

AMENDED IN SENATE JULY 17, 1997  
AMENDED IN SENATE JULY 16, 1997  
AMENDED IN SENATE JULY 14, 1997  
AMENDED IN SENATE JUNE 16, 1997  
AMENDED IN SENATE JUNE 4, 1997  
AMENDED IN ASSEMBLY MAY 15, 1997  
AMENDED IN ASSEMBLY APRIL 17, 1997  
AMENDED IN ASSEMBLY MARCH 12, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 71**

---

---

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

December 12, 1996

---

---

An act to amend Sections 146, 473.1, and 473.3 of the Business and Professions Code, to repeal, add, and repeal Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to postsecondary education, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

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

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 These provisions would be repealed on January 1, 2005.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

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

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

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

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

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

7 (a) The Private Postsecondary and Vocational  
8 Education Reform Act of 1989 is California’s major statute  
9 for regulating and strengthening its more than 2,000  
10 privately operated postsecondary educational  
11 institutions, as well as out-of-state public and private  
12 institutions that have operations in California. The  
13 private sector educates approximately 400,000 students:  
14 100,000 enrolled in degree-granting institutions, and  
15 300,000 enrolled in nondegree-granting institutions.

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



1 practices by schools. These changes have restored the  
2 credibility and integrity of degrees and diplomas  
3 awarded by private schools and colleges.

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

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

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

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

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

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

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

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



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



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

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

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

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

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

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

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

37



1 CHAPTER 7. PRIVATE POSTSECONDARY AND VOCATIONAL  
2 INSTITUTIONS

3  
4 Article 1. General Provisions  
5

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

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

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

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

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

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

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



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

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

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

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

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

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



Article 2. Definitions

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

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

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

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

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

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

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



1 otherwise engage in any of the activities described in this  
2 section are not agents.

3 94716. “Agent’s permit” means a nontransferable  
4 written document issued to an agent pursuant to this  
5 chapter by the council.

6 94717. “Applicant” means a new institution that has  
7 submitted an application but has not been evaluated by  
8 the council. An applicant institution shall not enroll  
9 students or offer educational services.

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

18 94719. “Branch” means a site other than the main  
19 location or a satellite. Only educational services approved  
20 at the main location may be offered at the branch.

21 94719.5. “Bureau” means the Bureau for Private  
22 Postsecondary and Vocational Education in the  
23 Department of Consumer Affairs established pursuant to  
24 Section 94770.

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

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

37 94722. (a) Except as provided in subdivision (b),  
38 “continuing education” means instruction in any of the  
39 following circumstances:

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

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

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

11 (b) "Continuing education" does not include any of  
12 the following:

13 (1) Vocational diploma programs.

14 (2) Degree programs.

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

18 94723. "Correspondence school" or "home study  
19 school" means any institution that provides  
20 correspondence lessons for study and completion by a  
21 student at a location separate from the institution,  
22 including those institutions which offer that instruction  
23 by correspondence in combination with in-residence  
24 instruction.

25 94724. "Council" means the Bureau for Private  
26 Postsecondary and Vocational Education in the  
27 Department of Consumer Affairs established pursuant to  
28 Section 94770.

29 94725. "Course of study" means either a single course  
30 or a set of related courses for which a student enrolls.

31 94726. "Degree" means any type of degree or  
32 honorary degree or title of any designation, mark,  
33 appellation, series of letters or words such as, but not  
34 limited to, associate, bachelor, master, doctor, or fellow  
35 which signifies, purports, or is generally taken to signify  
36 satisfactory completion of the requirements of an  
37 academic, educational, technological, or professional  
38 program of study beyond the secondary school level or is  
39 an honorary title conferred for recognition of some  
40 meritorious achievement.



1 94727. “Degree title” means the designated subject  
2 area of study that also appears on the face of the  
3 document awarded to a student signifying the conferring  
4 of a “degree.”

