

AMENDED IN SENATE JULY 14, 1997
AMENDED IN SENATE JUNE 16, 1997
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 Aroner, Baca,
Bowen, Knox, Kuehl, Ortiz, Vincent, and Wayne)
(Principal coauthors: Senators Alpert, Polanco, Solis, and
Vasconcellos)

December 12, 1996

An act to amend Sections 146, 473.1, and 473.3 of the Business and Professions Code, to repeal and add 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~~ *July 18, 1997*, establishes various requirements and standards for the approval of private postsecondary educational institutions to operate in California and to award degrees and diplomas.

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

This bill would repeal and reenact those provisions, and in doing so would make numerous substantive changes. The bill would create a Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs, operative January 1, 1998, *to administer and enforce the act*. 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 bureau, a visiting team, or any other peer review body impaneled by the bureau who provides information to the bureau 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 bureau that person would have if he or she were a public employee.

(2) 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. *The bill would also specify criminal penalties for violating certain other provisions of the act*. Thus, because the bill would expand the scope of an existing crime *and create new crimes*, it would impose a state-mandated local program.

(3) 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 bureau's final decision to seek judicial review, as specified.

(4) The bill, among other things, also would (a) ~~exempt from the act those institutions that exclusively offer~~ *require educational services that provide intensive English language programs, short-term seminar training, short-term career training, or that assist students to prepare for entrance examinations into undergraduate or graduate courses of study at accredited or approved colleges or universities to register with the bureau,* (b) ~~provide for standards and evaluation procedures for institutions offering license examination preparation services,~~ *require those educational services to comply with specified provisions of the act,* (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.

(5) *The bill would make the bureau subject to the sunset review process conducted by the Joint Legislative Sunset Review Committee, 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.

~~(6) 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.~~

(7) The bill would state that its provisions are severable.

(8) 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



1 credibility and integrity of degrees and diplomas
2 awarded by private schools and colleges.

3 (c) More broadly, the improvement of California's
4 work force preparation programs, both public and
5 private, is of significant value to the business community
6 in California. By ensuring high-quality preparation and
7 training for students entering the work force, this act
8 benefits both employers and employees.

9 SEC. 2. *Section 146 of the Business and Professions*
10 *Code is amended to read:*

11 146. (a) Notwithstanding any other provision of law,
12 a violation of any code section listed in subdivision (c) *or*
13 (d) is an infraction subject to the procedures described
14 in Sections 19.6 and 19.7 of the Penal Code when:

15 (1) A complaint or a written notice to appear in court
16 pursuant to Chapter 5c (commencing with Section 853.5)
17 of Title 3 of Part 2 of the Penal Code is filed in court
18 charging the offense as an infraction unless the
19 defendant, at the time he or she is arraigned, after being
20 advised of his or her rights, elects to have the case proceed
21 as a misdemeanor, or

22 (2) The court, with the consent of the defendant and
23 the prosecution, determines that the offense is an
24 infraction in which event the case shall proceed as if the
25 defendant has been arraigned on an infraction complaint.

26 (b) Subdivision (a) does not apply to a violation of the
27 code sections listed in ~~subdivision (e)~~ *subdivisions (c) and*
28 *(d)* if the defendant has had his or her license,
29 registration, or certificate previously revoked or
30 suspended.

31 (c) The following sections require registration,
32 licensure, certification, or other authorization in order to
33 engage in certain businesses or professions regulated by
34 this code:

- 35 (1) Sections 2052 and 2054.
- 36 (2) Section 2630.
- 37 (3) Section 2903.
- 38 (4) Sections 3760 and 3761.
- 39 (5) Section 4080.
- 40 (6) Section 4825.



- 1 (7) Section 4935.
- 2 (8) Section 4980.
- 3 (9) Section 4996.
- 4 (10) Section 5536.
- 5 (11) Section 6704.
- 6 (12) Section 6980.10.
- 7 (13) Section 7317.
- 8 (14) Section 7502 or 7592.
- 9 (15) Section 7520.
- 10 (16) Section 7617 or 7641.
- 11 (17) Subdivision (a) of Section 7872.
- 12 (18) Section 8016.
- 13 (19) Section 8505.
- 14 (20) Section 8725.
- 15 (21) Section 9681.
- 16 (22) Section 9840.
- 17 (23) Section 9884.6.
- 18 (24) Subdivision (c) of Section 9891.24.
- 19 (25) Section 19049.
- 20 (d) *Institutions that are required to register with the*
- 21 *Bureau for Private Postsecondary and Vocational*
- 22 *Education pursuant to Section 94931 of the Education*
- 23 *Code.*
- 24 (e) Notwithstanding any other provision of law, a
- 25 violation of any of the sections listed in subdivision (c) or
- 26 (d), which is an infraction, is punishable by a fine of not
- 27 less than two hundred fifty dollars (\$250) and not more
- 28 than one thousand dollars (\$1,000). No portion of the
- 29 minimum fine may be suspended by the court unless as
- 30 a condition of that suspension the defendant is required
- 31 to submit proof of a current valid license, registration, or
- 32 certificate for the profession or vocation which was the
- 33 basis for his or her conviction.
- 34 *SEC. 3.5. Section 473.1 of the Business and Professions*
- 35 *Code is amended to read:*
- 36 473.1. This division shall apply to ~~every~~ *all of the*
- 37 *following:*
- 38 (a) *Every* board, as defined in Section 22, that is
- 39 scheduled to become inoperative on July 1, 1997, July 1,
- 40 1998, or July 1, 1999, and to be repealed on either January



1 1, 1998, January 1, 1999, or January 1, 2000, respectively,
2 by the act which enacted this division.

3 *(b) The Bureau for Postsecondary and Vocational*
4 *Education. For purposes of this division, "board" includes*
5 *the bureau.*

6 *SEC. 3.7. Section 473.3 of the Business and Professions*
7 *Code is amended to read:*

8 473.3. *(a) Prior to the termination, continuation, or*
9 *reestablishment of any board or any of the board's*
10 *functions, the Joint Legislative Sunset Review*
11 *Committee shall, during the interim recess preceding the*
12 *date upon which a board becomes inoperative, hold*
13 *public hearings to receive testimony from the Director of*
14 *Consumer Affairs, the board involved, and the public and*
15 *regulated industry. In that hearing, each board shall have*
16 *the burden of demonstrating a compelling public need*
17 *for the continued existence of the board or regulatory*
18 *program, and that its licensing function is the least*
19 *restrictive regulation consistent with the public health,*
20 *safety, and welfare.*

21 *(b) In addition to subdivision (a), in the year 2001 and*
22 *every four years thereafter, the committee shall hold a*
23 *public hearing to receive testimony from the Director of*
24 *Consumer Affairs, the Bureau for Private Postsecondary*
25 *and Vocational Education, private postsecondary*
26 *educational institutions regulated by the bureau, and*
27 *students of those institutions. In those hearings, the*
28 *bureau shall have the burden of demonstrating a*
29 *compelling public need for the continued existence of the*
30 *bureau and its regulatory program, and that its function*
31 *is the least restrictive regulation consistent with the*
32 *public health, safety, and welfare.*

33 *SEC. 3.9. Chapter 7 (commencing with Section*
34 *94700) of Part 59 of the Education Code is repealed.*

35 ~~*SEC. 3.—*~~

36 *SEC. 4. Chapter 7 (commencing with Section 94700)*
37 *is added to Part 59 of the Education Code, to read:*

38



1 CHAPTER 7. PRIVATE POSTSECONDARY AND VOCATIONAL
2 INSTITUTIONS

3
4 Article 1. General Provisions
5

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

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

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

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

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

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

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



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

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

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

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

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

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



Article 2. Definitions

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

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

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

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

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

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

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



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

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

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

16 94719.5. *“Bureau” means the Bureau for Private
17 Postsecondary and Vocational Education in the
18 Department of Consumer Affairs established pursuant to
19 Section 94770.*

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

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

32 94722. (a) Except as provided in subdivision (b),
33 ~~“continuing education” means instruction offered in any~~
34 *“continuing education” means instruction approved or*
35 *certified by a government agency, other than the bureau,*
36 *that licenses persons in a particular profession, trade, or*
37 *job category, or institution approved or certified by a*
38 *professional licensing body, such as the State Bar of*
39 *California, that licenses persons in a particular profession,*



1 *trade, or job category, and that is offered in any* of the
 2 following circumstances:

3 (1) Only in subjects licensees are required to take as a
 4 condition of continued licensure and solely for that
 5 purpose.

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

9 ~~(3) To persons who are already in a particular~~
 10 ~~profession, trade, or job category for the sole purpose of~~
 11 ~~enhancing their skills or knowledge within that particular~~
 12 ~~profession, trade, or job category.~~

13 (b) “Continuing education” does not include any of
 14 the following:

15 (1) Vocational diploma programs.

16 (2) Degree programs.

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

20 94723. “Correspondence school” or “home study
 21 school” means any institution that provides
 22 correspondence lessons for study and completion by a
 23 student at a location separate from the institution,
 24 including those institutions which offer that instruction
 25 by correspondence in combination with in-residence
 26 instruction.

27 94724. “Council” means the Bureau for Private
 28 Postsecondary and Vocational Education in the
 29 Department of Consumer Affairs established pursuant to
 30 Section 94770.

31 94725. “Course of study” means either a single course
 32 or a set of related courses for which a student enrolls.

33 94726. “Degree” means any type of degree or
 34 honorary degree or title of any designation, mark,
 35 appellation, series of letters or words such as, but not
 36 limited to, associate, bachelor, master, doctor, or fellow
 37 which signifies, purports, or is generally taken to signify
 38 satisfactory completion of the requirements of an
 39 academic, educational, technological, or professional
 40 program of study beyond the secondary school level or is



1 an honorary title conferred for recognition of some
2 meritorious achievement.

3 94727. “Degree title” means the designated subject
4 area of study that also appears on the face of the
5 document awarded to a student signifying the conferring
6 of a “degree.”

7 94728. “Diploma” means any diploma, certificate,
8 document, or other writing in any language other than a
9 degree which signifies, purports, or is generally taken to
10 signify satisfactory completion of the requirements of an
11 academic, educational, technological, or professional
12 program of study beyond the secondary school level.

13 94728.5. “Director” means the Director of Consumer
14 Affairs.

15 94729. “Education,” “educational services,” or
16 “educational program” includes, but is not limited to, any
17 class, course, or program of training, instruction, or study.

18 94730. “Institution” means any private postsecondary
19 educational institution. An “institution” includes its
20 branch and satellite campuses, unless otherwise provided
21 by the council.

22 94731. “Institutional approval” means an institution
23 that has been evaluated by the council and has been
24 found to be in compliance with the council’s standards
25 pursuant to this chapter.

26 94732. “Instruction” includes any specific, formal
27 arrangement by an institution or its enrollees to
28 participate in learning experiences in which the
29 institution’s faculty or contracted instructors present a
30 planned curriculum appropriate to the enrollee’s
31 educational program.

32 ~~94733. (a) “Intensive English program” means any~~
33 ~~program approved by the United States Immigration and~~
34 ~~Naturalization Service that is offered exclusively to~~
35 ~~provide English instruction to international students in~~
36 ~~the United States. Courses offered under such programs~~
37 ~~shall be exclusively nondegree and cannot be~~
38 ~~represented to fit, or offered for the purpose of preparing~~
39 ~~a student for employment in, any occupation or job title.~~



1 ~~(b) Students enrolled in intensive English programs~~
2 ~~cannot be either residents of the State of California or~~
3 ~~citizens of the United States.~~

4 94733. *“Intensive English language program” means*
5 *an educational service approved by the United States*
6 *Immigration and Naturalization Service solely to provide*
7 *English instruction to international students for a*
8 *designated period of study in the United States and offers*
9 *instruction that is nondegree granting, nonvocational,*
10 *and does not lead to job placement. Additionally, the*
11 *educational service shall meet all of the following criteria:*

12 (a) *Students enrolling in this type of educational*
13 *service are not residents of this state or citizens of the*
14 *United States and are not eligible for federal or state*
15 *financial aid, including loans.*

16 (b) *Coursework in this type of educational service is*
17 *limited to English instruction in all areas of language skills*
18 *development, including reading, writing, speaking,*
19 *listening, grammar, and test preparation. The*
20 *educational service also may teach English through*
21 *American cultural subjects, English-through-content*
22 *courses, and English for professional or career purposes*
23 *intended to broaden students’ experiences in English*
24 *through classes of special interest but that does not lead*
25 *to job placement.*

26 94734. *“License and exam preparation” means that*
27 *the educational program is either of the following:*

28 (a) *Designed to assist students to prepare for an*
29 *examination for licensure.*

30 (b) *Offered for the sole purpose of providing*
31 *continuing education in subjects licensees are required to*
32 *take as a condition of continued licensure.*

33 94735. *“Main location” or “main site” means the*
34 *institution’s primary teaching location. If an institution*
35 *operates at only one site, that site shall be considered its*
36 *main location or main site.*

37 94736. *“Occupational Associate Degree,” “Associate*
38 *of Occupational Studies,” or “Associate of Applied*
39 *Science” designated by terms including, but not limited*
40 *to, AOS (Associate Occupational Studies), AAS*



1 (Associate Applied Science), AST (Associate Specialist
2 Technical), or ASB (Associate Specialist Business) means
3 an associate degree that may be awarded to students who
4 complete an occupational program that provides
5 preparation for employment in an occupational field.

6 94737. “Out-of-state school” means any private
7 postsecondary or vocational educational institution
8 offering career or job training programs, including both
9 an in-residence institution and a home-study institution
10 that has its place of instruction or its principal location
11 outside the boundaries of the state, or that offers or
12 conducts programs of instruction or subjects on premises
13 maintained by the school outside the boundaries of the
14 state, or that provides correspondence or home-study
15 lesson materials from a location outside the boundaries of
16 this state, or that evaluates completed lesson materials or
17 otherwise conducts its evaluation service from a location
18 outside the boundaries of this state, or that otherwise
19 offers or provides California students with programs of
20 instruction or subjects through activities engaged in or
21 conducted outside the boundaries of the state.

22 94738. “Person” means a natural person or any
23 business entity, regardless of the form or organization.

24 94739. (a) “Private postsecondary educational
25 institution” means any person doing business in
26 California that offers to provide or provides, for a tuition,
27 fee, or other charge, any instruction, training, or
28 education under any of the following circumstances:

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

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

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

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

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

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

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

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

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

27 (5) Institutions exclusively offering continuing
28 education.

29 (6) A nonprofit institution owned, controlled, and
30 operated and maintained by a bona fide church, religious
31 denomination, or religious organization comprised of
32 multidenominational members of the same
33 well-recognized religion, lawfully operating as a
34 nonprofit religious corporation pursuant to Part 4
35 (commencing with Section 9110) of Division 2 of Title 1
36 of the Corporations Code, if the education is limited to
37 instruction in the principles of that church, religious
38 denomination, or religious organization, or to courses
39 offered pursuant to Section 2789 of the Business and
40 Professions Code, and the diploma or degree is limited to



1 evidence of completion of that education, and the
2 meritorious recognition upon which any honorary degree
3 is conferred is limited to the principles of that church,
4 religious denomination, or religious organization.
5 Institutions operating under this paragraph shall offer
6 degrees and diplomas only in the beliefs and practices of
7 the church, religious denomination, or religious
8 organization. The enactment of this paragraph expresses
9 the legislative intent that the state shall not involve itself
10 in the content of degree programs awarded by any
11 institution operating under this paragraph, as long as the
12 institution awards degrees and diplomas only in the
13 beliefs and practices of the church, religious
14 denomination, or religious organization. Institutions
15 operating under this paragraph shall not award degrees
16 in any area of physical science. Any degree or diploma
17 granted in any area of study under these provisions shall
18 contain on its face, in the written description of the title
19 of the degree being conferred, a reference to the
20 theological or religious aspect of the degree's subject
21 area. Degrees awarded under this paragraph shall reflect
22 the nature of the degree title, such as "Associate of
23 Religious Studies," or "Bachelor of Religious Studies," or
24 "Master of Divinity" or "Doctor of Divinity." The use of
25 the degree titles "Associate of Arts" or "Associate of
26 Science," "Bachelor of Arts" or "Bachelor of Science,"
27 "Master of Arts" or "Master of Science," or "Doctor of
28 Philosophy" or "Ph.D." shall only be awarded by
29 institutions approved to operate under Article 8
30 (commencing with Section 94900) or meeting the
31 requirements for an exemption under Section 94750. The
32 enactment of this paragraph is intended to prevent any
33 entity claiming to be a nonprofit institution owned,
34 controlled, and operated and maintained by a bona fide
35 church, religious denomination, or religious organization
36 comprised of multidenominational members of the same
37 well-recognized religion, lawfully operating as a
38 nonprofit religious corporation pursuant to Part 4
39 (commencing with Section 9110) of Division 2 of Title 1
40 of the Corporations Code, from marketing and granting



1 degrees or diplomas that are represented as being linked
2 to their church, religious denomination, or religious
3 organization, but which, in reality, are degrees in secular
4 areas of study. An institution operating under this
5 paragraph shall file annually with the council evidence to
6 demonstrate its status as a nonprofit religious corporation
7 under the Corporations Code. A college or university
8 operating under this paragraph shall file annually with
9 the council evidence to demonstrate its status as a
10 nonprofit religious corporation under the Corporation
11 Code.

12 (7) (A) *Public institutions accredited by the senior*
13 *commission or the junior commission of the Western*
14 *Association of Schools and Colleges.*

15 (B) *Institutions accredited by the senior commission*
16 *or the junior commission of the Western Association of*
17 *Schools and Colleges that are incorporated and lawfully*
18 *operating as a nonprofit public benefit corporation*
19 *pursuant to Part 2 (commencing with Section 5110) of*
20 *Division 2 of Title 1 of the Corporations Code and that are*
21 *not managed by any entity for profit.*

22 (C) *For-profit institutions accredited by the senior or*
23 *the junior commission of the Western Association of*
24 *Schools and Colleges, if the institution exclusively confers*
25 *degrees upon the completion of a course of study of two*
26 *or more years.*

27 (D) *Institutions accredited by the Western*
28 *Association of Schools and Colleges that do not meet all*
29 *of the criteria in subparagraph (B) and that are*
30 *incorporated and lawfully operating as a nonprofit public*
31 *benefit corporation pursuant to Part 2 (commencing*
32 *with Section 5110) of Division 2 of Title 1 of the*
33 *Corporations Code, that have been in continuous*
34 *operation since April 15, 1997, and that are not managed*
35 *by any entity for profit. Notwithstanding this subdivision,*
36 *institutions that meet the criteria in this subparagraph*
37 *shall be subject to Section 94831, except subdivision (c)*
38 *of that section, and Sections 94832, 94834, 94838, and*
39 *94985.*



1 94740. “Program” or “program of instruction” means
2 a program of training, set of related courses, or education
3 for which a student enrolls.

4 94740.1. “Registered,” “registered institution,” or
5 “registered educational service” means any individual or
6 organization that offers an educational service and is
7 registered to operate under Article 9.5 (commencing
8 with Section 94931).

9 94741. “Representative” means an employee, an
10 agent as defined in Section 2295 of the Civil Code, an
11 agent subject to Section 94940, an agency subject to
12 Section 94942, or any person who, for compensation, does
13 either of the following:

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

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

19 94742. “Satellite” means an auxiliary classroom or a
20 teaching site. All of the following apply to a satellite:

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

23 (b) The institution shall maintain no permanent
24 records of attendance or academic progress at the
25 satellite.

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

28 94742.1. (a) “Short-term career training” means an
29 educational service consisting of all of the following:

30 (1) The total charge to the student is two thousand
31 dollars (\$2,000) or less.

32 (2) The length of training is less than 250 hours, unless
33 the course is approved by another state agency.

34 (3) The course is represented as preparing the student
35 for any occupation or job title.

36 (b) “Short-term career training” does not include any
37 of the following:

38 (1) Instruction leading to a degree.

39 (2) Instruction financed by a federal loan or grant.



1 (3) Any educational service, other than provided for in
2 subdivision (a), consisting of more than 250 hours of
3 instruction or costing two thousand dollars (\$2,000) or
4 more in total charges that is divided or structured into
5 one or more segments that consists of 250 or fewer hours
6 of instruction, the total charge for which is less than two
7 thousand dollars (\$2,000).

8 (c) Short-term career training may include an
9 educational service licensed by another state agency so
10 long as that educational service complies with
11 subdivisions (a) and (b).

12 94742.2. (a) "Short-term seminar training" means an
13 educational service offered at a main location, branch, or
14 satellite, or any other location, consisting of any of the
15 following:

16 (1) One hundred hours or less of instruction, the total
17 charge for which is less one thousand dollars (\$1,000).

18 (2) _____

19 (b) "Short-term seminar training" does not include
20 any of the following:

21 (1) Instruction leading to a degree.

22 (2) Instruction financed by a federal loan or grant.

23 (3) Instruction in how to prepare for, take, or pass a
24 licensing examination or other test qualifying a person for
25 employment where the total charge exceeds one
26 thousand dollars (\$1,000) and where the hours of
27 instruction exceed one hundred.

28 (4) Instruction that is represented to lead to an
29 occupation or job title, unless it is a licensed occupation
30 or job title that meets the requirements of paragraph (3).

31 (5) Any educational service, other than instruction
32 described in paragraph (2) of subdivision (a), consisting
33 or more than 100 hours of instruction or costing one
34 thousand dollars (\$1,000) or more in total charges that is
35 divided or structured into one or more segments that
36 consist of 100 or fewer hours of instruction, the total
37 charge for which is less than one thousand dollars
38 (\$1,000). It is the intent of the Legislature that no hourly
39 or cost limit be placed on continuing education programs.



1 (c) Short-term seminar training may include an
2 educational service licensed by another state agency so
3 long as that educational service complies with
4 subdivisions (a) and (b).

5 94743. "Site" means a main location, branch, or
6 satellite campus.

7 94744. "To offer" includes, in addition to its usual
8 meanings, advertising, publicizing, soliciting, or
9 encouraging any person, directly or indirectly, in any
10 form, to perform the act described.

11 94745. "To operate" an educational institution, or like
12 term, means to establish, keep, or maintain any facility or
13 location in this state where, or from or through which,
14 educational services are offered or educational degrees or
15 diplomas are offered or granted.

16 94746. "Vocational diploma program" means an
17 educational program having all of the following
18 characteristics:

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

23 (b) The program is offered to students who do not
24 possess a bachelor's or graduate degree in the field of
25 training.

26 (c) Students who complete all or a portion of the
27 program are awarded a diploma, certificate, or
28 occupational associate degree.

29

30 Article 3.— Exempt Institutions

31

32 ~~94750. (a) Except as provided in subdivision (c), this~~
33 ~~chapter does not apply to any of the following:~~

34 ~~(1) Any institution that is accredited by the Senior or~~
35 ~~Junior Commission of the Western Association of Schools~~
36 ~~and Colleges, if the institution exclusively confers degrees~~
37 ~~upon the completion of a course of study of two or more~~
38 ~~years.~~

39 ~~(2) Any institution that exclusively offers educational~~
40 ~~services for the sole purpose of assisting students to~~



1 ~~prepare for an examination for entrance into an~~
 2 ~~undergraduate or graduate course of study at an~~
 3 ~~accredited or approved college or university.~~

4 ~~(b) Except as provided in subdivision (c), this chapter~~
 5 ~~does not apply to any institution that meets each of the~~
 6 ~~following requirements:~~

7 ~~(1) The institution is accredited by the Western~~
 8 ~~Association of Schools and Colleges and is incorporated~~
 9 ~~and lawfully operating as a nonprofit public benefit~~
 10 ~~corporation pursuant to Part 2 (commencing with~~
 11 ~~Section 5110) of Division 2 of Title 1 of the Corporations~~
 12 ~~Code.~~

13 ~~(2) The institution has continuously satisfied since~~
 14 ~~April 15, 1997, each of the criteria in paragraph (1).~~

15 ~~(c) Article 1 (commencing with Section 94700),~~
 16 ~~Article 2 (commencing with Section 94710), this article,~~
 17 ~~Article 11 (commencing with Section 94940), Article 13~~
 18 ~~(commencing with Section 94950), Article 15~~
 19 ~~(commencing with Section 94998), and Sections 94806,~~
 20 ~~94812, 94831 (excluding subdivision (c)), 94832, 94834,~~
 21 ~~94836, 94838, and 94901(a), apply to any institution~~
 22 ~~otherwise exempt from this chapter pursuant to this~~
 23 ~~section.~~

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

30
 31 *Article 3. Exemptions*

32
 33 *94750. Article 4 (commencing with Section 94770),*
 34 *Article 8 (commencing with Section 94900), the last*
 35 *sentence of paragraph (6) of subdivision (b) of Section*
 36 *94739, subdivision (c) of Section 94831, and Sections*
 37 *94802, 94830, 94835, 94836, 94840, 94846, 94932, 94934,*
 38 *94942, 94944, 94945, 94946, 94947, 94965, and 94970 shall*
 39 *not apply to an institution that is a nationally accredited*
 40 *agency recognized by the United States Department of*



1 Education if the bureau has determined, subsequent to
2 an onsite qualitative review and assessment of the
3 institution conducted at least once every three years, as
4 described in Section 94901, that the institution is in
5 compliance with all of the following:

6 (a) The institution meets the financial responsibility
7 requirements set forth in subdivision (b) of Section 94804.

8 (b) The faculty of the institution meets the
9 requirements set forth in paragraph (2) of subdivision (a)
10 of Section 94900.

11 (c) The institution's cohort default rate on guaranteed
12 student loans as an average for the total number of years
13 that the institution has been in operation, as published by
14 the Student Aid Commission until 1986 and the United
15 States Department of Education after 1986, does not
16 exceed 12 percent. The institution shall submit proof to
17 the bureau every year that its accumulated average
18 cohort default rate described herein does not exceed 12
19 percent. The institution shall also submit proof every year
20 that its accumulated average cohort default rate does not
21 exceed 15 percent for the three most recent years as
22 published by the United States Department of Education.

23 (d) The institution has operated in this state for at least
24 15 years.

25 (e) The institution submits to the bureau copies of the
26 most recent IRS Form 990 and the Integrated
27 Postsecondary Education Data System Report of the
28 United States Department of Education and the
29 accumulated default rate.

30 (f) The institution pays fees in accordance with
31 Section 94932.

32 (g) The institution exclusively confers degrees upon
33 the completion of a course of study of two or more years.

34 (h) The institution is incorporated and lawfully
35 operates as a nonprofit public benefit corporation
36 pursuant to Part 2 (commencing with Section 5110) of
37 Division 2 of Title 1 of the Corporations Code and is not
38 managed or administered by an entity for profit.

39



1 Article 3.5. Transition Provisions

2
3 94760. Each regulation in Division 7.5 (commencing
4 with Section 70000) of Title 5 of the California Code of
5 Regulations in ~~existence on June 30~~ *effect on December*
6 *31, 1997*, shall be in full force and effect on and after
7 January 1, 1998, to the extent the regulation is consistent
8 with the relevant provisions in this chapter.

9
10 Article 4. Administration

11
12 94770. There is a Bureau for Private Postsecondary
13 and Vocational Education in the Department of
14 Consumer Affairs. ~~The~~ *The bureau shall succeed to all*
15 *rights of the former Council for Private Postsecondary*
16 *and Vocational Education in any judicial or*
17 *administrative action pending on January 1, 1998, and*
18 *shall take any steps necessary to assert those rights in its*
19 *own name. The functions of the former council and the*
20 *responsibilities the former council had for the*
21 *administration of former Chapter 7 (commencing with*
22 *Section 94700) on or before December 31, 1997, are*
23 *transferred to the bureau as provided by this act. It is the*
24 *intent of the Legislature that there be no gap in the*
25 *performance of functions or the administration of the law*
26 *governing private postsecondary educational*
27 *institutions.*

28 *The bureau has the responsibility for approving and*
29 *regulating private postsecondary educational institutions*
30 *and for developing state policies for private*
31 *postsecondary and vocational education in California.*
32 *The bureau shall represent the private postsecondary*
33 *educational institutions in all state-level planning and*
34 *policy discussions about postsecondary and vocational*
35 *education, and shall have as its objective the*
36 *development of a strong, vigorous, and widely respected*
37 *sector of private postsecondary and vocational education.*

38 94771. (a) The bureau may appoint any
39 subcommittees or advisory committees it deems



1 necessary to advise the bureau on matters of educational
2 policy.

3 ~~(b) The bureau shall appoint and may remove a~~
4 ~~director in the manner prescribed in this article.~~

5 *(b) The Governor shall appoint, subject to*
6 *confirmation by the Senate, a chief of the bureau at a*
7 *salary to be fixed and determined by the Director of*
8 *Consumer Affairs with the approval of the Director of*
9 *Finance. The chief shall serve under the direction and*
10 *supervision of the Director of Consumer Affairs and at the*
11 *pleasure of the Governor. Before a chief is appointed, the*
12 *Governor shall give due consideration to any person or*
13 *persons recommended for appointment by the advisory*
14 *board.*

15 (c) The bureau shall adopt procedures for the
16 recruitment and appointment of ~~a director and~~ staff. All
17 expenses associated with the operation of the bureau shall
18 be charged to, and paid from, the Private Postsecondary
19 and Vocational Education Administration Fund.

20 (d) The ~~director~~ chief shall appoint persons to any civil
21 service staff positions authorized by the ~~bureau~~ director.
22 The staffing shall include individuals with responsibilities
23 for each of the following areas:

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

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

26 (3) The approval of courses offered to veterans by
27 postsecondary institutions. For the purposes of
28 implementing the requirements of this paragraph, the
29 bureau is hereby designated as the state agency
30 responsible for the administration of veteran educational
31 benefit programs.

32 (4) Institutional relations to develop strong
33 relationships with agencies such as the State Department
34 of Education, the California Postsecondary Education
35 Commission, other agencies within the Department of
36 Consumer Affairs, and nongovernmental accrediting
37 associations.

