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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~~, *and*, *and* *repeal* Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 71, as amended, R. Wright. Private postsecondary education.

(1) The existing Private Postsecondary and Vocational Education Reform Act of 1989, until 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. *These provisions would be repealed on January 1, 2005.*

(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) 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 an examination for licensure, with a specified exception,~~ to register with the bureau, (b) 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. Under existing law, the Private Postsecondary and Vocational~~

Education Administration Fund and the Student Tuition Recovery Fund are continuously appropriated to the council for purposes of the act.

This bill would continue both of those funds in existence but would provide that only the Student Tuition Recovery Fund is continuously appropriated to the bureau for the purposes of the act.

(7) This bill would specify that its provisions shall become operative only if Senate Bill 819, or any other bill, of the 1997–98 Regular Session extends the operative date of the Private Postsecondary and Vocational Education Reform Act of 1989 until at least December 31 1997, and is enacted and takes effect on or before July 18, 1997.

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

~~(8)~~

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

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

7 (a) The Private Postsecondary and Vocational
8 Education Reform Act of 1989 is California's major statute
9 for regulating and strengthening its more than 2,000
10 privately operated postsecondary educational
11 institutions, as well as out-of-state public and private
12 institutions that have operations in California. The
13 private sector educates approximately 400,000 students:



1 100,000 enrolled in degree-granting institutions, and
2 300,000 enrolled in nondegree-granting institutions.

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

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

19 SEC. 2. Section 146 of the Business and Professions
20 Code is amended to read:

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

25 (1) A complaint or a written notice to appear in court
26 pursuant to Chapter 5c (commencing with Section 853.5)
27 of Title 3 of Part 2 of the Penal Code is filed in court
28 charging the offense as an infraction unless the
29 defendant, at the time he or she is arraigned, after being
30 advised of his or her rights, elects to have the case proceed
31 as a misdemeanor, or

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

36 (b) Subdivision (a) does not apply to a violation of the
37 code sections listed in subdivisions (c) and (d) if the
38 defendant has had his or her license, registration, or
39 certificate previously revoked or suspended.

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

- (1) Sections 2052 and 2054.
- (2) Section 2630.
- (3) Section 2903.
- (4) Sections 3760 and 3761.
- (5) Section 4080.
- (6) Section 4825.
- (7) Section 4935.
- (8) Section 4980.
- (9) Section 4996.
- (10) Section 5536.
- (11) Section 6704.
- (12) Section 6980.10.
- (13) Section 7317.
- (14) Section 7502 or 7592.
- (15) Section 7520.
- (16) Section 7617 or 7641.
- (17) Subdivision (a) of Section 7872.
- (18) Section 8016.
- (19) Section 8505.
- (20) Section 8725.
- (21) Section 9681.
- (22) Section 9840.
- (23) Section 9884.6.
- (24) Subdivision (c) of Section 9891.24.
- (25) Section 19049.

(d) Institutions that are required to register with the Bureau for Private Postsecondary and Vocational Education pursuant to Section 94931 of the Education Code.

(e) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c) or (d), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required

1 to submit proof of a current valid license, registration, or
2 certificate for the profession or vocation which was the
3 basis for his or her conviction.

4 SEC. 3.5. Section 473.1 of the Business and Professions
5 Code is amended to read:

6 473.1. This division shall apply to all of the following:

7 (a) Every board, as defined in Section 22, that is
8 scheduled to become inoperative on July 1, 1997, July 1,
9 1998, or July 1, 1999, and to be repealed on either January
10 1, 1998, January 1, 1999, or January 1, 2000, respectively,
11 by the act which enacted this division.

12 (b) The Bureau for Postsecondary and Vocational
13 Education. For purposes of this division, “board” includes
14 the bureau.

15 SEC. 3.7. Section 473.3 of the Business and Professions
16 Code is amended to read:

17 473.3. (a) Prior to the termination, continuation, or
18 reestablishment of any board or any of the board’s
19 functions, the Joint Legislative Sunset Review
20 Committee shall, during the interim recess preceding the
21 date upon which a board becomes inoperative, hold
22 public hearings to receive testimony from the Director of
23 Consumer Affairs, the board involved, and the public and
24 regulated industry. In that hearing, each board shall have
25 the burden of demonstrating a compelling public need
26 for the continued existence of the board or regulatory
27 program, and that its licensing function is the least
28 restrictive regulation consistent with the public health,
29 safety, and welfare.

30 (b) In addition to subdivision (a), in the year 2001 and
31 every four years thereafter, the committee shall hold a
32 public hearing to receive testimony from the Director of
33 Consumer Affairs, the Bureau for Private Postsecondary
34 and Vocational Education, private postsecondary
35 educational institutions regulated by the bureau, and
36 students of those institutions. In those hearings, the
37 bureau shall have the burden of demonstrating a
38 compelling public need for the continued existence of the
39 bureau and its regulatory program, and that its function

1 is the least restrictive regulation consistent with the
2 public health, safety, and welfare.

3 SEC. 3.9. Chapter 7 (commencing with Section
4 94700) of Part 59 of the Education Code is repealed.

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

7

8 CHAPTER 7. PRIVATE POSTSECONDARY AND VOCATIONAL
9 INSTITUTIONS

10

11 Article 1. General Provisions

12

13 94700. This chapter shall be known, and may be cited,
14 as the “Private Postsecondary and Vocational Education
15 Reform Act of 1989.”

16 94705. It is the intent of the Legislature to promote
17 the effective integration of private postsecondary
18 education into all aspects of California’s educational
19 system and to foster and improve the educational
20 programs and services of these institutions while
21 protecting the citizens of the state from fraudulent or
22 substandard operations.

23 It is further the intent of the Legislature to recognize
24 the enormous diversity of California’s private
25 postsecondary educational enterprise, with its
26 approximately 2,300 privately supported institutions of
27 academic and vocational education.

28 It is further the intent of the Legislature to provide for
29 the protection, education, and welfare of citizens of
30 California, its postsecondary educational institutions, and
31 its students by providing for all of the following:

32 (a) Ensuring minimum standards of instructional
33 quality and institutional stability for all students in all
34 types of institutions, and thereby encouraging the
35 recognition by public and private institutions of
36 completed coursework and degrees and diplomas issued
37 by private institutions, to the end that students will be
38 provided equal opportunities for equal accomplishment
39 and ability.



1 (b) Establishing minimum standards concerning the
2 quality of education, ethical and business practices,
3 health and safety, and fiscal responsibility to provide
4 protection against substandard, transient, unethical,
5 deceptive, or fraudulent institutions and practices.

6 (c) Prohibiting the granting of false or misleading
7 educational credentials.

8 (d) Prohibiting misleading literature, advertising,
9 solicitation, or representations by private educational
10 institutions or their agents.

11 (e) Recognizing the importance of providing
12 adequate funding through application and renewal fees
13 and federal funding for the veteran's approval process to
14 support the state's activities in implementing this
15 chapter.

16 (f) Protecting the consumer and students against
17 fraud, misrepresentation, or other practices that may lead
18 to an improper loss of funds paid for educational costs,
19 whether financed through personal resources or state and
20 federal student financial aid.

21 (g) Establishing a path for the development of
22 institutions offering fields of study or methods of
23 instruction and innovative educational delivery systems
24 not previously recognized in order to encourage them to
25 become fully approved institutions.

26 (h) Recognizing and encouraging quality
27 nongovernmental accreditation, while not ceding to that
28 or any other nongovernmental process the responsibility
29 for state oversight for purposes of approval, if the
30 accreditation process fails either to protect minimum
31 standards of quality or to acknowledge legitimate
32 innovative methods in postsecondary education.

33 (i) Establishing an administrative agency staffed by
34 individuals who are knowledgeable about private
35 academic and vocational education, and charged with the
36 responsibility of developing policies and procedures for
37 the oversight and approval of private postsecondary and
38 vocational education, including the responsibility for
39 managing a broadly construed policy and planning
40 process that seeks to improve state accountability for

1 private postsecondary and vocational education as well as
2 to improve the articulation of private postsecondary and
3 vocational education with the public and independent
4 postsecondary educational community. This new body
5 should provide the leadership and planning needed to
6 maintain and develop a strong private sector of this
7 community.

8
9 Article 2. Definitions

10
11 94710. The definitions set forth in this article govern
12 the construction of this chapter, unless the context
13 requires otherwise.

14 94711. “Academic Year” for a degree-granting
15 institution means a period including a minimum of 30
16 weeks of instruction.

17 94712. “Accredited” means that an institution has
18 been recognized or approved as meeting the standards
19 established by an accrediting agency recognized by the
20 United States Department of Education, or the
21 Committee of Bar Examiners for the State of California.
22 It does not include those institutions that have applied for
23 accreditation, or are identified by accrediting associations
24 as candidates for accreditation or have provisional
25 accreditation.

26 94713. “Agency” means any person or business entity,
27 regardless of the form of organization, that employs, or in
28 any manner contracts with, one or more agents.
29 “Agency” does not include an institution.

30 94714. “Agency approval” means a written document
31 issued by the council authorizing a business entity or an
32 institution to engage in the recruitment of students for
33 enrollment in private postsecondary and vocational
34 institutions approved under this chapter.

35 94715. “Agent” means any person who, at a place
36 away from the institution’s premises or site of instruction,
37 but within the United States, for consideration, solicits,
38 promotes, advertises, offers, or attempts to secure
39 enrollment for an institution, refers any person to that
40 institution, either for enrollment or to receive a

1 solicitation for enrollment, or accepts application fees or
2 admissions fees for education in that institution.
3 Administrators and faculty who make informational
4 public appearances, but whose primary task does not
5 include service as a paid recruiter, are not agents.
6 *Publishers of directories that contain general information*
7 *on institutions and their offerings and who do not*
8 *otherwise engage in any of the activities described in this*
9 *section are not agents.*

10 94716. “Agent’s permit” means a nontransferable
11 written document issued to an agent pursuant to this
12 chapter by the council.

13 94717. “Applicant” means a new institution that has
14 submitted an application but has not been evaluated by
15 the council. An applicant institution shall not enroll
16 students or offer educational services.

17 94718. “Approval” or “approval to operate” means
18 that the council has determined and certified that an
19 institution meets minimum standards established by the
20 council for integrity, financial stability, and educational
21 quality, including the offering of bona fide instruction by
22 qualified faculty and the appropriate assessment of
23 students’ achievement prior to, during, and at the end of
24 its program.

25 94719. “Branch” means a site other than the main
26 location or a satellite. Only educational services approved
27 at the main location may be offered at the branch.

28 94719.5. “Bureau” means the Bureau for Private
29 Postsecondary and Vocational Education in the
30 Department of Consumer Affairs established pursuant to
31 Section 94770.

32 94720. “Certificate of authorization for service”
33 means a written, nontransferable document issued by the
34 council authorizing an individual to be an instructor or
35 administrator in any private vocational postsecondary
36 educational institution in California that is approved
37 under Section 94915.

38 94721. “Change of location” means a move of up to 25
39 miles of the location at which an institution offers any
40 education, training, or instruction. A change of location

1 of 25 or more miles is deemed the establishment of a new
2 location of instruction requiring a separate approval to
3 operate, unless otherwise provided by the council.

4 94722. (a) Except as provided in subdivision (b),
5 “continuing education” means instruction ~~approved or~~
6 ~~certified by a government agency, other than the bureau,~~
7 ~~that licenses persons in a particular profession, trade, or~~
8 ~~job category, or institution approved or certified by a~~
9 ~~professional licensing body, such as the State Bar of~~
10 ~~California, that licenses persons in a particular profession,~~
11 ~~trade, or job category, and that is offered in any of the~~
12 following circumstances:

13 (1) Only in subjects licensees are required to take as a
14 condition of continued licensure and solely for that
15 purpose.

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

19 (3) *To persons who are already in a particular*
20 *profession, trade, or job category for the sole purpose of*
21 *enhancing their skills or knowledge within that particular*
22 *profession, trade, or job category.*

23 (b) “Continuing education” does not include any of
24 the following:

25 (1) Vocational diploma programs.

26 (2) Degree programs.

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

30 94723. “Correspondence school” or “home study
31 school” means any institution that provides
32 correspondence lessons for study and completion by a
33 student at a location separate from the institution,
34 including those institutions which offer that instruction
35 by correspondence in combination with in-residence
36 instruction.

37 94724. “Council” means the Bureau for Private
38 Postsecondary and Vocational Education in the
39 Department of Consumer Affairs established pursuant to
40 Section 94770.

1 94725. “Course of study” means either a single course
2 or a set of related courses for which a student enrolls.

3 94726. “Degree” means any type of degree or
4 honorary degree or title of any designation, mark,
5 appellation, series of letters or words such as, but not
6 limited to, associate, bachelor, master, doctor, or fellow
7 which signifies, purports, or is generally taken to signify
8 satisfactory completion of the requirements of an
9 academic, educational, technological, or professional
10 program of study beyond the secondary school level or is
11 an honorary title conferred for recognition of some
12 meritorious achievement.

13 94727. “Degree title” means the designated subject
14 area of study that also appears on the face of the
15 document awarded to a student signifying the conferring
16 of a “degree.”

17 94728. “Diploma” means any diploma, certificate,
18 document, or other writing in any language other than a
19 degree which signifies, purports, or is generally taken to
20 signify satisfactory completion of the requirements of an
21 academic, educational, technological, or professional
22 program of study beyond the secondary school level.

23 94728.5. “Director” means the Director of Consumer
24 Affairs.

25 94729. “Education,” “educational services,” or
26 “educational program” includes, but is not limited to, any
27 class, course, or program of training, instruction, or study.

28 94730. “Institution” means any private postsecondary
29 educational institution. An “institution” includes its
30 branch and satellite campuses, unless otherwise provided
31 by the council.

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

36 94732. “Instruction” includes any specific, formal
37 arrangement by an institution or its enrollees to
38 participate in learning experiences in which the
39 institution’s faculty or contracted instructors present a

1 planned curriculum appropriate to the enrollee's
2 educational program.

3 94733. "Intensive English language program" means
4 an educational service approved by the United States
5 Immigration and Naturalization Service solely to provide
6 English instruction to international students for a
7 designated period of study in the United States and *that*
8 offers instruction that is nondegree granting,
9 nonvocational, and ~~does not lead to job placement~~ *is not*
10 *represented to lead to, or offered for the purpose of*
11 *preparing a student for employment in, any occupation*
12 *or job title.* Additionally, the educational service shall
13 meet all of the following criteria:

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

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

28 94734. "License and exam preparation" means that
29 the educational program is either of the following:

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

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

35 94735. "Main location" or "main site" means the
36 institution's primary teaching location. If an institution
37 operates at only one site, that site shall be considered its
38 main location or main site.

39 94736. "Occupational Associate Degree," "Associate
40 of Occupational Studies," or "Associate of Applied

Science” designated by terms including, but not limited to, AOS (Associate Occupational Studies), AAS (Associate Applied Science), AST (Associate Specialist Technical), or ASB (Associate Specialist Business) means an associate degree that may be awarded to students who complete an occupational program that provides preparation for employment in an occupational field.

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

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

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

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

(2) More than 50 percent of the revenue derived from providing instruction, training, or education during any 12-month period is obtained from, or on behalf of, students who have completed or terminated their

1 secondary education or are beyond the age of compulsory
2 high school attendance.

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

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

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

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

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

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

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

29 ~~(5) Institutions exclusively offering continuing~~
30 ~~education.~~

31 *(5) Institutions offering continuing education where*
32 *the institution or the program is approved, certified, or*
33 *sponsored by any of the following:*

34 *(A) A government agency, other than the bureau, that*
35 *licenses persons in a particular profession, trade, or job*
36 *category.*

37 *(B) A state-recognized professional licensing body,*
38 *such as the State Bar of California, that licenses persons*
39 *in a particular profession, trade, or job category.*

1 (C) A *bona fide* trade, business, or professional
2 organization.

3 (6) A nonprofit institution owned, controlled, and
4 operated and maintained by a bona fide church, religious
5 denomination, or religious organization comprised of
6 multidenominational members of the same
7 well-recognized religion, lawfully operating as a
8 nonprofit religious corporation pursuant to Part 4
9 (commencing with Section 9110) of Division 2 of Title 1
10 of the Corporations Code, if the education is limited to
11 instruction in the principles of that church, religious
12 denomination, or religious organization, or to courses
13 offered pursuant to Section 2789 of the Business and
14 Professions Code, and the diploma or degree is limited to
15 evidence of completion of that education, and the
16 meritorious recognition upon which any honorary degree
17 is conferred is limited to the principles of that church,
18 religious denomination, or religious organization.
19 Institutions operating under this paragraph shall offer
20 degrees and diplomas only in the beliefs and practices of
21 the church, religious denomination, or religious
22 organization. The enactment of this paragraph expresses
23 the legislative intent that the state shall not involve itself
24 in the content of degree programs awarded by any
25 institution operating under this paragraph, as long as the
26 institution awards degrees and diplomas only in the
27 beliefs and practices of the church, religious
28 denomination, or religious organization. Institutions
29 operating under this paragraph shall not award degrees
30 in any area of physical science. Any degree or diploma
31 granted in any area of study under these provisions shall
32 contain on its face, in the written description of the title
33 of the degree being conferred, a reference to the
34 theological or religious aspect of the degree's subject
35 area. Degrees awarded under this paragraph shall reflect
36 the nature of the degree title, such as "Associate of
37 Religious Studies," or "Bachelor of Religious Studies," or
38 "Master of Divinity" or "Doctor of Divinity." The use of
39 the degree titles "Associate of Arts" or "Associate of
40 Science," "Bachelor of Arts" or "Bachelor of Science,"

1 “Master of Arts” or “Master of Science,” or “Doctor of
2 Philosophy” or “Ph.D.” shall only be awarded by
3 institutions approved to operate under Article 8
4 (commencing with Section 94900) or meeting the
5 requirements for an exemption under Section 94750. The
6 enactment of this paragraph is intended to prevent any
7 entity claiming to be a nonprofit institution owned,
8 controlled, and operated and maintained by a bona fide
9 church, religious denomination, or religious organization
10 comprised of multid denominational members of the same
11 well-recognized religion, lawfully operating as a
12 nonprofit religious corporation pursuant to Part 4
13 (commencing with Section 9110) of Division 2 of Title 1
14 of the Corporations Code, from marketing and granting
15 degrees or diplomas that are represented as being linked
16 to their church, religious denomination, or religious
17 organization, but which, in reality, are degrees in secular
18 areas of study. An institution operating under this
19 paragraph shall file annually with the council evidence to
20 demonstrate its status as a nonprofit religious corporation
21 under the Corporations Code. A college or university
22 operating under this paragraph shall file annually with
23 the council evidence to demonstrate its status as a
24 nonprofit religious corporation under the Corporation
25 Code.

26 (7) (A) Public institutions accredited by the senior
27 commission or the junior commission of the Western
28 Association of Schools and Colleges.

29 (B) Institutions accredited by the senior commission
30 or the junior commission of the Western Association of
31 Schools and Colleges that are incorporated and lawfully
32 operating as a nonprofit public benefit corporation
33 pursuant to Part 2 (commencing with Section 5110) of
34 Division 2 of Title 1 of the Corporations Code and that are
35 not managed by any entity for profit.

36 (C) For-profit institutions accredited by the senior or
37 the junior commission of the Western Association of
38 Schools and Colleges, if the institution exclusively confers
39 degrees upon the completion of a course of study of two
40 or more years.



1 (D) Institutions accredited by the Western
2 Association of Schools and Colleges that do not meet all
3 of the criteria in subparagraph (B) and that are
4 incorporated and lawfully operating as a nonprofit public
5 benefit corporation pursuant to Part 2 (commencing
6 with Section 5110) of Division 2 of Title 1 of the
7 Corporations Code, that have been in continuous
8 operation since April 15, 1997, and that are not managed
9 by any entity for profit. Notwithstanding this subdivision,
10 institutions that meet the criteria in this subparagraph
11 shall be subject to Section 94831, except subdivision (c)
12 of that section, and Sections 94832, 94834, 94838, and
13 94985.

14 94740. “Program” or “program of instruction” means
15 a program of training, set of related courses, or education
16 for which a student enrolls.

17 94740.1. “Registered,” “registered institution,” or
18 “registered educational service” means any individual or
19 organization that offers an educational service and is
20 registered to operate under Article 9.5 (commencing
21 with Section 94931).

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

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

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

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

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

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

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

1 94742.1. (a) “Short-term career training” means an
2 educational service consisting of all of the following:

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

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

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

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

11 (1) Instruction leading to a degree.

12 (2) Instruction financed by a federal *or state* loan or
13 grant.

14 (3) Any educational service, other than provided for in
15 subdivision (a), consisting of more than 250 hours of
16 instruction or costing two thousand dollars (\$2,000) or
17 more in total charges that is divided or structured into
18 one or more segments that consists of 250 or fewer hours
19 of instruction, the total charge for which is less than two
20 thousand dollars (\$2,000).

21 (4) *Any educational service represented to lead to, or*
22 *offered for the purpose of preparing a student for,*
23 *employment as a certified nursing assistant, a private*
24 *security guard, or a private patrol operator.*

25 (c) Short-term career training may include an
26 educational service licensed by another state agency so
27 long as that educational service complies with
28 ~~subdivisions (a) and (b).~~ *subdivision (a) and Article 9.5*
29 *(commencing with Section 94931).*

30 94742.2. (a) “Short-term seminar training” means an
31 educational service offered at a main location, branch, or
32 satellite, or ~~any other location, consisting of any of the~~
33 ~~following:~~

34 ~~(1) One hundred~~ 100 hours or less of instruction, the
35 total charge for which is less *than* one thousand dollars
36 (\$1,000).

37 ~~(2) ———~~

38 (b) “Short-term seminar training” does not include
39 any of the following:

40 (1) Instruction leading to a degree.

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

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

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

~~(5) Any educational service, other than instruction described in paragraph (2) of subdivision (a), consisting or job title.~~

(5) Any educational service consisting or more than 100 hours of instruction or costing one thousand dollars (\$1,000) or more in total charges that is divided or structured into one or more segments that consist of 100 or fewer hours of instruction, the total charge for which is less than one thousand dollars (\$1,000). ~~It is the intent of the Legislature that no hourly or cost limit be placed on continuing education programs. (\$1,000).~~

(c) Short-term seminar training may include an educational service licensed by another state agency so long as that educational service complies with ~~subdivisions (a) and (b).~~ *subdivision (a) and Article 9.5 (commencing with Section 94931).*

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

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

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

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

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

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

8 (c) Students who complete all or a portion of the
9 program are awarded a diploma, certificate, or
10 occupational associate degree.

11
12 Article 3. Exemptions
13

14 94750. Article 4 (commencing with Section 94770),
15 Article 8 (commencing with Section 94900), the last
16 sentence of paragraph (6) of subdivision (b) of Section
17 94739, subdivision (c) of Section 94831, and Sections
18 94802, 94830, 94835, 94836, 94840, 94846, 94932, 94934,
19 94942, 94944, 94945, 94946, 94947, 94965, and 94970 shall
20 not apply to an institution that is a nationally accredited
21 agency recognized by the United States Department of
22 Education if the bureau has determined, subsequent to
23 an onsite qualitative review and assessment of the
24 institution conducted at least once every three years, as
25 described in Section 94901, that the institution is in
26 compliance with all of the following:

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

29 (b) The faculty of the institution meets the
30 requirements set forth in paragraph (2) of subdivision (a)
31 of Section 94900.

32 (c) The institution's cohort default rate on guaranteed
33 ~~student loans as an average for the total number of years~~
34 ~~that the institution has been in operation, as published by~~
35 ~~the Student Aid Commission until 1986 and the United~~
36 ~~States Department of Education after 1986, does not~~
37 ~~exceed 12 percent. The institution shall submit proof to~~
38 ~~the bureau every year that its accumulated average~~
39 ~~cohort default rate described herein does not exceed 12~~
40 ~~percent. The institution shall also submit proof every year~~

1 ~~that its accumulated average cohort default rate does not~~
2 *student loans does not* exceed 15 percent for the three
3 most recent years as published by the United States
4 Department of Education.

5 (d) The institution has operated in this state for at least
6 15 years.

7 (e) The institution submits to the bureau copies of the
8 most recent IRS Form 990 and the Integrated
9 Postsecondary Education Data System Report of the
10 United States Department of Education and the
11 accumulated default rate.

12 (f) The institution pays fees in accordance with
13 Section 94932.

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

16 ~~(h)~~
17 *Institutions that satisfy the requirements of this*
18 *subdivision may also (1) teach state-mandated*
19 *continuing education programs if the institution offers a*
20 *degree for which the continuing education program is*
21 *required, and (2) teach prerequisite courses for*
22 *admission to a degree program offered at the institution.*

23 (h) *The institution has offered a masters, doctorate, or*
24 *first professional degree program for at least five years.*

25 (i) The institution is incorporated and lawfully
26 operates as a nonprofit public benefit corporation
27 pursuant to Part 2 (commencing with Section 5110) of
28 Division 2 of Title 1 of the Corporations Code and is not
29 managed or administered by an entity for profit.

30
31 Article 3.5. Transition Provisions
32

33 94760. Each regulation in Division 7.5 (commencing
34 with Section 70000) of Title 5 of the California Code of
35 Regulations in effect on ~~December 31~~ *June 29, 1997*, shall
36 be in full force and effect on and after January 1, 1998, to
37 the extent the regulation is consistent with the relevant
38 provisions in this chapter. *The council may, by*
39 *emergency regulation, designate which regulations are*
40 *consistent with this chapter and which are not.*

Article 4. Administration

94770. There is a Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The bureau shall succeed to ~~all rights~~ *any and all rights and claims* of the former Council for Private Postsecondary and Vocational Education ~~that may have been asserted~~ in any judicial or administrative action pending on January 1, 1998, and shall take any ~~steps necessary to assert those rights~~ *action reasonably necessary to assert and realize those rights and claims* in its own name. The functions of the former council and the responsibilities the former council had for the administration of former Chapter 7 (commencing with Section 94700) on ~~or before December 31~~ *June 29, 1997*, are transferred to the bureau, *effective January 1, 1998*, as provided by this act. It is the intent of the Legislature that there be no gap in the performance of functions or the administration of the law governing private postsecondary educational institutions. *Notwithstanding any other provision of law, Section 19050.9 of the Government Code shall apply regardless of the date on which former Chapter 7 (commencing with Section 94700) became inoperative or was repealed.*

The bureau shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the former council in the performance of the duties, powers, purposes, responsibilities, and jurisdictions that are vested in the bureau.

The bureau has the responsibility for approving and regulating private postsecondary educational institutions ~~and for developing state policies for private postsecondary and vocational education in California.~~ ~~The bureau shall represent the private postsecondary educational institutions in all state-level planning and policy discussions about postsecondary and vocational education, and shall have as its objective the.~~ *The bureau shall have, as its objective, the development of a strong,*

1 vigorous, and widely respected sector of private
2 postsecondary and vocational education.

3 ~~94771. (a) The bureau may appoint any~~
4 ~~subcommittees or advisory committees it deems~~
5 ~~necessary to advise the bureau on matters of educational~~
6 ~~policy.~~

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

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

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

26 ~~(1) The approval of degree-granting institutions.~~

27 ~~(2) The approval of nondegree-granting institutions.~~

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

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

40 ~~(5) Legislative and public affairs.~~

~~(6) Staff administrative services.~~

94771. (a) The duty of administering and enforcing this chapter is vested in the Director of Consumer Affairs, who may assign and delegate those duties to a program administrator, subject to the other provisions of this section.

(b) Every power granted to, or duty imposed upon, the bureau under this chapter may be exercised or performed in the name of the bureau, subject to any conditions and limitations the director may prescribe. The program administrator may redelegate any of those powers or duties to his or her designee. The program administrator shall be appointed by the Governor and confirmed by the Senate, and is exempt from the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(c) The director, in accordance with the State Civil Service Act, may appoint and fix the compensation of such clerical, inspection, investigation, evaluation, and auditing personnel, as may be necessary to carry out this chapter.

(d) The proceedings under this chapter shall be conducted by the bureau in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. To the extent of any conflict between any of the provisions of this chapter and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that Chapter 5 shall prevail.

(e) The director shall appoint an advisory ~~board~~ committee which shall consist of ~~an equal number of~~ representatives of institutions, student advocates, and employers who hire students, among other parties. The advisory committee shall be balanced to ensure that institutions and student advocates have approximate equal representation. Institutional representatives on the ~~board~~ committee shall be in general proportion to the types of institutions approved or registered pursuant to this chapter and to the number of students served by each type of institution. ~~The advisory board shall ____.~~

1 *The advisory committee shall advise the bureau*
2 *concerning the bureau's administration, licensing, and*
3 *enforcement functions under this chapter.*

4 94772. It is the intent of the Legislature that the
5 bureau's approval and regulating responsibilities be
6 funded solely through approval fees and federal funding
7 provided to implement the approval process for courses
8 offered to veterans by approved institutions.

9 ~~94773. The director may delegate to the chief any~~
10 ~~power, duty, purpose, function, or jurisdiction that the~~
11 ~~bureau may lawfully delegate, including the authority to~~
12 ~~enter into and sign contracts on behalf of the bureau. The~~
13 ~~chief may redelegate any of those powers, duties,~~
14 ~~purposes, functions, or jurisdictions to his or her designee,~~
15 ~~unless by statute, or regulation, the chief is expressly~~
16 ~~required to act personally.~~

17 94774. The bureau shall have the following functions
18 and responsibilities in its capacity as the statewide private
19 postsecondary and vocational educational planning and
20 licensing agency:

21 (a) The establishment of policies for the
22 administration of this chapter.

