

AMENDED IN SENATE JUNE 4, 1997
AMENDED IN ASSEMBLY MAY 15, 1997
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, *Polanco*, 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, and making an appropriation therefor.

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, (d) reenact and revise various provisions governing student protections, and (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~~, *January 1, 1998*, 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.

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



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

1 SECTION 1. 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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

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 document, or other writing in any language other than a
36 degree which signifies, purports, or is generally taken to
37 signify satisfactory completion of the requirements of an
38 academic, educational, technological, or professional
39 program of study beyond the secondary 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~~ *including, but not*
4 *limited to*, AOS (Associate Occupational Studies), AAS
5 (Associate Applied Science), AST (Associate Specialist
6 Technical), or ASB (Associate Specialist Business) means
7 ~~a specialized~~ *an* associate degree that may be awarded to
8 students who complete an occupational program that
9 provides preparation for ~~entry-level employment in a~~
10 ~~specific occupational field.~~ *employment in an*
11 *occupational field.*

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

28 94738. “Person” means a natural person or any
29 business entity, regardless of the form or organization.

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

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

1 (2) More than 50 percent of the revenue derived from
2 providing instruction, training, or education during any
3 12-month period is obtained from, or on behalf of,
4 students who have completed or terminated their
5 secondary education or are beyond the age of compulsory
6 high school attendance.

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

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

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

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

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

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

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

33 (5) Institutions exclusively offering continuing
34 education.

35 (6) A nonprofit institution owned, controlled, and
36 operated and maintained by a bona fide church, religious
37 denomination, or religious organization comprised of
38 multidenominational members of the same
39 well-recognized religion, lawfully operating as a
40 nonprofit religious corporation pursuant to Part 4



1 (commencing with Section 9110) of Division 2 of Title 1
2 of the Corporations Code, if the education is limited to
3 instruction in the principles of that church, religious
4 denomination, or religious organization, or to courses
5 offered pursuant to Section 2789 of the Business and
6 Professions Code, and the diploma or degree is limited to
7 evidence of completion of that education, and the
8 meritorious recognition upon which any honorary degree
9 is conferred is limited to the principles of that church,
10 religious denomination, or religious organization.
11 Institutions operating under this paragraph shall offer
12 degrees and diplomas only in the beliefs and practices of
13 the church, religious denomination, or religious
14 organization. The enactment of this paragraph expresses
15 the legislative intent that the state shall not involve itself
16 in the content of degree programs awarded by any
17 institution operating under this paragraph, as long as the
18 institution awards degrees and diplomas only in the
19 beliefs and practices of the 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," or "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, religious denomination, or religious organization
 2 comprised of multid denominational members of the same
 3 well-recognized religion, lawfully operating as a
 4 nonprofit religious corporation pursuant to Part 4
 5 (commencing with Section 9110) of Division 2 of Title 1
 6 of the Corporations Code, from marketing and granting
 7 degrees or diplomas that are represented as being linked
 8 to their church, religious denomination, or religious
 9 organization, but which, in reality, are degrees in secular
 10 areas of study. An institution operating under this
 11 paragraph shall file annually with the council evidence to
 12 demonstrate its status as a nonprofit religious corporation
 13 under the Corporations Code. A college or university
 14 operating under this paragraph shall file annually with
 15 the council evidence to demonstrate its status as a
 16 nonprofit religious corporation under the Corporation
 17 Code.

18 94740. “Program” or “program of instruction” means
 19 a program of training, set of related courses, or education
 20 for which a student enrolls.

21 94741. “Representative” means an employee, an
 22 agent as defined in Section 2295 of the Civil Code, an
 23 agent subject to Section 94940, an agency subject to
 24 Section 94942, or any person who, for compensation, does
 25 either of the following:

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

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

31 94742. “Satellite” means an auxiliary classroom or a
 32 teaching site. All of the following apply to a satellite:

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

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

38 (c) Advertisement of a satellite shall indicate that the
 39 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)~~

4 94750. (a) *Except as provided in subdivision (c), this*
5 *chapter does not apply to any of the following:*

6 (1) *Any institution that is accredited by the Senior or*
7 *Junior Commission of the Western Association of Schools*
8 *and Colleges, if the institution exclusively confers degrees*
9 *upon the completion of a course of study of two or more*
10 *years.*

11 (2) *Any institution that exclusively offers educational*
12 *services for the sole purpose of assisting students to*
13 *prepare for an examination for entrance into an*
14 *undergraduate or graduate course of study at an*
15 *accredited or approved college or university.*

16 (b) *Except as provided in subdivision (c), this chapter*
17 *does not apply to any institution that meets each of the*
18 *following requirements:*

19 (1) *The institution is accredited by the Western*
20 *Association of Schools and Colleges and is incorporated*
21 *and lawfully operating as a nonprofit public benefit*
22 *corporation pursuant to Part 2 (commencing with*
23 *Section 5110) of Division 2 of Title 1 of the Corporations*
24 *Code.*

25 (2) *The institution has continuously satisfied since*
26 *April 15, 1997, each of the criteria in paragraph (1).*

27 (c) *Article 1 (commencing with Section 94700),*
28 *Article 2 (commencing with Section 94710), this article,*
29 *Article 11 (commencing with Section 94940), Article 13*
30 *(commencing with Section 94950), Article 15*
31 *(commencing with Section 94998), and Sections 94806,*
32 *94812, 94831 (excluding subdivision (c)), 94832, 94834,*
33 *94836, 94838, and 94901(a), apply to any institution*
34 *otherwise exempt from this chapter pursuant to this*
35 *section.*

36 (d) *Within 30 days of any action by any accrediting*
37 *agency that establishes, reaffirms, or publicly sanctions*
38 *the accreditation of a private institution operating in the*
39 *state, the accrediting agency shall notify the council of*



1 that action, and provide a copy of any public statements
2 regarding the reasons for sanctions.

3 ~~94755. Article 4 (commencing with Section 94770);~~
4 ~~Article 7 (commencing with Section 94850), Article 8~~
5 ~~(commencing with Section 94900), Article 9~~
6 ~~(commencing with Section 94915), Article 10~~
7 ~~(commencing with Section 94932), Article 12~~
8 ~~(commencing with Section 94944); Sections 94800, 94802,~~
9 ~~94804, Sections 94808 to 94810, inclusive, Sections 94814 to~~
10 ~~94829, inclusive, Section 94830, subdivision (c) of Section~~
11 ~~94831, and Sections 94836, 94840, 94846, 94942, 94955,~~
12 ~~94965, 94970, and 94975 do not apply to an institution that~~
13 ~~exclusively offers educational services for the sole~~
14 ~~purpose of assisting students to prepare for an~~
15 ~~examination for entrance into an undergraduate or~~
16 ~~graduate course of study at an accredited or approved~~
17 ~~college or university.~~

18
19 Article 4. Administration

20
21 94770. There is hereby established in state
22 government the Council for Private Postsecondary and
23 Vocational Education. The council has the responsibility
24 for approving and regulating private postsecondary
25 educational institutions and for developing state policies
26 for private postsecondary and vocational education in
27 California. The council shall represent the private
28 postsecondary educational institutions in all state-level
29 planning and policy discussions about postsecondary and
30 vocational education, and shall have as its objective the
31 development of a strong, vigorous, and widely respected
32 sector of private postsecondary and vocational education.

33 94770.1. (a) ~~The council shall be composed of 15~~
34 ~~voting members, including the following representatives:~~

35 (1) ~~Two representatives from degree-granting~~
36 ~~institutions approved under Article 8 (commencing with~~
37 ~~Section 94900).~~

38 (2) ~~Two representatives from nondegree-granting~~
39 ~~institutions approved under Article 9 (commencing with~~
40 ~~Section 94915).~~



1 ~~(3) Two representatives from accredited private~~
2 ~~postsecondary institutions operating in California. One~~
3 ~~representative shall be from an out-of-state accredited~~
4 ~~degree-granting institution approved under Article 8~~
5 ~~(commencing with Section 94900), and one~~
6 ~~representative shall be from an accredited~~
7 ~~nondegree-granting institution approved under Article 9~~
8 ~~(commencing with Section 94915).~~

9 ~~(4) A representative of the California Student Aid~~
10 ~~Commission, nominated by the executive director of the~~
11 ~~commission, and appointed by the Governor.~~

12 ~~(5) The Superintendent of Public Instruction, or his or~~
13 ~~her designee.~~

14 ~~(6) The Secretary of the State and Consumer Services~~
15 ~~Agency, or his or her designee.~~

16 ~~(7) Six members of the general public.~~

17 ~~(b) Except as provided in subdivision (a), the~~
18 ~~appointment process for the council shall be as follows:~~

19 ~~(1) The Governor shall appoint one representative~~
20 ~~from a degree-granting institution approved under~~
21 ~~Article 8 (commencing with Section 94900), one~~
22 ~~representative from a nondegree-granting institution~~
23 ~~approved under Article 9 (commencing with Section~~
24 ~~94915), one representative from an accredited~~
25 ~~nondegree-granting institution, and three members from~~
26 ~~the general public.~~

27 ~~(2) The Senate Committee on Rules shall appoint one~~
28 ~~representative from a degree-granting institution~~
29 ~~approved under Article 8 (commencing with Section~~
30 ~~94900), one representative from an out-of-state~~
31 ~~accredited degree-granting institution operating in~~
32 ~~California, and one member of the general public.~~

33 ~~(3) The Speaker of the Assembly shall appoint one~~
34 ~~representative from a nondegree-granting institution~~
35 ~~approved under Article 9 (commencing with Section~~
36 ~~94915), and two members of the general public.~~

37 ~~(4) The institutional representatives shall be~~
38 ~~appointed from a list or lists of persons nominated by~~
39 ~~private postsecondary or vocational educational~~
40 ~~institutions.~~



1 ~~(c) In addition, the following persons shall serve as~~
2 ~~nonvoting ex officio members of the council:~~

3 ~~(1) The Attorney General of the State of California, or~~
4 ~~his or her designee.~~

5 ~~(2) The Director of Employment Development, or his~~
6 ~~or her designee.~~

7 ~~(3) The Director of the California Postsecondary~~
8 ~~Education Commission, or his or her designee.~~

9 ~~(4) The Chancellor of the California Community~~
10 ~~Colleges, or his or her designee.~~

11 ~~(d) This section shall remain in effect only until~~
12 ~~January 1, 1998, and as of that date is repealed, unless a~~
13 ~~later enacted statute, that is enacted before January 1,~~
14 ~~1998, deletes or extends that date.~~

15 94770.1. The council shall consist of ____
16 members composed of the following:

17 (a) ____ members appointed by the Governor,
18 ____ members appointed by the Senate Committee
19 on Rules, and ____ members appointed by the
20 Speaker of the Assembly.

21 (b) Each member of the council shall serve a four-year
22 term. No member shall serve more than two full terms.
23 Members of the council whose terms have expired may
24 continue to serve until replaced by their appointing
25 authority. The term of an appointment commences from
26 the date the previous term expired.

27 (c) No person may serve on the council if, at any time
28 during the preceding five years of their appointment,
29 that person (1) had any direct or indirect financial or
30 ownership interest in an institution or, (2) served as a
31 director, officer, or employee of an institution or any
32 entity directly or indirectly holding any financial or
33 ownership interest in, or involved with, the management
34 of any institution. For the purpose of this subdivision only,
35 "institution" includes the institutions described in
36 subdivision (b) of Section 94739.

37 (d) The intent of the Legislature is to have public
38 council members knowledgeable of the issues relevant to
39 the students, the schools, and the work settings program
40 graduates will enter. The public members appointed to



1 the council shall be selected from individuals who have
2 either experience in the field of higher education
3 including those possessing doctoral degrees who
4 understand the requirements of doctoral programs, who
5 are employed in industries that hire graduates from the
6 vocational schools, who have experience in workforce
7 training issues and programs, or from the field of student
8 and consumer protection. All appointees shall have a
9 minimum of five years of experience in the fields upon
10 which their appointments are based.

11 ~~(e) This section shall become operative January 1,~~
12 ~~1998.~~

13 ~~94770.2. (a) The members of the council designated~~
14 ~~by the Superintendent of Public Instruction and the~~
15 ~~Secretary of the State and Consumer Services Agency~~
16 ~~pursuant to paragraphs (5) and (6) of subdivision (a) of~~
17 ~~Section 94770.1 shall serve at the pleasure of the~~
18 ~~designating authority. All other voting members of the~~
19 ~~council shall serve a four-year term, and no member shall~~
20 ~~serve more than two full terms. The members of the~~
21 ~~council serving on June 30, 1997, shall continue to serve~~
22 ~~until the expiration of their term. Voting members of the~~
23 ~~council whose terms have expired may continue to serve~~
24 ~~until replaced by their appointing authority. The term of~~
25 ~~an appointment commences from the date the previous~~
26 ~~term expired.~~

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



1 ~~(c) No person who is employed by an institution of~~
2 ~~public or private postsecondary or vocational education,~~
3 ~~or who is employed by a private organization owning an~~
4 ~~interest in a private postsecondary or vocational~~
5 ~~institution, shall be appointed to, or serve on, the council~~
6 ~~as a member of the general public.~~

7 ~~(d) It is the intent of the Legislature that the members~~
8 ~~of the general public appointed to the council have a~~
9 ~~strong interest in developing private postsecondary and~~
10 ~~vocational education and include representation from~~
11 ~~businesses that employ persons in positions requiring~~
12 ~~academic, vocational, or technical education.~~

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

22 ~~(f) This section shall remain in effect only until~~
23 ~~January 1, 1998, and as of that date is repealed, unless a~~
24 ~~later enacted statute, that is enacted before January 1,~~
25 ~~1998, deletes or extends that date.~~

26 94770.3. (a) The council shall meet as often as it
27 deems necessary to carry out its duties and
28 responsibilities.

29 (b) The council shall select a chair who shall hold office
30 for a term of two years.

31 (c) The council may appoint any subcommittees or
32 advisory committees it deems necessary to advise the
33 council on matters of educational policy. The council shall
34 appoint and may remove a director in the manner
35 prescribed in this article. The director shall appoint
36 persons to any civil service staff positions authorized by
37 the council. The staffing shall include individuals with
38 responsibilities for each of the following areas:

- 39 (1) The approval of degree-granting institutions.
- 40 (2) The approval of nondegree-granting institutions.



1 (3) The approval of courses offered to veterans by
2 postsecondary institutions. For the purposes of
3 implementing the requirements of this paragraph, the
4 council is hereby designated as the state agency
5 responsible for the administration of veteran educational
6 benefit programs.

7 (4) Institutional relations to develop strong
8 relationships with agencies such as the State Department
9 of Education, the California Postsecondary Education
10 Commission, the Department of Consumer Affairs, and
11 nongovernmental accrediting associations.

12 (5) Legislative and public affairs.

13 (6) Staff administrative services.

14 94770.4. It is the intent of the Legislature that the
15 council's approval and regulating responsibilities be
16 funded solely through approval fees and federal funding
17 provided to implement the approval process for courses
18 offered to veterans by approved institutions.

19 94770.5. The council shall prescribe regulations for
20 the transaction of its own affairs, subject to all the
21 following requirements and limitations:

22 (a) The votes of all members of the council shall be
23 recorded.

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

27 (c) The affirmative vote of two-thirds of all the duly
28 appointed members of the council, not including vacant
29 council seats, shall be necessary for the appointment or
30 removal of the director.

31 94771. The council may delegate to the director any
32 power, duty, purpose, function, or jurisdiction that the
33 council may lawfully delegate, including the authority to
34 enter into and sign contracts on behalf of the council. The
35 director may redelegate any of those powers, duties,
36 purposes, functions, or jurisdictions to his or her designee,
37 unless by statute, or regulation, the director is expressly
38 required to act personally.

39 94772. The council shall appoint from its membership
40 one subcommittee on postsecondary degree-granting



1 institutions and one subcommittee on
2 nondegree-granting institutions. All educational
3 institutions that confer degrees shall be considered by the
4 subcommittee on postsecondary degree-granting
5 institutions pursuant to the requirements of Article 8
6 (commencing with Section 94900). All educational
7 institutions that offer nondegree education and that do
8 not confer degrees shall be considered by the
9 subcommittee on nondegree education pursuant to the
10 requirements of Article 9 (commencing with Section
11 94915). Each subcommittee shall report its
12 recommendations to the council, which shall make the
13 final approval determination.

14 94773. The council shall have the following functions
15 and responsibilities in its capacity as the statewide private
16 postsecondary and vocational educational planning and
17 licensing agency:

18 (a) The establishment of policies for the
19 administration of this chapter.

20 (b) The establishment of minimum criteria for the
21 approval of private postsecondary or vocational
22 educational institutions to operate in California and
23 award degrees and diplomas, and for the approval of
24 institutions that meet the criteria.

25 (c) The adoption of regulations governing the conduct
26 of institutions under this chapter, including, but not
27 limited to, minimum state standards for refund policies,
28 advertising, enrollment agreements and contracts,
29 consumer information, attendance policies, and financial
30 responsibility.

31 (d) The adoption of procedures necessary or
32 appropriate for the conduct of its work and the
33 implementation of this chapter consistent with its
34 adopted rules and regulations, including the adoption of
35 regulations to ensure that institutions will receive
36 adequate notice and a full opportunity to be heard
37 concerning actions to deny, suspend, or revoke approval,
38 or to place an institution on probation.

39 (e) The representation of California's segment of
40 private postsecondary and vocational education in all



1 state-level discussions and planning for postsecondary
2 and vocational education, including, but not limited to,
3 representation on the California Postsecondary
4 Education Commission, and the commission's advisory
5 committee, and voluntary postsecondary or vocational
6 organizations.

7 (f) The publication biennially for public distribution of
8 a directory of all private postsecondary and vocational
9 educational institutions approved to operate in California
10 under this chapter.

11 (g) The preparation annually of a proposed budget for
12 the support of activities under this chapter and to secure
13 appropriate funding necessary for the effective
14 implementation of this chapter.

15 (h) Conducting research and planning for private
16 postsecondary and vocational education, including the
17 compilation of important institutional, faculty, and
18 student data.

19 (i) The impaneling of special committees of
20 technically qualified persons to assist the council in the
21 development of standards for education and educational
22 institutions and the evaluation of an application or
23 institutions pursuant to this chapter. The members of the
24 special committees shall receive no compensation but
25 shall be reimbursed for their actual expenses for
26 attendance at official meetings and actual expenses when
27 on official council business. The members of the special
28 committees shall serve at no expense to the state. The
29 actual travel and per diem expenses incurred by each
30 member of a special committee shall be reimbursed by
31 the institution that is the subject of inspection or
32 investigation.

33 94774. (a) Any person, serving on a special
34 committee of the council pursuant to subdivision (i) of
35 Section 94773, a visiting team pursuant to Section 94901
36 or 94905, or any other peer review body impaneled by the
37 council and who provides information to the council or its
38 staff in the course and scope of evaluating any institution
39 subject to this chapter or who testifies at any
40 administrative hearing arising under this chapter, has the



1 same defenses and immunities to any action arising out of
2 information or testimony to the council which that person
3 would have if he or she were a public employee.

4 (b) An individual serving on a special committee of
5 the council or a visiting team who is subject to a claim or
6 action arising out of activities described in subdivision (a)
7 is entitled to defense and indemnification from the
8 council solely with respect to that claim or action
9 pursuant to Article 4 (commencing with Section 825) of
10 Chapter 1 of Part 2 of, and Part 7 (commencing with
11 Section 995) of, Division 3.6 of Title 1 of the Government
12 Code.

13 94775. Each member of the council shall receive a
14 stipend of one hundred dollars (\$100) for each day he or
15 she attends any meeting of the council, or any meeting of
16 any committee or subcommittee of the council of which
17 he or she is a member, and which committee or
18 subcommittee meeting is conducted for the purpose of
19 carrying out the powers and duties of the council. A
20 council member may elect not to receive all or any
21 portion of this stipend. In addition, each member of the
22 council shall receive his or her actual and necessary
23 traveling expenses incurred in the course of his or her
24 duties. The payments in each instance shall be made only
25 from the fund from which the expenses of the council are
26 paid and shall be subject to the availability of funds. The
27 licensing fees of institutions shall not be increased for the
28 sole purpose of paying the stipend of the council
29 members.

30 ~~94776. (a) The initial appointments to the council~~
31 ~~became effective on July 1, 1990, and the length of the~~
32 ~~terms of the initial appointments were the designated~~
33 ~~number of years beginning with January 1, 1991. All~~
34 ~~subsequent terms begin on January 1 of the year in which~~
35 ~~the respective terms are to commence.~~

36 ~~(b)~~
37 94776. The council shall adopt procedures for the
38 recruitment and appointment of a director and staff. All
39 expenses associated with the operation of the council shall
40 be charged to and paid for from the Private



1 Postsecondary and Vocational Education Administration
2 Fund.

3 94777. The director may purchase annuity contracts
4 for permanent employees of the council and shall reduce
5 the salaries of the employees for whom the contracts are
6 purchased by the amount of the costs of the contract if all
7 of the following conditions are met:

8 (a) The annuity contract is under an annuity plan that
9 meets the requirements of subdivision (b) of Section 403
10 of the Internal Revenue Code.

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

13 (c) All provisions of the Insurance Code and the
14 Government Code applicable to the purchase of this type
15 of annuity are satisfied.

16 94778. The council may utilize the resources of
17 accrediting associations in gathering information about
18 accredited postsecondary and vocational institutions,
19 including participating as an observer on accreditation
20 site visits. However, this section does not preclude or
21 relieve the council of its responsibilities under this
22 chapter and the council shall retain full authority for
23 approving all private postsecondary and vocational
24 institutions operating in California.

25 94779. The council may adopt and enforce regulations
26 that are necessary, appropriate, or useful to interpret and
27 implement this chapter. Pending the adoption of formal
28 regulations, the council may adopt emergency
29 regulations that shall become effective immediately, and
30 that shall be superseded upon the adoption of formal
31 regulations. The adoption of the emergency regulations
32 shall be subject to Chapter 3.5 (commencing with Section
33 11340) of Part 1 of Division 3 of Title 2 of the Government
34 Code, and the emergency regulations shall only be
35 effective for 180 days.

36 94779.5. Each regulation set forth in Division 7.5 of
37 Title 5 of the California Code of Regulations on the
38 effective date of this chapter shall remain in full force and
39 effect except to the extent that the statutory provision



1 interpreted or implemented by the regulation has not
2 been substantially reenacted in this chapter.

3

4 Article 5. Classification of Educational Programs
5 Offered by Postsecondary Institutions

6

7 94780. No institution, subject to this chapter, shall
8 offer any educational service unless the institution is first
9 approved by the council and meets all of the
10 requirements in the following articles:

11 (a) This article, Article 6 (commencing with Section
12 94800) except as provided for institutions approved
13 under Article 9.5 (commencing with Section 94931),
14 Article 10 (commencing with Section 94932), Article 11
15 (commencing with Section 94940), and Article 12
16 (commencing with Section 94944).

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

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

21 (d) Article 9.5 (commencing with Section 94931), if
22 the institution exclusively offers educational services to
23 assist students to prepare for an examination for
24 licensure.

25 (e) Article 7 (commencing with Section 94850), if the
26 educational programs are not exempt under Section
27 94790.

28 94785. (a) Article 7 (commencing with Section
29 94850) does not apply to an institution during a calendar
30 year if both of the following conditions are satisfied
31 during that calendar year:

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

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

37 (b) If the conditions specified in subdivision (a) are
38 not satisfied for the entire calendar year, Article 7
39 (commencing with Section 94850) shall apply to all
40 students enrolled during that calendar year except to the



1 extent that the institution or its educational services are
2 otherwise exempt.

3 (c) Article 7 (commencing with Section 94850) does
4 not apply to an institution that is incorporated and has
5 continuously lawfully operated for at least five years as a
6 nonprofit public benefit corporation pursuant to Part 2
7 (commencing with Section 5110), or as a nonprofit
8 religious corporation pursuant to Part 4 (commencing
9 with Section 9110), of Division 2 of Title 1 of the
10 Corporations Code and is not managed or administered
11 by any entity for profit.

12 94786. Article 7 (commencing with Section 94850)
13 does not apply to an educational service if the total
14 charge, as defined in subdivision (k) of Section 94852, for
15 that educational service is one thousand dollars (\$1,000)
16 or less, and no part of the total charge is paid from the
17 proceeds of a loan or grant subject to a governmental
18 student financial aid program.

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

27 94790. Except as otherwise provided in this section,
28 Article 7 (commencing with Section 94850) does not
29 apply to any of the following educational services:

30 (a) Educational services that consist exclusively of
31 degree-granting programs such as an AA (Associate of
32 Arts), AS (Associate of Science), BS (Bachelor of
33 Science), BA (Bachelor of Arts), MA (Master of Arts), MS
34 (Master of Science), Ph.D. (Doctor of Philosophy), or
35 professional doctorate degrees that are scheduled to be
36 completed in not less than 18 months. ~~This exemption~~
37 ~~does not apply to, nor does it include,~~

38 (b) *Educational services that consist of AAS (Associate*
39 *of Applied Science degrees), provided the institution is*
40 *regionally accredited, offers a minimum of at least 25*



1 *percent general education classes as part of the AAS*
2 *degree requirements, and was approved by the council*
3 *as of January 1, 1994. The exemptions in this subdivision*
4 *and subdivision (a) do not apply to or include any of the*
5 *following:*

6 (1) AOS (Occupational Associate degrees or Associate
7 of Occupational Studies degrees) or AAS (Associate of
8 Applied Science degrees), *except as otherwise provided*
9 *in this subdivision.*

10 (2) Any vocational diploma program.

11 ~~(b)~~

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

16 ~~(e)~~

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

21 ~~(d)~~

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

30 ~~(e)~~

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

37 ~~(f)~~

38 (g) The educational service offers training exclusively
39 in the fine arts or performing arts, such as training to be
40 an actor, dancer, author, vocal or instrumental musician,



1 painter, sculptor, or photographer; in body arts, such as
2 training in body piercing or massage; or in another similar
3 field as designated by the council.