38 (5) Legislative and public affairs.

39 (6) Staff administrative services.

1 (e) *The director shall appoint an advisory board which*
2 *shall consist of an equal number of representatives of*
3 *institutions, student advocates, and employers who hire*
4 *students. Institutional representatives on the board shall*
5 *be in general proportion to the types of institutions*
6 *approved or registered pursuant to this chapter and to*
7 *the number of students served by each type of institution.*
8 *The advisory board shall ____.*

9 94772. It is the intent of the Legislature that the
10 bureau's approval and regulating responsibilities be
11 funded solely through approval fees and federal funding
12 provided to implement the approval process for courses
13 offered to veterans by approved institutions.

14 94773. The ~~bureau~~ director may delegate to the
15 ~~director~~ chief any power, duty, purpose, function, or
16 jurisdiction that the bureau may lawfully delegate,
17 including the authority to enter into and sign contracts on
18 behalf of the bureau. The ~~director~~ chief may redelegate
19 any of those powers, duties, purposes, functions, or
20 jurisdictions to his or her designee, unless by statute, or
21 regulation, the ~~director~~ chief is expressly required to act
22 personally.

23 94774. The bureau shall have the following functions
24 and responsibilities in its capacity as the statewide private
25 postsecondary and vocational educational planning and
26 licensing agency:

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

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

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



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

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

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

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

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

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



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

3 94774.5. (a) For the purposes of administration and
4 enforcement of this chapter, the Department of
5 Consumer Affairs, the bureau, and the director and
6 officers and employees of the department and the
7 bureau, shall have all the powers and authority granted
8 under this chapter and under Division 1 (commencing
9 with Section 100) and Division 1.5 (commencing with
10 Section 475) of the Business and Professions Code. In
11 addition to satisfying the approval, compliance, and
12 enforcement provisions of this chapter, the bureau shall
13 also comply with and exercise all authority granted by
14 Division 1 (commencing with Section 100) and Division
15 1.5 (commencing with Section 475) of the Business and
16 Professions Code.

17 (b) The bureau shall establish a regular inspection
18 program which shall include random, unannounced
19 inspections.

20 (c) If the bureau determines after an investigation
21 that an institution has violated this chapter or any of the
22 regulations adopted by the bureau, the bureau may do
23 any or all of the following:

24 (1) Place the institution on probation.

25 (2) Issue an order prohibiting the enrollment of new
26 students.

27 (3) Issue an administrative citation and impose an
28 administrative penalty as authorized by, and in
29 accordance with, Section 125.9, 146, 147, or 148 of the
30 Business and Professions Code.

31 (4) Issue an order of abatement or citation pursuant to
32 Section 125.9 or 148 of the Business and Professions Code.

33 (5) Initiate proceedings under the Administrative
34 Procedure Act or this chapter to revoke or suspend the
35 institution's approval to operate.

36 (6) With the consent of the institution, refer an
37 adjudicative proceeding to mediation, or binding or
38 nonbinding arbitration, in accordance with the
39 regulations of the Office of Administrative Hearings, the
40 department, or the bureau.



1 (7) Order reimbursement of the costs of the
2 investigation and enforcement in accordance with
3 Section 125.3 of the Business and Professions Code.

4 (8) Notify the telephone company to disconnect the
5 institution's telephone as authorized by Section 149 of the
6 Business and Professions Code.

7 94775. (a) Any person, serving on a special
8 committee of the bureau pursuant to subdivision (i) of
9 Section 94774, a visiting committee pursuant to Section
10 94901, or any other peer review body impaneled by the
11 bureau and who provides information to the bureau or its
12 staff in the course and scope of evaluating any institution
13 subject to this chapter or who testifies at any
14 administrative hearing arising under this chapter, is
15 entitled to a defense by, and indemnification from, the
16 bureau to any action arising out of information or
17 testimony to the bureau which that person would have if
18 he or she were a public employee.

19 (b) Any defense by, or indemnification from, the
20 bureau, as specified in subdivision (a) shall be solely with
21 respect to that claim or action pursuant to Article 4
22 (commencing with Section 825) of Chapter 1 of Part 2 of,
23 and Part 7 (commencing with Section 995) of, Division
24 3.6 of Title 1 of the Government Code.

25 94776. The director may purchase annuity contracts
26 for permanent employees of the bureau ~~and~~ who
27 formerly were permanent employees of the State
28 Department of Education and who had similar
29 state-purchased annuity contracts prior to January 1,
30 1998. The bureau shall reduce the salaries of the
31 employees for whom the contracts are purchased by the
32 amount of the costs of the contract if all of the following
33 conditions are met:

34 (a) The annuity contract is under an annuity plan that
35 meets the requirements of subdivision (b) of Section 403
36 of the Internal Revenue Code.

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



1 (c) All provisions of the Insurance Code and the
2 Government Code applicable to the purchase of this type
3 of annuity are satisfied.

4 94777. The bureau may utilize the resources of
5 accrediting associations in gathering information about
6 accredited postsecondary and vocational institutions,
7 including participating as an observer on accreditation
8 site visits. However, this section does not preclude or
9 relieve the bureau of its responsibilities under this
10 chapter and the bureau shall retain full authority for
11 approving all private postsecondary and vocational
12 institutions operating in California.

13 94778. (a) The bureau may adopt and enforce
14 regulations that are necessary, appropriate, or useful to
15 interpret and implement this chapter pursuant to
16 Chapter 3.5 (commencing with Section 11340) of Part 1
17 of Division 3 of Title 2 of the Government Code. Pending
18 the adoption of those regulations, the bureau may adopt
19 emergency regulations that shall become effective
20 immediately, and that shall be superseded upon the
21 adoption of superseding regulations. The adoption of the
22 emergency regulations shall be subject to Chapter 3.5
23 (commencing with Section 11340) of Part 1 of Division 3
24 of Title 2 of the Government Code, and the emergency
25 regulations shall only be effective for 180 days.

26 (b) The bureau shall adopt regulations establishing a
27 voluntary arbitration process similar to that set forth in
28 Article 6.2 (commencing with Section 7085) of Chapter
29 9 of Division 3 of the Business and Professions Code for
30 the resolution of disputes between an institution
31 approved to operate under this chapter and a
32 complainant or complainants.

33

34 Article 5. Classification of Educational Programs
35 Offered by Postsecondary Institutions
36

37 94780. No institution, subject to this chapter, shall
38 offer any educational service unless the institution is first
39 approved by the council and meets all of the
40 requirements in the following articles:



1 (a) This article, Article 6 (commencing with Section
2 94800) except as provided for institutions approved
3 under Article 9.5 (commencing with Section 94931),
4 Article 10 (commencing with Section 94932), Article 11
5 (commencing with Section 94940), and Article 12
6 (commencing with Section 94944).

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

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

11 (d) Article 9.5 (commencing with Section 94931), if
12 the institution exclusively offers educational services to
13 assist students to prepare for an examination for
14 licensure.

15 (e) Article 7 (commencing with Section 94850), if the
16 educational programs are not exempt under Section
17 94790.

18 94785. (a) Article 7 (commencing with Section
19 94850) does not apply to an institution during a calendar
20 year if both of the following conditions are satisfied
21 during that calendar year:

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

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

27 (b) If the conditions specified in subdivision (a) are
28 not satisfied for the entire calendar year, Article 7
29 (commencing with Section 94850) shall apply to all
30 students enrolled during that calendar year except to the
31 extent that the institution or its educational services are
32 otherwise exempt.

33 (c) Article 7 (commencing with Section 94850) does
34 not apply to an institution that is incorporated and has
35 continuously lawfully operated for at least five years as a
36 nonprofit public benefit corporation pursuant to Part 2
37 (commencing with Section 5110), or as a nonprofit
38 religious corporation pursuant to Part 4 (commencing
39 with Section 9110), of Division 2 of Title 1 of the



1 Corporations Code and is not managed or administered
2 by any entity for profit.

3 94786. Article 7 (commencing with Section 94850)
4 does not apply to an educational service if the total
5 charge, as defined in subdivision (k) of Section 94852, for
6 that educational service is one thousand dollars (\$1,000)
7 or less, and no part of the total charge is paid from the
8 proceeds of a loan or grant subject to a governmental
9 student financial aid program.

10 94787. Article 7 (commencing with Section 94850)
11 except Sections 94872 and 94873, applies to schools that
12 offer instruction in how to prepare for, take, and pass civil
13 service examinations or other tests qualifying a student
14 for employment by a governmental entity. For the
15 purpose of determining compliance with this article,
16 schools described in this section shall be considered
17 "institutions."

18 94790. Except as otherwise provided in this section,
19 Article 7 (commencing with Section 94850) does not
20 apply to any of the following educational services:

21 ~~(a) Educational services that consist exclusively of~~
22 ~~degree granting programs such as an AA (Associate of~~
23 ~~Arts), AS (Associate of Science), BS (Bachelor of~~
24 ~~Science), BA (Bachelor of Arts), MA (Master of Arts), MS~~
25 ~~(Master of Science), Ph.D. (Doctor of Philosophy), or~~
26 ~~professional doctorate degrees that are scheduled to be~~
27 ~~completed in not less than 18 months.~~

28 ~~(b) Educational services that consist of AAS (Associate~~
29 ~~of Applied Science degrees), provided the institution is~~
30 ~~regionally accredited, offers a minimum of at least 25~~
31 ~~percent general education classes as part of the AAS~~
32 ~~degree requirements, and was approved by the council~~
33 ~~as of January 1, 1994. The exemptions in this subdivision~~
34 ~~and subdivision (a) do not apply to or include any of the~~
35 ~~following:~~

36 ~~(1) AOS (Occupational Associate degrees or Associate~~
37 ~~of Occupational Studies degrees) or AAS (Associate of~~
38 ~~Applied Science degrees), except as otherwise provided~~
39 ~~in this subdivision.~~

40 ~~(2) Any vocational diploma program.~~



1 ~~(e)~~

2 (a) (1) Except as provided in paragraph (2),
3 educational services that confer degrees upon the
4 completion of a course of study of two or more academic
5 years that are scheduled to be completed in not less than
6 17 months or that confer degrees, such as master's or
7 doctorate degrees, on students who have completed a
8 graduate course of study of one or more years at a college
9 or university.

10 (2) For educational services that consist of an AOS
11 (Occupational Associate degrees or Associate of
12 Occupational Studies degrees) or AAS (Associate of
13 Applied Science degrees) during the first academic year
14 of the program, Article 7 (commencing with Section
15 94850) shall apply, except that Section 94854 shall only
16 apply during that time period to any certificate or
17 diploma program offered to students who do not
18 complete the degree program. The bureau shall adopt
19 regulations to specify the necessary classroom instruction
20 for each unit or semester or quarter hour credit
21 (combination of lecture, laboratory, practicum, or
22 outside preparation), based on Carnegie Commission
23 standards.

24 (3) This subdivision does not apply to any educational
25 service for which a student enrolled before January 1,
26 1998.

27 (b) The educational service, as defined in subdivision
28 (b) of Section 94734, is offered as continuing education in
29 subjects that licensees are required to take as a condition
30 of continued licensure.

31 ~~(d)~~

32 (c) The educational service is offered exclusively to
33 assist students to prepare for an examination for entrance
34 into an undergraduate or graduate course of study at an
35 accredited or approved college or university.

36 ~~(e)~~

37 (d) The educational service, as defined in subdivision
38 (a) of Section 94734, is offered exclusively to assist
39 students, who have obtained, or who are in the process of
40 obtaining, degrees after completing an undergraduate or



1 graduate course of study at a college or university, to
2 prepare for an examination for licensure in a recognized
3 profession, such as medicine, dentistry, accounting, or
4 law.

5 ~~(f)~~

6 (e) The educational service is three or more academic
7 years, is scheduled to be completed in not less than 27
8 months, the institution does not admit students to the
9 educational service more than four times during a year,
10 and the institution confers a diploma upon the student's
11 completion of the educational service.

12 ~~(g)~~

13 (f) The educational service offers training exclusively
14 in the fine arts or performing arts, such as training to be
15 an actor, dancer, author, vocal or instrumental musician,
16 painter, sculptor, or photographer; in body arts, such as
17 training in body piercing or massage; or in another similar
18 field as designated by the council.

19 ~~(h)~~

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

26 ~~(i)~~

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

34 ~~(j)~~

35 (i) The educational service consists exclusively of
36 intensive English program instruction.

37 ~~(k)~~

38 (j) The educational service consists exclusively of
39 continuing education.

40 ~~(l)~~



1 (k) Any educational service identified in this section
2 that is exempt from Article 7 (commencing with Section
3 94850) does not become subject to Article 7
4 (commencing with Section 94850) solely because the
5 institution offers other educational services that are
6 identified in this section and that are also exempt from
7 Article 7 (commencing with Section 94850).

8 94795. It is the intent of the Legislature that if any
9 exception provided in this article is declared by a court to
10 be invalid for any reason, all of the provisions of Article
11 7 (commencing with Section 94850) shall apply to the
12 institutions, programs, or educational services that would
13 otherwise be subject to that exception.

14

15 Article 6. General Standards for All Postsecondary
16 Institutions Approved Under This Chapter

17

18 94800. All institutions approved under this chapter
19 shall be maintained and operated, or in the case of a new
20 institution, shall demonstrate that it will be maintained
21 and operated, in compliance with all of the following
22 minimum standards:

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

25 (b) That upon satisfactory completion of training, the
26 student is given an appropriate degree, diploma, or
27 certificate by the institution, indicating that the course or
28 courses of instruction or the program or programs of
29 instruction or study have been satisfactorily completed
30 by the student.

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

38 94802. (a) Each institution desiring to operate in this
39 state shall make application to the council, upon forms to



1 be provided by the council. The application shall include,
2 as a minimum, at least all of the following:

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

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

9 (3) Copies of media advertising and promotional
10 literature.

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

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

17 (6) The information specified in Section 94808.

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

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

25 (c) Following review of the application and any other
26 further information submitted by the applicant, or
27 required in conformity with Article 8 (commencing with
28 Section 94900) and Article 9 (commencing with Section
29 94915), and any investigation of the applicant as the
30 council deems necessary or appropriate, the council
31 either shall grant or deny approval to operate to the
32 applicant.

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



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

3 (2) Comply with the standards and requirements
4 specified in Article 8 (commencing with Section 94900),
5 Article 9 (commencing with Section 94915), or Article 9.5
6 (commencing with Section 94931), whichever is
7 applicable.

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

10 (4) Comply with any applicable provisions of Section
11 94855.

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

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

17 *(1) The institution fails to have available sufficient*
18 *funds and accounts receivable to pay all operating*
19 *expenses due within 30 days. For the purpose of this*
20 *paragraph, "funds" means cash or assets that can be*
21 *converted into cash within seven days.*

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

35 ~~(3) Under a fund accounting system, the institution's~~
36 ~~unrestricted current or operating fund reflects sustained~~
37 ~~material deficits over at least its two most recent fiscal~~
38 ~~years.~~

39 ~~(4) The institution is not in compliance either with~~
40 ~~statutes or the regulations adopted by the council relating~~



1 ~~to the requirements for maintaining sufficient funds to~~
 2 ~~cover all operating expenses. generally accepted~~
 3 ~~accounting principles. When another government~~
 4 ~~agency requires an institution to file annual financial~~
 5 ~~audit prepared by a certified public accountant, that~~
 6 ~~agency's current ratio standard may apply in lieu of the~~
 7 ~~ratio specified in this paragraph if the ratio of current~~
 8 ~~assets to current liabilities under that standard is 1 to 1 or~~
 9 ~~greater.~~

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

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

- 21 (A) Consent to be sued in California.
- 22 (B) Consent to be subject to the administrative
 23 jurisdiction of the council and the Student Aid
 24 Commission in connection with the institution's
 25 compliance with this chapter.
- 26 (C) Appoint an agent for service of process in
 27 California and all notices required by this chapter.
- 28 (D) Agree to pay any refund, claim, penalty, or
 29 judgment that the institution is obligated to pay.
- 30 (E) File financial reports, maintain financial records,
 31 and permit the inspection and copying of financial
 32 records to the same extent as is required of the institution.

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

37 (d) If the council determines that an institution is not
 38 financially responsible, the council, under terms and
 39 conditions prescribed by the council, may require the



1 institution to submit for its latest complete fiscal year and
2 its current fiscal year, each of the following:

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

6 (2) The institution's financial plan for establishing
7 financial responsibility.

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

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

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

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

18 (1) An institution that collected seven hundred fifty
19 thousand dollars (\$750,000) or more in total student
20 charges in its preceding fiscal year shall file financial
21 reports prepared in accordance with generally accepted
22 accounting principles established by the American
23 Institute of Certified Public Accountants, and audited or
24 reviewed by an independent certified public accountant
25 who is not an employee, officer, or corporate director or
26 member of the governing board of the institution.

27 (2) An institution that collected less than seven
28 hundred fifty thousand dollars (\$750,000) in total student
29 charges in its preceding fiscal year shall file financial
30 reports prepared in accordance with generally accepted
31 accounting principles established by the American
32 Institute of Certified Public Accountants. These financial
33 reports may be prepared by an individual with sufficient
34 training to adhere to the required accounting principles.

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



1 accepted accounting principles for nonprofit
2 organizations.

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

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

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

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

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

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

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

34 (2) The number of degrees and diplomas awarded, by
35 level of degree.

36 (3) The degree levels offered.

37 (4) Program completion rates.

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



1 (6) Financial information demonstrating compliance
2 with subdivisions (b) and (c) of Section 94804 and
3 subdivisions (b) and (c) of Section 94855, if applicable.

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

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

10 (b) Colleges and universities operating under
11 paragraph (6) of subdivision (b) of Section 94739 shall
12 comply with the reporting requirements of paragraphs
13 (1), (2), (3), and (5) of subdivision (a).

14 (c) Program completion rates and placement data
15 shall be reported in accordance with the standards and
16 criteria prescribed by the council pursuant to paragraphs
17 (1) to (4), inclusive, of subdivision (a) of Section 94816
18 and Section 94859, if applicable. Based on the review of
19 information submitted to fulfill the requirements of this
20 section, the council may initiate a compliance review and
21 may place the institution on probation pursuant to
22 subdivision (h) of Section 94901 and subdivision (i) of
23 Section 94915, and may require evidence of financial
24 stability and responsibility pursuant to Sections 94804 and
25 94855, if applicable.

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



1 94810. (a) Any written contract or agreement for
2 educational services with an institution shall include all of
3 the following:

4 (1) On the first page of the agreement or contract, in
5 12-point boldface print or larger, the following statement:

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

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

20 (3) A list of any charges and deposits that are
21 nonrefundable clearly identified as nonrefundable
22 charges.

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

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

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

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



1 (8) A clear statement of the refund policy written in
2 plain English.

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

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

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

20 94812. Any written contract or agreement signed by
21 a prospective student shall not become operative until
22 the student attends the first class or session of instruction.
23 This provision does not apply to correspondence schools
24 or other distance-learning programs.

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

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

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

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

38 (4) The faculty and their qualifications.



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

4 (6) The cancellation and refund policies.

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

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

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

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

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

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

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



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

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

12 ~~(5) The number and percentage of students who left
13 the institution in the preceding calendar year before
14 completing the entire program and transferred units or
15 credits earned at the institution to another private or
16 public postsecondary educational institution. If units or
17 credits earned by students in an institution's program are
18 transferable to other institutions, the institution shall
19 disclose to the prospective student the names of the
20 private or public postsecondary educational institutions
21 that have agreed to accept units or credits for transfer
22 from the institution and those that have actually accepted
23 units or credits for transfer. If units or credits earned by
24 students in an institution's program are not transferable
25 to other institutions, the institution shall disclose to the
26 prospective student that the institution's degree is a
27 terminal degree and that units or credits earned towards
28 the degree are nontransferable.~~

29 Each school that offers or advertises placement
30 assistance for any course of instruction shall file with the
31 council its placement statistics for the 12-month period or
32 calendar year immediately preceding the date of the
33 school's application for annual review for every course of
34 instruction.

35 The council shall develop standards and criteria to be
36 used by each institution in determining the statistical
37 information required by this paragraph.

38 *(b) In addition to the fact sheet required by
39 subdivision (a), each institution offering a degree
40 program designed to prepare students for a particular*

1 vocation, trade, or career field and each institution
 2 subject to Article 7 (commencing with Section 94850)
 3 shall provide to each prospective student a statement in
 4 at least 12-point type that contains the following
 5 statement:*{C}*“NOTICE CONCERNING
 6 TRANSFERABILITY OF UNITS AND DEGREES
 7 EARNED AT OUR SCHOOL

8 Units you earn in our ____ (fill in name of
 9 program) program in most cases will probably not be
 10 transferable to any other college or university. For
 11 example, if you entered our school as a freshman, you will
 12 still be a freshman if you enter another college or
 13 university at some time in the future even though you
 14 earned units here at our school. In addition, if you earn a
 15 degree, diploma, or certificate in our ____ (fill in
 16 name of program) program, in most cases it will probably
 17 not serve as a basis for obtaining a higher level degree at
 18 another college or university.”

19 The disclosures required by this section shall be signed
 20 by the institution and the student and be dated. If the
 21 solicitation or negotiation leading to the agreement for a
 22 course of instruction was in a language other than
 23 English, the disclosures shall be in that other language.

24 (c) The council shall take into consideration the
 25 character of the educational program in determining
 26 whether specific programs may be excluded from
 27 application of this section.

28 ~~(e) This section does not apply to educational~~

29 (d) Except as provided in subdivision (b), this section
 30 does not apply to educational programs subject to Article
 31 7 (commencing with Section 94850).

32 94818. (a) Every institution shall designate and
 33 maintain an agent for service of process within this state
 34 and provide the name, address, and telephone number of
 35 the agent to the council. The council shall furnish the
 36 agent’s name, address, and telephone number to any
 37 person upon request.

38 (b) If an institution is not operating in California when
 39 it applies for approval to operate, the institution shall set
 40 forth the name, address, and telephone number of its



1 agent for service of process in the institution's
2 application.

3 (c) If an institution fails to designate or maintain an
4 agent for service of process pursuant to subdivision (a)
5 and if service on the institution cannot reasonably be
6 effected in the manner provided in Section 415.10, 415.20,
7 415.30, or 415.40 of the Code of Civil Procedure, the
8 institution may be served by leaving a copy of the process
9 or any other document in an office of the council and by
10 sending, by first-class mail, a notice of the service upon
11 the council and a copy of the process or other document
12 to the institution at its last address on file with the council.
13 Service in this manner shall be deemed complete on the
14 10th day after that mailing to the institution. Proof of
15 service may be made by a declaration showing
16 compliance with this subdivision.

17 94819. *Within 30 days of any action by any accrediting*
18 *agency that establishes, reaffirms, or publicly sanctions*
19 *the accreditation of any private postsecondary*
20 *educational institution operating in the state, including*
21 *those institutions that satisfy the definition of "private*
22 *postsecondary educational institution," the accrediting*
23 *agency shall notify the bureau of that action and shall*
24 *provide a copy of any public statements regarding the*
25 *reasons for the accrediting agency's action.*

26 94820. (a) The institution shall have and maintain
27 the policy set forth in this article for the refund of the
28 unused portion of tuition fees and other charges if the
29 student does not register for the period of attendance or
30 withdraws therefrom at any time prior to completion of
31 the courses, or otherwise fails to complete the period of
32 enrollment. The institutional refund policy for students
33 who have completed 60 percent or less of the course of
34 instruction shall be a pro rata refund.

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

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

39 (2) Divide this figure by the number of hours in the
40 program.



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

2 (4) The amount owed by the student for the purposes
3 of calculating a refund is derived by multiplying the total
4 hours attended by the hourly charge for instruction *plus*
5 *the amount of the registration fee specified in paragraph*
6 *(1)*.

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

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

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

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

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

18 (4) The amount owed by the student for the purposes
19 of calculating a refund is derived by multiplying the total
20 number of lessons received by the per-lesson charge
21 calculated in paragraph (3) *plus the amount of the*
22 *registration fee specified in paragraph (1)*.

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 (d) For the purposes of this section, institutions may
27 specify in enrollment agreements the time limits within
28 which students are required to complete the
29 requirements of a course in a distance learning program.

30 94821. Institutions offering distance learning, home
31 study, or correspondence instruction may petition the
32 council for an alternative method of calculating tuition
33 refunds if they can demonstrate all of the following:

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

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



1 94822. Institutions, for all students, without penalty or
2 obligation, shall refund 100 percent of the amount paid
3 for institutional charges, less a reasonable deposit or
4 application fee not to exceed one hundred dollars (\$100),
5 if notice of cancellation is made prior to or on the first day
6 of instruction. If the first lesson in a home study or
7 correspondence course is sent to the student by mail, the
8 institution shall send it by first-class mail, postage prepaid,
9 documented by a certificate of mailing, and the student
10 shall have the right to cancel until midnight of the eighth
11 business day after the first lesson was mailed. The
12 institution shall advise each student that any notification
13 of withdrawal or cancellation and any request for a refund
14 is required to be made in writing.

15 94823. The institution shall provide a written
16 statement containing its refund policy, together with
17 examples of the application of the policy, to each student
18 prior to signing the enrollment contract, and shall make
19 its policy known to currently enrolled students.

20 94824. The institution shall pay or credit refunds due
21 on a reasonable or timely basis, not to exceed 30 days
22 following the date upon which the student's withdrawal
23 has been determined.

24 94825. The institution shall publish a current schedule
25 of all student charges, a statement of the purpose for those
26 charges, and a statement of the cancellation and refund
27 policies with examples of the application of the policies,
28 and shall provide the schedule to all current and
29 prospective students prior to enrollment. The schedule
30 shall clearly indicate and differentiate all mandatory and
31 optional student charges. The institution shall include a
32 clear statement written in English describing the
33 procedures that a student is required to follow to cancel
34 the contract or agreement and obtain a refund. If the
35 institution solicited the student or negotiated the
36 agreement in a language other than English, the notice
37 to the student shall be in that same language. The
38 schedule shall specify the total costs of attendance which
39 shall include, but not be limited to, tuition, fees,
40 equipment costs, housing, transportation, books,



1 necessary supplies, materials, shop and studio fees, and
2 any other fees and expenses that the student will incur
3 upon enrollment.

4 The schedule shall clearly identify all charges and
5 deposits that are nonrefundable.

6 94826. Where the refund calculations set forth in this
7 article cannot be utilized because of the unique way in
8 which an educational program is structured, the council
9 shall determine the details of an alternative refund policy,
10 by regulation, and shall take into consideration the
11 contract for educational services entered into with the
12 student, as well as the length and character of the
13 educational program in determining standards for
14 refunds. The decision of the council shall be final. This
15 section does not apply to the refunds subject to Sections
16 94869 and 94870.

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

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

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

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



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

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

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

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

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

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

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

22 (c) A finding that an owner, a person in control, a
23 director, or an officer of an institution is not in compliance
24 with this chapter or was not in compliance with
25 applicable law while serving as an owner, person in
26 control, director, or officer of an institution within the
27 previous five-year period.

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

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

37 (f) A finding that there was either a denial of a
38 previous application submitted by the same institution to
39 the council or a revocation of the institution's approval



1 and that the conditions or violations that were the cause
2 of the denial or revocation have not been corrected.

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

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

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

16 (j) The failure to provide timely and correct refunds
17 to students.

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

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

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

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

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

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



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

4 94831. No institution, or representative of that
5 institution shall do any of the following:

6 (a) Operate in this state a postsecondary educational
7 institution not exempted from this chapter, unless the
8 institution is currently approved to operate pursuant to
9 this chapter. The council may institute an action,
10 pursuant to Section 94955, to prevent any individual or
11 entity from operating an institution in this state that has
12 not been approved to operate pursuant to this chapter
13 and to obtain any relief authorized by that section.

14 (b) Offer in this state, as or through an agent,
15 enrollment or instruction in, or the granting of
16 educational credentials from, an institution not exempted
17 from this chapter, whether that institution is within or
18 outside this state, unless that agent is a natural person and
19 has a currently valid agent's permit issued pursuant to this
20 chapter, or accept contracts or enrollment applications
21 from an agent who does not have a current permit as
22 required by this chapter. The council, however, may
23 adopt regulations to permit the rendering of legitimate
24 public information services without a permit.

25 (c) Instruct or educate, or offer to instruct or educate,
26 including soliciting for those purposes, enroll or offer to
27 enroll, contract or offer to contract with any person for
28 that purpose, or award any educational credential, or
29 contract with any institution or party to perform any act,
30 in this state, whether that person, agent, group, or entity
31 is located within or without this state, unless that person,
32 agent, group, or entity observes and is in compliance with
33 the minimum standards set forth in this article and Article
34 7 (commencing with Section 94850), if it is applicable, the
35 criteria established by the council pursuant to subdivision
36 (b) of Section 94773, and the regulations adopted by the
37 council pursuant to subdivision (c) of Section 94773.

38 (d) Use, or allow the use of, any reproduction or
39 facsimile of the Great Seal of the State of California on any
40 diploma.



1 (e) Promise or guarantee employment.

2 (f) Advertise concerning job availability, degree of
3 skill and length of time required to learn a trade or skill
4 unless the information is accurate and in no way
5 misleading.

6 (g) Advertise, or indicate in any promotional material,
7 that correspondence instruction, or correspondence
8 courses of study are offered without including in all
9 advertising or promotional material the fact that the
10 instruction or programs of study are offered by
11 correspondence or home study.

12 (h) Advertise, or indicate in any promotional material,
13 that resident instruction, or programs of study are offered
14 without including in all advertising or promotional
15 material the location where the training is given or the
16 location of the resident instruction.

17 (i) Solicit students for enrollment by causing any
18 advertisement to be published in “help wanted” columns
19 in any magazine, newspaper, or publication or use
20 “blind” advertising that fails to identify the school or
21 institution.

22 (j) Advertise, or indicate in any promotional material,
23 that the institution is accredited, unless the institution has
24 been recognized or approved as meeting the standards
25 established by an accrediting agency recognized by the
26 United States Department of Education or the
27 Committee of Bar Examiners for the State of California.