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

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

34 (d) The adoption of regulations for the transaction of
35 its own affairs, and procedures necessary or appropriate
36 for the conduct of its work and the implementation of this
37 ~~chapter consistent with its adopted regulations, including~~
38 ~~the adoption of regulations to ensure that institutions will~~
39 ~~receive adequate notice and a full opportunity to be~~

1 ~~heard concerning actions to deny, suspend, or revoke~~
2 ~~approval, or to place an institution on probation.~~

3 ~~(e) The representation of California's segment of~~
4 ~~private postsecondary and vocational education in all~~
5 ~~state-level discussions and planning for postsecondary~~
6 ~~and vocational education, including, but not limited to,~~
7 ~~representation on the California Postsecondary~~
8 ~~Education Commission, and the commission's advisory~~
9 ~~committee, and voluntary postsecondary or vocational~~
10 ~~organizations.~~

11 ~~(f) The publication biennially for public distribution of~~
12 ~~a directory of all private postsecondary and vocational~~
13 ~~educational institutions approved to operate in California~~
14 ~~under this chapter.~~

15 ~~(g) The preparation annually of a proposed budget for~~
16 ~~the support of activities under this chapter and to secure~~
17 ~~appropriate funding necessary for the effective~~
18 ~~implementation of this chapter.~~

19 ~~(h) Conducting research and planning for private~~
20 ~~postsecondary and vocational education, including the~~
21 ~~compilation of important institutional, faculty, and~~
22 ~~student data.~~

23 ~~(i) chapter.~~

24 *(e) The publication of an Internet directory of all*
25 *private postsecondary and vocational educational*
26 *institutions approved to operate in California under this*
27 *chapter.*

28 *(f) The impaneling of special committees of*
29 *technically qualified persons to assist the bureau in the*
30 *development of standards for education and educational*
31 *institutions and the evaluation of an application or*
32 *institutions pursuant to this chapter. The members of the*
33 *special committees shall receive no compensation but*
34 *shall be reimbursed for their actual expenses for*
35 *attendance at official meetings and actual expenses when*
36 *on official bureau business. The members of the special*
37 *committees shall serve at no expense to the state. The*
38 *actual travel and per diem expenses incurred by each*
39 *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~~ *fine* as authorized by, and in
29 accordance with, ~~Section 125.9~~, *Section 94957 of this code*
30 *or Section 146, 147, or 148 of the Business and Professions*
31 *Code.*

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

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

37 (6) With the consent of the institution, refer an
38 adjudicative proceeding to mediation, or binding or
39 nonbinding arbitration, in accordance with the

1 regulations of the Office of Administrative Hearings, the
2 department, or the bureau.

3 (7) Order reimbursement of the costs of the
4 investigation and enforcement in accordance with
5 *Section 94935 of this code or Section 125.3 of the Business*
6 *and Professions Code. An institution shall not be required*
7 *to pay the same costs and expenses to more than one*
8 *investigating entity.*

9 (8) Notify the telephone company to disconnect the
10 institution's telephone as authorized by Section 149 of the
11 Business and Professions Code.

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

24 (b) Any defense by, or indemnification from, the
25 bureau, as specified in subdivision (a) shall be solely with
26 respect to that claim or action pursuant to Article 4
27 (commencing with Section 825) of Chapter 1 of Part 2 of,
28 and Part 7 (commencing with Section 995) of, Division
29 3.6 of Title 1 of the Government Code.

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

38 (a) The annuity contract is under an annuity plan that
39 meets the requirements of subdivision (b) of Section 403
40 of the Internal Revenue Code.

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

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

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

15 94778. (a) The bureau may adopt and enforce
16 regulations that are necessary, appropriate, or useful to
17 interpret and implement this chapter pursuant to
18 Chapter 3.5 (commencing with Section 11340) of Part 1
19 of Division 3 of Title 2 of the Government Code. Pending
20 the adoption of those regulations, the bureau may adopt
21 emergency regulations that shall become effective
22 ~~immediately, and that shall be superseded upon the~~
23 ~~adoption of superseding regulations. The adoption of the~~
24 ~~immediately. The adoption of the~~ emergency regulations
25 shall be subject to Chapter 3.5 (commencing with Section
26 11340) of Part 1 of Division 3 of Title 2 of the Government
27 Code, and the emergency regulations shall only be
28 effective ~~for 180 days until June 30, 1999, or on the~~
29 ~~effective date of the regulations adopted by the bureau~~
30 ~~to implement this chapter, whichever occurs first, at~~
31 ~~which time the emergency regulations shall be deemed~~
32 ~~to be repealed.~~

33 (b) The bureau shall adopt regulations establishing a
34 voluntary arbitration process similar to that set forth in
35 Article 6.2 (commencing with Section 7085) of Chapter
36 9 of Division 3 of the Business and Professions Code for
37 the resolution of disputes between an institution
38 approved to operate under this chapter and a
39 complainant or complainants.

1 94779. *The bureau shall make available to members of*
2 *the public, upon request, the nature and disposition of all*
3 *complaints on file with the bureau against an institution.*

4
5 Article 5. Classification of Educational Programs
6 Offered by Postsecondary Institutions
7

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

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

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

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

22 (d) Article 9.5 (commencing with Section 94931), if
23 ~~the institution exclusively offers educational services to~~
24 ~~assist students to prepare for an examination for~~
25 ~~licensure; the institution is registered pursuant to that~~
26 ~~article.~~

27 (e) Article 7 (commencing with Section 94850), if the
28 educational programs are not exempt under Section
29 94790.

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

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

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

39 (b) If the conditions specified in subdivision (a) are
40 not satisfied for the entire calendar year, Article 7

1 (commencing with Section 94850) shall apply to all
2 students enrolled during that calendar year except to the
3 extent that the institution or its educational services are
4 otherwise exempt.

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

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

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

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

32 (a) (1) Except as provided in paragraph (2),
33 educational services that confer degrees upon the
34 completion of a course of study of two or more academic
35 years that are scheduled to be completed in not less than
36 17 months or that confer degrees, such as master’s or
37 doctorate degrees, on students who have completed a
38 graduate course of study of one or more years at a college
39 or university.

1 (2) For educational services that consist of an AOS
2 (Occupational Associate degrees or Associate of
3 ~~Occupational Studies degrees~~) or AAS (Associate of
4 ~~Applied Science degrees~~) during the first academic year
5 of the program, Article 7 (commencing with Section
6 94850) shall apply, except that Section 94854 shall only
7 apply during that time period to any certificate or
8 diploma program offered to students who do not
9 complete the degree program. The bureau shall adopt
10 regulations to specify the necessary classroom instruction
11 for each unit or semester or quarter hour credit
12 (combination of lecture, laboratory, practicum, or
13 outside preparation), based on Carnegie Commission
14 standards.

15 (3) ~~Occupational Studies degrees~~, AAS (Associate of
16 ~~Applied Science degrees~~), or any other occupational
17 associate degree, if the institution confers diplomas or
18 certificates to students who do not complete the degree
19 program, Article 7 (commencing with Section 94850)
20 shall apply to any student enrolled in any course that can
21 be accepted to meet the requirements of the diploma or
22 certificate program. Notwithstanding this paragraph,
23 Article 7 (commencing with Section 94850) shall not
24 apply to any student who continues to be enrolled in the
25 institution one academic year after the student has
26 completed all of the courses in the diploma program or
27 certificate program, whichever is later. Students enrolled
28 in the degree program who are awarded a certificate or
29 diploma after completing the certificate or diploma
30 program, but prior to completing the degree program,
31 may be counted by the institution towards the
32 requirements in paragraph (1) of subdivision (a) of
33 Section 94854 and paragraph (1) of subdivision (b) of
34 Section 94854 for the diploma or certificate program.

35 (3) The requisite number of semester or quarter units
36 for AOS, AAS, or any other occupational associate degree
37 shall be 60 semester units or 90 quarter units. The bureau
38 shall adopt regulations to specify the necessary classroom
39 instruction and out-of-class learning experience for each
40 unit or semester or quarter hour credit (combination of

1 *lecture, laboratory, practicum, or outside preparation),*
2 *based on Carnegie Commission standards.*

3 (4) This subdivision does not apply to any educational
4 service for which a student enrolled before January 1,
5 1998.

6 (b) The educational service, as defined in subdivision
7 (b) of Section 94734, is offered as continuing education in
8 subjects that licensees are required to take as a condition
9 of continued licensure.

10 (c) The educational service is offered exclusively to
11 assist students to prepare for an examination for entrance
12 into an undergraduate or graduate course of study at an
13 accredited or approved college or university.

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

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

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

34 (g) The educational service is more than 30 months in
35 length, and the total charge for the educational service is
36 payable by the student in equal monthly installments
37 over the entire length of the course, and the institution
38 does not receive, and the student is not obligated to pay,
39 an advance payment for more than one month.

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

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

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

~~(k)~~

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

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

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

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

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

(b) That upon satisfactory completion of training, the student is given an appropriate degree, diploma, or certificate by the institution, indicating that the course or courses of instruction or the program or programs of

1 instruction or study have been satisfactorily completed
2 by the student.

3 (c) That the institution provides instruction as part of
4 its educational program. Instruction shall include any
5 specific, formal arrangement by an institution for its
6 enrollees to participate in learning experiences wherein
7 the institution's faculty or contracted instructors present
8 a planned curriculum appropriate to the enrollee's
9 educational program.

10 94802. (a) Each institution desiring to operate in this
11 state shall make application to the council, upon forms to
12 be provided by the council. The application shall include,
13 as a minimum, at least all of the following:

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

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

20 (3) Copies of media advertising and promotional
21 literature.

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

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

28 (6) The information specified in Section 94808.

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

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

36 (c) Following review of the application and any other
37 further information submitted by the applicant, or
38 required in conformity with Article 8 (commencing with
39 Section 94900) and Article 9 (commencing with Section
40 94915), and any investigation of the applicant as the

1 council deems necessary or appropriate, the council
2 either shall grant or deny approval to operate to the
3 applicant.

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

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

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

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

20 (4) Comply with any applicable provisions of Section
21 94855.

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

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

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

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

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

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

19 (A) Consent to be sued in California.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The degree levels offered.

(4) Program completion rates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (4) The faculty and their qualifications.

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

36 (6) The cancellation and refund policies.

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

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

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

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

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

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

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

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

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

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

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

14 (b) In addition to the fact sheet required by
15 subdivision (a), each institution offering a degree
16 program designed to prepare students for a particular
17 vocation, trade, or career field and each institution
18 subject to Article 7 (commencing with Section 94850)
19 shall provide to each prospective student a statement in
20 at least 12-point type that contains the following
21 statement:

22

23 "NOTICE CONCERNING TRANSFERABILITY OF
24 UNITS AND DEGREES EARNED AT OUR SCHOOL
25

26

27 Units you earn in our ____ (fill in name of
28 program) program in most cases will probably not be
29 transferable to any other college or university. For
30 example, if you entered our school as a freshman, you will
31 still be a freshman if you enter another college or
32 university at some time in the future even though you
33 earned units here at our school. In addition, if you earn a
34 degree, diploma, or certificate in our ____ (fill in
35 name of program) program, in most cases it will probably
36 not serve as a basis for obtaining a higher level degree at
37 another college or university."

38 The disclosures required by this section shall be signed
39 by the institution and the student and be dated. If the
solicitation or negotiation leading to the agreement for a



1 course of instruction was in a language other than
2 English, the disclosures shall be in that other language.

3 (c) The council shall take into consideration the
4 character of the educational program in determining
5 whether specific programs may be excluded from
6 application of this section.

7 (d) Except as provided in subdivision (b), this section
8 does not apply to educational programs subject to Article
9 7 (commencing with Section 94850).

10 94818. (a) Every institution shall designate and
11 maintain an agent for service of process within this state
12 and provide the name, address, and telephone number of
13 the agent to the council. The council shall furnish the
14 agent's name, address, and telephone number to any
15 person upon request.

16 (b) If an institution is not operating in California when
17 it applies for approval to operate, the institution shall set
18 forth the name, address, and telephone number of its
19 agent for service of process in the institution's
20 application.

21 (c) If an institution fails to designate or maintain an
22 agent for service of process pursuant to subdivision (a)
23 and if service on the institution cannot reasonably be
24 effected in the manner provided in Section 415.10, 415.20,
25 415.30, or 415.40 of the Code of Civil Procedure, the
26 institution may be served by leaving a copy of the process
27 or any other document in an office of the council and by
28 sending, by first-class mail, a notice of the service upon
29 the council and a copy of the process or other document
30 to the institution at its last address on file with the council.
31 Service in this manner shall be deemed complete on the
32 10th day after that mailing to the institution. Proof of
33 service may be made by a declaration showing
34 compliance with this subdivision.

35 94819. Within 30 days of any action by any accrediting
36 agency that establishes, reaffirms, or publicly sanctions
37 the accreditation of any private postsecondary
38 educational institution operating in the state, including
39 those institutions that satisfy the ~~definition of "private~~
40 ~~postsecondary educational institution," the accrediting~~

1 *requirements of paragraph (7) of subdivision (b) of*
2 *Section 94739, the accrediting agency shall notify the*
3 *bureau of that action and shall provide a copy of any*
4 *public statements regarding the reasons for the*
5 *accrediting agency's action.*

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

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

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

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

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

22 (4) The amount owed by the student for the purposes
23 of calculating a refund is derived by multiplying the total
24 hours attended by the hourly charge for instruction plus
25 the amount of the registration fee specified in paragraph
26 (1).

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

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

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

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

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

38 (4) The amount owed by the student for the purposes
39 of calculating a refund is derived by multiplying the total
40 number of lessons received by the per-lesson charge

1 calculated in paragraph (3) plus the amount of the
2 registration fee specified in paragraph (1).

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

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

10 94821. Institutions offering distance learning, home
11 study, or correspondence instruction may petition the
12 council for an alternative method of calculating tuition
13 refunds if they can demonstrate all of the following:

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

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

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

34 94823. The institution shall provide a written
35 statement containing its refund policy, together with
36 examples of the application of the policy, to each student
37 prior to signing the enrollment contract, and shall make
38 its policy known to currently enrolled students.

39 94824. The institution shall pay or credit refunds due
40 on a reasonable or timely basis, not to exceed 30 days

1 following the date upon which the student's withdrawal
2 has been determined.

3 94825. The institution shall publish a current schedule
4 of all student charges, a statement of the purpose for those
5 charges, and a statement of the cancellation and refund
6 policies with examples of the application of the policies,
7 and shall provide the schedule to all current and
8 prospective students prior to enrollment. The schedule
9 shall clearly indicate and differentiate all mandatory and
10 optional student charges. The institution shall include a
11 clear statement written in English describing the
12 procedures that a student is required to follow to cancel
13 the contract or agreement and obtain a refund. If the
14 institution solicited the student or negotiated the
15 agreement in a language other than English, the notice
16 to the student shall be in that same language. The
17 schedule shall specify the total costs of attendance which
18 shall include, but not be limited to, tuition, fees,
19 equipment costs, housing, transportation, books,
20 necessary supplies, materials, shop and studio fees, and
21 any other fees and expenses that the student will incur
22 upon enrollment.

23 The schedule shall clearly identify all charges and
24 deposits that are nonrefundable.

25 94826. Where the refund calculations set forth in this
26 article cannot be utilized because of the unique way in
27 which an educational program is structured, the council
28 shall determine the details of an alternative refund policy,
29 by regulation, and shall take into consideration the
30 contract for educational services entered into with the
31 student, as well as the length and character of the
32 educational program in determining standards for
33 refunds. The decision of the council shall be final. This
34 section does not apply to the refunds subject to Sections
35 94869 and 94870.

36 94828. In addition to withholding institutional
37 services as described in Section 94948, an institution may
38 withhold a student's transcript or grades if the student is
39 in default on a student tuition contract.



1 If the student has made partial payment of his or her
2 tuition obligation, the institution may only withhold that
3 portion of the grades or transcript that corresponds on a
4 pro rata basis to the amount of tuition or loan obligation
5 the student has not paid. If the course of study consists of
6 only one course, the institution may withhold the grades
7 or the transcript until the tuition or loan obligation is paid
8 in full.

9 94829. (a) Adequate and accurate records shall be
10 maintained by the institution, in accordance with
11 regulations adopted by the council, and satisfactory
12 standards shall be enforced relating to attendance,
13 progress, and performance.

14 (b) The institution shall maintain current records for
15 a period of not less than five years at its principal place of
16 business in California, that are immediately available
17 during normal business hours for inspection and copying
18 by the council or the Attorney General and showing all
19 of the following:

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

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

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

25 (4) The degrees or diplomas and honorary degrees
26 and diplomas granted, the date of granting, together with
27 the curricula upon which the diplomas and degrees were
28 based.

29 94830. The council may refuse to issue or renew any
30 private postsecondary or vocational educational
31 institution's approval to operate, or may revoke any
32 approval to operate for any one, or any combination, of
33 the following causes:

34 (a) A violation of this chapter, or any standard, rule, or
35 regulation established under this chapter, or an order of
36 the council made under this chapter.

37 (b) Furnishing false, misleading, or incomplete
38 information to the council, or the failure to furnish
39 information requested by the council or required by this
40 chapter.

1 (c) A finding that an owner, a person in control, a
2 director, or an officer of an institution is not in compliance
3 with this chapter or was not in compliance with
4 applicable law while serving as an owner, person in
5 control, director, or officer of an institution within the
6 previous five-year period.

7 (d) A finding that a signatory to an application for an
8 approval to operate was responsible for the closure of any
9 institution in which there were unpaid liabilities to ~~the~~
10 any state or federal government, or uncompensated
11 pecuniary losses suffered by students without restitution.

12 (e) A finding that the applicant, owner, or persons in
13 control have been found previously in any judicial or
14 administrative procedure to have violated this chapter or
15 admitted to having violated this chapter.

16 (f) A finding that there was either a denial of a
17 previous application submitted by the same institution to
18 the council or a revocation of the institution's approval
19 and that the conditions or violations that were the cause
20 of the denial or revocation have not been corrected.

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

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

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

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

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

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

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

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

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

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

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

21 94831. No institution, or representative of that
22 institution shall do any of the following:

23 (a) Operate in this state a postsecondary educational
24 institution not exempted from this chapter, unless the
25 institution is currently approved to operate pursuant to
26 this chapter. The council may institute an action,
27 pursuant to Section 94955, to prevent any individual or
28 entity from operating an institution in this state that has
29 not been approved to operate pursuant to this chapter
30 and to obtain any relief authorized by that section.

31 (b) Offer in this state, as or through an agent,
32 enrollment or instruction in, or the granting of
33 educational credentials from, an institution not exempted
34 from this chapter, whether that institution is within or
35 outside this state, unless that agent is a natural person and
36 has a currently valid agent's permit issued pursuant to this
37 chapter, or accept contracts or enrollment applications
38 from an agent who does not have a current permit as
39 required by this chapter. The council, however, may

1 adopt regulations to permit the rendering of legitimate
2 public information services without a permit.

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

16 (d) Use, or allow the use of, any reproduction or
17 facsimile of the Great Seal of the State of California on any
18 diploma.

19 (e) Promise or guarantee employment.

20 (f) Advertise concerning job availability, degree of
21 skill and length of time required to learn a trade or skill
22 unless the information is accurate and in no way
23 misleading.

24 (g) Advertise, or indicate in any promotional material,
25 that correspondence instruction, or correspondence
26 courses of study are offered without including in all
27 advertising or promotional material the fact that the
28 instruction or programs of study are offered by
29 correspondence or home study.

30 (h) Advertise, or indicate in any promotional material,
31 that resident instruction, or programs of study are offered
32 without including in all advertising or promotional
33 material the location where the training is given or the
34 location of the resident instruction.

35 (i) Solicit students for enrollment by causing any
36 advertisement to be published in "help wanted" columns
37 in any magazine, newspaper, or publication or use
38 "blind" advertising that fails to identify the school or
39 institution.



1 (j) Advertise, or indicate in any promotional material,
2 that the institution is accredited, unless the institution has
3 been recognized or approved as meeting the standards
4 established by an accrediting agency recognized by the
5 United States Department of Education or the
6 Committee of Bar Examiners for the State of California.

7 (k) Fail to comply with federal requirements relating
8 to the disclosure of information to students regarding
9 vocational and career training programs, as described in
10 Section 94816.

11 94832. (a) No institution or representative of an
12 institution shall make or cause to be made any statement
13 that is in any manner untrue or misleading, either by
14 actual statement, omission, or intimation.

15 (b) No institution or representative of an institution
16 shall engage in any false, deceptive, misleading, or unfair
17 act in connection with any matter, including the
18 institution's advertising and promotion, the recruitment
19 of students for enrollment in the institution, the offer or
20 sale of a program of instruction, course length, course
21 credits, the withholding of equipment, educational
22 materials, or loan or grant funds from a student, training
23 and instruction, the collection of payments, or job
24 placement.

25 (c) An institution is liable in any civil or administrative
26 action or proceeding for any violation of this article
27 committed by a representative of the institution. An
28 institution is liable in a criminal action for violations of this
29 article committed by a representative of the institution to
30 the extent permitted by law.

31 (d) (1) No institution or representative of an
32 institution shall induce a person to enter into an
33 agreement for a program of instruction by offering to
34 compensate that person to act as the institution's
35 representative in the solicitation, referral, or recruitment
36 of others for enrollment in the institution.

37 (2) No institution or representative of an institution
38 shall offer to pay or pay any consideration to a student or
39 prospective student to act as a representative of the
40 institution with regard to the solicitation, referral, or

1 recruitment of any person for enrollment in the
2 institution in either of the following:

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

5 (B) At any subsequent time, if the student has not
6 maintained satisfactory academic progress in acquiring
7 the necessary level of education, training, skill, and
8 experience to obtain employment in the occupation or
9 job title to which the program is represented to lead. The
10 institution shall have the burden of proof to establish that
11 the student has maintained satisfactory academic
12 progress.

13 (e) No institution shall compensate a representative
14 involved in recruitment, enrollment, admissions, student
15 attendance, or sales of equipment to students on the basis
16 of a commission, commission draw, bonus, quota, or other
17 similar method except as follows:

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

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

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

27 (B) Up to one-half of the compensation may be paid
28 before the student completes the program only if the
29 student has made satisfactory academic progress,
30 documented by the institution in the student's file, for
31 more than 90 days.

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

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

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

1 (1) The institution is affiliated with any governmental
2 agency, public or private corporation, agency, or
3 association.

4 (2) The institution is a public institution.

5 (3) The institution grants degrees.

6 (h) (1) No institution or any representative of an
7 institution shall in any manner make any untrue or
8 misleading change in, or untrue or misleading statement
9 related to, any test score, grade, record of grades,
10 attendance record, record indicating student completion
11 or employment, financial information, including any of
12 the following:

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

15 (B) Any information or record relating to the student's
16 eligibility for financial assistance or attendance at the
17 institution.

18 (C) Any other record or document required by this
19 chapter or by the council.

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

25 (i) No institution or representative of an institution
26 shall use the terms "approval," "approved," "approval to
27 operate," or "approved to operate" without stating
28 clearly and conspicuously that approval to operate means
29 compliance with minimum state standards and does not
30 imply any endorsement or recommendation by the state
31 or by the council. If the council has granted an institution
32 approval to operate, the institution or its representative
33 may indicate that the institution is "licensed" or "licensed
34 to operate" but may not state or imply any of the
35 following:

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

38 (2) The council's grant to the institution of approval to
39 operate indicates that the institution exceeds minimum
40 state standards.

1 (3) The council or the state endorses or recommends
2 the institution.

3 (j) No institution offering programs or courses of
4 instruction represented to lead to occupations or job titles
5 requiring licensure shall enter into an agreement for a
6 course of instruction with a person whom the institution
7 knows or, by the exercise of reasonable care, should know,
8 would be ineligible to obtain licensure in the occupation
9 or job title to which the course of instruction is
10 represented to lead, at the time of the scheduled date of
11 course completion, for reasons such as age, physical
12 characteristics, or relevant past criminal conviction.

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

16 (l) No institution or representative of an institution
17 shall direct a representative to perform any unlawful act,
18 to refrain from complaining or reporting unlawful
19 conduct to the council or another government agency, or
20 to engage in any unfair act to persuade a student not to
21 complain to the council or another government agency.

22 94834. (a) Any person or business entity, regardless
23 of the form of organization that willfully violates Section
24 94800, Sections 94810 to 94826, inclusive, or Section 94828,
25 94829, 94831, or 94832 is guilty of a crime and shall be
26 subject to separate punishment for each violation either
27 by imprisonment in a county jail not to exceed one year,
28 by a fine not to exceed ten thousand dollars (\$10,000), or
29 by both that imprisonment and fine; or by imprisonment
30 in the state prison, by a fine not to exceed fifty thousand
31 dollars (\$50,000), or by both that imprisonment and fine.

32 (b) Notwithstanding any other law, any prosecution
33 under this section shall be commenced within three years
34 of the discovery of the facts constituting grounds for
35 commencing the prosecution.

36 (c) The penalties provided by this section supplement,
37 but do not supplant, the remedies and penalties provided
38 under other law.

39 (d) In addition to any other fines or penalties imposed
40 pursuant to this section, any person or business entity

1 found guilty of a crime as described in subdivision (a)
2 shall be ordered to pay the Attorney General, any district
3 attorney, or any city attorney all of their costs and
4 expenses in connection with any investigation incident to
5 that prosecution. *An institution shall not be required to*
6 *pay the same costs and expenses to more than one*
7 *investigating agency.*

8 94835. (a) The council shall review and investigate
9 all institutions, programs, and courses of instruction
10 approved under this chapter. Consideration in the
11 scheduling of reviews and investigations shall be afforded
12 to student complaints and information collected by the
13 Attorney General, the Student Aid Commission, any
14 board within the Department of Consumer Affairs, or any
15 other federal, state, or local agency. The council also shall
16 conduct periodic ~~random~~ and unannounced reviews and
17 investigations of institutions to determine compliance
18 with this chapter.

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

33 (c) The approval to operate shall be issued to the
34 owners or the governing body of the applicant institution,
35 and shall be nontransferrable. Any person that makes a
36 proper application and complies with this chapter and
37 each standard and regulation pertaining to this chapter
38 shall be qualified to receive an approval to operate or an
39 approval of the transfer of ownership.

1 94836. (a) If there is reasonable cause to believe that
2 there has been a violation by a private postsecondary
3 educational institution of the standards prescribed by this
4 chapter, the council shall conduct an investigation of the
5 institution.

6 (b) Within a reasonable time after the
7 commencement of the investigation required in
8 subdivision (a), the council shall conclude its
9 investigation and take action against the institution
10 involved, as appropriate.

11 94838. (a) No note, other instrument of
12 indebtedness, or contract relating to payment for
13 educational services shall be enforceable by any
14 institution within or outside this state governed by this
15 chapter unless at the time of execution of that note, other
16 instrument of indebtedness, or contract, the institution
17 has a valid approval to operate pursuant to this chapter.

18 (b) No note, other instrument of indebtedness, or
19 contract relating to payment for educational services
20 shall be enforceable by any institution within or outside
21 this state governed by this chapter unless the agent, who
22 enrolled persons to whom educational services were to be
23 rendered or to whom degrees or diplomas were to be
24 granted pursuant to this chapter, held a valid agent's
25 permit at the time of execution of the note, other
26 instrument of indebtedness, or contract.

27 (c) Any school or institution governed by this chapter
28 extending credit or lending money to any person for
29 tuition, fees, or any charges whatever for educational
30 services to be rendered or furnished shall cause any note,
31 instrument, or other evidence of indebtedness taken in
32 connection with that loan or extension of that credit to be
33 conspicuously marked on the face thereof with the
34 following notice:

35

36 "NOTICE

37

38 ANY HOLDER OF THIS CONSUMER CREDIT
39 CONTRACT IS SUBJECT TO ALL CLAIMS AND
40 DEFENSES THAT THE DEBTOR COULD ASSERT



1 AGAINST THE SELLER OF GOODS OR SERVICES
2 OBTAINED PURSUANT HERETO OR WITH THE
3 PROCEEDS HEREOF, RECOVERY HEREUNDER BY
4 THE DEBTOR SHALL NOT EXCEED AMOUNTS
5 PAID BY THE DEBTOR HEREUNDER.”
6

7 In the event the school or institution fails to do so, it
8 shall be liable for any damage or loss suffered or incurred
9 by any subsequent assignee, transferee, or holder of that
10 evidence of indebtedness on account of the absence of
11 that notification.

12 (d) Notwithstanding the presence or absence of that
13 notification and notwithstanding any agreement in which
14 the student waives the right to assert any claim or
15 defense, the school or institution making that loan or
16 extending that credit and the transferee, assignee, or
17 holder of that evidence of indebtedness, shall be subject
18 to all defenses and claims that could be asserted against
19 the school or institution that was to render or furnish
20 those educational services by any party to that evidence
21 of indebtedness or by the person to whom these
22 educational services were to be rendered or furnished up
23 to the amount remaining to be paid thereon.

24 (e) Institutions that participate in federal student
25 assistance programs and that comply with the financial
26 disclosure and notification requirements for those
27 programs shall be deemed to be in compliance with the
28 standards prescribed by this section.

29 94840. At least 90 days prior to the expiration of an
30 approval to operate, the institution shall complete and file
31 with the council an application form for renewal of its
32 approval to operate. The renewal application need only
33 contain a description of any changes made by the
34 institution since the time its last application was reviewed
35 by the council. Fees for processing the renewal
36 application shall be based on the number and types of
37 changes it contains. The renewal application shall be
38 reviewed and acted upon as provided in Sections 94802,
39 94804, and 94835, and Section 94900 or 94915, whichever
40 is applicable.

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

12 94842. If a review and decision on a renewal
13 application submitted pursuant to Section 94840 cannot
14 be completed by the council prior to the expiration of the
15 institution's current pending approval, that expiration
16 date shall be extended until the date that the council
17 notifies the institution of its decision.

18 94846. (a) If a shift in control or change of ownership
19 of an institution occurs, an application for a new approval
20 to operate for the institution under the changed
21 ownership or control shall be filed with the council at least
22 20 days prior to the shift in control or change in
23 ownership. Whenever an institution is operated at
24 different locations, an application for approval shall be
25 filed for each location.

26 (b) The application for approval to operate submitted
27 in conjunction with a change of ownership may include
28 pertinent portions of the institution's previous
29 application prepared in connection with programs or
30 courses of instruction that remain unchanged or
31 unaffected by the change in ownership.

32 (c) No application for ownership or transfer of
33 ownership shall be approved for any applicant that has
34 been found previously in any judicial or administrative
35 proceeding to have violated this chapter, or if there exists
36 any of the grounds for denial set forth in Section 480 of the
37 Business and Professions Code.

