapter, this article, except for Section 94854,
28 subparagraph (B) of paragraph (2) of subdivision (a) of
29 Section 94859, and Section 94872, applies to any program
30 in which ESL instruction is offered.

31 (2) For the purpose of determining compliance with
32 this article, ESL instruction shall be deemed a course, and
33 a charge shall be deemed to be made for ESL instruction
34 if a student is obligated to make any payment in
35 connection with the educational service, including, but
36 not limited to, the ESL instruction that is offered by the
37 institution.

38 (l) The tests used by an institution pursuant to this
39 section shall be tests that are approved by the United
40 States Department of Education or tests such as the Test



1 applicable). A different cancellation policy applies for
2 home study or correspondence courses. Read the Notice
3 of Cancellation form for an explanation of your
4 cancellation rights and responsibilities. If you have lost
5 your Notice of Cancellation form, ask the school for a
6 sample copy.

7 “2. After the end of the cancellation period, you also
8 have the right to stop school at any time, and you have the
9 right to receive a refund for the part of the course not
10 taken. Your refund rights are described in the contract.
11 If you have lost your contract, ask the school for a
12 description of the refund policy.

13 “3. If the school closes before you graduate, you may be
14 entitled to a refund. Contact the Council for Private
15 Postsecondary and Vocational Education at the address
16 and telephone number printed below for information.

17 “4. If you have any complaints, questions, or problems
18 that you cannot work out with the school, write or call the
19 Council for Private and Postsecondary Education:

20

21

22 (insert address and telephone number of the Council for
23 Private Postsecondary and Vocational Education)”

24

25 (b) Except as otherwise provided in subdivision (a),
26 the notice required by subdivision (a) shall be printed in
27 10-point type in English and, if any solicitation or
28 negotiation leading to the agreement for a course of
29 instruction was in a language other than English, in that
30 other language.

31 (c) A copy of the notice, in each language in which the
32 notice was printed pursuant to subdivision (b), shall be
33 posted at all times in a conspicuous place at the main
34 entrance of the institution, in each admissions office, and
35 in each room used for instruction. The council may
36 prescribe the size and format of the posted notice. This
37 subdivision does not apply to an institution that
38 exclusively offers correspondence or home study courses.

39 (d) Upon request, the institution shall provide a
40 student with a copy of a Notice of Cancellation form, a



1 written description of the student's refund rights, a copy
2 of the contract executed by the student, a copy of
3 documents relating to loans or grants for the student, and
4 a copy of any document executed by the student.

5 (e) The council may provide for the inclusion of
6 additional information in the notice set forth in
7 subdivision (a).

8 94867. (a) (1) In addition to any other right of
9 rescission, for programs in excess of 50 days, the student
10 shall have the right to cancel an agreement for a program
11 of instruction including any equipment, until midnight of
12 the fifth business day after the day on which the student
13 did any of the following:

14 (A) Attended the first class of the program of
15 instruction that is the subject of the agreement or
16 received the first lesson in a home study or
17 correspondence course.

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

20 (C) Received a copy of the agreement and the
21 disclosures as required by subdivision (a) of Section
22 94859, whichever is later.

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

28 If the first lesson in a home-study or correspondence
29 course is sent to the student by mail, the institution shall
30 send it by first class mail, postage prepaid, documented
31 by a certificate of mailing, and the student shall have a
32 right to cancel until midnight of the eighth business day
33 after the first lesson was mailed.

34 (b) Cancellation shall occur when the student gives
35 written notice of cancellation to the institution at the
36 address specified in the agreement.

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



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

5 (e) Except as provided in subdivision (f), if the
6 student cancels the agreement, the student shall have no
7 liability, and the institution shall refund any consideration
8 paid by the student within 10 days after the institution
9 receives notice of the cancellation.

10 (f) If the institution gave the student any equipment,
11 the student shall return the equipment within 10 days
12 following the date of the Notice of Cancellation. If the
13 student fails to return the equipment within this 10
14 day-period, the institution may retain that portion of the
15 consideration paid by the student equal to the
16 documented cost to the institution of the equipment and
17 shall refund the portion of the consideration exceeding
18 the documented cost to the institution of the equipment
19 within 10 days after the period within which the student
20 is required to return the equipment. The student may
21 retain the equipment without further obligation to pay
22 for it.

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

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

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

32 94868. The institution shall provide the student with
33 two cancellation forms at the first class attended by the
34 student or with the first lesson in a home study course
35 submitted by the student. The form shall be completed
36 in duplicate, captioned "Notice of Cancellation," and
37 shall contain the following statement:
38



“Notice of Cancellation

(Date)

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

“You may cancel this contract for school, without any penalty or obligation by the date stated below.

“If you cancel, any payment you have made and any negotiable instrument signed by you shall be returned to you within 30 days following the school’s receipt of your cancellation notice.

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

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

_____, at _____.

(name of institution)

(address of institution)



1 “NOT LATER THAN

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

14 “I cancel the contract for school.

(Date)

(Student’s signature)

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:

(insert address and telephone number of the Council
for Private Postsecondary and Vocational Education)”

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 boldface 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
15 which you cannot work out with the school, write or call
16 the 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.

12
13 Article 8. Standards and Evaluation Procedures for
14 Degree-Granting Institutions
15

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 ~~(e) 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 *(c) (1) The Committee of Bar Examiners for the State*
19 *Bar of California, in lieu of the council, shall be*
20 *responsible for the approval, regulation, and oversight of*
21 *degree-granting law schools that (A) exclusively offer*
22 *bachelor's, master's, or doctorate degrees in law, such as*
23 *juris doctor, and (B) are not otherwise exempt under*
24 *Section 94750.*

25 *(2) If a law school not exempt under Section 94750*
26 *offers educational services other than bachelor's,*
27 *master's, or doctorate-degree programs in law, the law*
28 *school and its nonlaw degree programs shall be subject to*
29 *this chapter, and the law school's degree programs in law*
30 *shall be subject to the approval, regulation, and oversight*
31 *of the Committee of Bar Examiners.*

32 94901. (a) The council shall conduct a qualitative
33 review and assessment of the institution. It also shall
34 conduct a qualitative review and assessment of all
35 programs offered except continuing education programs
36 and programs that are exclusively avocational or
37 recreational in nature. The review shall include the items
38 listed in subdivision (b) of Section 94900, through a
39 comprehensive onsite review process, performed by a



1 qualified visiting committee impaneled by the council for
2 that purpose.

3 An institution may include some or all of its separate
4 operating sites under one application. Alternately, it may
5 submit separate applications for any one site or
6 combination of sites. The satellites or branches included
7 in either an initial or renewal application shall be
8 considered by the council to comprise a separate, single
9 institution for purposes of regulation, approval, and
10 compliance under this chapter.

11 The application shall include a single fee based on the
12 number of branches, satellites, and programs included
13 within a single application in order to cover the costs
14 involved for those multisite and multiprogram reviews. If
15 the application is for renewal of an existing approval, the
16 institution need only submit information necessary to
17 document any changes made since the time its previous
18 application was filed with the council. Fees for renewal
19 applications will be based on the actual costs involved in
20 the administrative review process.

21 (b) The number of sites inspected by the council as
22 part of its review process shall be subject to the following
23 considerations:

24 (1) If the application for approval includes branches
25 and satellites, the council shall inspect each branch and
26 may inspect any satellite campus.

27 (2) If the application is for approval to operate a
28 branch or a satellite, the council, in addition to inspecting
29 the branch or satellite, also may inspect the institution
30 operating the branch or satellite campus.

31 (c) The council may waive or modify the onsite
32 inspection for institutions offering home study or
33 correspondence courses. The visiting committee shall be
34 impaneled by the council within 90 days of the date of the
35 receipt of a completed application and shall be composed
36 of educators, and other individuals with expertise in the
37 areas listed in subdivision (b) of Section 94900, from
38 degree-granting institutions legally operating within the
39 state. Within 90 days of the receipt of the visiting
40 committee's evaluation report and recommendations, or



1 any reasonable extension of time not to exceed 90 days,
2 the council shall take one of the following actions:

3 (1) If the institution is in compliance with this chapter
4 and has not operated within three years before the filing
5 of the application in violation of this chapter then in
6 ~~effect, the council may grant an approval to operate for~~
7 ~~a period not to exceed five years.~~ *effect, the council may*
8 *grant an approval to operate.*

9 (2) If the institution is in compliance with this chapter,
10 but has operated within three years before the filing of
11 the application in violation of this chapter then in effect,
12 or if the council determines that an unconditional grant
13 of approval to operate is not in the public interest, the
14 council may grant a conditional approval to operate
15 subject to whatever restrictions the council deems
16 appropriate. The council shall notify the institution of the
17 restrictions or conditions, the basis for the restrictions or
18 conditions, and the right to request a hearing to contest
19 them. Conditional approval shall not exceed two years.

20 (3) The council may deny the application. If the
21 application is denied, the council may permit the
22 institution to continue offering the program of
23 instruction to students already enrolled or may order the
24 institution to cease instruction and provide a refund of
25 tuition and all other charges to students.

26 (d) When evaluating an institution whose purpose is to
27 advance postsecondary education through innovative
28 methods, the visiting committee shall comprise educators
29 who are familiar with, and receptive to, evidence bearing
30 on the educational quality and accomplishments of those
31 methods.

32 (e) The standards and procedures utilized by the
33 council shall not unreasonably hinder educational
34 innovation and competition.

35 (f) Each institution or instructional program offering
36 education for entry into a health care profession in which
37 the provider has primary care responsibilities shall offer
38 that education within a professional degree program
39 which shall be subject to approval by the council pursuant
40 to this section.



1 (g) (1) If an institution is not operating in California
2 when it applies for approval to operate for itself or a
3 branch or satellite campus, the institution shall file with
4 its application an operational plan establishing that the
5 institution will satisfy the minimum standards set forth in
6 subdivision (a) of Section 94900. The operational plan also
7 shall include a detailed description of the institution's
8 program for implementing the operational plan,
9 including proposed procedures, financial resources, and
10 the qualifications of owners, directors, officers, and
11 administrators employed at the time of the filing of the
12 application. The council may request additional
13 information to enable the council to determine whether
14 the operational plan and its proposed implementation
15 will satisfy these minimum standards.

16 (2) If the council determines that the operational plan
17 satisfies the minimum standards described in subdivision
18 (a) of Section 94900, that the institution demonstrates
19 that it will implement the plan, and that no ground for
20 denial of the application exists, the council shall grant a
21 temporary approval to operate, subject to any restrictions
22 the council reasonably deems necessary to ensure
23 compliance with this chapter, pending a qualitative
24 review and assessment as provided in subdivisions (a)
25 and (b) of Section 94900. The council shall inspect,
26 pursuant to subdivision (a) of Section 94901, the
27 institution, or branch or satellite campus if approval is
28 sought for that campus between 90 days and 180 days after
29 operation has begun under the temporary approval to
30 operate. Following receipt of the visiting committee's or
31 the council staff's report, the council shall act as provided
32 in paragraph (1), (2), or (3) of subdivision (c).

33 (h) If at any time the council determines that an
34 institution has deviated from the standards for approval,
35 the council, after identifying for the institution the areas
36 in which it has deviated from the standards, and after
37 giving the institution due notice and an opportunity to be
38 heard, may place the institution on probation for a
39 prescribed period of time, not to exceed 24 calendar
40 months. During the period of probation, the institution



1 shall be subject to special monitoring. The conditions for
2 probation may include the required submission of
3 periodic reports, as prescribed by the council, and special
4 visits by authorized representatives of the council to
5 determine progress toward total compliance. If, at the
6 end of the probationary period, the institution has not
7 taken steps to eliminate the cause or causes for its
8 probation to the satisfaction of the council, the council
9 may revoke the institution's approval to award degrees
10 and provide notice to the institution to cease its
11 operations.

12 (i) An institution may not advertise itself as an
13 approved institution unless each degree program offered
14 by the institution has been approved in accordance with
15 the requirements of this section. The council shall review
16 all operations of the institution, pertaining to California
17 degrees, both within and outside of California. The
18 council may conduct site visits outside of California,
19 including the institution's foreign operations, when the
20 council deems these visits to be necessary. The institution
21 shall be responsible for the expenses of the visiting team
22 members including the council's staff liaison. The council
23 may authorize any institution approved to issue degrees
24 under this section to issue certificates for the completion
25 of courses of study that are within the institution's
26 approved degree-granting programs.

27 (j) An institution shall not offer any educational
28 program or degree title that was not offered by the
29 institution at the time the institution applied for approval
30 to operate, and shall not offer any educational program
31 or degree title at a campus that had not offered the
32 program or degree title at the time the institution applied
33 for approval to operate that campus, unless the council
34 first approves the offering of the program or degree title
35 after determining that it satisfies the minimum standards
36 established by this section.

37 94905. (a) Any public or private postsecondary
38 educational institution incorporated in another state that
39 has accreditation from a regional accrediting association
40 recognized by the United States Department of



1 Education at the time of the issuance of a degree, and that
2 is approved by the council, may issue degrees, diplomas,
3 or certificates. Except for continuing education programs
4 and programs that are exclusively avocational or
5 recreational in nature, accredited public or private
6 postsecondary educational institutions incorporated in
7 another state shall not offer degrees, diplomas, or
8 certificates in California unless they comply with this
9 section.

10 (b) The council shall not approve an institution to
11 issue degrees, diplomas, or certificates pursuant to this
12 section until the council has conducted a qualitative
13 review and assessment of, and has approved, each
14 program offered by the institution and all of its operations
15 in California, and the council has determined that the
16 institution meets all of the following standards:

17 (1) The institution has financial resources to ensure
18 the capability of fulfilling the program or programs for
19 enrolled students.

20 (2) The faculty includes personnel who possess
21 appropriate degrees from institutions accredited by a
22 regional accrediting association recognized by the United
23 States Department of Education in the degree major field
24 or fields offered, in sufficient number to provide the
25 educational services.

26 (3) The education services and curriculum clearly
27 relate to the objectives of the proposed program or
28 programs.

29 (4) The facilities are appropriate for the defined
30 educational objectives and are sufficient to ensure quality
31 educational services to the students enrolled in the
32 program or programs.

33 (5) The institution has verifiable evidence of academic
34 achievement comparable to that required of graduates of
35 other institutions operating in this state for the program
36 or programs upon which the degree, diploma, or
37 certificate is based.

38 ~~(c) The council shall grant approved status for a period~~
39 ~~consistent with the postsecondary educational~~



1 ~~institution's regional accrediting association, but shall not~~
2 ~~exceed five years.~~

3 (c) *The period of any approval issued under this*
4 *section shall be subject to Section 94909.*

5 (d) Institutions approved under this section shall offer
6 in California only programs that the institution can
7 document to have been acknowledged ~~and~~ *or* favorably
8 reviewed by the home regional accrediting association.

9 (e) In reviewing the out-of-state accredited
10 institutions, the council shall use as guidelines the
11 standards and procedures developed by the special
12 committee created pursuant to paragraph (5) of
13 subdivision (b) of Section 94310.1, as in effect on
14 December 31, 1989, and adopted by the California
15 Postsecondary Education Commission. These standards
16 and procedures were based on all of the following
17 principles:

18 (1) Following the initial site review, subsequent onsite
19 reviews by the council may be conducted in conjunction
20 with institutional reviews by the regional accrediting
21 association. However, if there is substantial evidence that
22 the institution is not in compliance with state standards,
23 the council may initiate a special review of the California
24 operations of the institution.