28 (k) Fail to comply with federal requirements relating
29 to the disclosure of information to students regarding
30 vocational and career training programs, as described in
31 Section 94816.

32 94832. (a) No institution or representative of an
33 institution shall make or cause to be made any statement
34 that is in any manner untrue or misleading, either by
35 actual statement, omission, or intimation.

36 (b) No institution or representative of an institution
37 shall engage in any false, deceptive, misleading, or unfair
38 act in connection with any matter, including the
39 institution’s advertising and promotion, the recruitment
40 of students for enrollment in the institution, the offer or



1 sale of a program of instruction, course length, course
2 credits, the withholding of equipment, educational
3 materials, or loan or grant funds from a student, training
4 and instruction, the collection of payments, or job
5 placement.

6 (c) An institution is liable in any civil or administrative
7 action or proceeding for any violation of this article
8 committed by a representative of the institution. An
9 institution is liable in a criminal action for violations of this
10 article committed by a representative of the institution to
11 the extent permitted by law.

12 (d) (1) No institution or representative of an
13 institution shall induce a person to enter into an
14 agreement for a program of instruction by offering to
15 compensate that person to act as the institution's
16 representative in the solicitation, referral, or recruitment
17 of others for enrollment in the institution.

18 (2) No institution or representative of an institution
19 shall offer to pay or pay any consideration to a student or
20 prospective student to act as a representative of the
21 institution with regard to the solicitation, referral, or
22 recruitment of any person for enrollment in the
23 institution in either of the following:

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

26 (B) At any subsequent time, if the student has not
27 maintained satisfactory academic progress in acquiring
28 the necessary level of education, training, skill, and
29 experience to obtain employment in the occupation or
30 job title to which the program is represented to lead. The
31 institution shall have the burden of proof to establish that
32 the student has maintained satisfactory academic
33 progress.

34 (e) No institution shall compensate a representative
35 involved in recruitment, enrollment, admissions, student
36 attendance, or sales of equipment to students on the basis
37 of a commission, commission draw, bonus, quota, or other
38 similar method except as follows:

39 (1) If the program of instruction is scheduled to be
40 completed in 90 days or less, the institution shall pay



1 compensation related to a particular student only if that
 2 student completes the course.

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

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

8 (B) Up to one-half of the compensation may be paid
 9 before the student completes the program only if the
 10 student has made satisfactory academic progress,
 11 documented by the institution in the student's file, for
 12 more than 90 days.

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

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

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

22 (1) The institution is affiliated with any governmental
 23 agency, public or private corporation, agency, or
 24 association.

25 (2) The institution is a public institution.

26 (3) The institution grants degrees.

27 (h) (1) No institution or any representative of an
 28 institution shall in any manner make any untrue or
 29 misleading change in, or untrue or misleading statement
 30 related to, any test score, grade, record of grades,
 31 attendance record, record indicating student completion
 32 or employment, financial information, including any of
 33 the following:

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

36 (B) Any information or record relating to the student's
 37 eligibility for financial assistance or attendance at the
 38 institution.

39 (C) Any other record or document required by this
 40 chapter or by the council.



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

6 (i) No institution or representative of an institution
7 shall use the terms “approval,” “approved,” “approval to
8 operate,” or “approved to operate” without stating
9 clearly and conspicuously that approval to operate means
10 compliance with minimum state standards and does not
11 imply any endorsement or recommendation by the state
12 or by the council. If the council has granted an institution
13 approval to operate, the institution or its representative
14 may indicate that the institution is “licensed” or “licensed
15 to operate” but may not state or imply any of the
16 following:

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

19 (2) The council’s grant to the institution of approval to
20 operate indicates that the institution exceeds minimum
21 state standards.

22 (3) The council or the state endorses or recommends
23 the institution.

24 (j) No institution offering programs or courses of
25 instruction represented to lead to occupations or job titles
26 requiring licensure shall enter into an agreement for a
27 course of instruction with a person whom the institution
28 knows or, by the exercise of reasonable care, should know,
29 would be ineligible to obtain licensure in the occupation
30 or job title to which the course of instruction is
31 represented to lead, at the time of the scheduled date of
32 course completion, for reasons such as age, physical
33 characteristics, or relevant past criminal conviction.

34 (k) No institution shall divide or structure a program
35 of instruction or educational service to avoid the
36 application of any provision of this chapter.

37 (l) No institution or representative of an institution
38 shall direct a representative to perform any unlawful act,
39 to refrain from complaining or reporting unlawful
40 conduct to the council or another government agency, or



1 to engage in any unfair act to persuade a student not to
2 complain to the council or another government agency.

3 94834. (a) Any person or business entity, regardless
4 of the form of organization that willfully violates Section
5 94800, Sections 94810 to 94826, inclusive, or Section 94828,
6 94829, 94831, or 94832 is guilty of a crime and shall be
7 subject to separate punishment for each violation either
8 by imprisonment in a county jail not to exceed one year,
9 by a fine not to exceed ten thousand dollars (\$10,000), or
10 by both that imprisonment and fine; or by imprisonment
11 in the state prison, by a fine not to exceed fifty thousand
12 dollars (\$50,000), or by both that imprisonment and fine.

13 (b) Notwithstanding any other law, any prosecution
14 under this section shall be commenced within three years
15 of the discovery of the facts constituting grounds for
16 commencing the prosecution.

17 (c) The penalties provided by this section supplement,
18 but do not supplant, the remedies and penalties provided
19 under other law.

20 (d) In addition to any other fines or penalties imposed
21 pursuant to this section, any person or business entity
22 found guilty of a crime as described in subdivision (a)
23 shall be ordered to pay the Attorney General, any district
24 attorney, or any city attorney all of their costs and
25 expenses in connection with any investigation incident to
26 that prosecution.

27 94835. (a) The council shall review and investigate
28 all institutions, programs, and courses of instruction
29 approved under this chapter. Consideration in the
30 scheduling of reviews and investigations shall be afforded
31 to student complaints and information collected by the
32 Attorney General, the Student Aid Commission, any
33 board within the Department of Consumer Affairs, or any
34 other federal, state, or local agency. The council also shall
35 conduct periodic random and unannounced reviews and
36 investigations of institutions to determine compliance
37 with this chapter.

38 (b) At the council's request in connection with an
39 investigation to determine compliance with this chapter,
40 an institution, during its normal business hours, shall



1 immediately make available for inspection and copying
2 all records required to be maintained by this chapter or
3 that relate to the institution's compliance with this
4 chapter and permit the council's representatives to have
5 immediate access to the institution's primary
6 administrative location and sites of instruction during the
7 institution's normal business hours to examine and copy
8 these records, to inspect the institution's physical
9 facilities, equipment, library and other learning
10 resources, and to interview school administrators, faculty,
11 and students.

12 (c) The approval to operate shall be issued to the
13 owners or the governing body of the applicant institution,
14 and shall be nontransferrable. Any person that makes a
15 proper application and complies with this chapter and
16 each standard and regulation pertaining to this chapter
17 shall be qualified to receive an approval to operate or an
18 approval of the transfer of ownership.

19 94836. (a) If there is reasonable cause to believe that
20 there has been a violation by a private postsecondary
21 educational institution of the standards prescribed by this
22 chapter, the council shall conduct an investigation of the
23 institution.

24 (b) Within a reasonable time after the
25 commencement of the investigation required in
26 subdivision (a), the council shall conclude its
27 investigation and take action against the institution
28 involved, as appropriate.

29 94838. (a) No note, other instrument of
30 indebtedness, or contract relating to payment for
31 educational services shall be enforceable by any
32 institution within or outside this state governed by this
33 chapter unless at the time of execution of that note, other
34 instrument of indebtedness, or contract, the institution
35 has a valid approval to operate pursuant to this chapter.

36 (b) No note, other instrument of indebtedness, or
37 contract relating to payment for educational services
38 shall be enforceable by any institution within or outside
39 this state governed by this chapter unless the agent, who
40 enrolled persons to whom educational services were to be



1 rendered or to whom degrees or diplomas were to be
2 granted pursuant to this chapter, held a valid agent's
3 permit at the time of execution of the note, other
4 instrument of indebtedness, or contract.

5 (c) Any school or institution governed by this chapter
6 extending credit or lending money to any person for
7 tuition, fees, or any charges whatever for educational
8 services to be rendered or furnished shall cause any note,
9 instrument, or other evidence of indebtedness taken in
10 connection with that loan or extension of that credit to be
11 conspicuously marked on the face thereof with the
12 following notice:

13
14 "NOTICE

15
16 ANY HOLDER OF THIS CONSUMER CREDIT
17 CONTRACT IS SUBJECT TO ALL CLAIMS AND
18 DEFENSES THAT THE DEBTOR COULD ASSERT
19 AGAINST THE SELLER OF GOODS OR SERVICES
20 OBTAINED PURSUANT HERETO OR WITH THE
21 PROCEEDS HEREOF, RECOVERY HEREUNDER BY
22 THE DEBTOR SHALL NOT EXCEED AMOUNTS
23 PAID BY THE DEBTOR HEREUNDER."
24

25 In the event the school or institution fails to do so, it
26 shall be liable for any damage or loss suffered or incurred
27 by any subsequent assignee, transferee, or holder of that
28 evidence of indebtedness on account of the absence of
29 that notification.

30 (d) Notwithstanding the presence or absence of that
31 notification and notwithstanding any agreement in which
32 the student waives the right to assert any claim or
33 defense, the school or institution making that loan or
34 extending that credit and the transferee, assignee, or
35 holder of that evidence of indebtedness, shall be subject
36 to all defenses and claims that could be asserted against
37 the school or institution that was to render or furnish
38 those educational services by any party to that evidence
39 of indebtedness or by the person to whom these



1 educational services were to be rendered or furnished up
2 to the amount remaining to be paid thereon.

3 (e) Institutions that participate in federal student
4 assistance programs and that comply with the financial
5 disclosure and notification requirements for those
6 programs shall be deemed to be in compliance with the
7 standards prescribed by this section.

8 94840. At least 90 days prior to the expiration of an
9 approval to operate, the institution shall complete and file
10 with the council an application form for renewal of its
11 approval to operate. The renewal application need only
12 contain a description of any changes made by the
13 institution since the time its last application was reviewed
14 by the council. Fees for processing the renewal
15 application shall be based on the number and types of
16 changes it contains. The renewal application shall be
17 reviewed and acted upon as provided in Sections 94802,
18 94804, and 94835, and Section 94900 or 94915, whichever
19 is applicable.

20 94841. Before any institution may be considered for
21 approval or renewal of approval to operate, the
22 institution, at a minimum, shall pay all annual fees,
23 assessments to the Student Tuition Recovery Fund,
24 orders for costs and expenses under Section 94935, and
25 penalties in arrears retroactive to January 1, 1990. If an
26 institution that has failed to make timely payments of fees
27 and assessments is approved, the approval shall be
28 conditional, subject to any restrictions the council deems
29 appropriate, and shall be valid for a period not to exceed
30 two years.

31 94842. If a review and decision on a renewal
32 application submitted pursuant to Section 94840 cannot
33 be completed by the council prior to the expiration of the
34 institution's current pending approval, that expiration
35 date shall be extended until the date that the council
36 notifies the institution of its decision.

37 94846. (a) If a shift in control or change of ownership
38 of an institution occurs, an application for a new approval
39 to operate for the institution under the changed
40 ownership or control shall be filed with the council at least

1 20 days prior to the shift in control or change in
2 ownership. Whenever an institution is operated at
3 different locations, an application for approval shall be
4 filed for each location.

5 (b) The application for approval to operate submitted
6 in conjunction with a change of ownership may include
7 pertinent portions of the institution's previous
8 application prepared in connection with programs or
9 courses of instruction that remain unchanged or
10 unaffected by the change in ownership.

11 (c) No application for ownership or transfer of
12 ownership shall be approved for any applicant that has
13 been found previously in any judicial or administrative
14 proceeding to have violated this chapter, or if there exists
15 any of the grounds for denial set forth in Section 480 of the
16 Business and Professions Code.

17 (d) No change in ownership of the institution shall be
18 made until the application is approved. If an application
19 for a new approval to operate is not timely filed as
20 required by this section, the institution's approval to
21 operate shall terminate. Upon approval of a change in
22 ownership, the council shall give written notice to the
23 Student Aid Commission.

24 (e) For the purposes of this section, a change in
25 ownership occurs when there is a change of control of the
26 institution, or where a person that previously did not own
27 at least 25 percent of the stock or controlling interest of
28 an institution or its parent corporation, acquires
29 ownership of at least 25 percent of the stock of the
30 institution or its parent corporation, *or when a for-profit*
31 *business converts to nonprofit corporation status or forms*
32 *a nonprofit corporation as a subsidiary to provide the*
33 *educational services for which the for-profit business is*
34 *approved to operate.*

35 94848. An institution may not claim an exception
36 ~~pursuant to Section 94785 if the council finds, after notice~~
37 ~~pursuant to Section 94739 or 94785 if the bureau finds,~~
38 ~~after notice~~ and hearing as provided in Section 94975, that
39 the institution adopted a form of organization or method



1 of operation for the purpose of avoiding any provision of
2 this chapter.

3

4 Article 7. Maxine Waters Student Protection Act

5

6 94850. (a) This article shall be known, and may be
7 cited, as the Maxine Waters School Reform and Student
8 Protection Act of 1989.

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

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



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

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

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

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

23 94851. (a) The Legislature further finds and declares
24 that students have been harmed by some institutions
25 because of the financial improprieties and
26 mismanagement of those institutions, their failure to fully
27 disclose the student's financial and contractual
28 obligations, and their failure to have sufficient resources
29 to provide the promised training. The Legislature also
30 finds that the tuition refund policies of institutions often
31 encourage unfair practices by creating a financial benefit
32 to the institution if a student drops out, and do not
33 encourage institutions to provide adequate counseling or
34 to adopt policies designed to curb student dropouts. In
35 addition, the Legislature finds that many institutions
36 have poor records of student completion and job
37 placement, even though these institutions expressly or
38 implicitly represent that students will receive sufficient
39 training and skills to obtain well-paid employment in the
40 field that is the subject of the training, and that a



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

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

22 94852. The following definitions and provisions apply
23 to this article:

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

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

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

36 (d) "Equipment" includes all textbooks, supplies,
37 materials, implements, tools, machinery, computers,
38 electronic devices, or any other goods related to any
39 education, training, or instruction, or an agreement for
40 educational services or a course of instruction.



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

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

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

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

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

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

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

34 (l) “Year” means a calendar year.

35 94853. (a) In addition to making any other required
36 disclosures, a representative of an institution who in any
37 manner solicits or recruits any person in person at any
38 place other than the institution’s premises or by
39 telephone for enrollment in a course of instruction shall
40 disclose the following, orally, and, if the solicitation is in



1 person, in a correctly dated written document given to
2 the person and printed in at least 10-point type and signed
3 by the representative.

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

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

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

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

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

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

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

37 (e) This section does not apply to solicitations or
38 presentations made at informational public appearances
39 directed to five or more people or to advertisements in
40 print or broadcast media.



1 94854. (a) Every institution shall meet all of the
2 following performance standards for each program
3 offered during the applicable time period described in
4 subdivision (I):

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

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

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

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

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

35 (c) For the purposes of subdivisions (a) and (b),
36 students who, as documented by the institution, have
37 been prevented from completing the program or
38 programs of instruction due to death, disability, illness,
39 pregnancy, military service, or participation in the Peace
40 Corps or Domestic Volunteer Service shall be excluded



1 from the computations used to determine whether an
2 institution has met the performance standards prescribed
3 by those subdivisions. Except as provided in Section
4 94874, an institution shall not disclose the records
5 maintained pursuant to this subdivision unless
6 production of those records are required by any law,
7 subpoena, or court order; *or are necessary for a certified*
8 *public accountant to prepare a compliance report*
9 *pursuant to subdivision (g) of Section 94870.*

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

29 (G) *Submission of a compliance report prepared by a*
30 *certified public accountant, who is not an officer,*
31 *director, shareholder, or employee of the institution, any*
32 *parent corporation or any subsidiary, prepared pursuant*
33 *to an attestation engagement in accordance with the*
34 *Statements on Standards for Attestation Engagements of*
35 *the American Institute of Certified Public Accounts,*
36 *which states that the institution has complied with the*
37 *performance standards in this section within the period*
38 *set forth in paragraph (4).*

39 (H) Any other reasonable procedure required by the
40 council.



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

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

15 (B) If the institution fails to satisfy the standards of
16 subdivision (a) within the period designated by the
17 council, the council shall order the institution to cease
18 offering the course of instruction at the campus where
19 that program was offered. If the institution fails to satisfy
20 the standards of subdivision (b) within the period
21 designated by the council, the council shall revoke the
22 institution's approval to operate, or approval to operate
23 the branch or satellite campus where the programs were
24 offered. No action shall be taken pursuant to this
25 paragraph without notice, and, if requested by the
26 institution, a hearing. *In taking action pursuant to this*
27 *subparagraph, the bureau shall consider the impact, if*
28 *any, of changes in the employment rate in the area served*
29 *by this institution.*

30 (g) If an institution fails to meet any of the standards
31 established in subdivision (a) ~~by more than 10 percent~~
32 and does not have a placement rate of 42 percent or more
33 for the program in which the standard was failed, the
34 council shall order the institution to cease offering the
35 program of instruction at the campus where the course
36 was offered. If the institution fails to meet any of the
37 standards prescribed in subdivision (b) ~~by more than 10~~
38 ~~percent~~ and does not have a placement rate of 42 percent
39 or more for all programs in the aggregate, the council
40 shall revoke the institution's approval to operate, or



1 approval to operate the branch or satellite campus where
2 the programs were offered. No action shall be taken
3 pursuant to this subdivision without notice and, if
4 requested by the institution, a hearing.

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

7 (2) The council shall investigate the institution
8 whenever the council deems appropriate to verify the
9 institution's compliance with this section. The
10 investigation shall include an examination of the records
11 maintained by the institution pursuant to subdivision (j)
12 and contacts with the students and employers.

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

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

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



1 (j) An institution shall maintain records of the name,
2 address, and telephone number of students who enroll in
3 a program of instruction, including students who begin
4 the program and students who cancel pursuant to Section
5 94867, and of students who graduate from that program
6 of instruction. An institution shall inquire whether
7 students who complete a program of instruction obtain
8 employment starting within six months of completing the
9 program in the occupation to which the program of
10 instruction is represented to lead and continue in
11 employment for a period of at least 60 days. The inquiry
12 shall be documented by a list indicating each student's
13 name, address, and telephone number; the employer's
14 name, address, and telephone number; the name,
15 address, and telephone number of the person who
16 provided the information regarding the student's
17 employment to the institution; the name, title, or
18 description of the job; the date the student obtained
19 ~~employment; and the duration of the student's~~
20 ~~employment.~~ *employment; the duration of the student's*
21 *employment; information concerning whether the*
22 *student was employed full-time or part-time including*
23 *the number of hours worked per week; and the names,*
24 *addresses, and telephone numbers of students who*
25 *choose not to seek employment and instead enroll in*
26 *another program to earn a higher degree, as well as the*
27 *name and address of the institution in which they enroll.*
28 *If the student is self-employed, the list shall include*
29 *reliable indices of self-employment such as contracts,*
30 *checks for payment, tax returns, social security*
31 *contribution records, records of accounts receivable or*
32 *customer payments, invoices for business supplies, rent*
33 *receipts, appointment book entries, business license, or*
34 *any other information required by the bureau that is a*
35 *reliable indicator of self-employment.*

36 (k) For the purposes of this section, the following
37 definitions shall apply:

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



1 ~~(2) “Employment” means full-time employment for~~
2 ~~at least 32 hours per week, or any other time designated~~
3 ~~by the council for a period of at least 60 days in the~~
4 ~~occupations or job titles to which the program of~~
5 ~~instruction is represented to lead.~~

6 (2) “Employment” means either of the following:

7 (A) Full-time employment for at least 32 hours per
8 week for a period of at least 60 days in the occupations or
9 job titles to which the program of instruction is
10 represented to lead.

11 (B) Part-time employment for at least 17.5 hours, but
12 less than 32 hours, per week for a period of at least 60 days
13 in the occupations or job titles to which the program of
14 instruction is represented to lead, provided the student
15 completes a handwritten statement at the beginning of
16 the program and at the end of the program which states
17 that the student’s educational objective is part-time
18 employment. The institution shall not require that any
19 student complete such a statement or provide any
20 incentive, financial or otherwise, to any student for
21 signing such a statement.

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

24 (4) “Placement rate” means the percentage of
25 students who fulfilled the provisions of the following two
26 subparagraphs:

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

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



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

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

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

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

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

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

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



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

20 (n) *In determining the placement rate for a particular*
21 *time period as described in subdivision (l), an institution*
22 *may exclude from the calculation a student who either:*

23 (1) *Decides not to obtain employment and within six*
24 *months of completing the program enrolls in a program*
25 *to continue his or her education to obtain a higher level*
26 *degree.*

27 (2) *Is in possession at the completion of the program*
28 *of a valid United States Immigration and Naturalization*
29 *Service Form I-20.*

30 (o) *In determining the placement rate for a particular*
31 *time period as described in subdivision (l), an institution*
32 *may count a student who drops out of the program after*
33 *completing at least 75 percent of the program and obtains*
34 *employment for a period of at least 60 days in the*
35 *occupations or job titles to which the program of*
36 *instruction is represented to lead. No more than 10*
37 *percent of the institution's total number of placed*
38 *students may be counted pursuant to this subdivision.*

39 (p) *If an order to cease offering a program or a*
40 *revocation is issued pursuant to this section, the council*



1 may permit the institution to continue to offer the
2 program or programs of instruction to the students who
3 had begun the course or courses before the effective date
4 of the order or revocation or may order the institution to
5 cease instruction and provide a refund of tuition and all
6 other charges to students.

7 94855. (a) As a condition of maintaining its approval
8 to operate, an institution offering any educational
9 programs or educational services subject to this article
10 shall meet the following financial resource requirements
11 in addition to the financial requirements of Section 94804.

12 (1) Satisfy minimum standards prescribed by Section
13 94900, 94905, or 94915, whichever is applicable.

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

17 (3) Pay timely refunds as required by Sections 94867,
18 94869, 94870, 94873, and 94877.

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

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

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

32 ~~(e)~~

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



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

4 (A) Consent to be sued in California.

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

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

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

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

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

20 ~~(d)~~

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

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

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

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

35 (4) Proceed pursuant to Section 94879.

36 ~~(e)~~

37 (d) 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) of~~ 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, *or are necessary for a certified*
36 *public accountant to prepare a compliance report*
37 *pursuant to subdivision (g) of Section 94870.*

38 (c) No institution which has offered a course of
39 instruction for less than one year shall make any express



1 or implied claims about the salary that a student may earn
2 after completing the course of instruction.

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

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

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

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

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

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

39 94861. (a) Every institution shall file annually with
40 the council, on July 1, or another date designated by the



1 council, a report subscribed under penalty of perjury that
2 contains all of the following:

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

5 (2) The information described in paragraph (2) of
6 subdivision (a) of Section 94859.

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

10 (4) Financial information demonstrating compliance
11 with Section 94855.

12 (5) Any additional information that the council may
13 prescribe.

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

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

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

32 *(d) The bureau shall develop standards and*
33 *procedures for submission by institutions of the*
34 *information pursuant to this section electronically or on*
35 *computer disk, in a standardized format.*

36 *(e) If the institution uses any of the categories*
37 *identified in subparagraph (B) of paragraph (2) of*
38 *subdivision (k) of, or subdivision (n) or (o) of, Section*
39 *94854 in determining compliance with that section, the*
40 *information submitted pursuant to this section shall*



1 *include the number of students that were included in*
2 *each of the categories identified in those provisions.*

3 94862. The institution shall file biennially with the
4 council a financial report prepared pursuant to Section
5 94806. The report shall include the financial information
6 required by Section 94855 and average monthly
7 expenditures. Work papers for the audit shall be retained
8 for five years from the date of the audit report and shall
9 be made available to the council upon request after the
10 completion of the audit.

11 94863. (a) No institution shall pay any consideration
12 to any agent subject to Section 94940 who has not
13 complied with that section, or enter into an agreement,
14 as described in Section 94871, with any person who was
15 recruited or solicited to enroll in that institution by an
16 agent who was not in compliance with Section 94940 at
17 the time of the recruitment or solicitation.

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

27 94864. The enrollment, course completion, and
28 employment data used to determine compliance with
29 subdivisions (a) and (b) of Section 94854 and paragraph
30 (2) of subdivision (a) of Section 94859 shall continue to
31 apply to an institution notwithstanding a change in the
32 institution's ownership, name, or identification number.

33 ~~94865. (a) As used in this section, "ESL instruction"~~
34 ~~means any educational service involving instruction in~~
35 ~~English as a second language.~~

36 ~~(b) No institution shall offer ESL instruction without~~
37 ~~the prior approval of the council.~~

38 ~~(c) The council shall not approve an institution's~~
39 ~~offering of ESL instruction unless that institution~~



1 complies with the minimum standards established in
2 subdivision (a) of Section 94915.

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

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

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

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

39 (h) If the results of a test administered pursuant to
40 subdivision (d), (e), (f), or (g) indicate that the student



1 ~~has not attained adequate English language proficiency~~
2 ~~after the completion of ESL instruction, the institution~~
3 ~~shall (1) make a full refund of the total charge for the ESL~~
4 ~~instruction, or (2) offer the student the choice of either~~
5 ~~enrolling without charge in additional ESL instruction~~
6 ~~until the student attains adequate English language~~
7 ~~proficiency or obtaining a full refund of the total charge~~
8 ~~for the ESL instruction. The institution shall pay refunds~~
9 ~~within 30 days and shall comply with subdivisions (c) and~~
10 ~~(d) of Section 94869.~~

11 ~~(i) This section does not apply to educational services~~
12 ~~exempted from this article under subdivision (c) of~~
13 ~~Section 94790 or to grantees funded under Section 1672~~
14 ~~of Title 29 of the United States Code.~~

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

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

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

34 ~~(l) The tests used by an institution pursuant to this~~
35 ~~section shall be tests that are approved by the United~~
36 ~~States Department of Education or tests such as the Test~~
37 ~~of English as a Foreign Language and the Comprehensive~~
38 ~~Adult Student Assessment System that are generally~~
39 ~~recognized by public and private institutions of higher~~
40 ~~learning in this state for the evaluation of English~~



1 language proficiency. An institution shall demonstrate to
2 the council that the tests and passing scores that it uses
3 establish that students have acquired the degree of
4 proficiency in oral and written English required by
5 subdivision (d), (e), (f), or (g), whichever is applicable.
6 The required level of proficiency in oral and written
7 English shall not be lower than the sixth grade level.

8 (m) All tests shall be independently administered;
9 without charge to the student and in accordance with the
10 procedures specified by the test publisher. The tests shall
11 not be administered by a previous or current owner,
12 director, consultant, or representative of the institution
13 or by any person who previously had, or currently has, a
14 direct or indirect financial interest in the institution other
15 than the arrangement to administer the test. The council
16 shall adopt regulations that contain criteria to ensure
17 independent test administration including the criteria
18 established by the United States Department of
19 Education and set forth on pages 52160 and 52161 of
20 Volume 55 of the Federal Register, dated December 19,
21 1990.

22 94865. (a) As used in this section, “ESL instruction”
23 means any educational service involving instruction in
24 English as a second language.

25 (b) No institution shall offer ESL instruction without
26 the prior approval of the bureau.

27 (c) The bureau shall not approve an institution’s
28 offering of ESL instruction unless that institution
29 complies with the minimum standards established in
30 subdivision (a) of Section 94915.

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

37 (e) A student who has completed ESL instruction at
38 an institution shall not be enrolled in any course of
39 instruction presented in the English language at that
40 institution unless the student passes a test indicating that



1 *he or she has attained adequate proficiency in oral and*
2 *written English to be successfully trained by English*
3 *language instruction to perform tasks associated with the*
4 *occupations or job titles to which the educational*
5 *program is represented to lead.*

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

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

27 *(h) If the results of a test administered pursuant to*
28 *subdivision (d), (e), (f), or (g) indicate that the student*
29 *has not attained adequate English language proficiency*
30 *after the completion of ESL instruction, the institution*
31 *shall offer the student additional instruction without*
32 *charge, for a period of up to 50 percent of the number of*
33 *hours of instruction previously offered by the institution*
34 *to the student, to enable the student to attain adequate*
35 *English language proficiency.*

36 *(i) This section does not apply to educational services*
37 *exempted from this article under subdivision (c) of*
38 *Section 94790 or to grantees funded under Section 1672*
39 *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 bureau 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 bureau*
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 *(n) The bureau shall adopt regulations concerning the*
9 *manner of documenting the nature of a student's existing*
10 *knowledge, training, and skill and that ESL instruction*
11 *offered by the institution is necessary to enable the*
12 *student to use that existing knowledge, training, and skill,*
13 *as prescribed in subdivision (f). The regulations shall*
14 *specify all of the following:*

15 *(1) Reliable sources of information, independent of*
16 *the student and the institution, from which*
17 *documentation of a student's existing knowledge,*
18 *training, and skill shall be obtained.*

19 *(2) Circumstances that must be documented by the*
20 *institution to establish that information from a designated*
21 *reliable source of information cannot reasonably be*
22 *obtained.*

23 *(3) Alternate acceptable sources of information if*
24 *designated reliable sources are not available.*

25 *(4) The nature of all required types of documentation.*

26 *(o) The bureau shall develop and distribute*
27 *instructions, informational materials, or forms to assist*
28 *institutions in developing the documentation described*
29 *in this section. These instructions, materials, and forms*
30 *shall not be subject to review or approval by the Office of*
31 *Administrative Law pursuant to any provision of the*
32 *Government Code.*

33 94866. *(a) When a person executes an agreement*
34 *obligating that person to pay any money to an institution*
35 *for a course program of instruction or related equipment,*
36 *the institution shall provide the person with a document*
37 *containing only the following notice:*
38



1 “NOTICE OF STUDENT RIGHTS (12-point bold
2 type)
3

4 “1. You may cancel your contract for school, without
5 any penalty or obligations on the fifth business day
6 following your first class session as described in the Notice
7 of Cancellation form that will be given to you at (insert
8 “the first class you go to” or “with the first lesson in a
9 home study or correspondence course,” whichever is
10 applicable). A different cancellation policy applies for
11 home study or correspondence courses. Read the Notice
12 of Cancellation form for an explanation of your
13 cancellation rights and responsibilities. If you have lost
14 your Notice of Cancellation form, ask the school for a
15 sample copy.