4 ~~(g)~~

5 (h) The educational service is more than 30 months in
6 length, and the total charge for the educational service is
7 payable by the student in equal monthly installments
8 over the entire length of the course, and the institution
9 does not receive, and the student is not obligated to pay,
10 an advance payment for more than one month.

11 ~~(h)~~

12 (i) The educational service for all students enrolled is
13 entirely and exclusively offered pursuant to a contract
14 between the institution and a community college, a high
15 school, or an employer who has the responsibility for
16 applicable cost; and the students are not required to pay,
17 or are not liable to pay, any part of the total charge for the
18 educational service.

19 ~~(i)~~

20 (j) The educational service consists exclusively of
21 intensive English program instruction.

22 ~~(j)~~

23 (k) The educational service consists exclusively of
24 continuing education.

25 (l) *Any educational service identified in this section*
26 *that is exempt from Article 7 (commencing with Section*
27 *94850) does not become subject to Article 7*
28 *(commencing with Section 94850) solely because the*
29 *institution offers other educational services that are*
30 *identified in this section and that are also exempt from*
31 *Article 7 (commencing with Section 94850).*

32 94795. It is the intent of the Legislature that if any
33 exception provided in this article is declared by a court to
34 be invalid for any reason, all of the provisions of Article
35 7 (commencing with Section 94850) shall apply to the
36 institutions, programs, or educational services that would
37 otherwise be subject to that exception.

38



1 Article 6. General Standards for All Postsecondary
2 Institutions Approved Under This Chapter

3
4 94800. All institutions approved under this chapter
5 shall be maintained and operated, or in the case of a new
6 institution, shall demonstrate that it will be maintained
7 and operated, in compliance with all of the following
8 minimum standards:

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

11 (b) That upon satisfactory completion of training, the
12 student is given an appropriate degree, diploma, or
13 certificate by the institution, indicating that the course or
14 courses of instruction or the program or programs of
15 instruction or study have been satisfactorily completed
16 by the student.

17 (c) That the institution provides instruction as part of
18 its educational program. Instruction shall include any
19 specific, formal arrangement by an institution for its
20 enrollees to participate in learning experiences wherein
21 the institution's faculty or contracted instructors present
22 a planned curriculum appropriate to the enrollee's
23 educational program.

24 94802. (a) Each institution desiring to operate in this
25 state shall make application to the council, upon forms to
26 be provided by the council. The application shall include,
27 as a minimum, at least all of the following:

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

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

34 (3) Copies of media advertising and promotional
35 literature.

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

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

4 (6) The information specified in Section 94808.

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

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

12 (c) Following review of the application and any other
13 further information submitted by the applicant, or
14 required in conformity with Article 8 (commencing with
15 Section 94900) and Article 9 (commencing with Section
16 94915), and any investigation of the applicant as the
17 council deems necessary or appropriate, the council
18 either shall grant or deny approval to operate to the
19 applicant.

20 94804. (a) The review of a private postsecondary
21 educational institution's original application for approval,
22 or a renewal application to the council, or an approved
23 institution already in operation, shall include a
24 determination of the institution's financial responsibility.
25 An institution shall be considered financially responsible
26 if it has sufficient assets to do all of the following:

27 (1) Provide the educational services stated in its
28 official publications and statements.

29 (2) Comply with the standards and requirements
30 specified in Article 8 (commencing with Section 94900),
31 Article 9 (commencing with Section 94915), or Article 9.5
32 (commencing with Section 94931), whichever is
33 applicable.

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

36 (4) Comply with any applicable provisions of Section
37 94855.

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



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

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

17 (3) Under a fund accounting system, the institution’s
18 unrestricted current or operating fund reflects sustained
19 material deficits over at least its two most recent fiscal
20 years.

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

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

33 (2) The agreement described in paragraph (1) shall
34 provide that the parent corporation do all of the
35 following:

36 (A) Consent to be sued in California.

37 (B) Consent to be subject to the administrative
38 jurisdiction of the council and the Student Aid
39 Commission in connection with the institution’s
40 compliance with this chapter.



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

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

5 (E) File financial reports, maintain financial records,
 6 and permit the inspection and copying of financial
 7 records to the same extent as is required of the institution.

8 (3) For the purposes of this subdivision, a “parent
 9 corporation” means a corporation that owns more than 80
 10 percent of the stock of the institution whose financial
 11 resources are at issue.

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

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

20 (2) The institution’s financial plan for establishing
 21 financial responsibility.

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

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

25 94806. (a) This section applies to every audit, review,
 26 and statement prepared by an independent accountant
 27 and to every financial report required to be prepared or
 28 filed by this chapter.

29 (b) Institutional audits and reviews of financial data,
 30 including the preparation of financial statements, shall
 31 comply with all of the following:

32 (1) An institution that collected ~~five—hundred~~
 33 ~~thousand—dollars—(\$500,000)~~ *seven hundred fifty thousand*
 34 *dollars (\$750,000)* or more in total student charges in its
 35 preceding fiscal year shall file financial reports prepared
 36 in accordance with generally accepted accounting
 37 principles established by the American Institute of
 38 Certified Public Accountants, and audited or reviewed by
 39 an independent certified public accountant who is not an



1 employee, officer, or corporate director or member of the
2 governing board of the institution.

3 (2) An institution that collected less than ~~five hundred~~
4 ~~thousand dollars (\$500,000)~~ *seven hundred fifty thousand*
5 *dollars (\$750,000)* in total student charges in its preceding
6 fiscal year shall file financial reports prepared in
7 accordance with generally accepted accounting
8 principles established by the American Institute of
9 Certified Public Accountants. These financial reports
10 may be prepared by an individual with sufficient training
11 to adhere to the required accounting principles.

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

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

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

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

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

39 (d) If an audit is conducted, the accountant shall
40 obtain an understanding of the institution's internal



1 financial control structure, assess any risks, and report any
2 material deficiencies in the internal controls.

3 94808. (a) Each institution approved to operate under
4 this chapter shall be required to report to the council, by
5 July 1 of each year, or another date designated by the
6 council, the following information for educational
7 programs offered in the prior fiscal year:

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

10 (2) The number of degrees and diplomas awarded, by
11 level of degree.

12 (3) The degree levels offered.

13 (4) Program completion rates.

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

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

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

23 (8) Any additional information that the council may
24 prescribe.

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

29 (c) Program completion rates and placement data
30 shall be reported in accordance with the standards and
31 criteria prescribed by the council pursuant to paragraphs
32 (1) to (4), inclusive, of subdivision (a) of Section 94816
33 and Section 94859, if applicable. Based on the review of
34 information submitted to fulfill the requirements of this
35 section, the council may initiate a compliance review and
36 may place the institution on probation pursuant to
37 subdivision (h) of Section 94901 and subdivision (i) of
38 Section 94915, and may require evidence of financial
39 stability and responsibility pursuant to Sections 94804 and
40 94855, if applicable.



1 94809. Each institution approved under this chapter
2 that has a continuous approval pursuant to Section 94901
3 or 94909, shall provide the council with copies of all
4 accrediting agency reports, including preliminary
5 reports and reports of visiting committees, all audit
6 reports prepared by the United States Department of
7 Education and student loan guaranty agencies, including
8 all preliminary reports, and the institution's written
9 responses to the reports described in this section, if
10 applicable. The institution shall provide a copy of each
11 report within 15 days of the institution's receipt of the
12 report and a copy of the institution's response within 15
13 days of the institution's submission of its response.

14 94810. (a) Any written contract or agreement for
15 educational services with an institution shall include all of
16 the following:

17 (1) On the first page of the agreement or contract, in
18 12-point boldface print or larger, the following statement:

19 "Any questions or problems concerning this school
20 which have not been satisfactorily answered or resolved
21 by the school should be directed to the Council for Private
22 Postsecondary and Vocational Education, (address),
23 Sacramento, California 95814."

24 (2) In underlined capital letters on the same page of
25 the contract or agreement in which the student's
26 signature is required, the total amount that the student is
27 obligated to pay for the course of instruction and all other
28 services and facilities furnished or made available to the
29 student by the school, including any charges made by the
30 school for tuition, room and board, books, materials,
31 supplies, shop and studio fees, and any other fees and
32 expenses that the student will incur upon enrollment.

33 (3) A list of any charges and deposits that are
34 nonrefundable clearly identified as nonrefundable
35 charges.

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

38 (5) The name and description of the program of
39 instruction, including the total number of credits, classes,



1 hours, or lessons required to complete the program of
2 instruction.

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

6 (7) A clear and conspicuous caption, “BUYER’S
7 RIGHT TO CANCEL” under which it is explained that
8 the student has the right to cancel the enrollment
9 agreement and obtain a refund, the form and means of
10 notice that the student should use in the event that he or
11 she elects to cancel the enrollment agreement, and the
12 title and address of the school official to whom the notice
13 should be sent or delivered.

14 (8) A clear statement of the refund policy written in
15 plain English.

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

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

26 (b) All contracts and enrollment agreements signed
27 by the student shall be written in language that is capable
28 of being easily understood. If English is not the primary
29 language spoken by the student, the student shall have
30 the right to obtain a clear explanation of the terms and
31 conditions of the agreement and all cancellation and
32 refund policies in his or her primary language.

33 94812. Any written contract or agreement signed by
34 a prospective student shall not become operative until
35 the student attends the first class or session of instruction.
36 This provision does not apply to correspondence schools
37 or other distance-learning programs.

38 94814. (a) The institution shall provide to students
39 and other interested persons, prior to enrollment, a



1 catalog or brochure containing at a minimum the
2 following information:

3 (1) Descriptions of the instruction provided under
4 each course offered by the institution including the
5 length of programs offered.

6 (2) The number of credit hours or clock hours of
7 instruction or training per unit or units required for
8 completion of the educational degree or certificate
9 program.

10 (3) The attendance, dropout, and leave-of-absence
11 policies.

12 (4) The faculty and their qualifications.

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

16 (6) The cancellation and refund policies.

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

20 (8) All other material facts concerning the institution
21 and the program or course of instruction that are
22 reasonably likely to affect the decision of the student to
23 enroll, as prescribed by rules and regulations adopted by
24 the council.

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

28 94816. (a) Each institution offering a degree or
29 diploma program designed to prepare students for a
30 particular vocational, trade, or career field shall provide
31 to each prospective student a school performance fact
32 sheet disclosing all of the following information:

33 (1) The number and percentage of students who
34 begin the institution's program and successfully complete
35 the entire program. The rate shall be calculated by
36 determining the percentage of students enrolled in the
37 program who were originally scheduled, at the time of
38 enrollment, to complete the program in that calendar
39 year and who successfully completed the program.



1 (2) The passage rates of graduates in the program for
2 the most recent calendar year that ended not less than six
3 months prior to the date of disclosure on any licensure or
4 certificate examination required by the state for
5 employment in the particular vocational, trade, or career
6 field and for any licensing preparation examination as
7 required under subdivision (a) of Section 94734 for which
8 data is available.

9 (3) The number and percentage of students who
10 begin the program and secure employment in the field
11 for which they were trained. In calculating this rate, the
12 institution shall consider as not having obtained
13 employment, any graduate for whom the institution does
14 not possess evidence, documented in his or her file,
15 showing that he or she has obtained employment in the
16 occupation for which the program is offered.

17 (4) The average annual starting wages or salary of
18 graduates of the institution's program, if the institution
19 makes a claim to prospective students regarding the
20 starting salaries of its graduates, or the starting salaries or
21 local availability of jobs in a field. The institution shall
22 disclose to the prospective student the objective sources
23 of information necessary to substantiate the truthfulness
24 of the claim.

25 (5) *The number and percentage of students who left*
26 *the institution in the preceding calendar year before*
27 *completing the entire program and transferred units or*
28 *credits earned at the institution to another private or*
29 *public postsecondary educational institution. If units or*
30 *credits earned by students in an institution's program are*
31 *transferable to other institutions, the institution shall*
32 *disclose to the prospective student the names of the*
33 *private or public postsecondary educational institutions*
34 *that have agreed to accept units or credits for transfer*
35 *from the institution and those that have actually accepted*
36 *units or credits for transfer. If units or credits earned by*
37 *students in an institution's program are not transferable*
38 *to other institutions, the institution shall disclose to the*
39 *prospective student that the institution's degree is a*



1 *terminal degree and that units or credits earned towards*
2 *the degree are nontransferable.*

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

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

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

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

19 94818. (a) Every institution shall designate and
20 maintain an agent for service of process within this state
21 and provide the name, address, and telephone number of
22 the agent to the council. The council shall furnish the
23 agent's name, address, and telephone number to any
24 person upon request.

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

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

1 10th day after that mailing to the institution. Proof of
2 service may be made by a declaration showing
3 compliance with this subdivision.

4 94820. (a) The institution shall have and maintain
5 the policy set forth in this article for the refund of the
6 unused portion of tuition fees and other charges if the
7 student does not register for the period of attendance or
8 withdraws therefrom at any time prior to completion of
9 the courses, or otherwise fails to complete the period of
10 enrollment. The institutional refund policy for students
11 who have completed 60 percent or less of the course of
12 instruction shall be a pro rata refund.

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

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

17 (2) Divide this figure by the number of hours in the
18 program.

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

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

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

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

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

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

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

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

38 (5) The refund shall be any amount in excess of the
39 figure derived in paragraph (4) that was paid by the
40 student.



1 94821. Institutions offering distance learning, home
2 study, or correspondence instruction may petition the
3 council for an alternative method of calculating tuition
4 refunds if they can demonstrate all of the following:

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

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

11 94822. Institutions, for all students, without penalty or
12 obligation, shall refund 100 percent of the amount paid
13 for institutional charges, less a reasonable deposit or
14 application fee not to exceed one hundred dollars (\$100),
15 if notice of cancellation is made prior to or on the first day
16 of instruction. If the first lesson in a home study or
17 correspondence course is sent to the student by mail, the
18 institution shall send it by first-class mail, postage prepaid,
19 documented by a certificate of mailing, and the student
20 shall have the right to cancel until midnight of the eighth
21 business day after the first lesson was mailed. The
22 institution shall advise each student that any notification
23 of withdrawal or cancellation and any request for a refund
24 is required to be made in writing.

25 94823. The institution shall provide a written
26 statement containing its refund policy, together with
27 examples of the application of the policy, to each student
28 prior to signing the enrollment contract, and shall make
29 its policy known to currently enrolled students.

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

34 94825. The institution shall publish a current schedule
35 of all student charges, a statement of the purpose for those
36 charges, and a statement of the cancellation and refund
37 policies with examples of the application of the policies,
38 and shall provide the schedule to all current and
39 prospective students prior to enrollment. The schedule
40 shall clearly indicate and differentiate all mandatory and



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

14 The schedule shall clearly identify all charges and
15 deposits that are nonrefundable.

16 94826. Where the refund calculations set forth in this
17 article cannot be utilized because of the unique way in
18 which an educational program is structured, the council
19 shall determine the details of an alternative refund policy,
20 by regulation, and shall take into consideration the
21 contract for educational services entered into with the
22 student, as well as the length and character of the
23 educational program in determining standards for
24 refunds. The decision of the council shall be final. This
25 section does not apply to the refunds subject to Sections
26 94869 and 94870.

27 ~~94827. (a) In lieu of Sections 94820 to 94826, inclusive,~~
28 ~~or Section 94870, an institution may determine the~~
29 ~~amount of the refund due after a student's withdrawal~~
30 ~~pursuant to Section 1091b(b)(3) of Title 20 of the United~~
31 ~~States Code, but only if both of the following occurs:~~

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

36 ~~(2) The student's total liability remaining after~~
37 ~~withdrawal to any person or governmental entity in~~
38 ~~connection with the educational service is less than the~~
39 ~~liability would be if the refund were determined under~~



1 ~~Sections 94820 to 94826, inclusive, or Section 94870,~~
2 ~~whichever applies.~~

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

7 94828. In addition to withholding institutional
8 services as described in Section 94948, an institution may
9 withhold a student's transcript or grades if the student is
10 in default on a student tuition contract.

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

19 94829. (a) Adequate and accurate records shall be
20 maintained by the institution, in accordance with
21 regulations adopted by the council, and satisfactory
22 standards shall be enforced relating to attendance,
23 progress, and performance.

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

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

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

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

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

39 94830. The council may refuse to issue or renew any
40 private postsecondary or vocational educational



1 institution's approval to operate, or may revoke any
2 approval to operate for any one, or any combination, of
3 the following causes:

4 (a) A violation of this chapter, or any standard, rule, or
5 regulation established under this chapter, or an order of
6 the council made under this chapter.

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

11 (c) A finding that an owner, a person in control, a
12 director, or an officer of an institution is not in compliance
13 with this chapter or was not in compliance with
14 applicable law while serving as an owner, person in
15 control, director, or officer of an institution within the
16 previous five-year period.

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

22 (e) A finding that the applicant, owner, or persons in
23 control have been found previously in any judicial or
24 administrative procedure to have violated this chapter or
25 admitted to having violated this chapter.

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

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

36 (h) Presenting to prospective students information
37 that is false or misleading relating to the school, to
38 employment opportunities, or to enrollment
39 opportunities in institutions of higher learning after
40 entering into or completing courses offered by the school.



1 (i) The failure to maintain financial resources
2 adequate for the satisfactory conduct of the courses of
3 instruction offered as required by statute.

4 (j) The failure to provide timely and correct refunds
5 to students.

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

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

10 (m) Misrepresenting to any students or prospective
11 students that they are qualified, upon completion of any
12 course, for admission to professional examination under
13 any state occupational licensing provision.

14 (n) The failure to correct any deficiency or act of
15 noncompliance under this chapter, or the standards,
16 rules, regulations, and orders established and adopted
17 under this chapter within reasonable time limits set by
18 the council.

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

21 (p) Failure on the part of an institution to comply with
22 provisions of law or regulations governing sanitary
23 conditions of that institution specified in Division 2
24 (commencing with Section 500) and Division 3
25 (commencing with Section 5000) of the Business and
26 Professions Code.

27 (q) The failure to pay any fees, order for costs and
28 expenses under Section 94935, assessments, or
29 penalties owed to the council, as provided in this chapter.

30 94831. No institution, or representative of that
31 institution shall do any of the following:

32 (a) Operate in this state a postsecondary educational
33 institution not exempted from this chapter, unless the
34 institution is currently approved to operate pursuant to
35 this chapter. *The council may institute an action,*
36 *pursuant to Section 94955, to prevent any individual or*
37 *entity from operating an institution in this state that has*
38 *not been approved to operate pursuant to this chapter*
39 *and to obtain any relief authorized by that section.*



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 this chapter.

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

31 94834. (a) Any person or business entity, regardless
32 of the form of organization that willfully violates Section
33 94800, Sections 94810 to 94826, inclusive, or Section 94828,
34 94829, 94831, or 94832 is guilty of a crime and shall be
35 subject to separate punishment for each violation either
36 by imprisonment in a county jail not to exceed one year,
37 by a fine not to exceed ten thousand dollars (\$10,000), or
38 by both that imprisonment and fine; or by imprisonment
39 in the state prison, by a fine not to exceed fifty thousand
40 dollars (\$50,000), or by both that imprisonment and fine.



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

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

8 (d) *In addition to any other fines or penalties imposed*
9 *pursuant to this section, any person or business entity*
10 *found guilty of a crime as described in subdivision (a)*
11 *shall be ordered to pay the Attorney General, any district*
12 *attorney, or any city attorney all of their costs and*
13 *expenses in connection with any investigation incident to*
14 *that prosecution.*

15 94835. (a) The council shall review and investigate
16 all institutions, programs, and courses of instruction
17 approved under this chapter. Consideration in the
18 scheduling of reviews and investigations shall be afforded
19 to student complaints and information collected by the
20 Attorney General, the Student Aid Commission, any
21 board within the Department of Consumer Affairs, or any
22 other federal, state, or local agency. *The council also shall*
23 *conduct periodic random and unannounced reviews and*
24 *investigations of institutions to determine compliance*
25 *with this chapter.*

26 (b) *At the council's request in connection with an*
27 *investigation to determine compliance with this chapter,*
28 *an institution, during its normal business hours, shall*
29 *immediately make available for inspection and copying*
30 *all records required to be maintained by this chapter or*
31 *that relate to the institution's compliance with this*
32 *chapter and permit the council's representatives to have*
33 *immediate access to the institution's primary*
34 *administrative location and sites of instruction during the*
35 *institution's normal business hours to examine and copy*
36 *these records, to inspect the institution's physical*
37 *facilities, equipment, library and other learning*
38 *resources, and to interview school administrators, faculty,*
39 *and students.*



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

8 94836. (a) If there is reasonable cause to believe that
9 there has been a violation by a private postsecondary
10 educational institution of the standards prescribed by this
11 chapter, the council shall conduct an investigation of the
12 institution.

13 (b) Within a reasonable time after the
14 commencement of the investigation required in
15 subdivision (a), the council shall conclude its
16 investigation and take action against the institution
17 involved, as appropriate.

18 94838. (a) No note, other instrument of
19 indebtedness, or contract relating to payment for
20 educational services shall be enforceable by any
21 institution within or outside this state governed by this
22 chapter unless at the time of execution of that note, other
23 instrument of indebtedness, or contract, the institution
24 has a valid approval to operate pursuant to this chapter.

25 (b) No note, other instrument of indebtedness, or
26 contract relating to payment for educational services
27 shall be enforceable by any institution within or outside
28 this state governed by this chapter unless the agent, who
29 enrolled persons to whom educational services were to be
30 rendered or to whom degrees or diplomas were to be
31 granted pursuant to this chapter, held a valid agent's
32 permit at the time of execution of the note, other
33 instrument of indebtedness, or contract.

34 (c) Any school or institution governed by this chapter
35 extending credit or lending money to any person for
36 tuition, fees, or any charges whatever for educational
37 services to be rendered or furnished shall cause any note,
38 instrument, or other evidence of indebtedness taken in
39 connection with that loan or extension of that credit to be



1 conspicuously marked on the face thereof with the
2 following notice:

3
4 “NOTICE

5
6 ANY HOLDER OF THIS CONSUMER CREDIT
7 CONTRACT IS SUBJECT TO ALL CLAIMS AND
8 ~~DEFENSE~~—WHICH DEFENSES THAT THE DEBTOR
9 COULD ASSERT AGAINST THE SELLER OF GOODS
10 OR SERVICES OBTAINED PURSUANT HERETO OR
11 WITH THE PROCEEDS HEREOF, RECOVERY
12 HEREUNDER BY THE DEBTOR SHALL NOT
13 EXCEED AMOUNTS PAID BY THE DEBTOR
14 HEREUNDER.”

15
16 In the event the school or institution fails to do so, it
17 shall be liable for any damage or loss suffered or incurred
18 by any subsequent assignee, transferee, or holder of that
19 evidence of indebtedness on account of the absence of
20 that notification.

21 (d) Notwithstanding the presence or absence of that
22 notification and notwithstanding any agreement in which
23 the student waives the right to assert any claim or
24 defense, the school or institution making that loan or
25 extending that credit and the transferee, assignee, or
26 holder of that evidence of indebtedness, shall be subject
27 to all defenses and claims that could be asserted against
28 the school or institution that was to render or furnish
29 those educational services by any party to that evidence
30 of indebtedness or by the person to whom these
31 educational services were to be rendered or furnished up
32 to the amount remaining to be paid thereon.

33 (e) Institutions that participate in federal student
34 ~~assistant~~ *assistance* programs and that comply with the
35 financial disclosure and notification requirements for
36 those programs shall be deemed to be in compliance with
37 the standards prescribed by this section.

38 94840. At least 90 days prior to the expiration of an
39 approval to operate, the institution shall complete and file
40 with the council an application form for renewal of its

1 approval to operate. The renewal application need only
2 contain a description of any changes made by the
3 institution since the time its last application was reviewed
4 by the council. Fees for processing the renewal
5 application shall be based on the number and types of
6 changes it contains. The renewal application shall be
7 reviewed and acted upon as provided in Sections 94802,
8 94804, and 94835, and Section 94900 or 94915, whichever
9 is applicable.

10 94841. Before any institution may be considered for
11 approval or renewal of approval to operate, the
12 institution, at a minimum, shall pay all annual fees,
13 assessments to the Student Tuition Recovery Fund,
14 orders for costs and expenses under Section
15 94935, and penalties in arrears retroactive to January 1,
16 1990. If an institution that has failed to make timely
17 payments of fees and assessments is approved, the
18 approval shall be conditional, subject to any restrictions
19 the council deems appropriate, and shall be valid for a
20 period not to exceed two years.

21 94842. If a review and decision on a renewal
22 application submitted pursuant to Section 94840 cannot
23 be completed by the council prior to the expiration of the
24 institution's current pending approval, that expiration
25 date shall be extended until the date that the council
26 notifies the institution of its decision.

27 94846. (a) If a shift in control or change of ownership
28 of an institution occurs, an application for a new approval
29 to operate for the institution under the changed
30 ownership or control shall be filed with the council at least
31 20 days prior to the shift in control or change in
32 ownership. Whenever an institution is operated at
33 different locations, an application for approval shall be
34 filed for each location.

35 (b) The application for approval to operate submitted
36 in conjunction with a change of ownership may include
37 pertinent portions of the institution's previous
38 application prepared in connection with programs or
39 courses of instruction that remain unchanged or
40 unaffected by the change in ownership.



1 (c) No application for ownership or transfer of
2 ownership shall be approved for any applicant that has
3 been found previously in any judicial or administrative
4 proceeding to have violated this chapter, or if there exists
5 any of the grounds for denial set forth in Section 480 of the
6 Business and Professions Code.

7 (d) No change in ownership of the institution shall be
8 made until the application is approved. If an application
9 for a new approval to operate is not timely filed as
10 required by this section, the institution's approval to
11 operate shall terminate. Upon approval of a change in
12 ownership, the council shall give written notice to the
13 Student Aid Commission.

14 (e) For the purposes of this section, a change in
15 ownership occurs when there is a change of control of the
16 institution, or where a person that previously did not own
17 at least 25 percent of the stock or controlling interest of
18 an institution or its parent corporation, acquires
19 ownership of at least 25 percent of the stock of the
20 institution or its parent corporation.

21 94848. An institution may not claim an exception
22 pursuant to Section 94785 if the council finds, after notice
23 and hearing as provided in Section 94975, that the
24 institution adopted a form of organization or method of
25 operation for the purpose of avoiding any provision of this
26 chapter.