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

33 (3) The application shall include a single fee based on
34 the number of branches, satellites, and programs
35 included within a single application in order to cover the
36 costs involved for such multisite and multiprogram
37 reviews.

38 (4) If the application is for renewal of an existing
39 approval, the institution need only submit information
40 necessary to document any changes made since the time



1 its previous application was filed with the council. Fees
2 for reapproval applications will be based on the actual
3 costs involved in the administrative review process.

4 (5) The council shall develop a procedural rationale to
5 justify the number of sites to be visited by the state in the
6 review of the institution's operations in California. The
7 number of sites visited shall be subject to the following
8 considerations:

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

12 (B) 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.

19 (D) The purpose of the onsite review by the council
20 shall be to determine that operations by the institution in
21 California meet the minimum state standards identified
22 in statute.

23 (E) The standards and procedures shall not
24 unreasonably hinder educational innovation and
25 competition.

26 *94907. Each institution that satisfied the criteria set*
27 *forth in paragraph (2) of subdivision (a) of Section 94702,*
28 *in effect on April 15, 1997, for the entire three-year period*
29 *preceding the effective date of this section, shall be*
30 *deemed approved under this article notwithstanding*
31 *Sections 94900 and 94901, but shall otherwise be subject*
32 *to, and comply with, this chapter.*

33 *94909. (a) An unconditional approval to operate*
34 *issued under this article shall remain in continuous effect*
35 *as long as the institution remains in compliance with this*
36 *chapter.*

37 *(b) If the council (1) finds, after notice and an*
38 *opportunity for hearing as provided in this chapter, that*
39 *the institution has violated this chapter and (2)*
40 *determines in its discretion that permanent revocation of*



1 *the institution's approval is not appropriate, the council*
2 *shall restrict the institution's license to no more than*
3 *three years in addition to imposing any other remedies*
4 *provided in this chapter.*

5 *(c) If an institution's approval to operate has been*
6 *restricted as described in subdivision (b), the institution*
7 *may apply for renewal of its approval to operate before*
8 *the expiration of the restricted approval as provided in*
9 *this chapter. A renewed approval shall not exceed a*
10 *period of three years. If the institution applies for a*
11 *further renewal of its approval to operate and the council*
12 *determines that an unconditional approval to operate*
13 *should be issued, the approval shall remain in continuous*
14 *effect as provided in subdivision (a).*

15
16 Article 9. Standards and Evaluation Procedures for
17 Nondegree-Granting Institutions
18

19 94915. (a) No private postsecondary educational
20 institution, except those offering degrees and approved
21 under Article 8 (commencing with Section 94900) *or*
22 *exclusively offering license examination preparation*
23 *services and approved under Article 9.5 (commencing*
24 *with Section 94931), may offer educational services or*
25 *programs unless the institution or locations at which these*
26 *services or programs are offered have been approved by*
27 *the council as meeting the requirements of this section.*
28 *In addition, if the institution is regulated by any other*
29 *state licensing agency, the institution shall have obtained*
30 *and retained the approval of that agency.*

31 (b) If an institution is operating under the council's
32 prior approval and the institution has applied for
33 approval to operate for itself or a branch or satellite
34 campus that is operating, the council shall not grant
35 approval to operate until the council has conducted a
36 qualitative review and assessment of the operations of the
37 institution in California and determined that all of the
38 following minimum standards have been satisfied.

39 (1) The quality and content of each course or program
40 of instruction, training, or study may reasonably and



1 adequately be expected to achieve the objective for
2 which the course or program is offered. Except for
3 continuing education programs and programs that are
4 exclusively avocational or recreational in nature, all
5 programs offered by the institution shall meet the
6 minimum standards prescribed by this subdivision. If an
7 institution represents that a course or program leads to
8 employment, the quality, content, and instruction of the
9 course or program shall be sufficient to ensure that
10 students may acquire the necessary level of education,
11 training, skill, and experience to obtain employment in
12 the occupation or job title to which the course or program
13 of instruction is represented to lead.

14 (2) The institution has adequate space, equipment,
15 instructional material, and instructor personnel to
16 provide training of the quality needed to attain the
17 objective described in paragraph (1).

18 (3) Every instructor and administrator possesses
19 adequate academic, experiential, and professional
20 qualifications to teach the course or to perform the duties
21 that the person is assigned, satisfies all standards
22 established by the council by regulation, and holds an
23 applicable and valid certificate of authorization for
24 service issued by the council in the specified competence
25 area in which the individual will serve. No person shall
26 serve as an instructor or member of the administrative
27 staff if that person has been convicted of, or has pled nolo
28 contendere or guilty to, a crime involving the acquisition,
29 use, or expenditure of federal or state funds, or who has
30 been judicially or administratively determined to have
31 committed any violation of this chapter or of any law
32 involving state or federal funds.

33 (4) The institution maintains for at least five years
34 written records of each student's previous education and
35 training, where applicable.

36 (5) A copy of the course outline, description of the
37 occupations or job titles, if any, to which the course of
38 instruction is represented to lead, schedule of tuition, fees
39 and other charges, refund policy, regulations pertaining
40 to tardiness, absences, and the grading policy, and rules



1 of operation and conduct is given to students prior to
2 enrollment.

3 (6) The institution maintains and enforces adequate
4 standards relating to, and maintains records of,
5 attendance, satisfactory academic progress, and student
6 performance to achieve the objective described in
7 paragraph (1).

8 (7) The institution complies with all local city, county,
9 municipal, state, and federal regulations relative to the
10 safety and health of all persons upon the premises such as
11 fire, building, and sanitation codes. The council may
12 require evidence of compliance.

13 (8) The institution does not exceed enrollment that
14 the facilities and equipment of the institution can
15 reasonably handle.

16 (9) The institution's officers, directors, and owners
17 demonstrate financial and fiduciary responsibility, as
18 prescribed by statute, or by regulations adopted by the
19 council.

20 (10) The institution is in compliance with this chapter
21 and has developed policies and procedures designed to
22 ensure that compliance.

23 (11) No circumstances exist that may constitute
24 grounds for the revocation or suspension of an approval
25 to operate.

26 (12) The institution complies with Article 7
27 (commencing with Section 94850) if that article is
28 applicable to any educational program it offers.

29 (13) Application for approval shall be made in writing
30 on forms prescribed by the council. The application for
31 approval shall include, if applicable to the institution, a
32 statement of whether the institution claims that it is
33 exempt or that a course or other educational service it
34 offers is exempt from Article 7 (commencing with
35 Section 94850), and the information required by
36 subdivision (f) of Section 94873.

37 An institution may include some, or all, of its separate
38 operating sites under one application. Alternately, it may
39 submit separate applications for any one site or
40 combination of sites. The satellites or branches included



1 in either an initial or renewal application shall be
2 considered by the council to comprise a separate, single
3 institution for purposes of regulation, approval, and
4 compliance under this chapter. The application shall
5 include a single fee based on the number of branches,
6 satellites, and programs included within a single
7 application in order to cover the costs involved for those
8 multisite and multiprogram reviews.

9 (c) Within 90 days following the receipt of an
10 application from an institution and prior to granting any
11 approval, a representative of the council shall personally
12 inspect the institution and verify the institution's
13 compliance with the standards prescribed by this
14 chapter. The council may use a qualified visiting
15 committee in the initial review of programs and in
16 subsequent reviews. The visiting committee may include
17 employers with expertise related to the program being
18 reviewed. The institution seeking approval shall
19 reimburse the council for the expenses of the visiting
20 committee. The onsite inspection shall include an
21 inspection of the institution's facilities and records,
22 interviews of administrators, faculty, and students, and an
23 observation of class instruction, as determined to be
24 appropriate by the council.

25 (1) If the application for approval includes branch or
26 satellite campuses, the council shall inspect each branch
27 campus and may inspect any satellite campus.

28 (2) If the application is for approval to operate a
29 branch or a satellite, the council, in addition to inspecting
30 the branch or satellite, also may inspect the institution
31 operating the branch or satellite campus.

32 (3) The council may waive or modify the requirement
33 for onsite inspections of branch campuses located outside
34 of California or for an institution offering home study or
35 correspondence courses.

36 (4) If the application is for reapproval of an existing
37 approval, the institution need only submit information
38 necessary to document any changes made since the time
39 its previous application was filed with the council. Fees



1 for reapproval applications shall be based on the actual
2 costs involved in the administrative review process.

3 (d) The council shall review all operations of the
4 institution both within and outside of California. The
5 council may conduct site visits outside of California,
6 including the institution's foreign operations, when the
7 council deems these visits to be necessary. The institution
8 shall be responsible for the expenses of any visiting team
9 members including the council's staff liaison.

10 (e) Within 90 days following the inspection described
11 in subdivision (c) or any reasonable extension of time not
12 to exceed 90 days, the council shall reach a decision on the
13 merits and shall do one of the following:

14 (1) If the institution is in compliance with this chapter
15 and has not operated within three years before the filing
16 of the application in violation of this chapter then in
17 effect, the council may grant approval for a period not to
18 exceed five years.

19 (2) If the institution is in compliance with this chapter,
20 but has operated within three years before the filing of
21 the application in violation of this chapter then in effect,
22 or if the council determines that an unconditional grant
23 of approval to operate is not in the public interest, the
24 council may grant a conditional approval to operate
25 subject to whatever restrictions the council deems
26 appropriate. The council shall notify the institution of the
27 restrictions, the basis for the restrictions, and the right to
28 request a hearing to contest the restrictions.

29 (3) The council may deny the application if the
30 institution does not comply with this chapter, including
31 the minimum standards established in subdivision (b), or
32 has operated within three years before the filing of the
33 application in violation of this chapter then in effect. If
34 the application is denied, the council may permit the
35 institution to continue offering the course or courses of
36 instruction to students already enrolled or may order the
37 institution to cease all instruction and provide a refund of
38 tuition and all other charges to students. The council shall
39 notify the institution of the denial, the basis for the denial,



1 and the right of the institution to request a hearing to
2 contest the denial.

3 (f) (1) If an institution is not operating in California
4 when it applies for approval to operate for itself or a
5 branch or satellite campus, the institution shall file with
6 its application an operational plan establishing that the
7 institution will satisfy the minimum standards set forth in
8 subdivision (b). The operational plan also shall include a
9 detailed description of the institution's program for
10 implementing the operational plan, including proposed
11 procedures, financial resources, and the qualifications of
12 owners, directors, officers, and administrators employed
13 at the time of the application's filing. The council may
14 request additional information to enable the council to
15 determine whether the operational plan and its proposed
16 implementation will satisfy these minimum standards.

17 (2) If the council determines that the operational plan
18 satisfies the minimum standards described in subdivision
19 (b), that the institution demonstrates that it will
20 implement the plan, and that no ground for denial of the
21 application exists, the council shall grant a temporary
22 approval to operate, subject to any restrictions the
23 council reasonably deems necessary to ensure
24 compliance with this chapter, pending a qualitative
25 review and assessment as provided in subdivisions (b)
26 and (c). The council shall inspect the institution, or
27 branch or satellite campus if approval is sought for that
28 campus, between 90 days and 180 days after operation has
29 begun under the temporary approval to operate. Within
30 90 days following the council's inspection of the
31 institution, the council shall act as provided in subdivision
32 (e).

33 (g) If an institution approved to operate in California
34 applies for approval to operate an additional site location
35 that has not been previously approved by the council, the
36 institution shall file an operational plan for the additional
37 site location as described in subdivision (f). The council
38 shall evaluate the additional site location as provided in
39 subdivision (f). The council also may evaluate the
40 institution as provided in subdivisions (b) and (c) before



1 determining whether to grant to the institution
2 temporary or final approval to operate the additional site
3 location. If the institution or the additional site location
4 does not meet the requirements of this chapter or if the
5 institution has operated within three years before the
6 filing of the application in violation of this chapter then
7 in effect, the council may deny the application for
8 approval to operate the additional site location or may
9 grant a conditional approval to operate the additional site
10 location subject to any restrictions it deems appropriate.
11 The provisions for notice and hearing described in
12 paragraphs (2) and (3) of subdivision (e) shall apply.

13 (h) No institution shall offer a course or program of
14 instruction, training, or study at a campus that had not
15 offered the course or program at the time the institution
16 applied for approval to operate that campus unless the
17 council first approves the offering of the course or
18 program after determining that it satisfies the minimum
19 standards established in subdivision (b).

20 (i) The council may enter into an agreement for the
21 regulation and oversight of nondegree-granting private
22 postsecondary institutions with the Federal Aviation
23 Administration or with the state agency responsible for
24 administering Article 1 (commencing with Section 1250)
25 of Chapter 2 of Division 2 of the Health and Safety Code.

26 The council may enter into a regulatory agreement
27 only when the appropriate agency can demonstrate that
28 its standards and procedures for the review of institutions
29 encompass the standards and consumer protection
30 requirements prescribed by this chapter and that these
31 standards and procedures are rigorously enforced.
32 Nothing in this section shall modify the existing authority
33 of regulatory agencies within the Department of
34 Consumer Affairs relating to schools or programs.

35 (j) If at any time the council determines that an
36 institution has deviated from the standards for approval,
37 the council, after giving the institution due notice and an
38 opportunity to be heard, may place the institution on
39 probation for a specified period of time not to exceed 24
40 calendar months. During the period of probation, the



1 institution shall be subject to special monitoring. The
 2 conditions for probation may include the required
 3 submission of periodic reports, as prescribed by the
 4 council, and special visits by authorized representatives
 5 of the council to determine progress toward total
 6 compliance. If at the end of the specified probationary
 7 period, the institution has not taken steps to eliminate the
 8 causes for its probation to the satisfaction of the council,
 9 the council may revoke the institution’s approval and
 10 provide notice to the institution to cease its operations.

11 94920. (a) Each individual submitting an application
 12 for a certificate of authorization for service, pursuant to
 13 paragraph (3) of subdivision (b) of Section 94915, shall
 14 provide the council with the following information:

15 (1) A completed application as supplied by the
 16 council.

17 (2) Certified copies of educational transcripts, where
 18 applicable.

19 (3) Verified employment history.

20 (4) Other documentation of prior experience or
 21 education as required by the council for verification.

22 (b) To be eligible for a certificate of authorization for
 23 service, the applicant shall fulfill the following
 24 requirements:

25 (1) Instructors shall have all of the following
 26 qualifications:

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

28 (B) Verification that he or she possesses a combination
 29 of at least three years’ experience and training or
 30 education in the occupation or job title category for
 31 which the certification is sought.

32 (C) An instructor for a program that leads to a degree
 33 shall possess a degree of equal or higher level in the
 34 occupation for which certification is sought.

35 (2) Directors shall have both of the following
 36 qualifications:

37 (A) Three years’ experience in an administrative
 38 position in a public or an approved private postsecondary
 39 school.

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



1 (3) Associate directors shall have both of the following
2 qualifications:

3 (A) Two years' experience in an administrative or
4 other responsible position in a public or state approved
5 private postsecondary school.

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

7 (4) Financial aid directors shall have all of the
8 following qualifications:

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

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

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

18 (D) Any other requirements the council deems
19 necessary.

20 (5) Financial aid officers shall possess all of the
21 following qualifications:

22 (A) Verification of completion within the previous
23 two years of a training seminar or workshop certified by
24 the Student Aid Commission as providing up-to-date
25 comprehensive information on financial aid programs
26 and policies.

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

28 (C) Other requirements the council deems necessary.