5 94728. “Diploma” means any diploma, certificate,  
6 document, or other writing in any language other than a  
7 degree which signifies, purports, or is generally taken to  
8 signify satisfactory completion of the requirements of an  
9 academic, educational, technological, or professional  
10 program of study beyond the secondary school level.

11 94728.5. “Director” means the Director of Consumer  
12 Affairs.

13 94729. “Education,” “educational services,” or  
14 “educational program” includes, but is not limited to, any  
15 class, course, or program of training, instruction, or study.

16 94730. “Institution” means any private postsecondary  
17 educational institution. An “institution” includes its  
18 branch and satellite campuses, unless otherwise provided  
19 by the council.

20 94731. “Institutional approval” means an institution  
21 that has been evaluated by the council and has been  
22 found to be in compliance with the council’s standards  
23 pursuant to this chapter.

24 94732. “Instruction” includes any specific, formal  
25 arrangement by an institution or its enrollees to  
26 participate in learning experiences in which the  
27 institution’s faculty or contracted instructors present a  
28 planned curriculum appropriate to the enrollee’s  
29 educational program.

30 94733. “Intensive English language program” means  
31 an educational service approved by the United States  
32 Immigration and Naturalization Service solely to provide  
33 English instruction to international students for a  
34 designated period of study in the United States and that  
35 offers instruction that is nondegree granting,  
36 nonvocational, and is not represented to lead to, or  
37 offered for the purpose of preparing a student for  
38 employment in, any occupation or job title. Additionally,  
39 the educational service shall meet all of the following  
40 criteria:



1 (a) Students enrolling in this type of educational  
2 service are not residents of this state or citizens of the  
3 United States and are not eligible for federal or state  
4 financial aid, including loans.

5 (b) Coursework in this type of educational service is  
6 limited to English instruction in all areas of language skills  
7 development, including reading, writing, speaking,  
8 listening, grammar, and test preparation.

9 94734. “License and exam preparation” means that  
10 the educational program is either of the following:

11 (a) Designed to assist students to prepare for an  
12 examination for licensure.

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

16 94735. “Main location” or “main site” means the  
17 institution’s primary teaching location. If an institution  
18 operates at only one site, that site shall be considered its  
19 main location or main site.

20 94736. “Occupational Associate Degree,” “Associate  
21 of Occupational Studies,” or “Associate of Applied  
22 Science” designated by terms including, but not limited  
23 to, AOS (Associate Occupational Studies), AAS  
24 (Associate Applied Science), AST (Associate Specialist  
25 Technical), or ASB (Associate Specialist Business) means  
26 an associate degree that may be awarded to students who  
27 complete an occupational program that provides  
28 preparation for employment in an occupational field.

29 94737. “Out-of-state school” means any private  
30 postsecondary or vocational educational institution  
31 offering career or job training programs, including both  
32 an in-residence institution and a home-study institution  
33 that has its place of instruction or its principal location  
34 outside the boundaries of the state, or that offers or  
35 conducts programs of instruction or subjects on premises  
36 maintained by the school outside the boundaries of the  
37 state, or that provides correspondence or home-study  
38 lesson materials from a location outside the boundaries of  
39 this state, or that evaluates completed lesson materials or  
40 otherwise conducts its evaluation service from a location



1 outside the boundaries of this state, or that otherwise  
2 offers or provides California students with programs of  
3 instruction or subjects through activities engaged in or  
4 conducted outside the boundaries of the state.

5 94738. “Person” means a natural person or any  
6 business entity, regardless of the form or organization.

7 94739. (a) “Private postsecondary educational  
8 institution” means any person doing business in  
9 California that offers to provide or provides, for a tuition,  
10 fee, or other charge, any instruction, training, or  
11 education under any of the following circumstances:

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

18 (2) More than 50 percent of the revenue derived from  
19 providing instruction, training, or education during any  
20 12-month period is obtained from, or on behalf of,  
21 students who have completed or terminated their  
22 secondary education or are beyond the age of compulsory  
23 high school attendance.

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

29 (4) A substantial portion, as determined by the  
30 council, by regulation, of the instruction, training, or  
31 education provided is provided to students who have  
32 completed or terminated their secondary education or  
33 are beyond the age of compulsory high school  
34 attendance.