38 (d) No change in ownership of the institution shall be
39 made until the application is approved. If an application
40 for a new approval to operate is not timely filed as

1 required by this section, the institution's approval to
2 operate shall terminate. Upon approval of a change in
3 ownership, the council shall give written notice to the
4 Student Aid Commission.

5 (e) For the purposes of this section, a change in
6 ownership occurs when there is a change of control of the
7 institution, or where a person that previously did not own
8 at least 25 percent of the stock or controlling interest of
9 an institution or its parent corporation, acquires
10 ownership of at least 25 percent of the stock of the
11 institution or its parent corporation, or when a for-profit
12 business converts to nonprofit corporation status or forms
13 a nonprofit corporation as a subsidiary to provide the
14 educational services for which the for-profit business is
15 approved to operate.

16 94848. An institution may not claim an exception
17 pursuant to Section 94739 or 94785 if the bureau finds,
18 after notice and hearing as provided in Section 94975, that
19 the institution adopted a form of organization or method
20 of operation for the purpose of avoiding any provision of
21 this chapter.

22
23 Article 7. Maxine Waters Student Protection Act
24

25 94850. (a) This article shall be known, and may be
26 cited, as the Maxine Waters School Reform and Student
27 Protection Act of 1989.

28 (b) The Legislature finds and declares that students
29 have been substantially harmed and the public
30 perception of reputable institutions has been damaged
31 because of the fraudulent, deceptive, and unfair conduct
32 of some institutions that offer courses of instruction for a
33 term of two years or less that are supposed to prepare
34 students for employment in various occupations.
35 Students have been induced to enroll in these schools
36 through various misrepresentations including
37 misrepresentations related to the quality of education,
38 the availability and quality of equipment and materials,
39 the language of instruction and employment and salary
40 opportunities. Some of the most egregious

1 misrepresentations are made by representatives who
2 recruit students at places other than the institution's
3 premises. Some students have been enrolled who do not
4 have the ability to benefit from the instruction. In
5 addition, the quality of the education offered is often
6 inadequate to enable students to obtain jobs after the
7 completion of instruction.

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

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

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



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

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

(b) It is the further intent and purpose of this article to establish incentives to reduce student dropouts, minimum fiscal standards, minimum standards for admission based on the student's ability to be successfully trained, and minimum standards for institutional accountability for course completion and student employment in the occupations or job titles to which the training is represented to lead. The Legislature finds that the accountability standards for completion and employment reflect a reasonable tolerance for factors outside an institution's control. It is also the intent and purpose of this article to ensure that the cost to taxpayers of loans and grants for vocational instruction is

1 commensurate with the benefits obtained by students
2 and flowing to the state's economy.

3 94852. The following definitions and provisions apply
4 to this article:

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

11 (b) "Council" means the Council for Private
12 Postsecondary and Vocational Education established
13 pursuant to Section 94770.

14 (c) "Educational service" means any education,
15 training, or instruction offered by an institution,
16 including any equipment.

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

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

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

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

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

37 (i) "Private postsecondary educational institution" or
38 "institution" means any person doing business in
39 California who offers to provide or provides, for a tuition,
40 fee, or other charge, any instruction, training or

1 education primarily to people who have completed or
2 terminated their secondary education or are beyond the
3 age of compulsory high school attendance. An
4 “institution” includes its branch and satellite campuses,
5 unless otherwise provided.

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

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

15 (l) “Year” means a calendar year.

16 94853. (a) In addition to making any other required
17 disclosures, a representative of an institution who in any
18 manner solicits or recruits any person in person at any
19 place other than the institution’s premises or by
20 telephone for enrollment in a course of instruction shall
21 disclose the following, orally, and, if the solicitation is in
22 person, in a correctly dated written document given to
23 the person and printed in at least 10-point type and signed
24 by the representative.

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

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

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

31 (4) The total charge for the course of instruction or if
32 the solicitation or recruitment is for more than one
33 course, the range of the total charges for the courses
34 offered.

35 (b) The representative shall make the disclosures
36 required by paragraphs (1) to (3), inclusive, of
37 subdivision (a) before attempting to solicit or recruit any
38 person. The representative shall make the disclosure
39 required by paragraph (4) of subdivision (a) before the
40 end of a solicitation or attempt to recruit any person.

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

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

18 (e) This section does not apply to solicitations or
19 presentations made at informational public appearances
20 directed to five or more people or to advertisements in
21 print or broadcast media.

22 94854. (a) Every institution shall meet all of the
23 following performance standards for each program
24 offered during the applicable time period described in
25 subdivision (l):

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

31 (2) Seventy percent or more of the students who
32 completed the program within that period shall obtain
33 employment starting within six months after completing
34 the course in the occupations or job titles to which the
35 course of instruction was represented to lead. For the
36 purpose of this subdivision, "program" or "program of
37 instruction" or "course" or "course of instruction"
38 includes all courses of instruction, however denominated,
39 that are represented to lead to the same or closely related
40 occupations or job titles.



1 (b) Every institution shall meet all of the following
2 performance standards for all programs in the aggregate
3 offered by the institution at each of its campuses during
4 the applicable time period described in subdivision (l):

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

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

16 (c) For the purposes of subdivisions (a) and (b),
17 students who, as documented by the institution, have
18 been prevented from completing the program or
19 programs of instruction due to death, disability, illness,
20 pregnancy, military service, or participation in the Peace
21 Corps or Domestic Volunteer Service shall be excluded
22 from the computations used to determine whether an
23 institution has met the performance standards prescribed
24 by those subdivisions. Except as provided in Section
25 94874, an institution shall not disclose the records
26 maintained pursuant to this subdivision unless
27 production of those records are required by any law,
28 subpoena, or court order, or are necessary for a certified
29 public accountant to prepare a compliance report
30 pursuant to subdivision (g) of Section 94870.

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

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

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

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

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

21 (B) Any of the standards established in subdivision
22 (a), but has a placement rate of 42 percent or more for the
23 course in which the standard was failed.

24 (C) Any of the standards established in subdivision
25 (b), but has a placement rate of 42 percent or more for
26 all courses in the aggregate.

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

34 (A) Limitations on enrollment for specific courses of
35 instruction.

36 (B) Revision of admission policies and screening
37 practices to ensure that students have a reasonable
38 expectation of completing courses and obtaining
39 employment.



1 (C) Increased academic counseling and other student
2 support services.

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

4 (E) Revisions to the qualifications and number of
5 faculty.

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

11 (G) Submission of a compliance report prepared by a
12 certified public accountant, who is not an officer,
13 director, shareholder, or employee of the institution, any
14 parent corporation or any subsidiary, prepared pursuant
15 to an attestation engagement in accordance with the
16 Statements on Standards for Attestation Engagements of
17 the American Institute of Certified Public Accounts,
18 which states that the institution has complied with the
19 performance standards in this section within the period
20 set forth in paragraph (4).

21 (H) Any other reasonable procedure required by the
22 council.

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

28 (4) (A) An institution subject to an order pursuant to
29 paragraph (2) shall satisfy the standards established in
30 subdivisions (a) and (b) within the period designated by
31 the council. This period shall not extend more than one
32 year beyond the length of the program for
33 noncompliance with the standards prescribed by
34 subdivision (a) or more than one year beyond the longest
35 program for noncompliance with the standards
36 prescribed in subdivision (b).

37 (B) If the institution fails to satisfy the standards of
38 subdivision (a) within the period designated by the
39 council, the council shall order the institution to cease
40 offering the course of instruction at the campus where

1 that program was offered. If the institution fails to satisfy
2 the standards of subdivision (b) within the period
3 designated by the council, the council shall revoke the
4 institution's approval to operate, or approval to operate
5 the branch or satellite campus where the programs were
6 offered. No action shall be taken pursuant to this
7 paragraph without notice, and, if requested by the
8 institution, a hearing. In taking action pursuant to this
9 subparagraph, the bureau shall consider the impact, if
10 any, of changes in the employment rate in the area served
11 by this institution.

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

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

28 (2) The council shall investigate the institution
29 whenever the council deems appropriate to verify the
30 institution's compliance with this section. The
31 investigation shall include an examination of the records
32 maintained by the institution pursuant to subdivision (j)
33 and contacts with the students and employers.

34 (3) If an institution willfully falsifies, alters, destroys,
35 conceals, or provides untrue or misleading information
36 relating to compliance with this section, including
37 records maintained pursuant to subdivision (j), the
38 council shall revoke the institution's approval to operate.
39 No action shall be taken pursuant to this paragraph
40 without notice and, if requested by the institution, a

1 hearing. This provision supplements but does not
2 supplant any other penalty or remedy provided by law.

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

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

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

1 employed full-time or part-time including the number of
2 hours worked per week; and the names, addresses, and
3 telephone numbers of students who choose not to seek
4 employment and instead enroll in another program to
5 earn a higher degree, as well as the name and address of
6 the institution in which they enroll. If the student is
7 self-employed, the list shall include reliable indices of
8 self-employment such as contracts, checks for payment,
9 tax returns, social security contribution records, records
10 of accounts receivable or customer payments, invoices for
11 business supplies, rent receipts, appointment book
12 entries, business license, or any other information
13 required by the bureau that is a reliable indicator of
14 self-employment.

15 (k) For the purposes of this section, the following
16 definitions shall apply:

17 (1) “Annual report” means the report required to be
18 filed pursuant to Section 94861.

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

20 ~~(A)~~-(i) Full-time employment for at least 32 hours per
21 week for a period of at least 60 days in the occupations or
22 job titles to which the program of instruction is
23 represented to lead.

24 ~~(B)~~-(ii) Part-time employment for at least 17.5 hours,
25 but less than 32 hours, per week for a period of at least 60
26 days in the occupations or job titles to which the program
27 of instruction is represented to lead, provided the student
28 completes a handwritten statement at the beginning of
29 the program and at the end of the program which states
30 that the student’s educational objective is part-time
31 employment. The institution shall not require that any
32 student complete such a statement or provide any
33 incentive, financial or otherwise, to any student for
34 signing such a statement.

35 (B) *The bureau shall adopt regulations to specify the*
36 *job tasks, other than those directly related to generating*
37 *income, which may be counted towards meeting the hour*
38 *requirements for full-time and part-time employment for*
39 *students who are self employed.*

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

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

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

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

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

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

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

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

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

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

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

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

(1) Decides not to obtain employment and within six months of completing the program enrolls in a program to continue his or her education to obtain a higher level degree *that is related to, or provides for the student to use, the same skills or knowledge obtained in the program the student completed.*

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

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

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

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

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

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

1 (3) Pay timely refunds as required by Sections 94867,
2 94869, 94870, 94873, and 94877.

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

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

14 (A) Consent to be sued in California.

15 (B) Consent to be subject to the administrative
16 jurisdiction of the council and the Student Aid
17 Commission in connection with the institution's
18 compliance with this chapter.

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

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

23 (E) File financial reports, maintain financial records,
24 and permit the inspection and copying of financial
25 records to the same extent as is required of the institution.

26 (3) For the purposes of this subdivision, a "parent
27 corporation" means a corporation that owns more than 80
28 percent of the stock of the institution whose financial
29 resources are at issue.

30 (c) If an institution does not comply with Section
31 94804, the council may do any or any combination of the
32 following:

33 (1) Require the institution to establish and implement
34 a financial plan to ensure compliance with Section 94804.

35 (2) Require the institution to post satisfactory security
36 for the performance of its financial obligations pursuant
37 to Section 94804.

38 (3) Require the institution to furnish additional
39 information such as an audit report of financial
40 statements prepared by a California licensed certified

1 public accountant who is not an employee, officer, or
2 director of the institution.

3 (4) Proceed pursuant to Section 94879.

4 (d) In any action or proceeding involving an
5 institution's failure to comply with Section 94804, there
6 shall be a presumption affecting the burden of proof that
7 the institution does not have sufficient financial resources
8 if the institution fails to meet any of the standards set forth
9 in Section 94804.

10 94856. If any person willfully violates this article and
11 the violation results in the closure of an institution, that
12 person shall pay to all students of the closed institution full
13 refunds or full compensation for actual damages resulting
14 from the closure that were not paid by the closed
15 institution.

16 94857. (a) No institution shall establish a branch or
17 satellite campus unless the council approves the branch
18 or satellite campus before any students are enrolled for
19 instruction, or any instruction is offered, at that campus.

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

22 (1) The institution or the branch or satellite campus
23 fail to satisfy all of the standards and requirements of
24 Sections 94900 and 94901, or Section 94915, whichever
25 applies.

26 (2) The institution proposes to offer a course of
27 instruction at the branch or satellite campus that could
28 not be offered at another site operated by the institution
29 because of the institution's failure to satisfy the standards
30 prescribed in Section 94854.

31 (3) If the institution participates in a federal student
32 loan program, the student loan default rate attributable
33 to the institution for the two most recent years, as
34 preliminarily announced or finally determined by the
35 United States Department of Education, is 25 percent or
36 more.

37 (4) The establishment of a branch or satellite campus
38 would, in any manner, facilitate the institution's
39 avoidance or evasion of this chapter or of any state or

1 federal law applicable to a student financial aid program
2 in which the institution participates.

3 94859. (a) Before a person executes an agreement
4 obligating that person to pay any money to an institution
5 for a program of instruction or related equipment, the
6 institution shall provide the person with all of the
7 following:

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

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

13 (A) The percentage of students completing that
14 program of instruction as determined pursuant to Section
15 94854, for the time period that is required to be covered
16 in the last annual report that institution was required to
17 file with the council pursuant to Section 94861.

18 (B) The percentage of students who completed the
19 program of instruction and obtained employment as
20 determined pursuant to Section 94854, for the time
21 period that is required to be covered in the last annual
22 report that the institution was required to file with the
23 council pursuant to Section 94861.

24 (C) Any other information necessary to substantiate
25 the truth of any claim made by the institution as to job
26 placement.

27 (D) If the institution or a representative of the
28 institution makes any express or implied claim about the
29 salary that may be earned after completing a program of
30 instruction, such as a claim that the student may be able
31 to repay a student loan from the salary received at a job
32 obtained following completion of the program of
33 instruction, the following disclosures, orally and in
34 writing:

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

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

4 (E) If the institution or a representative of the
5 institution in any manner represents that the program of
6 instruction might lead to employment in an occupation
7 or job title for which a state licensing examination is
8 required, the following disclosures, orally and in writing:

9 (i) All licensure or certification requirements
10 established by the state for the occupation or job title
11 category.

12 (ii) The pass rate of graduates of the program of
13 instruction offered by that institution for the most recent
14 calendar year that ended not less than six months prior to
15 the date of disclosure on any licensure or certification
16 examination required by the state for the particular
17 occupation or job title.

18 (3) If the institution has offered the program of
19 instruction for less than one calendar year, the following
20 statement: "This program is new. We are not able to tell
21 you how many students graduate, how many students
22 find jobs, or how much money you can earn after finishing
23 this course."

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

38 (5) If applicable, the following disclosures, orally and
39 in writing:

1 (A) If the student obtains a loan to pay for the course
2 of instruction, the student will have the responsibility to
3 repay the full amount of the loan plus interest, less the
4 amount of any refund.

5 (B) If the student is eligible for a loan guaranteed or
6 reinsured by the state or federal government and the
7 student defaults on the loan:

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

12 (ii) The student may not be eligible for any other
13 federal financial assistance for education at a different
14 school or for government housing assistance until the loan
15 is repaid.

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

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

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

27 (b) The information required by paragraph (2) of
28 subdivision (a) shall be documented by the institution
29 with all facts needed to substantiate that information. Any
30 information regarding a student's employment shall be
31 based on an inquiry by the institution and shall be
32 documented by a list indicating the student's name,
33 address, and telephone number; the employer's name,
34 address, and telephone number; the name and address or
35 telephone number of the person who provided the
36 information regarding the student's employment to the
37 institution; the name, title, or description of the job; the
38 date the student obtained the job; the duration of the
39 student's employment; and the amount of the salary, if
40 any salary claim has been made. Except as provided in

1 Section 94874, an institution shall not disclose the records
2 maintained pursuant to this subdivision unless
3 production of those records are required by any law or by
4 subpoena or court order, or are necessary for a certified
5 public accountant to prepare a compliance report
6 pursuant to subdivision (g) of Section 94870.

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

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

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

20 (f) No institution shall obtain the signature of any
21 person to an agreement obligating that person to pay any
22 money to the institution until the person has had a
23 reasonable opportunity to read and review all of the items
24 described in subdivision (a).

25 (g) The disclosure of any information pursuant to
26 Section 94853 shall not relieve any institution of any
27 obligation to make any disclosure required under this
28 section.

29 (h) Notwithstanding any provision of this section, an
30 institution offering a home study or correspondence
31 course need not orally make the disclosures required by
32 this section in connection with that course if the
33 institution did not orally solicit or recruit the student for
34 enrollment and the student enrolled by mail.

35 94860. If a state board, bureau, department, or agency
36 has established the minimum number of classes or class
37 hours or the minimum criteria of a course of instruction
38 necessary for licensure in an occupation and an institution
39 offers a course of instruction differing from the state
40 entity's minimum requirements, the institution shall

1 disclose orally and in writing the state entity's minimum
2 requirements and how the course of instruction differs
3 from those criteria. The institution shall make this
4 disclosure before a prospective student executes an
5 agreement obligating that person to pay any money to
6 the institution for the course of instruction.

7 94861. (a) Every institution shall file annually with
8 the council, on July 1, or another date designated by the
9 council, a report subscribed under penalty of perjury that
10 contains all of the following:

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

13 (2) The information described in paragraph (2) of
14 subdivision (a) of Section 94859.

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

18 (4) Financial information demonstrating compliance
19 with Section 94855.

20 (5) Any additional information that the council may
21 prescribe.

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

25 (c) Based on the review of the information submitted
26 pursuant to this section, the council may initiate a
27 compliance review, may take action including placing
28 the institution on probation as provided in Section 94878,
29 or may require evidence of compliance with this article
30 in a form satisfactory to the council.

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

35 (e) If the institution uses any of the categories
36 identified in subparagraph (B) of paragraph (2) of
37 subdivision (k) of, or subdivision (n) or (o) of, Section
38 94854 in determining compliance with that section, the
39 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 bureau.

38 (c) The bureau 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 offer the student additional instruction without
4 charge, for a period of up to 50 percent of the number of
5 hours of instruction previously offered by the institution
6 to the student, to enable the student to attain adequate
7 English language proficiency.

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

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

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

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

31 (l) The tests used by an institution pursuant to this
32 section shall be tests that are approved by the United
33 States Department of Education or tests such as the Test
34 of English as a Foreign Language and the Comprehensive
35 Adult Student Assessment System that are generally
36 recognized by public and private institutions of higher
37 learning in this state for the evaluation of English
38 language proficiency. An institution shall demonstrate to
39 the bureau that the tests and passing scores that it uses
40 establish that students have acquired the degree of

1 proficiency in oral and written English required by
2 subdivision (d), (e), (f), or (g), whichever is applicable.
3 The required level of proficiency in oral and written
4 English shall not be lower than the sixth grade level.

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

19 (n) The bureau shall adopt regulations concerning the
20 manner of documenting the nature of a student's existing
21 knowledge, training, and skill and that ESL instruction
22 offered by the institution is necessary to enable the
23 student to use that existing knowledge, training, and skill,
24 as prescribed in subdivision (f). The regulations shall
25 specify all of the following:

26 (1) Reliable sources of information, independent of
27 the student and the institution, from which
28 documentation of a student's existing knowledge,
29 training, and skill shall be obtained.

30 (2) Circumstances that must be documented by the
31 institution to establish that information from a designated
32 reliable source of information cannot reasonably be
33 obtained.

34 (3) Alternate acceptable sources of information if
35 designated reliable sources are not available.

36 (4) The nature of all required types of documentation.

37 (o) The bureau shall develop and distribute
38 instructions, informational materials, or forms to assist
39 institutions in developing the documentation described
40 in this section. These instructions, materials, and forms

1 shall not be subject to review or approval by the Office of
2 Administrative Law pursuant to any provision of the
3 Government Code.

4 94866. (a) When a person executes an agreement
5 obligating that person to pay any money to an institution
6 for a course program of instruction or related equipment,
7 the institution shall provide the person with a document
8 containing only the following notice:
9

10 “NOTICE OF STUDENT RIGHTS (12-point bold
11 type)
12

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

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

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

35 “4. If you have any complaints, questions, or problems
36 that you cannot work out with the school, write or call the
37 Council for Private and Postsecondary Education:
38

1 _____
2 (insert address and telephone number of the Council for
3 Private Postsecondary and Vocational Education)”
4

5 (b) Except as otherwise provided in subdivision (a),
6 the notice required by subdivision (a) shall be printed in
7 10-point type in English and, if any solicitation or
8 negotiation leading to the agreement for a course of
9 instruction was in a language other than English, in that
10 other language.

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

19 (d) Upon request, the institution shall provide a
20 student with a copy of a Notice of Cancellation form, a
21 written description of the student's refund rights, a copy
22 of the contract executed by the student, a copy of
23 documents relating to loans or grants for the student, and
24 a copy of any document executed by the student.

25 (e) The council may provide for the inclusion of
26 additional information in the notice set forth in
27 subdivision (a).

28 94867. (a) (1) In addition to any other right of
29 rescission, for programs in excess of 50 days, the student
30 shall have the right to cancel an agreement for a program
31 of instruction including any equipment, until midnight of
32 the fifth business day after the day on which the student
33 did any of the following:

34 (A) Attended the first class of the program of
35 instruction that is the subject of the agreement or
36 received the first lesson in a home study or
37 correspondence course.

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

1 (C) Received a copy of the agreement and the
2 disclosures as required by subdivision (a) of Section
3 94859, whichever is later.

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

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

15 (b) Cancellation shall occur when the student gives
16 written notice of cancellation to the institution at the
17 address specified in the agreement.

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

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

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

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

1 retain the equipment without further obligation to pay
2 for it.

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

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

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

12 94868. The institution shall provide the student with
13 two cancellation forms at the first class attended by the
14 student or with the first lesson in a home study course
15 submitted by the student. The form shall be completed
16 in duplicate, captioned "Notice of Cancellation," and
17 shall contain the following statement:

18

19 "Notice of Cancellation

20

21 _____
(Date)

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

25

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

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

32 "But, if the school gave you any equipment, you must
33 return the equipment within 30 days of the date you
34 signed a cancellation notice. If you do not return the
35 equipment within this 30-day period, the school may keep
36 an amount out of what you paid that equals the cost of the
37 equipment. The total amount charged for each item of
38 equipment shall be separately stated. The amount
39 charged for each item of equipment shall not exceed the
40 equipment's fair market value. The institution shall have



the burden of proof to establish the equipment's fair market value. The school is required to refund any amount over that as provided above, and you may keep the equipment.

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

_____, at _____.
(name of institution) (address of institution)

“NOT LATER THAN

[Enter midnight of the date that is the fifth business day following the day of the first class or the day the first lesson was received; or, if the program is fifty or fewer days, midnight of the date that is one business day for every 10 days of scheduled program length, rounded up for any fractional increment thereof; or, if the lesson was sent by mail, the eighth business day following the day of mailing, whichever is applicable]

“I cancel the contract for school.

(Date)

(Student's signature)

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

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

1 _____
2 (insert address and telephone number of the Council
3 for Private Postsecondary and Vocational Education)”
4

5 94869. (a) Each student of an institution has the right
6 to withdraw from a program of instruction at any time.

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

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

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

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

31 (1) All of that student’s tuition and fees are paid by a
32 third-party organization, such as a Job Training
33 Partnership Act agency, a Regional Occupational
34 Program or Regional Occupational Center, a Private
35 Industry Council, or a vocational rehabilitation program,
36 if the student is not obligated to repay the third-party
37 organization or does not lose time-limited educational
38 benefits.

39 (2) The third-party organization and the institution
40 have a written agreement, entered into on or before the

1 date the student enrolls, that no refund will be due to the
2 student ~~or to the organization~~ if the student withdraws
3 prior to completion.

4 The institution shall provide a copy of the written
5 agreement to the bureau. The institution shall disclose to
6 any student whose refund rights are affected by this
7 agreement, in all disclosures required to be given to the
8 student by this chapter, that the student is not entitled to
9 a refund. It is the intent of the Legislature that this
10 subdivision not apply to any student whose tuition and
11 fees are paid with funds provided to the third-party
12 organization for the student's benefit as part of any
13 ~~federal, state, or local statute, regulation, or ordinance~~
14 ~~that provides funds for training welfare recipients.~~
15 *program that provides funds for training welfare*
16 *recipients or that is related to welfare reform.*

17 94870. (a) (1) Except as provided in paragraph (2),
18 the refund to be paid to a student for a program of
19 instruction subject to this article shall be calculated as
20 follows:

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

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

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

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

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

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

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

1 which is the total number of lessons for which the student
2 has paid. The refund amount shall be adjusted as provided
3 in subdivision (b) or (c) for equipment and as provided
4 in subdivision (d) for resident instruction, if applicable.

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

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

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

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

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

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

1 reused because of clearly recognized health and sanitary
2 reasons and this fact is clearly and conspicuously disclosed
3 in the agreement.

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

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

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

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

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

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

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

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

(g) Any institution that meets each of the criteria in paragraph (1) shall be subject to the refund requirements in this section only for those students who withdraw from a course of instruction after having completed 60 percent or less of the course of instruction.

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

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

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

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

1 ~~(D) Not been a defendant in any criminal lawsuit that~~
2 ~~has not been resolved in the institution's favor.~~

3 ~~(E) compliance report, the beginning and ending~~
4 ~~dates of which shall be determined by the bureau, the~~
5 ~~institution has:~~

6 (A) Complied with Section 94824 or subdivision (b) of
7 Section 94869 and with this section for refunds owed by
8 the institution.

9 ~~(F)~~

10 (B) Complied with subdivision (b) of Section 94854 for
11 each of the two years covered by the audit except that:

12 (i) The institution shall have an aggregate completion
13 rate of 70 percent or more pursuant to paragraph (1) of
14 subdivision (b) of Section 94854.

15 (ii) The institution shall have an aggregate placement
16 rate of 80 percent or more pursuant to paragraph (2) of
17 subdivision (b) of Section 94854.

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

21 (iv) In attesting to the institution's compliance with
22 the requirements of this subparagraph, the certified
23 public accountant, at a minimum, shall review a random
24 ~~sample of at least 15 to 20 percent of the students to whom~~
25 ~~statistically valid sample of the students to whom~~ the
26 institution owed a refund, the students counted by the
27 institution towards its completion rate and its placement
28 rate, and the students excluded from the calculation of
29 the completion and placement rates, review the
30 institution's placement log or files and contact students
31 and employers to verify information in the placement
32 records, whether the student was employed in the job for
33 which the training was represented to lead, and whether
34 the student was employed for at least 60 days.

35 (2) (A) The bureau shall review the compliance
36 report submitted by the institution pursuant to this
37 subdivision. ~~If the compliance report states that the~~
38 ~~institution has complied with all of the criteria in~~
39 ~~paragraph (1), the bureau shall notify the institution that~~
40 ~~it qualifies under this subdivision. Following that~~

1 notification, this subdivision shall apply to the institution
2 for a period of two years, unless revoked by the bureau.

3 (B) If the bureau determines that the institution has
4 not met all of the criteria in paragraph (1), the institution
5 may not seek qualification again under this subdivision
6 for one year. If the bureau determines that the institution
7 has not met all of the criteria in paragraph (1), it shall
8 notify the institution that it does not qualify under this
9 subdivision.

10 (C) The institution may appeal the bureau's decision
11 pursuant to Section 94975. If the institution prevails on
12 appeal, it may obtain relief limited to a determination
13 that it qualifies under this subdivision commencing with
14 the next admission of new students in its programs
15 following the determination of the appeal. To the extent
16 possible, the bureau shall adopt regulations to provide for
17 a streamlined appeal process for purposes of appeals
18 pursuant to this subparagraph. subdivision.

19 (B) The bureau shall review any complaints against
20 the institution by current or former students, any civil
21 lawsuit in which the institution is a defendant or any
22 lawsuit, action, charges, proceeding, or investigation by
23 any government agency or any accrediting agency in
24 which the institution is a party which were filed, pending,
25 or resolved during the two-year period covered by the
26 compliance report. After reviewing such complaints,
27 lawsuits, actions, charges, proceedings, or investigations,
28 as well as any other information available to the bureau
29 and performing whatever other investigation it deems
30 appropriate, the bureau shall make a determination, in
31 writing, of whether the institution has materially violated
32 Section 94831, 94832, 94834, 94853, 94859, 94860, 94866,
33 94868, 94869, 94870, 94871, 94873, 94875, 94881, or their
34 predecessor sections, based on a preponderance of the
35 evidence. The bureau's determination shall contain a
36 summary of the evidence relied upon in making the
37 determination and the sections for which a material
38 violation exists. The bureau's determination shall have no
39 probative value in connection with any lawsuits, actions,

1 *charges, or proceedings pending before any court or any*
2 *other agency.*

3 *(C) If the bureau determines that the institution has*
4 *met all of the criteria in paragraph (1) and that no*
5 *material violation exists pursuant to subparagraph (B) of*
6 *this paragraph, it shall notify the institution that it*
7 *qualifies under this subdivision. Following such*
8 *notification, the refund provisions of this subdivision shall*
9 *apply to the institution for a period of two years, unless*
10 *revoked by the bureau.*

11 *(D) If the bureau determines that the institution has*
12 *not met all of the criteria in paragraph (1) or that a*
13 *material violation exists pursuant to subparagraph (B) of*
14 *this paragraph, it shall notify the institution that it does*
15 *not qualify under this subdivision.*

16 *(E) The institution shall receive notice of any*
17 *determination with a summary of evidence pursuant to*
18 *this paragraph and, if requested in writing, a hearing. The*
19 *institution may appeal the bureau's adverse decision*
20 *under this paragraph. To the extent feasible, the bureau*
21 *shall adopt regulations to provide for a streamlined*
22 *appeal process for purposes of appeals pursuant to this*
23 *subparagraph. Pending resolution of the appeal, the*
24 *institution is not eligible to qualify under this subdivision.*
25 *If the institution prevails on appeal, it may obtain relief*
26 *limited to a determination that it is eligible for the refund*
27 *provisions of this subdivision at the next time when it*
28 *starts new students in its programs following the*
29 *determination of the appeal. If the institution does not*
30 *prevail on appeal, it may not seek to qualify under this*
31 *subdivision for one year following the determination of*
32 *the appeal.*

33 *(3) Prior to notifying an institution pursuant to*
34 *paragraph (2), the bureau shall adopt regulations to*
35 *implement this subdivision, including regulations to*
36 *establish the dates each year for submission of compliance*
37 *reports by institutions, notification of institutions by the*
38 *bureau of the applicable refund policy for the institution,*
39 *the effective date of that refund policy, appropriate*
40 *standards and procedures for conducting any review by*

1 a certified public accountant or any other person
2 pursuant to this subdivision, including a description of the
3 information and materials to be reviewed and
4 appropriate standards for review which shall be based on
5 the American Institute of Certified Public Accountants'
6 Statements on Standards for Attestation Engagements.