29 (c) An individual who is the sole owner of an
30 institution may serve in the capacity of director for three
31 years prior to meeting the qualifications of subparagraph
32 (A) of paragraph (2) of subdivision (b).

33 (d) Any individual filling a position left vacant by a
34 previously certified financial aid director or financial aid
35 officer shall verify with the council completion of the
36 training referred to in subparagraph (A) of paragraph
37 (5) of subdivision (b) within one year of accepting that
38 position.

39 (e) Each individual certified for authorization for
40 service in the positions listed in paragraphs (1), (4), and



1 (5) of subdivision (b) shall maintain at each private
2 postsecondary educational institution where he or she is
3 employed a validated transcript evidencing the
4 successful completion of three continuing education units
5 of recognized in-service training in their education, job
6 title category, or employment field during every period
7 of certification. These units may be completed through
8 in-service training offered by accrediting associations,
9 professional organizations, or council-approved
10 programs.

11 (f) Every certificate of authorization issued to a person
12 who possesses the qualifications described in paragraphs
13 (1), (4), and (5) of subdivision (b) shall be valid for a
14 period of three years.

15 (g) In addition to the requirements set forth in this
16 section, the council may impose additional requirements
17 by regulation.

18 94925. No person shall own or operate a school, or give
19 instruction, for the driving of motortrucks of three or
20 more axles that are more than 6,000 pounds unladen
21 weight unless all of the following conditions are met:

22 (a) The school or instruction has been approved by the
23 council.

24 (b) The school, at the time of application and
25 thereafter, maintains both of the following:

26 (1) Proof of compliance with liability insurance
27 requirements that are the same as those established by
28 the Department of Motor Vehicles for a driving school
29 owner, pursuant to Section 11103 of the Vehicle Code,
30 unless the council deems it necessary to establish a higher
31 level of insurance coverage.

32 (2) A satisfactory safety rating by the Department of
33 the California Highway Patrol is established pursuant to
34 Division 14.8 (commencing with Section 34500) of the
35 Vehicle Code.

36 (3) Proof that vehicles used in driver training are
37 maintained in safe mechanical condition at all times.

38 (c) The driving instructors meet the requirements set
39 forth in Section 11104 of the Vehicle Code.



1 (d) Any other terms and conditions required by the
2 council to protect the public safety or to meet the
3 requirements of this chapter.

4 94930. (a) All institutions that were certified to offer
5 flight instruction by the Federal Aviation Administration
6 (FAA) and that operated in California on December 31,
7 1990, pursuant to prior authority of subdivision (a) or (b)
8 of former Section 94311, shall receive approval from the
9 council for a period not to exceed three years. On or
10 before June ____, the council shall work in
11 cooperation with the FAA to review each of these
12 institutions to determine whether the institution is in
13 compliance with the requirements of this chapter. It is
14 the intent of the Legislature that all institutions whose
15 cumulative gross student loan default rate is above 40
16 percent, as determined by the Student Aid Commission,
17 shall be reviewed by the FAA and the council to
18 determine if these institutions are in compliance with the
19 requirements of this chapter and should continue to be
20 approved to offer educational programs in California.

21 (b) Institutions certified to offer flight instruction by
22 the FAA, or its successor agency, shall comply with all of
23 the requirements of Sections 94800, 94810, 94814, and
24 94816, Sections 94820, to 94826, inclusive, and Sections
25 94828 and 94829 and Article 7 (commencing with Section
26 94850) if applicable, but shall not be required to file any
27 materials with the council that are not required by the
28 FAA or its successor agency, except those minimally
29 necessary to administer the Student Tuition Recovery
30 Fund as determined by the council. The responsibility for
31 monitoring and enforcing institutional compliance for
32 these institutions shall be with the council.

33 (c) This chapter does not apply to individual flight
34 instructors not requiring any advance payments, who do
35 not negotiate a formal contract of indebtedness, and who
36 do not have an established place of business other than
37 their residences.

38



~~Article 10.— Fees~~

Article 9.5. *Standards and Evaluation Procedures for
Institutions Offering License Examination Preparation
Services*

94931. (a) *This article applies only to private postsecondary educational institutions that exclusively offer educational services to assist students to prepare for an examination for licensure.*

(b) *No institution subject to this article may offer any educational services unless the institution has been approved by the council as meeting the minimum requirements of this article.*

94931.2. (a) *Each institution subject to this article that desires to operate in this state shall make application to the council on forms provided by the council. The application shall include the following:*

(1) *The name, address, and telephone number of each owner of the institution.*

(2) *A detailed description of the educational services to be offered and the curriculum.*

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

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

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

(6) *A financial report prepared in compliance with Section 94806.*

(7) *Any additional information prescribed by regulation.*

(b) *Each application shall be signed and certified as described in subdivision (b) of Section 94802.*

(c) *Following review of the application and any other further information submitted by the applicant or required by this chapter, and any investigation the council deems necessary or appropriate, the council shall*



1 grant approval if the institution is in compliance with this
2 chapter and no violations of this chapter or similar
3 provisions of prior law were committed within the three
4 years preceding the filing of the application by the
5 institution or any of its owners, officers, directors, or
6 persons in control, as defined in subdivision (h) of Section
7 94852.

8 94931.4. (a) An unconditional approval to operate
9 issued under this article shall remain in continuous effect
10 as long as the institution remains in compliance with this
11 chapter.

12 (b) If the council (1) finds, after notice and an
13 opportunity for hearing as provided in this chapter, that
14 the institution has violated this chapter, and (2)
15 determines in its discretion that permanent revocation of
16 the institution's approval is not appropriate, the council
17 shall restrict the institution's license to no more than
18 three years in addition to imposing any other remedies
19 provided in this chapter.

20 (c) If an institution's approval to operate has been
21 restricted as described in subdivision (b), the institution
22 may apply for renewal of its approval to operate before
23 the expiration of the restricted approval as provided in
24 this chapter. A renewed approval shall not exceed a
25 period of three years. If the institution applies for a
26 further renewal of its approval to operate and the council
27 determines that an unconditional approval to operate
28 should be issued, the approval shall remain in continuous
29 effect as provided in subdivision (a).

30 94931.6. Each institution approved to operate under
31 this chapter shall be required to report to the council, by
32 July 1 of each year, or another date designated by the
33 council, the following information for each of its license
34 examination preparation educational services in the prior
35 fiscal year:

36 (a) The total number of students enrolled.

37 (b) (1) The total number of students who completed
38 the educational service during the institution's preceding
39 fiscal year.



1 (2) *The total number of students who took the license*
2 *preparation examination during the institution's*
3 *preceding fiscal year.*

4 (3) *The percentage of the students described in*
5 *paragraph (2) who passed the examination after the first*
6 *time they took the examination and the percentage who*
7 *passed after the second time they took the examination.*

8 (c) *Financial information prepared in compliance*
9 *with Section 94806.*

10 (d) *Any additional information the council may*
11 *prescribe.*

12 94931.8. (a) *Before accepting any consideration*
13 *from a student, an institution subject to this chapter shall*
14 *provide the student with an enrollment agreement*
15 *containing in a single document all of the terms related*
16 *to the instruction and payment. The agreement shall*
17 *include all of the following:*

18 (1) *The name, street address, and telephone number*
19 *of the institution.*

20 (2) *A description of the educational services offered*
21 *and educational materials or other goods or services that*
22 *will be supplied by the institution or that are required to*
23 *be purchased by the student.*

24 (3) *The total number of class sessions, hours, lessons, or*
25 *segments comprising the educational service.*

26 (4) *An itemization of amounts and the total amount*
27 *the student is obligated to pay for the educational service*
28 *and all other services and facilities furnished or made*
29 *available to the student by the institution, including*
30 *charges for tuition, books, materials, supplies, and all*
31 *other fees and expenses that the student will incur.*

32 (5) *A statement of the information described in*
33 *subdivision (b) of Section 94931.6.*

34 (6) *An explanation of the institution's refund policy*
35 *and a list of any charges and deposits that are not*
36 *refundable.*

37 (7) *An explanation of the student's right to cancel.*

38 (8) *If the student is not a California resident, a*
39 *statement that the student is not eligible for protection*
40 *under the Student Tuition Recovery Fund.*



1 (9) *The following statement:*

2 “Any questions or problems concerning this school that
3 have not been satisfactorily answered or resolved by the
4 school should be directed to the Council for Private
5 Postsecondary and Vocational Education (address).” The
6 council’s current address shall be inserted.

7 (b) *The enrollment agreement shall be printed in at
8 least 10-point type in English and, if any solicitation or
9 negotiation leading to the student’s enrollment was in a
10 language other than English, in that other language.*

11 94931.10. *An institution subject to this article shall also
12 be subject to Sections 94804, 94806, 94812, 94818 to 94822,
13 inclusive, 94824, 94826, and 94830 to 94848, inclusive.*

14

15 *Article 10. Fees and Costs*

16

17 94932. The Private Postsecondary and Vocational
18 Education Administration Fund is continued in
19 existence. All fees collected pursuant to this section shall
20 be credited to this fund along with any interest on the
21 money, for the administration of this chapter.
22 Notwithstanding Section 13340 of the Government Code,
23 the money in the fund is continuously appropriated to the
24 council without regard to fiscal years for the purposes of
25 this chapter. However, if the Legislature makes an
26 appropriation for the support of the council in the Budget
27 Act of any fiscal year, the amount for the support of the
28 council expended from the fund during the fiscal year
29 shall not exceed the amount appropriated by the Budget
30 Act.

31 For the approval of private institutions operating
32 under this chapter, the council shall charge an amount
33 not to exceed the actual costs of approving or renewing
34 the approval of the private institutions. The council shall
35 adopt a fee schedule for all institutions approved under
36 this chapter, including the maximum amounts to be
37 charged for an institution’s initial application and annual
38 renewal. The council may propose modifications to the
39 fee schedule to the Governor and the Legislature to add
40 or delete categories of fees related to work performed by



1 the council and propose to the Governor and the
2 Legislature the maximum amount to be charged for each
3 fee category added to the fee schedule. The fee schedule
4 shall provide adequate resources for the council to
5 implement this chapter effectively. It is the intent of the
6 Legislature that the council shall adopt a fee schedule
7 that reflects the size of the institution, with institutions
8 enrolling a larger number of students being required to
9 pay a larger annual fee than those with smaller student
10 enrollments. The fee schedule, consistent with this
11 section, also may contain provisions for fees assessed in
12 conjunction with the evaluation of an application for a
13 certificate of authorization for service issued pursuant to
14 paragraph (3) of subdivision (b) of Section 94915. The
15 council shall annually present its proposed budget and fee
16 schedule, penalty fees assessed for delinquent payments
17 pursuant to regulations adopted by the council and
18 additions and deletions of fee categories to the
19 Department of Finance and the Joint Legislative Budget
20 Committee for their review and approval as part of the
21 annual budget process. The council shall annually publish
22 a schedule of the current fees to be charged pursuant to
23 this section and shall make this schedule generally
24 available to the public. The fees may be increased
25 annually up to the maximum allowable level by a majority
26 vote of the council, without any additional review and
27 approval by the Office of Administrative Law. The
28 adoption of the annual fee schedule, any modification of
29 the fee schedule, and any increase in fees up to the
30 maximum allowable level shall not be subject to Article
31 5 (commencing with Section 11346) of Chapter 3.5 of Part
32 1 of Division 3 of Title 2 of the Government Code.
33 Increases above the maximum level shall be changed
34 through legislation enacted by the Legislature and signed
35 by the Governor.

36 94934. Any institution more than 30 days delinquent
37 in the payment of any fee may be assessed a penalty fee
38 by the council.

39 94936. The effective date of any statutory
40 amendment to this chapter affecting revenues payable to



1 the council from any service shall be delayed for a period
2 of 12 months in order to enable the council to make the
3 necessary adjustments in its fee schedule through the
4 regulatory adoption process.

5

6

Article 11. Agents and Agencies

7

8 94940. (a) Notwithstanding any other provision of
9 this chapter concerning agents, the owner of at least 51
10 percent of the equitable interest in an institution shall be
11 exempt from this section if the institution is approved to
12 operate pursuant to Article 8 (commencing with Section
13 94900) or Article 9 (commencing with Section 94915).

14 No person may act as an agent, unless that person holds
15 a valid permit issued by the council and maintains at all
16 times a surety bond as described in paragraph (2).
17 Administrators or faculty, or both, who make
18 informational public appearance, but whose primary task
19 is not to serve as a paid recruiter, are exempt from this
20 section.

21 The application for a permit shall be furnished by the
22 council and shall include the following:

23 (1) A statement signed by the applicant that he or she
24 has read this chapter and the regulations adopted
25 pursuant thereto.

26 (2) A surety bond issued by an admitted surety insurer
27 in favor of the State of California for the indemnification
28 of any person for any loss suffered as a result of the
29 occurrence, during the period of coverage, of any fraud
30 or misrepresentation used in connection with the
31 solicitation for the sale or the sale of any program of study,
32 or as a result of any violation of this chapter. The term of
33 the bond shall extend over the period of the permit. The
34 bond may be supplied by the institution or by the person
35 for whom the issuance of the permit is sought and may
36 extend to cover individuals separately or to provide
37 blanket coverage for all persons to be engaged as
38 representatives of the institution. The bond shall provide
39 for liability in the penal sum of twenty-five thousand
40 dollars (\$25,000) for each agent to whom coverage is



1 extended by its terms. Neither the principal nor the
2 surety on a bond may terminate the coverage of the bond,
3 except upon giving 30 days' prior written notice to the
4 council, and contemporaneously surrendering the
5 agent's permit. Liability on the bond may be enforced
6 after a hearing before the council, after 30 days' advance
7 written notice to the principal and surety. The council
8 shall adopt regulations establishing the procedure for
9 administrative enforcement of liability. This paragraph
10 supplements, but does not supplant, any other rights or
11 remedies to enforce liability on the bond.

12 (3) A fee as required by Section 94932.

13 (b) An agent representing more than one institution
14 shall obtain a separate agent's permit and bond for each
15 institution represented.

16 (c) No person shall be issued a permit if he or she
17 previously has been found in any judicial or
18 administrative proceeding to have violated this chapter,
19 or there exists any of the grounds for denial set forth in
20 Section 480 of the Business and Professions Code.

21 (d) A permit shall be valid for the calendar year in
22 which it is issued, unless sooner revoked or suspended by
23 the council for fraud or misrepresentation in connection
24 with the solicitation for the sale of any course of study, for
25 any violation of this chapter, or for the existence of any
26 condition in respect to the permittee or the school he or
27 she represents which, if in existence at the time the
28 permit was issued, would have been grounds for denial of
29 the permit.

30 (e) The permittee shall carry the permit with him or
31 her for identification purposes when engaged in the
32 solicitation of sales and the selling of courses of study away
33 from the premises of the school, and shall produce the
34 permit for inspection upon the request of any person.

35 (f) Chapter 5 (commencing with Section 11500) of
36 Part 1 of Division 3 of Title 2 of the Government Code or
37 Section 94975 shall apply to any determination of the
38 council made pursuant to this section.

39 (g) The issuance of a permit pursuant to this section
40 shall not be interpreted as, and it shall be unlawful for any



1 individual holding any permit to expressly or impliedly
2 represent by any means whatsoever, that the council has
3 made any evaluation, recognition, accreditation, or
4 endorsement of any course of study being offered for sale
5 by the individual.