27

28 Article 7. Maxine Waters Student Protection Act

29

30 94850. (a) This article shall be known, and may be
31 cited, as the Maxine Waters School Reform and Student
32 Protection Act of 1989.

33 (b) The Legislature finds and declares that students
34 have been substantially harmed and the public
35 perception of reputable institutions has been damaged
36 because of the fraudulent, deceptive, and unfair conduct
37 of some institutions that offer courses of instruction for a
38 term of two years or less that are supposed to prepare
39 students for employment in various occupations.
40 Students have been induced to enroll in these schools



1 through various misrepresentations including
2 misrepresentations related to the quality of education,
3 the availability and quality of equipment and materials,
4 the language of instruction and employment and salary
5 opportunities. Some of the most egregious
6 misrepresentations are made by representatives who
7 recruit students at places other than the institution's
8 premises. Some students have been enrolled who do not
9 have the ability to benefit from the instruction. In
10 addition, the quality of the education offered is often
11 inadequate to enable students to obtain jobs after the
12 completion of instruction.

13 (c) The Legislature further finds and declares that
14 many students who enroll in these schools pay their
15 tuition from the proceeds of loans and grants guaranteed
16 or provided by the state and federal governments.
17 Students who leave schools before the completion of
18 instruction, often because of misrepresentations and
19 inadequate instruction, do not receive adequate refunds
20 of tuition for the instruction not received. Students
21 remain liable to repay student loans but are frequently
22 unable to do so in part because they were unable to obtain
23 the proper educational preparation for jobs. Students are
24 also harmed by the closure of institutions, often caused by
25 the fraud or mismanagement of the institution's
26 operators, because the students neither obtain the
27 education promised nor a refund of tuition and the cost
28 of materials. As a result of all of the foregoing, the state
29 and federal governments spend many millions of dollars
30 annually to satisfy loan guarantees for often inadequate
31 and misrepresented vocational school courses.

32 (d) It is the intent and purpose of this article to protect
33 students and reputable institutions, ensure appropriate
34 state control of business and operational standards,
35 ensure minimum standards for educational quality,
36 prohibit misrepresentations, require full disclosures,
37 prohibit unfair dealing, and protect student rights. It is
38 the intent and purpose of this article to save millions of
39 dollars of taxpayer's funds from being misused to
40 underwrite the activities of institutions that depart from



1 the standards of fair dealing and the requirements of this
2 article.

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

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

7 94851. (a) The Legislature further finds and declares
8 that students have been harmed by some institutions
9 because of the financial improprieties and
10 mismanagement of those institutions, their failure to fully
11 disclose the student's financial and contractual
12 obligations, and their failure to have sufficient resources
13 to provide the promised training. The Legislature also
14 finds that the tuition refund policies of institutions often
15 encourage unfair practices by creating a financial benefit
16 to the institution if a student drops out, and do not
17 encourage institutions to provide adequate counseling or
18 to adopt policies designed to curb student dropouts. In
19 addition, the Legislature finds that many institutions
20 have poor records of student completion and job
21 placement, even though these institutions expressly or
22 implicitly represent that students will receive sufficient
23 training and skills to obtain well-paid employment in the
24 field that is the subject of the training, and that a
25 reputable institution is one that complies with this
26 chapter. Consequently, the Legislature finds that the
27 business of providing occupational training, instruction,
28 and related equipment by commercial enterprises has a
29 substantial impact on the economy of this state and the
30 welfare of its citizens.

31 (b) It is the further intent and purpose of this article
32 to establish incentives to reduce student dropouts,
33 minimum fiscal standards, minimum standards for
34 admission based on the student's ability to be successfully
35 trained, and minimum standards for institutional
36 accountability for course completion and student
37 employment in the occupations or job titles to which the
38 training is represented to lead. The Legislature finds that
39 the accountability standards for completion and
40 employment reflect a reasonable tolerance for factors



1 outside an institution's control. It is also the intent and
2 purpose of this article to ensure that the cost to taxpayers
3 of loans and grants for vocational instruction is
4 commensurate with the benefits obtained by students
5 and flowing to the state's economy.

6 94852. The following definitions and provisions apply
7 to this article:

8 (a) "Class" means a subject, such as English or
9 mathematics, that is taught as part of a course of
10 instruction. "Class session" means the part of a day that
11 an institution conducts instruction or training in a
12 particular class, such as an hour of instruction in English
13 or mathematics offered on a particular day of the week.

14 (b) "Council" means the Council for Private
15 Postsecondary and Vocational Education established
16 pursuant to ~~subdivision (a)~~ of Section 94770.

17 (c) "Educational service" means any education,
18 training, or instruction offered by an institution,
19 including any equipment.

20 (d) "Equipment" includes all textbooks, supplies,
21 materials, implements, tools, machinery, computers,
22 electronic devices, or any other goods related to any
23 education, training, or instruction, or an agreement for
24 educational services or a course of instruction.

25 (e) "Licensure" includes any license, certificate,
26 permit, or similar credential that a person must hold to
27 lawfully engage in any occupation or activity.

28 (f) "Owner" means any person who has a legal or
29 equitable interest in 10 percent or more of an institution's
30 stock or assets.

31 (g) "Person" means a natural person or any business
32 entity, regardless of the form of organization.

33 (h) "Person in control" means a person who has
34 sufficient capacity, directly or indirectly, to direct or
35 influence the management, policies, or conduct of the
36 institution so that the person can cause or prevent
37 violations of this chapter. There is a rebuttable
38 presumption affecting the burden of proof that an owner,
39 director, or office of an institution is a person in control.



1 (i) “Private postsecondary educational institution” or
2 “institution” means any person doing business in
3 California who offers to provide or provides, for a tuition,
4 fee, or other charge, any instruction, training or
5 education primarily to people who have completed or
6 terminated their secondary education or are beyond the
7 age of compulsory high school attendance. An
8 “institution” includes its branch and satellite campuses,
9 unless otherwise provided.

10 (j) “Program” or “program of instruction” or “course”
11 or “course of instruction,” except as otherwise provided,
12 means the program of instruction, training, set of related
13 courses or education represented to lead to an occupation
14 or job title.

15 (k) “Total charge” means the total charge for a course
16 of instruction or other education, instruction, or training,
17 including the charge for tuition, equipment, finance
18 charges, and all other fees, charges, costs, and expenses.

19 (l) “Year” means a calendar year.

20 94853. (a) In addition to making any other required
21 disclosures, a representative of an institution who in any
22 manner solicits or recruits any person in person at any
23 place other than the institution’s premises or by
24 telephone for enrollment in a course of instruction shall
25 disclose the following, orally, and, if the solicitation is in
26 person, in a correctly dated written document given to
27 the person and printed in at least 10-point type and signed
28 by the representative.

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

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

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

35 (4) The total charge for the course of instruction or if
36 the solicitation or recruitment is for more than one
37 course, the range of the total charges for the courses
38 offered.

39 (b) The representative shall make the disclosures
40 required by paragraphs (1) to (3), inclusive, of



1 subdivision (a) before attempting to solicit or recruit any
2 person. The representative shall make the disclosure
3 required by paragraph (4) of subdivision (a) before the
4 end of a solicitation or attempt to recruit any person.

5 (c) A representative who solicits or recruits any
6 person as described in subdivision (a) shall provide the
7 person with a copy of the institution's current catalog or
8 brochure, containing the information described in
9 paragraph (4) of subdivision (a) of Section 94859, which
10 the person may obtain without charge. The institution or
11 its representative shall provide the catalog or brochure
12 required by this subdivision at the time of an in-person
13 solicitation or recruitment or send the catalog brochure
14 within two days of a telephonic solicitation or
15 recruitment.

16 (d) No institution shall enter an agreement for a
17 course of instruction with, or prepare or assist in
18 preparation of a student loan or grant application for, a
19 person solicited or recruited as described in subdivision
20 (a) within three days of the date on which the person was
21 solicited or recruited.

22 (e) This section does not apply to solicitations or
23 presentations made at informational public appearances
24 directed to five or more people or to advertisements in
25 print or broadcast media.

26 94854. (a) Every institution shall meet all of the
27 following performance standards for each program
28 offered during the applicable time period described in
29 subdivision (l):

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

35 (2) Seventy percent or more of the students who
36 completed the program within that period shall obtain
37 employment starting within six months after completing
38 the course in the occupations or job titles to which the
39 course of instruction was represented to lead. For the
40 purpose of this subdivision, "program" or "program of



1 instruction” or “course” or “course of instruction”
2 includes all courses of instruction, however denominated,
3 that are represented to lead to the same or closely related
4 occupations or job titles.

5 (b) Every institution shall meet all of the following
6 performance standards for all programs in the aggregate
7 offered by the institution at each of its campuses during
8 the applicable time period described in subdivision (l):

9 (1) Sixty percent or more of all the students who began
10 the programs did not cancel pursuant to Section 94867,
11 and were originally scheduled at the time of enrollment
12 to complete these programs during that time period, shall
13 complete these programs.

14 (2) Seventy percent or more of all the students who
15 completed the programs within that time period shall
16 obtain employment, starting within six months after
17 completing the programs, in the occupations or job titles
18 to which the programs of instruction were represented to
19 lead.

20 (c) For the purposes of subdivisions (a) and (b),
21 students who, as documented by the institution, have
22 been prevented from completing the program or
23 programs of instruction due to death, disability, illness,
24 pregnancy, military service, or participation in the Peace
25 Corps or Domestic Volunteer Service shall be excluded
26 from the computations used to determine whether an
27 institution has met the performance standards prescribed
28 by those subdivisions. Except as provided in Section
29 94874, an institution shall not disclose the records
30 maintained pursuant to this subdivision unless
31 production of those records are required by any law,
32 subpoena, or court order.

33 (d) An institution shall meet the standards prescribed
34 in subdivisions (a) and (b) at each site at which the
35 program or programs are offered. A determination of
36 whether a particular site meets the standards prescribed
37 in subdivisions (a) and (b) shall be based only on students
38 who attended that site. An institution shall be subject to
39 subdivisions (f) and (g) only with respect to its sites that



1 fail to meet the standards prescribed in subdivisions (a)
2 and (b).

3 (e) (1) This subdivision applies only to institutions in
4 which 15 or fewer students began a program or programs,
5 did not cancel pursuant to Section 94867, and were
6 originally scheduled to complete the program or
7 programs within the applicable time period described in
8 subdivision (l).

9 (2) If an institution described in paragraph (1) fails to
10 meet any of the standards prescribed in subdivision (a)
11 or (b), but would have met that standard if one additional
12 student had completed or obtained employment, the
13 institution shall be deemed to comply with this section. If
14 an institution described in paragraph (1) fails to meet the
15 standard for review established in subdivision (f), but
16 would have met the standard if one additional student
17 had completed or obtained employment, the institution
18 shall be deemed subject to subdivision (f).

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

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

23 (B) Any of the standards established in subdivision (a)
24 by more than 10 percent but has a placement rate of 42
25 percent or more for the course in which the standard was
26 failed.

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

30 (2) If the institution's failure to meet the standards
31 prescribed in subdivision (a) or (b) was not caused by a
32 violation of this chapter, the council shall order, after
33 notice and, if requested, after a hearing, that the
34 institution implement a program to achieve compliance
35 with subdivisions (a) and (b). The program may include
36 any of the following:

37 (A) Limitations on enrollment for specific courses of
38 instruction.

39 (B) Revision of admission policies and screening
40 practices to ensure that students have a reasonable



1 expectation of completing courses and obtaining
2 employment.

3 (C) Increased academic counseling and other student
4 support services.

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

6 (E) Revisions to the qualifications and number of
7 faculty.

8 (F) Improved job placement services, including
9 revisions to the qualifications and number of job
10 placement personnel and the expansion of contacts with
11 employees and state and federal employment
12 development agencies.

13 (G) Any other reasonable procedure required by the
14 council.

15 (3) If an institution is subject to an order pursuant to
16 paragraph (2), the council may require that the
17 institution file information or reports requested by the
18 council. The council may also monitor the institution in
19 the manner provided in subdivision (d) of Section 94878.

20 (4) (A) An institution subject to an order pursuant to
21 paragraph (2) shall satisfy the standards established in
22 subdivisions (a) and (b) within the period designated by
23 the council. This period shall not extend more than one
24 year beyond the length of the program for
25 noncompliance with the standards prescribed by
26 subdivision (a) or more than one year beyond the longest
27 program for noncompliance with the standards
28 prescribed in subdivision (b).

29 (B) If the institution fails to satisfy the standards of
30 subdivision (a) within the period designated by the
31 council, the council shall order the institution to cease
32 offering the course of instruction at the campus where
33 that program was offered. If the institution fails to satisfy
34 the standards of subdivision (b) within the period
35 designated by the council, the council shall revoke the
36 institution's approval to operate, or approval to operate
37 the branch or satellite campus where the programs were
38 offered. No action shall be taken pursuant to this
39 paragraph without notice, and, if requested by the
40 institution, a hearing.



1 (g) If an institution fails to meet any of the standards
2 established in subdivision (a) by more than 10 percent
3 and does not have a placement rate of 42 percent or more
4 for the program in which the standard was failed, the
5 council shall order the institution to cease offering the
6 program of instruction at the campus where the course
7 was offered. If the institution fails to meet any of the
8 standards prescribed in subdivision (b) by more than 10
9 percent and does not have a placement rate of 42 percent
10 or more for all programs in the aggregate, the council
11 shall revoke the institution's approval to operate, or
12 approval to operate the branch or satellite campus where
13 the programs were offered. No action shall be taken
14 pursuant to this subdivision without notice and, if
15 requested by the institution, a hearing.

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

18 (2) The council shall investigate the institution
19 whenever the council deems appropriate to verify the
20 institution's compliance with this section. The
21 investigation shall include an examination of the records
22 maintained by the institution pursuant to subdivision (j)
23 and contacts with the students and employers.

24 (3) If an institution willfully falsifies, alters, destroys,
25 conceals, or provides untrue or misleading information
26 relating to compliance with this section, including
27 records maintained pursuant to subdivision (j), the
28 council shall revoke the institution's approval to operate.
29 No action shall be taken pursuant to this paragraph
30 without notice and, if requested by the institution, a
31 hearing. This provision supplements but does not
32 supplant any other penalty or remedy provided by law.

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

36 (i) If the council, pursuant to subdivision (f) or (g),
37 orders an institution to cease offering a program of
38 instruction or revokes the approval of an institution to
39 operate or operate a branch or satellite campus, the
40 institution may apply, no sooner than two years after the



1 order to cease or the revocation became effective, for
2 approval to offer that program or for approval to operate.
3 Before the council may grant any approval, the
4 institution shall establish that it complies with this
5 chapter, each program satisfies all of the minimum
6 standards prescribed by this chapter, and the
7 circumstances surrounding the institution's failure to
8 meet the requirements of this section have sufficiently
9 changed so that the institution will be substantially likely
10 to comply with this section.

11 (j) An institution shall maintain records of the name,
12 address, and telephone number of students who enroll in
13 a program of instruction, including students who begin
14 the program and students who cancel pursuant to Section
15 94867, and of students who graduate from that program
16 of instruction. An institution shall inquire whether
17 students who complete a program of instruction obtain
18 employment starting within six months of completing the
19 program in the occupation to which the program of
20 instruction is represented to lead and continue in
21 employment for a period of at least 60 days. The inquiry
22 shall be documented by a list indicating each student's
23 name, address, and telephone number; the employer's
24 name, address, and telephone number; the name,
25 address, and telephone number of the person who
26 provided the information regarding the student's
27 employment to the institution; the name, title, or
28 description of the job; the date the student obtained
29 employment; and the duration of the student's
30 employment.

31 (k) For the purposes of this section, the following
32 definitions shall apply:

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

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



1 (3) “Hearing” means a hearing pursuant to the
2 requirements of either Section 94965 or 94975.

3 (4) “Placement rate” means the percentage of
4 students who fulfilled the provisions of the following two
5 subparagraphs:

6 (A) Began the program, did not cancel pursuant to
7 Section 94867, and were originally scheduled at the time
8 of enrollment to complete the program during the
9 applicable time period described in subdivision (l).

10 (B) Completed the program, within the applicable
11 time period described in subdivision (l) and started
12 employment within six months of completing the
13 program or, if employment requires taking a state
14 licensure examination for which only graduates of the
15 program may apply, then (i) started employment within
16 six months of the date on which the state licensing agency
17 announces the results of the first licensure examination
18 reasonably available to students who completed the
19 program, or (ii) started employment within six months of
20 the next reasonably available licensure examination date
21 for any student who did not receive passing results on the
22 first exam. The time period determined pursuant to this
23 subparagraph shall not exceed 10 months beyond the date
24 of completion of the program of instruction. The
25 institution shall retain a record of the date of the first
26 reasonably available licensure exam following the
27 completion date of each student, the date the licensure
28 agency announces the results of the first reasonably
29 available licensure exam, and the date of the next
30 reasonably available licensure exam for each student who
31 did not pass the first exam.

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

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

38 (l) (1) An institution’s compliance with the standards
39 prescribed in subdivisions (a) and (b) shall be



1 determined as of the date on which the institution's
2 reporting period ends.

3 (2) The institution shall report its determination of its
4 compliance with the standards established in subdivisions
5 (a) and (b) in each annual report.

6 (3) The council may adjust the meaning of "time
7 period" if the council finds that an adjustment is
8 necessary for the efficient administration of this section.
9 If any adjustment is made in the annual reporting periods,
10 the council may adjust when the time period commences
11 but shall not alter the two-year length of the period.

12 (m) In determining the placement rate for a
13 particular time period as described in subdivision (l), an
14 institution may exclude from the determination a student
15 whose completion date was extended beyond that time
16 period if the extension was requested by the student in
17 writing on an enrollment agreement modification
18 request form that meets specifications established by the
19 council. The form shall include instructions to the student
20 indicating that, when signed by both the student and the
21 institution, the request modifies the existing agreement.
22 The form shall not be valid unless it provides space for the
23 student to complete a handwritten description, in the
24 student's handwriting, of the reasons necessitating the
25 extension that are distinctly personal to the student and
26 unrelated to the provision of educational services or
27 activities of the institution, contains the new expected
28 completion date of the program, and is signed and dated
29 by the student and the institution. The institution shall
30 provide the student a copy of the signed modification
31 request form. The institution shall retain the student's
32 original written request to modify the enrollment
33 agreement with the original enrollment agreement. A
34 student excluded from the placement rate determination
35 for a particular time period pursuant to this subdivision
36 shall be included in the placement rate determination for
37 the next immediately following time period. The
38 institution shall state in the institution's annual report the
39 number of students for whom an extension was granted.

1 (n) If an order to cease offering a program or a
 2 revocation is issued pursuant to this section, the council
 3 may permit the institution to continue to offer the
 4 program or programs of instruction to the students who
 5 had begun the course or courses before the effective date
 6 of the order or revocation or may order the institution to
 7 cease instruction and provide a refund of tuition and all
 8 other charges to students.

9 94855. (a) As a condition of maintaining its approval
 10 to operate, an institution offering any educational
 11 programs or educational services subject to this article
 12 shall meet the following financial resource requirements
 13 in addition to the financial requirements of Section 94804.

14 (1) Satisfy minimum standards prescribed by Section
 15 94900, 94905, or 94915, whichever is applicable.

16 (2) Provide the education, training, skill, and
 17 experience that the institution, in any manner
 18 represented it would provide.

19 (3) Pay timely refunds as required by Sections 94867,
 20 94869, 94870, 94873, and 94877.

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

24 (1) The institution fails to have available sufficient
 25 funds and accounts receivable to pay all operating
 26 expenses due within 30 days. For the purpose of this
 27 paragraph, "funds" means cash or assets that can be
 28 converted into cash within seven days.

29 (2) The institution's liabilities exceed its assets.
 30 "Assets" shall not include any item described in
 31 subparagraphs (A) and (B) of paragraph (2) of
 32 subdivision (b) of Section 94804. "Liabilities" shall
 33 include unearned tuition.

34 (c) (1) In determining an institution's compliance
 35 with subdivision (a), the council, at the institution's
 36 request, may consider the financial resources of a parent
 37 corporation if the parent corporation files with the
 38 council, and at all times complies with, an irrevocable and
 39 unconditional agreement approved by its board of



1 directors that satisfies all of the requirements of
2 paragraph (2).

3 (2) The agreement described in paragraph (1) shall
4 provide that the parent corporation do all of the
5 following:

6 (A) Consent to be sued in California.

7 (B) Consent to be subject to the administrative
8 jurisdiction of the council and the Student Aid
9 Commission in connection with the institution's
10 compliance with this chapter.

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

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

15 (E) File financial reports, maintain financial records,
16 and permit the inspection and copying of financial
17 records to the same extent as is required of the institution.

18 (3) For the purposes of this subdivision, a "parent
19 corporation" means a corporation that owns more than 80
20 percent of the stock of the institution whose financial
21 resources are at issue.

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

25 (1) Require the institution to establish and implement
26 a financial plan to ensure compliance with subdivision
27 (b) or Section 94804.

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

31 (3) Require the institution to furnish additional
32 information such as an audit report of financial
33 statements prepared by a California licensed certified
34 public accountant who is not an employee, officer, or
35 director of the institution.

36 (4) Proceed pursuant to Section 94879.

37 (e) In any action or proceeding involving an
38 institution's failure to comply with subdivision (b) or
39 Section 94804, there shall be a presumption affecting the
40 burden of proof that the institution does not have



1 sufficient financial resources if the institution fails to meet
2 any of the standards set forth in subdivision (b) or Section
3 94804.

4 94856. If any person willfully violates this article and
5 the violation results in the closure of an institution, that
6 person shall pay to all students of the closed institution full
7 refunds or full compensation for actual damages resulting
8 from the closure that were not paid by the closed
9 institution.

10 94857. (a) No institution shall establish a branch or
11 satellite campus unless the council approves the branch
12 or satellite campus before any students are enrolled for
13 instruction, or any instruction is offered, at that campus.

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

16 (1) The institution or the branch or satellite campus
17 fail to satisfy all of the standards and requirements of
18 Sections 94900 and 94901, or Section 94915, whichever
19 applies.

20 (2) The institution proposes to offer a course of
21 instruction at the branch or satellite campus that could
22 not be offered at another site operated by the institution
23 because of the institution's failure to satisfy the standards
24 prescribed in Section 94854.

25 (3) If the institution participates in a federal student
26 loan program, the student loan default rate attributable
27 to the institution for the two most recent years, as
28 preliminarily announced or finally determined by the
29 United States Department of Education, is 25 percent or
30 more.

31 (4) The establishment of a branch or satellite campus
32 would, in any manner, facilitate the institution's
33 avoidance or evasion of this chapter or of any state or
34 federal law applicable to a student financial aid program
35 in which the institution participates.

36 94859. (a) Before a person executes an agreement
37 obligating that person to pay any money to an institution
38 for a program of instruction or related equipment, the
39 institution shall provide the person with all of the
40 following:



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

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

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

11 (B) The percentage of students who completed the
12 program of instruction and obtained employment as
13 determined pursuant to Section 94854, for the time
14 period that is required to be covered in the last annual
15 report that the institution was required to file with the
16 council pursuant to Section 94861.

17 (C) Any other information necessary to substantiate
18 the truth of any claim made by the institution as to job
19 placement.

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

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

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

36 (E) If the institution or a representative of the
37 institution in any manner represents that the program of
38 instruction might lead to employment in an occupation
39 or job title for which a state licensing examination is
40 required, the following disclosures, orally and in writing:



1 (i) All licensure or certification requirements
2 established by the state for the occupation or job title
3 category.

4 (ii) The pass rate of graduates of the program of
5 instruction offered by that institution for the most recent
6 calendar year that ended not less than six months prior to
7 the date of disclosure on any licensure or certification
8 examination required by the state for the particular
9 occupation or job title.

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

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

30 (5) If applicable, the following disclosures, orally and
31 in writing:

32 (A) If the student obtains a loan to pay for the course
33 of instruction, the student will have the responsibility to
34 repay the full amount of the loan plus interest, less the
35 amount of any refund.

36 (B) If the student is eligible for a loan guaranteed or
37 reinsured by the state or federal government and the
38 student defaults on the loan:

39 (i) The federal or state government or the loan
40 guarantee agency can take action against the student,



1 including applying any income tax refund to which the
2 person is entitled to reduce the balance owed on the loan.

3 (ii) The student may not be eligible for any other
4 federal financial assistance for education at a different
5 school or for government housing assistance until the loan
6 is repaid.

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

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

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

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

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



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

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

10 (f) No institution shall obtain the signature of any
11 person to an agreement obligating that person to pay any
12 money to the institution until the person has had a
13 reasonable opportunity to read and review all of the items
14 described in subdivision (a).

15 (g) The disclosure of any information pursuant to
16 Section 94853 shall not relieve any institution of any
17 obligation to make any disclosure required under this
18 section.

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

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

37 94861. (a) Every institution shall file annually with
38 the council, on July 1, or another date designated by the
39 council, a report subscribed under penalty of perjury that
40 contains all of the following:



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

3 (2) The information described in paragraph (2) of
4 subdivision (a) of Section 94859.

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

8 (4) Financial information demonstrating compliance
9 with Section 94855.

10 (5) Any additional information that the council may
11 prescribe.

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

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

21 *(d) The portion of the report containing the*
22 *information required by paragraphs (1) and (3) of*
23 *subdivision (a) shall be audited or reviewed by an*
24 *independent certified public accountant or another*
25 *independent professional approved by the council who is*
26 *not an employee, officer, or corporate director or*
27 *member of the governing board of the institution. The*
28 *council shall adopt regulations to specify the procedures*
29 *for the audit or review.*

30 94862. The institution shall file biennially with the
31 council a financial report prepared pursuant to Section
32 94806. The report shall include the financial information
33 required by Section 94855 and average monthly
34 expenditures. Work papers for the audit shall be retained
35 for five years from the date of the audit report and shall
36 be made available to the council upon request after the
37 completion of the audit.