7 ~~(4) (A) Any institution that has been notified by the~~
8 ~~bureau that it does not qualify under this subdivision, in~~
9 ~~addition to any other sanction or penalty allowed under~~
10 ~~law, may not qualify under this subdivision for a period of~~
11 ~~three years and shall be subject to subdivision (a), not this~~
12 ~~subdivision, for all students who enrolled during that~~
13 ~~entire time period if either of the following occurs:~~

14 ~~(i) The institution is found by the bureau, any court, or~~
15 ~~any other governmental agency in any proceeding, to~~
16 ~~have violated this chapter.~~

17 ~~(ii) The institution is found by the bureau, any court,~~
18 ~~or any other governmental agency in any proceeding, to~~
19 ~~have failed to meet the criteria in paragraph (1) during~~
20 ~~the period covered by the compliance report upon which~~
21 ~~the bureau based its determination of qualification.~~

22 ~~(B) If the bureau, any court, or any other~~
23 ~~governmental agency finds that the institution willfully~~
24 ~~supplied inaccurate information pursuant to this~~
25 ~~subdivision, the institution may be subject to termination,~~
26 ~~suspension, or probation.~~

27 ~~(C) The institution shall receive notice of the~~
28 ~~proceedings, and, if requested in writing, a hearing prior~~
29 ~~to any determination pursuant to this paragraph.~~

30 *(4) (A) Any institution that has been notified by the*
31 *bureau that it qualifies for the refund provisions in this*
32 *subdivision shall lose its qualification if the bureau*
33 *determines either of the following:*

34 *(i) The institution has materially violated Section*
35 *94831, 94832, 94834, 94853, 94859, 94860, 94866, 94868,*
36 *94869, 94870, 94871, 94873, 94875, or 94881, or has failed to*
37 *meet the criteria in paragraph (1) during the period*
38 *covered by the compliance report upon which the bureau*
39 *based its determination of qualification.*

1 (ii) The institution has been found by any court or any
2 other governmental agency in any proceeding, to have
3 violated any of the provisions set forth in clause (i) and
4 that violation was material or the institution has been
5 found by any court or any other governmental agency in
6 any proceeding, to have failed to meet the criteria in
7 paragraph (1) during the period covered by the
8 compliance report upon which the bureau based its
9 determination of eligibility.

10 (B) If the bureau, a court, or other government
11 agency finds that the institution willfully supplied
12 information required by this subdivision which it knew or
13 should have known was inaccurate or misleading, the
14 institution's approval to operate may be subject to
15 termination, suspension, or probation.

16 (C) The institution shall receive notice of any
17 determination with a summary of evidence and, if
18 requested in writing, a hearing prior to any action being
19 taken pursuant to this paragraph. To the extent feasible,
20 the bureau shall adopt regulations to provide for a
21 streamlined appeal process for purposes of appeals
22 pursuant to this subparagraph. Pending resolution of the
23 appeal, the institution may not reapply pursuant to
24 paragraph (9). If the institution prevails on appeal, it may
25 obtain relief limited to a determination that it continues
26 to qualify under this subdivision for the period of time
27 covered by the bureau's most recent determination of
28 qualification. If the institution does not prevail on appeal,
29 the institution may not seek to qualify for the refund
30 provisions of this subdivision for three years following the
31 determination of the appeal and shall be subject to the
32 refund requirements in subdivision (a), and not the
33 refund provisions in this subdivision, for all students who
34 enrolled during the entire time period covered by the
35 bureau's most recent determination of qualification.

36 (D) The penalties in this paragraph supplement, but
37 do not supplant, any other sanction or remedy allowed by
38 law.

39 (5) If an institution does not qualify under this
40 subdivision because it fails to meet the requirement of

1 subparagraph ~~(A)~~ (A) of paragraph (1) by three
2 students out of all students to whom it owed refunds
3 during the period examined by the certified public
4 accountant or 1 percent of all students to whom it owed
5 refunds ~~during the period examined by the certified~~
6 ~~public accountant, whichever is less, the bureau may~~
7 *during the period examined by the compliance report or*
8 *1 percent of all students to whom it owed refunds during*
9 *the period covered by the compliance report, whichever*
10 *is greater, the bureau may* determine that the institution
11 qualifies under this subdivision.

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

26 (7) If the bureau determines that the institution has
27 met the criteria in this subdivision based on the
28 information contained in a compliance report prepared
29 by a certified public accountant pursuant to this
30 subdivision, the following shall be deemed to be the
31 intended beneficiaries of that compliance report:

32 (A) The bureau.

33 (B) The Student Aid Commission.

34 (C) The United States Department of Education.

35 (D) Any student who enrolls in the institution during
36 the time period the institution qualifies under this
37 subdivision.

38 (8) In lieu of the attestation engagement referred to
39 in paragraph (1), an institution *that qualifies as a small*
40 *institution under this paragraph* may show that it has

1 complied with each of the criteria in paragraph (1)
2 pursuant to a review performed by the bureau, or any
3 other alternative review that meets all of the
4 requirements for an attestation by a certified public
5 accountant pursuant to this subdivision ~~as may be~~
6 ~~adopted by the bureau, including certified independent~~
7 ~~examiners or master contracts for accounting services. If~~
8 ~~the bureau performs the review requested by the~~
9 ~~institution, the bureau's employee who performs the~~
10 ~~review shall have education and training equivalent to~~
11 ~~that of a certified public accountant. The institution shall~~
12 ~~pay the bureau all of its costs and expenses associated with~~
13 ~~conducting the review, which shall conform with the~~
14 ~~bureau's regulations. If the bureau performs the review~~
15 ~~requested by the institution, the institution shall pay the~~
16 ~~bureau all of its costs and expenses associated with~~
17 ~~conducting the review. The bureau shall, by regulation,~~
18 ~~define "small institution" for the purposes of this~~
19 ~~paragraph in terms of assets, number of students, gross~~
20 ~~revenues, other appropriate criteria, as determined by~~
21 ~~the bureau, or any combination thereof.~~

22 (9) An institution may apply to the bureau for a
23 renewal of the bureau's determination that the institution
24 qualifies under this subdivision subject to the same terms
25 and conditions as required for the bureau's initial
26 determination.

27 (10) If an institution qualifies under this subdivision, it
28 shall disclose that refund policy in any disclosure,
29 catalogue, notice, or agreement in which disclosure of a
30 refund policy is required by this chapter. The institution
31 may not state in any advertising, disclosure, catalogue,
32 notice, or agreement that it qualifies for a "good school"
33 or a "high performance" exemption, that it qualifies for
34 a "good school" or "high performance" refund policy, or
35 that it has been determined by the state to be a "good
36 school" or a "high performing school," or use any similar
37 words or phrases.

38 (11) *If a request for approval under this subdivision is*
39 *filed concurrently with an initial or renewal application,*
40 *no additional fees shall be charged. If a request for*

1 *approval is not filed concurrently with an initial or*
2 *renewal application, fees shall be charged as authorized*
3 *by Section 94932 and the bureau's regulations.*

4 94871. (a) No institution shall offer any program of
5 instruction to any person, or receive any consideration
6 from any person for a course of instruction, except
7 pursuant to a written agreement as described in this
8 section. Every agreement for a program of instruction
9 shall provide the following:

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

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

14 (3) The total amount that the student is obligated to
15 pay including all fees, charges, and expenses separately
16 itemized that must be paid to complete the program of
17 instruction. The total amount shall be underlined and
18 shall appear immediately above the following notice,
19 which shall be printed above the space on the agreement
20 that is reserved for the student's signature:

21 "YOU ARE RESPONSIBLE FOR THIS AMOUNT. IF
22 YOU GET A STUDENT LOAN, YOU ARE
23 RESPONSIBLE FOR REPAYING THE LOAN
24 AMOUNT PLUS ANY INTEREST."

25 (4) The total amount charged for each item of
26 equipment shall be separately stated. The amount
27 charged for each item of equipment shall not exceed the
28 equipment's fair market value. The institution shall have
29 the burden of proof to establish the equipment's fair
30 market value.

31 (5) A schedule of payments.

32 (6) The student's right to withdraw from the program
33 of instruction and obtain a refund and an explanation of
34 refund rights and of how the amount of the refund will be
35 determined including a hypothetical example.

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

38 (8) If the student is not a resident of California, a clear
39 statement that the student is not eligible for protection



1 under, and recovery from, the Student Tuition Recovery
2 Fund.

3 (9) The following statement shall be printed in
4 12-point boldface type on the first page of the agreement:
5 “If you have any complaints, questions, or problems
6 which you cannot work out with the school, write or call
7 the Council for Private Postsecondary and Vocational
8 Education:
9

10 _____
11 (insert address and telephone number of the Council for
12 Private Postsecondary and Vocational Education)”
13

14 (b) Unless otherwise provided in subdivision (a), the
15 institution shall provide the information required under
16 Sections 94859, 94867, and 94868, in at least 10-point type
17 in English and, if any solicitation or negotiation leading to
18 the agreement for a course of instruction was in a
19 language other than English, in that other language.

20 (c) When a student is a client of a third-party
21 organization and that organization pays all of the
22 student’s tuition and fees, the institution may substitute
23 for the enrollment agreement required by this section a
24 form provided to the student that contains the
25 information required by subdivision (b) and paragraphs
26 (1), (2), and (9) of subdivision (a). The form also shall
27 contain a statement that students whose entire tuition
28 and fees are paid by a third party organization are not
29 eligible for payments from the Student Tuition Recovery
30 Fund.

31 94872. (a) An institution shall not enter into an
32 agreement for a program of instruction with a student
33 unless the institution first administers to the student and
34 the student passes a test as provided in subdivision (b).

35 (b) (1) The test required by subdivision (a) shall be
36 a standardized test that is designed to measure and that
37 reliably and validly measures the student’s ability to be
38 successfully trained to perform the tasks associated with
39 the occupations or job titles to which the program of

1 instruction is represented to lead. The student's
2 performance on the test must demonstrate that ability.

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

8 (3) (A) If no standardized test is available that
9 satisfies paragraph (1), the institution shall use other
10 appropriate tests to determine the student's ability to be
11 trained to perform the tasks associated with the
12 occupations and job titles for which training is offered as
13 described in paragraph (1). Within 30 days of
14 determining that no standardized test satisfies paragraph
15 (1), the institution shall so inform the council and shall
16 describe and, if possible, furnish the council with the test
17 to be used in lieu of the test required by paragraph (1).

18 (B) Upon reasonable notice to the institution, the
19 council may order the institution to demonstrate to the
20 reasonable satisfaction of the council that the test and
21 passing score are an appropriate measure of the student's
22 ability to be trained to perform the tasks associated with
23 the occupations or job titles to which the course is
24 represented to lead. If the test is not an appropriate
25 measure, the council, after notice, and if requested, a
26 hearing as provided in Section 94965 or 94975, shall order
27 that the institution cease administering the test.

28 (c) The institution shall have the burden of proof that
29 the test complies with subdivision (b). If no minimum
30 passing score is established by the test developer or if the
31 minimum passing score used by the institution is below
32 the minimum passing score established by the test's
33 developer, the institution shall have the burden of proof
34 that the student's achievement of the minimum passing
35 score reasonably measures the student's ability to be
36 successfully trained to perform the tasks associated with
37 the occupations and job titles to which the course of
38 instruction is represented to lead. The test shall be
39 administered in accordance with the test's instructions,
40 rules, and time limits.

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

3 (2) No institution or any person in any manner
4 associated with the institution shall do any of the
5 following:

6 (A) Answer any of the test questions.

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

8 (C) Provide any assistance whatsoever to the student
9 in answering test questions.

10 Nothing in this subparagraph prevents an institution
11 from providing nonsubstantive assistance to
12 accommodate the disability of a handicapped person
13 otherwise qualified to take the test.

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

18 (4) If a prospective student has failed a test, the
19 institution or the testing service that administered the
20 test shall not administer another test to that prospective
21 student for at least the period specified by the test
22 developer or one week, whichever is longer. Any
23 subsequent test administered by an institution to the
24 same prospective student shall be a substantially different
25 form of the same test or a substantially different test than
26 the preceding test and shall satisfy the requirements of
27 paragraph (1) or, if applicable, paragraph (3) of
28 subdivision (b).

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

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

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

37 (3) State the minimum passing score used by the
38 institution.

39 (4) If the institution accepts a lower minimum passing
40 score than is indicated by the test's developer, state an

1 explanation of why the institution accepts a lower
2 minimum passing score.

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

9 94873. (a) If a program of instruction is based on a
10 sequence of classes, class sessions, or lessons and the
11 learning experience to be derived from any class, class
12 sessions, or lesson within the sequence is based in any
13 manner on a student's attendance at or completion of a
14 prior class, class session, or lesson, an institution shall not
15 enroll a student in that program of instruction unless the
16 instruction begins with the first class, class session, or
17 lesson and proceeds in the appropriate sequence.

18 (b) (1) If a program of instruction is based on a series
19 of modules comprised of class sessions or lessons and the
20 learning experience to be derived from any module is
21 based in a manner on a student's attendance at, or
22 completion of, any class sessions or lessons in any other
23 module, an institution shall not enroll a student in that
24 course of instruction unless the student begins and
25 proceeds in the appropriate sequence.

26 (2) If a program of instruction is based on a series of
27 modules comprised of class sessions or lessons and the
28 learning experience to be derived from any module is not
29 based on a student's attendance at, or completion of, any
30 classes or lessons in any other module, an institution shall
31 only enroll a student in the program of instruction if the
32 student begins with the first class session or lesson in a
33 module.

34 (c) Notwithstanding subdivisions (a) and (b), if a class
35 or a module consists of more than 60 days of instruction,
36 the institution may enroll a student to begin no later than
37 the fifth class session of the first class or the fifth class
38 session in the appropriate module.

39 (d) The council, at any time, may determine whether
40 the learning experience to be derived from any class

1 session or lesson in a sequence of class sessions or lessons
2 or from any module is based in any manner on a student's
3 attendance at, or completion of, a prior class session or
4 lesson in the sequence or any class sessions or lessons in
5 any other module. The council may make the
6 determination described in this subdivision upon the
7 application of any person or when the council deems that
8 a determination is appropriate. The institution shall have
9 the burden to establish compliance with this section.

10 (e) The institution shall not merge classes unless all of
11 the students have received the same amount of
12 instruction and training. This subdivision does not
13 prevent the placement of students, who are enrolled in
14 different programs of instruction, in the same class if that
15 class is part of each of the courses and the placement in
16 a merged class will not impair the students' learning of
17 the subject matter of the class.

18 (f) After a student has enrolled in a program of
19 instruction, the institution shall not do any of the
20 following:

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

24 (2) Change the day or time in which any class is
25 offered to a day when the student is not scheduled to
26 attend the institution or to a time that is outside of the
27 range of time that the student is scheduled to attend the
28 institution on the day for which the change is proposed
29 unless at least 90 percent of the students who are enrolled
30 consent to the change and the institution offers full
31 refunds to the students who do not consent to the change.
32 For the purpose of this paragraph, "range of time" means
33 the period beginning with the time at which the student's
34 first scheduled class session for the day is set to start and
35 ending with the time the student's last scheduled class
36 session for that day is set to finish.

37 (g) If an institution enrolls a student in a program of
38 instruction that is not offered or designed as a home study
39 or correspondence course at the time of enrollment, the
40 institution shall not convert the program of instruction

1 from classroom instruction to a home study or
2 correspondence course.

3 (h) An institution shall not move the class instruction
4 to a location more than five miles from the location of
5 instruction at the time of enrollment unless any of the
6 following occur:

7 (1) The institution discloses orally and clearly and
8 conspicuously in writing to each student before
9 enrollment in the program that the location of instruction
10 will change after the program begins and the address of
11 the proposed location.

12 (2) The institution applies for, and the council grants,
13 approval to change the location. The council shall grant
14 the application within 30 days if the council, after notice
15 to affected students and an opportunity for them to be
16 heard as prescribed by the council, concludes that the
17 change in location would not be unfair or unduly
18 burdensome to students. The council may grant approval
19 to change the location which shall be subject to
20 reasonable conditions, such as requiring the institution to
21 provide transportation, transportation costs, or refunds to
22 adversely affected students.

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

26 94874. (a) Every institution shall maintain for a
27 period of not less than five years at its principal place of
28 business in California accurate records that show all of the
29 following:

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

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

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

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

38 (5) All information and records required by this
39 chapter or required by the council.



1 (b) All records that an institution is required to
2 maintain by this chapter or that relate to the institution's
3 compliance with this chapter shall be made immediately
4 available by the institution for inspection and copying
5 during normal business hours by the council, the
6 Attorney General, any district attorney or city attorney,
7 and the Student Aid Commission.

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

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

15 (e) If the student has made partial payment of his or
16 her tuition obligation, the institution may only withhold
17 that portion of the grades or transcript that corresponds
18 to the amount of tuition or loan obligation that the
19 student has not paid. If the course of study consists of only
20 one course, the institution may withhold the grades or the
21 transcript until the tuition or loan obligation is paid in full.

22 (f) Each institution shall be deemed to have
23 authorized the accrediting agency that accredited the
24 institution to provide to the council, the Attorney
25 General, any district attorney or city attorney, or the
26 Student Aid Commission, within 30 days of written notice,
27 copies of all documents and other material concerning
28 the institution that is maintained by the accrediting
29 agency.

30 (g) Within 30 days of receiving written notice from the
31 council, the Attorney General, any district attorney or
32 city attorney, or the Student Aid Commission, an
33 accrediting agency shall provide the requesting official
34 with all documents or other material concerning an
35 institution accredited by that accrediting agency that are
36 designated specifically or by category in the written
37 notice.

38 (h) If the council, the Attorney General, any district
39 attorney or city attorney, or the Student Aid Commission
40 is conducting a confidential investigation of an institution

1 and so informs the accrediting agency, the accrediting
2 agency shall not inform that institution of the
3 investigation.

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

12 94875. (a) The institution shall provide sufficient
13 instruction and materials pursuant to a planned
14 curriculum appropriate to the student's educational
15 program and establish sufficient student attendance,
16 progress, and performance standards to reasonably
17 ensure that students acquire the necessary level of
18 education, training, skill, and experience to obtain
19 employment in the occupation or job title to which the
20 course of instruction is represented to lead.

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

25 (c) If a student has begun a course of instruction and
26 any portion of the student's tuition is to be paid from the
27 proceeds of a loan or grant, the institution shall not
28 withhold any instruction, equipment, or materials from
29 the student pending approval of the loan or grant or the
30 disbursement of any portion of the proceeds of the loan
31 or grant.

32 94876. No student may waive any provision of this
33 article. Any waiver or limitation of any substantive or
34 procedural right or remedy is in violation of this section
35 and is void and unenforceable.

36 94877. (a) If an institution violates this article or
37 Section 94832 or commits an act as set forth in Section
38 94830 in connection with an agreement for a course of
39 instruction, that agreement shall be unenforceable, and

1 the institution shall refund all consideration paid by or on
2 behalf of the student.

3 (b) Notwithstanding any provision in an agreement, a
4 student may bring an action for a violation of this article
5 or Section 94832 or an institution's failure to perform its
6 legal obligations and upon prevailing shall be entitled to
7 the recovery of damages, equitable relief, any other relief
8 authorized by this article, and reasonable attorney's fees
9 and costs.

10 (c) If a court finds that a violation was willfully
11 committed or that the institution failed to refund all
12 consideration as required by subdivision (a) on the
13 student's written demand, the court, in addition to the
14 relief awarded under subdivision (b), shall award a civil
15 penalty of up to two times the amount of the damages
16 sustained by the student.

17 (d) The remedies provided in this article supplement,
18 but do not supplant, the remedies provided under other
19 provisions of law.

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

23 (f) Any provision in any agreement that purports to
24 require a student to invoke any grievance dispute
25 procedure established by the institution or any other
26 procedure before bringing an action to enforce any right
27 or remedy is void and unenforceable.

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

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

35 94878. (a) An institution is legally authorized to
36 provide courses of instruction if the institution complies
37 with both this article and Sections 94831, 94832, and 94985,
38 or former Section 94320 as that section was in effect on
39 January 1, 1991, has received approval from the council,
40 and has not been found to be in violation of this article by

1 the council, the Student Aid Commission, or a court. No
2 institution shall offer any course of instruction if the
3 institution's approval to offer that course of instruction
4 has been suspended or revoked.

5 (b) (1) The council, after notice and, if requested by
6 the institution, a hearing as provided in Section 94965 or
7 94975, may suspend or revoke an institution's approval to
8 operate or approval to operate a branch or satellite
9 campus or may order that an institution cease offering a
10 class or course of instruction because of any violation of
11 this article, Section 94831, 94832, or 94985, or former
12 Section 94320 as that section was in effect on January 1,
13 1991, or any regulation or order issued pursuant to this
14 article.

15 (2) If the council takes any of the actions described in
16 paragraph (1), the council may permit the institution to
17 continue to offer the class or course of instruction to
18 students already enrolled or may order the institution to
19 cease instruction and provide a refund of tuition and all
20 other charges to students.

21 (c) If the council determines after notice and if
22 requested by the institution, a hearing, that an institution
23 has violated this article, Section 94831, 94832, or 94985, or
24 former Section 94320 as that section was in effect on
25 January 1, 1991, but that the institution's approval to
26 operate, or approval to operate a branch or satellite
27 campus should not be suspended or revoked, or that the
28 institution should not be ordered to cease offering a class
29 or program of instruction, the council may do any or all
30 of the following:

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

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

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

37 (d) During the period of probation, the institution, or
38 the branch or satellite or both the institution and the
39 branch or satellite campus, shall be subject to monitoring
40 that may include the required submission of periodic

1 reports, as prescribed by the council and special onsite
2 inspections to determine progress toward compliance.
3 The onsite inspections may include an inspection of the
4 institution's facilities and records, interviews of
5 administrators, faculty, and students, and observation of
6 class instruction. The council shall order the institution to
7 reimburse all reasonable costs and expenses incurred by
8 the council in connection with this subdivision. The
9 council may make the payment of the order for
10 reimbursement a condition of probation.

11 (e) If, at the period of probation, the council is not
12 satisfied with the steps taken by the institution to
13 eliminate the violations of this article, Sections 94831,
14 94832, and 94985, or former Section 94320 as that section
15 was in effect on January 1, 1991, upon which the probation
16 was based, the council may revoke the institution's
17 approval to operate or the institution's approval to
18 operate a branch or satellite campus.

19 (f) The council may assess a penalty of up to ten
20 thousand dollars (\$10,000) as part of a probation order for
21 violations of this article, Sections 94831, 94832, and 94985,
22 or former Section 94320 as that section was in effect on
23 January 1, 1991. In determining the amount of that
24 penalty, the council shall consider the number and
25 gravity of the violations, the degree of the institution's
26 good faith or culpability, the history of the institution's
27 previous violations, and the institution's ability to pay. If
28 the institution fails to pay a penalty within the time
29 prescribed by the council the institution's approval to
30 operate the institution, or approval to operate a branch
31 or satellite campus, shall be automatically suspended
32 until the penalty is paid in full.

33 (g) (1) Any bond ordered by the council shall be
34 issued by an admitted surety insurer in an amount
35 established at the discretion of the council that is
36 sufficient to protect students from the potential
37 consequences of the violation.

38 (2) The bond shall be in favor of the State of California
39 for the indemnification of any person for any loss,
40 including the loss of prepaid tuition, suffered as a result

1 of the occurrence of any violation of this chapter during
2 the period of coverage.

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

10 (4) The council may order the institution to file
11 reports at any interval the council deems necessary to
12 enable the council to monitor the adequacy of the bond
13 coverage and to determine whether further action is
14 appropriate.

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

21 (i) The council may revoke the approval to operate of
22 any institution that fails to pay an order imposing a
23 penalty or an order for the reimbursement of costs and
24 expenses. The council may enforce any administrative
25 order requiring the payment of money in the same
26 manner as if it were a money judgment pursuant to Title
27 9 (commencing with Section 680.010) of Part 1 of the
28 Code of Civil Procedure. All penalties and
29 reimbursements paid pursuant to this section shall be
30 deposited in the vocational education account in the
31 Private Postsecondary and Vocational Education
32 Administration Fund established pursuant to Section
33 94932.

34 (j) Proceedings by the council under this section shall
35 be conducted in accordance with regulations adopted by
36 the council or, if there are no regulations establishing
37 hearing procedures, Section 94965 or 94975, and the
38 council shall have all of the powers granted therein.

39 94879. The council may suspend or revoke an
40 institution's approval to operate or order probation or the

1 posting of a bond, as provided in Section 94878, for any of
2 the following reasons:

3 (a) The institution has failed to make timely refunds
4 to, or on behalf of students, as required by Sections 94867,
5 94869, 94870, and 94877, or has not satisfied, within 30 days
6 of its issuance, a final judgment obtained by a student
7 against the institution.

8 (b) The institution or an owner, person in control,
9 director, or officer of the institution is, or has been, found
10 in any criminal, civil, or administrative proceeding, after
11 notice and an opportunity to be heard, to have violated
12 any law regarding the obtaining, maintenance, or
13 disbursement of state or federal loan or grant funds, or
14 any other law substantially related to the operation of the
15 institution.

16 (c) The institution, or a person in control of the
17 institution is, or has been, found in any criminal, civil, or
18 administrative proceeding, after notice and an
19 opportunity to be heard, to have unpaid financial
20 liabilities involving the refund or unlawful acquisition,
21 use, or expenditure of state or federal financial aid funds.

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

24 (A) A person in control of the institution was a person
25 in control of another institution within one year before
26 that institution's closure.

27 (B) While the person was acting as a person in control
28 of the other institution, the person knew or, by the
29 exercise of reasonable care, should have known that the
30 institution violated this chapter.

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

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

36 (E) The person in control has not paid to all students
37 of the closed institution refunds owed and full
38 compensation for actual damages resulting from the
39 closure that were not paid by the closed institution. For
40 the purpose of this subdivision, "closure" includes closure

1 of a branch or satellite campus, the termination of either
2 the correspondence or residence portion of a home-study
3 or correspondence course, and the termination of a
4 course of instruction for some or all of the students
5 enrolled in the course before the time these students
6 were originally scheduled to complete it, or before a
7 student who has been continually enrolled in a course of
8 instruction has been permitted to complete all the
9 educational services, and the classes that comprise the
10 course.

11 94880. (a) The council may bring an action for
12 equitable relief for any violation of this article in addition
13 to, or instead of, any other remedy or procedure.

14 (b) The suspension or revocation of an institution's
15 approval to operate also may be embraced in any action
16 otherwise proper in any court involving the institution's
17 compliance with this chapter or performance of its legal
18 obligations.

19 94881. (a) For the purposes of this section, the
20 following definitions apply:

21 (1) "Document or record" means any test score,
22 grade, record of grades, attendance record, record
23 indicating student course completion or employment,
24 financial information, including any financial report
25 required to be filed pursuant to Sections 94861 and 94862,
26 information or records relating to the student's eligibility
27 for financial assistance or attendance at the institution, or
28 any other record or document required by this chapter
29 or by the council.

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

32 (b) Any person who, in any manner, makes or causes
33 to be made any untrue or misleading statement in
34 connection with offering or providing a course of
35 instruction, or who makes or causes to be made any
36 untrue or misleading change in any document or record
37 and who knows or, by the exercise of reasonable care,
38 should know that the statement or change is untrue or
39 misleading is guilty of a crime, punishable as provided in
40 subdivision (e).

1 (c) Any person who willfully falsifies, destroys, fails to
2 maintain, or conceals any document or record that is
3 required to be maintained by this chapter or by the
4 council is guilty of a crime, punishable as provided in
5 subdivision (e).

6 (d) Any person who is required to file any report
7 required by paragraph (3) of subdivision (f) of Section
8 94854, or Section 94861 or 94862 and who willfully fails to
9 file that report as required, or willfully violates or causes
10 the violation of subdivision (b) of Section 94874, is guilty
11 of a crime and is subject to punishment for each violation
12 as provided in paragraph (2) of subdivision (e).

13 (e) Any person who violates subdivision (b) or (c), or
14 who willfully violates Section 94831, 94832, 94853, or
15 94985, or former Section 94320 as that section was in effect
16 January 1, 1991, is guilty of a crime and is subject to
17 separate punishment for each violation either by:

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

21 (2) Imprisonment in a county jail not to exceed one
22 year, by a fine not to exceed ten thousand dollars
23 (\$10,000), or by both that imprisonment and fine.

24 (f) Notwithstanding any other law, any prosecution
25 under this section shall be commenced within three years
26 of the discovery of the facts constituting grounds for
27 commencing the prosecution.

28 (g) The penalties provided by this section
29 supplement, but do not supplant, the remedies and
30 penalties provided under other law.

31 94882. The council may adopt and enforce regulations
32 as may be necessary, appropriate, or useful to interpret
33 and otherwise implement this article. Pending the
34 adoption of regulations, the council may adopt
35 emergency regulations, which shall be immediately
36 effective, notwithstanding any other provision of law, and
37 which shall be superseded upon the adoption of
38 subsequent regulations.

39

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

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

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

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

(2) The faculty are fully qualified to undertake the level of instruction that they are assigned and shall possess degrees or credentials appropriate to the degree program and level they teach and have demonstrated professional achievement in the major field or fields offered, in sufficient numbers to provide the educational services.