6 (h) It is unlawful for any individual holding a permit
7 under this section to expressly or impliedly represent, by
8 any means whatsoever, that the issuance of the permit
9 constitutes an assurance by the council that any course of
10 study being offered for sale by the individual will provide
11 and require of the student a course of education or
12 training necessary to reach a professional, educational, or
13 vocational objective, or will result in employment or
14 personal earnings for the student.

15 (i) No agent shall make any untrue or misleading
16 statement or engage in sales, collection, credit, or other
17 practices of any type that are false, deceptive, misleading,
18 or unfair.

19 (j) The council shall maintain records for five years of
20 each application for a permit, each bond, and each
21 issuance, denial, termination, suspension, and revocation
22 of a temporary permit or permit.

23 (k) A student may bring an action for an agent's
24 violation of this chapter or any fraud or misrepresentation
25 and, upon prevailing, is entitled to the recovery of
26 damages, reasonable attorney's fees, and costs. If a court
27 finds that the violation was willfully committed, the court,
28 in addition to the award of damages, shall award a civil
29 penalty of up to two times the amount of damages
30 sustained by the student.

31 (l) 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 94942. (a) Except as provided in subdivision (g), any
37 agency shall be required to hold a valid authorization
38 issued by the council. The application for an
39 authorization shall include all of the following:

1 (1) A current financial statement prepared by a
2 California licensed certified public accountant who is not
3 an employee, officer, or director of the institution.

4 (2) Evidence of a surety bond issued in favor of the
5 State of California by an admitted surety insurer making
6 provision for indemnification of any person for any loss
7 suffered as a result of the occurrence, during the period
8 of coverage, of any fraud or misrepresentation used in
9 connection with the solicitation for the sale or the sale of
10 any program of study, or as a result of any violation of this
11 chapter. The term of the bond shall extend over the
12 period of the authorization. The bond shall provide for
13 liability in the penal sum of two hundred fifty thousand
14 dollars (\$250,000) for each agency to which coverage is
15 extended by its terms. Neither the principal nor the
16 surety on a bond may terminate the coverage of the bond
17 except upon giving 30 days' prior written notice to the
18 council, and upon contemporaneously surrendering the
19 agency's authorization to operate. Liability on the bond
20 may be enforced after a hearing before the council, after
21 30 days' advance written notice to the principal and
22 surety. The council shall adopt regulations establishing
23 the procedure for administrative enforcement of liability
24 and hearings under this section. This paragraph
25 supplements, but does not supplant, any other rights or
26 remedies to enforce liability on the bond.

27 (3) A copy of the student disclosure statement to be
28 read and signed by all prospective students referred to
29 institutions by an agency. The student disclosure
30 statement shall include, but shall not be limited to, all of
31 the following:

32 (A) A statement to the effect that no promise of
33 employment has been made by the agency.

34 (B) A statement to the effect that repayment of any
35 debt incurred by a student in connection with his or her
36 education will be the sole responsibility of the student.

37 (C) The amount and terms of any fee to be paid by the
38 student to the agency.

39 (D) A verbatim statement, as follows:



1 “Any questions or problems concerning this agency
2 should be directed to the Council for Private
3 Postsecondary and Vocational Education, Sacramento,
4 CA 95814.”

5 (E) A statement to the effect that the institution or
6 institutions to which the prospective student is referred
7 by the agency have the obligation to make available to the
8 student a catalog or brochure containing information
9 describing all of the following:

- 10 (i) The courses offered.
- 11 (ii) Program objectives.
- 12 (iii) Length of program.
- 13 (iv) The faculty and their qualifications.
- 14 (v) A schedule of tuition, fees, and all other charges
15 and expenses necessary for the completion of the course
16 of study.
- 17 (vi) The cancellation and refund policies.
- 18 (vii) The total cost of tuition over the period needed
19 to complete the student’s education.
- 20 (viii) For vocational training programs, placement
21 data, including program completion rates, placement
22 rates, and starting salaries.
- 23 (ix) Other material facts concerning the institution
24 and the program or course of instruction that are
25 reasonably likely to affect the decision of the student to
26 enroll in the institution.
- 27 (4) Identification of all employees of the agency and
28 their titles, and of all agents with whom the agency
29 contracts.
- 30 (5) Identification of all owners, and if the entity is a
31 corporation, the identification of all persons possessing an
32 interest equal to, or in excess, of 10 percent.
- 33 (6) Identification of all vendors of educational services
34 for which the agency provides recruitment services.
- 35 (7) A signed statement by the applicant that all
36 employees engaged in recruitment activities will be
37 required to read Sections 94831, 94832, and 94985 and, if
38 the educational program for which the agency recruits is
39 subject to Article 7 (commencing with Section 94850),
40 Section 94853.



1 (b) Within 30 days of receipt of a completed
2 application and prior to issuance of an authorization a
3 representative of the council shall inspect the applicant
4 agency and verify the application. Within 30 days of the
5 inspection, the council shall issue the authorization for a
6 one-year period, subject to annual renewal at the end of
7 that period, or deny the application. The council shall
8 deny the authorization if the agency or any owner,
9 officer, or director of the agency previously has been
10 found in any judicial or administrative proceeding to
11 have violated this chapter, or if there exists any of the
12 grounds for denial set forth in Section 480 of the Business
13 and Professions Code.

14 (c) Any employee of an authorized agency engaged in
15 student recruitment activities of an authorized agency is
16 exempt from the bond requirements of Section 94940.

17 (d) Neither the agency nor any of its employees shall
18 make any untrue or misleading statement in the course
19 of any solicitation or recruitment activity or engage in the
20 sales, collection, credit, or other practices of any type that
21 are false, deceptive, misleading, or unfair.

22 (e) An agency or an employee of an agency shall
23 provide a prospective student with the disclosure
24 statement described in paragraph (3) of subdivision (a)
25 and shall allow the prospective student a sufficient
26 opportunity to read it before soliciting or recruiting him
27 or her for enrollment or referring him or her to an
28 institution. That disclosure statement shall be printed in
29 10-point type in English and, if the solicitation,
30 recruitment, or referral is to be conducted in a language
31 other than English, in that other language.

32 (f) Any institution approved under this chapter shall
33 cease any and all recruitment activities involving the
34 agency upon action by the council to revoke or deny an
35 agency's authorization. The failure of the institution to do
36 so upon presentation of notice of the council's action shall
37 be cause to deny or revoke any approval held by that
38 institution.



1 (g) This section does not apply to any agency
2 recruiting solely for institutions described in Article 8
3 (commencing with Section 94900).

4 (h) The council shall maintain records for five years of
5 each application for an authorization, each verification by
6 the council of an application, each bond, and each denial,
7 issuance, and revocation of an authorization.

8 (i) A student may bring any action against any agency
9 if the agency or an employee of the agency violates this
10 chapter or commits any fraud or misrepresentation and,
11 upon prevailing, is entitled to the recovery of damages,
12 reasonable attorney’s fees, and costs. If a court finds that
13 the violation was willfully committed, the court shall, in
14 addition to the award of damages, award a civil penalty
15 of up to two times the amount of damages sustained by
16 the student.

17 (j) Any person who violates this section is guilty of a
18 misdemeanor punishable by imprisonment in a county
19 jail not exceeding six months, by a fine not to exceed five
20 thousand dollars (\$5,000), or by both that imprisonment
21 and fine.

22
23 Article 12. Student Tuition Recovery Fund and
24 Student Obligations
25

26 94944. (a) The Student Tuition Recovery Fund is
27 continued in existence. All assessments collected
28 pursuant Section ____ shall be credited to this fund
29 along with any interest on the money, for the
30 administration of this article. Notwithstanding Section
31 13340 of the Government Code, the money in the fund is
32 continuously appropriated to the council without regard
33 to fiscal years for the purposes of this chapter. The fund
34 shall consist of a degree-granting postsecondary
35 ~~educational institution account and a vocational~~
36 ~~educational institution account, for the purpose of~~
37 *educational institution account, a vocational educational*
38 *institution account, and an account for institutions*
39 *approved under any provision of this chapter that charge*
40 *each enrolled student a total charge, as defined in*



1 *subdivision (k) of Section 94852, of less than one thousand*
2 *dollars (\$1,000), for the purpose of relieving or mitigating*
3 *pecuniary losses suffered by any California resident who*
4 *is a student of an approved institution and who meets*
5 *either of the following conditions:*

6 (1) The student was enrolled in an institution, prepaid
7 tuition, and suffered loss as a result of, (A) the closure of
8 the institution, (B) the institution's failure to pay refunds
9 or charges on behalf of a student to a third party for
10 license fees or any other purposes, or to provide
11 equipment or materials for which a charge was collected
12 within 180 days before the institution's closure, (C) the
13 institution's failure to pay or reimburse loan proceeds
14 under a federally guaranteed student loan program as
15 required by law or to pay or reimburse proceeds received
16 by the institution prior to closure in excess of tuition and
17 other costs, (D) the institution's breach or anticipatory
18 breach of the agreement for the course of instruction, or
19 (E) a decline in the quality or value of the course of
20 instruction within the 30-day period before the
21 institution's closure or, if the decline began before that
22 period, the period of decline determined by the council.
23 For the purpose of this section, "closure" includes closure
24 of a branch or satellite campus, the termination of either
25 the correspondence or residence portion of a home study
26 or correspondence course, and the termination of a
27 course of instruction for some or all of the students
28 enrolled in the course before the time these students
29 were originally scheduled to complete it, or before a
30 student who has been continuously enrolled in a course
31 of instruction has been permitted to complete all the
32 educational services and classes that comprise the course.

33 (2) The student obtained a judgment against the
34 institution for any violation of this chapter and the
35 student certifies that the judgment cannot be collected
36 after diligent collection efforts.

37 (b) Payments from the fund to any student shall be
38 made from the appropriate account with the fund, as
39 determined by the type of institution into which the



1 student has paid his or her fees, and shall be subject to any
2 regulations and conditions as the council shall prescribe.

3 (c) (1) The institution shall provide to the council, at
4 the time of the institution's closure, the names and
5 addresses of persons who were students of an institution
6 within 60 days prior to its closure, and shall notify these
7 students, within 30 days of the institution's closure, of
8 their rights under the fund and how to apply for payment.
9 If the institution fails to comply with this subdivision, the
10 council shall attempt to obtain the names and addresses
11 of these students and shall notify them, within 90 days of
12 the institution's closure, of their rights under the fund and
13 how to apply for payment.

14 The council shall develop a form in English and Spanish
15 fully explaining a student's rights, which shall be used by
16 the institution or the council to comply with this
17 paragraph. The form shall include, or be accompanied by,
18 a claim application and an explanation of how to
19 complete the application.

20 (2) If an institution fails to comply with paragraph (1),
21 the council shall order the institution, or any person
22 responsible for the failure to provide notice as required
23 by paragraph (1), to reimburse the council for all
24 reasonable costs and expenses incurred in notifying
25 students as required in paragraph (1). In addition, the
26 council may impose a penalty of up to five thousand
27 dollars (\$5,000) against the institution and any person
28 found responsible for the failure to provide notice. The
29 amount of the penalty shall be based on the degree of
30 culpability and the ability to pay. Any order may impose
31 joint and several liability. Before any order is made
32 pursuant to this paragraph, the council shall provide
33 written notice to the institution and any person from
34 whom the council seeks recovery of the council's claim
35 and of the right to request a hearing within 30 days of the
36 service of the notice.

37 If a hearing is not requested within 30 days of service
38 of the notice, the council may order payment in the
39 amount of the claim. If a hearing is requested, Chapter 5
40 (commencing with Section 11500) of Part 1 of Division 3



1 of Title 2 of the Government Code shall apply, and the
2 council shall have all of the powers therein prescribed.
3 Within 30 days after the effective date of the issuance of
4 an order, the council may enforce the order in the same
5 manner as if it were a money judgment pursuant to Title
6 9 (commencing with Section 680.010) of Part 2 of the
7 Code of Civil Procedure. All penalties and
8 reimbursements paid pursuant to this section shall be
9 deposited in the Private Postsecondary and Vocational
10 Education Administration Fund established pursuant to
11 Section 94932 or any successor fund.

12 (d) (1) Students entitled to payment as provided in
13 paragraph (1) of subdivision (a) shall file with the council
14 a verified application indicating each of the following:

15 (A) The student's name, address, telephone number,
16 and social security number.

17 (B) If any portion of the tuition was paid from the
18 proceeds of a loan, the name of the lender, and any state
19 or federal agency that guaranteed or reinsured the loan.

20 (C) The amount of the prepaid tuition, the amount
21 and description of the student's loss, and the amount of
22 the student's claim.

23 (D) The date the student started and ceased attending
24 the institution.

25 (E) A description of the reasons the student ceased
26 attending the institution.

27 (F) If the student ceased attending because of a
28 breach or anticipatory breach or because of the decline
29 in the quality or value of the course of instruction as
30 described in subparagraph (E) of paragraph (1) of
31 subdivision (a), a statement describing in detail the
32 nature of the loss incurred. The application shall be filed
33 within one year of the council's service on the student of
34 the notice described in paragraph (1) of subdivision (c)
35 or, if no notice is served, within four years of the
36 institution's closure.

37 (2) Students entitled to payment as provided in
38 paragraph (2) of subdivision (a) shall file with the council
39 a verified application indicating the student's name,
40 address, telephone number, and social security number,



1 the amount of the judgment obtained against the
2 institution, a statement that the judgment cannot be
3 collected, and a description of the efforts attempted to
4 enforce the judgment. The application shall be
5 accompanied by a copy of the judgment and any other
6 documents indicating the student's efforts made to
7 enforce the judgment.

8 The application shall be filed within two years after the
9 date upon which the judgment became final.

10 (3) The council may require additional information
11 designed to facilitate payment to entitled students. The
12 council shall relieve a student from the requirement to
13 provide all of the information required by this subdivision
14 if the council has the information or the information is not
15 reasonably necessary for the resolution of a student's
16 claim.

17 (e) Within 60 days of the council's receipt of a
18 completed application for payment, the council shall pay
19 the claim from the Student Tuition Recovery Fund or
20 deny the claim. The council, for good cause, may extend
21 the time period for up to an additional 90 days to
22 investigate the accuracy of the claim.

23 (f) (1) If the council pays the claim, the amount of the
24 payment shall be (A) the greater of either (i) the total
25 guaranteed student loan debt incurred by the student in
26 connection with attending the institution, or (ii) the total
27 of the student's tuition and the cost of equipment and
28 materials related to the course of instruction, less (B) the
29 amount of any refund, reimbursement, indemnification,
30 restitution, compensatory damages, settlement, debt
31 forgiveness, discharge, cancellation, or compromise, or
32 any other benefit received by, or on behalf of, the student
33 before the council's payment of the claim in connection
34 with the student loan debt or cost of tuition, equipment,
35 and materials. The payment also shall include the amount
36 the institution collected and failed to pay to third parties
37 on behalf of the student for license fees or any other
38 purpose. However, if the claim is based solely on the
39 circumstances described in subparagraph (B) or (C) of
40 paragraph (1) of subdivision (a), the amount of the



1 payment shall be the amount of the loss suffered by the
2 student.

3 In addition to the amount determined under this
4 paragraph, the amount of the payment shall include all
5 interest and collection costs on all student loan debt
6 incurred by the student in connection with attending the
7 institution.

8 (2) The council may reduce the total amount specified
9 in paragraph (1) by the value of the benefit, if any, of the
10 education obtained by the student before the closure of
11 the institution. If the council makes any reduction
12 pursuant to this paragraph, the council shall notify the
13 claimant in writing at the time the claim is paid of the
14 basis of its decision and provide a brief explanation of the
15 reasons upon which the council relied in computing the
16 amount of the reduction.