38 94863. (a) No institution shall pay any consideration
39 to any agent subject to Section 94940 who has not
40 complied with that section, or enter into an agreement,



1 as described in Section 94871, with any person who was
2 recruited or solicited to enroll in that institution by an
3 agent who was not in compliance with Section 94940 at
4 the time of the recruitment or solicitation.

5 (b) No institution shall pay any consideration to any
6 agency subject to Section 94942 that has not complied
7 with that section, or enter into an agreement, as
8 described in Section 94871, with any person who was
9 recruited or solicited to enroll in that institution by an
10 agency or by an agent employed by or under contract
11 with the agency if the agency was not in compliance with
12 Section 94942 at the time of the recruitment or
13 solicitation.

14 94864. The enrollment, course completion, and
15 employment data used to determine compliance with
16 subdivisions (a) and (b) of Section 94854 and paragraph
17 (2) of subdivision (a) of Section 94859 shall continue to
18 apply to an institution notwithstanding a change in the
19 institution's ownership, name, or identification number.

20 94865. (a) As used in this section, "ESL instruction"
21 means any educational service involving instruction in
22 English as a second language.

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

25 (c) The council shall not approve an institution's
26 offering of ESL instruction unless that institution
27 complies with the minimum standards established in
28 subdivision (a) of Section 94915.

29 (d) An institution that offers ESL instruction to a
30 student shall not enroll the student in any educational
31 service presented in the English language unless the
32 student passes a test indicating that he or she has attained
33 adequate proficiency in oral and written English to
34 comprehend instruction in English.

35 (e) A student who has completed ESL instruction at
36 an institution shall not be enrolled in any course of
37 instruction presented in the English language at that
38 institution unless the student passes a test indicating that
39 he or she has attained adequate proficiency in oral and
40 written English to be successfully trained by English



1 language instruction to perform tasks associated with the
2 occupations or job titles to which the educational
3 program is represented to lead.

4 (f) If an institution offers ESL instruction to a student
5 to enable the student to use already existing knowledge,
6 training, or skills in the pursuit of an occupation, the
7 institution shall test the student after the student
8 completes the ESL instruction to determine that the
9 student has attained adequate proficiency in oral and
10 written English to use his or her existing knowledge,
11 training, or skills. Before enrolling the student in ESL
12 instruction, the institution shall document the nature of
13 the student's existing knowledge, training, or skills and
14 that the ESL instruction is necessary to enable the
15 student to use that existing knowledge, training, or skills.

16 (g) If an institution offers ESL instruction to a student
17 in connection with a course of instruction leading to
18 employment in any occupation requiring licensure
19 awarded after the passage of an examination offered in
20 English, the institution shall test the student after the
21 student completes the ESL instruction to determine that
22 the student has attained a level of proficiency in English
23 reasonably equivalent to the level of English in which the
24 licensure examination is offered.

25 (h) If the results of a test administered pursuant to
26 subdivision (d), (e), (f), or (g) indicate that the student
27 has not attained adequate English language proficiency
28 after the completion of ESL instruction, the institution
29 shall (1) make a full refund of the total charge for the ESL
30 instruction, or (2) offer the student the choice of either
31 enrolling without charge in additional ESL instruction
32 until the student attains adequate English language
33 proficiency or obtaining a full refund of the total charge
34 for the ESL instruction. The institution shall pay refunds
35 within 30 days and shall comply with subdivisions (c) and
36 (d) of Section 94869.

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



1 (j) The institution, for five years, shall retain an
2 exemplar of each language proficiency test administered
3 pursuant to this section, an exemplar of the answer sheet
4 for each test, a record of the score for each test, the
5 answer sheets or other responses submitted by each
6 person who took each test, and the documentation
7 required by subdivision (f).

8 (k) (1) In addition to any applicable provisions of this
9 chapter, this article, except for Section 94854,
10 subparagraph (B) of paragraph (2) of subdivision (a) of
11 Section 94859, and Section 94872, applies to any program
12 in which ESL instruction is offered.

13 (2) For the purpose of determining compliance with
14 this article, ESL instruction shall be deemed a course, and
15 a charge shall be deemed to be made for ESL instruction
16 if a student is obligated to make any payment in
17 connection with the educational service, including, but
18 not limited to, the ESL instruction that is offered by the
19 institution.

20 (l) The tests used by an institution pursuant to this
21 section shall be tests that are approved by the United
22 States Department of Education or tests such as the Test
23 of English as a Foreign Language and the Comprehensive
24 Adult Student Assessment System that are generally
25 recognized by public and private institutions of higher
26 learning in this state for the evaluation of English
27 language proficiency. An institution shall demonstrate to
28 the council that the tests and passing scores that it uses
29 establish that students have acquired the degree of
30 proficiency in oral and written English required by
31 subdivision (d), (e), (f), or (g), whichever is applicable.
32 The required level of proficiency in oral and written
33 English shall not be lower than the sixth grade level.

34 (m) All tests shall be independently administered,
35 without charge to the student and in accordance with the
36 procedures specified by the test publisher. The tests shall
37 not be administered by a previous or current owner,
38 director, consultant, or representative of the institution
39 or by any person who previously had, or currently has, a
40 direct or indirect financial interest in the institution other



1 than the arrangement to administer the test. The council
2 shall adopt regulations that contain criteria to ensure
3 independent test administration including the criteria
4 established by the United States Department of
5 Education and set forth on pages 52160 and 52161 of
6 Volume 55 of the Federal Register, dated December 19,
7 1990.

8 94866. (a) When a person executes an agreement
9 obligating that person to pay any money to an institution
10 for a course program of instruction or related equipment,
11 the institution shall provide the person with a document
12 containing only the following notice:

13
14 “NOTICE OF STUDENT RIGHTS (12-point bold
15 type)
16

17 “1. You may cancel your contract for school, without
18 any penalty or obligations on the fifth business day
19 following your first class session as described in the Notice
20 of Cancellation form that will be given to you at (insert
21 “the first class you go to” or “with the first lesson in a
22 home study or correspondence course,” whichever is
23 applicable). A different cancellation policy applies for
24 home study or correspondence courses. Read the Notice
25 of Cancellation form for an explanation of your
26 cancellation rights and responsibilities. If you have lost
27 your Notice of Cancellation form, ask the school for a
28 sample copy.

29 “2. After the end of the cancellation period, you also
30 have the right to stop school at any time, and you have the
31 right to receive a refund for the part of the course not
32 taken. Your refund rights are described in the contract.
33 If you have lost your contract, ask the school for a
34 description of the refund policy.

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

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

4
5 _____

6 (insert address and telephone number of the Council for
7 Private Postsecondary and Vocational Education)”
8

9 (b) Except as otherwise provided in subdivision (a),
10 the notice required by subdivision (a) shall be printed in
11 10-point type in English and, if any solicitation or
12 negotiation leading to the agreement for a course of
13 instruction was in a language other than English, in that
14 other language.

15 (c) A copy of the notice, in each language in which the
16 notice was printed pursuant to subdivision (b), shall be
17 posted at all times in a conspicuous place at the main
18 entrance of the institution, in each admissions office, and
19 in each room used for instruction. The council may
20 prescribe the size and format of the posted notice. This
21 subdivision does not apply to an institution that
22 exclusively offers correspondence or home study courses.

23 (d) Upon request, the institution shall provide a
24 student with a copy of a Notice of Cancellation form, a
25 written description of the student’s refund rights, a copy
26 of the contract executed by the student, a copy of
27 documents relating to loans or grants for the student, and
28 a copy of any document executed by the student.

29 (e) The council may provide for the inclusion of
30 additional information in the notice set forth in
31 subdivision (a).

32 94867. (a) (1) In addition to any other right of
33 rescission, for programs in excess of 50 days, the student
34 shall have the right to cancel an agreement for a program
35 of instruction including any equipment, until midnight of
36 the fifth business day after the day on which the student
37 did any of the following:

38 (A) Attended the first class of the program of
39 instruction that is the subject of the agreement or



1 received the first lesson in a home study or
2 correspondence course.

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

5 (C) Received a copy of the agreement and the
6 disclosures as required by subdivision (a) of Section
7 94859, whichever is later.

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

13 If the first lesson in a home-study or correspondence
14 course is sent to the student by mail, the institution shall
15 send it by first-class mail, postage prepaid, documented
16 by a certificate of mailing, and the student shall have a
17 right to cancel until midnight of the eighth business day
18 after the first lesson was mailed.

19 (b) Cancellation shall occur when the student gives
20 written notice of cancellation to the institution at the
21 address specified in the agreement.

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

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

29 (e) Except as provided in subdivision (f), if the
30 student cancels the agreement, the student shall have no
31 liability, and the institution shall refund any consideration
32 paid by the student within 10 days after the institution
33 receives notice of the cancellation.

34 (f) If the institution gave the student any equipment,
35 the student shall return the equipment within 10 days
36 following the date of the Notice of Cancellation. If the
37 student fails to return the equipment within this 10
38 day-period, the institution may retain that portion of the
39 consideration paid by the student equal to the
40 documented cost to the institution of the equipment and



1 shall refund the portion of the consideration exceeding
2 the documented cost to the institution of the equipment
3 within 10 days after the period within which the student
4 is required to return the equipment. The student may
5 retain the equipment without further obligation to pay
6 for it.

7 (g) For the purpose of determining the time within
8 which a student may cancel that student’s agreement for
9 a course, as described in Sections 94866, 94867, and 94868,
10 “business day” means the following:

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

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

16 94868. The institution shall provide the student with
17 two cancellation forms at the first class attended by the
18 student or with the first lesson in a home study course
19 submitted by the student. The form shall be completed
20 in duplicate, captioned “Notice of Cancellation,” and
21 shall contain the following statement:

22
23 “Notice of Cancellation

24 _____

25 (Date)

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

29
30 “You may cancel this contract for school, without any
31 penalty or obligation by the date stated below.

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

36 “But, if the school gave you any equipment, you must
37 return the equipment within 30 days of the date you
38 signed a cancellation notice. If you do not return the
39 equipment within this 30-day period, the school may keep
40 an amount out of what you paid that equals the cost of the



1 equipment. The total amount charged for each item of
 2 equipment shall be separately stated. The amount
 3 charged for each item of equipment shall not exceed the
 4 equipment's fair market value. The institution shall have
 5 the burden of proof to establish the equipment's fair
 6 market value. The school is required to refund any
 7 amount over that as provided above, and you may keep
 8 the equipment.

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

12 _____, at _____.
 13
 14 (name of institution) (address of institution)

15
 16 "NOT LATER THAN _____
 17 [Enter midnight of the date that is the fifth
 18 business day following the day of the first
 19 class or the day the first lesson was re-
 20 ceived; or, if the program is fifty or fewer
 21 days, midnight of the date that is one busi-
 22 ness day for every 10 days of scheduled pro-
 23 gram length, rounded up for any fractional
 24 increment thereof; or, if the lesson was
 25 sent by mail, the eighth business day fol-
 26 lowing the day of mailing, whichever is ap-
 27 plicable]

28
 29 "I cancel the contract for school.
 30
 31 _____
 32 (Date)
 33 _____
 34 (Student's signature)

35
 36 "REMEMBER, YOU MUST CANCEL IN WRITING.
 37 You do not have the right to cancel by just telephoning
 38 the school or by not coming to class.

39 "If you have any complaints, questions, or problems
 40 which you cannot work out with the school, write or call



1 the Council for Private Postsecondary and Vocational
2 Education:

3

4

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

7

8 94869. (a) Each student of an institution has the right
9 to withdraw from a program of instruction at any time.

10 (b) If a student withdraws from a program of
11 instruction after the period described in subdivision (a)
12 of Section 94867, the institution shall remit a refund as
13 provided in Section 94870 within 30 days following the
14 student’s withdrawal.

15 (c) If any portion of the tuition was paid from the
16 proceeds of a loan, the refund shall be sent to the lender
17 or, if appropriate, to the state or federal agency that
18 guaranteed or reinsured the loan. Any amount of the
19 refund in excess of the unpaid balance of the loan shall be
20 first used to repay any student financial aid program from
21 which the student received benefits, in proportion to the
22 amount of the benefits received, and any remaining
23 amount shall be paid to the student.

24 (d) Within 10 days of the day on which the refund is
25 made, the institution shall notify the student in writing of
26 the date on which the refund was made, the amount of
27 the refund, the method of calculating the refund, and the
28 name and address of the entity to which the refund was
29 sent. The following statement shall be placed at the top
30 of the notice in at least 10-point boldface type: “This
31 Notice is Important. Keep It For Your Records.”

32 94870. (a) (1) Except as provided in paragraph (2),
33 the refund to be paid to a student for a program of
34 instruction subject to this article shall be calculated as
35 follows:

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

38 (B) Divide this figure by the number of hours in the
39 program.

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



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

4 (E) The refund would be any amount in excess of the
5 figure derived in subparagraph (D) that was paid by the
6 student.

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

9 (2) For an educational service offered by home study
10 or correspondence, the refund shall be the amount the
11 student paid for lessons less a registration fee not
12 exceeding seventy-five dollars (\$75), multiplied by a
13 fraction, the numerator of which is the number of lessons
14 for which the student has paid but which the student has
15 not completed and submitted, and the denominator of
16 which is the total number of lessons for which the student
17 has paid. The refund amount shall be adjusted as provided
18 in subdivision (b) or (c) for equipment and as provided
19 in subdivision (d) for resident instruction, if applicable.

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

22 (A) All amounts that the student has paid, however
23 denominated, shall be deemed to have been paid for
24 instruction, unless the student has paid a specific charge
25 for equipment set forth in the agreement for the program
26 of instruction.

27 (B) In the case of an educational service offered by
28 home study or correspondence, all amounts that the
29 student has paid, however denominated, shall be deemed
30 to have been paid for lessons unless the student has paid
31 a specific charge for equipment or resident instruction as
32 set forth in the agreement for the educational service.

33 (C) The total number of hours necessary to complete
34 each lesson of home study or correspondence instruction
35 shall be substantially equivalent to each other lesson
36 unless otherwise permitted by the council.

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

39 (b) If the institution specifies in the agreement a
40 separate charge for equipment that the student actually



1 obtains and the student returns that equipment in good
2 condition, allowing for reasonable wear and tear, within
3 30 days following the date of the student's withdrawal, the
4 institution shall refund the charge for the equipment paid
5 by the student. If the student fails to return that
6 equipment in good condition, allowing for reasonable
7 wear and tear, within 30 days following the date of the
8 student's withdrawal, the institution may offset against
9 the refund calculated under subdivision (a) the
10 documented cost to the institution of that equipment.
11 The student shall be liable for the amount, if any, by
12 which the documented cost for equipment exceeds the
13 refund amount calculated under subdivision (a). For the
14 purpose of this subdivision, equipment cannot be
15 returned in good condition if the equipment cannot be
16 reused because of clearly recognized health and sanitary
17 reasons and this fact is clearly and conspicuously disclosed
18 in the agreement.

19 (c) If the institution specifies in the agreement a
20 separate charge for equipment, which the student has not
21 obtained at the time of the student's withdrawal, the
22 refund also shall include the amount paid by the student
23 that is allocable to that equipment.

24 (d) If an agreement for educational service offered by
25 home study or correspondence includes a separate
26 charge for resident instruction, which the student has not
27 begun at the time of the student's withdrawal, the
28 institution shall refund the charge for the resident
29 instruction paid by the student. If the student withdraws
30 from the educational service after beginning the resident
31 instruction, the institution shall pay a refund equal to the
32 amount the student paid for the resident instruction
33 multiplied by a fraction, the numerator of which is the
34 number of hours of resident instruction which the student
35 has not received but for which the student has paid, and
36 the denominator of which is the total number of hours of
37 resident instruction for which the student has paid.

38 (e) For the purpose of determining a refund under
39 this section, a student shall be deemed to have withdrawn



1 from a program of instruction when any of the following
2 occurs:

3 (1) The student notifies the institution of the student's
4 withdrawal or of the date of the student's withdrawal,
5 whichever is later.

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

8 (3) The student has failed to attend classes for a
9 three-week period. For the purpose of subdivision (a) of
10 Section 94869 and for determining the amount of the
11 refund, the date of the student's withdrawal shall be
12 deemed the last date of recorded attendance. For the
13 purpose of determining when the refund must be paid
14 pursuant to subdivision (b) of Section 94869, the student
15 shall be deemed to have withdrawn at the end of the
16 three-week period.

17 (4) The student has failed to submit three consecutive
18 lessons or has failed to submit a completed lesson within
19 60 days of its due date as set by an educational service
20 offered by home study or correspondence. For the
21 purpose of this paragraph, the date of the student's
22 withdrawal shall be deemed to be the date on which the
23 student submitted the last completed lesson.

24 (f) An institution shall have the burden of proof to
25 establish the validity of the amount of every refund. The
26 institution shall maintain records for five years of all the
27 evidence on which the institution relies.

28 94871. (a) No institution shall offer any program of
29 instruction to any person, or receive any consideration
30 from any person for a course of instruction, except
31 pursuant to a written agreement as described in this
32 section. Every agreement for a program of instruction
33 shall provide the following:

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

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

38 (3) The total amount that the student is obligated to
39 pay including all fees, charges, and expenses separately
40 itemized that must be paid to complete the program of

1 instruction. The total amount shall be underlined and
2 shall appear immediately above the following notice,
3 which shall be printed above the space on the agreement
4 that is reserved for the student’s signature:

5 “YOU ARE RESPONSIBLE FOR THIS ~~AMOUNT, IF~~
6 *AMOUNT. IF* YOU GET A STUDENT LOAN, YOU ARE
7 RESPONSIBLE FOR REPAYING THE LOAN
8 AMOUNT PLUS ANY INTEREST.”

9 (4) The total amount charged for each item of
10 equipment shall be separately stated. The amount
11 charged for each item of equipment shall not exceed the
12 equipment’s fair market value. The institution shall have
13 the burden of proof to establish the equipment’s fair
14 market value.

15 (5) A schedule of payments.

16 (6) The student’s right to withdraw from the program
17 of instruction and obtain a refund and an explanation of
18 refund rights and of how the amount of the refund will be
19 determined including a hypothetical example.

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

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

26 (9) The following statement shall be printed in
27 12-point boldface type on the first page of the agreement:
28 “If you have any complaints, questions, or problems
29 which you cannot work out with the school, write or call
30 the Council for Private Postsecondary and Vocational
31 Education:

32
33 _____
34 (insert address and telephone number of the Council for
35 Private Postsecondary and Vocational Education)”
36

37 (b) Unless otherwise provided in subdivision (a), the
38 institution shall provide the information required under
39 Sections 94859, 94867, and 94868, in at least 10-point type
40 in English and, if any solicitation or negotiation leading to



1 the agreement for a course of instruction was in a
2 language other than English, in that other language.

3 (c) When a student is a client of a third-party
4 organization and that organization pays all of the
5 student's tuition and fees, the institution may substitute
6 for the enrollment agreement required by this section a
7 form provided to the student that contains the
8 information required by subdivision (b) and paragraphs
9 (1), (2), and (9) of subdivision (a). The form also shall
10 contain a statement that students whose entire tuition
11 and fees are paid by a third party organization are not
12 eligible for payments from the Student Tuition Recovery
13 Fund.

14 94872. (a) An institution shall not enter into an
15 agreement for a program of instruction with a student
16 unless the institution first administers to the student and
17 the student passes a test as provided in subdivision (b).

18 (b) (1) The test required by subdivision (a) shall be
19 a standardized test that is designed to measure and that
20 reliably and validly measures the student's ability to be
21 successfully trained to perform the tasks associated with
22 the occupations or job titles to which the program of
23 instruction is represented to lead. The student's
24 performance on the test must demonstrate that ability.

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

30 (3) (A) If no standardized test is available that
31 satisfies paragraph (1), the institution shall use other
32 appropriate tests to determine the student's ability to be
33 trained to perform the tasks associated with the
34 occupations and job titles for which training is offered as
35 described in paragraph (1). Within 30 days of
36 determining that no standardized test satisfies paragraph
37 (1), the institution shall so inform the council and shall
38 describe and, if possible, furnish the council with the test
39 to be used in lieu of the test required by paragraph (1).



1 (B) Upon reasonable notice to the institution, the
2 council may order the institution to demonstrate to the
3 reasonable satisfaction of the council that the test and
4 passing score are an appropriate measure of the student's
5 ability to be trained to perform the tasks associated with
6 the occupations or job titles to which the course is
7 represented to lead. If the test is not an appropriate
8 measure, the council, after notice, and if requested, a
9 hearing as provided in Section 94965 or 94975, shall order
10 that the institution cease administering the test.

11 (c) The institution shall have the burden of proof that
12 the test complies with subdivision (b). If no minimum
13 passing score is established by the test developer or if the
14 minimum passing score used by the institution is below
15 the minimum passing score established by the test's
16 developer, the institution shall have the burden of proof
17 that the student's achievement of the minimum passing
18 score reasonably measures the student's ability to be
19 successfully trained to perform the tasks associated with
20 the occupations and job titles to which the course of
21 instruction is represented to lead. The test shall be
22 administered in accordance with the test's instructions,
23 rules, and time limits.

24 (d) (1) The test shall be completed solely by the
25 student.

26 (2) No institution or any person in any manner
27 associated with the institution shall do any of the
28 following:

29 (A) Answer any of the test questions.

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

31 (C) Provide any assistance whatsoever to the student
32 in answering test questions.

33 Nothing in this subparagraph prevents an institution
34 from providing nonsubstantive assistance to
35 accommodate the disability of a handicapped person
36 otherwise qualified to take the test.

37 (3) The test shall be given by the institution on its
38 premises or by an independent testing service. The site
39 requirement does not apply to an institution offering a
40 home study or correspondence course.



1 (4) If a prospective student has failed a test, the
2 institution or the testing service that administered the
3 test shall not administer another test to that prospective
4 student for at least the period specified by the test
5 developer or one week, whichever is longer. Any
6 subsequent test administered by an institution to the
7 same prospective student shall be a substantially different
8 form of the same test or a substantially different test than
9 the preceding test and shall satisfy the requirements of
10 paragraph (1) or, if applicable, paragraph (3) of
11 subdivision (b).

12 (e) An institution's application for approval to operate
13 shall do all of the following:

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

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

20 (3) State the minimum passing score used by the
21 institution.

22 (4) If the institution accepts a lower minimum passing
23 score than is indicated by the test's developer, state an
24 explanation of why the institution accepts a lower
25 minimum passing score.

26 (f) The institution shall, for five years, retain an
27 exemplar of each test administered by the institution
28 pursuant to this section, an exemplar of the answer sheet
29 for each test, a record of the passing score for each test,
30 and the answer sheets or other responses submitted by
31 each person who took each test.

32 94873. (a) If a program of instruction is based on a
33 sequence of classes, class sessions, or lessons and the
34 learning experience to be derived from any class, class
35 sessions, or lesson within the sequence is based in any
36 manner on a student's attendance at or completion of a
37 prior class, class session, or lesson, an institution shall not
38 enroll a student in that program of instruction unless the
39 instruction begins with the first class, class session, or
40 lesson and proceeds in the appropriate sequence.

1 (b) (1) If a program of instruction is based on a series
2 of modules comprised of class sessions or lessons and the
3 learning experience to be derived from any module is
4 based in a manner on a student's attendance at, or
5 completion of, any class sessions or lessons in any other
6 module, an institution shall not enroll a student in that
7 course of instruction unless the student begins and
8 proceeds in the appropriate sequence.

9 (2) If a program of instruction is based on a series of
10 modules comprised of class sessions or lessons and the
11 learning experience to be derived from any module is not
12 based on a student's attendance at, or completion of, any
13 classes or lessons in any other module, an institution shall
14 only enroll a student in the program of instruction if the
15 student begins with the first class session or lesson in a
16 module.

17 (c) Notwithstanding subdivisions (a) and (b), if a class
18 or a module consists of more than 60 days of instruction,
19 the institution may enroll a student to begin no later than
20 the fifth class session of the first class or the fifth class
21 session in the appropriate module.

22 (d) The council, at any time, may determine whether
23 the learning experience to be derived from any class
24 session or lesson in a sequence of class sessions or lessons
25 or from any module is based in any manner on a student's
26 attendance at, or completion of, a prior class session or
27 lesson in the sequence or any class sessions or lessons in
28 any other module. The council may make the
29 determination described in this subdivision upon the
30 application of any person or when the council deems that
31 a determination is appropriate. The institution shall have
32 the burden to establish compliance with this section.

33 (e) The institution shall not merge classes unless all of
34 the students have received the same amount of
35 instruction and training. This subdivision does not
36 prevent the placement of students, who are enrolled in
37 different programs of instruction, in the same class if that
38 class is part of each of the courses and the placement in
39 a merged class will not impair the students' learning of
40 the subject matter of the class.



1 (f) After a student has enrolled in a program of
2 instruction, the institution shall not do any of the
3 following:

4 (1) Make any unscheduled suspension of any class
5 unless caused by circumstances completely beyond the
6 institution's control.

7 (2) Change the day or time in which any class is
8 offered to a day when the student is not scheduled to
9 attend the institution or to a time that is outside of the
10 range of time that the student is scheduled to attend the
11 institution on the day for which the change is proposed
12 unless at least 90 percent of the students who are enrolled
13 consent to the change and the institution offers full
14 refunds to the students who do not consent to the change.
15 For the purpose of this paragraph, "range of time" means
16 the period beginning with the time at which the student's
17 first scheduled class session for the day is set to start and
18 ending with the time the student's last scheduled class
19 session for that day is set to finish.

20 (g) If an institution enrolls a student in a program of
21 instruction that is not offered or designed as a home study
22 or correspondence course at the time of enrollment, the
23 institution shall not convert the program of instruction
24 from classroom instruction to a home study or
25 correspondence course.

26 (h) An institution shall not move the class instruction
27 to a location more than five miles from the location of
28 instruction at the time of enrollment unless any of the
29 following occur:

30 (1) The institution discloses orally and clearly and
31 conspicuously in writing to each student before
32 enrollment in the program that the location of instruction
33 will change after the program begins and the address of
34 the proposed location.

35 (2) The institution applies for, and the council grants,
36 approval to change the location. The council shall grant
37 the application within 30 days if the council, after notice
38 to affected students and an opportunity for them to be
39 heard as prescribed by the council, concludes that the
40 change in location would not be unfair or unduly



1 burdensome to students. The council may grant approval
2 to change the location which shall be subject to
3 reasonable conditions, such as requiring the institution to
4 provide transportation, transportation costs, or refunds to
5 adversely affected students.