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

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

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

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

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

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

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

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

1 (c) (1) The Committee of Bar Examiners for the State
2 of California, in lieu of the council, shall be responsible for
3 the approval, regulation, and oversight of
4 degree-granting law schools that (A) exclusively offer
5 bachelor's, master's, or doctorate degrees in law, such as
6 Juris Doctor, and (B) are not otherwise exempt under
7 Section 94750. This paragraph does not apply to
8 unaccredited law schools that remain subject to the
9 jurisdiction of the bureau.

10 (2) If a law school not exempt under Section 94750
11 offers educational services other than bachelor's,
12 master's, or doctorate-degree programs in law, the law
13 school and its nonlaw degree programs shall be subject to
14 this chapter, and the law school's degree programs in law
15 shall be subject to the approval, regulation, and oversight
16 of the Committee of Bar Examiners.

17 94901. (a) The council shall conduct a qualitative
18 review and assessment of the institution. It also shall
19 conduct a qualitative review and assessment of all
20 programs offered except continuing education programs
21 and programs that are exclusively avocational or
22 recreational in nature. The review shall include the items
23 listed in subdivision (b) of Section 94900, through a
24 comprehensive onsite review process, performed by a
25 qualified visiting committee impaneled by the council for
26 that purpose.

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

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

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

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

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

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

15 (c) The council may waive or modify the onsite
16 inspection for institutions offering home study or
17 correspondence courses. The visiting committee shall be
18 impaneled by the council within 90 days of the date of the
19 receipt of a completed application and shall be composed
20 of educators, and other individuals with expertise in the
21 areas listed in subdivision (b) of Section 94900, from
22 degree-granting institutions legally operating within the
23 state. Within 90 days of the receipt of the visiting
24 committee's evaluation report and recommendations, or
25 any reasonable extension of time not to exceed 90 days,
26 the council shall take one of the following actions:

27 (1) If the institution is in compliance with this chapter
28 and has not operated within three years before the filing
29 of the application in violation of this chapter then in
30 effect, the bureau may grant an approval to operate not
31 to exceed five years.

32 (2) If the institution is in compliance with this chapter,
33 but has operated within three years before the filing of
34 the application in violation of this chapter then in effect,
35 or if the council determines that an unconditional grant
36 of approval to operate is not in the public interest, the
37 council may grant a conditional approval to operate
38 subject to whatever restrictions the council deems
39 appropriate. The council shall notify the institution of the
40 restrictions or conditions, the basis for the restrictions or

1 conditions, and the right to request a hearing to contest
2 them. Conditional approval shall not exceed two years.

3 (3) The council may deny the application. If the
4 application is denied, the council may permit the
5 institution to continue offering the program of
6 instruction to students already enrolled or may order the
7 institution to cease instruction and provide a refund of
8 tuition and all other charges to students.

9 (d) When evaluating an institution whose purpose is to
10 advance postsecondary education through innovative
11 methods, the visiting committee shall comprise educators
12 who are familiar with, and receptive to, evidence bearing
13 on the educational quality and accomplishments of those
14 methods.

15 (e) The standards and procedures utilized by the
16 council shall not unreasonably hinder educational
17 innovation and competition.

18 (f) Each institution or instructional program offering
19 education for entry into a health care profession in which
20 the provider has primary care responsibilities shall offer
21 that education within a professional degree program
22 which shall be subject to approval by the council pursuant
23 to this section.

24 (g) (1) If an institution is not operating in California
25 when it applies for approval to operate for itself or a
26 branch or satellite campus, the institution shall file with
27 its application an operational plan establishing that the
28 institution will satisfy the minimum standards set forth in
29 subdivision (a) of Section 94900. The operational plan also
30 shall include a detailed description of the institution's
31 program for implementing the operational plan,
32 including proposed procedures, financial resources, and
33 the qualifications of owners, directors, officers, and
34 administrators employed at the time of the filing of the
35 application. The council may request additional
36 information to enable the council to determine whether
37 the operational plan and its proposed implementation
38 will satisfy these minimum standards.

39 (2) If the council determines that the operational plan
40 satisfies the minimum standards described in subdivision

1 (a) of Section 94900, that the institution demonstrates
2 that it will implement the plan, and that no ground for
3 denial of the application exists, the council shall grant a
4 temporary approval to operate, subject to any restrictions
5 the council reasonably deems necessary to ensure
6 compliance with this chapter, pending a qualitative
7 review and assessment as provided in subdivisions (a)
8 and (b) of Section 94900. The council shall inspect,
9 pursuant to subdivision (a) of Section 94901, the
10 institution, or branch or satellite campus if approval is
11 sought for that campus between 90 days and 180 days after
12 operation has begun under the temporary approval to
13 operate. Following receipt of the visiting committee's or
14 the council staff's report, the council shall act as provided
15 in paragraph (1), (2), or (3) of subdivision (c).

16 (h) If at any time the council determines that an
17 institution has deviated from the standards for approval,
18 the council, after identifying for the institution the areas
19 in which it has deviated from the standards, and after
20 giving the institution due notice and an opportunity to be
21 heard, may place the institution on probation for a
22 prescribed period of time, not to exceed 24 calendar
23 months. During the period of probation, the institution
24 shall be subject to special monitoring. The conditions for
25 probation may include the required submission of
26 periodic reports, as prescribed by the council, and special
27 visits by authorized representatives of the council to
28 determine progress toward total compliance. If, at the
29 end of the probationary period, the institution has not
30 taken steps to eliminate the cause or causes for its
31 probation to the satisfaction of the council, the council
32 may revoke the institution's approval to award degrees
33 and provide notice to the institution to cease its
34 operations.

35 (i) An institution may not advertise itself as an
36 approved institution unless each degree program offered
37 by the institution has been approved in accordance with
38 the requirements of this section. The council shall review
39 all operations of the institution, pertaining to California
40 degrees, both within and outside of California. The

1 council may conduct site visits outside of California,
2 including the institution's foreign operations, when the
3 council deems these visits to be necessary. The institution
4 shall be responsible for the expenses of the visiting team
5 members including the council's staff liaison. The council
6 may authorize any institution approved to issue degrees
7 under this section to issue certificates for the completion
8 of courses of study that are within the institution's
9 approved degree-granting programs.

10 (j) An institution shall not offer any educational
11 program or degree title that was not offered by the
12 institution at the time the institution applied for approval
13 to operate, and shall not offer any educational program
14 or degree title at a campus that had not offered the
15 program or degree title at the time the institution applied
16 for approval to operate that campus, unless the council
17 first approves the offering of the program or degree title
18 after determining that it satisfies the minimum standards
19 established by this section.

20 94905. (a) Any public or private postsecondary
21 educational institution incorporated in another state that
22 has accreditation from a regional accrediting association
23 recognized by the United States Department of
24 Education at the time of the issuance of a degree, and that
25 is approved by the council, may issue degrees, diplomas,
26 or certificates. Except for continuing education programs
27 and programs that are exclusively avocational or
28 recreational in nature, accredited public or private
29 postsecondary educational institutions incorporated in
30 another state shall not offer degrees, diplomas, or
31 certificates in California unless they comply with this
32 section.

33 (b) The council shall not approve an institution to
34 issue degrees, diplomas, or certificates pursuant to this
35 section until the council has conducted a qualitative
36 review and assessment of, and has approved, each
37 program offered by the institution and all of its operations
38 in California, and the council has determined that the
39 institution meets all of the following standards:



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

4 (2) The faculty includes personnel who possess
5 appropriate degrees from institutions accredited by a
6 regional accrediting association recognized by the United
7 States Department of Education in the degree major field
8 or fields offered, in sufficient number to provide the
9 educational services.

10 (3) The education services and curriculum clearly
11 relate to the objectives of the proposed program or
12 programs.

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

17 (5) The institution has verifiable evidence of academic
18 achievement comparable to that required of graduates of
19 other institutions operating in this state for the program
20 or programs upon which the degree, diploma, or
21 certificate is based.

22 (c) The period of any approval issued under this
23 section shall be subject to Section ~~94909~~ 94901.

24 (d) Institutions approved under this section shall offer
25 in California only programs that the institution can
26 document to have been acknowledged or favorably
27 reviewed by the home regional accrediting association.

28 (e) In reviewing the out-of-state accredited
29 institutions, the council shall use as guidelines the
30 standards and procedures developed by the special
31 committee created pursuant to paragraph (5) of
32 subdivision (b) of Section 94310.1, as in effect on
33 December 31, 1989, and adopted by the California
34 Postsecondary Education Commission. These standards
35 and procedures were based on all of the following
36 principles:

37 (1) Following the initial site review, subsequent onsite
38 reviews by the council may be conducted in conjunction
39 with institutional reviews by the regional accrediting
40 association. However, if there is substantial evidence that

1 the institution is not in compliance with state standards,
2 the council may initiate a special review of the California
3 operations of the institution.

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

12 (3) The application shall include a single fee based on
13 the number of branches, satellites, and programs
14 included within a single application in order to cover the
15 costs involved for such multisite and multiprogram
16 reviews.

17 (4) If the application is for renewal of an existing
18 approval, the institution need only submit information
19 necessary to document any changes made since the time
20 its previous application was filed with the council. Fees
21 for reapproval applications will be based on the actual
22 costs involved in the administrative review process.

23 (5) The council shall develop a procedural rationale to
24 justify the number of sites to be visited by the state in the
25 review of the institution's operations in California. The
26 number of sites visited shall be subject to the following
27 considerations:

28 (A) If the application for approval includes branches
29 and satellites, the council may inspect each branch and
30 may inspect any satellite campus.

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

35 (C) The council may waive or modify the onsite
36 inspection for institutions offering home study or
37 correspondence courses.

38 (D) The purpose of the onsite review by the council
39 shall be to determine that operations by the institution in

1 California meet the minimum state standards identified
2 in statute.

3 (E) The standards and procedures shall not
4 unreasonably hinder educational innovation and
5 competition.

6
7 Article 9. Standards and Evaluation Procedures for
8 Nondegree-Granting Institutions
9

10 94915. (a) No private postsecondary educational
11 institution, except those offering degrees and approved
12 under Article 8 (commencing with Section 94900) or
13 ~~exclusively offering license examination preparation~~
14 ~~services and approved those registered~~ under Article 9.5
15 (commencing with Section 94931), may offer educational
16 services or programs unless the institution or locations at
17 which these services or programs are offered have been
18 approved by the council as meeting the requirements of
19 this section. In addition, if the institution is regulated by
20 any other state licensing agency, the institution shall have
21 obtained and retained the approval of that agency.

22 (b) If an institution is operating under the council's
23 prior approval and the institution has applied for
24 approval to operate for itself or a branch or satellite
25 campus that is operating, the council shall not grant
26 approval to operate until the council has conducted a
27 qualitative review and assessment of the operations of the
28 institution in California and determined that all of the
29 following minimum standards have been satisfied.

30 (1) The quality and content of each course or program
31 of instruction, training, or study may reasonably and
32 adequately be expected to achieve the objective for
33 which the course or program is offered. Except for
34 continuing education programs and programs that are
35 exclusively avocational or recreational in nature, all
36 programs offered by the institution shall meet the
37 minimum standards prescribed by this subdivision. If an
38 institution represents that a course or program leads to
39 employment, the quality, content, and instruction of the
40 course or program shall be sufficient to ensure that

1 students may acquire the necessary level of education,
2 training, skill, and experience to obtain employment in
3 the occupation or job title to which the course or program
4 of instruction is represented to lead.

5 (2) The institution has adequate space, equipment,
6 instructional material, and instructor personnel to
7 provide training of the quality needed to attain the
8 objective described in paragraph (1).

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

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

27 (5) A copy of the course outline, description of the
28 occupations or job titles, if any, to which the course of
29 instruction is represented to lead, schedule of tuition,
30 fees, and other charges, refund policy, regulations
31 pertaining to tardiness, absences, and the grading policy,
32 and rules of operation and conduct is given to students
33 prior to enrollment.

34 (6) The institution maintains and enforces adequate
35 standards relating to, and maintains records of,
36 attendance, satisfactory academic progress, and student
37 performance to achieve the objective described in
38 paragraph (1).

39 (7) The institution complies with all local city, county,
40 municipal, state, and federal regulations relative to the

1 safety and health of all persons upon the premises such as
2 fire, building, and sanitation codes. The council may
3 require evidence of compliance.

4 (8) The institution does not exceed enrollment that
5 the facilities and equipment of the institution can
6 reasonably handle.

7 (9) The institution's officers, directors, and owners
8 demonstrate financial and fiduciary responsibility, as
9 prescribed by statute, or by regulations adopted by the
10 council.

11 (10) The institution is in compliance with this chapter
12 and has developed policies and procedures designed to
13 ensure that compliance.

14 (11) No circumstances exist that may constitute
15 grounds for the revocation or suspension of an approval
16 to operate.

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

20 (13) Application for approval shall be made in writing
21 on forms prescribed by the council. The application for
22 approval shall include, if applicable to the institution, a
23 statement of whether the institution claims that it is
24 exempt or that a course or other educational service it
25 offers is exempt from Article 7 (commencing with
26 Section 94850), and the information required by
27 subdivision (f) of Section 94873.

28 An institution may include some, or all, of its separate
29 operating sites under one application. Alternately, it may
30 submit separate applications for any one site or
31 combination of sites. The satellites or branches included
32 in either an initial or renewal application shall be
33 considered by the council to comprise a separate, single
34 institution for purposes of regulation, approval, and
35 compliance under this chapter. The application shall
36 include a single fee based on the number of branches,
37 satellites, and programs included within a single
38 application in order to cover the costs involved for those
39 multisite and multiprogram reviews.

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

17 (1) If the application for approval includes branch or
18 satellite campuses, the council shall inspect each branch
19 campus and may inspect any satellite campus.

20 (2) If the application is for approval to operate a
21 branch or a satellite, the council, in addition to inspecting
22 the branch or satellite, also may inspect the institution
23 operating the branch or satellite campus.

24 (3) The council may waive or modify the requirement
25 for onsite inspections of branch campuses located outside
26 of California or for an institution offering home study or
27 correspondence courses.

28 (4) If the application is for reapproval of an existing
29 approval, the institution need only submit information
30 necessary to document any changes made since the time
31 its previous application was filed with the council. Fees
32 for reapproval applications shall be based on the actual
33 costs involved in the administrative review process.

34 (d) The council shall review all operations of the
35 institution both within and outside of California. The
36 council may conduct site visits outside of California,
37 including the institution's foreign operations, when the
38 council deems these visits to be necessary. The institution
39 shall be responsible for the expenses of any visiting team
40 members including the council's staff liaison.

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

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

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

20 (3) The council may deny the application if the
21 institution does not comply with this chapter, including
22 the minimum standards established in subdivision (b), or
23 has operated within three years before the filing of the
24 application in violation of this chapter then in effect. If
25 the application is denied, the council may permit the
26 institution to continue offering the course or courses of
27 instruction to students already enrolled or may order the
28 institution to cease all instruction and provide a refund of
29 tuition and all other charges to students. The council shall
30 notify the institution of the denial, the basis for the denial,
31 and the right of the institution to request a hearing to
32 contest the denial.

33 (f) (1) If an institution is not operating in California
34 when it applies for approval to operate for itself or a
35 branch or satellite campus, the institution shall file with
36 its application an operational plan establishing that the
37 institution will satisfy the minimum standards set forth in
38 subdivision (b). The operational plan also shall include a
39 detailed description of the institution's program for
40 implementing the operational plan, including proposed

1 procedures, financial resources, and the qualifications of
2 owners, directors, officers, and administrators employed
3 at the time of the application's filing. The council may
4 request additional information to enable the council to
5 determine whether the operational plan and its proposed
6 implementation will satisfy these minimum standards.

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

23 (g) If an institution approved to operate in California
24 applies for approval to operate an additional site location
25 that has not been previously approved by the council, the
26 institution shall file an operational plan for the additional
27 site location as described in subdivision (f). The council
28 shall evaluate the additional site location as provided in
29 subdivision (f). The council also may evaluate the
30 institution as provided in subdivisions (b) and (c) before
31 determining whether to grant to the institution
32 temporary or final approval to operate the additional site
33 location. If the institution or the additional site location
34 does not meet the requirements of this chapter or if the
35 institution has operated within three years before the
36 filing of the application in violation of this chapter then
37 in effect, the council may deny the application for
38 approval to operate the additional site location or may
39 grant a conditional approval to operate the additional site
40 location subject to any restrictions it deems appropriate.

1 The provisions for notice and hearing described in
2 paragraphs (2) and (3) of subdivision (e) shall apply.

3 (h) No institution shall offer a course or program of
4 instruction, training, or study at a campus that had not
5 offered the course or program at the time the institution
6 applied for approval to operate that campus unless the
7 council first approves the offering of the course or
8 program after determining that it satisfies the minimum
9 standards established in subdivision (b).

10 (i) The council may enter into an agreement for the
11 regulation and oversight of nondegree-granting private
12 postsecondary institutions with the Federal Aviation
13 Administration or with the state agency responsible for
14 administering Article 1 (commencing with Section 1250)
15 of Chapter 2 of Division 2 of the Health and Safety Code.

16 The council may enter into a regulatory agreement
17 only when the appropriate agency can demonstrate that
18 its standards and procedures for the review of institutions
19 encompass the standards and consumer protection
20 requirements prescribed by this chapter and that these
21 standards and procedures are rigorously enforced.
22 Nothing in this section shall modify the existing authority
23 of regulatory agencies within the Department of
24 Consumer Affairs relating to schools or programs.

25 (j) If at any time the council determines that an
26 institution has deviated from the standards for approval,
27 the council, after giving the institution due notice and an
28 opportunity to be heard, may place the institution on
29 probation for a specified period of time not to exceed 24
30 calendar months. During the period of probation, the
31 institution shall be subject to special monitoring. The
32 conditions for probation may include the required
33 submission of periodic reports, as prescribed by the
34 council, and special visits by authorized representatives
35 of the council to determine progress toward total
36 compliance. If at the end of the specified probationary
37 period, the institution has not taken steps to eliminate the
38 causes for its probation to the satisfaction of the council,
39 the council may revoke the institution's approval and
40 provide notice to the institution to cease its operations.

1 94920. (a) Each individual submitting an application
2 for a certificate of authorization for service, pursuant to
3 paragraph (3) of subdivision (b) of Section 94915, shall
4 provide the council with the following information:

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

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

9 (3) Verified employment history.

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

12 (b) To be eligible for a certificate of authorization for
13 service, the applicant shall fulfill the following
14 requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (C) Other requirements the council deems necessary.

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

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

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

1 professional organizations, or council-approved
2 programs.

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

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

10 94925. No person shall own or operate a school, or give
11 instruction, for the driving of motortrucks of three or
12 more axles that are more than 6,000 pounds unladen
13 weight unless all of the following conditions are met:

14 (a) The school or instruction has been approved by the
15 council.

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

18 (1) Proof of compliance with liability insurance
19 requirements that are the same as those established by
20 the Department of Motor Vehicles for a driving school
21 owner, pursuant to Section 11103 of the Vehicle Code,
22 unless the council deems it necessary to establish a higher
23 level of insurance coverage.

24 (2) A satisfactory safety rating by the Department of
25 the California Highway Patrol is established pursuant to
26 Division 14.8 (commencing with Section 34500) of the
27 Vehicle Code.

28 (c) The school, at all times, shall maintain the vehicles
29 used in driver training in safe mechanical condition. The
30 school shall keep all records concerning the maintenance
31 of the vehicles.

32 (d) The driving instructors meet the requirements set
33 forth in Section 11104 of the Vehicle Code.

34 (e) Any other terms and conditions required by the
35 council to protect the public safety or to meet the
36 requirements of this chapter.

37 94930. (a) All institutions that were certified to offer
38 flight instruction by the Federal Aviation Administration
39 (FAA) and that operated in California on December 31,
40 1990, pursuant to prior authority of subdivision (a) or (b)

1 of former Section 94311, shall receive approval from the
2 council for a period not to exceed three years. On or
3 before June 30, 1999, the council shall work in
4 cooperation with the FAA to review each of these
5 institutions to determine whether the institution is in
6 compliance with the requirements of this chapter. It is
7 the intent of the Legislature that all institutions whose
8 cumulative gross student loan default rate is above 40
9 percent, as determined by the Student Aid Commission,
10 shall be reviewed by the FAA and the council to
11 determine if these institutions are in compliance with the
12 requirements of this chapter and should continue to be
13 approved to offer educational programs in California. It
14 is further the intent of the Legislature that the bureau
15 develop a memorandum of understanding with the FAA
16 to delineate the responsibilities of each agency for the
17 approval and monitoring of these institutions that were
18 operating on December 31, 1990, under the prior
19 authority of subdivision (a) or (b) of former Section
20 94311.

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

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

38

Article 9.5. Registered Institutions

94931. (a) No private postsecondary educational institution, except those offering degrees and approved under Article 8 (commencing with Section 94900) or offering vocational and nondegree granting programs *and approved* under Article 9 (commencing with Section 94915), *or those that are exempt from this chapter*, may offer educational services or programs unless the institution has been registered by the bureau as meeting the requirements of this section.

(b) An institution approved to offer degrees under Article 8 (commencing with Section 94900) or approved to offer vocational and nondegree granting programs under Article 9 (commencing with Section 94915) may offer registered programs without affecting its status under either of those articles so long as the registered program is disclosed in its approval to operate application or the institution completes a registration application and receives specific authorization for the program, maintains compliance for all registered programs in conformity with this article, and maintains a set of student records for registered programs separate from its approved programs. Any registered institution that offers an educational program not specified in subdivision (c) or not otherwise exempt from this chapter shall be approved under Article 8 (commencing with Section 94900) or Article 9 (commencing with Section 94915) and shall comply with this chapter.

(c) Except as *otherwise* provided in this article, this chapter does not apply to an educational service that qualifies for registration status and that complies with this article. ~~The bureau shall not impose any additional requirements or fees on organizations or individuals registered under this section except as provided in this article and shall act on all applications within 60 days. The educational services~~ *The educational services* 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 *language*
3 program.

4 (2) An educational service, as defined in Section
5 94742.1, that is offered to provide short-term career
6 training.

7 (3) An educational service, as defined in Section
8 94742.2, that is offered to provide short-term seminar
9 training.

10 (4) An educational service that is offered to assist
11 students to prepare for an examination for ~~entrance into~~
12 ~~an undergraduate or graduate course of study at an~~
13 ~~accredited or approved college or university.~~ *licensure,*
14 *except as provided in Section 94787.*

15 (5) *An educational service that consists of continuing*
16 *education not otherwise exempt from this chapter.*

17 (d) An institution that qualifies under any of
18 paragraphs (1) to (4), inclusive, of subdivision (c) shall
19 complete a registration form provided by the bureau,
20 including a signed declaration by the chief executive
21 officer of the institution under penalty of perjury, and
22 provide all of the following information for public
23 disclosure:

24 (1) The owner's legal name, headquarters address,
25 and the name of an agent for the service of process within
26 California.

27 (2) All names, whether real or fictitious, under which
28 the owner is doing and will do business.

29 (3) The names and addresses of the principal officers
30 of the institution.

31 (4) A list of all California locations at which the
32 institution operates, its offerings, and, if previously
33 registered, the number of students enrolled in California
34 during the preceding year.

35 (5) A copy of the registration form or agreement that
36 enrolls the student in the educational service that
37 contains all of the following:

38 (A) The name and address of the location where
39 instruction will be provided.

40 (B) The title of the educational program.

1 (C) The total amount the student is obligated to pay
2 for the educational service.

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

7 (E) The refund policy developed by the institution
8 unless this article specifies a different refund policy.

9 (F) Unless this article specifies that the institution is
10 required to participate in the Student Tuition Recovery
11 Fund, a statement that the institution does not participate
12 in that fund.

13 (G) In 10-point boldface print or larger, the following
14 statement: "Any questions or problems concerning this
15 school that have not been satisfactorily answered or
16 resolved by the school should be directed to the Bureau
17 for Private Postsecondary and Vocational Education in
18 the Department of Consumer Affairs, (insert city,
19 address, CA ZIP, and telephone number)."

20 *(H) Schools approved under paragraph (1) of*
21 *subdivision (c) of Section 94931 shall also include with the*
22 *statement required by subparagraph (G) information*
23 *referring the student to a consulate of his or her country*
24 *and the United States Immigration and Naturalization*
25 *Service.*

26 (6) A brochure or catalog and a sample advertisement
27 used to promote the educational service.

28 (7) A copy of its certificate of completion.

29 (8) If the educational service offers short-term career
30 training, the financial requirements of Section 94806.

31 ~~(e) The registration application fee paid by the~~
32 ~~educational service seeking registration under this~~
33 ~~section shall not exceed five hundred dollars (\$500) and~~
34 ~~shall cover a four-year period. The annual fee paid by the~~
35 ~~educational service registered under this section shall not~~
36 ~~exceed two hundred fifty dollars (\$250) per year and shall~~
37 ~~not be paid in the year in which the registration is~~
38 ~~granted. These fees shall be deemed to cover all locations~~
39 ~~and no other fees shall be imposed by the bureau.~~

1 training, the institution shall comply with the
2 requirements of Sections 94804 and 94806.

3 (9) If the institution assists students in obtaining
4 financing from a third party for the cost of the educational
5 services at the institution, a copy of the contract or
6 finance agreement reflecting that financing.

7 (e) The bureau shall establish the initial registration
8 fee and the annual fee to be paid by institutions registered
9 under this article. No institution shall be registered
10 pursuant to this article unless it has paid the appropriate
11 fees required by the bureau. Upon receipt of an
12 institution's initial application for registration for a
13 program, the bureau may conduct a site visit pursuant to
14 subdivision (c) of Section 94915.

15 (f) For the purposes of communication with other
16 state agencies, any organization or individual registered
17 to offer short-term seminar training may state that they
18 are "authorized" by the State of California.

19 (g) Except as provided by subdivision (f), any
20 ~~educational service offered~~ institution registered
21 pursuant to this article shall be restricted to stating that
22 their training is "registered" with the State of California
23 and is prohibited from using the words "approval,"
24 "approved," "approval to operate," "approved to
25 operate," "authorized," "licensed," or "licensed to
26 operate."

27 The institution shall place the following statement in all
28 brochures, catalogues, enrollment agreements, and
29 registration forms, in a conspicuous location in at least
30 12-point bold faced type:

31 "We are registered with the State of California.
32 Registration means we have met certain minimum
33 standards imposed by the state for registered schools on
34 the basis of our written application to the state.
35 Registration does not mean we have met all of the more
36 extensive standards required by the state for schools that
37 are approved to operate or licensed or that the state has
38 verified the information we submitted with our
39 registration form."

~~(h) All educational services registered under this article shall be subject to this section and Sections 94931.1 to 94931.7, inclusive. Short-term career institutions registered under paragraph (2) of subdivision (c), in addition, shall be subject to Sections 94931.8 to 94931.10, inclusive. Intensive English programs registered under paragraph (1) of subdivision (c) of Section 94931, in addition, shall be subject to Section 94931.11.~~

~~(h) Sections 94812 and 94818, Sections 94822 to 94825, inclusive, and Sections 94829 to 94838, inclusive, and Sections 94841 and 94846 shall apply to any institution registered pursuant to this article.~~

~~(i) Article 13 (commencing with Section 94950) shall apply to any institution registered pursuant to this article.~~

~~94931.1. No institution, or representative of that institution, shall do any of the following:~~

~~(a) Operate in this state a private postsecondary educational institution not exempt from this chapter, unless the institution is currently registered or approved to operate or registered pursuant to this chapter.~~

~~(b) Offer, as or through any recruitment agent, enrollment or instruction in, or the granting of educational credentials from, an institution not exempt from this chapter, whether that institution is within or outside this state, unless that recruitment agent is a natural person and has a currently valid recruitment agent's permit issued pursuant to this chapter, or accept contracts or enrollment applications from any recruitment agent who does not have a current permit as required by this chapter. However, the bureau may adopt regulations to permit the rendering of legitimate public information services without a permit.~~

~~(c) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on any diploma.~~

~~(d) Make, or cause to be made, any statement or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if that person, institution, firm, association, partnership, or corporation knows, or reasonably should have known, the statement~~

1 ~~or representation to be false, deceptive, inaccurate, or~~
2 ~~misleading.~~

3 ~~(e) Promise or guarantee employment.~~

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

8 ~~(g) Advertise, or indicate in any promotional material,~~
9 ~~that distance education instruction or distance education~~
10 ~~courses of study are offered without including in all~~
11 ~~advertising or promotional material the fact that the~~
12 ~~instruction or courses of study are offered by distance~~
13 ~~education.~~

14 ~~(h) Advertise, or indicate in any promotional material,~~
15 ~~that resident instruction or courses of study are offered~~
16 ~~without including in all advertising or promotional~~
17 ~~material the location where the training is given or the~~
18 ~~location of the resident instruction. This requirement~~
19 ~~does not apply to courses of study offered by distance~~
20 ~~education.~~

21 ~~(i) Solicit students for enrollment by causing any~~
22 ~~advertisement to be published in "help wanted" columns~~
23 ~~in any magazine, newspaper, or publication or use~~
24 ~~"blind" advertising that fails to identify the school or~~
25 ~~institution.~~

26 ~~(j) Advertise, or indicate in any promotional material,~~
27 ~~that the institution is accredited, unless the institution has~~
28 ~~been recognized or approved as meeting the standards~~
29 ~~established by an accrediting division recognized by the~~
30 ~~United States Department of Education or the~~
31 ~~Examining Committee of the State Bar.~~

32 ~~(k) State or imply that the bureau's grant to the~~
33 ~~institution of registration status or approval to operate~~
34 ~~indicates that the institution exceeds minimum state~~
35 ~~standards, or that the bureau or the state endorses or~~
36 ~~recommends the institution.~~

37 ~~(l) Fail to comply with the disclosure of information to~~
38 ~~students regarding vocational and career training~~
39 ~~programs, as described in Section 94816.~~

~~94931.2. The institution and its recruitment agents shall not utilize advertising of any type that is false or misleading, either by actual statement, omission, or intimation.~~

~~94931.3. No institution or representative of an institution shall make any statement to any student that is in any manner untrue or misleading, either by actual statement, omission, or intimation.~~

~~94931.4. No institution or representative of an institution shall engage in any false, deceptive, misleading, or unfair act or practice in connection with any matter, including any of the following: the institution's advertising and promotion, the recruitment of students for enrollment in the institution, the offer or sale of a course of instruction, the enrollment or testing of students, the preparation or submission of a student's application for a student loan or grant, the financing of a course of instruction, course length, course credits, the withholding of equipment, educational materials, or loan or grant funds from a student, training and instruction, the collection of payments, or job placement.~~

~~94931.5. No institution shall use a misleading name in any manner falsely implying any of the following:~~

~~(a) The institution is affiliated with any governmental entity, public or private corporation, or association.~~

~~(b) The institution is a public institution.~~

~~(c) The institution grants degrees.~~

~~(d) The institution is accredited.~~

~~94931.6. (a) No institution or representative of an institution shall induce a person to enter into an agreement for a course of instruction by offering to compensate that person to act as the institution's representative in the solicitation, referral, or recruitment of others for enrollment in the institution.~~

~~(b) No institution or representative of an institution shall pay any consideration to a person to induce that person to sign an agreement for a course of instruction.~~

~~94931.7. No institution offering courses represented to lead to occupations or job titles requiring licensure shall enter into an agreement for a course of instruction~~

1 ~~with a person whom the institution knows or, by the~~
2 ~~exercise of reasonable care, should know, would be~~
3 ~~ineligible to obtain licensure in the occupation or job title~~
4 ~~to which the course of instruction is represented to lead,~~
5 ~~at the time of the scheduled date of course completion,~~
6 ~~for reasons such as age, physical characteristics, or~~
7 ~~relevant past criminal conviction.~~

8 ~~94931.8. Each institution offering a diploma or~~
9 ~~certificate program registered under paragraph (2) of~~
10 ~~subdivision (c) of Section 94931 shall provide to each~~
11 ~~prospective student all of the information required by~~
12 ~~Section 94816.~~

13 ~~94931.9. Each institution offering a diploma or~~
14 ~~certificate program registered under paragraph (2) of~~
15 ~~subdivision (c) of Section 94931 and designed to prepare~~
16 ~~students for a particular vocational, trade, or career field~~
17 ~~shall be subject to Article 12 (commencing with Section~~
18 ~~94944).~~

19 ~~94931.10. Each institution offering a diploma or~~
20 ~~certificate program registered under paragraph (2) of~~
21 ~~subdivision (c) of Section 94931 shall be subject to Section~~
22 ~~94820.~~

23 ~~94931.11.~~

24 *94931.1. (a) Before accepting any consideration*
25 *from a student, an institution registered pursuant to this*
26 *article shall provide the student with an enrollment*
27 *agreement or registration form containing in a single*
28 *document all of the terms related to the instruction and*
29 *payment. The agreement or registration form shall*
30 *contain all of the information set forth in paragraph (5)*
31 *of subdivision (d) of Section 94931.*

32 *(b) The enrollment agreement or registration form*
33 *shall be printed in at least 10-point type in English and,*
34 *except for educational services described in paragraph*
35 *(1) of subdivision (c) of Section 94931, if any solicitation*
36 *or negotiation leading to the student's enrollment was in*
37 *a language other than English, in that other language.*
38 *Institutions that provide educational services described*
39 *in paragraph (1) of subdivision (c) of Section 94931 shall*
40 *provide in a written agreement with any agent or*

1 representative that the agent or representative is
2 required to disclose to each prospective student in
3 writing, in the language of any solicitation or negotiation
4 leading to the student's enrollment, all of the information
5 described in paragraph (5) of subdivision (d) of Section
6 94931.