35 (b) The following are not considered to be private  
36 postsecondary educational institutions under this  
37 chapter:

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



1 (2) Institutions offering education solely avocational  
2 or recreational in nature, and institutions offering this  
3 education exclusively.

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

7 (4) Postsecondary or vocational educational  
8 institutions established, operated, and governed by the  
9 federal government or by this state, or its political  
10 subdivisions.

11 (5) Institutions offering continuing education where  
12 the institution or the program is approved, certified, or  
13 sponsored by any of the following:

14 (A) A government agency, other than the bureau, that  
15 licenses persons in a particular profession, trade, or job  
16 category.

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

20 (C) A bona fide trade, business, or professional  
21 organization.

22 (6) A nonprofit institution owned, controlled, and  
23 operated and maintained by a bona fide church, religious  
24 denomination, or religious organization comprised of  
25 multidenominational members of the same  
26 well-recognized religion, lawfully operating as a  
27 nonprofit religious corporation pursuant to Part 4  
28 (commencing with Section 9110) of Division 2 of Title 1  
29 of the Corporations Code, if the education is limited to  
30 instruction in the principles of that church, religious  
31 denomination, or religious organization, or to courses  
32 offered pursuant to Section 2789 of the Business and  
33 Professions Code, and the diploma or degree is limited to  
34 evidence of completion of that education, and the  
35 meritorious recognition upon which any honorary degree  
36 is conferred is limited to the principles of that church,  
37 religious denomination, or religious organization.

38 Institutions operating under this paragraph shall offer  
39 degrees and diplomas only in the beliefs and practices of  
40 the church, religious denomination, or religious



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



1 operating under this paragraph shall file annually with  
2 the council evidence to demonstrate its status as a  
3 nonprofit religious corporation under the Corporation  
4 Code.

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

8 (B) Institutions accredited by the senior commission  
9 or the junior commission of the Western Association of  
10 Schools and Colleges that are incorporated and lawfully  
11 operating as a nonprofit public benefit corporation  
12 pursuant to Part 2 (commencing with Section 5110) of  
13 Division 2 of Title 1 of the Corporations Code and that are  
14 not managed by any entity for profit.

15 (C) For-profit institutions accredited by the senior or  
16 the junior commission of the Western Association of  
17 Schools and Colleges, if the institution exclusively confers  
18 degrees upon the completion of a course of study of two  
19 or more years.

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

33 94740. “Program” or “program of instruction” means  
34 a program of training, set of related courses, or education  
35 for which a student enrolls.

36 94740.1. “Registered,” “registered institution,” or  
37 “registered educational service” means any individual or  
38 organization that offers an educational service and is  
39 registered to operate under Article 9.5 (commencing  
40 with Section 94931).



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

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

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

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

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

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

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

20 94742.1. (a) “Short-term career training” means an  
21 educational service consisting of all of the following:

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

24 (2) The length of training is less than 250 hours.

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

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

29 (1) Instruction leading to a degree.

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

32 (3) Any educational service, other than provided for in  
33 subdivision (a), consisting of more than 250 hours of  
34 instruction or costing two thousand dollars (\$2,000) or  
35 more in total charges that is divided or structured into  
36 one or more segments that consists of 250 or fewer hours  
37 of instruction, the total charge for which is less than two  
38 thousand dollars (\$2,000).

39 (4) Any educational service represented to lead to, or  
40 offered for the purpose of preparing a student for,



1 employment as a certified nursing assistant, a private  
2 security guard, or a private patrol operator.

3 (c) Short-term career training may include an  
4 educational service licensed by another state agency so  
5 long as that educational service complies with subdivision  
6 (a) and Article 9.5 (commencing with Section 94931).

7 94742.2. (a) “Short-term seminar training” means an  
8 educational service offered at a main location, branch, or  
9 satellite, or any other location, consisting of 100 hours or  
10 less of instruction, the total charge for which is less than  
11 one thousand dollars (\$1,000).