17 (3) No reduction shall be made to the amount
18 specified in paragraph (1) if (A) the student did not
19 receive adequate instruction to obtain the training, skills,
20 or experience, or employment to which the instruction
21 was represented to lead, or (B) credit for the instruction
22 obtained by the student is not generally transferable to
23 other institutions approved by the council.

24 (4) The amount of the payment determined under
25 this subdivision is not dependent on the amount of the
26 refund to which the student would have been entitled
27 after a voluntary withdrawal.

28 (5) Upon payment of the claim, all of the student's
29 rights against the institution shall be deemed assigned to
30 the council to the extent of the amount of the payment.

31 (g) (1) The director of the council may negotiate with
32 a lender, holder, guarantee agency, or the United States
33 Department of Education for the full compromise or
34 write-off of student loan obligations to relieve students of
35 loss and thereby reduce the amount of student claims.

36 (2) The director of the council, with the student's
37 permission, may pay a student's claim directly to the
38 lender, holder, guarantee agency, or the United States
39 Department of Education under a federally guaranteed
40 student loan program only if the payment of the claim



1 fully satisfies all of the student's loan obligations related
2 to attendance at the institution for which the claim was
3 filed.

4 (3) Notwithstanding subdivision (e), the council may
5 delay the payment of a claim pending the resolution of
6 the council's attempt to obtain a compromise or write-off
7 of the claimant's student loan obligation. However, the
8 council shall immediately pay the claim in the event any
9 adverse action that is not stayed is taken against the
10 claimant, including the commencement of a civil or
11 administrative action, tax offset, the enforcement of a
12 judgment, or the denial of any government benefit.

13 (h) If the council denies the claim, or reduces the
14 amount of the claim pursuant to paragraph (2) of
15 subdivision (f), the council shall notify the student of the
16 denial or reduction and of the student's right to request
17 a hearing within 60 days or any longer period permitted
18 by the council. If a hearing is not requested within 60 days
19 or any additional period reasonably requested by the
20 student, the council's decision shall be final. If a hearing
21 is requested, Chapter 5 (commencing with Section
22 11500) of Part 1 of Division 3 of Title 2 of the Government
23 Code shall apply.

24 It is the intent of the Legislature that, when a student
25 is enrolled in an institution that closes prior to the
26 completion of the student's program, the student shall
27 have the option for a teach-out at another institution
28 approved by the council. The council shall seek to
29 promote teach-out opportunities wherever possible and
30 shall inform the student of his or her rights, including
31 payment from the fund, transfer opportunities, and
32 available teach-out opportunities, if any.

33 (i) This section applies to all claims filed or pending
34 under former Chapter 7 (commencing with Section
35 94700) after January 1, 1990.

36 94945. (a) The council shall assess each institution
37 that collects any moneys in advance of rendering
38 services.

39 (1) The amount assessed each institution shall be
40 calculated only for those students who are California



1 residents and who are eligible to be reimbursed from the
 2 fund. It shall be based on the actual amount charged each
 3 of these students for total course cost, regardless of the
 4 portion that is prepaid. The assessment shall be as follows:

5 (A) For a total course cost of one cent (\$0.01) to ~~two~~
 6 *nine hundred ninety-nine dollars and ninety-nine cents*
 7 *(\$999.99), inclusive, the assessment is one dollar (\$1) per*
 8 *student.*

9 (B) For a total course cost of one thousand dollars
 10 (\$1,000) to two thousand nine hundred ninety-nine
 11 dollars and ninety-nine cents (\$2,999.99), inclusive, the
 12 assessment is two dollars and fifty cents (\$2.50) per
 13 student.

14 ~~(B)~~

15 (C) For a total course cost of three thousand dollars
 16 (\$3,000) to five thousand nine hundred ninety-nine
 17 dollars and ninety-nine cents (\$5,999.99), inclusive, the
 18 assessment is three dollars and fifty cents (\$3.50) per
 19 student.

20 ~~(C)~~

21 (D) For a total course cost of six thousand dollars
 22 (\$6,000) to eight thousand nine hundred ninety-nine
 23 dollars and ninety-nine cents (\$8,999.99), inclusive, the
 24 assessment is four dollars and fifty cents (\$4.50) per
 25 student.

26 ~~(D)~~

27 (E) For a total course cost of nine thousand dollars
 28 (\$9,000) or more, the assessment is five dollars and fifty
 29 cents (\$5.50) per student.

30 (2) The council shall levy additional reasonable
 31 assessments only if they are required to ensure that
 32 sufficient funds are available to satisfy the anticipated
 33 costs of paying student claims pursuant to Section 94944.

34 (3) The assessments shall be paid into the Student
 35 Tuition Recovery Fund and credited to the appropriate
 36 account in the fund, and the deposits shall be allocated,
 37 except as otherwise provided for in this chapter, solely for
 38 the payment of valid claims to students. Unless additional
 39 reasonable assessments are required, no assessments for
 40 the degree-granting postsecondary educational



1 institution account shall be levied during any fiscal year
2 if, as of June 30 of the prior fiscal year, the balance in that
3 account of the fund exceeds one million dollars
4 (\$1,000,000). Unless additional reasonable assessments
5 are required, no assessments for the vocational
6 educational institution account shall be levied during any
7 fiscal year if, as of June 30 of the prior fiscal year, the
8 balance in that account exceeds three million dollars
9 (\$3,000,000). *Unless additional reasonable assessments*
10 *are required, no assessments for the account for*
11 *institutions approved under any provision of this chapter*
12 *that charge each enrolled student a total charge, as*
13 *defined in subdivision (k) of Section 94852, of less than*
14 *one thousand dollars (\$1,000) shall be levied during any*
15 *fiscal year if, as of June 30 of the prior fiscal year, the*
16 *balance in that account exceeds three hundred thousand*
17 *dollars (\$300,000). However, regardless of the balance in*
18 *the fund, assessments shall be made on any newly*
19 *approved institution for a period established pursuant to*
20 *regulation by the council. Notwithstanding Section 13340*
21 *of the Government Code, the moneys so deposited in the*
22 *fund are continuously appropriated to the council for the*
23 *purpose of paying claims to students pursuant to Section*
24 *94944.*

25 (b) The council may deduct from the fund the
26 reasonable costs of administration of the tuition recovery
27 program authorized by Section 94944 and this section.
28 The maximum amount of administrative costs that may
29 be deducted from the fund, in a fiscal year, shall not
30 exceed one hundred thousand dollars (\$100,000) from the
31 degree-granting postsecondary educational institution
32 account ~~and~~, three hundred thousand dollars (\$300,000)
33 from the vocational educational institution account, *and*
34 *thirty thousand dollars (\$30,000) from the account for*
35 *institutions approved under any provision of this chapter*
36 *that charge each enrolled student a total charge, as*
37 *defined in subdivision (k) of Section 94852, of less than*
38 *one thousand dollars (\$1,000), plus the interest earned on*
39 *money in the fund that is credited to the fund. Prior to the*
40 *council's expenditure of any amount in excess of one*



1 hundred thousand dollars (\$100,000) from the fund for
 2 administration of the tuition recovery program, the
 3 council shall develop a plan itemizing that expenditure.
 4 The plan shall be subject to the approval of the
 5 Department of Finance. Institutions, except for schools of
 6 cosmetology licensed pursuant to Article 8 (commencing
 7 with Section 7362) of Chapter 10 of Division 3 of the
 8 Business and Professions Code and institutions that offer
 9 vocational or job training programs, that meet the
 10 student tuition indemnification requirements of a
 11 California state agency, or that demonstrate to the
 12 council that an acceptable alternative method of
 13 protecting their students against loss of prepaid tuition
 14 has been established, shall be exempted from this section.

15 (c) Reasonable costs in addition to those permitted
 16 under subdivision (___) may be deducted from the fund
 17 for any of the following purposes:

18 (1) To make and maintain copies of student records
 19 from institutions which close.

20 (2) To reimburse the council or a third party serving
 21 as the custodian of records.

22 (3) To review records in order to determine whether
 23 a student improperly received a loan due to false
 24 certification, in which case the student would be eligible
 25 for a loan write-off or discharge in lieu of reimbursement
 26 in whole or in part from the fund.

27 (d) In the event of a closure by any approved
 28 institution under this chapter, any assessments that have
 29 been made against those institutions, but have not been
 30 paid into the fund, shall be recovered. Any payments
 31 from the fund made to students on behalf of any
 32 institution shall be recovered from that institution.

33 (e) In addition to civil remedies, the council may order
 34 an institution to pay previously unpaid assessments or to
 35 reimburse the council for any payments made from the
 36 fund in connection with the institution. Before any order
 37 is made pursuant to this section, the council shall provide
 38 written notice to the institution and notice of the
 39 institution's right to request a hearing within 30 days of
 40 the service of the notice. If a hearing is not requested



1 within 30 days of the service of the notice, the council may
2 order payment. If a hearing is requested, Chapter 5
3 (commencing with Section 11500) of Part 1 of Division 3
4 of Title 2 of the Government Code shall apply, and the
5 council shall have all powers prescribed in that chapter.
6 Within 30 days after the effective date of the issuance of
7 the order, the council may enforce the order in the same
8 manner as if it were a money judgment pursuant to Title
9 9 (commencing with Section 680.010) of Part 2 of the
10 Code of Civil Procedure.

11 (f) In addition to any other action that the council may
12 take under this chapter, the council may suspend or
13 revoke an institution's approval to operate because of the
14 institution's failure to pay assessments when due or failure
15 to pay reimbursement for any payments made from the
16 fund within 30 days of the council's demand for payment.

17 (g) The moneys deposited in the fund is exempt from
18 execution and shall not be the subject of litigation or
19 liability on the part of creditors of those institutions or
20 students.

21 (h) *Claims for approved institutions that charge each*
22 *enrolled student a total charge, as defined in subdivision*
23 *(k) of Section 94852, of less than one thousand dollars*
24 *(\$1,000) shall be paid from (1) the account established for*
25 *these institutions if the claim relates to a period of student*
26 *enrollment beginning on or after the effective date of this*
27 *section, or (2) the vocational educational institution*
28 *account if the claim relates to a period of student*
29 *enrollment that began before the effective date of this*
30 *section.*

31 (i) This section shall become inoperative on January 1,
32 1999, and on that date is repealed unless a later enacted
33 statute, which becomes effective on or before January 1,
34 1999, deletes or extends these dates.

35 94945. (a) The council shall assess each institution
36 that collects any moneys in advance of rendering
37 services.

38 (1) The amount assessed each institution shall be
39 calculated only for those students who are California
40 residents and who are eligible to be reimbursed from the



1 fund. It shall be based on the actual amount charged each
2 of these students for total course cost, regardless of the
3 portion that is prepaid. The assessment shall be as follows:

4 (A) For a total course cost of one cent (\$0.01) to two
5 thousand nine hundred ninety-nine dollars and
6 ninety-nine cents (\$2,999.99), inclusive, the assessment is
7 two dollars and fifty cents (\$2.50) per student.

8 (B) For a total course cost of three thousand dollars
9 (\$3,000) to five thousand nine hundred ninety-nine
10 dollars and ninety-nine cents (\$5,999.99), inclusive, the
11 assessment is three dollars and fifty cents (\$3.50) per
12 student.

13 (C) For a total course cost of six thousand dollars
14 (\$6,000) to eight thousand nine hundred ninety-nine
15 dollars and ninety-nine cents (\$8,999.99), inclusive, the
16 assessment is four dollars and fifty cents (\$4.50) per
17 student.

18 (D) For a total course cost of nine thousand dollars
19 (\$9,000) or more, the assessment is five dollars and fifty
20 cents (\$5.50) per student.

21 (2) The council shall levy additional reasonable
22 assessments only if they are required to ensure that
23 sufficient funds are available to satisfy the anticipated
24 costs of paying student claims pursuant to Section 94944.

25 (3) The assessments shall be paid into the Student
26 Tuition Recovery Fund and credited to the appropriate
27 account in the fund, and the deposits shall be allocated,
28 except as otherwise provided for in this chapter, solely for
29 the payment of valid claims to students. Unless additional
30 reasonable assessments are required, no assessments for
31 the degree-granting postsecondary educational
32 institution account shall be levied during any fiscal year
33 if, as of June 30 of the prior fiscal year, the balance in that
34 account of the fund exceeds one million dollars
35 (\$1,000,000). Unless additional reasonable assessments
36 are required, no assessments for the vocational
37 educational institution account shall be levied during any
38 fiscal year if, as of June 30 of the prior fiscal year, the
39 balance in that account exceeds three million dollars
40 (\$3,000,000). However, regardless of the balance in the



1 fund, assessments shall be made on any newly approved
2 institution. Notwithstanding Section 13340 of the
3 Government Code, the moneys so deposited in the fund
4 are continuously appropriated to the council for the
5 purpose of paying claims to students pursuant to Section
6 94944.

7 (b) The council may deduct from the fund the
8 reasonable costs of administration of the tuition recovery
9 program authorized by Section 94944 and this section.
10 The maximum amount of administrative costs that may
11 be deducted from the fund, in a fiscal year, shall not
12 exceed one hundred thousand dollars (\$100,000) from the
13 degree-granting postsecondary educational institution
14 account and three hundred thousand dollars (\$300,000)
15 from the vocational educational institution account, plus
16 the interest earned on money in the fund that is credited
17 to the fund. Prior to the council's expenditure of any
18 amount in excess of one hundred thousand dollars
19 (\$100,000) from the fund for administration of the tuition
20 recovery program, the council shall develop a plan
21 itemizing that expenditure. The plan shall be subject to
22 the approval of the Department of Finance. Institutions,
23 except for schools of cosmetology licensed pursuant to
24 Article 8 (commencing with Section 7362) of Chapter 10
25 of Division 3 of the Business and Professions Code and
26 institutions that offer vocational or job training programs,
27 that meet the student tuition indemnification
28 requirements of a California state agency, or that
29 demonstrate to the council that an acceptable alternative
30 method of protecting their students against loss of
31 prepaid tuition has been established, shall be exempted
32 from this section.

33 (c) Reasonable costs in addition to those permitted
34 under subdivision (___) may be deducted from the fund
35 for any of the following purposes:

36 (1) To make and maintain copies of student records
37 from institutions which close.

38 (2) To reimburse the council or a third party serving
39 as the custodian of records.



1 (d) In the event of a closure by any approved
2 institution under this chapter, any assessments that have
3 been made against those institutions, but have not been
4 paid into the fund, shall be recovered. Any payments
5 from the fund made to students on behalf of any
6 institution shall be recovered from that institution.

7 (e) In addition to civil remedies, the council may order
8 an institution to pay previously unpaid assessments or to
9 reimburse the council for any payments made from the
10 fund in connection with the institution. Before any order
11 is made pursuant to this section, the council shall provide
12 written notice to the institution and notice of the
13 institution's right to request a hearing within 30 days of
14 the service of the notice. If a hearing is not requested
15 within 30 days of the service of the notice, the council may
16 order payment. If a hearing is requested, Chapter 5
17 (commencing with Section 11500) of Part 1 of Division 3
18 of Title 2 of the Government Code shall apply, and the
19 council shall have all powers prescribed in that chapter.
20 Within 30 days after the effective date of the issuance of
21 the order, the council may enforce the order in the same
22 manner as if it were a money judgment pursuant to Title
23 9 (commencing with Section 680.010) of Part 2 of the
24 Code of Civil Procedure.