7 (c) If the institution fails to comply with this section,
8 any enrollment agreement or registration form shall be
9 invalid and the institution shall refund to the student all
10 of the tuition paid by the student to the institution.

11 (d) In addition to any other requirement in this
12 article, each institution registered under paragraph (2) of
13 subdivision (c) of Section 94931 shall provide to each
14 prospective student all of the information required by
15 Section 94816 and shall be subject to Section 94820 and
16 Article 12 (commencing with Section 94944).

17 94931.2. (a) Each institution ~~offering a diploma or~~
18 ~~certificated program~~ registered under paragraph (1) of
19 subdivision (c) of Section 94931 shall maintain, and
20 provide to each prospective student on the ~~enrollment~~
21 ~~form or registration form or enrollment agreement~~, the
22 following refund policy:

23 (1) A refund shall be provided for the unused portion
24 of tuition fees and other charges if the student does not
25 register for the period of attendance or withdraws
26 therefrom at any time prior to completion of the courses,
27 or otherwise fails to complete the period of enrollment.
28 Institutions shall pay or credit refunds due on a
29 reasonable or timely basis, not to exceed 30 days following
30 the date upon which the student's withdrawal has been
31 determined.

32 (2) The institution shall advise each student that any
33 notification of withdrawal or cancellation and any request
34 for refund must be made in writing.

35 (b) The refund shall be determined as follows:

36 (1) The institution, for all students, without penalty or
37 obligation, shall refund 100 percent of the amount paid
38 for institutional charges, less a reasonable deposit or
39 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 ~~(2) The institutional refund policy for students who~~
29 ~~did not cancel pursuant to paragraph (1) and who have~~
30 ~~completed 60 percent or less of the course of instruction~~
31 ~~shall be a pro rata refund if any of the following occurs:~~

32 ~~(A) The student transfers to another school.~~

33 ~~(B) The student returns to his or her country of~~
34 ~~residence.~~

35 ~~(C) The student gains admittance to a college or~~
36 ~~university.~~

37 ~~The refund under this paragraph shall be the amount~~
38 ~~the student paid for the instruction multiplied by a~~
39 ~~fraction, the numerator of which is the number of hours~~
40 ~~of instruction in the course which the student has not~~

1 received, but for which the student has paid, and the
2 denominator of which is the total number of hours of
3 instruction for which the student has paid. The school
4 may deduct a fee which shall not exceed an amount
5 derived by multiplying the hourly charge for the program
6 by the number of hours that were taught in the first four
7 weeks of instruction, or for a student who withdraws
8 during the first four weeks, the hours taught and which,
9 at the time of the student's withdrawal, were scheduled
10 to be taught in the first four weeks of instruction plus, if
11 the student withdraws pursuant to subparagraph (B), 30
12 percent of the total tuition amount. For the purposes of
13 this paragraph, the hourly charge for the program shall be
14 derived by dividing the total tuition charge by the
15 number of hours in the program.

16 (c) The bureau shall conduct, or contract with the
17 California Postsecondary Education Commission to
18 conduct, a study on the effect of the refund policy
19 specified in this section on the student dropout rate. The
20 bureau shall report the results of the study to the
21 Legislature no later than March 30, 1999.

22 (d) This section shall remain in effect only until
23 January 1, 2000, and as of that date is repealed, unless a
24 later enacted statute, that is enacted before January 1,
25 2000, deletes or extends that date.

26

27 Article 10. Fees and Costs

28

29 94932. (a) The Private Postsecondary and Vocational
30 Education Administration Fund is continued in
31 existence. All fees collected pursuant to this section shall
32 be credited to this fund along with any interest on the
33 money, for the administration of this chapter.
34 ~~Notwithstanding Section 13340 of the Government Code,~~
35 ~~the money in the fund is continuously appropriated to the~~
36 ~~council without regard to fiscal years for the purposes of~~
37 ~~this chapter. However, if the Legislature makes an~~ If the
38 Legislature makes an appropriation for the support of the
39 council in the Budget Act of any fiscal year, the amount
40 for the support of the council expended from the fund



1 during the fiscal year shall not exceed the amount
2 appropriated by the Budget Act, *unless that amount is*
3 *modified in accordance with the Budget Act.*

4 ~~There is an administration account and an enforcement~~
5 ~~account in the fund. On and after January 1, 1998, 50~~
6 ~~percent of the moneys in the fund shall be deposited in~~
7 ~~the administration account and used for the~~
8 ~~administration of this act, and 50 percent of the moneys~~
9 ~~in the fund shall be deposited in the enforcement account~~
10 ~~and used to enforce the act. Funds for enforcement~~
11 ~~purposes may be used to reimburse district attorneys and~~
12 ~~the Attorney General of the State of California for costs~~
13 ~~incurred in the prosecution of degree-granting~~
14 ~~institutions and nondegree-granting institutions for~~
15 ~~violating the act.~~

16 For

17 (b) *On and after January 1, 1998, a minimum of 50*
18 *percent of the funds appropriated to the council shall be*
19 *used to cover the costs of enforcing all of the following:*

20 (1) *Enforcing the act and the council's regulations by*
21 *taking actions against violators while ensuring due*
22 *process for all institutions.*

23 (2) *Ensuring that independent onsite evaluations and*
24 *random and targeted inspections and audits of*
25 *institutions are conducted, and that students have easy*
26 *access to information concerning their rights to contract*
27 *cancellation, withdrawal, refunds, and remedies.*

28 (3) *Mediating student complaints to achieve balanced*
29 *outcomes for students and institutions.*

30 (c) (1) *For the approval of private institutions*
31 *operating under this chapter, the council shall charge an*
32 *amount not to exceed the actual costs of approving or*
33 *renewing the approval of the private institutions. The*
34 *council shall adopt a fee schedule for all institutions*
35 *approved under this chapter, including the maximum*
36 *amounts to be charged for an institution's initial*
37 *application and annual renewal. On January 1, 1998, the*
38 *bureau shall reduce by 5 percent the application fees for*
39 *approval or renewal to operate that are in effect on*
40 *December 31, 1997 for all institutions. The renewal.*

1 (2) On January 1, 1998, the bureau shall reduce the
2 application fees for approval and reapproval to operate
3 and the annual fees, that are in effect on December 31,
4 1997, as follows:

5 (A) By 5 percent for institutions whose annual gross
6 revenues or projected annual gross revenues are one
7 million dollars (\$1,000,000) or more.

8 (B) By 10 percent for institutions whose annual gross
9 revenues or projected annual gross revenues are one
10 hundred thousand dollars (\$100,000) or more but less
11 than one million dollars (\$1,000,000).

12 (C) By 15 percent for institutions whose annual gross
13 revenues or projected annual gross revenues are less than
14 one hundred thousand dollars (\$100,000).

15 (3) The council may propose modifications to the fee
16 schedule to the Governor and the Legislature to add or
17 delete categories of fees related to work performed by the
18 council and propose to the Governor and the Legislature
19 the maximum amount to be charged for each fee category
20 added to the fee schedule. The fee schedule shall provide
21 adequate resources for the council to implement this
22 chapter effectively. It is the intent of the Legislature that
23 the council shall adopt a fee schedule that reflects the size
24 of the institution, with institutions enrolling a larger
25 number of students being required to pay a larger annual
26 fee than those with smaller student enrollments. The fee
27 schedule, consistent with this section, also may contain
28 provisions for fees assessed in conjunction with the
29 evaluation of an application for a certificate of
30 authorization for service issued pursuant to paragraph
31 (3) of subdivision (b) of Section 94915. The council shall
32 annually present its proposed budget and fee schedule,
33 penalty fees assessed for delinquent payments pursuant
34 to regulations adopted by the council and additions and
35 deletions of fee categories to the Department of Finance
36 and the Joint Legislative Budget Committee for their
37 review and approval as part of the annual budget process.
38 The council shall annually publish a schedule of the
39 current fees to be charged pursuant to this section and
40 shall make this schedule generally available to the public.

1 The fees may be increased annually up to the maximum
2 allowable level by a majority vote of the council, without
3 any additional review and approval by the Office of
4 Administrative Law. The adoption of the annual fee
5 schedule, any modification of the fee schedule, and any
6 increase in fees up to the maximum allowable level shall
7 be subject to Article 5 (commencing with Section 11346)
8 of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the
9 Government Code. Increases above the maximum level
10 shall be changed through legislation enacted by the
11 Legislature and signed by the Governor.

12 94934. Any institution more than 30 days delinquent
13 in the payment of any fee or order for the recovery of
14 costs and expenses under Section 94935, may be assessed
15 a penalty fee by the council.

16 94935. If the council determines after an investigation
17 that an institution has violated this chapter, the council
18 may order the institution to pay the costs and expenses
19 incurred in connection with the investigation and any
20 civil or administrative proceeding involving the violation
21 that was investigated, including charges made by the
22 Attorney General for his or her services, and any expenses
23 incurred by a district attorney. Before any order for the
24 payment of costs and expenses is made under this section,
25 the council shall provide the institution with written
26 notice, including notice of the institution's right to
27 request a hearing within 15 days of service of the notice.
28 If a hearing is not timely requested, the council may order
29 payment. If a hearing is requested, the council shall
30 comply with Section 94965, 94975, or 94980. Within 30 days
31 after the effective date of the order, the council may
32 enforce the order as if it were a money judgment
33 pursuant to Title 9 (commencing with Section 680.10) of
34 Part 2 of the Code of Civil Procedure. Alternatively, the
35 council may seek the costs and expenses allowed under
36 this section in a civil proceeding. *An institution shall not*
37 *be required to pay the same costs and expenses incurred*
38 *in connection with the investigation and any civil or*
39 *administrative proceeding to more than one*
40 *investigating agency.*

1 94936. The effective date of any statutory
2 amendment to this chapter affecting revenues payable to
3 the council from any service shall be delayed for a period
4 of 12 months in order to enable the council to make the
5 necessary adjustments in its fee schedule through the
6 regulatory adoption process.

7
8 Article 11. Agents and Agencies
9

10 94940. (a) Notwithstanding any other provision of
11 this chapter concerning agents, the owner of at least 51
12 percent of the equitable interest in an institution shall be
13 exempt from this section if the institution is approved to
14 operate pursuant to Article 8 (commencing with Section
15 94900) or Article 9 (commencing with Section 94915).

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

23 The application for a permit shall be furnished by the
24 council and shall include the following:

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

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

1 for liability in the penal sum of twenty-five thousand
2 dollars (\$25,000) for each agent to whom coverage is
3 extended by its terms. Neither the principal nor the
4 surety on a bond may terminate the coverage of the bond,
5 except upon giving 30 days' prior written notice to the
6 council, and contemporaneously surrendering the
7 agent's permit. Liability on the bond may be enforced
8 after a hearing before the council, after 30 days' advance
9 written notice to the principal and surety. The council
10 shall adopt regulations establishing the procedure for
11 administrative enforcement of liability. This paragraph
12 supplements, but does not supplant, any other rights or
13 remedies to enforce liability on the bond.

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

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

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

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

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

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

1 (g) The issuance of a permit pursuant to this section
2 shall not be interpreted as, and it shall be unlawful for any
3 individual holding any permit to expressly or impliedly
4 represent by any means whatsoever, that the council has
5 made any evaluation, recognition, accreditation, or
6 endorsement of any course of study being offered for sale
7 by the individual.

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

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

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

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

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

38 94942. (a) Except as provided in subdivision (g), any
39 agency shall be required to hold a valid authorization

1 issued by the council. The application for an
2 authorization shall include all of the following:

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

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

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

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

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

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

1 (D) A verbatim statement, as follows:

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

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

11 (i) The courses offered.

12 (ii) Program objectives.

13 (iii) Length of program.

14 (iv) The faculty and their qualifications.

15 (v) A schedule of tuition, fees, and all other charges
16 and expenses necessary for the completion of the course
17 of study.

18 (vi) The cancellation and refund policies.

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

21 (viii) For vocational training programs, placement
22 data, including program completion rates, placement
23 rates, and starting salaries.

24 (ix) Other material facts concerning the institution
25 and the program or course of instruction that are
26 reasonably likely to affect the decision of the student to
27 enroll in the institution.

28 (4) Identification of all employees of the agency and
29 their titles, and of all agents with whom the agency
30 contracts.

31 (5) Identification of all owners, and if the entity is a
32 corporation, the identification of all persons possessing an
33 interest equal to, or in excess, of 10 percent.

34 (6) Identification of all vendors of educational services
35 for which the agency provides recruitment services.

36 (7) A signed statement by the applicant that all
37 employees engaged in recruitment activities will be
38 required to read Sections 94831, 94832, and 94985 and, if
39 the educational program for which the agency recruits is

1 subject to Article 7 (commencing with Section 94850),
2 Section 94853.

3 (b) Within 30 days of receipt of a completed
4 application and prior to issuance of an authorization a
5 representative of the council shall inspect the applicant
6 agency and verify the application. Within 30 days of the
7 inspection, the council shall issue the authorization for a
8 one-year period, subject to annual renewal at the end of
9 that period, or deny the application. The council shall
10 deny the authorization if the agency or any owner,
11 officer, or director of the agency previously has been
12 found in any judicial or administrative proceeding to
13 have violated this chapter, or if there exists any of the
14 grounds for denial set forth in Section 480 of the Business
15 and Professions Code.

16 (c) Any employee of an authorized agency engaged in
17 student recruitment activities of an authorized agency is
18 exempt from the bond requirements of Section 94940.

19 (d) Neither the agency nor any of its employees shall
20 make any untrue or misleading statement in the course
21 of any solicitation or recruitment activity or engage in the
22 sales, collection, credit, or other practices of any type that
23 are false, deceptive, misleading, or unfair.

24 (e) An agency or an employee of an agency shall
25 provide a prospective student with the disclosure
26 statement described in paragraph (3) of subdivision (a)
27 and shall allow the prospective student a sufficient
28 opportunity to read it before soliciting or recruiting him
29 or her for enrollment or referring him or her to an
30 institution. That disclosure statement shall be printed in
31 10-point type in English and, if the solicitation,
32 recruitment, or referral is to be conducted in a language
33 other than English, in that other language.

34 (f) Any institution approved under this chapter shall
35 cease any and all recruitment activities involving the
36 agency upon action by the council to revoke or deny an
37 agency's authorization. The failure of the institution to do
38 so upon presentation of notice of the council's action shall
39 be cause to deny or revoke any approval held by that
40 institution.

(g) This section does not apply to any agency recruiting solely for institutions described in Article 8 (commencing with Section 94900).

(h) The council shall maintain records for five years of each application for an authorization, each verification by the council of an application, each bond, and each denial, issuance, and revocation of an authorization.

(i) A student may bring any action against any agency if the agency or an employee of the agency violates this chapter or commits any fraud or misrepresentation and, upon prevailing, is entitled to the recovery of damages, reasonable attorney's fees, and costs. If a court finds that the violation was willfully committed, the court shall, in addition to the award of damages, award a civil penalty of up to two times the amount of damages sustained by the student.

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

Article 12. Student Tuition Recovery Fund and Student Obligations

94944. (a) The Student Tuition Recovery Fund is continued in existence. All assessments collected pursuant Section 94945 shall be credited to this fund along with any interest on the money, for the administration of this article. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the council without regard to fiscal years for the purposes of this chapter. The fund shall consist of a degree-granting postsecondary educational institution account, a vocational educational institution account, and an account for institutions approved under any provision of this chapter that charge each enrolled student a total charge, as defined in subdivision (k) of Section 94852, of less than one thousand dollars (\$1,000), for the purpose of relieving or mitigating pecuniary losses suffered by any

1 California resident who is a student of an approved
2 institution and who meets either of the following
3 conditions:

4 (1) The student was enrolled in an institution, prepaid
5 tuition, and suffered loss as a result of, (A) the closure of
6 the institution, (B) the institution's failure to pay refunds
7 or charges on behalf of a student to a third party for
8 license fees or any other purposes, or to provide
9 equipment or materials for which a charge was collected
10 within 180 days before the institution's closure, (C) the
11 institution's failure to pay or reimburse loan proceeds
12 under a federally guaranteed student loan program as
13 required by law or to pay or reimburse proceeds received
14 by the institution prior to closure in excess of tuition and
15 other costs, (D) the institution's breach or anticipatory
16 breach of the agreement for the course of instruction, or
17 (E) a decline in the quality or value of the course of
18 instruction within the 30-day period before the
19 institution's closure or, if the decline began before that
20 period, the period of decline determined by the council.
21 For the purpose of this section, "closure" includes closure
22 of a branch or satellite campus, the termination of either
23 the correspondence or residence portion of a home study
24 or correspondence course, and the termination of a
25 course of instruction for some or all of the students
26 enrolled in the course before the time these students
27 were originally scheduled to complete it, or before a
28 student who has been continuously enrolled in a course
29 of instruction has been permitted to complete all the
30 educational services and classes that comprise the course.

31 (2) The student obtained a judgment against the
32 institution for any violation of this chapter and the
33 student certifies that the judgment cannot be collected
34 after diligent collection efforts.

35 (b) Payments from the fund to any student shall be
36 made from the appropriate account with the fund, as
37 determined by the type of institution into which the
38 student has paid his or her fees, and shall be subject to any
39 regulations and conditions as the council shall prescribe.

1 (c) (1) The institution shall provide to the council, at
2 the time of the institution's closure, the names and
3 addresses of persons who were students of an institution
4 within 60 days prior to its closure, and shall notify these
5 students, within 30 days of the institution's closure, of
6 their rights under the fund and how to apply for payment.
7 If the institution fails to comply with this subdivision, the
8 council shall attempt to obtain the names and addresses
9 of these students and shall notify them, within 90 days of
10 the institution's closure, of their rights under the fund and
11 how to apply for payment.

12 The council shall develop a form in English and Spanish
13 fully explaining a student's rights, which shall be used by
14 the institution or the council to comply with this
15 paragraph. The form shall include, or be accompanied by,
16 a claim application and an explanation of how to
17 complete the application.

18 (2) If an institution fails to comply with paragraph (1),
19 the council shall order the institution, or any person
20 responsible for the failure to provide notice as required
21 by paragraph (1), to reimburse the council for all
22 reasonable costs and expenses incurred in notifying
23 students as required in paragraph (1). In addition, the
24 council may impose a penalty of up to five thousand
25 dollars (\$5,000) against the institution and any person
26 found responsible for the failure to provide notice. The
27 amount of the penalty shall be based on the degree of
28 culpability and the ability to pay. Any order may impose
29 joint and several liability. Before any order is made
30 pursuant to this paragraph, the council shall provide
31 written notice to the institution and any person from
32 whom the council seeks recovery of the council's claim
33 and of the right to request a hearing within 30 days of the
34 service of the notice.

35 If a hearing is not requested within 30 days of service
36 of the notice, the council may order payment in the
37 amount of the claim. If a hearing is requested, Chapter 5
38 (commencing with Section 11500) of Part 1 of Division 3
39 of Title 2 of the Government Code shall apply, and the
40 council shall have all of the powers therein prescribed.

1 Within 30 days after the effective date of the issuance of
2 an order, the council may enforce the order in the same
3 manner as if it were a money judgment pursuant to Title
4 9 (commencing with Section 680.010) of Part 2 of the
5 Code of Civil Procedure. All penalties and
6 reimbursements paid pursuant to this section shall be
7 deposited in the Private Postsecondary and Vocational
8 Education Administration Fund established pursuant to
9 Section 94932 or any successor fund.

10 (d) (1) Students entitled to payment as provided in
11 paragraph (1) of subdivision (a) shall file with the council
12 a verified application indicating each of the following:

13 (A) The student's name, address, telephone number,
14 and social security number.

15 (B) If any portion of the tuition was paid from the
16 proceeds of a loan, the name of the lender, and any state
17 or federal agency that guaranteed or reinsured the loan.

18 (C) The amount of the prepaid tuition, the amount
19 and description of the student's loss, and the amount of
20 the student's claim.

21 (D) The date the student started and ceased attending
22 the institution.

23 (E) A description of the reasons the student ceased
24 attending the institution.

25 (F) If the student ceased attending because of a
26 breach or anticipatory breach or because of the decline
27 in the quality or value of the course of instruction as
28 described in subparagraph (E) of paragraph (1) of
29 subdivision (a), a statement describing in detail the
30 nature of the loss incurred. The application shall be filed
31 within one year of the council's service on the student of
32 the notice described in paragraph (1) of subdivision (c)
33 or, if no notice is served, within four years of the
34 institution's closure.

35 (2) Students entitled to payment as provided in
36 paragraph (2) of subdivision (a) shall file with the council
37 a verified application indicating the student's name,
38 address, telephone number, and social security number,
39 the amount of the judgment obtained against the
40 institution, a statement that the judgment cannot be

1 collected, and a description of the efforts attempted to
2 enforce the judgment. The application shall be
3 accompanied by a copy of the judgment and any other
4 documents indicating the student's efforts made to
5 enforce the judgment.

6 The application shall be filed within two years after the
7 date upon which the judgment became final.

8 (3) The council may require additional information
9 designed to facilitate payment to entitled students. The
10 council shall relieve a student from the requirement to
11 provide all of the information required by this subdivision
12 if the council has the information or the information is not
13 reasonably necessary for the resolution of a student's
14 claim.

15 (e) Within 60 days of the council's receipt of a
16 completed application for payment, the council shall pay
17 the claim from the Student Tuition Recovery Fund or
18 deny the claim. The council, for good cause, may extend
19 the time period for up to an additional 90 days to
20 investigate the accuracy of the claim.

21 (f) (1) If the council pays the claim, the amount of the
22 payment shall be (A) the greater of either (i) the total
23 guaranteed student loan debt incurred by the student in
24 connection with attending the institution, or (ii) the total
25 of the student's tuition and the cost of equipment and
26 materials related to the course of instruction, less (B) the
27 amount of any refund, reimbursement, indemnification,
28 restitution, compensatory damages, settlement, debt
29 forgiveness, discharge, cancellation, or compromise, or
30 any other benefit received by, or on behalf of, the student
31 before the council's payment of the claim in connection
32 with the student loan debt or cost of tuition, equipment,
33 and materials. The payment also shall include the amount
34 the institution collected and failed to pay to third parties
35 on behalf of the student for license fees or any other
36 purpose. However, if the claim is based solely on the
37 circumstances described in subparagraph (B) or (C) of
38 paragraph (1) of subdivision (a), the amount of the
39 payment shall be the amount of the loss suffered by the
40 student.

1 In addition to the amount determined under this
2 paragraph, the amount of the payment shall include all
3 interest and collection costs on all student loan debt
4 incurred by the student in connection with attending the
5 institution.

6 (2) The council may reduce the total amount specified
7 in paragraph (1) by the value of the benefit, if any, of the
8 education obtained by the student before the closure of
9 the institution. If the council makes any reduction
10 pursuant to this paragraph, the council shall notify the
11 claimant in writing at the time the claim is paid of the
12 basis of its decision and provide a brief explanation of the
13 reasons upon which the council relied in computing the
14 amount of the reduction.

15 (3) No reduction shall be made to the amount
16 specified in paragraph (1) if (A) the student did not
17 receive adequate instruction to obtain the training, skills,
18 or experience, or employment to which the instruction
19 was represented to lead, or (B) credit for the instruction
20 obtained by the student is not generally transferable to
21 other institutions approved by the council.

22 (4) The amount of the payment determined under
23 this subdivision is not dependent on the amount of the
24 refund to which the student would have been entitled
25 after a voluntary withdrawal.

26 (5) Upon payment of the claim, all of the student's
27 rights against the institution shall be deemed assigned to
28 the council to the extent of the amount of the payment.

29 (g) (1) The director of the council may negotiate with
30 a lender, holder, guarantee agency, or the United States
31 Department of Education for the full compromise or
32 write-off of student loan obligations to relieve students of
33 loss and thereby reduce the amount of student claims.

34 (2) The director of the council, with the student's
35 permission, may pay a student's claim directly to the
36 lender, holder, guarantee agency, or the United States
37 Department of Education under a federally guaranteed
38 student loan program only if the payment of the claim
39 fully satisfies all of the student's loan obligations related

1 to attendance at the institution for which the claim was
2 filed.

3 (3) Notwithstanding subdivision (e), the council may
4 delay the payment of a claim pending the resolution of
5 the council's attempt to obtain a compromise or write-off
6 of the claimant's student loan obligation. However, the
7 council shall immediately pay the claim in the event any
8 adverse action that is not stayed is taken against the
9 claimant, including the commencement of a civil or
10 administrative action, tax offset, the enforcement of a
11 judgment, or the denial of any government benefit.

12 (h) If the council denies the claim, or reduces the
13 amount of the claim pursuant to paragraph (2) of
14 subdivision (f), the council shall notify the student of the
15 denial or reduction and of the student's right to request
16 a hearing within 60 days or any longer period permitted
17 by the council. If a hearing is not requested within 60 days
18 or any additional period reasonably requested by the
19 student, the council's decision shall be final. If a hearing
20 is requested, Chapter 5 (commencing with Section
21 11500) of Part 1 of Division 3 of Title 2 of the Government
22 Code shall apply.

23 It is the intent of the Legislature that, when a student
24 is enrolled in an institution that closes prior to the
25 completion of the student's program, the student shall
26 have the option for a teach-out at another institution
27 approved by the council. The council shall seek to
28 promote teach-out opportunities wherever possible and
29 shall inform the student of his or her rights, including
30 payment from the fund, transfer opportunities, and
31 available teach-out opportunities, if any.

32 (i) This section applies to all claims filed or pending
33 under former Chapter 7 (commencing with Section
34 94700) after January 1, 1990.

35 94945. (a) The council shall assess each institution
36 that collects any moneys in advance of rendering
37 services.

38 (1) The amount assessed each institution shall be
39 calculated only for those students who are California
40 residents and who are eligible to be reimbursed from the

1 fund. It shall be based on the actual amount charged each
2 of these students for total course cost, regardless of the
3 portion that is prepaid. The assessment shall be as follows:

4 (A) For a total course cost of one cent (\$0.01) to nine
5 hundred ninety-nine dollars and ninety-nine cents
6 (\$999.99), inclusive, the assessment is one dollar (\$1) per
7 student.

8 (B) For a total course cost of one thousand dollars
9 (\$1,000) to two thousand nine hundred ninety-nine
10 dollars and ninety-nine cents (\$2,999.99), inclusive, the
11 assessment is two dollars and fifty cents (\$2.50) per
12 student.

13 (C) For a total course cost of three thousand dollars
14 (\$3,000) to five thousand nine hundred ninety-nine
15 dollars and ninety-nine cents (\$5,999.99), inclusive, the
16 assessment is three dollars and fifty cents (\$3.50) per
17 student.

18 (D) For a total course cost of six thousand dollars
19 (\$6,000) to eight thousand nine hundred ninety-nine
20 dollars and ninety-nine cents (\$8,999.99), inclusive, the
21 assessment is four dollars and fifty cents (\$4.50) per
22 student.

23 (E) For a total course cost of nine thousand dollars
24 (\$9,000) or more, the assessment is five dollars and fifty
25 cents (\$5.50) per student.