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

14 (1) Instruction leading to a degree.

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

17 (3) Instruction in how to prepare for, take, or pass a  
18 licensing examination or other test qualifying a person for  
19 employment.

20 (4) Instruction that is represented to lead to an  
21 ~~occupation or job title, unless it is a licensed occupation~~  
22 ~~or job title.~~ *occupation or job title.*

23 (5) Any educational service consisting of more than  
24 100 hours of instruction or costing one thousand dollars  
25 (\$1,000) or more in total charges that is divided or  
26 structured into one or more segments that consist of 100  
27 or fewer hours of instruction, the total charge for which  
28 is less than one thousand dollars (\$1,000).

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

33 94743. “Site” means a main location, branch, or  
34 satellite campus.

35 94744. “To offer” includes, in addition to its usual  
36 meanings, advertising, publicizing, soliciting, or  
37 encouraging any person, directly or indirectly, in any  
38 form, to perform the act described.

39 94745. “To operate” an educational institution, or like  
40 term, means to establish, keep, or maintain any facility or



1 location in this state where, or from or through which,  
2 educational services are offered or educational degrees or  
3 diplomas are offered or granted.

4 94746. “Vocational diploma program” means an  
5 educational program having all of the following  
6 characteristics:

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

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

14 (c) Students who complete all or a portion of the  
15 program are awarded a diploma, certificate, or  
16 occupational associate degree.

17  
18 Article 3. Exemptions  
19

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

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

35 (b) The faculty of the institution meets the  
36 requirements set forth in paragraph (2) of subdivision (a)  
37 of Section 94900.

38 (c) The institution’s cohort default rate on guaranteed  
39 student loans does not exceed 15 percent for the three

1 most recent years as published by the United States  
2 Department of Education.

3 (d) The institution has operated in this state for at least  
4 15 years.

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

10 (f) The institution pays fees in accordance with  
11 Section 94932.

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

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

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

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

27

28 Article 3.5. Transition Provisions

29

30 94760. (a) *Any institution operating on December*  
31 *31, 1997, with a full, conditional, or temporary approval to*  
32 *operate, may continue to operate under the terms of that*  
33 *approval until that full, conditional, or temporary*  
34 *approval to operate expires or a subsequent action is*  
35 *taken by the bureau that affects that approval to operate,*  
36 *whichever comes first.*

37 (b) Each regulation in Division 7.5 (commencing with  
38 Section 70000) of Title 5 of the California Code of  
39 Regulations in effect on June 29, 1997, shall be in full force  
40 and effect on and after January 1, 1998, to the extent the



1 regulation is consistent with the relevant provisions in  
2 this chapter. The council may, by emergency regulation,  
3 designate which regulations are consistent with this  
4 chapter and which are not.

5

6

Article 4. Administration

7

8 94770. There is a Bureau for Private Postsecondary  
9 and Vocational Education in the Department of  
10 Consumer Affairs. The bureau shall succeed to any and all  
11 rights and claims of the former Council for Private  
12 Postsecondary and Vocational Education that may have  
13 been asserted in any judicial or administrative action  
14 pending on January 1, 1998, and shall take any action  
15 reasonably necessary to assert and realize those rights and  
16 claims in its own name. The functions of the former  
17 council and the responsibilities the former council had for  
18 the administration of former Chapter 7 (commencing  
19 with Section 94700) on June 29, 1997, are transferred to  
20 the bureau, effective January 1, 1998, as provided by this  
21 act. It is the intent of the Legislature that there be no gap  
22 in the performance of functions or the administration of  
23 the law governing private postsecondary educational  
24 institutions. Notwithstanding any other provision of law,  
25 Section 19050.9 of the Government Code shall apply  
26 regardless of the date on which former Chapter 7  
27 (commencing with Section 94700) became inoperative or  
28 was repealed.

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

35 The bureau has the responsibility for approving and  
36 regulating private postsecondary educational  
37 institutions. The bureau shall have, as its objective, the  
38 development of a strong, vigorous, and widely respected  
39 sector of private postsecondary and vocational education.