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

9 94874. (a) Every institution shall maintain for a
10 period of not less than five years at its principal place of
11 business in California accurate records that show all of the
12 following:

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

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

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

19 (4) The information required by subdivision (j) of
20 Section 94854 and subdivision (b) of Section 94859.

21 (5) All information and records required by this
22 chapter or required by the council.

23 (b) All records that an institution is required to
24 maintain by this chapter or that relate to the institution's
25 compliance with this chapter shall be made immediately
26 available by the institution for inspection and copying
27 during normal business hours by the council, the
28 Attorney General, any district attorney or city attorney,
29 and the Student Aid Commission.

30 (c) An institution shall make available to a student, or
31 a person designated by the student, all of the student's
32 records, except for transcripts of grades as described in
33 subdivision (d) and (e).

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

37 (e) If the student has made partial payment of his or
38 her tuition obligation, the institution may only withhold
39 that portion of the grades or transcript that corresponds
40 on a pro rata basis to the amount of tuition or loan



1 obligation that the student has not paid. If the course of
2 study consists of only one course, the institution may
3 withhold the grades or the transcript until the tuition or
4 loan obligation is paid in full.

5 (f) Each institution shall be deemed to have
6 authorized the accrediting agency that accredited the
7 institution to provide to the council, the Attorney
8 General, any district attorney or city attorney, or the
9 Student Aid Commission, within 30 days of written notice,
10 copies of all documents and other material concerning
11 the institution that is maintained by the accrediting
12 agency.

13 (g) Within 30 days of receiving written notice from the
14 council, the Attorney General, any district attorney or
15 city attorney, or the Student Aid Commission, an
16 accrediting agency shall provide the requesting official
17 with all documents or other material concerning an
18 institution accredited by that accrediting agency that are
19 designated specifically or by category in the written
20 notice.

21 (h) If the council, the Attorney General, any district
22 attorney or city attorney, or the Student Aid Commission
23 is conducting a confidential investigation of an institution
24 and so informs the accrediting agency, the accrediting
25 agency shall not inform that institution of the
26 investigation.

27 (i) If an accrediting agency willfully fails to comply
28 with this section, the accrediting agency shall be liable for
29 a civil penalty of not less than two thousand five hundred
30 dollars (\$2,500) or more than twenty-five thousand
31 dollars (\$25,000) for each violation. Penalties awarded
32 pursuant to this section shall be deposited in the Private
33 Postsecondary and Vocational Education Administration
34 Fund or any successor fund.

35 94875. (a) The institution shall provide sufficient
36 instruction and materials pursuant to a planned
37 curriculum appropriate to the student's educational
38 program and establish sufficient student attendance,
39 progress, and performance standards to reasonably
40 ensure that students acquire the necessary level of



1 education, training, skill, and experience to obtain
2 employment in the occupation or job title to which the
3 course of instruction is represented to lead.

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

8 (c) If a student has begun a course of instruction and
9 any portion of the student's tuition is to be paid from the
10 proceeds of a loan or grant, the institution shall not
11 withhold any instruction, equipment, or materials from
12 the student pending approval of the loan or grant or the
13 disbursement of any portion of the proceeds of the loan
14 or grant.

15 94876. No student may waive any provision of this
16 article. Any waiver or limitation of any substantive or
17 procedural right or remedy is in violation of this section
18 and is void and unenforceable.

19 94877. (a) If an institution violates this article or
20 Section 94832 or commits an act as set forth in Section
21 94830 in connection with an agreement for a course of
22 instruction, that agreement shall be unenforceable, and
23 the institution shall refund all consideration paid by or on
24 behalf of the student.

25 (b) Notwithstanding any provision in an agreement, a
26 student may bring an action for a violation of this article
27 or Section 94832 or an institution's failure to perform its
28 legal obligations and upon prevailing shall be entitled to
29 the recovery of damages, equitable relief, any other relief
30 authorized by this article, and reasonable attorney's fees
31 and costs.

32 (c) If a court finds that a violation was willfully
33 committed or that the institution failed to refund all
34 consideration as required by subdivision (a) on the
35 student's written demand, the court, in addition to the
36 relief awarded under subdivision (b), shall award a civil
37 penalty of up to two times the amount of the damages
38 sustained by the student.



1 (d) The remedies provided in this article supplement,
2 but do not supplant, the remedies provided under other
3 provisions of law.

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

7 (f) Any provision in any agreement that purports to
8 require a student to invoke any grievance dispute
9 procedure established by the institution or any other
10 procedure before bringing an action to enforce any right
11 or remedy is void and unenforceable.

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

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

19 94878. (a) An institution is legally authorized to
20 provide courses of instruction if the institution complies
21 with both this article and Sections 94831, 94832, and 94985,
22 or former Section 94320 as that section was in effect on
23 January 1, 1991, has received approval from the council,
24 and has not been found to be in violation of this article by
25 the council, the Student Aid Commission, or a court. No
26 institution shall offer any course of instruction if the
27 institution's approval to offer that course of instruction
28 has been suspended or revoked.

29 (b) (1) The council, after notice and, if requested by
30 the institution, a hearing as provided in Section 94965 or
31 94975, may suspend or revoke an institution's approval to
32 operate or approval to operate a branch or satellite
33 campus or may order that an institution cease offering a
34 class or course of instruction because of any violation of
35 this article, Section 94831, 94832, or 94985, or former
36 Section 94320 as that section was in effect on January 1,
37 1991, or any regulation or order issued pursuant to this
38 article.

39 (2) If the council takes any of the actions described in
40 paragraph (1), the council may permit the institution to



1 continue to offer the class or course of instruction to
2 students already enrolled or may order the institution to
3 cease instruction and provide a refund of tuition and all
4 other charges to students.

5 (c) If the council determines after notice and if
6 requested by the institution, a hearing, that an institution
7 has violated this article, Section 94831, 94832, or 94985, or
8 former Section 94320 as that section was in effect on
9 January 1, 1991, but that the institution's approval to
10 operate, or approval to operate a branch or satellite
11 campus should not be suspended or revoked, or that the
12 institution should not be ordered to cease offering a class
13 or program of instruction, the council may do any or all
14 of the following:

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

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

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

21 (d) During the period of probation, the institution, or
22 the branch or satellite or both the institution and the
23 branch or satellite campus, shall be subject to monitoring
24 that may include the required submission of periodic
25 reports, as prescribed by the council and special onsite
26 inspections to determine progress toward compliance.
27 The onsite inspections may include an inspection of the
28 institution's facilities and records, interviews of
29 administrators, faculty, and students, and observation of
30 class instruction. The council shall order the institution to
31 reimburse all reasonable costs and expenses incurred by
32 the council in connection with this subdivision. The
33 council may make the payment of the order for
34 reimbursement a condition of probation.

35 (e) If, at the period of probation, the council is not
36 satisfied with the steps taken by the institution to
37 eliminate the violations of this article, Sections 94831,
38 94832, and 94985, or former Section 94320 as that section
39 was in effect on January 1, 1991, upon which the probation
40 was based, the council may revoke the institution's



1 approval to operate or the institution's approval to
2 operate a branch or satellite campus.

3 (f) The council may assess a penalty of up to ten
4 thousand dollars (\$10,000) as part of a probation order for
5 violations of this article, Sections 94831, 94832, and 94985,
6 or former Section 94320 as that section was in effect on
7 January 1, 1991. In determining the amount of that
8 penalty, the council shall consider the number and
9 gravity of the violations, the degree of the institution's
10 good faith or culpability, the history of the institution's
11 previous violations, and the institution's ability to pay. If
12 the institution fails to pay a penalty within the time
13 prescribed by the council the institution's approval to
14 operate the institution, or approval to operate a branch
15 or satellite campus, shall be automatically suspended
16 until the penalty is paid in full.

17 (g) (1) Any bond ordered by the council shall be
18 issued by an admitted surety insurer in an amount
19 established at the discretion of the council that is
20 sufficient to protect students from the potential
21 consequences of the violation.

22 (2) The bond shall be in favor of the State of California
23 for the indemnification of any person for any loss,
24 including the loss of prepaid tuition, suffered as a result
25 of the occurrence of any violation of this chapter during
26 the period of coverage.

27 (3) Liability on the bond may be enforced after a
28 hearing before the council, after 30 days' advance written
29 notice to the principal and surety. The council shall adopt
30 regulations establishing the procedure for administrative
31 enforcement of liability. This paragraph supplements,
32 but does not supplant, any other rights or remedies to
33 enforce liability on the bond.

34 (4) The council may order the institution to file
35 reports at any interval the council deems necessary to
36 enable the council to monitor the adequacy of the bond
37 coverage and to determine whether further action is
38 appropriate.

39 (h) The council shall determine an institution's
40 compliance, including the compliance of its branch and



1 satellite campuses, with this article, Sections 94831, 94832,
2 and 94985, or former Section 94320 as that section was in
3 effect on January 1, 1991, and shall not be bound by the
4 findings or conclusions of any accrediting agency.

5 (i) The council may revoke the approval to operate of
6 any institution that fails to pay an order imposing a
7 penalty or an order for the reimbursement of costs and
8 expenses. The council may enforce any administrative
9 order requiring the payment of money in the same
10 manner as if it were a money judgment pursuant to Title
11 9 (commencing with Section 680.010) of Part 1 of the
12 Code of Civil Procedure. All penalties and
13 reimbursements paid pursuant to this section shall be
14 deposited in the vocational education account in the
15 Private Postsecondary and Vocational Education
16 Administration Fund established pursuant to Section
17 94932.

18 (j) Proceedings by the council under this section shall
19 be conducted in accordance with regulations adopted by
20 the council or, if there are no regulations establishing
21 hearing procedures, Section 94965 or 94975, and the
22 council shall have all of the powers granted therein.

23 94879. The council may suspend or revoke an
24 institution's approval to operate or order probation or the
25 posting of a bond, as provided in Section 94878, for any of
26 the following reasons:

27 (a) The institution has failed to make timely refunds
28 to, or on behalf of students, as required by Sections 94867,
29 94869, 94870, and 94877, or has not satisfied, within 30 days
30 of its issuance, a final judgment obtained by a student
31 against the institution.

32 (b) The institution or an owner, person in control,
33 director, or officer of the institution is, or has been, found
34 in any criminal, civil, or administrative proceeding, after
35 notice and an opportunity to be heard, to have violated
36 any law regarding the obtaining, maintenance, or
37 disbursement of state or federal loan or grant funds, or
38 any other law substantially related to the operation of the
39 institution.



1 (c) The institution, or a person in control of the
2 institution is, or has been, found in any criminal, civil, or
3 administrative proceeding, after notice and an
4 opportunity to be heard, to have unpaid financial
5 liabilities involving the refund or unlawful acquisition,
6 use, or expenditure of state or federal financial aid funds.

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

9 (A) A person in control of the institution was a person
10 in control of another institution within one year before
11 that institution's closure.

12 (B) While the person was acting as a person in control
13 of the other institution, the person knew or, by the
14 exercise of reasonable care, should have known that the
15 institution violated this chapter.

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

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

21 (E) The person in control has not paid to all students
22 of the closed institution refunds owed and full
23 compensation for actual damages resulting from the
24 closure that were not paid by the closed institution. For
25 the purpose of this subdivision, "closure" includes closure
26 of a branch or satellite campus, the termination of either
27 the correspondence or residence portion of a home-study
28 or correspondence course, and the termination of a
29 course of instruction for some or all of the students
30 enrolled in the course before the time these students
31 were originally scheduled to complete it, or before a
32 student who has been continually enrolled in a course of
33 instruction has been permitted to complete all the
34 educational services, and the classes that comprise the
35 course.

36 94880. (a) The council may bring an action for
37 equitable relief for any violation of this article in addition
38 to, or instead of, any other remedy or procedure.

39 (b) The suspension or revocation of an institution's
40 approval to operate also may be embraced in any action



1 otherwise proper in any court involving the institution's
2 compliance with this chapter or performance of its legal
3 obligations.

4 94881. (a) For the purposes of this section, the
5 following definitions apply:

6 (1) "Document or record" means any test score,
7 grade, record of grades, attendance record, record
8 indicating student course completion or employment,
9 financial information, including any financial report
10 required to be filed pursuant to Sections 94861 and 94862,
11 information or records relating to the student's eligibility
12 for financial assistance or attendance at the institution, or
13 any other record or document required by this chapter
14 or by the council.

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

17 (b) Any person who, in any manner, makes or causes
18 to be made any untrue or misleading statement in
19 connection with offering or providing a course of
20 instruction, or who makes or causes to be made any
21 untrue or misleading change in any document or record
22 and who knows or, by the exercise of reasonable care,
23 should know that the statement or change is untrue or
24 misleading is guilty of a crime, punishable as provided in
25 subdivision (e).

26 (c) Any person who willfully falsifies, destroys, fails to
27 maintain, or conceals any document or record that is
28 required to be maintained by this chapter or by the
29 council is guilty of a crime, punishable as provided in
30 subdivision (e).

31 (d) Any person who is required to file any report
32 required by paragraph (3) of subdivision (f) of Section
33 94854, ~~94861~~, or Section 94861 or 94862 and who willfully
34 fails to file that report as required, or willfully violates or
35 causes the violation of subdivision (b) of Section 94874, is
36 guilty of a crime and is subject to punishment for each
37 violation as provided in paragraph (2) of subdivision (e).

38 (e) Any person who violates subdivision (b) or (c), or
39 who willfully violates Section 94831, 94832, 94853, or
40 94985, or former Section 94320 as that section was in effect



1 January 1, 1991, is guilty of a crime and is subject to
2 separate punishment for each violation either by:

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

6 (2) Imprisonment in a county jail not to exceed one
7 year, by a fine not to exceed ten thousand dollars
8 (\$10,000), or by both that imprisonment and fine.

9 (f) Notwithstanding any other law, any prosecution
10 under this section shall be commenced within three years
11 of the discovery of the facts constituting grounds for
12 commencing the prosecution.

13 (g) The penalties provided by this section
14 supplement, but do not supplant, the remedies and
15 penalties provided under other law.

16 94882. The council may adopt and enforce regulations
17 as may be necessary, appropriate, or useful to interpret
18 and otherwise implement this article. Pending the
19 adoption of regulations, the council may adopt
20 emergency regulations, which shall be immediately
21 effective, notwithstanding any other provision of law, and
22 which shall be superseded upon the adoption of
23 subsequent regulations.

24

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

27

28 94900. (a) No private postsecondary educational
29 institution may issue, confer, or award an academic or
30 honorary degree unless the institution is approved by the
31 council to operate in California and award degrees.

32 The council shall not issue an approval under
33 paragraph (1) of subdivision (c) of Section 94901 or a
34 conditional approval under paragraph (2) of subdivision
35 (c) of Section 94901 until it has conducted a qualitative
36 review and assessment of, and has approved, each degree
37 program offered by the institution, and all of the
38 operations of the institution, and has determined all of the
39 following:



1 (1) The institution has the facilities, financial
2 resources, administrative capabilities, faculty, and other
3 necessary educational expertise and resources to ensure
4 its capability of fulfilling the program or programs for
5 enrolled students.

6 (2) The faculty are fully qualified to undertake the
7 level of instruction that they are assigned and shall possess
8 appropriate degrees or credentials of intellectual
9 equivalency and have demonstrated professional
10 achievement in the major field or fields offered, in
11 sufficient numbers to provide the educational services.

12 (3) The education services and curriculum clearly
13 relate to the objectives of the proposed program or
14 programs and offer students the opportunity for a quality
15 education.

16 (4) The facilities are appropriate for the defined
17 educational objectives and are sufficient to ensure quality
18 educational services to the students enrolled in the
19 program or programs.

20 (5) The program of study for which the degree is
21 granted provides the curriculum necessary to achieve its
22 professed or claimed academic objective for higher
23 education, and the institution requires a level of academic
24 achievement appropriate to that degree.

25 (6) The institution provides adequate student
26 advisement services, academic planning and curriculum
27 development activities, research supervision for students
28 enrolled in Ph.D. programs, and clinical supervision for
29 students enrolled in various health profession programs.

30 (7) If the institution offers credit for prior experiential
31 learning it may do so only after an evaluation by qualified
32 faculty and only in disciplines within the institution's
33 curricular offerings that are appropriate to the degree to
34 be pursued. The council shall develop specific standards
35 regarding the criteria for awarding credit for prior
36 experiential learning at the graduate level, including the
37 maximum number of hours for which credit may be
38 awarded.

39 (b) The approval process shall include a qualitative
40 review and assessment of all of the following:



- 1 (1) Institutional purpose, mission, and objectives.
- 2 (2) Governance and administration.
- 3 (3) Curriculum.
- 4 (4) Instruction.
- 5 (5) Faculty, including their qualifications.
- 6 (6) Physical facilities.
- 7 (7) Administrative personnel.
- 8 (8) Procedures for keeping educational records.
- 9 (9) Tuition, fee, and refund schedules.
- 10 (10) Admissions standards.
- 11 (11) Financial aid policies and practices.
- 12 (12) Scholastic regulations and graduation
- 13 requirements.
- 14 (13) Ethical principles and practices.
- 15 (14) Library and other learning resources.
- 16 (15) Student activities and services.
- 17 (16) Degrees offered.

18 The standards and procedures utilized by the council
19 shall foster the development of high quality, innovative
20 educational programs and emerging new fields of study
21 within postsecondary education. In addition, the
22 standards and procedures utilized by the council shall not
23 unreasonably hinder educational innovation and
24 competition.

25 (c) (1) The Committee of Bar Examiners for the State
26 ~~Bar~~ of California, in lieu of the council, shall be
27 responsible for the approval, regulation, and oversight of
28 degree-granting law schools that (A) exclusively offer
29 bachelor's, master's, or doctorate degrees in law, such as
30 juris doctor, and (B) are not otherwise exempt under
31 Section 94750.

32 (2) If a law school not exempt under Section 94750
33 offers educational services other than bachelor's,
34 master's, or doctorate-degree programs in law, the law
35 school and its nonlaw degree programs shall be subject to
36 this chapter, and the law school's degree programs in law
37 shall be subject to the approval, regulation, and oversight
38 of the Committee of Bar Examiners.

39 94901. (a) The council shall conduct a qualitative
40 review and assessment of the institution. It also shall



1 conduct a qualitative review and assessment of all
2 programs offered except continuing education programs
3 and programs that are exclusively avocational or
4 recreational in nature. The review shall include the items
5 listed in subdivision (b) of Section 94900, through a
6 comprehensive onsite review process, performed by a
7 qualified visiting committee impaneled by the council for
8 that purpose.

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

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

27 (b) The number of sites inspected by the council as
28 part of its review process shall be subject to the following
29 considerations:

30 (1) If the application for approval includes branches
31 and satellites, the council shall inspect each branch and
32 may inspect any satellite campus.

33 (2) If the application is for approval to operate a
34 branch or a satellite, the council, in addition to inspecting
35 the branch or satellite, also may inspect the institution
36 operating the branch or satellite campus.

37 (c) The council may waive or modify the onsite
38 inspection for institutions offering home study or
39 correspondence courses. The visiting committee shall be
40 impaneled by the council within 90 days of the date of the



1 receipt of a completed application and shall be composed
2 of educators, and other individuals with expertise in the
3 areas listed in subdivision (b) of Section 94900, from
4 degree-granting institutions legally operating within the
5 state. Within 90 days of the receipt of the visiting
6 committee's evaluation report and recommendations, or
7 any reasonable extension of time not to exceed 90 days,
8 the council shall take one of the following actions:

9 (1) If the institution is in compliance with this chapter
10 and has not operated within three years before the filing
11 of the application in violation of this chapter then in
12 effect, the council may grant an approval to operate.

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

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

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

36 (e) The standards and procedures utilized by the
37 council shall not unreasonably hinder educational
38 innovation and competition.

39 (f) Each institution or instructional program offering
40 education for entry into a health care profession in which



1 the provider has primary care responsibilities shall offer
2 that education within a professional degree program
3 which shall be subject to approval by the council pursuant
4 to this section.

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

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

37 (h) If at any time the council determines that an
38 institution has deviated from the standards for approval,
39 the council, after identifying for the institution the areas
40 in which it has deviated from the standards, and after



1 giving the institution due notice and an opportunity to be
2 heard, may place the institution on probation for a
3 prescribed period of time, not to exceed 24 calendar
4 months. During the period of probation, the institution
5 shall be subject to special monitoring. The conditions for
6 probation may include the required submission of
7 periodic reports, as prescribed by the council, and special
8 visits by authorized representatives of the council to
9 determine progress toward total compliance. If, at the
10 end of the probationary period, the institution has not
11 taken steps to eliminate the cause or causes for its
12 probation to the satisfaction of the council, the council
13 may revoke the institution's approval to award degrees
14 and provide notice to the institution to cease its
15 operations.

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

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



1 94905. (a) Any public or private postsecondary
2 educational institution incorporated in another state that
3 has accreditation from a regional accrediting association
4 recognized by the United States Department of
5 Education at the time of the issuance of a degree, and that
6 is approved by the council, may issue degrees, diplomas,
7 or certificates. Except for continuing education programs
8 and programs that are exclusively avocational or
9 recreational in nature, accredited public or private
10 postsecondary educational institutions incorporated in
11 another state shall not offer degrees, diplomas, or
12 certificates in California unless they comply with this
13 section.

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

21 (1) The institution has financial resources to ensure
22 the capability of fulfilling the program or programs for
23 enrolled students.

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

30 (3) The education services and curriculum clearly
31 relate to the objectives of the proposed program or
32 programs.

33 (4) The facilities are appropriate for the defined
34 educational objectives and are sufficient to ensure quality
35 educational services to the students enrolled in the
36 program or programs.

37 (5) The institution has verifiable evidence of academic
38 achievement comparable to that required of graduates of
39 other institutions operating in this state for the program



1 or programs upon which the degree, diploma, or
2 certificate is based.

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 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 may inspect each branch and
11 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 ~~(e) 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,
39 fees, and other charges, refund policy, regulations
40 pertaining to tardiness, absences, and the grading policy,



1 and rules of operation and conduct is given to students
2 prior to 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

39 Article 9.5. Standards and Evaluation Procedures for
40 Institutions Offering License Examination Preparation



Services

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

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 grant approval if the institution is in compliance with this chapter and no violations of this chapter or similar provisions of prior law were committed within the three years preceding the filing of the application by the



1 institution or any of its owners, officers, directors, or
2 persons in control, as defined in subdivision (h) of Section
3 94852.

4 94931.4. (a) An unconditional approval to operate
5 issued under this article shall remain in continuous effect
6 as long as the institution remains in compliance with this
7 chapter.

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

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

26 94931.6. Each institution approved to operate under
27 this chapter shall be required to report to the council, by
28 July 1 of each year, or another date designated by the
29 council, the following information for each of its license
30 examination preparation educational services in the prior
31 fiscal year:

32 (a) The total number of students enrolled.

33 (b) (1) The total number of students who completed
34 the educational service during the institution's preceding
35 fiscal year.

36 (2) The total number of students who took the license
37 preparation examination during the institution's
38 preceding fiscal year.

39 (3) The percentage of the students described in
40 paragraph (2) who passed the examination after the first



1 time they took the examination and the percentage who
2 passed after the second time they took the examination.

3 (c) Financial information prepared in compliance
4 with Section 94806.

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

7 94931.8. (a) Before accepting any consideration
8 from a student, an institution subject to this chapter shall
9 provide the student with an enrollment agreement
10 containing in a single document all of the terms related
11 to the instruction and payment. The agreement shall
12 include all of the following:

13 (1) The name, street address, and telephone number
14 of the institution.

15 (2) A description of the educational services offered
16 and educational materials or other goods or services that
17 will be supplied by the institution or that are required to
18 be purchased by the student.

19 (3) The total number of class sessions, hours, lessons, or
20 segments comprising the educational service.

21 (4) An itemization of amounts and the total amount
22 the student is obligated to pay for the educational service
23 and all other services and facilities furnished or made
24 available to the student by the institution, including
25 charges for tuition, books, materials, supplies, and all
26 other fees and expenses that the student will incur.

27 (5) A statement of the information described in
28 subdivision (b) of Section 94931.6.

29 (6) An explanation of the institution's refund policy
30 and a list of any charges and deposits that are not
31 refundable.

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

33 (8) If the student is not a California resident, a
34 statement that the student is not eligible for protection
35 under the Student Tuition Recovery Fund.

36 (9) The following statement:

37 "Any questions or problems concerning this school that
38 have not been satisfactorily answered or resolved by the
39 school should be directed to the Council for Private



1 Postsecondary and Vocational Education (address).” The
2 council’s current address shall be inserted.

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

7 94931.10. An institution subject to this article shall also
8 be subject to Sections 94804, 94806, 94812, 94818 to 94822,
9 inclusive, 94824, 94826, and 94830 to 94848, inclusive.

10

11 Article 10. Fees and Costs

12

13 94932. The Private Postsecondary and Vocational
14 Education Administration Fund is continued in
15 existence. All fees collected pursuant to this section shall
16 be credited to this fund along with any interest on the
17 money, for the administration of this chapter.
18 Notwithstanding Section 13340 of the Government Code,
19 the money in the fund is continuously appropriated to the
20 council without regard to fiscal years for the purposes of
21 this chapter. However, if the Legislature makes an
22 appropriation for the support of the council in the Budget
23 Act of any fiscal year, the amount for the support of the
24 council expended from the fund during the fiscal year
25 shall not exceed the amount appropriated by the Budget
26 Act.

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



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

32 94934. Any institution more than 30 days delinquent
33 in the payment of any fee *or order for the recovery of*
34 *costs and expenses under Section 94935*, may be assessed
35 a penalty fee by the council.