25 (f) In addition to any other action that the council may
26 take under this chapter, the council may suspend or
27 revoke an institution's approval to operate because of the
28 institution's failure to pay assessments when due or failure
29 to pay reimbursement for any payments made from the
30 fund within 30 days of the council's demand for payment.

31 (g) The moneys deposited in the fund shall be exempt
32 from execution and shall not be the subject of litigation
33 or liability on the part of creditors of those institutions or
34 students.

35 (h) This section shall become operative on January 1,
36 1999.

37 94946. (a) Any institution that willfully violates
38 Section 94945 shall be subject to all of the following:



1 (1) The institution shall lose all rights to enforce the
2 terms of any contract or agreement arising from the
3 transaction in which the violation occurred.

4 (2) The institution shall refund to the student any fees
5 that it has collected from that student.

6 (b) An institution's willful violation of Section 94945
7 may be grounds for the revocation of that institution's
8 approval to operate in this state.

9 94947. Students enrolling in institutions that come
10 under Sections 94944 and 94945, shall disclose in writing,
11 if applicable, the source of any and all guaranteed or
12 insured loans granted for the purposes of paying tuition
13 to that institution. In the event of a closure of any
14 institution, the council shall provide any lending
15 institution that is the source of any guaranteed or insured
16 student loan with the names of students maintaining
17 loans with that lending institution.

18 94948. (a) The governing board or other governing
19 authority of any private postsecondary or vocational
20 educational institution shall adopt rules providing for the
21 withholding of institutional services from students or
22 former students who have been notified, in writing, at the
23 student's or former student's last known address, that he
24 or she is in default on a loan or loans under either of the
25 following loan programs:

26 (1) The Stafford Student Loan program.

27 (2) The Supplemental Loans for Students program.

28 (3) Any program directly or indirectly financed by the
29 California Educational Facilities Authority.

30 "Default," as used in this section, with respect to a loan
31 under the Stafford Student Loan program or
32 Supplemental Loans for Students program means the
33 failure of a borrower to make an installment payment
34 when due, or to meet other terms of the promissory note
35 under circumstances where the guarantee agency finds
36 it reasonable to conclude that the borrower no longer
37 intends to honor the obligation to repay, provided that
38 this failure persists for 180 days for a loan repayable in
39 monthly installments, or 240 days for a loan repayable in
40 less frequent installments. "Default," as used in this



1 section, with respect to a program directly or indirectly
2 financed by the California Educational Facilities
3 Authority, means the failure of a borrower to make an
4 installment payment when due, or to meet other terms
5 of the loan, within that period and under the
6 circumstances determined by the California Educational
7 Facilities Authority with respect to that program.

8 (b) The rules adopted pursuant to subdivision (a) shall
9 provide that the services withheld may be provided
10 during a period when the facts are in dispute and when
11 the student or former student demonstrates to either the
12 governing board or other appropriate governing
13 authority of the institution, or the Student Aid
14 Commission and the appropriate entity or its designee,
15 that reasonable progress has been made to repay the loan
16 or that there exists a reasonable justification for the delay
17 as determined by the institution. The rules shall specify
18 the services to be withheld from the student and may
19 include, but are not limited to, the following:

20 (1) The provision of grades.

21 (2) The provision of transcripts.

22 (3) The provision of diplomas.

23 The rules shall not include the withholding of
24 registration privileges.

25 (c) When it has been determined that an individual is
26 in default on a loan or loans under either of the loan
27 programs specified in subdivision (a), the Student Aid
28 Commission shall give notice of the default to all
29 institutions through which that individual acquired the
30 loan or loans.

31 (d) Guarantors, or those who act as their agents or act
32 under their control, who provide information to
33 institutions pursuant to this section, shall defend,
34 indemnify, and hold harmless the governing board or
35 other governing authority of the institutions from action
36 resulting from compliance with this section when the
37 action arises as a result of incorrect, misleading, or
38 untimely information provided to the institution by the
39 guarantors, their agents, or those acting under the control
40 of the guarantors.



1 Article 13. Administrative and Judicial Procedures

2
3 94950. (a) The procedures set forth in Section 94965
4 or, alternatively, in Section 94975 govern the following
5 types of administrative actions:

6 (1) Denial of an application for an approval or renewal
7 of an approval.

8 (2) Suspension or revocation of an existing approval.

9 (3) Appeals of conditional approvals.

10 (b) In lieu of the procedures set forth in Section 94965
11 or 94975, an institution may voluntarily elect to utilize the
12 procedures set forth in Section 94980 if it appeals a
13 conditional approval by the council.

14 (c) The procedures set forth in Section 94970 govern
15 emergency suspensions of an institution's approval to
16 operate initiated by the council.

17 (d) Sections 94952 and 94955 authorize the council and
18 the Attorney General to seek various forms of judicial
19 relief in order to enforce this chapter.

20 (e) Section 94960 governs actions based on student
21 complaints.

22 (f) Section 94985 authorizes civil remedies for
23 individual students in addition to those available under
24 other provisions of law.

25 (g) Procedures established pursuant to regulations
26 adopted by the council shall govern the following types
27 of administrative appeals:

28 (1) Probationary actions.

29 (2) Decisions by the council denying an institution's
30 claim for an exemption or exclusion from this chapter or
31 any provision thereof.

32 94952. (a) The Attorney General, or any district
33 attorney, or city attorney, may make investigations as
34 may be necessary to carry out this chapter, including, but
35 not limited to, investigations of complaints. The council
36 may jointly bring actions as necessary to enforce this
37 chapter, including, but not limited to, civil actions for
38 injunctive relief. In actions brought pursuant to this
39 subdivision, the council shall be represented by the
40 Attorney General.

1 (b) The Attorney General shall represent the council
2 in the following administrative proceedings arising under
3 this chapter:

4 (1) Suspension or revocation of an institution's
5 approval.

6 (2) Denial of an institution's application for approval.

7 (3) An appeal of a conditional approval to operate
8 issued following a review of an institution's application for
9 approval.

10 (c) Nothing in this section or this chapter shall
11 preclude the Attorney General, or any district attorney
12 or city attorney, from any of the following:

13 (1) Bringing any action on behalf of the people as he
14 or she is empowered by law to bring, including, but not
15 limited to, actions based upon alleged violations of
16 Chapter 5 (commencing with Section 17200) of Part 2,
17 and Chapter 1 (commencing with Section 17500) of Part
18 3, of Division 7 of the Business and Professions Code.

19 (2) Conducting investigations necessary to determine
20 whether there have been violations of law specified in
21 paragraph (1).

22 (3) Conducting any investigations that he or she is
23 authorized to conduct, including, but not limited to,
24 investigations authorized under Section 11180 of the
25 Government Code.

26 (4) In the case of the Attorney General, delegating his
27 or her representation authority under subdivision (b) to
28 staff attorneys of the council.

29 (5) Entering into an agreement or understanding with
30 the council with respect to representation in any judicial
31 or administrative proceeding not expressly enumerated
32 herein.

33 94955. (a) The council may bring an action for
34 equitable relief for any violation of this chapter. The
35 equitable relief may include restitution, a temporary
36 restraining order, the appointment of a receiver, and a
37 preliminary or permanent injunction. The action may be
38 brought in the county in which the defendant resides or
39 in which any violation has occurred or may occur.



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

4 (c) In actions brought pursuant to this section, the
5 council shall be represented by the Attorney General.

6 94960. (a) Any person claiming damage or loss as a
7 result of any act or practice by a postsecondary or
8 vocational educational institution or its agent, or both,
9 that is a violation of this chapter or of the rules and
10 regulations adopted pursuant to this chapter, may file
11 with the council a verified complaint against that
12 institution or its agent, or both.

13 The complaint shall set forth the alleged violation and
14 shall contain any other information as may be required by
15 the council.

16 (b) The council shall investigate any complaint and
17 may attempt to effectuate settlement by persuasion and
18 conciliation.

19 (c) If, upon all the evidence at a hearing, the council
20 finds that an institution or its agent, or both, have
21 engaged in or are engaging in, any act or practice that
22 violates this chapter or the regulations adopted pursuant
23 to this chapter, the council shall report that evidence to
24 the Attorney General. The council, based on its own
25 investigation or the evidence adduced at a hearing, or
26 both, also may commence an action to revoke an
27 institution's approval to operate or an agent's permit.

28 (d) Complaints received by the council pertaining to
29 institutions accredited by the Western Association of
30 Schools and Colleges shall be forwarded to the
31 association. Actions by the council relating to complaints
32 against these institutions shall be limited to the
33 transmittal of this information.

34 (e) A person entitled to bring an action for the
35 recovery of damages or other relief shall not be required
36 to file a complaint pursuant to this section, or to pursue
37 or exhaust any administrative process or remedy before
38 bringing the action.

39 94965. (a) Proceedings in connection with the denial
40 of an application to operate, the grant of a conditional



1 approval to operate, or the revocation of an approval to
2 operate shall be conducted in accordance with Chapter
3 5 (commencing with Section 11500) of Part 1 of Division
4 3 of Title 2 of the Government Code, and the council shall
5 have all of the powers granted in that chapter. Any action
6 by the council to place an institution on probation shall be
7 subject to appeal to the full council, and the council shall
8 establish procedures that provide the institution with
9 adequate notice and an opportunity to be heard and to
10 present evidence as to why the action recommended by
11 staff or by a visiting committee shall not be taken.

12 (b) Upon taking any action to suspend or revoke an
13 institution's approval to operate, or to deny an application
14 for renewal of an approval to operate, the council shall
15 provide written notice to the Student Aid Commission,
16 the United States Department of Education, and to any
17 appropriate accrediting association.

18 94970. (a) If an institution has violated this chapter
19 and determines that immediate action is necessary to
20 protect students, prevent misrepresentations to the
21 public, or prevent the loss of public funds, tuition, or other
22 money paid by students, the council may institute an
23 emergency action to suspend the approval of an
24 institution to operate, or the approval to operate a branch
25 or satellite campus, for not more than 30 days' unless the
26 council initiates a proceeding to suspend or revoke the
27 approval to operate within that period.

28 (b) (1) The council shall provide notice of the
29 emergency action to the institution by certified mail, if
30 the effective date of the emergency action is 10 or more
31 working days after mailing, or personal service, if the
32 effective date of the emergency action is five or more
33 days after service.

34 (2) The notice shall specify all of the following:

35 (A) The violations upon which the emergency action
36 is based.

37 (B) The nature and grounds of the emergency action,
38 including whether the action applies to the continuation
39 of instruction to enrolled students or to the enrollment of
40 new students.



1 (C) The effective date of the action, which shall not be
2 less than five days after the notice is provided.

3 (D) The institution's right to show cause that the
4 emergency action is unwarranted by submitting to the
5 council, at least two days before the effective date of the
6 emergency action, declarations, documentary evidence,
7 and written arguments demonstrating that the violations
8 did not occur or that immediate action is not required.

9 (E) The right of the institution to request, in writing,
10 within 30 days of the service of the notice, a hearing.

11 (c) The council may (1) continue the effective date of
12 an emergency action or (2) terminate the emergency
13 action at any time if the council concludes that the
14 institution has shown cause that the emergency action is
15 unwarranted or that the grounds for instituting the
16 emergency action no longer remain. The council shall
17 provide written notice of a continuance or termination of
18 an emergency action to the institution.

19 (d) (1) If the institution does not take the opportunity
20 to show cause why the emergency action is unwarranted,
21 the emergency action shall become effective on the date
22 specified in the notice or notice of continuance.

23 (2) If the institution takes the opportunity to show
24 cause and the council decides, after a consideration of the
25 declarations, documentary evidence and written
26 argument submitted by the institution, that the
27 emergency action should become effective, the
28 emergency action shall be effective on the date specified
29 in the notice or notice of continuance. The council shall
30 notify the institution of the decision at least one day
31 before the effective date, and the institution may
32 thereafter seek judicial relief upon notice to the council
33 and the Attorney General.

34 (e) (1) If a hearing is requested within the 30-day
35 period specified in subdivision (b) the council shall set a
36 date for the hearing within 20 days after receipt of the
37 request.

38 (2) If the institution does not request a hearing within
39 the 30-day period specified in subdivision (b) or if the
40 council concludes after a hearing requested by the



1 institution that grounds exist for the suspension or
2 revocation of the institution's approval to operate or
3 approval to operate a branch or satellite campus, the
4 council may extend the suspension or revoke the
5 institution's approval to operate or approval to operate a
6 branch or satellite campus, order probation and a penalty,
7 order the posting of a bond, or condition the institution's
8 approval to operate or approval to operate a branch or
9 satellite campus as the council deems appropriate.

10 (f) During the pendency of an emergency action, the
11 council may investigate the institution's compliance with
12 this chapter, including an onsite inspection, and may
13 institute a proceeding pursuant to Section 94878, if
14 applicable, or Section 94965 or 94975 to suspend or revoke
15 an institution's approval to operate or approval to operate
16 a branch or satellite campus, order a bond, or order
17 probation and a penalty, based on any violation of this
18 chapter.

19 (g) This section supplements, but does not supplant,
20 the authority of the council to seek judicial relief,
21 including a temporary restraining order and injunction,
22 to redress any violation of this chapter.

23 94975. (a) This section establishes the procedure for
24 notice and hearing required under this chapter and,
25 except as provided in Section 94970, may be used in lieu
26 of other notice or hearing requirements provided in this
27 chapter.

28 (b) If notice of administrative action is required by this
29 chapter, the council shall serve notice stating the
30 following:

31 (1) The action, including the penalties and
32 administrative sanctions sought.

33 (2) The grounds for the action with sufficient
34 particularity to give notice of the transactions,
35 occurrences, violations, or other matters on which the
36 action is based.

37 (3) The right to a hearing and the time period within
38 which the party subject to the notice may request a
39 hearing in writing. The time period shall not be less than



1 15 days after service of the notice unless a longer period
2 is provided by statute.

3 (4) The right to be present at the hearing, to be
4 represented by counsel, to cross-examine witnesses, and
5 to present evidence.

6 (5) That, if the party subject to the notice does not
7 request a hearing in writing within the time period
8 expressed in the notice, he or she will waive or forfeit his
9 or her right to an administrative hearing and the action
10 will become final.

11 (c) If a party subject to a notice provided pursuant to
12 subdivision (b) requests a hearing in writing within the
13 time period specified in subparagraph (3) of paragraph
14 (b), then within 10 days of receiving this request, the
15 council shall schedule a hearing. The hearing shall be held
16 in a location determined pursuant to Section 11508 of the
17 Government Code. The council shall serve reasonable
18 notice of the time and place for the hearing at least 10
19 days before the hearing. The council may continue the
20 date of the hearing upon a showing of good cause.

21 (d) (1) Any party, including the council, may submit
22 a written request to any other party before the hearing
23 to obtain the names and addresses of any person who has
24 personal knowledge, or who the party receiving the
25 request claims to have personal knowledge, of any of the
26 transactions, occurrences, violations, or other matters
27 that are the basis of the administrative action. In addition,
28 the requesting party shall have the right to inspect and
29 copy any written statement made by that person and any
30 writing, as defined by Section 250 of the Evidence Code,
31 or thing that is in the custody, or under the control, of the
32 party receiving the request and that is relevant and not
33 privileged. This subdivision shall constitute the exclusive
34 method for prehearing discovery. However, nothing in
35 this paragraph shall affect the council's authority, at any
36 time, to investigate, inspect, monitor, or obtain and copy
37 information under any provision of this chapter.