1 94771. (a) The duty of administering and enforcing  
2 this chapter is vested in the Director of Consumer Affairs,  
3 who may assign and delegate those duties to a program  
4 administrator, subject to the other provisions of this  
5 section.

6 (b) Every power granted to, or duty imposed upon,  
7 the bureau under this chapter may be exercised or  
8 performed in the name of the bureau, subject to any  
9 conditions and limitations the director may prescribe.  
10 The program administrator may redelegate any of those  
11 powers or duties to his or her designee. The program  
12 administrator shall be appointed by the Governor and  
13 confirmed by the Senate, and is exempt from the State  
14 Civil Service Act (Part 2 (commencing with Section  
15 18500) of Division 5 of Title 2 of the Government Code).

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

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

29 (e) The director shall appoint an advisory committee  
30 which shall consist of representatives of institutions,  
31 student advocates, and employers who hire students,  
32 among other parties. The advisory committee shall be  
33 balanced to ensure that institutions and student  
34 advocates have approximate equal representation.  
35 Institutional representatives on the committee shall be in  
36 general proportion to the types of institutions approved  
37 or registered pursuant to this chapter and to the number  
38 of students served by each type of institution. The  
39 advisory committee shall advise the bureau concerning



1 the bureau's administration, licensing, and enforcement  
2 functions under this chapter.

3 94772. It is the intent of the Legislature that the  
4 bureau's approval and regulating responsibilities be  
5 funded solely through approval fees and federal funding  
6 provided to implement the approval process for courses  
7 offered to veterans by approved institutions.

8 94774. The bureau shall have the following functions  
9 and responsibilities in its capacity as the statewide private  
10 postsecondary and vocational educational planning and  
11 licensing agency:

12 (a) The establishment of policies for the  
13 administration of this chapter.

14 (b) The establishment of minimum criteria for the  
15 approval of private postsecondary or vocational  
16 educational institutions to operate in California and  
17 award degrees and diplomas, and for the approval of  
18 institutions that meet the criteria.

19 (c) The adoption of regulations governing the conduct  
20 of institutions under this chapter, including, but not  
21 limited to, minimum state standards for refund policies,  
22 advertising, enrollment agreements and contracts,  
23 consumer information, attendance policies, and financial  
24 responsibility.

25 (d) The adoption of regulations for the transaction of  
26 its own affairs, and procedures necessary or appropriate  
27 for the conduct of its work and the implementation of this  
28 chapter.

29 (e) The publication of an Internet directory of all  
30 private postsecondary and vocational educational  
31 institutions approved to operate in California under this  
32 chapter.

33 (f) The impaneling of special committees of  
34 technically qualified persons to assist the bureau in the  
35 development of standards for education and educational  
36 institutions and the evaluation of an application or  
37 institutions pursuant to this chapter. The members of the  
38 special committees shall receive no compensation but  
39 shall be reimbursed for their actual expenses for  
40 attendance at official meetings and actual expenses when



1 on official bureau business. The members of the special  
2 committees shall serve at no expense to the state. The  
3 actual travel and per diem expenses incurred by each  
4 member of a special committee shall be reimbursed by  
5 the institution that is the subject of inspection or  
6 investigation.

7 94774.5. (a) For the purposes of administration and  
8 enforcement of this chapter, the Department of  
9 Consumer Affairs, the bureau, and the director and  
10 officers and employees of the department and the  
11 bureau, shall have all the powers and authority granted  
12 under this chapter and under Division 1 (commencing  
13 with Section 100) and Division 1.5 (commencing with  
14 Section 475) of the Business and Professions Code. In  
15 addition to satisfying the approval, compliance, and  
16 enforcement provisions of this chapter, the bureau shall  
17 also comply with and exercise all authority granted by  
18 Division 1 (commencing with Section 100) and Division  
19 1.5 (commencing with Section 475) of the Business and  
20 Professions Code.