16 “2. After the end of the cancellation period, you also
17 have the right to stop school at any time, and you have the
18 right to receive a refund for the part of the course not
19 taken. Your refund rights are described in the contract.
20 If you have lost your contract, ask the school for a
21 description of the refund policy.

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

26 “4. If you have any complaints, questions, or problems
27 that you cannot work out with the school, write or call the
28 Council for Private and Postsecondary Education:
29

30 _____
31 (insert address and telephone number of the Council for
32 Private Postsecondary and Vocational Education)”
33

34 (b) Except as otherwise provided in subdivision (a),
35 the notice required by subdivision (a) shall be printed in
36 10-point type in English and, if any solicitation or
37 negotiation leading to the agreement for a course of
38 instruction was in a language other than English, in that
39 other language.



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

7
 8 "Notice of Cancellation
 9 _____

10 (Date)

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

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

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

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

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

37 _____, at _____.
 38 (name of institution) (address of institution)
 39
 40



1 “NOT LATER THAN

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

13
14 “I cancel the contract for school.

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

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

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

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

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

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



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

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

18 (e) *Except for subdivision (a), this section shall not*
19 *apply to a student if both of the following occur:*

20 (1) *All of that student's tuition and fees are paid by a*
21 *third-party organization, such as a Job Training*
22 *Partnership Act agency, a Regional Occupational*
23 *Program or Regional Occupational Center, a Private*
24 *Industry Council, or a vocational rehabilitation program,*
25 *if the student is not obligated to repay the third-party*
26 *organization or does not lose time-limited educational*
27 *benefits.*

28 (2) *The third-party organization and the institution*
29 *have a written agreement, entered into on or before the*
30 *date the student enrolls, that no refund will be due to the*
31 *student or to the organization if the student withdraws*
32 *prior to completion.*

33 *The institution shall provide a copy of the written*
34 *agreement to the bureau. The institution shall disclose to*
35 *any student whose refund rights are affected by this*
36 *agreement, in all disclosures required to be given to the*
37 *student by this chapter, that the student is not entitled to*
38 *a refund. It is the intent of the Legislature that this*
39 *subdivision not apply to any student whose tuition and*
40 *fees are paid with funds provided to the third-party*



1 *organization for the student's benefit as part of any*
2 *federal, state, or local statute, regulation, or ordinance*
3 *that provides funds for training welfare recipients.*

4 94870. (a) (1) Except as provided in paragraph (2),
5 the refund to be paid to a student for a program of
6 instruction subject to this article shall be calculated as
7 follows:

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

10 (B) Divide this figure by the number of hours in the
11 program.

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

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

16 (E) The refund would be any amount in excess of the
17 figure derived in subparagraph (D) that was paid by the
18 student.

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

21 (2) For an educational service offered by home study
22 or correspondence, the refund shall be the amount the
23 student paid for lessons less a registration fee not
24 exceeding seventy-five dollars (\$75), multiplied by a
25 fraction, the numerator of which is the number of lessons
26 for which the student has paid but which the student has
27 not completed and submitted, and the denominator of
28 which is the total number of lessons for which the student
29 has paid. The refund amount shall be adjusted as provided
30 in subdivision (b) or (c) for equipment and as provided
31 in subdivision (d) for resident instruction, if applicable.

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

34 (A) All amounts that the student has paid, however
35 denominated, shall be deemed to have been paid for
36 instruction, unless the student has paid a specific charge
37 for equipment set forth in the agreement for the program
38 of instruction.

39 (B) In the case of an educational service offered by
40 home study or correspondence, all amounts that the



1 student has paid, however denominated, shall be deemed
2 to have been paid for lessons unless the student has paid
3 a specific charge for equipment or resident instruction as
4 set forth in the agreement for the educational service.

5 (C) The total number of hours necessary to complete
6 each lesson of home study or correspondence instruction
7 shall be substantially equivalent to each other lesson
8 unless otherwise permitted by the council.

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

11 (b) If the institution specifies in the agreement a
12 separate charge for equipment that the student actually
13 obtains and the student returns that equipment in good
14 condition, allowing for reasonable wear and tear, within
15 30 days following the date of the student's withdrawal, the
16 institution shall refund the charge for the equipment paid
17 by the student. If the student fails to return that
18 equipment in good condition, allowing for reasonable
19 wear and tear, within 30 days following the date of the
20 student's withdrawal, the institution may offset against
21 the refund calculated under subdivision (a) the
22 documented cost to the institution of that equipment.
23 The student shall be liable for the amount, if any, by
24 which the documented cost for equipment exceeds the
25 refund amount calculated under subdivision (a). For the
26 purpose of this subdivision, equipment cannot be
27 returned in good condition if the equipment cannot be
28 reused because of clearly recognized health and sanitary
29 reasons and this fact is clearly and conspicuously disclosed
30 in the agreement.

31 (c) If the institution specifies in the agreement a
32 separate charge for equipment, which the student has not
33 obtained at the time of the student's withdrawal, the
34 refund also shall include the amount paid by the student
35 that is allocable to that equipment.

36 (d) If an agreement for educational service offered by
37 home study or correspondence includes a separate
38 charge for resident instruction, which the student has not
39 begun at the time of the student's withdrawal, the
40 institution shall refund the charge for the resident



1 instruction paid by the student. If the student withdraws
2 from the educational service after beginning the resident
3 instruction, the institution shall pay a refund equal to the
4 amount the student paid for the resident instruction
5 multiplied by a fraction, the numerator of which is the
6 number of hours of resident instruction which the student
7 has not received but for which the student has paid, and
8 the denominator of which is the total number of hours of
9 resident instruction for which the student has paid.

10 (e) For the purpose of determining a refund under
11 this section, a student shall be deemed to have withdrawn
12 from a program of instruction when any of the following
13 occurs:

14 (1) The student notifies the institution of the student's
15 withdrawal or of the date of the student's withdrawal,
16 whichever is later.

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

19 (3) The student has failed to attend classes for a
20 three-week period. For the purpose of subdivision (a) of
21 Section 94869 and for determining the amount of the
22 refund, the date of the student's withdrawal shall be
23 deemed the last date of recorded attendance. For the
24 purpose of determining when the refund must be paid
25 pursuant to subdivision (b) of Section 94869, the student
26 shall be deemed to have withdrawn at the end of the
27 three-week period.

28 (4) The student has failed to submit three consecutive
29 lessons or has failed to submit a completed lesson within
30 60 days of its due date as set by an educational service
31 offered by home study or correspondence. For the
32 purpose of this paragraph, the date of the student's
33 withdrawal shall be deemed to be the date on which the
34 student submitted the last completed lesson.

35 (f) An institution shall have the burden of proof to
36 establish the validity of the amount of every refund. The
37 institution shall maintain records for five years of all the
38 evidence on which the institution relies.

39 (g) *Any institution that meets each of the criteria in*
40 *paragraph (1) shall be subject to the refund requirements*



1 *in this section only for those students who withdraw from*
2 *a course of instruction after having completed 60 percent*
3 *or less of the course of instruction.*

4 *(1) To qualify under this subdivision, an institution*
5 *shall submit to the bureau a compliance report prepared*
6 *by a certified public accountant, who is not an officer,*
7 *director, shareholder, or employee of the institution, any*
8 *parent corporation, or any subsidiary, prepared pursuant*
9 *to an attestation engagement in accordance with the*
10 *Statements on Standards for Attestation Engagements of*
11 *the American Institute of Certified Public Accountants,*
12 *which states that for a period of two years prior to the*
13 *compliance report, the institution has:*

14 *(A) Not been the subject of any complaints by current*
15 *or former students alleging any violation of Section 94831,*
16 *94832, 94853, 94859, 94860, 94866, 94868, 94871, or 94875*
17 *that has not been resolved in the institution's favor.*

18 *(B) Not been a defendant in any civil lawsuit alleging*
19 *any violation of Section 94831, 94832, 94853, 94859, 94860,*
20 *94866, 94868, 94871, or 94875 that has not been resolved in*
21 *the institution's favor.*

22 *(C) Not been a party in an action by the bureau, the*
23 *former Council for Private Postsecondary and Vocational*
24 *Education, or the Attorney General alleging any violation*
25 *of Section 94831, 94832, 94853, 94859, 94860, 94866, 94868,*
26 *94871, or 94875 that has not been resolved in the*
27 *institution's favor.*

28 *(D) Not been a defendant in any criminal lawsuit that*
29 *has not been resolved in the institution's favor.*

30 *(E) Complied with Section 94824 or subdivision (b) of*
31 *Section 94869 and with this section for refunds owed by*
32 *the institution.*

33 *(F) Complied with subdivision (b) of Section 94854 for*
34 *each of the two years covered by the audit except that:*

35 *(i) The institution shall have an aggregate completion*
36 *rate of 70 percent or more pursuant to paragraph (1) of*
37 *subdivision (b) of Section 94854.*

38 *(ii) The institution shall have an aggregate placement*
39 *rate of 80 percent or more pursuant to paragraph (2) of*
40 *subdivision (b) of Section 94854.*



1 (iii) As an alternative to clauses (i) and (ii), the
2 institution shall have a combined aggregate completion
3 and placement rate of 56 percent or more.

4 (iv) In attesting to the institution's compliance with
5 the requirements of this subparagraph, the certified
6 public accountant, at a minimum, shall review a random
7 sample of at least 15 to 20 percent of the students to whom
8 the institution owed a refund, the students counted by the
9 institution towards its completion rate and its placement
10 rate, and the students excluded from the calculation of
11 the completion and placement rates, review the
12 institution's placement log or files and contact students
13 and employers to verify information in the placement
14 records, whether the student was employed in the job for
15 which the training was represented to lead, and whether
16 the student was employed for at least 60 days.

17 (2) (A) The bureau shall review the compliance
18 report submitted by the institution pursuant to this
19 subdivision. If the compliance report states that the
20 institution has complied with all of the criteria in
21 paragraph (1), the bureau shall notify the institution that
22 it qualifies under this subdivision. Following that
23 notification, this subdivision shall apply to the institution
24 for a period of two years, unless revoked by the bureau.

25 (B) If the bureau determines that the institution has
26 not met all of the criteria in paragraph (1), the institution
27 may not seek qualification again under this subdivision
28 for one year. If the bureau determines that the institution
29 has not met all of the criteria in paragraph (1), it shall
30 notify the institution that it does not qualify under this
31 subdivision.

32 (C) The institution may appeal the bureau's decision
33 pursuant to Section 94975. If the institution prevails on
34 appeal, it may obtain relief limited to a determination
35 that it qualifies under this subdivision commencing with
36 the next admission of new students in its programs
37 following the determination of the appeal. To the extent
38 possible, the bureau shall adopt regulations to provide for
39 a streamlined appeal process for purposes of appeals
40 pursuant to this subparagraph.



1 (3) Prior to notifying an institution pursuant to
2 paragraph (2), the bureau shall adopt regulations to
3 establish the dates each year for submission of compliance
4 reports by institutions, notification of institutions by the
5 bureau of the applicable refund policy for the institution,
6 the effective date of that refund policy, appropriate
7 standards and procedures for conducting any review by
8 a certified public accountant or any other person
9 pursuant to this subdivision, including a description of the
10 information and materials to be reviewed and
11 appropriate standards for review which shall be based on
12 the American Institute of Certified Public Accountants'
13 Statements on Standards for Attestation Engagements.

14 (4) (A) Any institution that has been notified by the
15 bureau that it does not qualify under this subdivision, in
16 addition to any other sanction or penalty allowed under
17 law, may not qualify under this subdivision for a period of
18 three years and shall be subject to subdivision (a), not this
19 subdivision, for all students who enrolled during that
20 entire time period if either of the following occurs:

21 (i) The institution is found by the bureau, any court, or
22 any other governmental agency in any proceeding, to
23 have violated this chapter.

24 (ii) The institution is found by the bureau, any court,
25 or any other governmental agency in any proceeding, to
26 have failed to meet the criteria in paragraph (1) during
27 the period covered by the compliance report upon which
28 the bureau based its determination of qualification.

29 (B) If the bureau, any court, or any other
30 governmental agency finds that the institution willfully
31 supplied inaccurate information pursuant to this
32 subdivision, the institution may be subject to termination,
33 suspension, or probation.

34 (C) The institution shall receive notice of the
35 proceedings, and, if requested in writing, a hearing prior
36 to any determination pursuant to this paragraph.

37 (5) If an institution does not qualify under this
38 subdivision because it fails to meet the requirement of
39 subparagraph (____) of paragraph (1) by three
40 students out of all students to whom it owed refunds

1 during the period examined by the certified public
2 accountant or 1 percent of all students to whom it owed
3 refunds during the period examined by the certified
4 public accountant, whichever is less, the bureau may
5 determine that the institution qualifies under this
6 subdivision.

7 (6) The certified public accountant shall submit any
8 initial compliance report prepared pursuant to this
9 subdivision to both the institution and the bureau. The
10 institution shall submit any comments, suggested
11 corrections, or exceptions to the initial compliance report
12 to the certified public accountant and the bureau. The
13 certified public accountant shall submit a final
14 compliance report to both the institution and the bureau.
15 The certified public accountant shall maintain possession
16 of all work papers for a period of five years following
17 completion of the final compliance report. The bureau
18 shall make a copy of the compliance report available to
19 any student, prospective student, or former student of the
20 institution upon request.

21 (7) If the bureau determines that the institution has
22 met the criteria in this subdivision based on the
23 information contained in a compliance report prepared
24 by a certified public accountant pursuant to this
25 subdivision, the following shall be deemed to be the
26 intended beneficiaries of that compliance report:

27 (A) The bureau.

28 (B) The Student Aid Commission.

29 (C) The United States Department of Education.

30 (D) Any student who enrolls in the institution during
31 the time period the institution qualifies under this
32 subdivision.

33 (8) In lieu of the attestation engagement referred to
34 in paragraph (1), an institution may show that it has
35 complied with each of the criteria in paragraph (1)
36 pursuant to a review performed by the bureau, or any
37 other alternative review that meets all of the
38 requirements for an attestation by a certified public
39 accountant pursuant to this subdivision as may be
40 adopted by the bureau, including certified independent



1 *examiners or master contracts for accounting services. If*
2 *the bureau performs the review requested by the*
3 *institution, the bureau's employee who performs the*
4 *review shall have education and training equivalent to*
5 *that of a certified public accountant. The institution shall*
6 *pay the bureau all of its costs and expenses associated with*
7 *conducting the review.*

8 (9) *An institution may apply to the bureau for a*
9 *renewal of the bureau's determination that the institution*
10 *qualifies under this subdivision subject to the same terms*
11 *and conditions as required for the bureau's initial*
12 *determination.*

13 (10) *If an institution qualifies under this subdivision, it*
14 *shall disclose that refund policy in any disclosure,*
15 *catalogue, notice, or agreement in which disclosure of a*
16 *refund policy is required by this chapter. The institution*
17 *may not state in any advertising, disclosure, catalogue,*
18 *notice, or agreement that it qualifies for a "good school"*
19 *or a "high performance" exemption, that it qualifies for*
20 *a "good school" or "high performance" refund policy, or*
21 *that it has been determined by the state to be a "good*
22 *school" or a "high performing school," or use any similar*
23 *words or phrases.*

24 94871. (a) No institution shall offer any program of
25 instruction to any person, or receive any consideration
26 from any person for a course of instruction, except
27 pursuant to a written agreement as described in this
28 section. Every agreement for a program of instruction
29 shall provide the following:

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

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

34 (3) The total amount that the student is obligated to
35 pay including all fees, charges, and expenses separately
36 itemized that must be paid to complete the program of
37 instruction. The total amount shall be underlined and
38 shall appear immediately above the following notice,
39 which shall be printed above the space on the agreement
40 that is reserved for the student's signature:

1 “YOU ARE RESPONSIBLE FOR THIS AMOUNT. IF
2 YOU GET A STUDENT LOAN, YOU ARE
3 RESPONSIBLE FOR REPAYING THE LOAN
4 AMOUNT PLUS ANY INTEREST.”

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

11 (5) A schedule of payments.

12 (6) The student’s right to withdraw from the program
13 of instruction and obtain a refund and an explanation of
14 refund rights and of how the amount of the refund will be
15 determined including a hypothetical example.

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

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

22 (9) The following statement shall be printed in
23 12-point boldface type on the first page of the agreement:
24 “If you have any complaints, questions, or problems
25 which you cannot work out with the school, write or call
26 the Council for Private Postsecondary and Vocational
27 Education:

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

33 (b) Unless otherwise provided in subdivision (a), the
34 institution shall provide the information required under
35 Sections 94859, 94867, and 94868, in at least 10-point type
36 in English and, if any solicitation or negotiation leading to
37 the agreement for a course of instruction was in a
38 language other than English, in that other language.

39 (c) When a student is a client of a third-party
40 organization and that organization pays all of the



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

10 94872. (a) An institution shall not enter into an
11 agreement for a program of instruction with a student
12 unless the institution first administers to the student and
13 the student passes a test as provided in subdivision (b).

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

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

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

36 (B) Upon reasonable notice to the institution, the
37 council may order the institution to demonstrate to the
38 reasonable satisfaction of the council that the test and
39 passing score are an appropriate measure of the student's
40 ability to be trained to perform the tasks associated with



1 the occupations or job titles to which the course is
2 represented to lead. If the test is not an appropriate
3 measure, the council, after notice, and if requested, a
4 hearing as provided in Section 94965 or 94975, shall order
5 that the institution cease administering the test.

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

19 (d) (1) The test shall be completed solely by the
20 student.

21 (2) No institution or any person in any manner
22 associated with the institution shall do any of the
23 following:

24 (A) Answer any of the test questions.

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

26 (C) Provide any assistance whatsoever to the student
27 in answering test questions.

28 Nothing in this subparagraph prevents an institution
29 from providing nonsubstantive assistance to
30 accommodate the disability of a handicapped person
31 otherwise qualified to take the test.

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

36 (4) If a prospective student has failed a test, the
37 institution or the testing service that administered the
38 test shall not administer another test to that prospective
39 student for at least the period specified by the test
40 developer or one week, whichever is longer. Any



1 subsequent test administered by an institution to the
2 same prospective student shall be a substantially different
3 form of the same test or a substantially different test than
4 the preceding test and shall satisfy the requirements of
5 paragraph (1) or, if applicable, paragraph (3) of
6 subdivision (b).

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

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

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

15 (3) State the minimum passing score used by the
16 institution.

17 (4) If the institution accepts a lower minimum passing
18 score than is indicated by the test's developer, state an
19 explanation of why the institution accepts a lower
20 minimum passing score.

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

27 94873. (a) If a program of instruction is based on a
28 sequence of classes, class sessions, or lessons and the
29 learning experience to be derived from any class, class
30 sessions, or lesson within the sequence is based in any
31 manner on a student's attendance at or completion of a
32 prior class, class session, or lesson, an institution shall not
33 enroll a student in that program of instruction unless the
34 instruction begins with the first class, class session, or
35 lesson and proceeds in the appropriate sequence.

36 (b) (1) If a program of instruction is based on a series
37 of modules comprised of class sessions or lessons and the
38 learning experience to be derived from any module is
39 based in a manner on a student's attendance at, or
40 completion of, any class sessions or lessons in any other



1 module, an institution shall not enroll a student in that
2 course of instruction unless the student begins and
3 proceeds in the appropriate sequence.

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

12 (c) Notwithstanding subdivisions (a) and (b), if a class
13 or a module consists of more than 60 days of instruction,
14 the institution may enroll a student to begin no later than
15 the fifth class session of the first class or the fifth class
16 session in the appropriate module.

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

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

36 (f) After a student has enrolled in a program of
37 instruction, the institution shall not do any of the
38 following:



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

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

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

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

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

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



1 provide transportation, transportation costs, or refunds to
2 adversely affected students.

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

6 94874. (a) Every institution shall maintain for a
7 period of not less than five years at its principal place of
8 business in California accurate records that show all of the
9 following:

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

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

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

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

18 (5) All information and records required by this
19 chapter or required by the council.

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

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

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

34 (e) If the student has made partial payment of his or
35 her tuition obligation, the institution may only withhold
36 that portion of the grades or transcript that corresponds
37 ~~on a pro-rata basis~~ to the amount of tuition or loan
38 obligation that the student has not paid. If the course of
39 study consists of only one course, the institution may



1 withhold the grades or the transcript until the tuition or
2 loan obligation is paid in full.

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

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

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

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

33 94875. (a) The institution shall provide sufficient
34 instruction and materials pursuant to a planned
35 curriculum appropriate to the student's educational
36 program and establish sufficient student attendance,
37 progress, and performance standards to reasonably
38 ensure that students acquire the necessary level of
39 education, training, skill, and experience to obtain



1 employment in the occupation or job title to which the
2 course of instruction is represented to lead.

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

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

14 94876. No student may waive any provision of this
15 article. Any waiver or limitation of any substantive or
16 procedural right or remedy is in violation of this section
17 and is void and unenforceable.

18 94877. (a) If an institution violates this article or
19 Section 94832 or commits an act as set forth in Section
20 94830 in connection with an agreement for a course of
21 instruction, that agreement shall be unenforceable, and
22 the institution shall refund all consideration paid by or on
23 behalf of the student.

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

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

38 (d) The remedies provided in this article supplement,
39 but do not supplant, the remedies provided under other
40 provisions of law.



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

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

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

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

16 94878. (a) An institution is legally authorized to
17 provide courses of instruction if the institution complies
18 with both this article and Sections 94831, 94832, and 94985,
19 or former Section 94320 as that section was in effect on
20 January 1, 1991, has received approval from the council,
21 and has not been found to be in violation of this article by
22 the council, the Student Aid Commission, or a court. No
23 institution shall offer any course of instruction if the
24 institution's approval to offer that course of instruction
25 has been suspended or revoked.

26 (b) (1) The council, after notice and, if requested by
27 the institution, a hearing as provided in Section 94965 or
28 94975, may suspend or revoke an institution's approval to
29 operate or approval to operate a branch or satellite
30 campus or may order that an institution cease offering a
31 class or course of instruction because of any violation of
32 this article, Section 94831, 94832, or 94985, or former
33 Section 94320 as that section was in effect on January 1,
34 1991, or any regulation or order issued pursuant to this
35 article.

36 (2) If the council takes any of the actions described in
37 paragraph (1), the council may permit the institution to
38 continue to offer the class or course of instruction to
39 students already enrolled or may order the institution to



1 cease instruction and provide a refund of tuition and all
2 other charges to students.

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

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

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

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

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

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



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

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

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

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

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

37 (h) The council shall determine an institution's
38 compliance, including the compliance of its branch and
39 satellite campuses, with this article, Sections 94831, 94832,
40 and 94985, or former Section 94320 as that section was in



1 effect on January 1, 1991, and shall not be bound by the
2 findings or conclusions of any accrediting agency.

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

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

21 94879. The council may suspend or revoke an
22 institution's approval to operate or order probation or the
23 posting of a bond, as provided in Section 94878, for any of
24 the following reasons:

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

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

38 (c) The institution, or a person in control of the
39 institution is, or has been, found in any criminal, civil, or
40 administrative proceeding, after notice and an



1 opportunity to be heard, to have unpaid financial
2 liabilities involving the refund or unlawful acquisition,
3 use, or expenditure of state or federal financial aid funds.

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

6 (A) A person in control of the institution was a person
7 in control of another institution within one year before
8 that institution's closure.

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

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

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

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

33 94880. (a) The council may bring an action for
34 equitable relief for any violation of this article in addition
35 to, or instead of, any other remedy or procedure.

36 (b) The suspension or revocation of an institution's
37 approval to operate also may be embraced in any action
38 otherwise proper in any court involving the institution's
39 compliance with this chapter or performance of its legal
40 obligations.



1 94881. (a) For the purposes of this section, the
2 following definitions apply:

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

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

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

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

28 (d) Any person who is required to file any report
29 required by paragraph (3) of subdivision (f) of Section
30 94854, or Section 94861 or 94862 and who willfully fails to
31 file that report as required, or willfully violates or causes
32 the violation of subdivision (b) of Section 94874, is guilty
33 of a crime and is subject to punishment for each violation
34 as provided in paragraph (2) of subdivision (e).

35 (e) Any person who violates subdivision (b) or (c), or
36 who willfully violates Section 94831, 94832, 94853, or
37 94985, or former Section 94320 as that section was in effect
38 January 1, 1991, is guilty of a crime and is subject to
39 separate punishment for each violation either by:



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

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

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

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

14 94882. The council may adopt and enforce regulations
15 as may be necessary, appropriate, or useful to interpret
16 and otherwise implement this article. Pending the
17 adoption of regulations, the council may adopt
18 emergency regulations, which shall be immediately
19 effective, notwithstanding any other provision of law, and
20 which shall be superseded upon the adoption of
21 subsequent regulations.

22

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

25

26 94900. (a) No private postsecondary educational
27 institution may issue, confer, or award an academic or
28 honorary degree unless the institution is approved by the
29 council to operate in California and award degrees.

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

38 (1) The institution has the facilities, financial
39 resources, administrative capabilities, faculty, and other
40 necessary educational expertise and resources to ensure



1 its capability of fulfilling the program or programs for
2 enrolled students.

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

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

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

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

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

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

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

40 (1) Institutional purpose, mission, and objectives.



- 1 (2) Governance and administration.
 - 2 (3) Curriculum.
 - 3 (4) Instruction.
 - 4 (5) Faculty, including their qualifications.
 - 5 (6) Physical facilities.
 - 6 (7) Administrative personnel.
 - 7 (8) Procedures for keeping educational records.
 - 8 (9) Tuition, fee, and refund schedules.
 - 9 (10) Admissions standards.
 - 10 (11) Financial aid policies and practices.
 - 11 (12) Scholastic regulations and graduation
 - 12 requirements.
 - 13 (13) Ethical principles and practices.
 - 14 (14) Library and other learning resources.
 - 15 (15) Student activities and services.
 - 16 (16) Degrees offered.
- 17 The standards and procedures utilized by the council
18 shall foster the development of high quality, innovative
19 educational programs and emerging new fields of study
20 within postsecondary education. In addition, the
21 standards and procedures utilized by the council shall not
22 unreasonably hinder educational innovation and
23 competition.
- 24 (c) (1) The Committee of Bar Examiners for the State
25 of California, in lieu of the council, shall be responsible for
26 the approval, regulation, and oversight of
27 degree-granting law schools that (A) exclusively offer
28 bachelor's, master's, or doctorate degrees in law, such as
29 Juris Doctor, and (B) are not otherwise exempt under
30 Section 94750. This paragraph does not apply to
31 unaccredited law schools that remain subject to the
32 jurisdiction of the bureau.
- 33 (2) If a law school not exempt under Section 94750
34 offers educational services other than bachelor's,
35 master's, or doctorate-degree programs in law, the law
36 school and its nonlaw degree programs shall be subject to
37 this chapter, and the law school's degree programs in law
38 shall be subject to the approval, regulation, and oversight
39 of the Committee of Bar Examiners.



1 94901. (a) The council shall conduct a qualitative
2 review and assessment of the institution. It also shall
3 conduct a qualitative review and assessment of all
4 programs offered except continuing education programs
5 and programs that are exclusively avocational or
6 recreational in nature. The review shall include the items
7 listed in subdivision (b) of Section 94900, through a
8 comprehensive onsite review process, performed by a
9 qualified visiting committee impaneled by the council for
10 that purpose.

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

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

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

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

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

39 (c) The council may waive or modify the onsite
40 inspection for institutions offering home study or



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

11 (1) If the institution is in compliance with this chapter
12 and has not operated within three years before the filing
13 of the application in violation of this chapter then in
14 effect, ~~the council may grant an approval to operate.~~
15 *effect, the bureau may grant an approval to operate not*
16 *to exceed five years.*

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

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

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



1 (e) The standards and procedures utilized by the
2 council shall not unreasonably hinder educational
3 innovation and competition.

4 (f) Each institution or instructional program offering
5 education for entry into a health care profession in which
6 the provider has primary care responsibilities shall offer
7 that education within a professional degree program
8 which shall be subject to approval by the council pursuant
9 to this section.

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

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



1 the council staff's report, the council shall act as provided
2 in paragraph (1), (2), or (3) of subdivision (c).

3 (h) If at any time the council determines that an
4 institution has deviated from the standards for approval,
5 the council, after identifying for the institution the areas
6 in which it has deviated from the standards, and after
7 giving the institution due notice and an opportunity to be
8 heard, may place the institution on probation for a
9 prescribed period of time, not to exceed 24 calendar
10 months. During the period of probation, the institution
11 shall be subject to special monitoring. The conditions for
12 probation may include the required submission of
13 periodic reports, as prescribed by the council, and special
14 visits by authorized representatives of the council to
15 determine progress toward total compliance. If, at the
16 end of the probationary period, the institution has not
17 taken steps to eliminate the cause or causes for its
18 probation to the satisfaction of the council, the council
19 may revoke the institution's approval to award degrees
20 and provide notice to the institution to cease its
21 operations.

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

37 (j) An institution shall not offer any educational
38 program or degree title that was not offered by the
39 institution at the time the institution applied for approval
40 to operate, and shall not offer any educational program



1 or degree title at a campus that had not offered the
2 program or degree title at the time the institution applied
3 for approval to operate that campus, unless the council
4 first approves the offering of the program or degree title
5 after determining that it satisfies the minimum standards
6 established by this section.