36 94935. *If the council determines after an investigation*
37 *that an institution has violated this chapter, the council*
38 *may order the institution to pay the costs and expenses*
39 *incurred in connection with the investigation and any*
40 *civil or administrative proceeding involving the violation*



1 *that was investigated, including charges made by the*
2 *Attorney General for his or her services, and any expenses*
3 *incurred by a district attorney. Before any order for the*
4 *payment of costs and expenses is made under this section,*
5 *the council shall provide the institution with written*
6 *notice, including notice of the institution's right to*
7 *request a hearing within 15 days of service of the notice.*
8 *If a hearing is not timely requested, the council may order*
9 *payment. If a hearing is requested, the council shall*
10 *comply with Section 94965, 94975, or 94980. Within 30 days*
11 *after the effective date of the order, the council may*
12 *enforce the order as if it were a money judgment*
13 *pursuant to Title 9 (commencing with Section 680.10) of*
14 *Part 2 of the Code of Civil Procedure. Alternatively, the*
15 *council may seek the costs and expenses allowed under*
16 *this section in a civil proceeding.*

17 94936. The effective date of any statutory
18 amendment to this chapter affecting revenues payable to
19 the council from any service shall be delayed for a period
20 of 12 months in order to enable the council to make the
21 necessary adjustments in its fee schedule through the
22 regulatory adoption process.

23

24 Article 11. Agents and Agencies

25

26 94940. (a) Notwithstanding any other provision of
27 this chapter concerning agents, the owner of at least 51
28 percent of the equitable interest in an institution shall be
29 exempt from this section if the institution is approved to
30 operate pursuant to Article 8 (commencing with Section
31 94900) or Article 9 (commencing with Section 94915).

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

39 The application for a permit shall be furnished by the
40 council and shall include the following:



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

4 (2) A surety bond issued by an admitted surety insurer
5 in favor of the State of California for the indemnification
6 of any person for any loss suffered as a result of the
7 occurrence, during the period of coverage, of any fraud
8 or misrepresentation used in connection with the
9 solicitation for the sale or the sale of any program of study,
10 or as a result of any violation of this chapter. The term of
11 the bond shall extend over the period of the permit. The
12 bond may be supplied by the institution or by the person
13 for whom the issuance of the permit is sought and may
14 extend to cover individuals separately or to provide
15 blanket coverage for all persons to be engaged as
16 representatives of the institution. The bond shall provide
17 for liability in the penal sum of twenty-five thousand
18 dollars (\$25,000) for each agent to whom coverage is
19 extended by its terms. Neither the principal nor the
20 surety on a bond may terminate the coverage of the bond,
21 except upon giving 30 days' prior written notice to the
22 council, and contemporaneously surrendering the
23 agent's permit. Liability on the bond may be enforced
24 after a hearing before the council, after 30 days' advance
25 written notice to the principal and surety. The council
26 shall adopt regulations establishing the procedure for
27 administrative enforcement of liability. This paragraph
28 supplements, but does not supplant, any other rights or
29 remedies to enforce liability on the bond.

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

31 (b) An agent representing more than one institution
32 shall obtain a separate agent's permit and bond for each
33 institution represented.

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

39 (d) A permit shall be valid for the calendar year in
40 which it is issued, unless sooner revoked or suspended by



1 the council for fraud or misrepresentation in connection
2 with the solicitation for the sale of any course of study, for
3 any violation of this chapter, or for the existence of any
4 condition in respect to the permittee or the school he or
5 she represents which, if in existence at the time the
6 permit was issued, would have been grounds for denial of
7 the permit.

8 (e) The permittee shall carry the permit with him or
9 her for identification purposes when engaged in the
10 solicitation of sales and the selling of courses of study away
11 from the premises of the school, and shall produce the
12 permit for inspection upon the request of any person.

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

17 (g) The issuance of a permit pursuant to this section
18 shall not be interpreted as, and it shall be unlawful for any
19 individual holding any permit to expressly or impliedly
20 represent by any means whatsoever, that the council has
21 made any evaluation, recognition, accreditation, or
22 endorsement of any course of study being offered for sale
23 by the individual.

24 (h) It is unlawful for any individual holding a permit
25 under this section to expressly or impliedly represent, by
26 any means whatsoever, that the issuance of the permit
27 constitutes an assurance by the council that any course of
28 study being offered for sale by the individual will provide
29 and require of the student a course of education or
30 training necessary to reach a professional, educational, or
31 vocational objective, or will result in employment or
32 personal earnings for the student.

33 (i) No agent shall make any untrue or misleading
34 statement or engage in sales, collection, credit, or other
35 practices of any type that are false, deceptive, misleading,
36 or unfair.

37 (j) The council shall maintain records for five years of
38 each application for a permit, each bond, and each
39 issuance, denial, termination, suspension, and revocation
40 of a temporary permit or permit.



1 (k) A student may bring an action for an agent's
2 violation of this chapter or any fraud or misrepresentation
3 and, upon prevailing, is entitled to the recovery of
4 damages, reasonable attorney's fees, and costs. If a court
5 finds that the violation was willfully committed, the court,
6 in addition to the award of damages, shall award a civil
7 penalty of up to two times the amount of damages
8 sustained by the student.

9 (l) Any person who violates this section is guilty of a
10 misdemeanor, punishable by imprisonment in a county
11 jail not exceeding six months, by a fine not to exceed five
12 thousand dollars (\$5,000), or by both that imprisonment
13 and fine.

14 94942. (a) Except as provided in subdivision (g), any
15 agency shall be required to hold a valid authorization
16 issued by the council. The application for an
17 authorization shall include all of the following:

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

21 (2) Evidence of a surety bond issued in favor of the
22 State of California by an admitted surety insurer making
23 provision for indemnification of any person for any loss
24 suffered as a result of the occurrence, during the period
25 of coverage, of any fraud or misrepresentation used in
26 connection with the solicitation for the sale or the sale of
27 any program of study, or as a result of any violation of this
28 chapter. The term of the bond shall extend over the
29 period of the authorization. The bond shall provide for
30 liability in the penal sum of two hundred fifty thousand
31 dollars (\$250,000) for each agency to which coverage is
32 extended by its terms. Neither the principal nor the
33 surety on a bond may terminate the coverage of the bond
34 except upon giving 30 days' prior written notice to the
35 council, and upon contemporaneously surrendering the
36 agency's authorization to operate. Liability on the bond
37 may be enforced after a hearing before the council, after
38 30 days' advance written notice to the principal and
39 surety. The council shall adopt regulations establishing
40 the procedure for administrative enforcement of liability



1 and hearings under this section. This paragraph
2 supplements, but does not supplant, any other rights or
3 remedies to enforce liability on the bond.

4 (3) A copy of the student disclosure statement to be
5 read and signed by all prospective students referred to
6 institutions by an agency. The student disclosure
7 statement shall include, but shall not be limited to, all of
8 the following:

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

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

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

16 (D) A verbatim statement, as follows:

17 “Any questions or problems concerning this agency
18 should be directed to the Council for Private
19 Postsecondary and Vocational Education, Sacramento,
20 CA 95814.”

21 (E) A statement to the effect that the institution or
22 institutions to which the prospective student is referred
23 by the agency have the obligation to make available to the
24 student a catalog or brochure containing information
25 describing all of the following:

26 (i) The courses offered.

27 (ii) Program objectives.

28 (iii) Length of program.

29 (iv) The faculty and their qualifications.

30 (v) A schedule of tuition, fees, and all other charges
31 and expenses necessary for the completion of the course
32 of study.

33 (vi) The cancellation and refund policies.

34 (vii) The total cost of tuition over the period needed
35 to complete the student’s education.

36 (viii) For vocational training programs, placement
37 data, including program completion rates, placement
38 rates, and starting salaries.

39 (ix) Other material facts concerning the institution
40 and the program or course of instruction that are



1 reasonably likely to affect the decision of the student to
2 enroll in the institution.

3 (4) Identification of all employees of the agency and
4 their titles, and of all agents with whom the agency
5 contracts.

6 (5) Identification of all owners, and if the entity is a
7 corporation, the identification of all persons possessing an
8 interest equal to, or in excess, of 10 percent.

9 (6) Identification of all vendors of educational services
10 for which the agency provides recruitment services.

11 (7) A signed statement by the applicant that all
12 employees engaged in recruitment activities will be
13 required to read Sections 94831, 94832, and 94985 and, if
14 the educational program for which the agency recruits is
15 subject to Article 7 (commencing with Section 94850),
16 Section 94853.

17 (b) Within 30 days of receipt of a completed
18 application and prior to issuance of an authorization a
19 representative of the council shall inspect the applicant
20 agency and verify the application. Within 30 days of the
21 inspection, the council shall issue the authorization for a
22 one-year period, subject to annual renewal at the end of
23 that period, or deny the application. The council shall
24 deny the authorization if the agency or any owner,
25 officer, or director of the agency previously has been
26 found in any judicial or administrative proceeding to
27 have violated this chapter, or if there exists any of the
28 grounds for denial set forth in Section 480 of the Business
29 and Professions Code.

30 (c) Any employee of an authorized agency engaged in
31 student recruitment activities of an authorized agency is
32 exempt from the bond requirements of Section 94940.

33 (d) Neither the agency nor any of its employees shall
34 make any untrue or misleading statement in the course
35 of any solicitation or recruitment activity or engage in the
36 sales, collection, credit, or other practices of any type that
37 are false, deceptive, misleading, or unfair.

38 (e) An agency or an employee of an agency shall
39 provide a prospective student with the disclosure
40 statement described in paragraph (3) of subdivision (a)



1 and shall allow the prospective student a sufficient
2 opportunity to read it before soliciting or recruiting him
3 or her for enrollment or referring him or her to an
4 institution. That disclosure statement shall be printed in
5 10-point type in English and, if the solicitation,
6 recruitment, or referral is to be conducted in a language
7 other than English, in that other language.

8 (f) Any institution approved under this chapter shall
9 cease any and all recruitment activities involving the
10 agency upon action by the council to revoke or deny an
11 agency's authorization. The failure of the institution to do
12 so upon presentation of notice of the council's action shall
13 be cause to deny or revoke any approval held by that
14 institution.

15 (g) This section does not apply to any agency
16 recruiting solely for institutions described in Article 8
17 (commencing with Section 94900).

18 (h) The council shall maintain records for five years of
19 each application for an authorization, each verification by
20 the council of an application, each bond, and each denial,
21 issuance, and revocation of an authorization.

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

31 (j) Any person who violates this section is guilty of a
32 misdemeanor punishable by imprisonment in a county
33 jail not exceeding six months, by a fine not to exceed five
34 thousand dollars (\$5,000), or by both that imprisonment
35 and fine.

36



Article 12. Student Tuition Recovery Fund and Student Obligations

94944. (a) The Student Tuition Recovery Fund is continued in existence. All assessments collected pursuant Section 94945 shall be credited to this fund along with any interest on the money, for the administration of this article. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the council without regard to fiscal years for the purposes of this chapter. The fund shall consist of a degree-granting postsecondary educational institution account, a vocational educational institution account, and an account for institutions approved under any provision of this chapter that charge each enrolled student a total charge, as defined in subdivision (k) of Section 94852, of less than one thousand dollars (\$1,000), for the purpose of relieving or mitigating pecuniary losses suffered by any California resident who is a student of an approved institution and who meets either of the following conditions:

- (1) The student was enrolled in an institution, prepaid tuition, and suffered loss as a result of, (A) the closure of the institution, (B) the institution's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the institution's closure, (C) the institution's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the institution prior to closure in excess of tuition and other costs, (D) the institution's breach or anticipatory breach of the agreement for the course of instruction, or (E) a decline in the quality or value of the course of instruction within the 30-day period before the institution's closure or, if the decline began before that period, the period of decline determined by the council. For the purpose of this section, "closure" includes closure of a branch or satellite campus, the termination of either



1 the correspondence or residence portion of a home study
2 or correspondence course, and the termination of a
3 course of instruction for some or all of the students
4 enrolled in the course before the time these students
5 were originally scheduled to complete it, or before a
6 student who has been continuously enrolled in a course
7 of instruction has been permitted to complete all the
8 educational services and classes that comprise the course.

9 (2) The student obtained a judgment against the
10 institution for any violation of this chapter and the
11 student certifies that the judgment cannot be collected
12 after diligent collection efforts.

13 (b) Payments from the fund to any student shall be
14 made from the appropriate account with the fund, as
15 determined by the type of institution into which the
16 student has paid his or her fees, and shall be subject to any
17 regulations and conditions as the council shall prescribe.

18 (c) (1) The institution shall provide to the council, at
19 the time of the institution's closure, the names and
20 addresses of persons who were students of an institution
21 within 60 days prior to its closure, and shall notify these
22 students, within 30 days of the institution's closure, of
23 their rights under the fund and how to apply for payment.
24 If the institution fails to comply with this subdivision, the
25 council shall attempt to obtain the names and addresses
26 of these students and shall notify them, within 90 days of
27 the institution's closure, of their rights under the fund and
28 how to apply for payment.

29 The council shall develop a form in English and Spanish
30 fully explaining a student's rights, which shall be used by
31 the institution or the council to comply with this
32 paragraph. The form shall include, or be accompanied by,
33 a claim application and an explanation of how to
34 complete the application.

35 (2) If an institution fails to comply with paragraph (1),
36 the council shall order the institution, or any person
37 responsible for the failure to provide notice as required
38 by paragraph (1), to reimburse the council for all
39 reasonable costs and expenses incurred in notifying
40 students as required in paragraph (1). In addition, the



1 council may impose a penalty of up to five thousand
2 dollars (\$5,000) against the institution and any person
3 found responsible for the failure to provide notice. The
4 amount of the penalty shall be based on the degree of
5 culpability and the ability to pay. Any order may impose
6 joint and several liability. Before any order is made
7 pursuant to this paragraph, the council shall provide
8 written notice to the institution and any person from
9 whom the council seeks recovery of the council's claim
10 and of the right to request a hearing within 30 days of the
11 service of the notice.

12 If a hearing is not requested within 30 days of service
13 of the notice, the council may order payment in the
14 amount of the claim. If a hearing is requested, Chapter 5
15 (commencing with Section 11500) of Part 1 of Division 3
16 of Title 2 of the Government Code shall apply, and the
17 council shall have all of the powers therein prescribed.
18 Within 30 days after the effective date of the issuance of
19 an order, the council may enforce the order in the same
20 manner as if it were a money judgment pursuant to Title
21 9 (commencing with Section 680.010) of Part 2 of the
22 Code of Civil Procedure. All penalties and
23 reimbursements paid pursuant to this section shall be
24 deposited in the Private Postsecondary and Vocational
25 Education Administration Fund established pursuant to
26 Section 94932 or any successor fund.

27 (d) (1) Students entitled to payment as provided in
28 paragraph (1) of subdivision (a) shall file with the council
29 a verified application indicating each of the following:

30 (A) The student's name, address, telephone number,
31 and social security number.

32 (B) If any portion of the tuition was paid from the
33 proceeds of a loan, the name of the lender, and any state
34 or federal agency that guaranteed or reinsured the loan.

35 (C) The amount of the prepaid tuition, the amount
36 and description of the student's loss, and the amount of
37 the student's claim.

38 (D) The date the student started and ceased attending
39 the institution.



1 (E) A description of the reasons the student ceased
2 attending the institution.

3 (F) If the student ceased attending because of a
4 breach or anticipatory breach or because of the decline
5 in the quality or value of the course of instruction as
6 described in subparagraph (E) of paragraph (1) of
7 subdivision (a), a statement describing in detail the
8 nature of the loss incurred. The application shall be filed
9 within one year of the council's service on the student of
10 the notice described in paragraph (1) of subdivision (c)
11 or, if no notice is served, within four years of the
12 institution's closure.

13 (2) Students entitled to payment as provided in
14 paragraph (2) of subdivision (a) shall file with the council
15 a verified application indicating the student's name,
16 address, telephone number, and social security number,
17 the amount of the judgment obtained against the
18 institution, a statement that the judgment cannot be
19 collected, and a description of the efforts attempted to
20 enforce the judgment. The application shall be
21 accompanied by a copy of the judgment and any other
22 documents indicating the student's efforts made to
23 enforce the judgment.

24 The application shall be filed within two years after the
25 date upon which the judgment became final.

26 (3) The council may require additional information
27 designed to facilitate payment to entitled students. The
28 council shall relieve a student from the requirement to
29 provide all of the information required by this subdivision
30 if the council has the information or the information is not
31 reasonably necessary for the resolution of a student's
32 claim.

33 (e) Within 60 days of the council's receipt of a
34 completed application for payment, the council shall pay
35 the claim from the Student Tuition Recovery Fund or
36 deny the claim. The council, for good cause, may extend
37 the time period for up to an additional 90 days to
38 investigate the accuracy of the claim.

39 (f) (1) If the council pays the claim, the amount of the
40 payment shall be (A) the greater of either (i) the total



1 guaranteed student loan debt incurred by the student in
2 connection with attending the institution, or (ii) the total
3 of the student's tuition and the cost of equipment and
4 materials related to the course of instruction, less (B) the
5 amount of any refund, reimbursement, indemnification,
6 restitution, compensatory damages, settlement, debt
7 forgiveness, discharge, cancellation, or compromise, or
8 any other benefit received by, or on behalf of, the student
9 before the council's payment of the claim in connection
10 with the student loan debt or cost of tuition, equipment,
11 and materials. The payment also shall include the amount
12 the institution collected and failed to pay to third parties
13 on behalf of the student for license fees or any other
14 purpose. However, if the claim is based solely on the
15 circumstances described in subparagraph (B) or (C) of
16 paragraph (1) of subdivision (a), the amount of the
17 payment shall be the amount of the loss suffered by the
18 student.

19 In addition to the amount determined under this
20 paragraph, the amount of the payment shall include all
21 interest and collection costs on all student loan debt
22 incurred by the student in connection with attending the
23 institution.

24 (2) The council may reduce the total amount specified
25 in paragraph (1) by the value of the benefit, if any, of the
26 education obtained by the student before the closure of
27 the institution. If the council makes any reduction
28 pursuant to this paragraph, the council shall notify the
29 claimant in writing at the time the claim is paid of the
30 basis of its decision and provide a brief explanation of the
31 reasons upon which the council relied in computing the
32 amount of the reduction.

33 (3) No reduction shall be made to the amount
34 specified in paragraph (1) if (A) the student did not
35 receive adequate instruction to obtain the training, skills,
36 or experience, or employment to which the instruction
37 was represented to lead, or (B) credit for the instruction
38 obtained by the student is not generally transferable to
39 other institutions approved by the council.



1 (4) The amount of the payment determined under
2 this subdivision is not dependent on the amount of the
3 refund to which the student would have been entitled
4 after a voluntary withdrawal.

5 (5) Upon payment of the claim, all of the student's
6 rights against the institution shall be deemed assigned to
7 the council to the extent of the amount of the payment.

8 (g) (1) The director of the council may negotiate with
9 a lender, holder, guarantee agency, or the United States
10 Department of Education for the full compromise or
11 write-off of student loan obligations to relieve students of
12 loss and thereby reduce the amount of student claims.

13 (2) The director of the council, with the student's
14 permission, may pay a student's claim directly to the
15 lender, holder, guarantee agency, or the United States
16 Department of Education under a federally guaranteed
17 student loan program only if the payment of the claim
18 fully satisfies all of the student's loan obligations related
19 to attendance at the institution for which the claim was
20 filed.

21 (3) Notwithstanding subdivision (e), the council may
22 delay the payment of a claim pending the resolution of
23 the council's attempt to obtain a compromise or write-off
24 of the claimant's student loan obligation. However, the
25 council shall immediately pay the claim in the event any
26 adverse action that is not stayed is taken against the
27 claimant, including the commencement of a civil or
28 administrative action, tax offset, the enforcement of a
29 judgment, or the denial of any government benefit.

30 (h) If the council denies the claim, or reduces the
31 amount of the claim pursuant to paragraph (2) of
32 subdivision (f), the council shall notify the student of the
33 denial or reduction and of the student's right to request
34 a hearing within 60 days or any longer period permitted
35 by the council. If a hearing is not requested within 60 days
36 or any additional period reasonably requested by the
37 student, the council's decision shall be final. If a hearing
38 is requested, Chapter 5 (commencing with Section
39 11500) of Part 1 of Division 3 of Title 2 of the Government
40 Code shall apply.



1 It is the intent of the Legislature that, when a student
2 is enrolled in an institution that closes prior to the
3 completion of the student's program, the student shall
4 have the option for a teach-out at another institution
5 approved by the council. The council shall seek to
6 promote teach-out opportunities wherever possible and
7 shall inform the student of his or her rights, including
8 payment from the fund, transfer opportunities, and
9 available teach-out opportunities, if any.

10 (i) This section applies to all claims filed or pending
11 under former Chapter 7 (commencing with Section
12 94700) after January 1, 1990.

13 94945. (a) The council shall assess each institution
14 that collects any moneys in advance of rendering
15 services.

16 (1) The amount assessed each institution shall be
17 calculated only for those students who are California
18 residents and who are eligible to be reimbursed from the
19 fund. It shall be based on the actual amount charged each
20 of these students for total course cost, regardless of the
21 portion that is prepaid. The assessment shall be as follows:

22 (A) For a total course cost of one cent (\$0.01) to nine
23 hundred ninety-nine dollars and ninety-nine cents
24 (\$999.99), inclusive, the assessment is one dollar (\$1) per
25 student.

26 (B) For a total course cost of one thousand dollars
27 (\$1,000) to two thousand nine hundred ninety-nine
28 dollars and ninety-nine cents (\$2,999.99), inclusive, the
29 assessment is two dollars and fifty cents (\$2.50) per
30 student.

31 (C) For a total course cost of three thousand dollars
32 (\$3,000) to five thousand nine hundred ninety-nine
33 dollars and ninety-nine cents (\$5,999.99), inclusive, the
34 assessment is three dollars and fifty cents (\$3.50) per
35 student.

36 (D) For a total course cost of six thousand dollars
37 (\$6,000) to eight thousand nine hundred ninety-nine
38 dollars and ninety-nine cents (\$8,999.99), inclusive, the
39 assessment is four dollars and fifty cents (\$4.50) per
40 student.



1 (E) For a total course cost of nine thousand dollars
2 (\$9,000) or more, the assessment is five dollars and fifty
3 cents (\$5.50) per student.

4 (2) The council shall levy additional reasonable
5 assessments only if they are required to ensure that
6 sufficient funds are available to satisfy the anticipated
7 costs of paying student claims pursuant to Section 94944.

8 (3) The assessments shall be paid into the Student
9 Tuition Recovery Fund and credited to the appropriate
10 account in the fund, and the deposits shall be allocated,
11 except as otherwise provided for in this chapter, solely for
12 the payment of valid claims to students. Unless additional
13 reasonable assessments are required, no assessments for
14 the degree-granting postsecondary educational
15 institution account shall be levied during any fiscal year
16 if, as of June 30 of the prior fiscal year, the balance in that
17 account of the fund exceeds one million dollars
18 (\$1,000,000). Unless additional reasonable assessments
19 are required, no assessments for the vocational
20 educational institution account shall be levied during any
21 fiscal year if, as of June 30 of the prior fiscal year, the
22 balance in that account exceeds three million dollars
23 (\$3,000,000). Unless additional reasonable assessments
24 are required, no assessments for the account for
25 institutions approved under any provision of this chapter
26 that charge each enrolled student a total charge, as
27 defined in subdivision (k) of Section 94852, of less than
28 one thousand dollars (\$1,000) shall be levied during any
29 fiscal year if, as of June 30 of the prior fiscal year, the
30 balance in that account exceeds three hundred thousand
31 dollars (\$300,000). However, regardless of the balance in
32 the fund, assessments shall be made on any newly
33 approved institution for a period established pursuant to
34 regulation by the council. Notwithstanding Section 13340
35 of the Government Code, the moneys so deposited in the
36 fund are continuously appropriated to the council for the
37 purpose of paying claims to students pursuant to Section
38 94944.

39 (b) The council may deduct from the fund the
40 reasonable costs of administration of the tuition recovery



1 program authorized by Section 94944 and this section.
2 The maximum amount of administrative costs that may
3 be deducted from the fund, in a fiscal year, shall not
4 exceed one hundred thousand dollars (\$100,000) from the
5 degree-granting postsecondary educational institution
6 account, three hundred thousand dollars (\$300,000) from
7 the vocational educational institution account, and thirty
8 thousand dollars (\$30,000) from the account for
9 institutions approved under any provision of this chapter
10 that charge each enrolled student a total charge, as
11 defined in subdivision (k) of Section 94852, of less than
12 one thousand dollars (\$1,000), plus the interest earned on
13 money in the fund that is credited to the fund. Prior to the
14 council's expenditure of any amount in excess of one
15 hundred thousand dollars (\$100,000) from the fund for
16 administration of the tuition recovery program, the
17 council shall develop a plan itemizing that expenditure.
18 The plan shall be subject to the approval of the
19 Department of Finance. Institutions, except for schools of
20 cosmetology licensed pursuant to Article 8 (commencing
21 with Section 7362) of Chapter 10 of Division 3 of the
22 Business and Professions Code and institutions that offer
23 vocational or job training programs, that meet the
24 student tuition indemnification requirements of a
25 California state agency, or that demonstrate to the
26 council that an acceptable alternative method of
27 protecting their students against loss of prepaid tuition
28 has been established, shall be exempted from this section.

29 (c) Reasonable costs in addition to those permitted
30 under subdivision ~~(b)~~ (b) may be deducted from the
31 fund for any of the following purposes:

32 (1) To make and maintain copies of student records
33 from institutions which close.

34 (2) To reimburse the council or a third party serving
35 as the custodian of records.

36 (3) To review records in order to determine whether
37 a student improperly received a loan due to false
38 certification, in which case the student would be eligible
39 for a loan write-off or discharge in lieu of reimbursement
40 in whole or in part from the fund.



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 ~~is~~ *shall be*
32 exempt from execution and shall not be the subject of
33 litigation or liability on the part of creditors of those
34 institutions or students.

35 (h) Claims for approved institutions that charge each
36 enrolled student a total charge, as defined in subdivision
37 (k) of Section 94852, of less than one thousand dollars
38 (\$1,000) shall be paid from (1) the account established for
39 these institutions if the claim relates to a period of student
40 enrollment beginning on or after the effective date of this



1 section, or (2) the vocational educational institution
2 account if the claim relates to a period of student
3 enrollment that began before the effective date of this
4 section.