21 (b) The bureau shall establish a regular inspection  
22 program which shall include unannounced inspections.

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

27 (1) Place the institution on probation.

28 (2) Issue an order prohibiting the enrollment of new  
29 students.

30 (3) Issue an administrative citation and impose an  
31 administrative fine as authorized by, and in accordance  
32 with, Section 94957 of this code or Section 146, 147, or 148  
33 of the Business and Professions Code.

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

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

39 (6) With the consent of the institution, refer an  
40 adjudicative proceeding to mediation, or binding or



1 nonbinding arbitration, in accordance with the  
2 regulations of the Office of Administrative Hearings, the  
3 department, or the bureau.

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

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

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

25 (b) Any defense by, or indemnification from, the  
26 bureau, as specified in subdivision (a) shall be solely with  
27 respect to that claim or action pursuant to Article 4  
28 (commencing with Section 825) of Chapter 1 of Part 2 of,  
29 and Part 7 (commencing with Section 995) of, Division  
30 3.6 of Title 1 of the Government Code.

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

1 (a) The annuity contract is under an annuity plan that  
2 meets the requirements of subdivision (b) of Section 403  
3 of the Internal Revenue Code.

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

6 (c) All provisions of the Insurance Code and the  
7 Government Code applicable to the purchase of this type  
8 of annuity are satisfied.

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

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

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

27 94785. (a) Article 7 (commencing with Section  
28 94850) does not apply to an institution during a calendar  
29 year if both of the following conditions are satisfied  
30 during that calendar year:

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

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

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

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

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

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

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

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

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

38 (2) For educational services that consist of an AOS  
39 (Occupational Associate degrees or Associate of  
40 Occupational Studies degrees), AAS (Associate of



1 Applied Science degrees), or any other occupational  
2 associate degree, if the institution confers diplomas or  
3 certificates to students who do not complete the degree  
4 program, Article 7 (commencing with Section 94850)  
5 shall apply to any student enrolled in any course that can  
6 be accepted to meet the requirements of the diploma or  
7 certificate program. Notwithstanding this paragraph,  
8 Article 7 (commencing with Section 94850) shall not  
9 apply to any student who continues to be enrolled in the  
10 institution one academic year after the student has  
11 *commenced instruction or* completed all of the courses in  
12 the diploma program or certificate program, whichever  
13 is later. Students enrolled in the degree program who are  
14 awarded a certificate or diploma after completing the  
15 certificate or diploma program, but prior to completing  
16 the degree program, may be counted by the institution  
17 towards the requirements in paragraph (1) of subdivision  
18 (a) of Section 94854 and paragraph (1) of subdivision (b)  
19 of Section 94854 for the diploma or certificate program.

20 (3) The requisite number of semester or quarter units  
21 for AOS, AAS, or any other occupational associate degree  
22 shall be 60 semester units or 90 quarter units. The bureau  
23 shall adopt regulations to specify the necessary classroom  
24 instruction and out-of-class learning experience for each  
25 unit or semester or quarter hour credit (combination of  
26 lecture, laboratory, practicum, or outside preparation),  
27 based on Carnegie Commission standards.

28 (4) This subdivision does not apply to any educational  
29 service for which a student enrolled before January 1,  
30 1998.

31 (b) The educational service, as defined in subdivision  
32 (b) of Section 94734, is offered as continuing education in  
33 subjects that licensees are required to take as a condition  
34 of continued licensure.

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

39 (d) The educational service, as defined in subdivision  
40 (a) of Section 94734, is offered exclusively to assist



1 students, who have obtained, or who are in the process of  
2 obtaining, degrees after completing an undergraduate or  
3 graduate course of study at a college or university, to  
4 prepare for an examination for licensure in a recognized  
5 profession, such as medicine, dentistry, accounting, or  
6 law.

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

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

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

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

32 (i) Any educational service identified in this section  
33 that is exempt from Article 7 (commencing with Section  
34 94850) does not become subject to Article 7  
35 (commencing with Section 94850) solely because the  
36 institution offers other educational services that are  
37 identified in this section and that are also exempt from  
38 Article 7 (commencing with Section 94850).