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

20 (b) The council shall not approve an institution to
21 issue degrees, diplomas, or certificates pursuant to this
22 section until the council has conducted a qualitative
23 review and assessment of, and has approved, each
24 program offered by the institution and all of its operations
25 in California, and the council has determined that the
26 institution meets all of the following standards:

27 (1) The institution has financial resources to ensure
28 the capability of fulfilling the program or programs for
29 enrolled students.

30 (2) The faculty includes personnel who possess
31 appropriate degrees from institutions accredited by a
32 regional accrediting association recognized by the United
33 States Department of Education in the degree major field
34 or fields offered, in sufficient number to provide the
35 educational services.

36 (3) The education services and curriculum clearly
37 relate to the objectives of the proposed program or
38 programs.

39 (4) The facilities are appropriate for the defined
40 educational objectives and are sufficient to ensure quality



1 educational services to the students enrolled in the
2 program or programs.

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

8 (c) The period of any approval issued under this
9 section shall be subject to Section 94909.

10 (d) Institutions approved under this section shall offer
11 in California only programs that the institution can
12 document to have been acknowledged or favorably
13 reviewed by the home regional accrediting association.

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

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

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

38 (3) The application shall include a single fee based on
39 the number of branches, satellites, and programs
40 included within a single application in order to cover the



1 costs involved for such multisite and multiprogram
2 reviews.

3 (4) If the application is for renewal of an existing
4 approval, the institution need only submit information
5 necessary to document any changes made since the time
6 its previous application was filed with the council. Fees
7 for reapproval applications will be based on the actual
8 costs involved in the administrative review process.

9 (5) The council shall develop a procedural rationale to
10 justify the number of sites to be visited by the state in the
11 review of the institution’s operations in California. The
12 number of sites visited shall be subject to the following
13 considerations:

14 (A) If the application for approval includes branches
15 and satellites, the council may inspect each branch and
16 may inspect any satellite campus.

17 (B) If the application is for approval to operate a
18 branch or a satellite, the council, in addition to inspecting
19 the branch or satellite, also may inspect the institution
20 operating the branch or satellite campus.

21 (C) The council may waive or modify the onsite
22 inspection for institutions offering home study or
23 correspondence courses.

24 (D) The purpose of the onsite review by the council
25 shall be to determine that operations by the institution in
26 California meet the minimum state standards identified
27 in statute.

28 (E) The standards and procedures shall not
29 unreasonably hinder educational innovation and
30 competition.

31

32 Article 9. Standards and Evaluation Procedures for
33 Nondegree-Granting Institutions

34

35 94915. (a) No private postsecondary educational
36 institution, except those offering degrees and approved
37 under Article 8 (commencing with Section 94900) or
38 exclusively offering license examination preparation
39 services and approved under Article 9.5 (commencing
40 with Section 94931), may offer educational services or



1 programs unless the institution or locations at which these
2 services or programs are offered have been approved by
3 the council as meeting the requirements of this section.
4 In addition, if the institution is regulated by any other
5 state licensing agency, the institution shall have obtained
6 and retained the approval of that agency.

7 (b) If an institution is operating under the council's
8 prior approval and the institution has applied for
9 approval to operate for itself or a branch or satellite
10 campus that is operating, the council shall not grant
11 approval to operate until the council has conducted a
12 qualitative review and assessment of the operations of the
13 institution in California and determined that all of the
14 following minimum standards have been satisfied.

15 (1) The quality and content of each course or program
16 of instruction, training, or study may reasonably and
17 adequately be expected to achieve the objective for
18 which the course or program is offered. Except for
19 continuing education programs and programs that are
20 exclusively avocational or recreational in nature, all
21 programs offered by the institution shall meet the
22 minimum standards prescribed by this subdivision. If an
23 institution represents that a course or program leads to
24 employment, the quality, content, and instruction of the
25 course or program shall be sufficient to ensure that
26 students may acquire the necessary level of education,
27 training, skill, and experience to obtain employment in
28 the occupation or job title to which the course or program
29 of instruction is represented to lead.

30 (2) The institution has adequate space, equipment,
31 instructional material, and instructor personnel to
32 provide training of the quality needed to attain the
33 objective described in paragraph (1).

34 (3) Every instructor and administrator possesses
35 adequate academic, experiential, and professional
36 qualifications to teach the course or to perform the duties
37 that the person is assigned, satisfies all standards
38 established by the council by regulation, and holds an
39 applicable and valid certificate of authorization for
40 service issued by the council in the specified competence



1 area in which the individual will serve. No person shall
2 serve as an instructor or member of the administrative
3 staff if that person has been convicted of, or has pled nolo
4 contendere or guilty to, a crime involving the acquisition,
5 use, or expenditure of federal or state funds, or who has
6 been judicially or administratively determined to have
7 committed any violation of this chapter or of any law
8 involving state or federal funds.

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

12 (5) A copy of the course outline, description of the
13 occupations or job titles, if any, to which the course of
14 instruction is represented to lead, schedule of tuition,
15 fees, and other charges, refund policy, regulations
16 pertaining to tardiness, absences, and the grading policy,
17 and rules of operation and conduct is given to students
18 prior to enrollment.

19 (6) The institution maintains and enforces adequate
20 standards relating to, and maintains records of,
21 attendance, satisfactory academic progress, and student
22 performance to achieve the objective described in
23 paragraph (1).

24 (7) The institution complies with all local city, county,
25 municipal, state, and federal regulations relative to the
26 safety and health of all persons upon the premises such as
27 fire, building, and sanitation codes. The council may
28 require evidence of compliance.

29 (8) The institution does not exceed enrollment that
30 the facilities and equipment of the institution can
31 reasonably handle.

32 (9) The institution's officers, directors, and owners
33 demonstrate financial and fiduciary responsibility, as
34 prescribed by statute, or by regulations adopted by the
35 council.

36 (10) The institution is in compliance with this chapter
37 and has developed policies and procedures designed to
38 ensure that compliance.



1 (11) No circumstances exist that may constitute
2 grounds for the revocation or suspension of an approval
3 to operate.

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

7 (13) Application for approval shall be made in writing
8 on forms prescribed by the council. The application for
9 approval shall include, if applicable to the institution, a
10 statement of whether the institution claims that it is
11 exempt or that a course or other educational service it
12 offers is exempt from Article 7 (commencing with
13 Section 94850), and the information required by
14 subdivision (f) of Section 94873.

15 An institution may include some, or all, of its separate
16 operating sites under one application. Alternately, it may
17 submit separate applications for any one site or
18 combination of sites. The satellites or branches included
19 in either an initial or renewal application shall be
20 considered by the council to comprise a separate, single
21 institution for purposes of regulation, approval, and
22 compliance under this chapter. The application shall
23 include a single fee based on the number of branches,
24 satellites, and programs included within a single
25 application in order to cover the costs involved for those
26 multisite and multiprogram reviews.

27 (c) Within 90 days following the receipt of an
28 application from an institution and prior to granting any
29 approval, a representative of the council shall personally
30 inspect the institution and verify the institution's
31 compliance with the standards prescribed by this
32 chapter. The council may use a qualified visiting
33 committee in the initial review of programs and in
34 subsequent reviews. The visiting committee may include
35 employers with expertise related to the program being
36 reviewed. The institution seeking approval shall
37 reimburse the council for the expenses of the visiting
38 committee. The onsite inspection shall include an
39 inspection of the institution's facilities and records,
40 interviews of administrators, faculty, and students, and an



1 observation of class instruction, as determined to be
2 appropriate by the council.

3 (1) If the application for approval includes branch or
4 satellite campuses, the council shall inspect each branch
5 campus and may inspect any satellite campus.

6 (2) If the application is for approval to operate a
7 branch or a satellite, the council, in addition to inspecting
8 the branch or satellite, also may inspect the institution
9 operating the branch or satellite campus.

10 (3) The council may waive or modify the requirement
11 for onsite inspections of branch campuses located outside
12 of California or for an institution offering home study or
13 correspondence courses.

14 (4) If the application is for reapproval of an existing
15 approval, the institution need only submit information
16 necessary to document any changes made since the time
17 its previous application was filed with the council. Fees
18 for reapproval applications shall be based on the actual
19 costs involved in the administrative review process.

20 (d) The council shall review all operations of the
21 institution 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 any visiting team
26 members including the council's staff liaison.

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

31 (1) If the institution is in compliance with this chapter
32 and has not operated within three years before the filing
33 of the application in violation of this chapter then in
34 effect, the council may grant approval for a period not to
35 exceed ~~five~~ *four* years.

36 (2) If the institution is in compliance with this chapter,
37 but has operated within three years before the filing of
38 the application in violation of this chapter then in effect,
39 or if the council determines that an unconditional grant
40 of approval to operate is not in the public interest, the



1 council may grant a conditional approval to operate
2 subject to whatever restrictions the council deems
3 appropriate. The council shall notify the institution of the
4 restrictions, the basis for the restrictions, and the right to
5 request a hearing to contest the restrictions.

6 (3) The council may deny the application if the
7 institution does not comply with this chapter, including
8 the minimum standards established in subdivision (b), or
9 has operated within three years before the filing of the
10 application in violation of this chapter then in effect. If
11 the application is denied, the council may permit the
12 institution to continue offering the course or courses of
13 instruction to students already enrolled or may order the
14 institution to cease all instruction and provide a refund of
15 tuition and all other charges to students. The council shall
16 notify the institution of the denial, the basis for the denial,
17 and the right of the institution to request a hearing to
18 contest the denial.

19 (f) (1) If an institution is not operating in California
20 when it applies for approval to operate for itself or a
21 branch or satellite campus, the institution shall file with
22 its application an operational plan establishing that the
23 institution will satisfy the minimum standards set forth in
24 subdivision (b). The operational plan also shall include a
25 detailed description of the institution's program for
26 implementing the operational plan, including proposed
27 procedures, financial resources, and the qualifications of
28 owners, directors, officers, and administrators employed
29 at the time of the application's filing. The council may
30 request additional information to enable the council to
31 determine whether the operational plan and its proposed
32 implementation will satisfy these minimum standards.

33 (2) If the council determines that the operational plan
34 satisfies the minimum standards described in subdivision
35 (b), that the institution demonstrates that it will
36 implement the plan, and that no ground for denial of the
37 application exists, the council shall grant a temporary
38 approval to operate, subject to any restrictions the
39 council reasonably deems necessary to ensure
40 compliance with this chapter, pending a qualitative



1 review and assessment as provided in subdivisions (b)
2 and (c). The council shall inspect the institution, or
3 branch or satellite campus if approval is sought for that
4 campus, between 90 days and 180 days after operation has
5 begun under the temporary approval to operate. Within
6 90 days following the council's inspection of the
7 institution, the council shall act as provided in subdivision
8 (e).

9 (g) If an institution approved to operate in California
10 applies for approval to operate an additional site location
11 that has not been previously approved by the council, the
12 institution shall file an operational plan for the additional
13 site location as described in subdivision (f). The council
14 shall evaluate the additional site location as provided in
15 subdivision (f). The council also may evaluate the
16 institution as provided in subdivisions (b) and (c) before
17 determining whether to grant to the institution
18 temporary or final approval to operate the additional site
19 location. If the institution or the additional site location
20 does not meet the requirements of this chapter or if the
21 institution has operated within three years before the
22 filing of the application in violation of this chapter then
23 in effect, the council may deny the application for
24 approval to operate the additional site location or may
25 grant a conditional approval to operate the additional site
26 location subject to any restrictions it deems appropriate.
27 The provisions for notice and hearing described in
28 paragraphs (2) and (3) of subdivision (e) shall apply.

29 (h) No institution shall offer a course or program of
30 instruction, training, or study at a campus that had not
31 offered the course or program at the time the institution
32 applied for approval to operate that campus unless the
33 council first approves the offering of the course or
34 program after determining that it satisfies the minimum
35 standards established in subdivision (b).

36 (i) The council may enter into an agreement for the
37 regulation and oversight of nondegree-granting private
38 postsecondary institutions with the Federal Aviation
39 Administration or with the state agency responsible for



1 administering Article 1 (commencing with Section 1250)
2 of Chapter 2 of Division 2 of the Health and Safety Code.

3 The council may enter into a regulatory agreement
4 only when the appropriate agency can demonstrate that
5 its standards and procedures for the review of institutions
6 encompass the standards and consumer protection
7 requirements prescribed by this chapter and that these
8 standards and procedures are rigorously enforced.
9 Nothing in this section shall modify the existing authority
10 of regulatory agencies within the Department of
11 Consumer Affairs relating to schools or programs.

12 (j) If at any time the council determines that an
13 institution has deviated from the standards for approval,
14 the council, after giving the institution due notice and an
15 opportunity to be heard, may place the institution on
16 probation for a specified period of time not to exceed 24
17 calendar months. During the period of probation, the
18 institution shall be subject to special monitoring. The
19 conditions for probation may include the required
20 submission of periodic reports, as prescribed by the
21 council, and special visits by authorized representatives
22 of the council to determine progress toward total
23 compliance. If at the end of the specified probationary
24 period, the institution has not taken steps to eliminate the
25 causes for its probation to the satisfaction of the council,
26 the council may revoke the institution's approval and
27 provide notice to the institution to cease its operations.

28 94920. (a) Each individual submitting an application
29 for a certificate of authorization for service, pursuant to
30 paragraph (3) of subdivision (b) of Section 94915, shall
31 provide the council with the following information:

32 (1) A completed application as supplied by the
33 council.

34 (2) Certified copies of educational transcripts, where
35 applicable.

36 (3) Verified employment history.

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



1 (b) To be eligible for a certificate of authorization for
2 service, the applicant shall fulfill the following
3 requirements:

4 (1) Instructors shall have all of the following
5 qualifications:

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

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

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

14 (2) Directors shall have both of the following
15 qualifications:

16 (A) Three years' experience in an administrative
17 position in a public or an approved private postsecondary
18 school.

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

20 (3) Associate directors shall have both of the following
21 qualifications:

22 (A) Two years' experience in an administrative or
23 other responsible position in a public or state approved
24 private postsecondary school.

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

26 (4) Financial aid directors shall have all of the
27 following qualifications:

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

31 (B) Verification of completion within the previous
32 two years of a training seminar or workshop certified by
33 the Student Aid Commission as providing up-to-date
34 comprehensive information on financial aid programs
35 and policies.

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

37 (D) Any other requirements the council deems
38 necessary.

39 (5) Financial aid officers shall possess all of the
40 following qualifications:



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

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

7 (C) Other requirements the council deems necessary.

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

12 (d) Any individual filling a position left vacant by a
13 previously certified financial aid director or financial aid
14 officer shall verify with the council completion of the
15 training referred to in subparagraph (A) of paragraph
16 (5) of subdivision (b) within one year of accepting that
17 position.

18 (e) Each individual certified for authorization for
19 service in the positions listed in paragraphs (1), (4), and
20 (5) of subdivision (b) shall maintain at each private
21 postsecondary educational institution where he or she is
22 employed a validated transcript evidencing the
23 successful completion of three continuing education units
24 of recognized in-service training in their education, job
25 title category, or employment field during every period
26 of certification. These units may be completed through
27 in-service training offered by accrediting associations,
28 professional organizations, or council-approved
29 programs.

30 (f) Every certificate of authorization issued to a person
31 who possesses the qualifications described in paragraphs
32 (1), (4), and (5) of subdivision (b) shall be valid for a
33 period of three years.

34 (g) In addition to the requirements set forth in this
35 section, the council may impose additional requirements
36 by regulation.

37 94925. No person shall own or operate a school, or give
38 instruction, for the driving of motortrucks of three or
39 more axles that are more than 6,000 pounds unladen
40 weight unless all of the following conditions are met:



1 (a) The school or instruction has been approved by the
2 council.

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

5 (1) Proof of compliance with liability insurance
6 requirements that are the same as those established by
7 the Department of Motor Vehicles for a driving school
8 owner, pursuant to Section 11103 of the Vehicle Code,
9 unless the council deems it necessary to establish a higher
10 level of insurance coverage.

11 (2) A satisfactory safety rating by the Department of
12 the California Highway Patrol is established pursuant to
13 Division 14.8 (commencing with Section 34500) of the
14 Vehicle Code.

15 ~~(3) Proof that vehicles used in driver training are~~
16 ~~maintained in safe mechanical condition at all times.~~

17 ~~(e)~~

18 (c) *The school, at all times, shall maintain the vehicles*
19 *used in driver training in safe mechanical condition. The*
20 *school shall keep all records concerning the maintenance*
21 *of the vehicles.*

22 (d) The driving instructors meet the requirements set
23 forth in Section 11104 of the Vehicle Code.

24 ~~(d)~~

25 (e) Any other terms and conditions required by the
26 council to protect the public safety or to meet the
27 requirements of this chapter.

28 94930. (a) All institutions that were certified to offer
29 flight instruction by the Federal Aviation Administration
30 (FAA) and that operated in California on December 31,
31 1990, pursuant to prior authority of subdivision (a) or (b)
32 of former Section 94311, shall receive approval from the
33 council for a period not to exceed three years. On or
34 before June ____, the council shall work in
35 cooperation with the FAA to review each of these
36 institutions to determine whether the institution is in
37 compliance with the requirements of this chapter. It is
38 the intent of the Legislature that all institutions whose
39 cumulative gross student loan default rate is above 40
40 percent, as determined by the Student Aid Commission,



1 shall be reviewed by the FAA and the council to
2 determine if these institutions are in compliance with the
3 requirements of this chapter and should continue to be
4 approved to offer educational programs in California. *It*
5 *is further the intent of the Legislature that the bureau*
6 *develop a memorandum of understanding with the FAA*
7 *to delineate the responsibilities of each agency for the*
8 *approval and monitoring of these institutions that were*
9 *operating on December 31, 1990, under the prior*
10 *authority of subdivision (a) or (b) of former Section*
11 *94311.*

12 (b) Institutions certified to offer flight instruction by
13 the FAA, or its successor agency, shall comply with all of
14 the requirements of Sections 94800, 94810, 94814, and
15 94816, Sections 94820 to 94826, inclusive, and Sections
16 94828 and 94829 and Article 7 (commencing with Section
17 94850) if applicable, but shall not be required to file any
18 materials with the council that are not required by the
19 FAA or its successor agency, except those minimally
20 necessary to administer the Student Tuition Recovery
21 Fund as determined by the council. The responsibility for
22 monitoring and enforcing institutional compliance for
23 these institutions shall be with the council.

24 (c) This chapter does not apply to individual flight
25 instructors not requiring any advance payments, who do
26 not negotiate a formal contract of indebtedness, and who
27 do not have an established place of business other than
28 their residences.

29

30 ~~Article 9.5.—Standards and Evaluation Procedures for~~
31 ~~Institutions Offering License Examination Preparation~~
32 ~~Services~~

33

34 ~~94931. (a) This article applies only to private~~
35 ~~postsecondary educational institutions that exclusively~~
36 ~~offer educational services to assist students to prepare for~~
37 ~~an examination for licensure.~~

38 ~~(b) No institution subject to this article may offer any~~
39 ~~educational services unless the institution has been~~



1 approved by the council as meeting the minimum
2 requirements of this article.

3 94931.2. (a) Each institution subject to this article
4 that desires to operate in this state shall make application
5 to the council on forms provided by the council. The
6 application shall include the following:

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

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

11 (3) Copies of media advertising and promotional
12 literature.

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

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

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

21 (7) Any additional information prescribed by
22 regulation.

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

25 (c) Following review of the application and any other
26 further information submitted by the applicant or
27 required by this chapter, and any investigation the
28 council deems necessary or appropriate, the council shall
29 grant approval if the institution is in compliance with this
30 chapter and no violations of this chapter or similar
31 provisions of prior law were committed within the three
32 years preceding the filing of the application by the
33 institution or any of its owners, officers, directors, or
34 persons in control, as defined in subdivision (h) of Section
35 94852.

36 94931.4. (a) An unconditional approval to operate
37 issued under this article shall remain in continuous effect
38 as long as the institution remains in compliance with this
39 chapter.



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

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

19 ~~94931.6. Each institution approved to operate under~~
20 ~~this chapter shall be required to report to the council, by~~
21 ~~July 1 of each year, or another date designated by the~~
22 ~~council, the following information for each of its license~~
23 ~~examination preparation educational services in the prior~~
24 ~~fiscal year:~~

25 ~~(a) The total number of students enrolled.~~

26 ~~(b) (1) The total number of students who completed~~
27 ~~the educational service during the institution's preceding~~
28 ~~fiscal year.~~

29 ~~(2) The total number of students who took the license~~
30 ~~preparation examination during the institution's~~
31 ~~preceding fiscal year.~~

32 ~~(3) The percentage of the students described in~~
33 ~~paragraph (2) who passed the examination after the first~~
34 ~~time they took the examination and the percentage who~~
35 ~~passed after the second time they took the examination.~~

36 ~~(e) Financial information prepared in compliance~~
37 ~~with Section 94806.~~

38 ~~(d) Any additional information the council may~~
39 ~~prescribe.~~



1 94931.8. (a) Before accepting any consideration
2 from a student, an institution subject to this chapter shall
3 provide the student with an enrollment agreement
4 containing in a single document all of the terms related
5 to the instruction and payment. The agreement shall
6 include all of the following:

7 (1) The name, street address, and telephone number
8 of the institution.

9 (2) A description of the educational services offered
10 and educational materials or other goods or services that
11 will be supplied by the institution or that are required to
12 be purchased by the student.

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

15 (4) An itemization of amounts and the total amount
16 the student is obligated to pay for the educational service
17 and all other services and facilities furnished or made
18 available to the student by the institution, including
19 charges for tuition, books, materials, supplies, and all
20 other fees and expenses that the student will incur.

21 (5) A statement of the information described in
22 subdivision (b) of Section 94931.6.

23 (6) An explanation of the institution's refund policy
24 and a list of any charges and deposits that are not
25 refundable.

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

27 (8) If the student is not a California resident, a
28 statement that the student is not eligible for protection
29 under the Student Tuition Recovery Fund.

30 (9) The following statement:

31 "Any questions or problems concerning this school that
32 have not been satisfactorily answered or resolved by the
33 school should be directed to the Council for Private
34 Postsecondary and Vocational Education (address)." The
35 council's current address shall be inserted.

36 (b) The enrollment agreement shall be printed in at
37 least 10-point type in English and, if any solicitation or
38 negotiation leading to the student's enrollment was in a
39 language other than English, in that other language.



1 ~~94931.10. An institution subject to this article shall also~~
2 ~~be subject to Sections 94804, 94806, 94812, 94818 to 94822,~~
3 ~~inclusive, 94824, 94826, and 94830 to 94848, inclusive.~~

4
5 *Article 9.5. Registered Institutions*

6
7 *94931. (a) No private postsecondary educational*
8 *institution, except those offering degrees and approved*
9 *under Article 8 (commencing with Section 94900) or*
10 *offering vocational and nondegree granting programs*
11 *under Article 9 (commencing with Section 94915), may*
12 *offer educational services or programs unless the*
13 *institution has been registered by the bureau as meeting*
14 *the requirements of this section.*

15 *(b) An institution approved to offer degrees under*
16 *Article 8 (commencing with Section 94900) or approved*
17 *to offer vocational and nondegree granting programs*
18 *under Article 9 (commencing with Section 94915) may*
19 *offer registered programs without affecting its status*
20 *under either of those articles so long as the registered*
21 *program is disclosed in its approval to operate application*
22 *or the institution completes a registration application and*
23 *receives specific authorization for the program,*
24 *maintains compliance for all registered programs in*
25 *conformity with this article, and maintains a set of student*
26 *records for registered programs separate from its*
27 *approved programs. Any registered institution that offers*
28 *an educational program not specified in subdivision (c)*
29 *or not otherwise exempt from this chapter shall be*
30 *approved under Article 8 (commencing with Section*
31 *94900) or Article 9 (commencing with Section 94915) and*
32 *shall comply with this chapter.*

33 *(c) Except as provided in this article, this chapter does*
34 *not apply to an educational service that qualifies for*
35 *registration status and that complies with this article. The*
36 *bureau shall not impose any additional requirements or*
37 *fees on organizations or individuals registered under this*
38 *section except as provided in this article and shall act on*
39 *all applications within 60 days. The educational services*
40 *that qualify for registration status are limited to:*

1 (1) An educational service, as defined in Section 94733,
 2 that is offered to provide an intensive English program.

3 (2) An educational service, as defined in Section
 4 94742.1, that is offered to provide short-term career
 5 training.

6 (3) An educational service, as defined in Section
 7 94742.2, that is offered to provide short-term seminar
 8 training.

9 (4) An educational service that is offered to assist
 10 students to prepare for an examination for entrance into
 11 an undergraduate or graduate course of study at an
 12 accredited or approved college or university.

13 (d) An institution that qualifies under any of
 14 paragraphs (1) to (4), inclusive, of subdivision (c) shall
 15 complete a registration form provided by the bureau,
 16 including a signed declaration by the chief executive
 17 officer of the institution under penalty of perjury, and
 18 provide all of the following information for public
 19 disclosure:

20 (1) The owner's legal name, headquarters address,
 21 and the name of an agent for the service of process within
 22 California.

23 (2) All names, whether real or fictitious, under which
 24 the owner is doing and will do business.

25 (3) The names and addresses of the principal officers
 26 of the institution.

27 (4) A list of all California locations at which the
 28 institution operates, its offerings, and, if previously
 29 registered, the number of students enrolled in California
 30 during the preceding year.

31 (5) A copy of the registration form or agreement that
 32 enrolls the student in the educational service that
 33 contains all of the following:

34 (A) The name and address of the location where
 35 instruction will be provided.

36 (B) The title of the educational program.

37 (C) The total amount the student is obligated to pay
 38 for the educational service.

39 (D) A clear and conspicuous statement that the
 40 enrollment form or agreement is a legally binding



1 *instrument when signed by the student and accepted by*
2 *the institution.*

3 *(E) The refund policy developed by the institution*
4 *unless this article specifies a different refund policy.*

5 *(F) Unless this article specifies that the institution is*
6 *required to participate in the Student Tuition Recovery*
7 *Fund, a statement that the institution does not participate*
8 *in that fund.*

9 *(G) In 10-point boldface print or larger, the following*
10 *statement: “Any questions or problems concerning this*
11 *school that have not been satisfactorily answered or*
12 *resolved by the school should be directed to the Bureau*
13 *for Private Postsecondary and Vocational Education in*
14 *the Department of Consumer Affairs, (insert city,*
15 *address, CA ZIP, and telephone number).”*

16 *(6) A brochure or catalog and a sample advertisement*
17 *used to promote the educational service.*

18 *(7) A copy of its certificate of completion.*

19 *(8) If the educational service offers short-term career*
20 *training, the financial requirements of Section 94806.*

21 *(e) The registration application fee paid by the*
22 *educational service seeking registration under this*
23 *section shall not exceed five hundred dollars (\$500) and*
24 *shall cover a four-year period. The annual fee paid by the*
25 *educational service registered under this section shall not*
26 *exceed two hundred fifty dollars (\$250) per year and shall*
27 *not be paid in the year in which the registration is*
28 *granted. These fees shall be deemed to cover all locations*
29 *and no other fees shall be imposed by the bureau.*

30 *(f) For the purposes of communication with other*
31 *state agencies, any organization or individual registered*
32 *to offer short-term seminar training may state that they*
33 *are “authorized” by the State of California.*

34 *(g) Except as provided by subdivision (f), any*
35 *educational service offered pursuant to this article shall*
36 *be restricted to stating that their training is “registered”*
37 *with the State of California and is prohibited from using*
38 *the words “approval,” “approved,” “approval to*
39 *operate,” “approved to operate,” “licensed,” or “licensed*
40 *to operate.”*



1 (h) All educational services registered under this
2 article shall be subject to this section and Sections 94931.1
3 to 94931.7, inclusive. Short-term career institutions
4 registered under paragraph (2) of subdivision (c), in
5 addition, shall be subject to Sections 94931.8 to 94931.10,
6 inclusive. Intensive English programs registered under
7 paragraph (1) of subdivision (c) of Section 94931, in
8 addition, shall be subject to Section 94931.11.

9 (i) Article 13 (commencing with Section 94950) shall
10 apply to any institution registered pursuant to this article.

11 94931.1. No institution, or representative of that
12 institution, shall do any of the following:

13 (a) Operate in this state a private postsecondary
14 educational institution not exempt from this chapter,
15 unless the institution is currently registered or approved
16 to operate or registered pursuant to this chapter.

17 (b) Offer, as or through any recruitment agent,
18 enrollment or instruction in, or the granting of
19 educational credentials from, an institution not exempt
20 from this chapter, whether that institution is within or
21 outside this state, unless that recruitment agent is a
22 natural person and has a currently valid recruitment
23 agent's permit issued pursuant to this chapter, or accept
24 contracts or enrollment applications from any
25 recruitment agent who does not have a current permit as
26 required by this chapter. However, the bureau may adopt
27 regulations to permit the rendering of legitimate public
28 information services without a permit.

29 (c) Use, or allow the use of, any reproduction or
30 facsimile of the Great Seal of the State of California on any
31 diploma.

32 (d) Make, or cause to be made, any statement or
33 representation, oral, written, or visual, in connection with
34 the offering or publicizing of a course, if that person,
35 institution, firm, association, partnership, or corporation
36 knows, or reasonably should have known, the statement
37 or representation to be false, deceptive, inaccurate, or
38 misleading.

39 (e) Promise or guarantee employment.



1 (f) Advertise concerning job availability, degree of
2 skill, and length of time required to learn a trade or skill
3 unless the information is accurate and in no way
4 misleading.

5 (g) Advertise, or indicate in any promotional material,
6 that distance education instruction or distance education
7 courses of study are offered without including in all
8 advertising or promotional material the fact that the
9 instruction or courses of study are offered by distance
10 education.

11 (h) Advertise, or indicate in any promotional material,
12 that resident instruction or courses of study are offered
13 without including in all advertising or promotional
14 material the location where the training is given or the
15 location of the resident instruction. This requirement
16 does not apply to courses of study offered by distance
17 education.