5 (i) This section shall become inoperative on January 1,
6 1999, and on that date is repealed unless a later enacted
7 statute, ~~which~~ *that* becomes effective on or before
8 January 1, 1999, deletes or extends ~~these dates~~ *that date*.

9 94945. (a) The council shall assess each institution
10 that collects any moneys in advance of rendering
11 services.

12 (1) The amount assessed each institution shall be
13 calculated only for those students who are California
14 residents and who are eligible to be reimbursed from the
15 fund. It shall be based on the actual amount charged each
16 of these students for total course cost, regardless of the
17 portion that is prepaid. The assessment shall be as follows:

18 (A) For a total course cost of one cent (\$0.01) to two
19 thousand nine hundred ninety-nine dollars and
20 ninety-nine cents (\$2,999.99), inclusive, the assessment is
21 two dollars and fifty cents (\$2.50) per student.

22 (B) For a total course cost of three thousand dollars
23 (\$3,000) to five thousand nine hundred ninety-nine
24 dollars and ninety-nine cents (\$5,999.99), inclusive, the
25 assessment is three dollars and fifty cents (\$3.50) per
26 student.

27 (C) For a total course cost of six thousand dollars
28 (\$6,000) to eight thousand nine hundred ninety-nine
29 dollars and ninety-nine cents (\$8,999.99), inclusive, the
30 assessment is four dollars and fifty cents (\$4.50) per
31 student.

32 (D) For a total course cost of nine thousand dollars
33 (\$9,000) or more, the assessment is five dollars and fifty
34 cents (\$5.50) per student.

35 (2) The council shall levy additional reasonable
36 assessments only if they are required to ensure that
37 sufficient funds are available to satisfy the anticipated
38 costs of paying student claims pursuant to Section 94944.

39 (3) The assessments shall be paid into the Student
40 Tuition Recovery Fund and credited to the appropriate



1 account in the fund, and the deposits shall be allocated,
2 except as otherwise provided for in this chapter, solely for
3 the payment of valid claims to students. Unless additional
4 reasonable assessments are required, no assessments for
5 the degree-granting postsecondary educational
6 institution account shall be levied during any fiscal year
7 if, as of June 30 of the prior fiscal year, the balance in that
8 account of the fund exceeds one million dollars
9 (\$1,000,000). Unless additional reasonable assessments
10 are required, no assessments for the vocational
11 educational institution account shall be levied during any
12 fiscal year if, as of June 30 of the prior fiscal year, the
13 balance in that account exceeds three million dollars
14 (\$3,000,000). However, regardless of the balance in the
15 fund, assessments shall be made on any newly approved
16 institution. Notwithstanding Section 13340 of the
17 Government Code, the moneys so deposited in the fund
18 are continuously appropriated to the council for the
19 purpose of paying claims to students pursuant to Section
20 94944.

21 (b) The council may deduct from the fund the
22 reasonable costs of administration of the tuition recovery
23 program authorized by Section 94944 and this section.
24 The maximum amount of administrative costs that may
25 be deducted from the fund, in a fiscal year, shall not
26 exceed one hundred thousand dollars (\$100,000) from the
27 degree-granting postsecondary educational institution
28 account and three hundred thousand dollars (\$300,000)
29 from the vocational educational institution account, plus
30 the interest earned on money in the fund that is credited
31 to the fund. Prior to the council's expenditure of any
32 amount in excess of one hundred thousand dollars
33 (\$100,000) from the fund for administration of the tuition
34 recovery program, the council shall develop a plan
35 itemizing that expenditure. The plan shall be subject to
36 the approval of the Department of Finance. Institutions,
37 except for schools of cosmetology licensed pursuant to
38 Article 8 (commencing with Section 7362) of Chapter 10
39 of Division 3 of the Business and Professions Code and
40 institutions that offer vocational or job training programs,



1 that meet the student tuition indemnification
2 requirements of a California state agency, or that
3 demonstrate to the council that an acceptable alternative
4 method of protecting their students against loss of
5 prepaid tuition has been established, shall be exempted
6 from this section.

7 (c) Reasonable costs in addition to those permitted
8 under subdivision ~~(b)~~ (b) may be deducted from the
9 fund for any of the following purposes:

10 (1) To make and maintain copies of student records
11 from institutions which close.

12 (2) To reimburse the council or a third party serving
13 as the custodian of records.

14 (d) In the event of a closure by any approved
15 institution under this chapter, any assessments that have
16 been made against those institutions, but have not been
17 paid into the fund, shall be recovered. Any payments
18 from the fund made to students on behalf of any
19 institution shall be recovered from that institution.

20 (e) In addition to civil remedies, the council may order
21 an institution to pay previously unpaid assessments or to
22 reimburse the council for any payments made from the
23 fund in connection with the institution. Before any order
24 is made pursuant to this section, the council shall provide
25 written notice to the institution and notice of the
26 institution's right to request a hearing within 30 days of
27 the service of the notice. If a hearing is not requested
28 within 30 days of the service of the notice, the council may
29 order payment. If a hearing is requested, Chapter 5
30 (commencing with Section 11500) of Part 1 of Division 3
31 of Title 2 of the Government Code shall apply, and the
32 council shall have all powers prescribed in that chapter.
33 Within 30 days after the effective date of the issuance of
34 the order, the council may enforce the order in the same
35 manner as if it were a money judgment pursuant to Title
36 9 (commencing with Section 680.010) of Part 2 of the
37 Code of Civil Procedure.

38 (f) In addition to any other action that the council may
39 take under this chapter, the council may suspend or
40 revoke an institution's approval to operate because of the



1 institution's failure to pay assessments when due or failure
2 to pay reimbursement for any payments made from the
3 fund within 30 days of the council's demand for payment.

4 (g) The moneys deposited in the fund shall be exempt
5 from execution and shall not be the subject of litigation
6 or liability on the part of creditors of those institutions or
7 students.

8 (h) This section shall become operative on January 1,
9 1999.

10 94946. (a) Any institution that willfully violates
11 Section 94945 shall be subject to all of the following:

12 (1) The institution shall lose all rights to enforce the
13 terms of any contract or agreement arising from the
14 transaction in which the violation occurred.

15 (2) The institution shall refund to the student any fees
16 that it has collected from that student.

17 (b) An institution's willful violation of Section 94945
18 may be grounds for the revocation of that institution's
19 approval to operate in this state.

20 94947. Students enrolling in institutions that come
21 under Sections 94944 and 94945, shall disclose in writing,
22 if applicable, the source of any and all guaranteed or
23 insured loans granted for the purposes of paying tuition
24 to that institution. In the event of a closure of any
25 institution, the council shall provide any lending
26 institution that is the source of any guaranteed or insured
27 student loan with the names of students maintaining
28 loans with that lending institution.

29 94948. (a) The governing board or other governing
30 authority of any private postsecondary or vocational
31 educational institution shall adopt rules providing for the
32 withholding of institutional services from students or
33 former students who have been notified, in writing, at the
34 student's or former student's last known address, that he
35 or she is in default on a loan or loans under either of the
36 following loan programs:

37 (1) The Stafford Student Loan program.

38 (2) The Supplemental Loans for Students program.

39 (3) Any program directly or indirectly financed by the
40 California Educational Facilities Authority.



1 “Default,” as used in this section, with respect to a loan
2 under the Stafford Student Loan program or
3 Supplemental Loans for Students program means the
4 failure of a borrower to make an installment payment
5 when due, or to meet other terms of the promissory note
6 under circumstances where the guarantee agency finds
7 it reasonable to conclude that the borrower no longer
8 intends to honor the obligation to repay, provided that
9 this failure persists for 180 days for a loan repayable in
10 monthly installments, or 240 days for a loan repayable in
11 less frequent installments. “Default,” as used in this
12 section, with respect to a program directly or indirectly
13 financed by the California Educational Facilities
14 Authority, means the failure of a borrower to make an
15 installment payment when due, or to meet other terms
16 of the loan, within that period and under the
17 circumstances determined by the California Educational
18 Facilities Authority with respect to that program.

19 (b) The rules adopted pursuant to subdivision (a) shall
20 provide that the services withheld may be provided
21 during a period when the facts are in dispute and when
22 the student or former student demonstrates to either the
23 governing board or other appropriate governing
24 authority of the institution, or the Student Aid
25 Commission and the appropriate entity or its designee,
26 that reasonable progress has been made to repay the loan
27 or that there exists a reasonable justification for the delay
28 as determined by the institution. The rules shall specify
29 the services to be withheld from the student and may
30 include, but are not limited to, the following:

- 31 (1) The provision of grades.
- 32 (2) The provision of transcripts.
- 33 (3) The provision of diplomas.

34 The rules shall not include the withholding of
35 registration privileges.

36 (c) When it has been determined that an individual is
37 in default on a loan or loans under either of the loan
38 programs specified in subdivision (a), the Student Aid
39 Commission shall give notice of the default to all



1 institutions through which that individual acquired the
2 loan or loans.

3 (d) Guarantors, or those who act as their agents or act
4 under their control, who provide information to
5 institutions pursuant to this section, shall defend,
6 indemnify, and hold harmless the governing board or
7 other governing authority of the institutions from action
8 resulting from compliance with this section when the
9 action arises as a result of incorrect, misleading, or
10 untimely information provided to the institution by the
11 guarantors, their agents, or those acting under the control
12 of the guarantors.

13

14 Article 13. Administrative and Judicial Procedures

15

16 94950. (a) The procedures set forth in Section 94965
17 or, alternatively, in Section 94975 govern the following
18 types of administrative actions:

19 (1) Denial of an application for an approval or renewal
20 of an approval.

21 (2) Suspension or revocation of an existing approval.

22 (3) Appeals of conditional approvals.

23 (b) In lieu of the procedures set forth in Section 94965
24 or 94975, an institution may voluntarily elect to utilize the
25 procedures set forth in Section 94980 if it appeals a
26 conditional approval by the council.

27 (c) The procedures set forth in Section 94970 govern
28 emergency suspensions of an institution's approval to
29 operate initiated by the council.

30 (d) Sections 94952 and 94955 authorize the council and
31 the Attorney General to seek various forms of judicial
32 relief in order to enforce this chapter.

33 (e) Section 94960 governs actions based on student
34 complaints.

35 (f) Section 94985 authorizes civil remedies for
36 individual students in addition to those available under
37 other provisions of law.

38 (g) Procedures established pursuant to regulations
39 adopted by the council shall govern the following types
40 of administrative appeals:



1 (1) Probationary actions.

2 (2) Decisions by the council denying an institution's
3 claim for an exemption or exclusion from this chapter or
4 any provision thereof.

5 94952. (a) The Attorney General, or any district
6 attorney, or city attorney, may make investigations as
7 may be necessary to carry out this chapter, including, but
8 not limited to, investigations of complaints. The council
9 may jointly bring actions as necessary to enforce this
10 chapter, including, but not limited to, civil actions for
11 injunctive relief. In actions brought pursuant to this
12 subdivision, the council shall be represented by the
13 Attorney General.

14 (b) The Attorney General shall represent the council
15 in the following administrative proceedings arising under
16 this chapter:

17 (1) Suspension or revocation of an institution's
18 approval.

19 (2) Denial of an institution's application for approval.

20 (3) An appeal of a conditional approval to operate
21 issued following a review of an institution's application for
22 approval.

23 (c) Nothing in this section or this chapter shall
24 preclude the Attorney General, or any district attorney
25 or city attorney, from any of the following:

26 (1) Bringing any action on behalf of the people as he
27 or she is empowered by law to bring, including, but not
28 limited to, actions based upon alleged violations of
29 Chapter 5 (commencing with Section 17200) of Part 2,
30 and Chapter 1 (commencing with Section 17500) of Part
31 3, of Division 7 of the Business and Professions Code.

32 (2) Conducting investigations necessary to determine
33 whether there have been violations of law specified in
34 paragraph (1).

35 (3) Conducting any investigations that he or she is
36 authorized to conduct, including, but not limited to,
37 investigations authorized under Section 11180 of the
38 Government Code.



1 (4) In the case of the Attorney General, delegating his
2 or her representation authority under subdivision (b) to
3 staff attorneys of the council.

4 (5) Entering into an agreement or understanding with
5 the council with respect to representation in any judicial
6 or administrative proceeding not expressly enumerated
7 herein.

8 94955. (a) The council may bring an action for
9 equitable relief for any violation of this chapter. The
10 equitable relief may include restitution, a temporary
11 restraining order, the appointment of a receiver, and a
12 preliminary or permanent injunction. The action may be
13 brought in the county in which the defendant resides or
14 in which any violation has occurred or may occur.

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

18 (c) In actions brought pursuant to this section, the
19 council shall be represented by the Attorney General.

20 94957. (a) *In addition to or in lieu of any other*
21 *remedy or penalty, the council may issue a citation to an*
22 *institution for committing any violation of this chapter or*
23 *regulation adopted under this chapter.*

24 (b) *The citation may contain an order of abatement or*
25 *the assessment of an administrative penalty. The*
26 *administrative penalty may not exceed two thousand five*
27 *hundred dollars (\$2,500) for each investigation made*
28 *regarding the violation. The council shall base its*
29 *assessment of the administrative penalty on the nature*
30 *and seriousness of the violation, the persistence of the*
31 *violation, the good faith of the institution, the history of*
32 *previous violations, and the purposes of this chapter.*

33 (c) *The citation shall be in writing and shall describe*
34 *the nature of the violation and the specific provision of*
35 *law determined to have been violated. The citation shall*
36 *inform the institution of its right to request a hearing in*
37 *writing within 15 days of the date that the citation was*
38 *issued. If a hearing is not requested, payment of the*
39 *administrative penalty shall not constitute an admission*
40 *of the violation charged. If a hearing is requested, the*



1 council shall provide a hearing as described in Section
2 94965, 94975, or 94980. Payment of the administrative
3 penalty is due 15 days after the citation was issued if a
4 hearing is not requested, or when a final order is entered
5 if a hearing is requested. The council may enforce the
6 administrative penalty as if it were a money judgment
7 pursuant to Title 9 (commencing with Section 680.10) of
8 Part 2 of the Code of Civil Procedure.

9 (d) All administrative penalties shall be deposited in
10 the enforcement account in the Private Postsecondary
11 and Vocational Administration Fund, which account is
12 hereby created.

13 94960. (a) Any person claiming damage or loss as a
14 result of any act or practice by a postsecondary or
15 vocational educational institution or its agent, or both,
16 that is a violation of this chapter or of the ~~rules and~~
17 regulations adopted pursuant to this chapter, may file
18 with the council a verified complaint against that
19 institution or its agent, or both.

20 The complaint shall set forth the alleged violation and
21 shall contain any other information as may be required by
22 the council.

23 (b) The council shall investigate any complaint and
24 may attempt to effectuate settlement by persuasion and
25 conciliation.

26 (c) If, upon all the evidence at a hearing, the council
27 finds that an institution or its agent, or both, have
28 engaged in, or are engaging in, any act or practice that
29 violates this chapter or the regulations adopted pursuant
30 to this chapter, the council shall report that evidence to
31 the Attorney General. The council, based on its own
32 investigation or the evidence adduced at a hearing, or
33 both, also may commence an action to revoke an
34 institution's approval to operate or an agent's permit.

35 (d) Complaints received by the council pertaining to
36 institutions accredited by the Western Association of
37 Schools and Colleges shall be forwarded to the
38 association. Actions by the council relating to complaints
39 against these institutions shall be limited to the
40 transmittal of this information.



1 (e) A person entitled to bring an action for the
2 recovery of damages or other relief shall not be required
3 to file a complaint pursuant to this section, or to pursue
4 or exhaust any administrative process or remedy before
5 bringing the action.

6 94965. (a) Proceedings in connection with the denial
7 of an application to operate, the grant of a conditional
8 approval to operate, or the revocation of an approval to
9 operate shall be conducted in accordance with Chapter
10 5 (commencing with Section 11500) of Part 1 of Division
11 3 of Title 2 of the Government Code, and the council shall
12 have all of the powers granted in that chapter. Any action
13 by the council to place an institution on probation shall be
14 subject to appeal to the full council, and the council shall
15 establish procedures that provide the institution with
16 adequate notice and an opportunity to be heard and to
17 present evidence as to why the action recommended by
18 staff or by a visiting committee shall not be taken.

19 (b) Upon taking any action to suspend or revoke an
20 institution's approval to operate, or to deny an application
21 for renewal of an approval to operate, the council shall
22 provide written notice to the Student Aid Commission,
23 the United States Department of Education, and to any
24 appropriate accrediting association.

25 94970. (a) If an institution has violated this chapter
26 and determines that immediate action is necessary to
27 protect students, prevent misrepresentations to the
28 public, or prevent the loss of public funds, tuition, or other
29 money paid by students, the council may institute an
30 emergency action to suspend the approval of an
31 institution to operate, or the approval to operate a branch
32 or satellite campus, for not more than 30 ~~days~~^{days} unless
33 the council initiates a proceeding to suspend or revoke
34 the approval to operate within that period.

35 (b) (1) The council shall provide notice of the
36 emergency action to the institution by certified mail, if
37 the effective date of the emergency action is 10 or more
38 working days after mailing, or personal service, if the
39 effective date of the emergency action is five or more
40 days after service.



1 (2) The notice shall specify all of the following:

2 (A) The violations upon which the emergency action
3 is based.

4 (B) The nature and grounds of the emergency action,
5 including whether the action applies to the continuation
6 of instruction to enrolled students or to the enrollment of
7 new students.

8 (C) The effective date of the action, which shall not be
9 less than five days after the notice is provided.

10 (D) The institution's right to show cause that the
11 emergency action is unwarranted by submitting to the
12 council, at least two days before the effective date of the
13 emergency action, declarations, documentary evidence,
14 and written arguments demonstrating that the violations
15 did not occur or that immediate action is not required.

16 (E) The right of the institution to request, in writing,
17 within 30 days of the service of the notice, a hearing.

18 (c) The council may (1) continue the effective date of
19 an emergency action or (2) terminate the emergency
20 action at any time if the council concludes that the
21 institution has shown cause that the emergency action is
22 unwarranted or that the grounds for instituting the
23 emergency action no longer remain. The council shall
24 provide written notice of a continuance or termination of
25 an emergency action to the institution.

26 (d) (1) If the institution does not take the opportunity
27 to show cause why the emergency action is unwarranted,
28 the emergency action shall become effective on the date
29 specified in the notice or notice of continuance.

30 (2) If the institution takes the opportunity to show
31 cause and the council decides, after a consideration of the
32 declarations, documentary evidence and written
33 argument submitted by the institution, that the
34 emergency action should become effective, the
35 emergency action shall be effective on the date specified
36 in the notice or notice of continuance. The council shall
37 notify the institution of the decision at least one day
38 before the effective date, and the institution may
39 thereafter seek judicial relief upon notice to the council
40 and the Attorney General.

1 (e) (1) If a hearing is requested within the 30-day
2 period specified in subdivision (b) the council shall set a
3 date for the hearing within 20 days after receipt of the
4 request.

5 (2) If the institution does not request a hearing within
6 the 30-day period specified in subdivision (b) or if the
7 council concludes after a hearing requested by the
8 institution that grounds exist for the suspension or
9 revocation of the institution's approval to operate or
10 approval to operate a branch or satellite campus, the
11 council may extend the suspension or revoke the
12 institution's approval to operate or approval to operate a
13 branch or satellite campus, order probation and a penalty,
14 order the posting of a bond, or condition the institution's
15 approval to operate or approval to operate a branch or
16 satellite campus as the council deems appropriate.

17 (f) During the pendency of an emergency action, the
18 council may investigate the institution's compliance with
19 this chapter, including an onsite inspection, and may
20 institute a proceeding pursuant to Section 94878, if
21 applicable, or Section 94965 or 94975 to suspend or revoke
22 an institution's approval to operate or approval to operate
23 a branch or satellite campus, order a bond, or order
24 probation and a penalty, based on any violation of this
25 chapter.

26 (g) This section supplements, but does not supplant,
27 the authority of the council to seek judicial relief,
28 including a temporary restraining order and injunction,
29 to redress any violation of this chapter.

30 94975. (a) This section establishes the procedure for
31 notice and hearing required under this chapter and,
32 except as provided in Section 94970, may be used in lieu
33 of other notice or hearing requirements provided in this
34 chapter.

35 (b) If notice of administrative action is required by this
36 chapter, the council shall serve notice stating the
37 following:

38 (1) The action, including the penalties and
39 administrative sanctions sought.



1 (2) The grounds for the action with sufficient
2 particularity to give notice of the transactions,
3 occurrences, violations, or other matters on which the
4 action is based.

5 (3) The right to a hearing and the time period within
6 which the party subject to the notice may request a
7 hearing in writing. The time period shall not be less than
8 15 days after service of the notice unless a longer period
9 is provided by statute.

10 (4) The right to be present at the hearing, to be
11 represented by counsel, to cross-examine witnesses, and
12 to present evidence.

13 (5) That, if the party subject to the notice does not
14 request a hearing in writing within the time period
15 expressed in the notice, he or she will waive or forfeit his
16 or her right to an administrative hearing and the action
17 will become final.

18 (c) If a party subject to a notice provided pursuant to
19 subdivision (b) requests a hearing in writing within the
20 time period specified in subparagraph (3) of paragraph
21 (b), then within 10 days of receiving this request, the
22 council shall schedule a hearing. The hearing shall be held
23 in a location determined pursuant to Section 11508 of the
24 Government Code. The council shall serve reasonable
25 notice of the time and place for the hearing at least 10
26 days before the hearing. The council may continue the
27 date of the hearing upon a showing of good cause.

28 (d) (1) Any party, including the council, may submit
29 a written request to any other party before the hearing
30 to obtain the names and addresses of any person who has
31 personal knowledge, or who the party receiving the
32 request claims to have personal knowledge, of any of the
33 transactions, occurrences, violations, or other matters
34 that are the basis of the administrative action. In addition,
35 the requesting party shall have the right to inspect and
36 copy any written statement made by that person and any
37 writing, as defined by Section 250 of the Evidence Code,
38 or thing that is in the custody, or under the control, of the
39 party receiving the request and that is relevant and not
40 privileged. This subdivision shall constitute the exclusive



1 method for prehearing discovery. However, nothing in
2 this paragraph shall affect the council's authority, at any
3 time, to investigate, inspect, monitor, or obtain and copy
4 information under any provision of this chapter.

5 (2) The written request described in paragraph (1)
6 shall be made before the hearing and within 30 days of the
7 service of the notice described in subdivision (b). Each
8 recipient of a request shall comply with the request
9 within 15 days of its service by providing the names and
10 addresses requested and by producing at a reasonable
11 time at the council's office, or other mutually agreed
12 reasonable place, the requested writings and things. The
13 council may extend the time for response upon a showing
14 of good cause.

15 (3) Except as provided in this paragraph, no party may
16 introduce the testimony or statement of any person or
17 any writing or thing into evidence at the hearing if that
18 party failed to provide the name and address of the
19 person or to produce the writing or thing for inspection
20 and copying as provided by this subdivision. A party may
21 introduce the testimony, statement, writing, or thing that
22 was not identified or produced as required herein only if
23 there is no objection or if the party establishes that the
24 person, writing, or thing was unknown at the time when
25 the response was made to the written request, the party
26 could not have informed other parties within a reasonable
27 time after learning of the existence of the person, writing,
28 or thing, and no party would be prejudiced by the
29 introduction of the evidence.

30 (e) Before the hearing has commenced, the council
31 shall issue subpoenas at the written request of any party
32 for the attendance of witnesses or the production of
33 documents or other things in the custody or under the
34 control of the person subject to the subpoena. Subpoenas
35 issued pursuant to this section are subject to Section 11510
36 of the Government Code.

37 (f) (1) The council shall designate an impartial
38 hearing officer to conduct the hearing. The hearing
39 officer may administer oaths and affirmations, regulate
40 the course of the hearing, question witnesses, and



1 otherwise investigate the issues, take official notice
2 according to the procedure provided in Division 4
3 (commencing with Section 450) of the Evidence Code of
4 any technical or educational matter in the council's
5 special field of expertise and of any matter that may be
6 judicially noticed, set the time and place for continued
7 hearings, fix the time for the filing of briefs and other
8 documents, direct any party to appear and confer to
9 consider the simplification of issues by consent, and
10 prepare a statement of decision.

11 (2) Neither a hearing officer nor any person who has
12 a direct or indirect interest in the outcome of the hearing
13 shall communicate directly or indirectly with each other
14 regarding any issue involved in the hearing while the
15 proceeding is pending without notice and opportunity for
16 all parties to participate in the communication. A hearing
17 officer who receives any ex parte communication shall
18 immediately disclose the communication to the council
19 and all other parties. The council may disqualify the
20 hearing officer if necessary to eliminate the effect of the
21 ex parte communication. If the council finds that any
22 party willfully violated, or caused the violation of, this
23 paragraph, the council shall enter that party's default and
24 impose the administrative sanction set forth in the notice
25 provided pursuant to subdivision (b).

26 (g) (1) Each party at the hearing shall be afforded an
27 opportunity to present evidence, respond to evidence
28 presented by other parties, cross-examine, and present
29 written argument or, if permitted by the hearing officer,
30 oral argument on the issues involved in the hearing. The
31 council may call any party as a witness who may be
32 examined as if under cross-examination.

33 (2) Each party may appear through its representative
34 or through legal counsel.

35 (3) The technical rules relating to evidence and
36 witnesses shall not apply. However, only relevant
37 evidence is admissible.

38 (4) Oral evidence shall be taken only upon oath or
39 affirmation. The hearing shall be conducted in the
40 English language. The proponent of any testimony to be



1 offered by a witness who is not proficient in English shall
2 provide, at the proponent's cost, an interpreter proficient
3 in English and the language in which the witness will
4 testify.

5 (5) The hearing shall be recorded by tape recording or
6 other phonographic means unless all parties agree to
7 another method of recording the proceedings.

8 (6) (A) At any time 10 or more days before the
9 hearing, any party may serve on the other parties a copy
10 of any declaration that the party proposes to introduce in
11 evidence.

12 (B) The declaration shall be accompanied by a notice
13 indicating the date of service of the notice and stating that
14 the declarations will be offered into evidence, the
15 declarants will not be called as witnesses, and there will
16 be no right of cross-examination unless the party
17 receiving the notice requests the right to cross-examine,
18 in writing, within seven days of the service of the
19 declarations and notice.