26 (2) The council shall levy additional reasonable
27 assessments only if they are required to ensure that
28 sufficient funds are available to satisfy the anticipated
29 costs of paying student claims pursuant to Section 94944.

30 (3) The assessments shall be paid into the Student
31 Tuition Recovery Fund and credited to the appropriate
32 account in the fund, and the deposits shall be allocated,
33 except as otherwise provided for in this chapter, solely for
34 the payment of valid claims to students. Unless additional
35 reasonable assessments are required, no assessments for
36 the degree-granting postsecondary educational
37 institution account shall be levied during any fiscal year
38 if, as of June 30 of the prior fiscal year, the balance in that
39 account of the fund exceeds one million dollars
40 (\$1,000,000). Unless additional reasonable assessments

1 are required, no assessments for the vocational
2 educational institution account shall be levied during any
3 fiscal year if, as of June 30 of the prior fiscal year, the
4 balance in that account exceeds three million dollars
5 (\$3,000,000). Unless additional reasonable assessments
6 are required, no assessments for the account for
7 institutions approved under any provision of this chapter
8 that charge each enrolled student a total charge, as
9 defined in subdivision (k) of Section 94852, of less than
10 one thousand dollars (\$1,000) shall be levied during any
11 fiscal year if, as of June 30 of the prior fiscal year, the
12 balance in that account exceeds three hundred thousand
13 dollars (\$300,000). However, regardless of the balance in
14 the fund, assessments shall be made on any newly
15 approved institution for a period established pursuant to
16 regulation by the council. Notwithstanding Section 13340
17 of the Government Code, the moneys so deposited in the
18 fund are continuously appropriated to the council for the
19 purpose of paying claims to students pursuant to Section
20 94944.

21 (b) The council may deduct from the fund the
22 reasonable costs of administration of the tuition recovery
23 program authorized by Section 94944 and this section.
24 The maximum amount of administrative costs that may
25 be deducted from the fund, in a fiscal year, shall not
26 exceed one hundred thousand dollars (\$100,000) from the
27 degree-granting postsecondary educational institution
28 account, three hundred thousand dollars (\$300,000) from
29 the vocational educational institution account, and thirty
30 thousand dollars (\$30,000) from the account for
31 institutions approved under any provision of this chapter
32 that charge each enrolled student a total charge, as
33 defined in subdivision (k) of Section 94852, of less than
34 one thousand dollars (\$1,000), plus the interest earned on
35 money in the fund that is credited to the fund. Prior to the
36 council's expenditure of any amount in excess of one
37 hundred thousand dollars (\$100,000) from the fund for
38 administration of the tuition recovery program, the
39 council shall develop a plan itemizing that expenditure.
40 The plan shall be subject to the approval of the

1 Department of Finance. Institutions, except for schools of
2 cosmetology licensed pursuant to Article 8 (commencing
3 with Section 7362) of Chapter 10 of Division 3 of the
4 Business and Professions Code and institutions that offer
5 vocational or job training programs, that meet the
6 student tuition indemnification requirements of a
7 California state agency, or that demonstrate to the
8 council that an acceptable alternative method of
9 protecting their students against loss of prepaid tuition
10 has been established, shall be exempted from this section.

11 (c) Reasonable costs in addition to those permitted
12 under subdivision (b) may be deducted from the fund for
13 any of the following purposes:

14 (1) To make and maintain copies of student records
15 from institutions which close.

16 (2) To reimburse the council or a third party serving
17 as the custodian of records.

18 (3) To review records in order to determine whether
19 a student improperly received a loan due to false
20 certification, in which case the student would be eligible
21 for a loan write-off or discharge in lieu of reimbursement
22 in whole or in part from the fund.

23 (d) In the event of a closure by any approved
24 institution under this chapter, any assessments that have
25 been made against those institutions, but have not been
26 paid into the fund, shall be recovered. Any payments
27 from the fund made to students on behalf of any
28 institution shall be recovered from that institution.

29 (e) In addition to civil remedies, the council may order
30 an institution to pay previously unpaid assessments or to
31 reimburse the council for any payments made from the
32 fund in connection with the institution. Before any order
33 is made pursuant to this section, the council shall provide
34 written notice to the institution and notice of the
35 institution's right to request a hearing within 30 days of
36 the service of the notice. If a hearing is not requested
37 within 30 days of the service of the notice, the council may
38 order payment. If a hearing is requested, Chapter 5
39 (commencing with Section 11500) of Part 1 of Division 3
40 of Title 2 of the Government Code shall apply, and the

1 council shall have all powers prescribed in that chapter.
2 Within 30 days after the effective date of the issuance of
3 the order, the council may enforce the order in the same
4 manner as if it were a money judgment pursuant to Title
5 9 (commencing with Section 680.010) of Part 2 of the
6 Code of Civil Procedure.

7 (f) In addition to any other action that the council may
8 take under this chapter, the council may suspend or
9 revoke an institution's approval to operate because of the
10 institution's failure to pay assessments when due or failure
11 to pay reimbursement for any payments made from the
12 fund within 30 days of the council's demand for payment.

13 (g) The moneys deposited in the fund shall be exempt
14 from execution and shall not be the subject of litigation
15 or liability on the part of creditors of those institutions or
16 students.

17 (h) Claims for approved institutions that charge each
18 enrolled student a total charge, as defined in subdivision
19 (k) of Section 94852, of less than one thousand dollars
20 (\$1,000) shall be paid from (1) the account established for
21 these institutions if the claim relates to a period of student
22 enrollment beginning on or after the effective date of this
23 section, or (2) the vocational educational institution
24 account if the claim relates to a period of student
25 enrollment that began before the effective date of this
26 section.

27 (i) This section shall become inoperative on January 1,
28 1999, and on that date is repealed unless a later enacted
29 statute that becomes effective on or before January 1,
30 1999, deletes or extends that date.

31 94945. (a) The council shall assess each institution
32 that collects any moneys in advance of rendering
33 services.

34 (1) The amount assessed each institution shall be
35 calculated only for those students who are California
36 residents and who are eligible to be reimbursed from the
37 fund. It shall be based on the actual amount charged each
38 of these students for total course cost, regardless of the
39 portion that is prepaid. The assessment shall be as follows:

1 (A) For a total course cost of one cent (\$0.01) to two
2 thousand nine hundred ninety-nine dollars and
3 ninety-nine cents (\$2,999.99), inclusive, the assessment is
4 two dollars and fifty cents (\$2.50) per student.

5 (B) For a total course cost of three thousand dollars
6 (\$3,000) to five thousand nine hundred ninety-nine
7 dollars and ninety-nine cents (\$5,999.99), inclusive, the
8 assessment is three dollars and fifty cents (\$3.50) per
9 student.

10 (C) For a total course cost of six thousand dollars
11 (\$6,000) to eight thousand nine hundred ninety-nine
12 dollars and ninety-nine cents (\$8,999.99), inclusive, the
13 assessment is four dollars and fifty cents (\$4.50) per
14 student.

15 (D) For a total course cost of nine thousand dollars
16 (\$9,000) or more, the assessment is five dollars and fifty
17 cents (\$5.50) per student.

18 (2) The council shall levy additional reasonable
19 assessments only if they are required to ensure that
20 sufficient funds are available to satisfy the anticipated
21 costs of paying student claims pursuant to Section 94944.

22 (3) The assessments shall be paid into the Student
23 Tuition Recovery Fund and credited to the appropriate
24 account in the fund, and the deposits shall be allocated,
25 except as otherwise provided for in this chapter, solely for
26 the payment of valid claims to students. Unless additional
27 reasonable assessments are required, no assessments for
28 the degree-granting postsecondary educational
29 institution account shall be levied during any fiscal year
30 if, as of June 30 of the prior fiscal year, the balance in that
31 account of the fund exceeds one million dollars
32 (\$1,000,000). Unless additional reasonable assessments
33 are required, no assessments for the vocational
34 educational institution account shall be levied during any
35 fiscal year if, as of June 30 of the prior fiscal year, the
36 balance in that account exceeds three million dollars
37 (\$3,000,000). However, regardless of the balance in the
38 fund, assessments shall be made on any newly approved
39 institution. Notwithstanding Section 13340 of the
40 Government Code, the moneys so deposited in the fund

1 are continuously appropriated to the council for the
2 purpose of paying claims to students pursuant to Section
3 94944. *The bureau shall adjust the amounts in this*
4 *subdivision to reflect changes in the United States Cost of*
5 *Living Index published by the United States Bureau of*
6 *Labor Statistics subsequent to January 1, 1990. The*
7 *adjustments shall be made on January 1 of each year.*

8 (b) The council may deduct from the fund the
9 reasonable costs of administration of the tuition recovery
10 program authorized by Section 94944 and this section.
11 The maximum amount of administrative costs that may
12 be deducted from the fund, in a fiscal year, shall not
13 exceed one hundred thousand dollars (\$100,000) from the
14 degree-granting postsecondary educational institution
15 account and three hundred thousand dollars (\$300,000)
16 from the vocational educational institution account, plus
17 the interest earned on money in the fund that is credited
18 to the fund. Prior to the council's expenditure of any
19 amount in excess of one hundred thousand dollars
20 (\$100,000) from the fund for administration of the tuition
21 recovery program, the council shall develop a plan
22 itemizing that expenditure. The plan shall be subject to
23 the approval of the Department of Finance. Institutions,
24 except for schools of cosmetology licensed pursuant to
25 Article 8 (commencing with Section 7362) of Chapter 10
26 of Division 3 of the Business and Professions Code and
27 institutions that offer vocational or job training programs,
28 that meet the student tuition indemnification
29 requirements of a California state agency, or that
30 demonstrate to the council that an acceptable alternative
31 method of protecting their students against loss of
32 prepaid tuition has been established, shall be exempted
33 from this section.

34 (c) Reasonable costs in addition to those permitted
35 under subdivision (b) may be deducted from the fund for
36 any of the following purposes:

37 (1) To make and maintain copies of student records
38 from institutions which close.

39 (2) To reimburse the council or a third party serving
40 as the custodian of records.

1 (d) In the event of a closure by any approved
2 institution under this chapter, any assessments that have
3 been made against those institutions, but have not been
4 paid into the fund, shall be recovered. Any payments
5 from the fund made to students on behalf of any
6 institution shall be recovered from that institution.

7 (e) In addition to civil remedies, the council may order
8 an institution to pay previously unpaid assessments or to
9 reimburse the council for any payments made from the
10 fund in connection with the institution. Before any order
11 is made pursuant to this section, the council shall provide
12 written notice to the institution and notice of the
13 institution's right to request a hearing within 30 days of
14 the service of the notice. If a hearing is not requested
15 within 30 days of the service of the notice, the council may
16 order payment. If a hearing is requested, Chapter 5
17 (commencing with Section 11500) of Part 1 of Division 3
18 of Title 2 of the Government Code shall apply, and the
19 council shall have all powers prescribed in that chapter.
20 Within 30 days after the effective date of the issuance of
21 the order, the council may enforce the order in the same
22 manner as if it were a money judgment pursuant to Title
23 9 (commencing with Section 680.010) of Part 2 of the
24 Code of Civil Procedure.

25 (f) In addition to any other action that the council may
26 take under this chapter, the council may suspend or
27 revoke an institution's approval to operate because of the
28 institution's failure to pay assessments when due or failure
29 to pay reimbursement for any payments made from the
30 fund within 30 days of the council's demand for payment.

31 (g) The moneys deposited in the fund shall be exempt
32 from execution and shall not be the subject of litigation
33 or liability on the part of creditors of those institutions or
34 students.

35 (h) This section shall become operative on January 1,
36 1999.

37 94946. (a) Any institution that willfully violates
38 Section 94945 shall be subject to all of the following:

1 (1) The institution shall lose all rights to enforce the
2 terms of any contract or agreement arising from the
3 transaction in which the violation occurred.

4 (2) The institution shall refund to the student any fees
5 that it has collected from that student.

6 (b) An institution's willful violation of Section 94945
7 may be grounds for the revocation of that institution's
8 approval to operate in this state.

9 94947. Students enrolling in institutions that come
10 under Sections 94944 and 94945, shall disclose in writing,
11 if applicable, the source of any and all guaranteed or
12 insured loans granted for the purposes of paying tuition
13 to that institution. In the event of a closure of any
14 institution, the council shall provide any lending
15 institution that is the source of any guaranteed or insured
16 student loan with the names of students maintaining
17 loans with that lending institution.

18 94948. (a) The governing board or other governing
19 authority of any private postsecondary or vocational
20 educational institution shall adopt rules providing for the
21 withholding of institutional services from students or
22 former students who have been notified, in writing, at the
23 student's or former student's last known address, that he
24 or she is in default on a loan or loans under either of the
25 following loan programs:

26 (1) The Stafford Student Loan program.

27 (2) The Supplemental Loans for Students program.

28 (3) Any program directly or indirectly financed by the
29 California Educational Facilities Authority.

30 "Default," as used in this section, with respect to a loan
31 under the Stafford Student Loan program or
32 Supplemental Loans for Students program means the
33 failure of a borrower to make an installment payment
34 when due, or to meet other terms of the promissory note
35 under circumstances where the guarantee agency finds
36 it reasonable to conclude that the borrower no longer
37 intends to honor the obligation to repay, provided that
38 this failure persists for 180 days for a loan repayable in
39 monthly installments, or 240 days for a loan repayable in
40 less frequent installments. "Default," as used in this

1 section, with respect to a program directly or indirectly
2 financed by the California Educational Facilities
3 Authority, means the failure of a borrower to make an
4 installment payment when due, or to meet other terms
5 of the loan, within that period and under the
6 circumstances determined by the California Educational
7 Facilities Authority with respect to that program.

8 (b) The rules adopted pursuant to subdivision (a) shall
9 provide that the services withheld may be provided
10 during a period when the facts are in dispute and when
11 the student or former student demonstrates to either the
12 governing board or other appropriate governing
13 authority of the institution, or the Student Aid
14 Commission and the appropriate entity or its designee,
15 that reasonable progress has been made to repay the loan
16 or that there exists a reasonable justification for the delay
17 as determined by the institution. The rules shall specify
18 the services to be withheld from the student and may
19 include, but are not limited to, the following:

20 (1) The provision of grades.

21 (2) The provision of transcripts.

22 (3) The provision of diplomas.

23 The rules shall not include the withholding of
24 registration privileges.

25 (c) When it has been determined that an individual is
26 in default on a loan or loans under either of the loan
27 programs specified in subdivision (a), the Student Aid
28 Commission shall give notice of the default to all
29 institutions through which that individual acquired the
30 loan or loans.

31 (d) Guarantors, or those who act as their agents or act
32 under their control, who provide information to
33 institutions pursuant to this section, shall defend,
34 indemnify, and hold harmless the governing board or
35 other governing authority of the institutions from action
36 resulting from compliance with this section when the
37 action arises as a result of incorrect, misleading, or
38 untimely information provided to the institution by the
39 guarantors, their agents, or those acting under the control
40 of the guarantors.

1 Article 13. Administrative and Judicial Procedures

2
3 94950. (a) The procedures set forth in Section 94965
4 or, alternatively, in Section 94975 govern the following
5 types of administrative actions:

6 (1) Denial of an application for an approval or renewal
7 of an approval.

8 (2) Suspension or revocation of an existing approval.

9 (3) Appeals of conditional approvals.

10 (b) In lieu of the procedures set forth in Section 94965
11 or 94975, an institution may voluntarily elect to utilize the
12 procedures set forth in Section 94980 if it appeals a
13 conditional approval by the council.

14 (c) The procedures set forth in Section 94970 govern
15 emergency suspensions of an institution's approval to
16 operate initiated by the council.

17 (d) Sections 94952 and 94955 authorize the council and
18 the Attorney General to seek various forms of judicial
19 relief in order to enforce this chapter.

20 (e) Section 94960 governs actions based on student
21 complaints.

22 (f) Section 94985 authorizes civil remedies for
23 individual students in addition to those available under
24 other provisions of law.

25 (g) Procedures established pursuant to regulations
26 adopted by the council shall govern the following types
27 of administrative appeals:

28 (1) Probationary actions.

29 (2) Decisions by the council denying an institution's
30 claim for an exemption or exclusion from this chapter or
31 any provision thereof.

32 94952. (a) The Attorney General, or any district
33 attorney, or city attorney, may make investigations as
34 may be necessary to carry out this chapter, including, but
35 not limited to, investigations of complaints. The council
36 may jointly bring actions as necessary to enforce this
37 chapter, including, but not limited to, civil actions for
38 injunctive relief. In actions brought pursuant to this
39 subdivision, the council shall be represented by the
40 Attorney General.

(b) The Attorney General shall represent the council in the following administrative proceedings arising under this chapter:

(1) Suspension or revocation of an institution's approval.

(2) Denial of an institution's application for approval.

(3) An appeal of a conditional approval to operate issued following a review of an institution's application for approval.

(c) Nothing in this section or this chapter shall preclude the Attorney General, or any district attorney or city attorney, from any of the following:

(1) Bringing any action on behalf of the people as he or she is empowered by law to bring, including, but not limited to, actions based upon alleged violations of Chapter 5 (commencing with Section 17200) of Part 2, and Chapter 1 (commencing with Section 17500) of Part 3, of Division 7 of the Business and Professions Code.

(2) Conducting investigations necessary to determine whether there have been violations of law specified in paragraph (1).

(3) Conducting any investigations that he or she is authorized to conduct, including, but not limited to, investigations authorized under Section 11180 of the Government Code.

(4) In the case of the Attorney General, delegating his or her representation authority under subdivision (b) to staff attorneys of the council.

(5) Entering into an agreement or understanding with the council with respect to representation in any judicial or administrative proceeding not expressly enumerated herein.

94955. (a) The council may bring an action for equitable relief for any violation of this chapter. The equitable relief may include restitution, a temporary restraining order, the appointment of a receiver, and a preliminary or permanent injunction. The action may be brought in the county in which the defendant resides or in which any violation has occurred or may occur.

1 (b) The remedies provided in this section supplement,
2 and do not supplant, the remedies and penalties under
3 other provisions of law.

4 (c) In actions brought pursuant to this section, the
5 council shall be represented by the Attorney General.

6 94957. (a) In addition to or in lieu of any other
7 remedy or penalty, the council may issue a citation to an
8 institution for committing any violation of this chapter or
9 regulation adopted under this chapter.

10 (b) The citation may contain an order of abatement or
11 the assessment of an administrative ~~penalty~~ *fine*. The
12 administrative ~~penalty~~ *fine* may not exceed two thousand
13 five hundred dollars (\$2,500) for each ~~investigation made~~
14 ~~regarding the~~ violation. The council shall base its
15 assessment of the administrative ~~penalty~~ *fine* on the
16 nature and seriousness of the violation, the persistence of
17 the violation, the good faith of the institution, the history
18 of previous violations, and the purposes of this chapter.

19 (c) The citation shall be in writing and shall describe
20 the nature of the violation and the specific provision of
21 law determined to have been violated. The citation shall
22 inform the institution of its right to request a hearing in
23 writing within 15 days of the date that the citation was
24 issued. If a hearing is not requested, payment of the
25 administrative ~~penalty~~ *fine* shall not constitute an
26 admission of the violation charged. If a hearing is
27 requested, the council shall provide a hearing as
28 described in Section 94965, 94975, or 94980. Payment of
29 the administrative ~~penalty~~ *fine* is due 15 days after the
30 citation was issued if a hearing is not requested, or when
31 a final order is entered if a hearing is requested. The
32 council may enforce the administrative ~~penalty~~ *fine* as if
33 it were a money judgment pursuant to Title 9
34 (commencing with Section 680.10) of Part 2 of the Code
35 of Civil Procedure.

36 ~~(d) All administrative penalties shall be deposited in~~
37 ~~the enforcement account in the Private Postsecondary~~
38 ~~and Vocational Administration Fund, which account is~~
39 ~~hereby created.~~

1 (d) All administrative fines shall be deposited in the
2 Private Postsecondary and Vocational Education
3 Administration Fund.

4 94960. (a) Any person claiming damage or loss as a
5 result of any act or practice by a postsecondary or
6 vocational educational institution or its agent, or both,
7 that is a violation of this chapter or of the regulations
8 adopted pursuant to this chapter, may file with the
9 council a verified complaint against that institution or its
10 agent, or both.

11 The complaint shall set forth the alleged violation and
12 shall contain any other information as may be required by
13 the council.

14 (b) The council shall investigate any complaint and
15 may attempt to effectuate settlement by persuasion and
16 conciliation.

17 (c) If, upon all the evidence at a hearing, the council
18 finds that an institution or its agent, or both, have
19 engaged in, or are engaging in, any act or practice that
20 violates this chapter or the regulations adopted pursuant
21 to this chapter, the council shall report that evidence to
22 the Attorney General. The council, based on its own
23 investigation or the evidence adduced at a hearing, or
24 both, also may commence an action to revoke an
25 institution's approval to operate or an agent's permit.

26 (d) Complaints received by the council pertaining to
27 institutions accredited by the Western Association of
28 Schools and Colleges shall be forwarded to the
29 association. Actions by the council relating to complaints
30 against these institutions shall be limited to the
31 transmittal of this information.

32 (e) A person entitled to bring an action for the
33 recovery of damages or other relief shall not be required
34 to file a complaint pursuant to this section, or to pursue
35 or exhaust any administrative process or remedy before
36 bringing the action.

37 94965. (a) Proceedings in connection with the denial
38 of an application to operate, the grant of a conditional
39 approval to operate, or the revocation of an approval to
40 operate shall be conducted in accordance with Chapter

1 5 (commencing with Section 11500) of Part 1 of Division
2 3 of Title 2 of the Government Code, and the council shall
3 have all of the powers granted in that chapter. Any action
4 by the council to place an institution on probation shall be
5 subject to appeal to the full council, and the council shall
6 establish procedures that provide the institution with
7 adequate notice and an opportunity to be heard and to
8 present evidence as to why the action recommended by
9 staff or by a visiting committee shall not be taken.

10 (b) Upon taking any action to suspend or revoke an
11 institution's approval to operate, or to deny an application
12 for renewal of an approval to operate, the council shall
13 provide written notice to the Student Aid Commission,
14 the United States Department of Education, and to any
15 appropriate accrediting association.

16 94970. (a) If an institution has violated this chapter
17 and determines that immediate action is necessary to
18 protect students, prevent misrepresentations to the
19 public, or prevent the loss of public funds, tuition, or other
20 money paid by students, the council may institute an
21 emergency action to suspend the approval of an
22 institution to operate, or the approval to operate a branch
23 or satellite campus, for not more than 30 days unless the
24 council initiates a proceeding to suspend or revoke the
25 approval to operate within that period.

26 (b) (1) The council shall provide notice of the
27 emergency action to the institution by certified mail, if
28 the effective date of the emergency action is 10 or more
29 working days after mailing, or personal service, if the
30 effective date of the emergency action is five or more
31 days after service.

32 (2) The notice shall specify all of the following:

33 (A) The violations upon which the emergency action
34 is based.

35 (B) The nature and grounds of the emergency action,
36 including whether the action applies to the continuation
37 of instruction to enrolled students or to the enrollment of
38 new students.

39 (C) The effective date of the action, which shall not be
40 less than five days after the notice is provided.

1 (D) The institution's right to show cause that the
2 emergency action is unwarranted by submitting to the
3 council, at least two days before the effective date of the
4 emergency action, declarations, documentary evidence,
5 and written arguments demonstrating that the violations
6 did not occur or that immediate action is not required.

7 (E) The right of the institution to request, in writing,
8 within 30 days of the service of the notice, a hearing.

9 (c) The council may (1) continue the effective date of
10 an emergency action or (2) terminate the emergency
11 action at any time if the council concludes that the
12 institution has shown cause that the emergency action is
13 unwarranted or that the grounds for instituting the
14 emergency action no longer remain. The council shall
15 provide written notice of a continuance or termination of
16 an emergency action to the institution.

17 (d) (1) If the institution does not take the opportunity
18 to show cause why the emergency action is unwarranted,
19 the emergency action shall become effective on the date
20 specified in the notice or notice of continuance.

21 (2) If the institution takes the opportunity to show
22 cause and the council decides, after a consideration of the
23 declarations, documentary evidence and written
24 argument submitted by the institution, that the
25 emergency action should become effective, the
26 emergency action shall be effective on the date specified
27 in the notice or notice of continuance. The council shall
28 notify the institution of the decision at least one day
29 before the effective date, and the institution may
30 thereafter seek judicial relief upon notice to the council
31 and the Attorney General.

32 (e) (1) If a hearing is requested within the 30-day
33 period specified in subdivision (b) the council shall set a
34 date for the hearing within 20 days after receipt of the
35 request.

36 (2) If the institution does not request a hearing within
37 the 30-day period specified in subdivision (b) or if the
38 council concludes after a hearing requested by the
39 institution that grounds exist for the suspension or
40 revocation of the institution's approval to operate or

1 approval to operate a branch or satellite campus, the
2 council may extend the suspension or revoke the
3 institution's approval to operate or approval to operate a
4 branch or satellite campus, order probation and a penalty,
5 order the posting of a bond, or condition the institution's
6 approval to operate or approval to operate a branch or
7 satellite campus as the council deems appropriate.

8 (f) During the pendency of an emergency action, the
9 council may investigate the institution's compliance with
10 this chapter, including an onsite inspection, and may
11 institute a proceeding pursuant to Section 94878, if
12 applicable, or Section 94965 or 94975 to suspend or revoke
13 an institution's approval to operate or approval to operate
14 a branch or satellite campus, order a bond, or order
15 probation and a penalty, based on any violation of this
16 chapter.

17 (g) This section supplements, but does not supplant,
18 the authority of the council to seek judicial relief,
19 including a temporary restraining order and injunction,
20 to redress any violation of this chapter.

21 94975. (a) This section establishes the procedure for
22 notice and hearing required under this chapter and,
23 except as provided in Section 94970, may be used in lieu
24 of other notice or hearing requirements provided in this
25 chapter.

26 (b) If notice of administrative action is required by this
27 chapter, the council shall serve notice stating the
28 following:

29 (1) The action, including the penalties and
30 administrative sanctions sought.

31 (2) The grounds for the action with sufficient
32 particularity to give notice of the transactions,
33 occurrences, violations, or other matters on which the
34 action is based.

35 (3) The right to a hearing and the time period within
36 which the party subject to the notice may request a
37 hearing in writing. The time period shall not be less than
38 15 days after service of the notice unless a longer period
39 is provided by statute.

1 (4) The right to be present at the hearing, to be
2 represented by counsel, to cross-examine witnesses, and
3 to present evidence.

4 (5) That, if the party subject to the notice does not
5 request a hearing in writing within the time period
6 expressed in the notice, he or she will waive or forfeit his
7 or her right to an administrative hearing and the action
8 will become final.

9 (c) If a party subject to a notice provided pursuant to
10 subdivision (b) requests a hearing in writing within the
11 time period specified in subparagraph (3) of paragraph
12 (b), then within 10 days of receiving this request, the
13 council shall schedule a hearing. The hearing shall be held
14 in a location determined pursuant to Section 11508 of the
15 Government Code. The council shall serve reasonable
16 notice of the time and place for the hearing at least 10
17 days before the hearing. The council may continue the
18 date of the hearing upon a showing of good cause.

19 (d) (1) Any party, including the council, may submit
20 a written request to any other party before the hearing
21 to obtain the names and addresses of any person who has
22 personal knowledge, or who the party receiving the
23 request claims to have personal knowledge, of any of the
24 transactions, occurrences, violations, or other matters
25 that are the basis of the administrative action. In addition,
26 the requesting party shall have the right to inspect and
27 copy any written statement made by that person and any
28 writing, as defined by Section 250 of the Evidence Code,
29 or thing that is in the custody, or under the control, of the
30 party receiving the request and that is relevant and not
31 privileged. This subdivision shall constitute the exclusive
32 method for prehearing discovery. However, nothing in
33 this paragraph shall affect the council's authority, at any
34 time, to investigate, inspect, monitor, or obtain and copy
35 information under any provision of this chapter.

36 (2) The written request described in paragraph (1)
37 shall be made before the hearing and within 30 days of the
38 service of the notice described in subdivision (b). Each
39 recipient of a request shall comply with the request
40 within 15 days of its service by providing the names and

1 addresses requested and by producing at a reasonable
2 time at the council's office, or other mutually agreed
3 reasonable place, the requested writings and things. The
4 council may extend the time for response upon a showing
5 of good cause.

6 (3) Except as provided in this paragraph, no party may
7 introduce the testimony or statement of any person or
8 any writing or thing into evidence at the hearing if that
9 party failed to provide the name and address of the
10 person or to produce the writing or thing for inspection
11 and copying as provided by this subdivision. A party may
12 introduce the testimony, statement, writing, or thing that
13 was not identified or produced as required herein only if
14 there is no objection or if the party establishes that the
15 person, writing, or thing was unknown at the time when
16 the response was made to the written request, the party
17 could not have informed other parties within a reasonable
18 time after learning of the existence of the person, writing,
19 or thing, and no party would be prejudiced by the
20 introduction of the evidence.

21 (e) Before the hearing has commenced, the council
22 shall issue subpoenas at the written request of any party
23 for the attendance of witnesses or the production of
24 documents or other things in the custody or under the
25 control of the person subject to the subpoena. Subpoenas
26 issued pursuant to this section are subject to Section 11510
27 of the Government Code.

28 (f) (1) The council shall designate an impartial
29 hearing officer to conduct the hearing. The hearing
30 officer may administer oaths and affirmations, regulate
31 the course of the hearing, question witnesses, and
32 otherwise investigate the issues, take official notice
33 according to the procedure provided in Division 4
34 (commencing with Section 450) of the Evidence Code of
35 any technical or educational matter in the council's
36 special field of expertise and of any matter that may be
37 judicially noticed, set the time and place for continued
38 hearings, fix the time for the filing of briefs and other
39 documents, direct any party to appear and confer to

1 consider the simplification of issues by consent, and
2 prepare a statement of decision.