18 (i) Solicit students for enrollment by causing any
19 advertisement to be published in "help wanted" columns
20 in any magazine, newspaper, or publication or use
21 "blind" advertising that fails to identify the school or
22 institution.

23 (j) Advertise, or indicate in any promotional material,
24 that the institution is accredited, unless the institution has
25 been recognized or approved as meeting the standards
26 established by an accrediting division recognized by the
27 United States Department of Education or the
28 Examining Committee of the State Bar.

29 (k) State or imply that the bureau's grant to the
30 institution of registration status or approval to operate
31 indicates that the institution exceeds minimum state
32 standards, or that the bureau or the state endorses or
33 recommends the institution.

34 (l) Fail to comply with the disclosure of information to
35 students regarding vocational and career training
36 programs, as described in Section 94816.

37 94931.2. The institution and its recruitment agents
38 shall not utilize advertising of any type that is false or
39 misleading, either by actual statement, omission, or
40 intimation.



1 94931.3. No institution or representative of an
2 institution shall make any statement to any student that
3 is in any manner untrue or misleading, either by actual
4 statement, omission, or intimation.

5 94931.4. No institution or representative of an
6 institution shall engage in any false, deceptive,
7 misleading, or unfair act or practice in connection with
8 any matter, including any of the following: the
9 institution's advertising and promotion, the recruitment
10 of students for enrollment in the institution, the offer or
11 sale of a course of instruction, the enrollment or testing
12 of students, the preparation or submission of a student's
13 application for a student loan or grant, the financing of a
14 course of instruction, course length, course credits, the
15 withholding of equipment, educational materials, or loan
16 or grant funds from a student, training and instruction,
17 the collection of payments, or job placement.

18 94931.5. No institution shall use a misleading name in
19 any manner falsely implying any of the following:

20 (a) The institution is affiliated with any governmental
21 entity, public or private corporation, or association.

22 (b) The institution is a public institution.

23 (c) The institution grants degrees.

24 (d) The institution is accredited.

25 94931.6. (a) No institution or representative of an
26 institution shall induce a person to enter into an
27 agreement for a course of instruction by offering to
28 compensate that person to act as the institution's
29 representative in the solicitation, referral, or recruitment
30 of others for enrollment in the institution.

31 (b) No institution or representative of an institution
32 shall pay any consideration to a person to induce that
33 person to sign an agreement for a course of instruction.

34 94931.7. No institution offering courses represented
35 to lead to occupations or job titles requiring licensure
36 shall enter into an agreement for a course of instruction
37 with a person whom the institution knows or, by the
38 exercise of reasonable care, should know, would be
39 ineligible to obtain licensure in the occupation or job title
40 to which the course of instruction is represented to lead,



1 *at the time of the scheduled date of course completion,*
2 *for reasons such as age, physical characteristics, or*
3 *relevant past criminal conviction.*

4 *94931.8. Each institution offering a diploma or*
5 *certificate program registered under paragraph (2) of*
6 *subdivision (c) of Section 94931 shall provide to each*
7 *prospective student all of the information required by*
8 *Section 94816.*

9 *94931.9. Each institution offering a diploma or*
10 *certificate program registered under paragraph (2) of*
11 *subdivision (c) of Section 94931 and designed to prepare*
12 *students for a particular vocational, trade, or career field*
13 *shall be subject to Article 12 (commencing with Section*
14 *94944).*

15 *94931.10. Each institution offering a diploma or*
16 *certificate program registered under paragraph (2) of*
17 *subdivision (c) of Section 94931 shall be subject to Section*
18 *94820.*

19 *94931.11. (a) Each institution offering a diploma or*
20 *certificated program registered under paragraph (1) of*
21 *subdivision (c) of Section 94931 shall maintain, and*
22 *provide to each prospective student on the enrollment*
23 *form or agreement, the following refund policy:*

24 *(1) A refund shall be provided for the unused portion*
25 *of tuition fees and other charges if the student does not*
26 *register for the period of attendance or withdraws*
27 *therefrom at any time prior to completion of the courses,*
28 *or otherwise fails to complete the period of enrollment.*
29 *Institutions shall pay or credit refunds due on a*
30 *reasonable or timely basis, not to exceed 30 days following*
31 *the date upon which the student's withdrawal has been*
32 *determined.*

33 *(2) The institution shall advise each student that any*
34 *notification of withdrawal or cancellation and any request*
35 *for refund must be made in writing.*

36 *(b) The refund shall be determined as follows:*

37 *(1) The institution, for all students, without penalty or*
38 *obligation, shall refund 100 percent of the amount paid*
39 *for institutional charges, less a reasonable deposit or*
40 *application fee not to exceed one hundred dollars (\$100),*



1 if notice of cancellation is made prior to the first day of
 2 instruction or if the student never attends the institution.

3 (2) If a student begins classes at the institution, the first
 4 four weeks of instruction are nonrefundable.

5 (3) The institutional refund policy for students who
 6 did not cancel pursuant to paragraph (1), and have
 7 completed 60 percent or less of the course of instruction
 8 shall be a pro rata refund if any one of the following
 9 occurs:

10 (A) The student transfers to another school.

11 (B) The student returns to his or her country.

12 (C) The student gains admittance to a college or
 13 university.

14 The refund under this paragraph shall be the amount
 15 the student paid for the instruction multiplied by a
 16 fraction, the numerator of which is the number of hours
 17 of instruction in the course which the student has not
 18 received, but for which the student has paid, and the
 19 denominator of which is the total number of hours of
 20 instruction for which the student has paid. The first four
 21 weeks of instruction shall be deducted from both the
 22 numerator and denominator of the refund calculation.
 23 The school may deduct a reasonable deposit or
 24 application fee, not to exceed 30 percent of the total
 25 tuition amount less the amount of the first four weeks of
 26 instruction, if the student returns to his or her country as
 27 provided in subparagraph (B).

28

29

Article 10. Fees and Costs

30

31 94932. The Private Postsecondary and Vocational
 32 Education Administration Fund is continued in
 33 existence. All fees collected pursuant to this section shall
 34 be credited to this fund along with any interest on the
 35 money, for the administration of this chapter.
 36 Notwithstanding Section 13340 of the Government Code,
 37 the money in the fund is continuously appropriated to the
 38 council without regard to fiscal years for the purposes of
 39 this chapter. However, if the Legislature makes an
 40 appropriation for the support of the council in the Budget



1 Act of any fiscal year, the amount for the support of the
2 council expended from the fund during the fiscal year
3 shall not exceed the amount appropriated by the Budget
4 Act.

5 *There is an administration account and an enforcement*
6 *account in the fund. On and after January 1, 1998, 50*
7 *percent of the moneys in the fund shall be deposited in*
8 *the administration account and used for the*
9 *administration of this act, and 50 percent of the moneys*
10 *in the fund shall be deposited in the enforcement account*
11 *and used to enforce the act. Funds for enforcement*
12 *purposes may be used to reimburse district attorneys and*
13 *the Attorney General of the State of California for costs*
14 *incurred in the prosecution of degree-granting*
15 *institutions and nondegree-granting institutions for*
16 *violating the act.*

17 For the approval of private institutions operating
18 under this chapter, the council shall charge an amount
19 not to exceed the actual costs of approving or renewing
20 the approval of the private institutions. The council shall
21 adopt a fee schedule for all institutions approved under
22 this chapter, including the maximum amounts to be
23 charged for an institution's initial application and annual
24 renewal. *On January 1, 1998, the bureau shall reduce by*
25 *5 percent the application fees for approval or renewal to*
26 *operate that are in effect on December 31, 1997 for all*
27 *institutions.* The council may propose modifications to
28 the fee schedule to the Governor and the Legislature to
29 add or delete categories of fees related to work
30 performed by the council and propose to the Governor
31 and the Legislature the maximum amount to be charged
32 for each fee category added to the fee schedule. The fee
33 schedule shall provide adequate resources for the council
34 to implement this chapter effectively. It is the intent of
35 the Legislature that the council shall adopt a fee schedule
36 that reflects the size of the institution, with institutions
37 enrolling a larger number of students being required to
38 pay a larger annual fee than those with smaller student
39 enrollments. The fee schedule, consistent with this
40 section, also may contain provisions for fees assessed in



1 conjunction with the evaluation of an application for a
2 certificate of authorization for service issued pursuant to
3 paragraph (3) of subdivision (b) of Section 94915. The
4 council shall annually present its proposed budget and fee
5 schedule, penalty fees assessed for delinquent payments
6 pursuant to regulations adopted by the council and
7 additions and deletions of fee categories to the
8 Department of Finance and the Joint Legislative Budget
9 Committee for their review and approval as part of the
10 annual budget process. The council shall annually publish
11 a schedule of the current fees to be charged pursuant to
12 this section and shall make this schedule generally
13 available to the public. The fees may be increased
14 annually up to the maximum allowable level by a majority
15 vote of the council, without any additional review and
16 approval by the Office of Administrative Law. The
17 adoption of the annual fee schedule, any modification of
18 the fee schedule, and any increase in fees up to the
19 maximum allowable level shall be subject to Article 5
20 (commencing with Section 11346) of Chapter 3.5 of Part
21 1 of Division 3 of Title 2 of the Government Code.
22 Increases above the maximum level shall be changed
23 through legislation enacted by the Legislature and signed
24 by the Governor.

25 94934. Any institution more than 30 days delinquent
26 in the payment of any fee or order for the recovery of
27 costs and expenses under Section 94935, may be assessed
28 a penalty fee by the council.

29 94935. If the council determines after an investigation
30 that an institution has violated this chapter, the council
31 may order the institution to pay the costs and expenses
32 incurred in connection with the investigation and any
33 civil or administrative proceeding involving the violation
34 that was investigated, including charges made by the
35 Attorney General for his or her services, and any expenses
36 incurred by a district attorney. Before any order for the
37 payment of costs and expenses is made under this section,
38 the council shall provide the institution with written
39 notice, including notice of the institution's right to
40 request a hearing within 15 days of service of the notice.



1 If a hearing is not timely requested, the council may order
2 payment. If a hearing is requested, the council shall
3 comply with Section 94965, 94975, or 94980. Within 30 days
4 after the effective date of the order, the council may
5 enforce the order as if it were a money judgment
6 pursuant to Title 9 (commencing with Section 680.10) of
7 Part 2 of the Code of Civil Procedure. Alternatively, the
8 council may seek the costs and expenses allowed under
9 this section in a civil proceeding.

10 94936. The effective date of any statutory
11 amendment to this chapter affecting revenues payable to
12 the council from any service shall be delayed for a period
13 of 12 months in order to enable the council to make the
14 necessary adjustments in its fee schedule through the
15 regulatory adoption process.

16
17 Article 11. Agents and Agencies
18

19 94940. (a) Notwithstanding any other provision of
20 this chapter concerning agents, the owner of at least 51
21 percent of the equitable interest in an institution shall be
22 exempt from this section if the institution is approved to
23 operate pursuant to Article 8 (commencing with Section
24 94900) or Article 9 (commencing with Section 94915).

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

32 The application for a permit shall be furnished by the
33 council and shall include the following:

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

37 (2) A surety bond issued by an admitted surety insurer
38 in favor of the State of California for the indemnification
39 of any person for any loss suffered as a result of the
40 occurrence, during the period of coverage, of any fraud

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

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

24 (b) An agent representing more than one institution
25 shall obtain a separate agent's permit and bond for each
26 institution represented.

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

32 (d) A permit shall be valid for the calendar year in
33 which it is issued, unless sooner revoked or suspended by
34 the council for fraud or misrepresentation in connection
35 with the solicitation for the sale of any course of study, for
36 any violation of this chapter, or for the existence of any
37 condition in respect to the permittee or the school he or
38 she represents which, if in existence at the time the
39 permit was issued, would have been grounds for denial of
40 the permit.



1 (e) The permittee shall carry the permit with him or
2 her for identification purposes when engaged in the
3 solicitation of sales and the selling of courses of study away
4 from the premises of the school, and shall produce the
5 permit for inspection upon the request of any person.

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

10 (g) The issuance of a permit pursuant to this section
11 shall not be interpreted as, and it shall be unlawful for any
12 individual holding any permit to expressly or impliedly
13 represent by any means whatsoever, that the council has
14 made any evaluation, recognition, accreditation, or
15 endorsement of any course of study being offered for sale
16 by the individual.

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

26 (i) No agent shall make any untrue or misleading
27 statement or engage in sales, collection, credit, or other
28 practices of any type that are false, deceptive, misleading,
29 or unfair.

30 (j) The council shall maintain records for five years of
31 each application for a permit, each bond, and each
32 issuance, denial, termination, suspension, and revocation
33 of a temporary permit or permit.

34 (k) A student may bring an action for an agent's
35 violation of this chapter or any fraud or misrepresentation
36 and, upon prevailing, is entitled to the recovery of
37 damages, reasonable attorney's fees, and costs. If a court
38 finds that the violation was willfully committed, the court,
39 in addition to the award of damages, shall award a civil



1 penalty of up to two times the amount of damages
2 sustained by the student.

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

8 94942. (a) Except as provided in subdivision (g), any
9 agency shall be required to hold a valid authorization
10 issued by the council. The application for an
11 authorization shall include all of the following:

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

15 (2) Evidence of a surety bond issued in favor of the
16 State of California by an admitted surety insurer making
17 provision for indemnification of any person for any loss
18 suffered as a result of the occurrence, during the period
19 of coverage, of any fraud or misrepresentation used in
20 connection with the solicitation for the sale or the sale of
21 any program of study, or as a result of any violation of this
22 chapter. The term of the bond shall extend over the
23 period of the authorization. The bond shall provide for
24 liability in the penal sum of two hundred fifty thousand
25 dollars (\$250,000) for each agency to which coverage is
26 extended by its terms. Neither the principal nor the
27 surety on a bond may terminate the coverage of the bond
28 except upon giving 30 days' prior written notice to the
29 council, and upon contemporaneously surrendering the
30 agency's authorization to operate. Liability on the bond
31 may be enforced after a hearing before the council, after
32 30 days' advance written notice to the principal and
33 surety. The council shall adopt regulations establishing
34 the procedure for administrative enforcement of liability
35 and hearings under this section. This paragraph
36 supplements, but does not supplant, any other rights or
37 remedies to enforce liability on the bond.

38 (3) A copy of the student disclosure statement to be
39 read and signed by all prospective students referred to
40 institutions by an agency. The student disclosure



1 statement shall include, but shall not be limited to, all of
2 the following:

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

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

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

10 (D) A verbatim statement, as follows:

11 “Any questions or problems concerning this agency
12 should be directed to the Council for Private
13 Postsecondary and Vocational Education, Sacramento,
14 CA 95814.”

15 (E) A statement to the effect that the institution or
16 institutions to which the prospective student is referred
17 by the agency have the obligation to make available to the
18 student a catalog or brochure containing information
19 describing all of the following:

20 (i) The courses offered.

21 (ii) Program objectives.

22 (iii) Length of program.

23 (iv) The faculty and their qualifications.

24 (v) A schedule of tuition, fees, and all other charges
25 and expenses necessary for the completion of the course
26 of study.

27 (vi) The cancellation and refund policies.

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

30 (viii) For vocational training programs, placement
31 data, including program completion rates, placement
32 rates, and starting salaries.

33 (ix) Other material facts concerning the institution
34 and the program or course of instruction that are
35 reasonably likely to affect the decision of the student to
36 enroll in the institution.

37 (4) Identification of all employees of the agency and
38 their titles, and of all agents with whom the agency
39 contracts.



1 (5) Identification of all owners, and if the entity is a
2 corporation, the identification of all persons possessing an
3 interest equal to, or in excess, of 10 percent.

4 (6) Identification of all vendors of educational services
5 for which the agency provides recruitment services.

6 (7) A signed statement by the applicant that all
7 employees engaged in recruitment activities will be
8 required to read Sections 94831, 94832, and 94985 and, if
9 the educational program for which the agency recruits is
10 subject to Article 7 (commencing with Section 94850),
11 Section 94853.

12 (b) Within 30 days of receipt of a completed
13 application and prior to issuance of an authorization a
14 representative of the council shall inspect the applicant
15 agency and verify the application. Within 30 days of the
16 inspection, the council shall issue the authorization for a
17 one-year period, subject to annual renewal at the end of
18 that period, or deny the application. The council shall
19 deny the authorization if the agency or any owner,
20 officer, or director of the agency previously has been
21 found in any judicial or administrative proceeding to
22 have violated this chapter, or if there exists any of the
23 grounds for denial set forth in Section 480 of the Business
24 and Professions Code.

25 (c) Any employee of an authorized agency engaged in
26 student recruitment activities of an authorized agency is
27 exempt from the bond requirements of Section 94940.

28 (d) Neither the agency nor any of its employees shall
29 make any untrue or misleading statement in the course
30 of any solicitation or recruitment activity or engage in the
31 sales, collection, credit, or other practices of any type that
32 are false, deceptive, misleading, or unfair.

33 (e) An agency or an employee of an agency shall
34 provide a prospective student with the disclosure
35 statement described in paragraph (3) of subdivision (a)
36 and shall allow the prospective student a sufficient
37 opportunity to read it before soliciting or recruiting him
38 or her for enrollment or referring him or her to an
39 institution. That disclosure statement shall be printed in
40 10-point type in English and, if the solicitation,



1 recruitment, or referral is to be conducted in a language
2 other than English, in that other language.

3 (f) Any institution approved under this chapter shall
4 cease any and all recruitment activities involving the
5 agency upon action by the council to revoke or deny an
6 agency's authorization. The failure of the institution to do
7 so upon presentation of notice of the council's action shall
8 be cause to deny or revoke any approval held by that
9 institution.

10 (g) This section does not apply to any agency
11 recruiting solely for institutions described in Article 8
12 (commencing with Section 94900).

13 (h) The council shall maintain records for five years of
14 each application for an authorization, each verification by
15 the council of an application, each bond, and each denial,
16 issuance, and revocation of an authorization.

17 (i) A student may bring any action against any agency
18 if the agency or an employee of the agency violates this
19 chapter or commits any fraud or misrepresentation and,
20 upon prevailing, is entitled to the recovery of damages,
21 reasonable attorney's fees, and costs. If a court finds that
22 the violation was willfully committed, the court shall, in
23 addition to the award of damages, award a civil penalty
24 of up to two times the amount of damages sustained by
25 the student.

26 (j) Any person who violates this section is guilty of a
27 misdemeanor punishable by imprisonment in a county
28 jail not exceeding six months, by a fine not to exceed five
29 thousand dollars (\$5,000), or by both that imprisonment
30 and fine.

31

32 Article 12. Student Tuition Recovery Fund and
33 Student Obligations

34

35 94944. (a) The Student Tuition Recovery Fund is
36 continued in existence. All assessments collected
37 pursuant Section 94945 shall be credited to this fund along
38 with any interest on the money, for the administration of
39 this article. Notwithstanding Section 13340 of the
40 Government Code, the money in the fund is continuously



1 appropriated to the council without regard to fiscal years
2 for the purposes of this chapter. The fund shall consist of
3 a degree-granting postsecondary educational institution
4 account, a vocational educational institution account, and
5 an account for institutions approved under any provision
6 of this chapter that charge each enrolled student a total
7 charge, as defined in subdivision (k) of Section 94852, of
8 less than one thousand dollars (\$1,000), for the purpose of
9 relieving or mitigating pecuniary losses suffered by any
10 California resident who is a student of an approved
11 institution and who meets either of the following
12 conditions:

13 (1) The student was enrolled in an institution, prepaid
14 tuition, and suffered loss as a result of, (A) the closure of
15 the institution, (B) the institution's failure to pay refunds
16 or charges on behalf of a student to a third party for
17 license fees or any other purposes, or to provide
18 equipment or materials for which a charge was collected
19 within 180 days before the institution's closure, (C) the
20 institution's failure to pay or reimburse loan proceeds
21 under a federally guaranteed student loan program as
22 required by law or to pay or reimburse proceeds received
23 by the institution prior to closure in excess of tuition and
24 other costs, (D) the institution's breach or anticipatory
25 breach of the agreement for the course of instruction, or
26 (E) a decline in the quality or value of the course of
27 instruction within the 30-day period before the
28 institution's closure or, if the decline began before that
29 period, the period of decline determined by the council.
30 For the purpose of this section, "closure" includes closure
31 of a branch or satellite campus, the termination of either
32 the correspondence or residence portion of a home study
33 or correspondence course, and the termination of a
34 course of instruction for some or all of the students
35 enrolled in the course before the time these students
36 were originally scheduled to complete it, or before a
37 student who has been continuously enrolled in a course
38 of instruction has been permitted to complete all the
39 educational services and classes that comprise the course.



1 (2) The student obtained a judgment against the
2 institution for any violation of this chapter and the
3 student certifies that the judgment cannot be collected
4 after diligent collection efforts.

5 (b) Payments from the fund to any student shall be
6 made from the appropriate account with the fund, as
7 determined by the type of institution into which the
8 student has paid his or her fees, and shall be subject to any
9 regulations and conditions as the council shall prescribe.

10 (c) (1) The institution shall provide to the council, at
11 the time of the institution's closure, the names and
12 addresses of persons who were students of an institution
13 within 60 days prior to its closure, and shall notify these
14 students, within 30 days of the institution's closure, of
15 their rights under the fund and how to apply for payment.
16 If the institution fails to comply with this subdivision, the
17 council shall attempt to obtain the names and addresses
18 of these students and shall notify them, within 90 days of
19 the institution's closure, of their rights under the fund and
20 how to apply for payment.

21 The council shall develop a form in English and Spanish
22 fully explaining a student's rights, which shall be used by
23 the institution or the council to comply with this
24 paragraph. The form shall include, or be accompanied by,
25 a claim application and an explanation of how to
26 complete the application.

27 (2) If an institution fails to comply with paragraph (1),
28 the council shall order the institution, or any person
29 responsible for the failure to provide notice as required
30 by paragraph (1), to reimburse the council for all
31 reasonable costs and expenses incurred in notifying
32 students as required in paragraph (1). In addition, the
33 council may impose a penalty of up to five thousand
34 dollars (\$5,000) against the institution and any person
35 found responsible for the failure to provide notice. The
36 amount of the penalty shall be based on the degree of
37 culpability and the ability to pay. Any order may impose
38 joint and several liability. Before any order is made
39 pursuant to this paragraph, the council shall provide
40 written notice to the institution and any person from



1 whom the council seeks recovery of the council's claim
2 and of the right to request a hearing within 30 days of the
3 service of the notice.

4 If a hearing is not requested within 30 days of service
5 of the notice, the council may order payment in the
6 amount of the claim. If a hearing is requested, Chapter 5
7 (commencing with Section 11500) of Part 1 of Division 3
8 of Title 2 of the Government Code shall apply, and the
9 council shall have all of the powers therein prescribed.
10 Within 30 days after the effective date of the issuance of
11 an order, the council may enforce the order in the same
12 manner as if it were a money judgment pursuant to Title
13 9 (commencing with Section 680.010) of Part 2 of the
14 Code of Civil Procedure. All penalties and
15 reimbursements paid pursuant to this section shall be
16 deposited in the Private Postsecondary and Vocational
17 Education Administration Fund established pursuant to
18 Section 94932 or any successor fund.

19 (d) (1) Students entitled to payment as provided in
20 paragraph (1) of subdivision (a) shall file with the council
21 a verified application indicating each of the following:

22 (A) The student's name, address, telephone number,
23 and social security number.

24 (B) If any portion of the tuition was paid from the
25 proceeds of a loan, the name of the lender, and any state
26 or federal agency that guaranteed or reinsured the loan.

27 (C) The amount of the prepaid tuition, the amount
28 and description of the student's loss, and the amount of
29 the student's claim.

30 (D) The date the student started and ceased attending
31 the institution.

32 (E) A description of the reasons the student ceased
33 attending the institution.

34 (F) If the student ceased attending because of a
35 breach or anticipatory breach or because of the decline
36 in the quality or value of the course of instruction as
37 described in subparagraph (E) of paragraph (1) of
38 subdivision (a), a statement describing in detail the
39 nature of the loss incurred. The application shall be filed
40 within one year of the council's service on the student of



1 the notice described in paragraph (1) of subdivision (c)
2 or, if no notice is served, within four years of the
3 institution's closure.

4 (2) Students entitled to payment as provided in
5 paragraph (2) of subdivision (a) shall file with the council
6 a verified application indicating the student's name,
7 address, telephone number, and social security number,
8 the amount of the judgment obtained against the
9 institution, a statement that the judgment cannot be
10 collected, and a description of the efforts attempted to
11 enforce the judgment. The application shall be
12 accompanied by a copy of the judgment and any other
13 documents indicating the student's efforts made to
14 enforce the judgment.

15 The application shall be filed within two years after the
16 date upon which the judgment became final.

17 (3) The council may require additional information
18 designed to facilitate payment to entitled students. The
19 council shall relieve a student from the requirement to
20 provide all of the information required by this subdivision
21 if the council has the information or the information is not
22 reasonably necessary for the resolution of a student's
23 claim.

24 (e) Within 60 days of the council's receipt of a
25 completed application for payment, the council shall pay
26 the claim from the Student Tuition Recovery Fund or
27 deny the claim. The council, for good cause, may extend
28 the time period for up to an additional 90 days to
29 investigate the accuracy of the claim.

30 (f) (1) If the council pays the claim, the amount of the
31 payment shall be (A) the greater of either (i) the total
32 guaranteed student loan debt incurred by the student in
33 connection with attending the institution, or (ii) the total
34 of the student's tuition and the cost of equipment and
35 materials related to the course of instruction, less (B) the
36 amount of any refund, reimbursement, indemnification,
37 restitution, compensatory damages, settlement, debt
38 forgiveness, discharge, cancellation, or compromise, or
39 any other benefit received by, or on behalf of, the student
40 before the council's payment of the claim in connection



1 with the student loan debt or cost of tuition, equipment,
2 and materials. The payment also shall include the amount
3 the institution collected and failed to pay to third parties
4 on behalf of the student for license fees or any other
5 purpose. However, if the claim is based solely on the
6 circumstances described in subparagraph (B) or (C) of
7 paragraph (1) of subdivision (a), the amount of the
8 payment shall be the amount of the loss suffered by the
9 student.

10 In addition to the amount determined under this
11 paragraph, the amount of the payment shall include all
12 interest and collection costs on all student loan debt
13 incurred by the student in connection with attending the
14 institution.

15 (2) The council may reduce the total amount specified
16 in paragraph (1) by the value of the benefit, if any, of the
17 education obtained by the student before the closure of
18 the institution. If the council makes any reduction
19 pursuant to this paragraph, the council shall notify the
20 claimant in writing at the time the claim is paid of the
21 basis of its decision and provide a brief explanation of the
22 reasons upon which the council relied in computing the
23 amount of the reduction.

24 (3) No reduction shall be made to the amount
25 specified in paragraph (1) if (A) the student did not
26 receive adequate instruction to obtain the training, skills,
27 or experience, or employment to which the instruction
28 was represented to lead, or (B) credit for the instruction
29 obtained by the student is not generally transferable to
30 other institutions approved by the council.

31 (4) The amount of the payment determined under
32 this subdivision is not dependent on the amount of the
33 refund to which the student would have been entitled
34 after a voluntary withdrawal.

35 (5) Upon payment of the claim, all of the student's
36 rights against the institution shall be deemed assigned to
37 the council to the extent of the amount of the payment.

38 (g) (1) The director of the council may negotiate with
39 a lender, holder, guarantee agency, or the United States
40 Department of Education for the full compromise or



1 write-off of student loan obligations to relieve students of
2 loss and thereby reduce the amount of student claims.

3 (2) The director of the council, with the student's
4 permission, may pay a student's claim directly to the
5 lender, holder, guarantee agency, or the United States
6 Department of Education under a federally guaranteed
7 student loan program only if the payment of the claim
8 fully satisfies all of the student's loan obligations related
9 to attendance at the institution for which the claim was
10 filed.

11 (3) Notwithstanding subdivision (e), the council may
12 delay the payment of a claim pending the resolution of
13 the council's attempt to obtain a compromise or write-off
14 of the claimant's student loan obligation. However, the
15 council shall immediately pay the claim in the event any
16 adverse action that is not stayed is taken against the
17 claimant, including the commencement of a civil or
18 administrative action, tax offset, the enforcement of a
19 judgment, or the denial of any government benefit.

20 (h) If the council denies the claim, or reduces the
21 amount of the claim pursuant to paragraph (2) of
22 subdivision (f), the council shall notify the student of the
23 denial or reduction and of the student's right to request
24 a hearing within 60 days or any longer period permitted
25 by the council. If a hearing is not requested within 60 days
26 or any additional period reasonably requested by the
27 student, the council's decision shall be final. If a hearing
28 is requested, Chapter 5 (commencing with Section
29 11500) of Part 1 of Division 3 of Title 2 of the Government
30 Code shall apply.

31 It is the intent of the Legislature that, when a student
32 is enrolled in an institution that closes prior to the
33 completion of the student's program, the student shall
34 have the option for a teach-out at another institution
35 approved by the council. The council shall seek to
36 promote teach-out opportunities wherever possible and
37 shall inform the student of his or her rights, including
38 payment from the fund, transfer opportunities, and
39 available teach-out opportunities, if any.



1 (i) This section applies to all claims filed or pending
2 under former Chapter 7 (commencing with Section
3 94700) after January 1, 1990.

4 94945. (a) The council shall assess each institution
5 that collects any moneys in advance of rendering
6 services.

7 (1) The amount assessed each institution shall be
8 calculated only for those students who are California
9 residents and who are eligible to be reimbursed from the
10 fund. It shall be based on the actual amount charged each
11 of these students for total course cost, regardless of the
12 portion that is prepaid. The assessment shall be as follows:

13 (A) For a total course cost of one cent (\$0.01) to nine
14 hundred ninety-nine dollars and ninety-nine cents
15 (\$999.99), inclusive, the assessment is one dollar (\$1) per
16 student.