20 (C) If no request for cross-examination is served
21 within seven days of the service of the declarations and
22 notice described in subparagraph (B), the right to
23 cross-examination is deemed waived and the declaration
24 shall have the same effect as if the declarant testified
25 orally. Notwithstanding this paragraph, a declaration may
26 be admitted as hearsay evidence without
27 cross-examination.

28 (7) Disposition of any issues involved in the hearing
29 may be made by stipulation or settlement.

30 (8) If a party fails to appear at a hearing, that party's
31 default shall be taken and the party shall be deemed to
32 have waived the hearing and agreed to the administrative
33 action and the grounds for that action described in the
34 notice given pursuant to subdivision (b). The council
35 shall serve the party with an order of default including the
36 administrative action ordered. The order shall be
37 effective upon service or at any other time designated by
38 the council. The council may relieve a party from an
39 order of default if the party applies for relief within 15
40 days after the service of an order of default and establishes



1 good cause for relief. An application for relief from
2 default shall not stay the effective date of the order unless
3 expressly provided by the council.

4 (h) (1) At any time before the matter is submitted for
5 decision, the council may amend the notice provided
6 pursuant to subdivision (b) to set forth any further
7 grounds for the originally noticed administrative action
8 or any additional administrative action and the grounds
9 therefor. The statement of the further grounds for the
10 originally noticed administrative action, or of the grounds
11 for any additional administrative action, shall be made
12 with sufficient particularity to give notice of the
13 transactions, occurrences, violations, or other matters on
14 which the action or additional action is based. The
15 amended notice shall be served on all parties. All parties
16 affected by the amended notice shall be given reasonable
17 opportunity to respond to the amended notice as
18 provided in this section.

19 (2) The council may amend the notice after the case
20 is submitted for decision. The council shall serve each
21 party with notice of the intended amendment and shall
22 provide the party with an opportunity to show that the
23 party will be prejudiced by the amendment unless the
24 case is reopened to permit the party to introduce
25 additional evidence. If prejudice is shown, the council
26 shall reopen the case to permit the introduction of
27 additional evidence.

28 (i) (1) Within 30 days after the conclusion of the
29 hearing or at another time established by the council, the
30 hearing officer shall submit a written statement of
31 decision setting forth a recommendation for a final
32 decision and explaining the factual and legal basis for the
33 decision as to each of the grounds for the administrative
34 action set forth in the notice or amended notice. The
35 council shall serve the hearing officer's statement of
36 decision on each party and its counsel within 10 days of its
37 submission by the hearing officer.

38 (2) The council shall make the final decision which
39 shall be based exclusively on evidence introduced at the
40 hearing. The final decision shall be supported by



1 substantial evidence in the record. The council also shall
2 issue a statement of decision explaining the factual and
3 legal basis for the final decision as to each of the grounds
4 for the administrative action set forth in the notice or
5 amended notice. The council shall issue an order based on
6 its decision which shall be effective upon service or at any
7 other time designated by the council. The council shall
8 serve a copy of the final decision and order, within 10 days
9 of their issuance, on each party and its counsel.

10 (3) The council may hold a closed session to deliberate
11 on a decision to be reached based upon evidence
12 introduced at the hearing.

13 (4) The council shall serve a certified copy of the
14 complete record of the hearing, or any part thereof
15 designated by a party, within 30 days after receiving the
16 party's written request and payment of the cost of
17 preparing the requested portions of the record. The
18 complete record shall include all notices and orders
19 issued by the council, a transcript of the hearing, the
20 exhibits admitted or rejected, the written evidence and
21 any other papers in the case, the hearing officer's
22 statement of decision, and the final decision and order.

23 (j) The council shall serve all notices and other
24 documents that are required to be served by this section
25 on each party by personal delivery, by certified mail,
26 return receipt requested, or by any other means
27 designated by the council.

28 (k) (1) Any party aggrieved by the council's final
29 decision and order may seek judicial review by filing a
30 petition for a writ of mandate pursuant to Section 1085 of
31 the Code of Civil Procedure within 30 days of the issuance
32 of the final decision and order. If review is not sought
33 within that period, the party's right to review shall be
34 deemed waived.

35 (2) The aggrieved party shall present the complete
36 record of the hearing or all portions of the record
37 necessary for the court's review of the council's final
38 decision and order. The court shall deny the petition for
39 a writ of mandate if the record submitted by the party is
40 incomplete. The court shall not consider any matter not



1 contained in the record. The factual basis supporting the
2 final decision set forth in the council's statement of
3 decision shall be conclusive if supported by substantial
4 evidence on the record considered as a whole.

5 (3) The final order shall not be stayed or enjoined
6 during review except upon the court's grant of an order
7 on a party's application after due notice to the council and
8 the Attorney General. The order shall be granted only if
9 the party establishes the substantial likelihood that it will
10 prevail on the merits and posts a bond sufficient to
11 protect fully the interests of the students, the council, and
12 the fund, from any loss.

13 (l) The council may adopt regulations establishing
14 alternative means of providing notice and an opportunity
15 to be heard in circumstances in which a full hearing is not
16 required by law.

17 (m) For the purposes of this section, "good cause" shall
18 require sufficient ground or reason for the determination
19 to be made by the council.

20 94980. (a) If the council, through the executive
21 director, denies an institution's application for approval,
22 grants a conditional approval, or initiates a proceeding to
23 suspend or revoke an institution's approval to operate,
24 the institution may request a hearing pursuant to this
25 section in lieu of the hearing procedure designated by the
26 council under Section 94965 or 94975.

27 (b) At the time the council provides notice to an
28 institution of its right to a hearing under Section 94965 or
29 94975 in connection with the denial of an application for
30 approval to operate, the issuance of a conditional
31 approval to operate, or a proposed suspension or
32 revocation of approval to operate, the council also shall
33 provide notice of the provisions of this section.

34 (c) Within 15 days after service of the notice described
35 in subdivision (b), the institution may request in writing
36 a hearing under this section in lieu of the hearing
37 procedure in Section 94965 or 94975. The request shall
38 acknowledge that by electing to proceed under this
39 section, the institution is knowingly waiving all rights



1 under the hearing procedure otherwise provided by the
2 council.

3 (d) After receiving the institution's request for a
4 hearing under this section, the council shall provide the
5 institution or its representative with copies of all the
6 documents, testimony in declaration form, and written
7 arguments on which the council relies to support its
8 proposed administrative action.

9 (e) The institution shall have 30 days from the service
10 of the council's written evidence and arguments to
11 submit all the documents, testimony in declaration form,
12 and written arguments on which the institution relies in
13 opposition to the council's proposed administrative
14 action.

15 (f) Neither the council nor the institution has any right
16 to discovery or to compel the production of documents or
17 the testimony of witnesses by subpoena.

18 (g) The executive director shall review all of the
19 documents, declarations, and arguments and shall render
20 a proposed decision in writing based solely on the written
21 evidence and arguments that set forth the proposed
22 administrative action and the factual and legal bases for
23 it.

24 (h) Within 10 days of the service of the executive
25 director's decision, the institution may request in writing
26 to have the matter reviewed by the members of the
27 council and may also request oral argument, as described
28 in subdivision (i). If a timely request for review is not
29 submitted, the executive director's decision shall be
30 deemed the final decision of the council. If a timely
31 request for review is submitted without a request for oral
32 argument, the right to make oral argument is deemed
33 waived.

34 (i) If a timely request for review is made, the matter
35 shall be considered by the members of the council based
36 solely on the written evidence and arguments submitted
37 to the executive director and, if oral argument was timely
38 requested, any oral argument permitted by the council.
39 No new evidence may be presented during oral
40 argument. An institution requesting oral argument shall



1 receive at least 10 days advance notice of the council
2 meeting at which time oral argument may be made. The
3 council members may deliberate on the decision to be
4 reached in a closed session as provided in paragraph (3)
5 of subdivision (c) of Section 11126 of the Government
6 Code. The council shall issue its final decision within 30
7 days after the council meeting at which the matter was
8 reviewed. The executive director's proposed decision
9 shall be sustained if it is supported by substantial evidence
10 on the record considered as a whole.

11 (j) The council shall serve the institution with a
12 written decision setting forth the administrative action
13 taken and the legal and factual bases for it. The decision
14 shall become final within 30 days unless another time is
15 specified by the council.

16 (k) The council shall serve a certified copy of the
17 complete record, or any part thereof designated by an
18 institution, within 30 days after receiving the institution's
19 written request and payment of the cost of preparing the
20 requested record or portions thereof. The complete
21 record shall consist of all notices and orders of the council,
22 the documents, declarations, and written argument
23 submitted, a transcript of any oral argument, and the final
24 decision and order.

25 (l) Any party aggrieved by the council's final decision
26 and order may seek judicial review as provided in, and
27 subject to, the requirements of subdivision (k) of Section
28 94975.

29 (m) All documents required by this section to be
30 served by the council shall be served on the institution,
31 its counsel, or authorized representative by any means
32 authorized for service pursuant to Chapter 5
33 (commencing with Section 1010) of Title 14 of Part 2 of
34 the Code of Civil Procedure.

35 94985. (a) Any institution that willfully violates any
36 provision of Section 94800, 94810, 94814, or 94816, Sections
37 94820 to 94826, inclusive, Section 94829, 94831, or 94832
38 may not enforce any contract or agreement arising from
39 the transaction in which the violation occurred, and any



1 willful violation is a ground for revoking an approval to
2 operate in this state or for denying a renewal application.

3 (b) Notwithstanding any provision of the contract or
4 agreement, a student may bring an action for a violation
5 of this article or for an institution's failure to perform its
6 legal obligations and, upon prevailing thereon, is entitled
7 to the recovery of damages, equitable relief, or any other
8 relief authorized by this article, and reasonable attorney's
9 fees and costs.

10 (c) If a court finds that a violation was willfully
11 committed or that the institution failed to refund all
12 consideration as required by subdivision (b) on the
13 student's written demand, the court, in addition to the
14 relief authorized under subdivision (b), shall award a civil
15 penalty of up to two times the amount of the damages
16 sustained by the student.

17 (d) The remedies provided in this article supplement,
18 but do not supplant, the remedies provided under any
19 other provision of law.

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

23 (f) Any provision in any agreement that purports to
24 require a student to invoke any grievance dispute
25 procedure established by the institution before enforcing
26 any right or remedy is void and unenforceable.

27 (g) A student may assign his or her cause of action for
28 a violation of this article to the council, or to any state or
29 federal agency that guaranteed or reinsured a loan for the
30 student or that provided any grant or other financial aid.

31 (h) This section applies to any action pending on the
32 effective date of this section.

33 (i) This section supplements, but does not supplant,
34 the authority granted the Division of Labor Law
35 Enforcement under Section 1700.4 of the Labor Code to
36 the extent that placement activities of trade schools are
37 subject to regulation by the division under the Labor
38 Code.

39



Article 14. Council Reports

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

94990. On or before January 1, 2001, and every five years thereafter, the California Postsecondary Education Commission shall review the effectiveness of this chapter, and, notwithstanding Section 7550.5 of the Government Code, shall report to the Legislature on the results of this review.

The commission shall present any recommendations for revising this chapter as it deems appropriate.

94995. (a) Notwithstanding Section 7550.5 of the Government Code, on or before January 31 of each calendar year, the council shall submit a written report to the Legislature and to the California Postsecondary Education Commission, summarizing its activities during the previous fiscal year.

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

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

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

Article 15. Severability

94998. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Article 16. Termination

94999. This chapter shall become operative on ~~July 1,~~ ~~1997~~ January 1, 1998, and as of January 1, 2003, is repealed,



1 unless a later enacted statute, that is enacted before
2 January 1, 2003, deletes or extends that date.

3 SEC. 4. Section 1095 of the Unemployment Insurance
4 Code is amended to read:

5 1095. The director shall permit the use of any
6 information in his or her possession to the extent
7 necessary for any of the following purposes:

8 (a) To properly present a claim for benefits.

9 (b) To acquaint a worker or his or her authorized
10 agent with his or her existing or prospective right to
11 benefits.

12 (c) To furnish an employer or his or her authorized
13 agent with information to enable him or her to fully
14 discharge his or her obligations or safeguard his or her
15 rights under this division or Division 3 (commencing with
16 Section 9000). This subdivision, as it relates to Division 3
17 (commencing with Section 9000), applies only to
18 subdivision (j) of this section.

19 (d) To enable an employer to receive a reduction in
20 contribution rate.

21 (e) To enable the Director of Social Services or his or
22 her representatives or the Director of Health Services or
23 his or her representatives, subject to federal law, to verify
24 or determine the eligibility or entitlement of an applicant
25 for, or a recipient of, public social services provided
26 pursuant to the Welfare and Institutions Code, and
27 directly connected with, and limited to, the
28 administration of public social services.

29 (f) To enable county administrators of general relief or
30 assistance, or their representatives, to determine
31 entitlement to locally provided general relief or
32 assistance, where the determination is directly connected
33 with, and limited to, the administration of general relief
34 or assistance.

35 (g) To enable county district attorneys, or their
36 representatives, to seek criminal, civil, or administrative
37 remedies in connection with the unlawful application for,
38 or receipt of, relief provided under Division 9
39 (commencing with Section 10000) of the Welfare and
40 Institutions Code.



- 1 (h) To enable the director or his or her representative
2 to carry out his or her responsibilities under this code.
- 3 (i) To enable county departments of collection or their
4 representatives to determine entitlement to medical
5 assistance services rendered pursuant to Part 5
6 (commencing with Section 17000) of Division 9 of the
7 Welfare and Institutions Code, and, when appropriate, to
8 enable collection for the county's expenditures for these
9 medical assistance services.
- 10 (j) To furnish an employer, or his or her authorized
11 agent, with information including, but not limited to, the
12 applicant's or recipient's name, social security number,
13 address, employable skills, and job placement in order to
14 enable him or her to fully discharge his or her obligations
15 or safeguard his or her rights under the elements of a joint
16 union, management, and Employment Development
17 Department agreement as are deemed necessary to assist
18 displaced workers to obtain new employment under
19 Chapter 2.9 (commencing with Section 9970) of Part 1 of
20 Division 3 and related provisions of Division 3
21 (commencing with Section 9000). The information shall
22 be limited to any information gathered under these
23 divisions by the department and authorized for release by
24 the labor organization which shall act as an agent for the
25 affected workers under terms of the agreement and shall
26 participate in defining the information release provisions.
- 27 (k) To provide any law enforcement agency with the
28 name, address, telephone number, birth date, social
29 security number, physical description, and names and
30 addresses of present and past employers, of any victim,
31 suspect, missing person, potential witness, or person for
32 whom a felony arrest warrant has been issued, when a
33 request for this information is made by any investigator
34 or peace officer as defined by Sections 830.1 and 830.2 of
35 the Penal Code and designated by the head of the law
36 enforcement agency and who requests this information
37 in the course of and as a part of an investigation into the
38 commission of a crime where there is a reasonable
39 suspicion that the crime is a felony and that the
40 information would lead to relevant evidence. The



1 information provided pursuant to this subdivision shall be
2 provided to the extent permitted by federal law and
3 regulations, and to the extent the information is available
4 and accessible within the constraints and configurations
5 of existing department records. Any person who receives
6 any information under this subdivision shall make a
7 written report of the information to the law enforcement
8 agency that employs him or her, for filing under the
9 normal procedures of that agency. Any officer or
10 employee of the department who discloses information in
11 violation of this subdivision is guilty of a misdemeanor.
12 Any person who obtains information in violation of this
13 subdivision is guilty of a misdemeanor.

14 (1) This subdivision shall not be construed to authorize
15 the release of a general list identifying individuals
16 applying for or receiving benefits to any law enforcement
17 agency.

18 (2) The department shall maintain records pursuant
19 to this subdivision only for periods required under
20 regulations or statutes enacted for the administration of
21 its programs.

22 (3) This subdivision shall not be construed as limiting
23 the information provided to law enforcement agencies to
24 that pertaining only to applicants for, or recipients of,
25 benefits.

26 (4) The department shall notify all applicants for
27 benefits that release of confidential information from
28 their records will not be protected should there be a
29 felony arrest warrant issued against the applicant or in the
30 event of an investigation by a law enforcement agency
31 into the commission of a felony.

32 (l) Nothing in this section shall be construed to
33 authorize or permit the use of information obtained in the
34 administration of this code by any private collection
35 agency.

36 (m) To provide the State Teachers' Retirement
37 System, pursuant to Section 22327 of the Education Code,
38 with information relating to the earnings of any person
39 who is receiving a disability allowance, or disability
40 retirement allowance, from the State Teachers'



1 Retirement System. The earnings information shall be
2 released to the Teachers' Retirement Board only upon
3 written request from the board specifying that the person
4 is receiving a disability allowance or disability retirement
5 allowance from the system. The request may be made by
6 the chief executive officer of the system or by an
7 employee of the system so authorized and identified by
8 name and title by the chief executive officer in writing.

9 (n) To provide the Public Employees' Retirement
10 System, pursuant to Section 20231 of the Government
11 Code, with information relating to the earnings of any
12 person who is receiving a disability retirement allowance
13 from the Public Employees' Retirement System. The
14 earnings information shall be released to the Board of
15 Administration of the system only upon written request
16 from the board specifying that the person is receiving a
17 disability retirement allowance from the system. The
18 request may be made by the executive officer of the
19 system or by an employee of the system so authorized and
20 identified by name and title by the executive officer in
21 writing.

22 (o) To provide the University of California
23 Retirement System with information in its possession
24 relating to the earnings of any person who has applied for
25 or is receiving disability income from the system. The
26 earnings information shall be disclosed only upon written
27 request from the system specifying that the person has
28 applied for or is receiving disability income from the
29 system. The request may be made by the chief
30 administrative officer of the system or by an employee so
31 authorized and identified by name and title by the chief
32 administrative officer in writing. The system shall notify
33 applicants for and recipients of disability income that
34 earnings information from the department's records will
35 be released upon the system's request. The information
36 obtained pursuant to this subdivision shall be used or
37 disclosed by the system only to determine or to verify
38 entitlement to, or continuing eligibility for, disability
39 income. The system shall reimburse the department for



1 all reasonable administrative expenses incurred pursuant
2 to this subdivision.

3 (p) To enable the Division of Labor Standards
4 Enforcement in the Department of Industrial Relations
5 to seek criminal, civil, or administrative remedies in
6 connection with the failure to pay, or the unlawful
7 payment of, wages pursuant to Chapter 1 (commencing
8 with Section 200) of Part 1 of, and Chapter 1
9 (commencing with Section 1720) of Part 7 of, Division 2
10 of, the Labor Code. The Division of Labor Standards
11 Enforcement shall reimburse the department for all
12 reasonable administrative expenses incurred pursuant to
13 this subdivision.

14 (q) To enable the federal Department of Health and
15 Human Services, Office of Child Support Enforcement,
16 Federal Parent Locator Service, to administer its child
17 support enforcement programs under Title IV of the
18 Social Security Act (42 U.S.C. Sec. 651 et seq.).

19 (r) To provide county probation departments, the
20 State Board of Control, and the United States Attorney
21 General with wage and claim information in its possession
22 that will assist those departments and agencies in the
23 location of victims of crime who, by state mandate or
24 court order, are entitled to restitution that has been, or
25 can be recovered, and to assist in the collection of money
26 owed to the county, the state, or the United States by any
27 person who has been directed by state mandate or court
28 order to pay restitution, fines, penalties, assessments, or
29 fees as a result of a violation of law. Information provided
30 about victims of crime shall be limited to data necessary
31 to assist in locating them. Nothing in this section shall be
32 construed to prevent the department from providing
33 information to the State Board of Control or the United
34 States Attorney General through electronic methods.
35 The department may charge a fee for all reasonable
36 administrative expenses incurred pursuant to this
37 subdivision. Except as provided by Section 1463.007 of the
38 Penal Code, any officer or employee of the department
39 who discloses information in violation of this subdivision
40 is guilty of a misdemeanor. Except as provided by Section



1 1463.007 of the Penal Code, any person who obtains
2 information in violation of this subdivision is guilty of a
3 misdemeanor.

4 (s) To provide the Student Aid Commission with
5 information concerning any individuals who are
6 delinquent or in default on guaranteed student loans or
7 who owe repayment of funds received through other
8 financial assistance programs administered by the
9 commission. The information obtained pursuant to this
10 subdivision shall be utilized by the commission
11 exclusively to enable the collection of defaulted loans and
12 other funds owed, pursuant to the authority granted in
13 Chapter 2 (commencing with Section 69500) of Part 42 of
14 the Education Code and Chapter 1 (commencing with
15 Section 30000) of Title 5 of the California Code of
16 Regulations. The information released by the director for
17 the purposes of this subdivision shall not include any
18 employment, wage, or other information concerning any
19 person who is receiving unemployment insurance
20 benefits. The information shall be released to the
21 commission only upon written request from the director
22 of the commission or by an employee so authorized and
23 identified by name and title by the director. The
24 commission shall reimburse the department for all
25 reasonable administrative expenses incurred pursuant to
26 this subdivision.

27 (t) To provide an authorized governmental agency
28 with any or all relevant information that relates to any
29 specific workers' compensation insurance fraud
30 investigation. The information shall be provided to the
31 extent permitted by federal law and regulations. For the
32 purposes of this subdivision, "authorized governmental
33 agency" means the district attorney of any county, the
34 office of the Attorney General, the Department of
35 Industrial Relations, and the Department of Insurance.
36 An authorized governmental agency may disclose this
37 information to the State Bar, the Medical Board of
38 California, or any other licensing board or department
39 whose licensee is the subject of a workers' compensation
40 insurance fraud investigation. This subdivision shall not



1 prevent any authorized governmental agency from
2 reporting to any board or department the suspected
3 misconduct of any licensee of that body. The Department
4 of Insurance or Department of Industrial Relations shall
5 reimburse the department for all reasonable
6 administrative expenses incurred relative to a request
7 that it submits pursuant to this subdivision. Relevant
8 information may include, but is not limited to, all of the
9 following:

10 (1) Copies of unemployment and disability insurance
11 application and claim forms and copies of any supporting
12 medical records, documentation, and records pertaining
13 thereto.

14 (2) Copies of returns or reports filed by an employer
15 pursuant to Section 1088 and copies of supporting
16 documentation.

17 (3) Copies of benefit payment checks issued to
18 claimants.

19 (4) Copies of any documentation that specifically
20 identifies the claimant by social security number,
21 residence address, or telephone number.

22 (u) To enable the Director of the Council for Private
23 Postsecondary and Vocational Education, or his or her
24 representatives, to verify the information submitted to
25 the council by institutions approved under the Private
26 Postsecondary and Vocational Education Reform Act of
27 1989 for enforcement purposes and to carry out their
28 responsibilities under that act.

29 (v) To provide employment tax information to the tax
30 officials of Mexico, if a reciprocal agreement exists. For
31 purposes of this subdivision, "reciprocal agreement"
32 means a formal agreement to exchange information
33 between national taxing officials of Mexico and taxing
34 authorities of the State Board of Equalization, the
35 Franchise Tax Board, and the Employment
36 Development Department. Furthermore, the reciprocal
37 agreement shall be limited to the exchange of
38 information which is essential for tax administration
39 purposes only. Taxing authorities of the State of California
40 shall be granted tax information only on California



1 residents. Taxing authorities of Mexico shall be granted
2 tax information only on Mexican nationals.

3 (w) Wages as defined by Section 13009 and amounts
4 required to be deducted and withheld under Section
5 13020 shall not be disclosed except as provided in Article
6 2 (commencing with Section 19542) of Chapter 7 of Part
7 10.2 of Division 2 of the Revenue and Taxation Code.

8 (x) To enable city and county planning agencies to
9 develop economic forecasts for planning purposes. The
10 information shall be limited to businesses within the
11 jurisdiction of the city or county whose planning agency
12 is requesting the information, and shall not include
13 information regarding individual employees. The city or
14 county planning agency receiving the information shall
15 adhere to the same standards regarding confidentiality
16 and the protection of proprietary information that the
17 department is required to follow. The city and county
18 planning agencies shall reimburse the department for all
19 reasonable administrative expenses incurred pursuant to
20 this subdivision.

21 (y) To provide the State Department of
22 Developmental Services with wage and employer
23 information that will assist in the collection of moneys
24 owed by the recipient, parent, or any other legally liable
25 individual for services and supports provided pursuant to
26 Chapter 9 (commencing with Section 4775) of Division
27 4.5 of, and Chapter 2 (commencing with Section 7200)
28 and Chapter 3 (commencing with Section 7500) of
29 Division 7 of, the Welfare and Institutions Code. The
30 State Department of Developmental Services shall
31 reimburse the department for all reasonable
32 administrative expenses incurred pursuant to this
33 subdivision.

34 SEC. 5. All funds in the Private Postsecondary and
35 Vocational Education Administration Fund and in the
36 Student Tuition Recovery Fund on June 30, 1997, shall
37 remain in those funds and may be used for the purposes
38 authorized by this chapter commencing ~~July 1, 1997.~~

39 ~~SEC. 6. Sections 2 to 5, inclusive, of this act shall~~
40 ~~become operative on July 1, 1997. January 1, 1998.~~



1 *SEC. 6. Any person who was employed by the Council*
2 *for Private Postsecondary and Vocational Education as of*
3 *June 30, 1997, as a civil service employee has a mandatory*
4 *right to be reinstated, on the date this act becomes*
5 *operative, to the position he or she held on June 30, 1997.*

6 SEC. 7. No reimbursement is required by this act
7 pursuant to Section 6 of Article XIII B of the California
8 Constitution because the only costs that may be incurred
9 by a local agency or school district will be incurred
10 because this act creates a new crime or infraction, or
11 changes the penalty for a crime or infraction, within the
12 meaning of Section 17556 of the Government Code, or
13 changes the definition of a crime within the meaning of
14 Section 6 of Article XIII B of the California Constitution.

15 Notwithstanding Section 17580 of the Government
16 Code, unless otherwise specified, the provisions of this act
17 shall become operative on the same date that the act
18 takes effect pursuant to the California Constitution.