3 (2) Neither a hearing officer nor any person who has
4 a direct or indirect interest in the outcome of the hearing
5 shall communicate directly or indirectly with each other
6 regarding any issue involved in the hearing while the
7 proceeding is pending without notice and opportunity for
8 all parties to participate in the communication. A hearing
9 officer who receives any ex parte communication shall
10 immediately disclose the communication to the council
11 and all other parties. The council may disqualify the
12 hearing officer if necessary to eliminate the effect of the
13 ex parte communication. If the council finds that any
14 party willfully violated, or caused the violation of, this
15 paragraph, the council shall enter that party's default and
16 impose the administrative sanction set forth in the notice
17 provided pursuant to subdivision (b).

18 (g) (1) Each party at the hearing shall be afforded an
19 opportunity to present evidence, respond to evidence
20 presented by other parties, cross-examine, and present
21 written argument or, if permitted by the hearing officer,
22 oral argument on the issues involved in the hearing. The
23 council may call any party as a witness who may be
24 examined as if under cross-examination.

25 (2) Each party may appear through its representative
26 or through legal counsel.

27 (3) The technical rules relating to evidence and
28 witnesses shall not apply. However, only relevant
29 evidence is admissible.

30 (4) Oral evidence shall be taken only upon oath or
31 affirmation. The hearing shall be conducted in the
32 English language. The proponent of any testimony to be
33 offered by a witness who is not proficient in English shall
34 provide, at the proponent's cost, an interpreter proficient
35 in English and the language in which the witness will
36 testify.

37 (5) The hearing shall be recorded by tape recording or
38 other phonographic means unless all parties agree to
39 another method of recording the proceedings.

1 (6) (A) At any time 10 or more days before the
2 hearing, any party may serve on the other parties a copy
3 of any declaration that the party proposes to introduce in
4 evidence.

5 (B) The declaration shall be accompanied by a notice
6 indicating the date of service of the notice and stating that
7 the declarations will be offered into evidence, the
8 declarants will not be called as witnesses, and there will
9 be no right of cross-examination unless the party
10 receiving the notice requests the right to cross-examine,
11 in writing, within seven days of the service of the
12 declarations and notice.

13 (C) If no request for cross-examination is served
14 within seven days of the service of the declarations and
15 notice described in subparagraph (B), the right to
16 cross-examination is deemed waived and the declaration
17 shall have the same effect as if the declarant testified
18 orally. Notwithstanding this paragraph, a declaration may
19 be admitted as hearsay evidence without
20 cross-examination.

21 (7) Disposition of any issues involved in the hearing
22 may be made by stipulation or settlement.

23 (8) If a party fails to appear at a hearing, that party's
24 default shall be taken and the party shall be deemed to
25 have waived the hearing and agreed to the administrative
26 action and the grounds for that action described in the
27 notice given pursuant to subdivision (b). The council
28 shall serve the party with an order of default including the
29 administrative action ordered. The order shall be
30 effective upon service or at any other time designated by
31 the council. The council may relieve a party from an
32 order of default if the party applies for relief within 15
33 days after the service of an order of default and establishes
34 good cause for relief. An application for relief from
35 default shall not stay the effective date of the order unless
36 expressly provided by the council.

37 (h) (1) At any time before the matter is submitted for
38 decision, the council may amend the notice provided
39 pursuant to subdivision (b) to set forth any further
40 grounds for the originally noticed administrative action

1 or any additional administrative action and the grounds
2 therefor. The statement of the further grounds for the
3 originally noticed administrative action, or of the grounds
4 for any additional administrative action, shall be made
5 with sufficient particularity to give notice of the
6 transactions, occurrences, violations, or other matters on
7 which the action or additional action is based. The
8 amended notice shall be served on all parties. All parties
9 affected by the amended notice shall be given reasonable
10 opportunity to respond to the amended notice as
11 provided in this section.

12 (2) The council may amend the notice after the case
13 is submitted for decision. The council shall serve each
14 party with notice of the intended amendment and shall
15 provide the party with an opportunity to show that the
16 party will be prejudiced by the amendment unless the
17 case is reopened to permit the party to introduce
18 additional evidence. If prejudice is shown, the council
19 shall reopen the case to permit the introduction of
20 additional evidence.

21 (i) (1) Within 30 days after the conclusion of the
22 hearing or at another time established by the council, the
23 hearing officer shall submit a written statement of
24 decision setting forth a recommendation for a final
25 decision and explaining the factual and legal basis for the
26 decision as to each of the grounds for the administrative
27 action set forth in the notice or amended notice. The
28 council shall serve the hearing officer's statement of
29 decision on each party and its counsel within 10 days of its
30 submission by the hearing officer.

31 (2) The council shall make the final decision which
32 shall be based exclusively on evidence introduced at the
33 hearing. The final decision shall be supported by
34 substantial evidence in the record. The council also shall
35 issue a statement of decision explaining the factual and
36 legal basis for the final decision as to each of the grounds
37 for the administrative action set forth in the notice or
38 amended notice. The council shall issue an order based on
39 its decision which shall be effective upon service or at any
40 other time designated by the council. The council shall

1 serve a copy of the final decision and order, within 10 days
2 of their issuance, on each party and its counsel.

3 (3) The council may hold a closed session to deliberate
4 on a decision to be reached based upon evidence
5 introduced at the hearing.

6 (4) The council shall serve a certified copy of the
7 complete record of the hearing, or any part thereof
8 designated by a party, within 30 days after receiving the
9 party's written request and payment of the cost of
10 preparing the requested portions of the record. The
11 complete record shall include all notices and orders
12 issued by the council, a transcript of the hearing, the
13 exhibits admitted or rejected, the written evidence and
14 any other papers in the case, the hearing officer's
15 statement of decision, and the final decision and order.

16 (j) The council shall serve all notices and other
17 documents that are required to be served by this section
18 on each party by personal delivery, by certified mail,
19 return receipt requested, or by any other means
20 designated by the council.

21 (k) (1) Any party aggrieved by the council's final
22 decision and order may seek judicial review by filing a
23 petition for a writ of mandate pursuant to Section 1085 of
24 the Code of Civil Procedure within 30 days of the issuance
25 of the final decision and order. If review is not sought
26 within that period, the party's right to review shall be
27 deemed waived.

28 (2) The aggrieved party shall present the complete
29 record of the hearing or all portions of the record
30 necessary for the court's review of the council's final
31 decision and order. The court shall deny the petition for
32 a writ of mandate if the record submitted by the party is
33 incomplete. The court shall not consider any matter not
34 contained in the record. The factual basis supporting the
35 final decision set forth in the council's statement of
36 decision shall be conclusive if supported by substantial
37 evidence on the record considered as a whole.

38 (3) The final order shall not be stayed or enjoined
39 during review except upon the court's grant of an order
40 on a party's application after due notice to the council and

1 the Attorney General. The order shall be granted only if
2 the party establishes the substantial likelihood that it will
3 prevail on the merits and posts a bond sufficient to
4 protect fully the interests of the students, the council, and
5 the fund, from any loss.

6 (l) The council may adopt regulations establishing
7 alternative means of providing notice and an opportunity
8 to be heard in circumstances in which a full hearing is not
9 required by law.

10 (m) For the purposes of this section, “good cause” shall
11 require sufficient ground or reason for the determination
12 to be made by the council.

13 94980. (a) If the council, through the ~~chief~~ *program*
14 *administrator*, denies an institution’s application for
15 approval, grants a conditional approval, or initiates a
16 proceeding to suspend or revoke an institution’s approval
17 to operate, the institution may request a hearing pursuant
18 to this section in lieu of the hearing procedure designated
19 by the council under Section 94965 or 94975.

20 (b) At the time the council provides notice to an
21 institution of its right to a hearing under Section 94965 or
22 94975 in connection with the denial of an application for
23 approval to operate, the issuance of a conditional
24 approval to operate, or a proposed suspension or
25 revocation of approval to operate, the council also shall
26 provide notice of the provisions of this section.

27 (c) Within 15 days after service of the notice described
28 in subdivision (b), the institution may request in writing
29 a hearing under this section in lieu of the hearing
30 procedure in Section 94965 or 94975. The request shall
31 acknowledge that by electing to proceed under this
32 section, the institution is knowingly waiving all rights
33 under the hearing procedure otherwise provided by the
34 council.

35 (d) After receiving the institution’s request for a
36 hearing under this section, the council shall provide the
37 institution or its representative with copies of all the
38 documents, testimony in declaration form, and written
39 arguments on which the council relies to support its
40 proposed administrative action.

1 (e) The institution shall have 30 days from the service
2 of the council's written evidence and arguments to
3 submit all the documents, testimony in declaration form,
4 and written arguments on which the institution relies in
5 opposition to the council's proposed administrative
6 action.

7 (f) Neither the council nor the institution has any right
8 to discovery or to compel the production of documents or
9 the testimony of witnesses by subpoena.

10 (g) The ~~chief~~ *program administrator* shall review all of
11 the documents, declarations, and arguments and shall
12 render a proposed decision in writing based solely on the
13 written evidence and arguments that set forth the
14 proposed administrative action and the factual and legal
15 bases for it.

16 (h) Within 10 days of the service of the ~~chief's~~ *program*
17 *administrator's* decision, the institution may request in
18 writing to have the matter reviewed by the members of
19 the council and may also request oral argument, as
20 described in subdivision (i). If a timely request for review
21 is not submitted, the ~~chief's~~ *program administrator's*
22 decision shall be deemed the final decision of the council.
23 If a timely request for review is submitted without a
24 request for oral argument, the right to make oral
25 argument is deemed waived.

26 (i) If a timely request for review is made, the matter
27 shall be considered by the members of the council based
28 solely on the written evidence and arguments submitted
29 to the ~~chief~~ *program administrator* and, if oral argument
30 was timely requested, any oral argument permitted by
31 the council. No new evidence may be presented during
32 oral argument. An institution requesting oral argument
33 shall receive at least 10 days advance notice of the council
34 meeting at which time oral argument may be made. The
35 council members may deliberate on the decision to be
36 reached in a closed session as provided in paragraph (3)
37 of subdivision (c) of Section 11126 of the Government
38 Code. The council shall issue its final decision within 30
39 days after the council meeting at which the matter was
40 reviewed. The ~~chief's~~ *program administrator's* proposed

1 decision shall be sustained if it is supported by substantial
2 evidence on the record considered as a whole.

3 (j) The council shall serve the institution with a
4 written decision setting forth the administrative action
5 taken and the legal and factual bases for it. The decision
6 shall become final within 30 days unless another time is
7 specified by the council.

8 (k) The council shall serve a certified copy of the
9 complete record, or any part thereof designated by an
10 institution, within 30 days after receiving the institution's
11 written request and payment of the cost of preparing the
12 requested record or portions thereof. The complete
13 record shall consist of all notices and orders of the council,
14 the documents, declarations, and written argument
15 submitted, a transcript of any oral argument, and the final
16 decision and order.

17 (l) Any party aggrieved by the council's final decision
18 and order may seek judicial review as provided in, and
19 subject to, the requirements of subdivision (k) of Section
20 94975.

21 (m) All documents required by this section to be
22 served by the council shall be served on the institution,
23 its counsel, or authorized representative by any means
24 authorized for service pursuant to Chapter 5
25 (commencing with Section 1010) of Title 14 of Part 2 of
26 the Code of Civil Procedure.

27 94985. (a) Any institution that willfully violates any
28 provision of Section 94800, 94810, 94814, or 94816, Sections
29 94820 to 94826, inclusive, Section 94829, 94831, or 94832
30 may not enforce any contract or agreement arising from
31 the transaction in which the violation occurred, and any
32 willful violation is a ground for revoking an approval to
33 operate in this state or for denying a renewal application.

34 (b) Notwithstanding any provision of the contract or
35 agreement, a student may bring an action for a violation
36 of this article or for an institution's failure to perform its
37 legal obligations and, upon prevailing thereon, is entitled
38 to the recovery of damages, equitable relief, or any other
39 relief authorized by this article, and reasonable attorney's
40 fees and costs.

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

(d) The remedies provided in this article supplement, but do not supplant, the remedies provided under any other provision of law.

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

(f) Any provision in any agreement that purports to require a student to invoke any grievance dispute procedure established by the institution before enforcing any right or remedy is void and unenforceable.

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

(h) This section applies to any action pending on the effective date of this section.

(i) This section supplements, but does not supplant, the authority granted the Division of Labor Law Enforcement under Section 1700.4 of the Labor Code to the extent that placement activities of trade schools are subject to regulation by the division under the Labor Code.

Article 14. Council Reports

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

1 to Division 1.2 (commencing with Section 473) of the
2 Business and Professions Code shall be prepared,
3 conducted, and made in 2001 and every four years
4 thereafter *as long as this chapter is operative*.

5 94995. (a) Notwithstanding Section 7550.5 of the
6 Government Code, on or before January 31 of each
7 calendar year, the council shall submit a written report to
8 the Legislature and to the California Postsecondary
9 Education Commission, summarizing its activities during
10 the previous fiscal year.

11 (b) Annual reports prepared pursuant to this section
12 shall include, but shall not necessarily be limited to, all of
13 the following:

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

16 (2) Statistics providing a composite picture of the
17 private postsecondary educational community, including
18 data on how many schools, as classified by subject matter,
19 and how many students there are within the scope of the
20 activities of the council.

21 (c) Any reports submitted by the council to the Joint
22 Legislative Sunset Review Committee pursuant to
23 Division 1.2 (commencing with Section 473) of the
24 Business and Professions Code during any calendar year
25 shall satisfy the reporting requirements of this section for
26 that year.

27
28 Article 15. Severability

29
30 94998. The provisions of this chapter are severable. If
31 any provision of this chapter or its application is held
32 invalid, that invalidity shall not affect other provisions or
33 applications that can be given effect without the invalid
34 provision or application.

35
36 Article 16. Termination

37
38 94999. *This chapter shall remain in effect only until*
39 *January 1, 2005, and as of that date is repealed, unless a*

1 *later enacted statute, that is enacted on or before January*
2 *1, 2005, deletes or extends that date.*

3 SEC. 4. Section 1095 of the Unemployment Insurance
4 Code is amended to read:

5 1095. The director shall permit the use of any
6 information in his or her possession to the extent
7 necessary for any of the following purposes:

8 (a) To properly present a claim for benefits.

9 (b) To acquaint a worker or his or her authorized
10 agent with his or her existing or prospective right to
11 benefits.

12 (c) To furnish an employer or his or her authorized
13 agent with information to enable him or her to fully
14 discharge his or her obligations or safeguard his or her
15 rights under this division or Division 3 (commencing with
16 Section 9000). This subdivision, as it relates to Division 3
17 (commencing with Section 9000), applies only to
18 subdivision (j) of this section.

19 (d) To enable an employer to receive a reduction in
20 contribution rate.

21 (e) To enable the Director of Social Services or his or
22 her representatives or the Director of Health Services or
23 his or her representatives, subject to federal law, to verify
24 or determine the eligibility or entitlement of an applicant
25 for, or a recipient of, public social services provided
26 pursuant to the Welfare and Institutions Code, and
27 directly connected with, and limited to, the
28 administration of public social services.

29 (f) To enable county administrators of general relief or
30 assistance, or their representatives, to determine
31 entitlement to locally provided general relief or
32 assistance, where the determination is directly connected
33 with, and limited to, the administration of general relief
34 or assistance.

35 (g) To enable county district attorneys, or their
36 representatives, to seek criminal, civil, or administrative
37 remedies in connection with the unlawful application for,
38 or receipt of, relief provided under Division 9
39 (commencing with Section 10000) of the Welfare and
40 Institutions Code.

1 (h) To enable the director or his or her representative
2 to carry out his or her responsibilities under this code.

3 (i) To enable county departments of collection or their
4 representatives to determine entitlement to medical
5 assistance services rendered pursuant to Part 5
6 (commencing with Section 17000) of Division 9 of the
7 Welfare and Institutions Code, and, when appropriate, to
8 enable collection for the county's expenditures for these
9 medical assistance services.

10 (j) To furnish an employer, or his or her authorized
11 agent, with information including, but not limited to, the
12 applicant's or recipient's name, social security number,
13 address, employable skills, and job placement in order to
14 enable him or her to fully discharge his or her obligations
15 or safeguard his or her rights under the elements of a joint
16 union, management, and Employment Development
17 Department agreement as are deemed necessary to assist
18 displaced workers to obtain new employment under
19 Chapter 2.9 (commencing with Section 9970) of Part 1 of
20 Division 3 and related provisions of Division 3
21 (commencing with Section 9000). The information shall
22 be limited to any information gathered under these
23 divisions by the department and authorized for release by
24 the labor organization which shall act as an agent for the
25 affected workers under terms of the agreement and shall
26 participate in defining the information release provisions.

27 (k) To provide any law enforcement agency with the
28 name, address, telephone number, birth date, social
29 security number, physical description, and names and
30 addresses of present and past employers, of any victim,
31 suspect, missing person, potential witness, or person for
32 whom a felony arrest warrant has been issued, when a
33 request for this information is made by any investigator
34 or peace officer as defined by Sections 830.1 and 830.2 of
35 the Penal Code and designated by the head of the law
36 enforcement agency and who requests this information
37 in the course of and as a part of an investigation into the
38 commission of a crime where there is a reasonable
39 suspicion that the crime is a felony and that the
40 information would lead to relevant evidence. The

1 information provided pursuant to this subdivision shall be
2 provided to the extent permitted by federal law and
3 regulations, and to the extent the information is available
4 and accessible within the constraints and configurations
5 of existing department records. Any person who receives
6 any information under this subdivision shall make a
7 written report of the information to the law enforcement
8 agency that employs him or her, for filing under the
9 normal procedures of that agency. Any officer or
10 employee of the department who discloses information in
11 violation of this subdivision is guilty of a misdemeanor.
12 Any person who obtains information in violation of this
13 subdivision is guilty of a misdemeanor.

14 (1) This subdivision shall not be construed to authorize
15 the release of a general list identifying individuals
16 applying for or receiving benefits to any law enforcement
17 agency.

18 (2) The department shall maintain records pursuant
19 to this subdivision only for periods required under
20 regulations or statutes enacted for the administration of
21 its programs.

22 (3) This subdivision shall not be construed as limiting
23 the information provided to law enforcement agencies to
24 that pertaining only to applicants for, or recipients of,
25 benefits.

26 (4) The department shall notify all applicants for
27 benefits that release of confidential information from
28 their records will not be protected should there be a
29 felony arrest warrant issued against the applicant or in the
30 event of an investigation by a law enforcement agency
31 into the commission of a felony.

32 (l) Nothing in this section shall be construed to
33 authorize or permit the use of information obtained in the
34 administration of this code by any private collection
35 agency.

36 (m) To provide the State Teachers' Retirement
37 System, pursuant to Section 22327 of the Education Code,
38 with information relating to the earnings of any person
39 who is receiving a disability allowance, or disability
40 retirement allowance, from the State Teachers'

1 Retirement System. The earnings information shall be
2 released to the Teachers' Retirement Board only upon
3 written request from the board specifying that the person
4 is receiving a disability allowance or disability retirement
5 allowance from the system. The request may be made by
6 the chief executive officer of the system or by an
7 employee of the system so authorized and identified by
8 name and title by the chief executive officer in writing.

9 (n) To provide the Public Employees' Retirement
10 System, pursuant to Section 20231 of the Government
11 Code, with information relating to the earnings of any
12 person who is receiving a disability retirement allowance
13 from the Public Employees' Retirement System. The
14 earnings information shall be released to the Board of
15 Administration of the system only upon written request
16 from the board specifying that the person is receiving a
17 disability retirement allowance from the system. The
18 request may be made by the executive officer of the
19 system or by an employee of the system so authorized and
20 identified by name and title by the executive officer in
21 writing.

22 (o) To provide the University of California
23 Retirement System with information in its possession
24 relating to the earnings of any person who has applied for
25 or is receiving disability income from the system. The
26 earnings information shall be disclosed only upon written
27 request from the system specifying that the person has
28 applied for or is receiving disability income from the
29 system. The request may be made by the chief
30 administrative officer of the system or by an employee so
31 authorized and identified by name and title by the chief
32 administrative officer in writing. The system shall notify
33 applicants for and recipients of disability income that
34 earnings information from the department's records will
35 be released upon the system's request. The information
36 obtained pursuant to this subdivision shall be used or
37 disclosed by the system only to determine or to verify
38 entitlement to, or continuing eligibility for, disability
39 income. The system shall reimburse the department for

1 all reasonable administrative expenses incurred pursuant
2 to this subdivision.

3 (p) To enable the Division of Labor Standards
4 Enforcement in the Department of Industrial Relations
5 to seek criminal, civil, or administrative remedies in
6 connection with the failure to pay, or the unlawful
7 payment of, wages pursuant to Chapter 1 (commencing
8 with Section 200) of Part 1 of, and Chapter 1
9 (commencing with Section 1720) of Part 7 of, Division 2
10 of, the Labor Code. The Division of Labor Standards
11 Enforcement shall reimburse the department for all
12 reasonable administrative expenses incurred pursuant to
13 this subdivision.

14 (q) To enable the federal Department of Health and
15 Human Services, Office of Child Support Enforcement,
16 Federal Parent Locator Service, to administer its child
17 support enforcement programs under Title IV of the
18 Social Security Act (42 U.S.C. Sec. 651 et seq.).

19 (r) To provide county probation departments, the
20 State Board of Control, and the United States Attorney
21 General with wage and claim information in its possession
22 that will assist those departments and agencies in the
23 location of victims of crime who, by state mandate or
24 court order, are entitled to restitution that has been, or
25 can be recovered, and to assist in the collection of money
26 owed to the county, the state, or the United States by any
27 person who has been directed by state mandate or court
28 order to pay restitution, fines, penalties, assessments, or
29 fees as a result of a violation of law. Information provided
30 about victims of crime shall be limited to data necessary
31 to assist in locating them. Nothing in this section shall be
32 construed to prevent the department from providing
33 information to the State Board of Control or the United
34 States Attorney General through electronic methods.
35 The department may charge a fee for all reasonable
36 administrative expenses incurred pursuant to this
37 subdivision. Except as provided by Section 1463.007 of the
38 Penal Code, any officer or employee of the department
39 who discloses information in violation of this subdivision
40 is guilty of a misdemeanor. Except as provided by Section

1 1463.007 of the Penal Code, any person who obtains
2 information in violation of this subdivision is guilty of a
3 misdemeanor.

4 (s) To provide the Student Aid Commission with
5 information concerning any individuals who are
6 delinquent or in default on guaranteed student loans or
7 who owe repayment of funds received through other
8 financial assistance programs administered by the
9 commission. The information obtained pursuant to this
10 subdivision shall be utilized by the commission
11 exclusively to enable the collection of defaulted loans and
12 other funds owed, pursuant to the authority granted in
13 Chapter 2 (commencing with Section 69500) of Part 42 of
14 the Education Code and Chapter 1 (commencing with
15 Section 30000) of Title 5 of the California Code of
16 Regulations. The information released by the director for
17 the purposes of this subdivision shall not include any
18 employment, wage, or other information concerning any
19 person who is receiving unemployment insurance
20 benefits. The information shall be released to the
21 commission only upon written request from the director
22 of the commission or by an employee so authorized and
23 identified by name and title by the director. The
24 commission shall reimburse the department for all
25 reasonable administrative expenses incurred pursuant to
26 this subdivision.

27 (t) To provide an authorized governmental agency
28 with any or all relevant information that relates to any
29 specific workers' compensation insurance fraud
30 investigation. The information shall be provided to the
31 extent permitted by federal law and regulations. For the
32 purposes of this subdivision, "authorized governmental
33 agency" means the district attorney of any county, the
34 office of the Attorney General, the Department of
35 Industrial Relations, and the Department of Insurance.
36 An authorized governmental agency may disclose this
37 information to the State Bar, the Medical Board of
38 California, or any other licensing board or department
39 whose licensee is the subject of a workers' compensation
40 insurance fraud investigation. This subdivision shall not

1 prevent any authorized governmental agency from
2 reporting to any board or department the suspected
3 misconduct of any licensee of that body. The Department
4 of Insurance or Department of Industrial Relations shall
5 reimburse the department for all reasonable
6 administrative expenses incurred relative to a request
7 that it submits pursuant to this subdivision. Relevant
8 information may include, but is not limited to, all of the
9 following:

10 (1) Copies of unemployment and disability insurance
11 application and claim forms and copies of any supporting
12 medical records, documentation, and records pertaining
13 thereto.

14 (2) Copies of returns or reports filed by an employer
15 pursuant to Section 1088 and copies of supporting
16 documentation.

17 (3) Copies of benefit payment checks issued to
18 claimants.

19 (4) Copies of any documentation that specifically
20 identifies the claimant by social security number,
21 residence address, or telephone number.

22 (u) To enable the Director of the Bureau for Private
23 Postsecondary and Vocational Education, or his or her
24 representatives, to access unemployment insurance
25 quarterly wage data on a case-by-case basis to verify
26 information on school administrators, school staff, and
27 students provided by those schools who are being
28 investigated for possible violations of Chapter 7
29 (commencing with Section 94700) of Part 59 of the
30 Education Code.

31 (v) To provide employment tax information to the tax
32 officials of Mexico, if a reciprocal agreement exists. For
33 purposes of this subdivision, “reciprocal agreement”
34 means a formal agreement to exchange information
35 between national taxing officials of Mexico and taxing
36 authorities of the State Board of Equalization, the
37 Franchise Tax Board, and the Employment
38 Development Department. Furthermore, the reciprocal
39 agreement shall be limited to the exchange of
40 information which is essential for tax administration

1 purposes only. Taxing authorities of the State of California
2 shall be granted tax information only on California
3 residents. Taxing authorities of Mexico shall be granted
4 tax information only on Mexican nationals.

5 (w) Wages as defined by Section 13009 and amounts
6 required to be deducted and withheld under Section
7 13020 shall not be disclosed except as provided in Article
8 2 (commencing with Section 19542) of Chapter 7 of Part
9 10.2 of Division 2 of the Revenue and Taxation Code.

10 (x) To enable city and county planning agencies to
11 develop economic forecasts for planning purposes. The
12 information shall be limited to businesses within the
13 jurisdiction of the city or county whose planning agency
14 is requesting the information, and shall not include
15 information regarding individual employees. The city or
16 county planning agency receiving the information shall
17 adhere to the same standards regarding confidentiality
18 and the protection of proprietary information that the
19 department is required to follow. The city and county
20 planning agencies shall reimburse the department for all
21 reasonable administrative expenses incurred pursuant to
22 this subdivision.

23 (y) To provide the State Department of
24 Developmental Services with wage and employer
25 information that will assist in the collection of moneys
26 owed by the recipient, parent, or any other legally liable
27 individual for services and supports provided pursuant to
28 Chapter 9 (commencing with Section 4775) of Division
29 4.5 of, and Chapter 2 (commencing with Section 7200)
30 and Chapter 3 (commencing with Section 7500) of
31 Division 7 of, the Welfare and Institutions Code. The
32 State Department of Developmental Services shall
33 reimburse the department for all reasonable
34 administrative expenses incurred pursuant to this
35 subdivision.

36 SEC. 5. (a) All funds in the Private Postsecondary
37 and Vocational Education Administration Fund and in
38 the Student Tuition Recovery Fund on December 31,
39 1997, shall remain in those funds and may be used for the
40 purposes authorized by Chapter 7 (commencing with

1 Section 94700) of Part 59 of the Education Code
2 commencing January 1, 1998.

3 (b) ~~Any~~ *It is the intent of the Legislature that any*
4 unencumbered funds appropriated to the Council for
5 Private Postsecondary and Vocational Education by Item
6 Numbers 6880-001-0305, 6880-001-0890, and 6880-001-0960
7 in the Budget Act of 1997 ~~may be expended~~ *be*
8 *reappropriated for expenditure* by the Bureau for Private
9 Postsecondary and Vocational Education in the
10 Department of Consumer Affairs for the purposes of
11 Chapter 7 (commencing with Section 94700) of Part 50 of
12 the Education Code on and after January 1, 1998. To the
13 extent of any conflict between this section and any
14 conditions specified in the above item numbers, this
15 section shall prevail.

16 (c) ~~On~~ *It is the intent of the Legislature that on* and
17 after January 1, 1998, any moneys received as a result of
18 litigation involving the former Council for Private be
19 deposited in the Private Postsecondary and Vocational
20 Education ~~shall be deposited in the enforcement account~~
21 ~~in the Private~~ *be deposited in the Private* Postsecondary
22 and Vocational Education Administration Fund to be
23 used by the Bureau for Private Postsecondary and
24 Vocational Education in the Department of Consumer
25 Affairs, *upon appropriation*, to enforce the Private
26 Postsecondary and Vocational Education Reform Act of
27 1989.

28 SEC. 6. Every cause of action that accrued pursuant
29 to former Chapter 7 (commencing with Section 94700) of
30 Part 59 of the Education Code prior to its repeal by this
31 act shall be unaffected by that repeal, regardless of
32 whether the cause of action was reduced to final
33 judgment, and shall remain fully enforceable under that
34 chapter as though it had not been repealed but remained
35 in full force and effect on and after January 1, 1998. It is
36 the intent of the Legislature in enacting this section to
37 preserve all causes of action filed under that chapter,
38 including all causes of action alleged in any pending
39 action.

1 SEC. 6.5. *This act shall become operative only if*
2 *Senate Bill 819, or any other bill of the 1997–98 Regular*
3 *Session, extends the operation of the Private*
4 *Postsecondary and Vocational Education Reform Act of*
5 *1989 until at least December 31, 1997, and is enacted and*
6 *takes effect on or before July 18, 1997.*

7 SEC. 7. The provisions of this act are severable. If any
8 provision of this act or its application is held invalid, that
9 invalidity shall not affect other provisions or applications
10 that can be given effect without the invalid provision or
11 application.

12 SEC. 8. No reimbursement is required by this act
13 pursuant to Section 6 of Article XIII B of the California
14 Constitution because the only costs that may be incurred
15 by a local agency or school district will be incurred
16 because this act creates a new crime or infraction, or
17 changes the penalty for a crime or infraction, within the
18 meaning of Section 17556 of the Government Code, or
19 changes the definition of a crime within the meaning of
20 Section 6 of Article XIII B of the California Constitution.

21 Notwithstanding Section 17580 of the Government
22 Code, unless otherwise specified, the provisions of this act
23 shall become operative on the same date that the act
24 takes effect pursuant to the California Constitution.