17 (B) For a total course cost of one thousand dollars
18 (\$1,000) to two thousand nine hundred ninety-nine
19 dollars and ninety-nine cents (\$2,999.99), inclusive, the
20 assessment is two dollars and fifty cents (\$2.50) per
21 student.

22 (C) 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 (D) 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 (E) 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). Unless additional reasonable assessments
15 are required, no assessments for the account for
16 institutions approved under any provision of this chapter
17 that charge each enrolled student a total charge, as
18 defined in subdivision (k) of Section 94852, of less than
19 one thousand dollars (\$1,000) shall be levied during any
20 fiscal year if, as of June 30 of the prior fiscal year, the
21 balance in that account exceeds three hundred thousand
22 dollars (\$300,000). However, regardless of the balance in
23 the fund, assessments shall be made on any newly
24 approved institution for a period established pursuant to
25 regulation by the council. Notwithstanding Section 13340
26 of the Government Code, the moneys so deposited in the
27 fund are continuously appropriated to the council for the
28 purpose of paying claims to students pursuant to Section
29 94944.

30 (b) The council may deduct from the fund the
31 reasonable costs of administration of the tuition recovery
32 program authorized by Section 94944 and this section.
33 The maximum amount of administrative costs that may
34 be deducted from the fund, in a fiscal year, shall not
35 exceed one hundred thousand dollars (\$100,000) from the
36 degree-granting postsecondary educational institution
37 account, three hundred thousand dollars (\$300,000) from
38 the vocational educational institution account, and thirty
39 thousand dollars (\$30,000) from the account for
40 institutions approved under any provision of this chapter



1 that charge each enrolled student a total charge, as
2 defined in subdivision (k) of Section 94852, of less than
3 one thousand dollars (\$1,000), plus the interest earned on
4 money in the fund that is credited to the fund. Prior to the
5 council's expenditure of any amount in excess of one
6 hundred thousand dollars (\$100,000) from the fund for
7 administration of the tuition recovery program, the
8 council shall develop a plan itemizing that expenditure.
9 The plan shall be subject to the approval of the
10 Department of Finance. Institutions, except for schools of
11 cosmetology licensed pursuant to Article 8 (commencing
12 with Section 7362) of Chapter 10 of Division 3 of the
13 Business and Professions Code and institutions that offer
14 vocational or job training programs, that meet the
15 student tuition indemnification requirements of a
16 California state agency, or that demonstrate to the
17 council that an acceptable alternative method of
18 protecting their students against loss of prepaid tuition
19 has been established, shall be exempted from this section.

20 (c) Reasonable costs in addition to those permitted
21 under subdivision (b) may be deducted from the fund for
22 any of the following purposes:

23 (1) To make and maintain copies of student records
24 from institutions which close.

25 (2) To reimburse the council or a third party serving
26 as the custodian of records.

27 (3) To review records in order to determine whether
28 a student improperly received a loan due to false
29 certification, in which case the student would be eligible
30 for a loan write-off or discharge in lieu of reimbursement
31 in whole or in part from the fund.

32 (d) In the event of a closure by any approved
33 institution under this chapter, any assessments that have
34 been made against those institutions, but have not been
35 paid into the fund, shall be recovered. Any payments
36 from the fund made to students on behalf of any
37 institution shall be recovered from that institution.

38 (e) In addition to civil remedies, the council may order
39 an institution to pay previously unpaid assessments or to
40 reimburse the council for any payments made from the



1 fund in connection with the institution. Before any order
2 is made pursuant to this section, the council shall provide
3 written notice to the institution and notice of the
4 institution's right to request a hearing within 30 days of
5 the service of the notice. If a hearing is not requested
6 within 30 days of the service of the notice, the council may
7 order payment. If a hearing is requested, Chapter 5
8 (commencing with Section 11500) of Part 1 of Division 3
9 of Title 2 of the Government Code shall apply, and the
10 council shall have all powers prescribed in that chapter.
11 Within 30 days after the effective date of the issuance of
12 the order, the council may enforce the order in the same
13 manner as if it were a money judgment pursuant to Title
14 9 (commencing with Section 680.010) of Part 2 of the
15 Code of Civil Procedure.

16 (f) In addition to any other action that the council may
17 take under this chapter, the council may suspend or
18 revoke an institution's approval to operate because of the
19 institution's failure to pay assessments when due or failure
20 to pay reimbursement for any payments made from the
21 fund within 30 days of the council's demand for payment.

22 (g) The moneys deposited in the fund shall be exempt
23 from execution and shall not be the subject of litigation
24 or liability on the part of creditors of those institutions or
25 students.

26 (h) Claims for approved institutions that charge each
27 enrolled student a total charge, as defined in subdivision
28 (k) of Section 94852, of less than one thousand dollars
29 (\$1,000) shall be paid from (1) the account established for
30 these institutions if the claim relates to a period of student
31 enrollment beginning on or after the effective date of this
32 section, or (2) the vocational educational institution
33 account if the claim relates to a period of student
34 enrollment that began before the effective date of this
35 section.

36 (i) This section shall become inoperative on January 1,
37 1999, and on that date is repealed unless a later enacted
38 statute that becomes effective on or before January 1,
39 1999, deletes or extends that date.



1 94945. (a) The council shall assess each institution
2 that collects any moneys in advance of rendering
3 services.

4 (1) The amount assessed each institution shall be
5 calculated only for those students who are California
6 residents and who are eligible to be reimbursed from the
7 fund. It shall be based on the actual amount charged each
8 of these students for total course cost, regardless of the
9 portion that is prepaid. The assessment shall be as follows:

10 (A) For a total course cost of one cent (\$0.01) to two
11 thousand nine hundred ninety-nine dollars and
12 ninety-nine cents (\$2,999.99), inclusive, the assessment is
13 two dollars and fifty cents (\$2.50) per student.

14 (B) For a total course cost of three thousand dollars
15 (\$3,000) to five thousand nine hundred ninety-nine
16 dollars and ninety-nine cents (\$5,999.99), inclusive, the
17 assessment is three dollars and fifty cents (\$3.50) per
18 student.

19 (C) For a total course cost of six thousand dollars
20 (\$6,000) to eight thousand nine hundred ninety-nine
21 dollars and ninety-nine cents (\$8,999.99), inclusive, the
22 assessment is four dollars and fifty cents (\$4.50) per
23 student.

24 (D) For a total course cost of nine thousand dollars
25 (\$9,000) or more, the assessment is five dollars and fifty
26 cents (\$5.50) per student.

27 (2) The council shall levy additional reasonable
28 assessments only if they are required to ensure that
29 sufficient funds are available to satisfy the anticipated
30 costs of paying student claims pursuant to Section 94944.

31 (3) The assessments shall be paid into the Student
32 Tuition Recovery Fund and credited to the appropriate
33 account in the fund, and the deposits shall be allocated,
34 except as otherwise provided for in this chapter, solely for
35 the payment of valid claims to students. Unless additional
36 reasonable assessments are required, no assessments for
37 the degree-granting postsecondary educational
38 institution account shall be levied during any fiscal year
39 if, as of June 30 of the prior fiscal year, the balance in that
40 account of the fund exceeds one million dollars



1 (\$1,000,000). Unless additional reasonable assessments
2 are required, no assessments for the vocational
3 educational institution account shall be levied during any
4 fiscal year if, as of June 30 of the prior fiscal year, the
5 balance in that account exceeds three million dollars
6 (\$3,000,000). However, regardless of the balance in the
7 fund, assessments shall be made on any newly approved
8 institution. Notwithstanding Section 13340 of the
9 Government Code, the moneys so deposited in the fund
10 are continuously appropriated to the council for the
11 purpose of paying claims to students pursuant to Section
12 94944.

13 (b) The council may deduct from the fund the
14 reasonable costs of administration of the tuition recovery
15 program authorized by Section 94944 and this section.
16 The maximum amount of administrative costs that may
17 be deducted from the fund, in a fiscal year, shall not
18 exceed one hundred thousand dollars (\$100,000) from the
19 degree-granting postsecondary educational institution
20 account and three hundred thousand dollars (\$300,000)
21 from the vocational educational institution account, plus
22 the interest earned on money in the fund that is credited
23 to the fund. Prior to the council's expenditure of any
24 amount in excess of one hundred thousand dollars
25 (\$100,000) from the fund for administration of the tuition
26 recovery program, the council shall develop a plan
27 itemizing that expenditure. The plan shall be subject to
28 the approval of the Department of Finance. Institutions,
29 except for schools of cosmetology licensed pursuant to
30 Article 8 (commencing with Section 7362) of Chapter 10
31 of Division 3 of the Business and Professions Code and
32 institutions that offer vocational or job training programs,
33 that meet the student tuition indemnification
34 requirements of a California state agency, or that
35 demonstrate to the council that an acceptable alternative
36 method of protecting their students against loss of
37 prepaid tuition has been established, shall be exempted
38 from this section.



1 (c) Reasonable costs in addition to those permitted
2 under subdivision (b) may be deducted from the fund for
3 any of the following purposes:

4 (1) To make and maintain copies of student records
5 from institutions which close.

6 (2) To reimburse the council or a third party serving
7 as the custodian of records.

8 (d) In the event of a closure by any approved
9 institution under this chapter, any assessments that have
10 been made against those institutions, but have not been
11 paid into the fund, shall be recovered. Any payments
12 from the fund made to students on behalf of any
13 institution shall be recovered from that institution.

14 (e) In addition to civil remedies, the council may order
15 an institution to pay previously unpaid assessments or to
16 reimburse the council for any payments made from the
17 fund in connection with the institution. Before any order
18 is made pursuant to this section, the council shall provide
19 written notice to the institution and notice of the
20 institution's right to request a hearing within 30 days of
21 the service of the notice. If a hearing is not requested
22 within 30 days of the service of the notice, the council may
23 order payment. If a hearing is requested, Chapter 5
24 (commencing with Section 11500) of Part 1 of Division 3
25 of Title 2 of the Government Code shall apply, and the
26 council shall have all powers prescribed in that chapter.
27 Within 30 days after the effective date of the issuance of
28 the order, the council may enforce the order in the same
29 manner as if it were a money judgment pursuant to Title
30 9 (commencing with Section 680.010) of Part 2 of the
31 Code of Civil Procedure.

32 (f) In addition to any other action that the council may
33 take under this chapter, the council may suspend or
34 revoke an institution's approval to operate because of the
35 institution's failure to pay assessments when due or failure
36 to pay reimbursement for any payments made from the
37 fund within 30 days of the council's demand for payment.

38 (g) The moneys deposited in the fund shall be exempt
39 from execution and shall not be the subject of litigation



1 or liability on the part of creditors of those institutions or
2 students.

3 (h) This section shall become operative on January 1,
4 1999.

5 94946. (a) Any institution that willfully violates
6 Section 94945 shall be subject to all of the following:

7 (1) The institution shall lose all rights to enforce the
8 terms of any contract or agreement arising from the
9 transaction in which the violation occurred.

10 (2) The institution shall refund to the student any fees
11 that it has collected from that student.

12 (b) An institution's willful violation of Section 94945
13 may be grounds for the revocation of that institution's
14 approval to operate in this state.

15 94947. Students enrolling in institutions that come
16 under Sections 94944 and 94945, shall disclose in writing,
17 if applicable, the source of any and all guaranteed or
18 insured loans granted for the purposes of paying tuition
19 to that institution. In the event of a closure of any
20 institution, the council shall provide any lending
21 institution that is the source of any guaranteed or insured
22 student loan with the names of students maintaining
23 loans with that lending institution.

24 94948. (a) The governing board or other governing
25 authority of any private postsecondary or vocational
26 educational institution shall adopt rules providing for the
27 withholding of institutional services from students or
28 former students who have been notified, in writing, at the
29 student's or former student's last known address, that he
30 or she is in default on a loan or loans under either of the
31 following loan programs:

32 (1) The Stafford Student Loan program.

33 (2) The Supplemental Loans for Students program.

34 (3) Any program directly or indirectly financed by the
35 California Educational Facilities Authority.

36 "Default," as used in this section, with respect to a loan
37 under the Stafford Student Loan program or
38 Supplemental Loans for Students program means the
39 failure of a borrower to make an installment payment
40 when due, or to meet other terms of the promissory note



1 under circumstances where the guarantee agency finds
2 it reasonable to conclude that the borrower no longer
3 intends to honor the obligation to repay, provided that
4 this failure persists for 180 days for a loan repayable in
5 monthly installments, or 240 days for a loan repayable in
6 less frequent installments. “Default,” as used in this
7 section, with respect to a program directly or indirectly
8 financed by the California Educational Facilities
9 Authority, means the failure of a borrower to make an
10 installment payment when due, or to meet other terms
11 of the loan, within that period and under the
12 circumstances determined by the California Educational
13 Facilities Authority with respect to that program.

14 (b) The rules adopted pursuant to subdivision (a) shall
15 provide that the services withheld may be provided
16 during a period when the facts are in dispute and when
17 the student or former student demonstrates to either the
18 governing board or other appropriate governing
19 authority of the institution, or the Student Aid
20 Commission and the appropriate entity or its designee,
21 that reasonable progress has been made to repay the loan
22 or that there exists a reasonable justification for the delay
23 as determined by the institution. The rules shall specify
24 the services to be withheld from the student and may
25 include, but are not limited to, the following:

26 (1) The provision of grades.

27 (2) The provision of transcripts.

28 (3) The provision of diplomas.

29 The rules shall not include the withholding of
30 registration privileges.

31 (c) When it has been determined that an individual is
32 in default on a loan or loans under either of the loan
33 programs specified in subdivision (a), the Student Aid
34 Commission shall give notice of the default to all
35 institutions through which that individual acquired the
36 loan or loans.

37 (d) Guarantors, or those who act as their agents or act
38 under their control, who provide information to
39 institutions pursuant to this section, shall defend,
40 indemnify, and hold harmless the governing board or



1 other governing authority of the institutions from action
2 resulting from compliance with this section when the
3 action arises as a result of incorrect, misleading, or
4 untimely information provided to the institution by the
5 guarantors, their agents, or those acting under the control
6 of the guarantors.

7

8 Article 13. Administrative and Judicial Procedures

9

10 94950. (a) The procedures set forth in Section 94965
11 or, alternatively, in Section 94975 govern the following
12 types of administrative actions:

13 (1) Denial of an application for an approval or renewal
14 of an approval.

15 (2) Suspension or revocation of an existing approval.

16 (3) Appeals of conditional approvals.

17 (b) In lieu of the procedures set forth in Section 94965
18 or 94975, an institution may voluntarily elect to utilize the
19 procedures set forth in Section 94980 if it appeals a
20 conditional approval by the council.

21 (c) The procedures set forth in Section 94970 govern
22 emergency suspensions of an institution's approval to
23 operate initiated by the council.

24 (d) Sections 94952 and 94955 authorize the council and
25 the Attorney General to seek various forms of judicial
26 relief in order to enforce this chapter.

27 (e) Section 94960 governs actions based on student
28 complaints.

29 (f) Section 94985 authorizes civil remedies for
30 individual students in addition to those available under
31 other provisions of law.

32 (g) Procedures established pursuant to regulations
33 adopted by the council shall govern the following types
34 of administrative appeals:

35 (1) Probationary actions.

36 (2) Decisions by the council denying an institution's
37 claim for an exemption or exclusion from this chapter or
38 any provision thereof.

39 94952. (a) The Attorney General, or any district
40 attorney, or city attorney, may make investigations as



1 may be necessary to carry out this chapter, including, but
 2 not limited to, investigations of complaints. The council
 3 may jointly bring actions as necessary to enforce this
 4 chapter, including, but not limited to, civil actions for
 5 injunctive relief. In actions brought pursuant to this
 6 subdivision, the council shall be represented by the
 7 Attorney General.

8 (b) The Attorney General shall represent the council
 9 in the following administrative proceedings arising under
 10 this chapter:

11 (1) Suspension or revocation of an institution's
 12 approval.

13 (2) Denial of an institution's application for approval.

14 (3) An appeal of a conditional approval to operate
 15 issued following a review of an institution's application for
 16 approval.

17 (c) Nothing in this section or this chapter shall
 18 preclude the Attorney General, or any district attorney
 19 or city attorney, from any of the following:

20 (1) Bringing any action on behalf of the people as he
 21 or she is empowered by law to bring, including, but not
 22 limited to, actions based upon alleged violations of
 23 Chapter 5 (commencing with Section 17200) of Part 2,
 24 and Chapter 1 (commencing with Section 17500) of Part
 25 3, of Division 7 of the Business and Professions Code.

26 (2) Conducting investigations necessary to determine
 27 whether there have been violations of law specified in
 28 paragraph (1).

29 (3) Conducting any investigations that he or she is
 30 authorized to conduct, including, but not limited to,
 31 investigations authorized under Section 11180 of the
 32 Government Code.

33 (4) In the case of the Attorney General, delegating his
 34 or her representation authority under subdivision (b) to
 35 staff attorneys of the council.

36 (5) Entering into an agreement or understanding with
 37 the council with respect to representation in any judicial
 38 or administrative proceeding not expressly enumerated
 39 herein.



1 94955. (a) The council may bring an action for
2 equitable relief for any violation of this chapter. The
3 equitable relief may include restitution, a temporary
4 restraining order, the appointment of a receiver, and a
5 preliminary or permanent injunction. The action may be
6 brought in the county in which the defendant resides or
7 in which any violation has occurred or may occur.

8 (b) The remedies provided in this section supplement,
9 and do not supplant, the remedies and penalties under
10 other provisions of law.

11 (c) In actions brought pursuant to this section, the
12 council shall be represented by the Attorney General.

13 94957. (a) In addition to or in lieu of any other
14 remedy or penalty, the council may issue a citation to an
15 institution for committing any violation of this chapter or
16 regulation adopted under this chapter.

17 (b) The citation may contain an order of abatement or
18 the assessment of an administrative penalty. The
19 administrative penalty may not exceed two thousand five
20 hundred dollars (\$2,500) for each investigation made
21 regarding the violation. The council shall base its
22 assessment of the administrative penalty on the nature
23 and seriousness of the violation, the persistence of the
24 violation, the good faith of the institution, the history of
25 previous violations, and the purposes of this chapter.

26 (c) The citation shall be in writing and shall describe
27 the nature of the violation and the specific provision of
28 law determined to have been violated. The citation shall
29 inform the institution of its right to request a hearing in
30 writing within 15 days of the date that the citation was
31 issued. If a hearing is not requested, payment of the
32 administrative penalty shall not constitute an admission
33 of the violation charged. If a hearing is requested, the
34 council shall provide a hearing as described in Section
35 94965, 94975, or 94980. Payment of the administrative
36 penalty is due 15 days after the citation was issued if a
37 hearing is not requested, or when a final order is entered
38 if a hearing is requested. The council may enforce the
39 administrative penalty as if it were a money judgment



1 pursuant to Title 9 (commencing with Section 680.10) of
2 Part 2 of the Code of Civil Procedure.

3 (d) All administrative penalties shall be deposited in
4 the enforcement account in the Private Postsecondary
5 and Vocational Administration Fund, which account is
6 hereby created.

7 94960. (a) Any person claiming damage or loss as a
8 result of any act or practice by a postsecondary or
9 vocational educational institution or its agent, or both,
10 that is a violation of this chapter or of the regulations
11 adopted pursuant to this chapter, may file with the
12 council a verified complaint against that institution or its
13 agent, or both.

14 The complaint shall set forth the alleged violation and
15 shall contain any other information as may be required by
16 the council.

17 (b) The council shall investigate any complaint and
18 may attempt to effectuate settlement by persuasion and
19 conciliation.

20 (c) If, upon all the evidence at a hearing, the council
21 finds that an institution or its agent, or both, have
22 engaged in, or are engaging in, any act or practice that
23 violates this chapter or the regulations adopted pursuant
24 to this chapter, the council shall report that evidence to
25 the Attorney General. The council, based on its own
26 investigation or the evidence adduced at a hearing, or
27 both, also may commence an action to revoke an
28 institution's approval to operate or an agent's permit.

29 (d) Complaints received by the council pertaining to
30 institutions accredited by the Western Association of
31 Schools and Colleges shall be forwarded to the
32 association. Actions by the council relating to complaints
33 against these institutions shall be limited to the
34 transmittal of this information.

35 (e) A person entitled to bring an action for the
36 recovery of damages or other relief shall not be required
37 to file a complaint pursuant to this section, or to pursue
38 or exhaust any administrative process or remedy before
39 bringing the action.



1 94965. (a) Proceedings in connection with the denial
2 of an application to operate, the grant of a conditional
3 approval to operate, or the revocation of an approval to
4 operate shall be conducted in accordance with Chapter
5 5 (commencing with Section 11500) of Part 1 of Division
6 3 of Title 2 of the Government Code, and the council shall
7 have all of the powers granted in that chapter. Any action
8 by the council to place an institution on probation shall be
9 subject to appeal to the full council, and the council shall
10 establish procedures that provide the institution with
11 adequate notice and an opportunity to be heard and to
12 present evidence as to why the action recommended by
13 staff or by a visiting committee shall not be taken.

14 (b) Upon taking any action to suspend or revoke an
15 institution's approval to operate, or to deny an application
16 for renewal of an approval to operate, the council shall
17 provide written notice to the Student Aid Commission,
18 the United States Department of Education, and to any
19 appropriate accrediting association.

20 94970. (a) If an institution has violated this chapter
21 and determines that immediate action is necessary to
22 protect students, prevent misrepresentations to the
23 public, or prevent the loss of public funds, tuition, or other
24 money paid by students, the council may institute an
25 emergency action to suspend the approval of an
26 institution to operate, or the approval to operate a branch
27 or satellite campus, for not more than 30 days unless the
28 council initiates a proceeding to suspend or revoke the
29 approval to operate within that period.

30 (b) (1) The council shall provide notice of the
31 emergency action to the institution by certified mail, if
32 the effective date of the emergency action is 10 or more
33 working days after mailing, or personal service, if the
34 effective date of the emergency action is five or more
35 days after service.

36 (2) The notice shall specify all of the following:

37 (A) The violations upon which the emergency action
38 is based.

39 (B) The nature and grounds of the emergency action,
40 including whether the action applies to the continuation

1 of instruction to enrolled students or to the enrollment of
2 new students.

3 (C) The effective date of the action, which shall not be
4 less than five days after the notice is provided.

5 (D) The institution's right to show cause that the
6 emergency action is unwarranted by submitting to the
7 council, at least two days before the effective date of the
8 emergency action, declarations, documentary evidence,
9 and written arguments demonstrating that the violations
10 did not occur or that immediate action is not required.

11 (E) The right of the institution to request, in writing,
12 within 30 days of the service of the notice, a hearing.

13 (c) The council may (1) continue the effective date of
14 an emergency action or (2) terminate the emergency
15 action at any time if the council concludes that the
16 institution has shown cause that the emergency action is
17 unwarranted or that the grounds for instituting the
18 emergency action no longer remain. The council shall
19 provide written notice of a continuance or termination of
20 an emergency action to the institution.

21 (d) (1) If the institution does not take the opportunity
22 to show cause why the emergency action is unwarranted,
23 the emergency action shall become effective on the date
24 specified in the notice or notice of continuance.

25 (2) If the institution takes the opportunity to show
26 cause and the council decides, after a consideration of the
27 declarations, documentary evidence and written
28 argument submitted by the institution, that the
29 emergency action should become effective, the
30 emergency action shall be effective on the date specified
31 in the notice or notice of continuance. The council shall
32 notify the institution of the decision at least one day
33 before the effective date, and the institution may
34 thereafter seek judicial relief upon notice to the council
35 and the Attorney General.

36 (e) (1) If a hearing is requested within the 30-day
37 period specified in subdivision (b) the council shall set a
38 date for the hearing within 20 days after receipt of the
39 request.



1 (2) If the institution does not request a hearing within
2 the 30-day period specified in subdivision (b) or if the
3 council concludes after a hearing requested by the
4 institution that grounds exist for the suspension or
5 revocation of the institution's approval to operate or
6 approval to operate a branch or satellite campus, the
7 council may extend the suspension or revoke the
8 institution's approval to operate or approval to operate a
9 branch or satellite campus, order probation and a penalty,
10 order the posting of a bond, or condition the institution's
11 approval to operate or approval to operate a branch or
12 satellite campus as the council deems appropriate.

13 (f) During the pendency of an emergency action, the
14 council may investigate the institution's compliance with
15 this chapter, including an onsite inspection, and may
16 institute a proceeding pursuant to Section 94878, if
17 applicable, or Section 94965 or 94975 to suspend or revoke
18 an institution's approval to operate or approval to operate
19 a branch or satellite campus, order a bond, or order
20 probation and a penalty, based on any violation of this
21 chapter.

22 (g) This section supplements, but does not supplant,
23 the authority of the council to seek judicial relief,
24 including a temporary restraining order and injunction,
25 to redress any violation of this chapter.

26 94975. (a) This section establishes the procedure for
27 notice and hearing required under this chapter and,
28 except as provided in Section 94970, may be used in lieu
29 of other notice or hearing requirements provided in this
30 chapter.

31 (b) If notice of administrative action is required by this
32 chapter, the council shall serve notice stating the
33 following:

34 (1) The action, including the penalties and
35 administrative sanctions sought.

36 (2) The grounds for the action with sufficient
37 particularity to give notice of the transactions,
38 occurrences, violations, or other matters on which the
39 action is based.



1 (3) The right to a hearing and the time period within
2 which the party subject to the notice may request a
3 hearing in writing. The time period shall not be less than
4 15 days after service of the notice unless a longer period
5 is provided by statute.

6 (4) The right to be present at the hearing, to be
7 represented by counsel, to cross-examine witnesses, and
8 to present evidence.

9 (5) That, if the party subject to the notice does not
10 request a hearing in writing within the time period
11 expressed in the notice, he or she will waive or forfeit his
12 or her right to an administrative hearing and the action
13 will become final.

14 (c) If a party subject to a notice provided pursuant to
15 subdivision (b) requests a hearing in writing within the
16 time period specified in subparagraph (3) of paragraph
17 (b), then within 10 days of receiving this request, the
18 council shall schedule a hearing. The hearing shall be held
19 in a location determined pursuant to Section 11508 of the
20 Government Code. The council shall serve reasonable
21 notice of the time and place for the hearing at least 10
22 days before the hearing. The council may continue the
23 date of the hearing upon a showing of good cause.

24 (d) (1) Any party, including the council, may submit
25 a written request to any other party before the hearing
26 to obtain the names and addresses of any person who has
27 personal knowledge, or who the party receiving the
28 request claims to have personal knowledge, of any of the
29 transactions, occurrences, violations, or other matters
30 that are the basis of the administrative action. In addition,
31 the requesting party shall have the right to inspect and
32 copy any written statement made by that person and any
33 writing, as defined by Section 250 of the Evidence Code,
34 or thing that is in the custody, or under the control, of the
35 party receiving the request and that is relevant and not
36 privileged. This subdivision shall constitute the exclusive
37 method for prehearing discovery. However, nothing in
38 this paragraph shall affect the council's authority, at any
39 time, to investigate, inspect, monitor, or obtain and copy
40 information under any provision of this chapter.



1 (2) The written request described in paragraph (1)
2 shall be made before the hearing and within 30 days of the
3 service of the notice described in subdivision (b). Each
4 recipient of a request shall comply with the request
5 within 15 days of its service by providing the names and
6 addresses requested and by producing at a reasonable
7 time at the council's office, or other mutually agreed
8 reasonable place, the requested writings and things. The
9 council may extend the time for response upon a showing
10 of good cause.

11 (3) Except as provided in this paragraph, no party may
12 introduce the testimony or statement of any person or
13 any writing or thing into evidence at the hearing if that
14 party failed to provide the name and address of the
15 person or to produce the writing or thing for inspection
16 and copying as provided by this subdivision. A party may
17 introduce the testimony, statement, writing, or thing that
18 was not identified or produced as required herein only if
19 there is no objection or if the party establishes that the
20 person, writing, or thing was unknown at the time when
21 the response was made to the written request, the party
22 could not have informed other parties within a reasonable
23 time after learning of the existence of the person, writing,
24 or thing, and no party would be prejudiced by the
25 introduction of the evidence.

26 (e) Before the hearing has commenced, the council
27 shall issue subpoenas at the written request of any party
28 for the attendance of witnesses or the production of
29 documents or other things in the custody or under the
30 control of the person subject to the subpoena. Subpoenas
31 issued pursuant to this section are subject to Section 11510
32 of the Government Code.

33 (f) (1) The council shall designate an impartial
34 hearing officer to conduct the hearing. The hearing
35 officer may administer oaths and affirmations, regulate
36 the course of the hearing, question witnesses, and
37 otherwise investigate the issues, take official notice
38 according to the procedure provided in Division 4
39 (commencing with Section 450) of the Evidence Code of
40 any technical or educational matter in the council's



1 special field of expertise and of any matter that may be
2 judicially noticed, set the time and place for continued
3 hearings, fix the time for the filing of briefs and other
4 documents, direct any party to appear and confer to
5 consider the simplification of issues by consent, and
6 prepare a statement of decision.

7 (2) Neither a hearing officer nor any person who has
8 a direct or indirect interest in the outcome of the hearing
9 shall communicate directly or indirectly with each other
10 regarding any issue involved in the hearing while the
11 proceeding is pending without notice and opportunity for
12 all parties to participate in the communication. A hearing
13 officer who receives any ex parte communication shall
14 immediately disclose the communication to the council
15 and all other parties. The council may disqualify the
16 hearing officer if necessary to eliminate the effect of the
17 ex parte communication. If the council finds that any
18 party willfully violated, or caused the violation of, this
19 paragraph, the council shall enter that party's default and
20 impose the administrative sanction set forth in the notice
21 provided pursuant to subdivision (b).

22 (g) (1) Each party at the hearing shall be afforded an
23 opportunity to present evidence, respond to evidence
24 presented by other parties, cross-examine, and present
25 written argument or, if permitted by the hearing officer,
26 oral argument on the issues involved in the hearing. The
27 council may call any party as a witness who may be
28 examined as if under cross-examination.