38 (2) The written request described in paragraph (1)
39 shall be made before the hearing and within 30 days of the
40 service of the notice described in subdivision (b). Each



1 recipient of a request shall comply with the request
2 within 15 days of its service by providing the names and
3 addresses requested and by producing at a reasonable
4 time at the council's office, or other mutually agreed
5 reasonable place, the requested writings and things. The
6 council may extend the time for response upon a showing
7 of good cause.

8 (3) Except as provided in this paragraph, no party may
9 introduce the testimony or statement of any person or
10 any writing or thing into evidence at the hearing if that
11 party failed to provide the name and address of the
12 person or to produce the writing or thing for inspection
13 and copying as provided by this subdivision. A party may
14 introduce the testimony, statement, writing, or thing that
15 was not identified or produced as required herein only if
16 there is no objection or if the party establishes that the
17 person, writing, or thing was unknown at the time when
18 the response was made to the written request, the party
19 could not have informed other parties within a reasonable
20 time after learning of the existence of the person, writing,
21 or thing, and no party would be prejudiced by the
22 introduction of the evidence.

23 (e) Before the hearing has commenced, the council
24 shall issue subpoenas at the written request of any party
25 for the attendance of witnesses or the production of
26 documents or other things in the custody or under the
27 control of the person subject to the subpoena. Subpoenas
28 issued pursuant to this section are subject to Section 11510
29 of the Government Code.

30 (f) (1) The council shall designate an impartial
31 hearing officer to conduct the hearing. The hearing
32 officer may administer oaths and affirmations, regulate
33 the course of the hearing, question witnesses, and
34 otherwise investigate the issues, take official notice
35 according to the procedure provided in Division 4
36 (commencing with Section 450) of the Evidence Code of
37 any technical or educational matter in the council's
38 special field of expertise and of any matter that may be
39 judicially noticed, set the time and place for continued
40 hearings, fix the time for the filing of briefs and other



1 documents, direct any party to appear and confer to
2 consider the simplification of issues by consent, and
3 prepare a statement of decision.

4 (2) Neither a hearing officer nor any person who has
5 a direct or indirect interest in the outcome of the hearing
6 shall communicate directly or indirectly with each other
7 regarding any issue involved in the hearing while the
8 proceeding is pending without notice and opportunity for
9 all parties to participate in the communication. A hearing
10 officer who receives any ex parte communication shall
11 immediately disclose the communication to the council
12 and all other parties. The council may disqualify the
13 hearing officer if necessary to eliminate the effect of the
14 ex parte communication. If the council finds that any
15 party willfully violated, or caused the violation of, this
16 paragraph, the council shall enter that party's default and
17 impose the administrative sanction set forth in the notice
18 provided pursuant to subdivision (b).

19 (g) (1) Each party at the hearing shall be afforded an
20 opportunity to present evidence, respond to evidence
21 presented by other parties, cross-examine, and present
22 written argument or, if permitted by the hearing officer,
23 oral argument on the issues involved in the hearing. The
24 council may call any party as a witness who may be
25 examined as if under cross-examination.

26 (2) Each party may appear through its representative
27 or through legal counsel.

28 (3) The technical rules relating to evidence and
29 witnesses shall not apply. However, only relevant
30 evidence is admissible.

31 (4) Oral evidence shall be taken only upon oath or
32 affirmation. The hearing shall be conducted in the
33 English language. The proponent of any testimony to be
34 offered by a witness who is not proficient in English shall
35 provide, at the proponent's cost, an interpreter proficient
36 in English and the language in which the witness will
37 testify.

38 (5) The hearing shall be recorded by tape recording or
39 other phonographic means unless all parties agree to
40 another method of recording the proceedings.



1 (6) (A) At any time 10 or more days before the
2 hearing, any party may serve on the other parties a copy
3 of any declaration that the party proposes to introduce in
4 evidence.

5 (B) The declaration shall be accompanied by a notice
6 indicating the date of service of the notice and stating that
7 the declarations will be offered into evidence, the
8 declarants will not be called as witnesses, and there will
9 be no right of cross-examination unless the party
10 receiving the notice requests the right to cross-examine,
11 in writing, within seven days of the service of the
12 declarations and notice.

13 (C) If no request for cross-examination is served
14 within seven days of the service of the declarations and
15 notice described in subparagraph (B), the right to
16 cross-examination is deemed waived and the declaration
17 shall have the same effect as if the declarant testified
18 orally. Notwithstanding this paragraph, a declaration may
19 be admitted as hearsay evidence without
20 cross-examination.

21 (7) Disposition of any issues involved in the hearing
22 may be made by stipulation or settlement.

23 (8) If a party fails to appear at a hearing, that party's
24 default shall be taken and the party shall be deemed to
25 have waived the hearing and agreed to the administrative
26 action and the grounds for that action described in the
27 notice given pursuant to subdivision (b). The council
28 shall serve the party with an order of default including the
29 administrative action ordered. The order shall be
30 effective upon service or at any other time designated by
31 the council. The council may relieve a party from an
32 order of default if the party applies for relief within 15
33 days after the service of an order of default and establishes
34 good cause for relief. An application for relief from
35 default shall not stay the effective date of the order unless
36 expressly provided by the council.

37 (h) (1) At any time before the matter is submitted for
38 decision, the council may amend the notice provided
39 pursuant to subdivision (b) to set forth any further
40 grounds for the originally noticed administrative action



1 or any additional administrative action and the grounds
2 therefor. The statement of the further grounds for the
3 originally noticed administrative action, or of the grounds
4 for any additional administrative action, shall be made
5 with sufficient particularity to give notice of the
6 transactions, occurrences, violations, or other matters on
7 which the action or additional action is based. The
8 amended notice shall be served on all parties. All parties
9 affected by the amended notice shall be given reasonable
10 opportunity to respond to the amended notice as
11 provided in this section.

12 (2) The council may amend the notice after the case
13 is submitted for decision. The council shall serve each
14 party with notice of the intended amendment and shall
15 provide the party with an opportunity to show that the
16 party will be prejudiced by the amendment unless the
17 case is reopened to permit the party to introduce
18 additional evidence. If prejudice is shown, the council
19 shall reopen the case to permit the introduction of
20 additional evidence.

21 (i) (1) Within 30 days after the conclusion of the
22 hearing or at another time established by the council, the
23 hearing officer shall submit a written statement of
24 decision setting forth a recommendation for a final
25 decision and explaining the factual and legal basis for the
26 decision as to each of the grounds for the administrative
27 action set forth in the notice or amended notice. The
28 council shall serve the hearing officer's statement of
29 decision on each party and its counsel within 10 days of its
30 submission by the hearing officer.

31 (2) The council shall make the final decision which
32 shall be based exclusively on evidence introduced at the
33 hearing. The final decision shall be supported by
34 substantial evidence in the record. The council also shall
35 issue a statement of decision explaining the factual and
36 legal basis for the final decision as to each of the grounds
37 for the administrative action set forth in the notice or
38 amended notice. The council shall issue an order based on
39 its decision which shall be effective upon service or at any
40 other time designated by the council. The council shall



1 serve a copy of the final decision and order, within 10 days
2 of their issuance, on each party and its counsel.

3 (3) The council may hold a closed session to deliberate
4 on a decision to be reached based upon evidence
5 introduced at the hearing.

6 (4) The council shall serve a certified copy of the
7 complete record of the hearing, or any part thereof
8 designated by a party, within 30 days after receiving the
9 party's written request and payment of the cost of
10 preparing the requested portions of the record. The
11 complete record shall include all notices and orders
12 issued by the council, a transcript of the hearing, the
13 exhibits admitted or rejected, the written evidence and
14 any other papers in the case, the hearing officer's
15 statement of decision, and the final decision and order.

16 (j) The council shall serve all notices and other
17 documents that are required to be served by this section
18 on each party by personal delivery, by certified mail,
19 return receipt requested, or by any other means
20 designated by the council.

21 (k) (1) Any party aggrieved by the council's final
22 decision and order may seek judicial review by filing a
23 petition for a writ of mandate pursuant to Section 1085 of
24 the Code of Civil Procedure within 30 days of the issuance
25 of the final decision and order. If review is not sought
26 within that period, the party's right to review shall be
27 deemed waived.

28 (2) The aggrieved party shall present the complete
29 record of the hearing or all portions of the record
30 necessary for the court's review of the council's final
31 decision and order. The court shall deny the petition for
32 a writ of mandate if the record submitted by the party is
33 incomplete. The court shall not consider any matter not
34 contained in the record. The factual basis supporting the
35 final decision set forth in the council's statement of
36 decision shall be conclusive if supported by substantial
37 evidence on the record considered as a whole.

38 (3) The final order shall not be stayed or enjoined
39 during review except upon the court's grant of an order
40 on a party's application after due notice to the council and



1 the Attorney General. The order shall be granted only if
2 the party establishes the substantial likelihood that it will
3 prevail on the merits and posts a bond sufficient to
4 protect fully the interests of the students, the council, and
5 the fund, from any loss.

6 (l) The council may adopt regulations establishing
7 alternative means of providing notice and an opportunity
8 to be heard in circumstances in which a full hearing is not
9 required by law.

10 (m) For the purposes of this section, “good cause” shall
11 require sufficient ground or reason for the determination
12 to be made by the council.

13 94980. (a) If the council, through the executive
14 director, denies an institution’s application for approval,
15 grants a conditional approval, or initiates a proceeding to
16 suspend or revoke an institution’s approval to operate,
17 the institution may request a hearing pursuant to this
18 section in lieu of the hearing procedure designated by the
19 council under Section 94965 or 94975.

20 (b) At the time the council provides notice to an
21 institution of its right to a hearing under Section 94965 or
22 94975 in connection with the denial of an application for
23 approval to operate, the issuance of a conditional
24 approval to operate, or a proposed suspension or
25 revocation of approval to operate, the council also shall
26 provide notice of the provisions of this section.

27 (c) Within 15 days after service of the notice described
28 in subdivision (b), the institution may request in writing
29 a hearing under this section in lieu of the hearing
30 procedure in Section 94965 or 94975. The request shall
31 acknowledge that by electing to proceed under this
32 section, the institution is knowingly waiving all rights
33 under the hearing procedure otherwise provided by the
34 council.

35 (d) After receiving the institution’s request for a
36 hearing under this section, the council shall provide the
37 institution or its representative with copies of all the
38 documents, testimony in declaration form, and written
39 arguments on which the council relies to support its
40 proposed administrative action.



1 (e) The institution shall have 30 days from the service
2 of the council's written evidence and arguments to
3 submit all the documents, testimony in declaration form,
4 and written arguments on which the institution relies in
5 opposition to the council's proposed administrative
6 action.

7 (f) Neither the council nor the institution has any right
8 to discovery or to compel the production of documents or
9 the testimony of witnesses by subpoena.

10 (g) The executive director shall review all of the
11 documents, declarations, and arguments and shall render
12 a proposed decision in writing based solely on the written
13 evidence and arguments that set forth the proposed
14 administrative action and the factual and legal bases for
15 it.

16 (h) Within 10 days of the service of the executive
17 director's decision, the institution may request in writing
18 to have the matter reviewed by the members of the
19 council and may also request oral argument, as described
20 in subdivision (i). If a timely request for review is not
21 submitted, the executive director's decision shall be
22 deemed the final decision of the council. If a timely
23 request for review is submitted without a request for oral
24 argument, the right to make oral argument is deemed
25 waived.

26 (i) If a timely request for review is made, the matter
27 shall be considered by the members of the council based
28 solely on the written evidence and arguments submitted
29 to the executive director and, if oral argument was timely
30 requested, any oral argument permitted by the council.
31 No new evidence may be presented during oral
32 argument. An institution requesting oral argument shall
33 receive at least 10 days advance notice of the council
34 meeting at which time oral argument may be made. The
35 council members may deliberate on the decision to be
36 reached in a closed session as provided in paragraph (3)
37 of subdivision (c) of Section 11126 of the Government
38 Code. The council shall issue its final decision within 30
39 days after the council meeting at which the matter was
40 reviewed. The executive director's proposed decision



1 shall be sustained if it is supported by substantial evidence
2 on the record considered as a whole.

3 (j) The council shall serve the institution with a
4 written decision setting forth the administrative action
5 taken and the legal and factual bases for it. The decision
6 shall become final within 30 days unless another time is
7 specified by the council.

8 (k) The council shall serve a certified copy of the
9 complete record, or any part thereof designated by an
10 institution, within 30 days after receiving the institution's
11 written request and payment of the cost of preparing the
12 requested record or portions thereof. The complete
13 record shall consist of all notices and orders of the council,
14 the documents, declarations, and written argument
15 submitted, a transcript of any oral argument, and the final
16 decision and order.

17 (l) Any party aggrieved by the council's final decision
18 and order may seek judicial review as provided in, and
19 subject to, the requirements of subdivision (k) of Section
20 94975.

21 (m) All documents required by this section to be
22 served by the council shall be served on the institution,
23 its counsel, or authorized representative by any means
24 authorized for service pursuant to Chapter 5
25 (commencing with Section 1010) of Title 14 of Part 2 of
26 the Code of Civil Procedure.

27 94985. (a) Any institution that willfully violates any
28 provision of Section 94800, 94810, 94814, or 94816, Sections
29 94820 to 94826, inclusive, Section 94829, 94831, or 94832
30 may not enforce any contract or agreement arising from
31 the transaction in which the violation occurred, and any
32 willful violation is a ground for revoking an approval to
33 operate in this state or for denying a renewal application.

34 (b) Notwithstanding any provision of the contract or
35 agreement, a student may bring an action for a violation
36 of this article or for an institution's failure to perform its
37 legal obligations and, upon prevailing thereon, is entitled
38 to the recovery of damages, equitable relief, or any other
39 relief authorized by this article, and reasonable attorney's
40 fees and costs.



1 (c) If a court finds that a violation was willfully
2 committed or that the institution failed to refund all
3 consideration as required by subdivision (b) on the
4 student's written demand, the court, in addition to the
5 relief authorized under subdivision (b), shall award a civil
6 penalty of up to two times the amount of the damages
7 sustained by the student.

8 (d) The remedies provided in this article supplement,
9 but do not supplant, the remedies provided under any
10 other provision of law.

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

14 (f) Any provision in any agreement that purports to
15 require a student to invoke any grievance dispute
16 procedure established by the institution before enforcing
17 any right or remedy is void and unenforceable.

18 (g) A student may assign his or her cause of action for
19 a violation of this article to the council, or to any state or
20 federal agency that guaranteed or reinsured a loan for the
21 student or that provided any grant or other financial aid.

22 (h) This section applies to any action pending on the
23 effective date of this section.

24 (i) This section supplements but does not supplant, the
25 authority granted the Division of Labor Law
26 Enforcement under Section 1700.4 of the Labor Code to
27 the extent that placement activities of trade schools are
28 subject to regulation by the division under the Labor
29 Code.

30

31

Article 14. Council Reports

32

33 94990. On or before January 1, 2001, and every five
34 years thereafter, the California Postsecondary Education
35 Commission shall review the effectiveness of this chapter,
36 and notwithstanding Section 7550.5 of the Government
37 Code, shall report to the Legislature on the results of this
38 review.

39 The commission shall present any recommendations
40 for revising this chapter as it deems appropriate.



1 94995. (a) Notwithstanding Section 7550.5 of the
2 Government Code, on or before January 31 of each
3 calendar year, the council shall submit a written report to
4 the Legislature and to the California Postsecondary
5 Education Commission, summarizing its activities during
6 the previous fiscal year.