29 (2) Each party may appear through its representative
30 or through legal counsel.

31 (3) The technical rules relating to evidence and
32 witnesses shall not apply. However, only relevant
33 evidence is admissible.

34 (4) Oral evidence shall be taken only upon oath or
35 affirmation. The hearing shall be conducted in the
36 English language. The proponent of any testimony to be
37 offered by a witness who is not proficient in English shall
38 provide, at the proponent's cost, an interpreter proficient
39 in English and the language in which the witness will
40 testify.



1 (5) The hearing shall be recorded by tape recording or
2 other phonographic means unless all parties agree to
3 another method of recording the proceedings.

4 (6) (A) At any time 10 or more days before the
5 hearing, any party may serve on the other parties a copy
6 of any declaration that the party proposes to introduce in
7 evidence.

8 (B) The declaration shall be accompanied by a notice
9 indicating the date of service of the notice and stating that
10 the declarations will be offered into evidence, the
11 declarants will not be called as witnesses, and there will
12 be no right of cross-examination unless the party
13 receiving the notice requests the right to cross-examine,
14 in writing, within seven days of the service of the
15 declarations and notice.

16 (C) If no request for cross-examination is served
17 within seven days of the service of the declarations and
18 notice described in subparagraph (B), the right to
19 cross-examination is deemed waived and the declaration
20 shall have the same effect as if the declarant testified
21 orally. Notwithstanding this paragraph, a declaration may
22 be admitted as hearsay evidence without
23 cross-examination.

24 (7) Disposition of any issues involved in the hearing
25 may be made by stipulation or settlement.

26 (8) If a party fails to appear at a hearing, that party's
27 default shall be taken and the party shall be deemed to
28 have waived the hearing and agreed to the administrative
29 action and the grounds for that action described in the
30 notice given pursuant to subdivision (b). The council
31 shall serve the party with an order of default including the
32 administrative action ordered. The order shall be
33 effective upon service or at any other time designated by
34 the council. The council may relieve a party from an
35 order of default if the party applies for relief within 15
36 days after the service of an order of default and establishes
37 good cause for relief. An application for relief from
38 default shall not stay the effective date of the order unless
39 expressly provided by the council.

1 (h) (1) At any time before the matter is submitted for
2 decision, the council may amend the notice provided
3 pursuant to subdivision (b) to set forth any further
4 grounds for the originally noticed administrative action
5 or any additional administrative action and the grounds
6 therefor. The statement of the further grounds for the
7 originally noticed administrative action, or of the grounds
8 for any additional administrative action, shall be made
9 with sufficient particularity to give notice of the
10 transactions, occurrences, violations, or other matters on
11 which the action or additional action is based. The
12 amended notice shall be served on all parties. All parties
13 affected by the amended notice shall be given reasonable
14 opportunity to respond to the amended notice as
15 provided in this section.

16 (2) The council may amend the notice after the case
17 is submitted for decision. The council shall serve each
18 party with notice of the intended amendment and shall
19 provide the party with an opportunity to show that the
20 party will be prejudiced by the amendment unless the
21 case is reopened to permit the party to introduce
22 additional evidence. If prejudice is shown, the council
23 shall reopen the case to permit the introduction of
24 additional evidence.

25 (i) (1) Within 30 days after the conclusion of the
26 hearing or at another time established by the council, the
27 hearing officer shall submit a written statement of
28 decision setting forth a recommendation for a final
29 decision and explaining the factual and legal basis for the
30 decision as to each of the grounds for the administrative
31 action set forth in the notice or amended notice. The
32 council shall serve the hearing officer's statement of
33 decision on each party and its counsel within 10 days of its
34 submission by the hearing officer.

35 (2) The council shall make the final decision which
36 shall be based exclusively on evidence introduced at the
37 hearing. The final decision shall be supported by
38 substantial evidence in the record. The council also shall
39 issue a statement of decision explaining the factual and
40 legal basis for the final decision as to each of the grounds



1 for the administrative action set forth in the notice or
2 amended notice. The council shall issue an order based on
3 its decision which shall be effective upon service or at any
4 other time designated by the council. The council shall
5 serve a copy of the final decision and order, within 10 days
6 of their issuance, on each party and its counsel.

7 (3) The council may hold a closed session to deliberate
8 on a decision to be reached based upon evidence
9 introduced at the hearing.

10 (4) The council shall serve a certified copy of the
11 complete record of the hearing, or any part thereof
12 designated by a party, within 30 days after receiving the
13 party's written request and payment of the cost of
14 preparing the requested portions of the record. The
15 complete record shall include all notices and orders
16 issued by the council, a transcript of the hearing, the
17 exhibits admitted or rejected, the written evidence and
18 any other papers in the case, the hearing officer's
19 statement of decision, and the final decision and order.

20 (j) The council shall serve all notices and other
21 documents that are required to be served by this section
22 on each party by personal delivery, by certified mail,
23 return receipt requested, or by any other means
24 designated by the council.

25 (k) (1) Any party aggrieved by the council's final
26 decision and order may seek judicial review by filing a
27 petition for a writ of mandate pursuant to Section 1085 of
28 the Code of Civil Procedure within 30 days of the issuance
29 of the final decision and order. If review is not sought
30 within that period, the party's right to review shall be
31 deemed waived.

32 (2) The aggrieved party shall present the complete
33 record of the hearing or all portions of the record
34 necessary for the court's review of the council's final
35 decision and order. The court shall deny the petition for
36 a writ of mandate if the record submitted by the party is
37 incomplete. The court shall not consider any matter not
38 contained in the record. The factual basis supporting the
39 final decision set forth in the council's statement of



1 decision shall be conclusive if supported by substantial
2 evidence on the record considered as a whole.

3 (3) The final order shall not be stayed or enjoined
4 during review except upon the court's grant of an order
5 on a party's application after due notice to the council and
6 the Attorney General. The order shall be granted only if
7 the party establishes the substantial likelihood that it will
8 prevail on the merits and posts a bond sufficient to
9 protect fully the interests of the students, the council, and
10 the fund, from any loss.

11 (l) The council may adopt regulations establishing
12 alternative means of providing notice and an opportunity
13 to be heard in circumstances in which a full hearing is not
14 required by law.

15 (m) For the purposes of this section, "good cause" shall
16 require sufficient ground or reason for the determination
17 to be made by the council.

18 94980. (a) If the council, through the ~~executive~~
19 ~~director~~ *chief*, denies an institution's application for
20 approval, grants a conditional approval, or initiates a
21 proceeding to suspend or revoke an institution's approval
22 to operate, the institution may request a hearing pursuant
23 to this section in lieu of the hearing procedure designated
24 by the council under Section 94965 or 94975.

25 (b) At the time the council provides notice to an
26 institution of its right to a hearing under Section 94965 or
27 94975 in connection with the denial of an application for
28 approval to operate, the issuance of a conditional
29 approval to operate, or a proposed suspension or
30 revocation of approval to operate, the council also shall
31 provide notice of the provisions of this section.

32 (c) Within 15 days after service of the notice described
33 in subdivision (b), the institution may request in writing
34 a hearing under this section in lieu of the hearing
35 procedure in Section 94965 or 94975. The request shall
36 acknowledge that by electing to proceed under this
37 section, the institution is knowingly waiving all rights
38 under the hearing procedure otherwise provided by the
39 council.



1 (d) After receiving the institution's request for a
2 hearing under this section, the council shall provide the
3 institution or its representative with copies of all the
4 documents, testimony in declaration form, and written
5 arguments on which the council relies to support its
6 proposed administrative action.

7 (e) The institution shall have 30 days from the service
8 of the council's written evidence and arguments to
9 submit all the documents, testimony in declaration form,
10 and written arguments on which the institution relies in
11 opposition to the council's proposed administrative
12 action.

13 (f) Neither the council nor the institution has any right
14 to discovery or to compel the production of documents or
15 the testimony of witnesses by subpoena.

16 (g) The ~~executive director~~ *chief* shall review all of the
17 documents, declarations, and arguments and shall render
18 a proposed decision in writing based solely on the written
19 evidence and arguments that set forth the proposed
20 administrative action and the factual and legal bases for
21 it.

22 (h) Within 10 days of the service of the ~~executive~~
23 ~~director's~~ *chief's* decision, the institution may request in
24 writing to have the matter reviewed by the members of
25 the council and may also request oral argument, as
26 described in subdivision (i). If a timely request for review
27 is not submitted, the ~~executive director's~~ *chief's* decision
28 shall be deemed the final decision of the council. If a
29 timely request for review is submitted without a request
30 for oral argument, the right to make oral argument is
31 deemed waived.

32 (i) If a timely request for review is made, the matter
33 shall be considered by the members of the council based
34 solely on the written evidence and arguments submitted
35 to the ~~executive director~~ *chief* and, if oral argument was
36 timely requested, any oral argument permitted by the
37 council. No new evidence may be presented during oral
38 argument. An institution requesting oral argument shall
39 receive at least 10 days advance notice of the council
40 meeting at which time oral argument may be made. The



1 council members may deliberate on the decision to be
2 reached in a closed session as provided in paragraph (3)
3 of subdivision (c) of Section 11126 of the Government
4 Code. The council shall issue its final decision within 30
5 days after the council meeting at which the matter was
6 reviewed. The ~~executive—director's~~ *chief's* proposed
7 decision shall be sustained if it is supported by substantial
8 evidence on the record considered as a whole.

9 (j) The council shall serve the institution with a
10 written decision setting forth the administrative action
11 taken and the legal and factual bases for it. The decision
12 shall become final within 30 days unless another time is
13 specified by the council.

14 (k) The council shall serve a certified copy of the
15 complete record, or any part thereof designated by an
16 institution, within 30 days after receiving the institution's
17 written request and payment of the cost of preparing the
18 requested record or portions thereof. The complete
19 record shall consist of all notices and orders of the council,
20 the documents, declarations, and written argument
21 submitted, a transcript of any oral argument, and the final
22 decision and order.

23 (l) Any party aggrieved by the council's final decision
24 and order may seek judicial review as provided in, and
25 subject to, the requirements of subdivision (k) of Section
26 94975.

27 (m) All documents required by this section to be
28 served by the council shall be served on the institution,
29 its counsel, or authorized representative by any means
30 authorized for service pursuant to Chapter 5
31 (commencing with Section 1010) of Title 14 of Part 2 of
32 the Code of Civil Procedure.

33 94985. (a) Any institution that willfully violates any
34 provision of Section 94800, 94810, 94814, or 94816, Sections
35 94820 to 94826, inclusive, Section 94829, 94831, or 94832
36 may not enforce any contract or agreement arising from
37 the transaction in which the violation occurred, and any
38 willful violation is a ground for revoking an approval to
39 operate in this state or for denying a renewal application.



1 (b) Notwithstanding any provision of the contract or
2 agreement, a student may bring an action for a violation
3 of this article or for an institution's failure to perform its
4 legal obligations and, upon prevailing thereon, is entitled
5 to the recovery of damages, equitable relief, or any other
6 relief authorized by this article, and reasonable attorney's
7 fees and costs.

8 (c) If a court finds that a violation was willfully
9 committed or that the institution failed to refund all
10 consideration as required by subdivision (b) on the
11 student's written demand, the court, in addition to the
12 relief authorized under subdivision (b), shall award a civil
13 penalty of up to two times the amount of the damages
14 sustained by the student.

15 (d) The remedies provided in this article supplement,
16 but do not supplant, the remedies provided under any
17 other provision of law.

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

21 (f) Any provision in any agreement that purports to
22 require a student to invoke any grievance dispute
23 procedure established by the institution before enforcing
24 any right or remedy is void and unenforceable.

25 (g) A student may assign his or her cause of action for
26 a violation of this article to the council, or to any state or
27 federal agency that guaranteed or reinsured a loan for the
28 student or that provided any grant or other financial aid.

29 (h) This section applies to any action pending on the
30 effective date of this section.

31 (i) This section supplements, but does not supplant,
32 the authority granted the Division of Labor Law
33 Enforcement under Section 1700.4 of the Labor Code to
34 the extent that placement activities of trade schools are
35 subject to regulation by the division under the Labor
36 Code.

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Article 14. Council Reports

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~~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.~~

94990. The bureau is subject to the sunset review process conducted by the Joint Legislative Sunset Review Committee pursuant to Division 1.2 (commencing with Section 473) of the Business and Professions Code. Notwithstanding that this chapter does not specify that it will become inoperative on a specified date, the analyses, reports, public hearings, evaluations, and determinations required to be prepared, conducted, and made pursuant to Division 1.2 (commencing with Section 473) of the Business and Professions Code shall be prepared, conducted, and made in 2001 and every four years thereafter.

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.

(c) Any reports submitted by the council to the Joint Legislative Sunset Review Committee pursuant to



1 *Division 1.2 (commencing with Section 473) of the*
2 *Business and Professions Code during any calendar year*
3 *shall satisfy the reporting requirements of this section for*
4 *that year.*

5
6 Article 15. Severability
7

8 94998. The provisions of this chapter are severable. If
9 any provision of this chapter or its application is held
10 invalid, that invalidity shall not affect other provisions or
11 applications that can be given effect without the invalid
12 provision or application.

13 SEC. 4. Section 1095 of the Unemployment Insurance
14 Code is amended to read:

15 1095. The director shall permit the use of any
16 information in his or her possession to the extent
17 necessary for any of the following purposes:

18 (a) To properly present a claim for benefits.

19 (b) To acquaint a worker or his or her authorized
20 agent with his or her existing or prospective right to
21 benefits.

22 (c) To furnish an employer or his or her authorized
23 agent with information to enable him or her to fully
24 discharge his or her obligations or safeguard his or her
25 rights under this division or Division 3 (commencing with
26 Section 9000). This subdivision, as it relates to Division 3
27 (commencing with Section 9000), applies only to
28 subdivision (j) of this section.

29 (d) To enable an employer to receive a reduction in
30 contribution rate.

31 (e) To enable the Director of Social Services or his or
32 her representatives or the Director of Health Services or
33 his or her representatives, subject to federal law, to verify
34 or determine the eligibility or entitlement of an applicant
35 for, or a recipient of, public social services provided
36 pursuant to the Welfare and Institutions Code, and
37 directly connected with, and limited to, the
38 administration of public social services.

39 (f) To enable county administrators of general relief or
40 assistance, or their representatives, to determine

1 entitlement to locally provided general relief or
2 assistance, where the determination is directly connected
3 with, and limited to, the administration of general relief
4 or assistance.

5 (g) To enable county district attorneys, or their
6 representatives, to seek criminal, civil, or administrative
7 remedies in connection with the unlawful application for,
8 or receipt of, relief provided under Division 9
9 (commencing with Section 10000) of the Welfare and
10 Institutions Code.

11 (h) To enable the director or his or her representative
12 to carry out his or her responsibilities under this code.

13 (i) To enable county departments of collection or their
14 representatives to determine entitlement to medical
15 assistance services rendered pursuant to Part 5
16 (commencing with Section 17000) of Division 9 of the
17 Welfare and Institutions Code, and, when appropriate, to
18 enable collection for the county's expenditures for these
19 medical assistance services.

20 (j) To furnish an employer, or his or her authorized
21 agent, with information including, but not limited to, the
22 applicant's or recipient's name, social security number,
23 address, employable skills, and job placement in order to
24 enable him or her to fully discharge his or her obligations
25 or safeguard his or her rights under the elements of a joint
26 union, management, and Employment Development
27 Department agreement as are deemed necessary to assist
28 displaced workers to obtain new employment under
29 Chapter 2.9 (commencing with Section 9970) of Part 1 of
30 Division 3 and related provisions of Division 3
31 (commencing with Section 9000). The information shall
32 be limited to any information gathered under these
33 divisions by the department and authorized for release by
34 the labor organization which shall act as an agent for the
35 affected workers under terms of the agreement and shall
36 participate in defining the information release provisions.

37 (k) To provide any law enforcement agency with the
38 name, address, telephone number, birth date, social
39 security number, physical description, and names and
40 addresses of present and past employers, of any victim,



1 suspect, missing person, potential witness, or person for
2 whom a felony arrest warrant has been issued, when a
3 request for this information is made by any investigator
4 or peace officer as defined by Sections 830.1 and 830.2 of
5 the Penal Code and designated by the head of the law
6 enforcement agency and who requests this information
7 in the course of and as a part of an investigation into the
8 commission of a crime where there is a reasonable
9 suspicion that the crime is a felony and that the
10 information would lead to relevant evidence. The
11 information provided pursuant to this subdivision shall be
12 provided to the extent permitted by federal law and
13 regulations, and to the extent the information is available
14 and accessible within the constraints and configurations
15 of existing department records. Any person who receives
16 any information under this subdivision shall make a
17 written report of the information to the law enforcement
18 agency that employs him or her, for filing under the
19 normal procedures of that agency. Any officer or
20 employee of the department who discloses information in
21 violation of this subdivision is guilty of a misdemeanor.
22 Any person who obtains information in violation of this
23 subdivision is guilty of a misdemeanor.

24 (1) This subdivision shall not be construed to authorize
25 the release of a general list identifying individuals
26 applying for or receiving benefits to any law enforcement
27 agency.

28 (2) The department shall maintain records pursuant
29 to this subdivision only for periods required under
30 regulations or statutes enacted for the administration of
31 its programs.

32 (3) This subdivision shall not be construed as limiting
33 the information provided to law enforcement agencies to
34 that pertaining only to applicants for, or recipients of,
35 benefits.

36 (4) The department shall notify all applicants for
37 benefits that release of confidential information from
38 their records will not be protected should there be a
39 felony arrest warrant issued against the applicant or in the



1 event of an investigation by a law enforcement agency
2 into the commission of a felony.

3 (l) Nothing in this section shall be construed to
4 authorize or permit the use of information obtained in the
5 administration of this code by any private collection
6 agency.

7 (m) To provide the State Teachers' Retirement
8 System, pursuant to Section 22327 of the Education Code,
9 with information relating to the earnings of any person
10 who is receiving a disability allowance, or disability
11 retirement allowance, from the State Teachers'
12 Retirement System. The earnings information shall be
13 released to the Teachers' Retirement Board only upon
14 written request from the board specifying that the person
15 is receiving a disability allowance or disability retirement
16 allowance from the system. The request may be made by
17 the chief executive officer of the system or by an
18 employee of the system so authorized and identified by
19 name and title by the chief executive officer in writing.

20 (n) To provide the Public Employees' Retirement
21 System, pursuant to Section 20231 of the Government
22 Code, with information relating to the earnings of any
23 person who is receiving a disability retirement allowance
24 from the Public Employees' Retirement System. The
25 earnings information shall be released to the Board of
26 Administration of the system only upon written request
27 from the board specifying that the person is receiving a
28 disability retirement allowance from the system. The
29 request may be made by the executive officer of the
30 system or by an employee of the system so authorized and
31 identified by name and title by the executive officer in
32 writing.

33 (o) To provide the University of California
34 Retirement System with information in its possession
35 relating to the earnings of any person who has applied for
36 or is receiving disability income from the system. The
37 earnings information shall be disclosed only upon written
38 request from the system specifying that the person has
39 applied for or is receiving disability income from the
40 system. The request may be made by the chief



1 administrative officer of the system or by an employee so
2 authorized and identified by name and title by the chief
3 administrative officer in writing. The system shall notify
4 applicants for and recipients of disability income that
5 earnings information from the department's records will
6 be released upon the system's request. The information
7 obtained pursuant to this subdivision shall be used or
8 disclosed by the system only to determine or to verify
9 entitlement to, or continuing eligibility for, disability
10 income. The system shall reimburse the department for
11 all reasonable administrative expenses incurred pursuant
12 to this subdivision.

13 (p) To enable the Division of Labor Standards
14 Enforcement in the Department of Industrial Relations
15 to seek criminal, civil, or administrative remedies in
16 connection with the failure to pay, or the unlawful
17 payment of, wages pursuant to Chapter 1 (commencing
18 with Section 200) of Part 1 of, and Chapter 1
19 (commencing with Section 1720) of Part 7 of, Division 2
20 of, the Labor Code. The Division of Labor Standards
21 Enforcement shall reimburse the department for all
22 reasonable administrative expenses incurred pursuant to
23 this subdivision.

24 (q) To enable the federal Department of Health and
25 Human Services, Office of Child Support Enforcement,
26 Federal Parent Locator Service, to administer its child
27 support enforcement programs under Title IV of the
28 Social Security Act (42 U.S.C. Sec. 651 et seq.).

29 (r) To provide county probation departments, the
30 State Board of Control, and the United States Attorney
31 General with wage and claim information in its possession
32 that will assist those departments and agencies in the
33 location of victims of crime who, by state mandate or
34 court order, are entitled to restitution that has been, or
35 can be recovered, and to assist in the collection of money
36 owed to the county, the state, or the United States by any
37 person who has been directed by state mandate or court
38 order to pay restitution, fines, penalties, assessments, or
39 fees as a result of a violation of law. Information provided
40 about victims of crime shall be limited to data necessary



1 to assist in locating them. Nothing in this section shall be
2 construed to prevent the department from providing
3 information to the State Board of Control or the United
4 States Attorney General through electronic methods.
5 The department may charge a fee for all reasonable
6 administrative expenses incurred pursuant to this
7 subdivision. Except as provided by Section 1463.007 of the
8 Penal Code, any officer or employee of the department
9 who discloses information in violation of this subdivision
10 is guilty of a misdemeanor. Except as provided by Section
11 1463.007 of the Penal Code, any person who obtains
12 information in violation of this subdivision is guilty of a
13 misdemeanor.

14 (s) To provide the Student Aid Commission with
15 information concerning any individuals who are
16 delinquent or in default on guaranteed student loans or
17 who owe repayment of funds received through other
18 financial assistance programs administered by the
19 commission. The information obtained pursuant to this
20 subdivision shall be utilized by the commission
21 exclusively to enable the collection of defaulted loans and
22 other funds owed, pursuant to the authority granted in
23 Chapter 2 (commencing with Section 69500) of Part 42 of
24 the Education Code and Chapter 1 (commencing with
25 Section 30000) of Title 5 of the California Code of
26 Regulations. The information released by the director for
27 the purposes of this subdivision shall not include any
28 employment, wage, or other information concerning any
29 person who is receiving unemployment insurance
30 benefits. The information shall be released to the
31 commission only upon written request from the director
32 of the commission or by an employee so authorized and
33 identified by name and title by the director. The
34 commission shall reimburse the department for all
35 reasonable administrative expenses incurred pursuant to
36 this subdivision.

37 (t) To provide an authorized governmental agency
38 with any or all relevant information that relates to any
39 specific workers' compensation insurance fraud
40 investigation. The information shall be provided to the



1 extent permitted by federal law and regulations. For the
2 purposes of this subdivision, “authorized governmental
3 agency” means the district attorney of any county, the
4 office of the Attorney General, the Department of
5 Industrial Relations, and the Department of Insurance.
6 An authorized governmental agency may disclose this
7 information to the State Bar, the Medical Board of
8 California, or any other licensing board or department
9 whose licensee is the subject of a workers’ compensation
10 insurance fraud investigation. This subdivision shall not
11 prevent any authorized governmental agency from
12 reporting to any board or department the suspected
13 misconduct of any licensee of that body. The Department
14 of Insurance or Department of Industrial Relations shall
15 reimburse the department for all reasonable
16 administrative expenses incurred relative to a request
17 that it submits pursuant to this subdivision. Relevant
18 information may include, but is not limited to, all of the
19 following:

20 (1) Copies of unemployment and disability insurance
21 application and claim forms and copies of any supporting
22 medical records, documentation, and records pertaining
23 thereto.

24 (2) Copies of returns or reports filed by an employer
25 pursuant to Section 1088 and copies of supporting
26 documentation.

27 (3) Copies of benefit payment checks issued to
28 claimants.

29 (4) Copies of any documentation that specifically
30 identifies the claimant by social security number,
31 residence address, or telephone number.

32 (u) To enable the Director of the Bureau for Private
33 Postsecondary and Vocational Education, or his or her
34 representatives, to access unemployment insurance
35 quarterly wage data on a case-by-case basis to verify
36 information on school administrators, school staff, and
37 students provided by those schools who are being
38 investigated for possible violations of Chapter 7
39 (commencing with Section 94700) of Part 59 of the
40 Education Code.



1 (v) To provide employment tax information to the tax
2 officials of Mexico, if a reciprocal agreement exists. For
3 purposes of this subdivision, “reciprocal agreement”
4 means a formal agreement to exchange information
5 between national taxing officials of Mexico and taxing
6 authorities of the State Board of Equalization, the
7 Franchise Tax Board, and the Employment
8 Development Department. Furthermore, the reciprocal
9 agreement shall be limited to the exchange of
10 information which is essential for tax administration
11 purposes only. Taxing authorities of the State of California
12 shall be granted tax information only on California
13 residents. Taxing authorities of Mexico shall be granted
14 tax information only on Mexican nationals.

15 (w) Wages as defined by Section 13009 and amounts
16 required to be deducted and withheld under Section
17 13020 shall not be disclosed except as provided in Article
18 2 (commencing with Section 19542) of Chapter 7 of Part
19 10.2 of Division 2 of the Revenue and Taxation Code.

20 (x) To enable city and county planning agencies to
21 develop economic forecasts for planning purposes. The
22 information shall be limited to businesses within the
23 jurisdiction of the city or county whose planning agency
24 is requesting the information, and shall not include
25 information regarding individual employees. The city or
26 county planning agency receiving the information shall
27 adhere to the same standards regarding confidentiality
28 and the protection of proprietary information that the
29 department is required to follow. The city and county
30 planning agencies shall reimburse the department for all
31 reasonable administrative expenses incurred pursuant to
32 this subdivision.

33 (y) To provide the State Department of
34 Developmental Services with wage and employer
35 information that will assist in the collection of moneys
36 owed by the recipient, parent, or any other legally liable
37 individual for services and supports provided pursuant to
38 Chapter 9 (commencing with Section 4775) of Division
39 4.5 of, and Chapter 2 (commencing with Section 7200)
40 and Chapter 3 (commencing with Section 7500) of



1 Division 7 of, the Welfare and Institutions Code. The
2 State Department of Developmental Services shall
3 reimburse the department for all reasonable
4 administrative expenses incurred pursuant to this
5 subdivision.

6 SEC. 5. (a) All funds in the Private Postsecondary
7 and Vocational Education Administration Fund and in
8 the Student Tuition Recovery Fund on ~~June—30~~
9 *December 31, 1997*, shall remain in those funds and may
10 be used for the purposes authorized by Chapter 7
11 (commencing with Section 94700) of Part 59 of the
12 Education Code commencing January 1, 1998.

13 (b) Any unencumbered funds appropriated to the
14 Council for Private Postsecondary and Vocational
15 Education by Item Numbers 6880-001-0305,
16 6880-001-0890, and 6880-001-0960 in the Budget Act of
17 1997 may be expended by the Bureau for Private
18 Postsecondary and Vocational Education in the
19 Department of Consumer Affairs for the purposes of
20 Chapter 7 (commencing with Section 94700) of Part 50 of
21 the Education Code on and after January 1, 1998. To the
22 extent of any conflict between this section and any
23 conditions specified in the above item numbers, this
24 section shall prevail.

25 ~~(e) On and after January 1, 1998, 50 percent of the~~
26 ~~moneys in the Private Postsecondary and Education~~
27 ~~Administration Fund shall be used for the administration~~
28 ~~of the Private Postsecondary and Vocational Education~~
29 ~~Reform Act of 1989, and 50 percent shall be used to~~
30 ~~enforce the act. Funds for enforcement purposes may be~~
31 ~~used to reimburse district attorneys and the Attorney~~
32 ~~General of the State of California for costs incurred in the~~
33 ~~prosecution of degree-granting institutions and~~
34 ~~nondegree-granting institutions for violating the act.~~

35 ~~(d)~~
36 (c) On and after January 1, 1998, any moneys received
37 as a result of litigation involving the former Council for
38 Private Postsecondary and Vocational Education shall be
39 deposited *in the enforcement account* in the Private
40 Postsecondary and Vocational Education Administration



1 Fund to be used by the *Bureau for Private Postsecondary*
2 *and Vocational Education in the Department of*
3 *Consumer Affairs to enforce the Private Postsecondary*
4 *and Vocational Education Reform Act of 1989.*

5 ~~SEC. 6. Any person who was employed by the Council~~
6 ~~for Private Postsecondary and Vocational Education as of~~
7 ~~June 30, 1997, as a civil service employee has a mandatory~~
8 ~~right to be reinstated, on the date this act becomes~~
9 ~~operative, to the position he or she held on June 30, 1997.~~

10 *SEC. 6. Every cause of action that accrued pursuant*
11 *to former Chapter 7 (commencing with Section 94700) of*
12 *Part 59 of the Education Code prior to its repeal by this*
13 *act shall be unaffected by that repeal, regardless of*
14 *whether the cause of action was reduced to final*
15 *judgment, and shall remain fully enforceable under that*
16 *chapter as though it had not been repealed but remained*
17 *in full force and effect on and after January 1, 1998. It is*
18 *the intent of the Legislature in enacting this section to*
19 *preserve all causes of action filed under that chapter,*
20 *including all causes of action alleged in any pending*
21 *action.*

22 SEC. 7. The provisions of this act are severable. If any
23 provision of this act or its application is held invalid, that
24 invalidity shall not affect other provisions or applications
25 that can be given effect without the invalid provision or
26 application.

27 SEC. 8. No reimbursement is required by this act
28 pursuant to Section 6 of Article XIII B of the California
29 Constitution because the only costs that may be incurred
30 by a local agency or school district will be incurred
31 because this act creates a new crime or infraction, or
32 changes the penalty for a crime or infraction, within the
33 meaning of Section 17556 of the Government Code, or
34 changes the definition of a crime within the meaning of
35 Section 6 of Article XIII B of the California Constitution.

36 Notwithstanding Section 17580 of the Government
37 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

O