7 (b) Annual reports prepared pursuant to this section
8 shall include, but shall not necessarily be limited to, all of
9 the following:

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

12 (2) Statistics providing a composite picture of the
13 private postsecondary educational community, including
14 data on how many schools, as classified by subject matter,
15 and how many students there are within the scope of the
16 activities of the council.

17
18 Article 15. Severability

19
20 94998. The provisions of this chapter are severable. If
21 any provision of this chapter or its application is held
22 invalid, that invalidity shall not affect other provisions or
23 applications that can be given effect without the invalid
24 provision or application.

25
26 Article 16. Termination

27
28 94999. This chapter shall become operative on July 1,
29 1997, and as of January 1, 2003, is repealed, unless a later
30 enacted statute, that is enacted before January 1, 2003,
31 deletes or extends that date.

32 SEC. 4. Section 1095 of the Unemployment Insurance
33 Code is amended to read:

34 1095. The director shall permit the use of any
35 information in his or her possession to the extent
36 necessary for any of the following purposes:

37 (a) To properly present a claim for benefits.

38 (b) To acquaint a worker or his or her authorized
39 agent with his or her existing or prospective right to
40 benefits.

- 1 (c) To furnish an employer or his or her authorized
2 agent with information to enable him or her to fully
3 discharge his or her obligations or safeguard his or her
4 rights under this division or Division 3 (commencing with
5 Section 9000). This subdivision, as it relates to Division 3
6 (commencing with Section 9000), applies only to
7 subdivision (j) of this section.
- 8 (d) To enable an employer to receive a reduction in
9 contribution rate.
- 10 (e) To enable the Director of Social Services or his or
11 her representatives or the Director of Health Services or
12 his or her representatives, subject to federal law, to verify
13 or determine the eligibility or entitlement of an applicant
14 for, or a recipient of, public social services provided
15 pursuant to the Welfare and Institutions Code, and
16 directly connected with, and limited to, the
17 administration of public social services.
- 18 (f) To enable county administrators of general relief or
19 assistance, or their representatives, to determine
20 entitlement to locally provided general relief or
21 assistance, where the determination is directly connected
22 with, and limited to, the administration of general relief
23 or assistance.
- 24 (g) To enable county district attorneys, or their
25 representatives, to seek criminal, civil, or administrative
26 remedies in connection with the unlawful application for,
27 or receipt of, relief provided under Division 9
28 (commencing with Section 10000) of the Welfare and
29 Institutions Code.
- 30 (h) To enable the director or his or her representative
31 to carry out his or her responsibilities under this code.
- 32 (i) To enable county departments of collection or their
33 representatives to determine entitlement to medical
34 assistance services rendered pursuant to Part 5
35 (commencing with Section 17000) of Division 9 of the
36 Welfare and Institutions Code, and, when appropriate, to
37 enable collection for the county's expenditures for these
38 medical assistance services.
- 39 (j) To furnish an employer, or his or her authorized
40 agent, with information including, but not limited to, the



1 applicant's or recipient's name, social security number,
2 address, employable skills, and job placement in order to
3 enable him or her to fully discharge his or her obligations
4 or safeguard his or her rights under the elements of a joint
5 union, management, and Employment Development
6 Department agreement as are deemed necessary to assist
7 displaced workers to obtain new employment under
8 Chapter 2.9 (commencing with Section 9970) of Part 1 of
9 Division 3 and related provisions of Division 3
10 (commencing with Section 9000). The information shall
11 be limited to any information gathered under these
12 divisions by the department and authorized for release by
13 the labor organization which shall act as an agent for the
14 affected workers under terms of the agreement and shall
15 participate in defining the information release provisions.

16 (k) To provide any law enforcement agency with the
17 name, address, telephone number, birth date, social
18 security number, physical description, and names and
19 addresses of present and past employers, of any victim,
20 suspect, missing person, potential witness, or person for
21 whom a felony arrest warrant has been issued, when a
22 request for this information is made by any investigator
23 or peace officer as defined by Sections 830.1 and 830.2 of
24 the Penal Code and designated by the head of the law
25 enforcement agency and who requests this information
26 in the course of and as a part of an investigation into the
27 commission of a crime where there is a reasonable
28 suspicion that the crime is a felony and that the
29 information would lead to relevant evidence. The
30 information provided pursuant to this subdivision shall be
31 provided to the extent permitted by federal law and
32 regulations, and to the extent the information is available
33 and accessible within the constraints and configurations
34 of existing department records. Any person who receives
35 any information under this subdivision shall make a
36 written report of the information to the law enforcement
37 agency that employs him or her, for filing under the
38 normal procedures of that agency. Any officer or
39 employee of the department who discloses information in
40 violation of this subdivision is guilty of a misdemeanor.



1 Any person who obtains information in violation of this
2 subdivision is guilty of a misdemeanor.

3 (1) This subdivision shall not be construed to authorize
4 the release of a general list identifying individuals
5 applying for or receiving benefits to any law enforcement
6 agency.

7 (2) The department shall maintain records pursuant
8 to this subdivision only for periods required under
9 regulations or statutes enacted for the administration of
10 its programs.

11 (3) This subdivision shall not be construed as limiting
12 the information provided to law enforcement agencies to
13 that pertaining only to applicants for, or recipients of,
14 benefits.

15 (4) The department shall notify all applicants for
16 benefits that release of confidential information from
17 their records will not be protected should there be a
18 felony arrest warrant issued against the applicant or in the
19 event of an investigation by a law enforcement agency
20 into the commission of a felony.

21 (l) Nothing in this section shall be construed to
22 authorize or permit the use of information obtained in the
23 administration of this code by any private collection
24 agency.

25 (m) To provide the State Teachers' Retirement
26 System, pursuant to Section 22327 of the Education Code,
27 with information relating to the earnings of any person
28 who is receiving a disability allowance, or disability
29 retirement allowance, from the State Teachers'
30 Retirement System. The earnings information shall be
31 released to the Teachers' Retirement Board only upon
32 written request from the board specifying that the person
33 is receiving a disability allowance or disability retirement
34 allowance from the system. The request may be made by
35 the chief executive officer of the system or by an
36 employee of the system so authorized and identified by
37 name and title by the chief executive officer in writing.

38 (n) To provide the Public Employees' Retirement
39 System, pursuant to Section 20231 of the Government
40 Code, with information relating to the earnings of any



1 person who is receiving a disability retirement allowance
2 from the Public Employees' Retirement System. The
3 earnings information shall be released to the Board of
4 Administration of the system only upon written request
5 from the board specifying that the person is receiving a
6 disability retirement allowance from the system. The
7 request may be made by the executive officer of the
8 system or by an employee of the system so authorized and
9 identified by name and title by the executive officer in
10 writing.

11 (o) To provide the University of California
12 Retirement System with information in its possession
13 relating to the earnings of any person who has applied for
14 or is receiving disability income from the system. The
15 earnings information shall be disclosed only upon written
16 request from the system specifying that the person has
17 applied for or is receiving disability income from the
18 system. The request may be made by the chief
19 administrative officer of the system or by an employee so
20 authorized and identified by name and title by the chief
21 administrative officer in writing. The system shall notify
22 applicants for and recipients of disability income that
23 earnings information from the department's records will
24 be released upon the system's request. The information
25 obtained pursuant to this subdivision shall be used or
26 disclosed by the system only to determine or to verify
27 entitlement to, or continuing eligibility for, disability
28 income. The system shall reimburse the department for
29 all reasonable administrative expenses incurred pursuant
30 to this subdivision.

31 (p) To enable the Division of Labor Standards
32 Enforcement in the Department of Industrial Relations
33 to seek criminal, civil, or administrative remedies in
34 connection with the failure to pay, or the unlawful
35 payment of, wages pursuant to Chapter 1 (commencing
36 with Section 200) of Part 1 of, and Chapter 1
37 (commencing with Section 1720) of Part 7 of, Division 2
38 of, the Labor Code. The Division of Labor Standards
39 Enforcement shall reimburse the department for all



1 reasonable administrative expenses incurred pursuant to
2 this subdivision.

3 (q) To enable the federal Department of Health and
4 Human Services, Office of Child Support Enforcement,
5 Federal Parent Locator Service, to administer its child
6 support enforcement programs under Title IV of the
7 Social Security Act (42 U.S.C. Sec. 651 et seq.).

8 (r) To provide county probation departments, the
9 State Board of Control, and the United States Attorney
10 General with wage and claim information in its possession
11 that will assist those departments and agencies in the
12 location of victims of crime who, by state mandate or
13 court order, are entitled to restitution that has been, or
14 can be recovered, and to assist in the collection of money
15 owed to the county, the state, or the United States by any
16 person who has been directed by state mandate or court
17 order to pay restitution, fines, penalties, assessments, or
18 fees as a result of a violation of law. Information provided
19 about victims of crime shall be limited to data necessary
20 to assist in locating them. Nothing in this section shall be
21 construed to prevent the department from providing
22 information to the State Board of Control or the United
23 States Attorney General through electronic methods.
24 The department may charge a fee for all reasonable
25 administrative expenses incurred pursuant to this
26 subdivision. Except as provided by Section 1463.007 of the
27 Penal Code, any officer or employee of the department
28 who discloses information in violation of this subdivision
29 is guilty of a misdemeanor. Except as provided by Section
30 1463.007 of the Penal Code, any person who obtains
31 information in violation of this subdivision is guilty of a
32 misdemeanor.

33 (s) To provide the Student Aid Commission with
34 information concerning any individuals who are
35 delinquent or in default on guaranteed student loans or
36 who owe repayment of funds received through other
37 financial assistance programs administered by the
38 commission. The information obtained pursuant to this
39 subdivision shall be utilized by the commission
40 exclusively to enable the collection of defaulted loans and



1 other funds owed, pursuant to the authority granted in
2 Chapter 2 (commencing with Section 69500) of Part 42 of
3 the Education Code and Chapter 1 (commencing with
4 Section 30000) of Title 5 of the California Code of
5 Regulations. The information released by the director for
6 the purposes of this subdivision shall not include any
7 employment, wage, or other information concerning any
8 person who is receiving unemployment insurance
9 benefits. The information shall be released to the
10 commission only upon written request from the director
11 of the commission or by an employee so authorized and
12 identified by name and title by the director. The
13 commission shall reimburse the department for all
14 reasonable administrative expenses incurred pursuant to
15 this subdivision.

16 (t) To provide an authorized governmental agency
17 with any or all relevant information that relates to any
18 specific workers' compensation insurance fraud
19 investigation. The information shall be provided to the
20 extent permitted by federal law and regulations. For the
21 purposes of this subdivision, "authorized governmental
22 agency" means the district attorney of any county, the
23 office of the Attorney General, the Department of
24 Industrial Relations, and the Department of Insurance.
25 An authorized governmental agency may disclose this
26 information to the State Bar, the Medical Board of
27 California, or any other licensing board or department
28 whose licensee is the subject of a workers' compensation
29 insurance fraud investigation. This subdivision shall not
30 prevent any authorized governmental agency from
31 reporting to any board or department the suspected
32 misconduct of any licensee of that body. The Department
33 of Insurance or Department of Industrial Relations shall
34 reimburse the department for all reasonable
35 administrative expenses incurred relative to a request
36 that it submits pursuant to this subdivision. Relevant
37 information may include, but is not limited to, all of the
38 following:

39 (1) Copies of unemployment and disability insurance
40 application and claim forms and copies of any supporting



1 medical records, documentation, and records pertaining
2 thereto.

3 (2) Copies of returns or reports filed by an employer
4 pursuant to Section 1088 and copies of supporting
5 documentation.

6 (3) Copies of benefit payment checks issued to
7 claimants.

8 (4) Copies of any documentation that specifically
9 identifies the claimant by social security number,
10 residence address, or telephone number.

11 (u) To enable the Director of the Council for Private
12 Postsecondary and Vocational Education, or his or her
13 representatives, to verify the information submitted to
14 the council by institutions approved under the Private
15 Postsecondary and Vocational Education Reform Act of
16 1989 for enforcement purposes and to carry out their
17 responsibilities under that act.

18 (v) To provide employment tax information to the tax
19 officials of Mexico, if a reciprocal agreement exists. For
20 purposes of this subdivision, “reciprocal agreement”
21 means a formal agreement to exchange information
22 between national taxing officials of Mexico and taxing
23 authorities of the State Board of Equalization, the
24 Franchise Tax Board, and the Employment
25 Development Department. Furthermore, the reciprocal
26 agreement shall be limited to the exchange of
27 information which is essential for tax administration
28 purposes only. Taxing authorities of the State of California
29 shall be granted tax information only on California
30 residents. Taxing authorities of Mexico shall be granted
31 tax information only on Mexican nationals.

32 (w) Wages as defined by Section 13009 and amounts
33 required to be deducted and withheld under Section
34 13020 shall not be disclosed except as provided in Article
35 2 (commencing with Section 19542) of Chapter 7 of Part
36 10.2 of Division 2 of the Revenue and Taxation Code.

37 (x) To enable city and county planning agencies to
38 develop economic forecasts for planning purposes. The
39 information shall be limited to businesses within the
40 jurisdiction of the city or county whose planning agency



1 is requesting the information, and shall not include
2 information regarding individual employees. The city or
3 county planning agency receiving the information shall
4 adhere to the same standards regarding confidentiality
5 and the protection of proprietary information that the
6 department is required to follow. The city and county
7 planning agencies shall reimburse the department for all
8 reasonable administrative expenses incurred pursuant to
9 this subdivision.

10 (y) To provide the State Department of
11 Developmental Services with wage and employer
12 information that will assist in the collection of moneys
13 owed by the recipient, parent, or any other legally liable
14 individual for services and supports provided pursuant to
15 Chapter 9 (commencing with Section 4775) of Division
16 4.5 of, and Chapter 2 (commencing with Section 7200)
17 and Chapter 3 (commencing with Section 7500) of
18 Division 7 of, the Welfare and Institutions Code. The
19 State Department of Developmental Services shall
20 reimburse the department for all reasonable
21 administrative expenses incurred pursuant to this
22 subdivision.

23 SEC. 5. All funds in the Private Postsecondary and
24 Vocational Education Administration Fund and in the
25 Student Tuition Recovery Fund on June 30, 1997, shall
26 remain in those funds and may be used for the purposes
27 authorized by this chapter commencing July 1, 1997.

28 SEC. 6. Sections 2 to 5, inclusive, of this act shall
29 become operative on July 1, 1997.

30 SEC. 7. No reimbursement is required by this act
31 pursuant to Section 6 of Article XIII B of the California
32 Constitution because the only costs that may be incurred
33 by a local agency or school district will be incurred
34 because this act creates a new crime or infraction, or
35 changes the penalty for a crime or infraction, within the
36 meaning of Section 17556 of the Government Code, or
37 changes the definition of a crime within the meaning of
38 Section 6 of Article XIII B of the California Constitution.

39 Notwithstanding Section 17580 of the Government
40 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

3 SEC. 8. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or
5 safety within the meaning of Article IV of the
6 Constitution and shall go into immediate effect. The facts
7 constituting the necessity are:

8 The existing Private Postsecondary and Vocational
9 Education Reform Act of 1989 will become inoperative on
10 June 30, 1997. In order to continue the operation of that
11 body of law as soon as possible, it is necessary that this act
12 take effect immediately.

O