39 94795. It is the intent of the Legislature that if any  
40 exception provided in this article is declared by a court to



1 be invalid for any reason, all of the provisions of Article  
2 7 (commencing with Section 94850) shall apply to the  
3 institutions, programs, or educational services that would  
4 otherwise be subject to that exception.

5

6 Article 6. General Standards for All Postsecondary

7 Institutions Approved Under This Chapter

8

9 94800. All institutions approved under this chapter  
10 shall be maintained and operated, or in the case of a new  
11 institution, shall demonstrate that it will be maintained  
12 and operated, in compliance with all of the following  
13 minimum standards:

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

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

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

29 94802. (a) Each institution desiring to operate in this  
30 state shall make application to the council, upon forms to  
31 be provided by the council. The application shall include,  
32 as a minimum, at least all of the following:

33 (1) A catalog published, or proposed to be published,  
34 by the institution containing the information specified in  
35 the criteria adopted by the council. The catalog shall  
36 include specific dates as to when the catalog applies.

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

39 (3) Copies of media advertising and promotional  
40 literature.



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

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

7 (6) The information specified in Section 94808.

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

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

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

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

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

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

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

39 (4) Comply with any applicable provisions of Section  
40 94855.



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

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

8 (2) Under generally accepted accounting principles,  
9 the institution had, at the end of its latest fiscal year, a  
10 ratio of current assets to current liabilities of less than 1.25  
11 to 1. For the purpose of this paragraph, “current assets”  
12 does not include any of the following: (A) intangible  
13 assets, including goodwill, going concern value,  
14 organization expense, startup costs, long-term  
15 prepayment of deferred charges, and nonreturnable  
16 deposits, or (B) state or federal grant funds that are not  
17 the property of the institution but are held for future  
18 disbursement for the benefit of students. Unearned  
19 tuition shall be accounted for in accordance with  
20 generally accepted accounting principles. When another  
21 government agency requires an institution to file annual  
22 financial audit prepared by a certified public accountant,  
23 that agency’s current ratio standard may apply in lieu of  
24 the ratio specified in this paragraph if the ratio of current  
25 assets to current liabilities under that standard is 1 to 1 or  
26 greater.

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

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

38 (A) Consent to be sued in California.

39 (B) Consent to be subject to the administrative  
40 jurisdiction of the council and the Student Aid



1 Commission in connection with the institution’s  
2 compliance with this chapter.

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

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

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

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

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

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

22 (2) The institution’s financial plan for establishing  
23 financial responsibility.

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

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

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

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

34 (1) An institution that collected seven hundred fifty  
35 thousand dollars (\$750,000) or more in total student  
36 charges in its preceding fiscal year shall file financial  
37 reports prepared in accordance with generally accepted  
38 accounting principles established by the American  
39 Institute of Certified Public Accountants, and audited or  
40 reviewed by an independent certified public accountant



1 who is not an employee, officer, or corporate director or  
2 member of the governing board of the institution.

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

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

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

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

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

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

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



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

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

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

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

12 (3) The degree levels offered.

13 (4) Program completion rates.

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

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

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

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

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

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



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

13 94810. (a) Any written contract or agreement for  
14 educational services with an institution shall include all of  
15 the following:

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

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

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

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

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

37 (5) The name and description of the program of  
38 instruction, including the total number of credits, classes,  
39 hours, or lessons required to complete the program of  
40 instruction.



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

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

12 (8) A clear statement of the refund policy written in  
13 plain English.

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

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

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

31 94812. Any written contract or agreement signed by  
32 a prospective student shall not become operative until  
33 the student attends the first class or session of instruction.  
34 This provision does not apply to correspondence schools  
35 or other distance-learning programs.

36 94814. (a) The institution shall provide to students  
37 and other interested persons, prior to enrollment, a  
38 catalog or brochure containing at a minimum the  
39 following information:



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

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

8 (3) The attendance, dropout, and leave-of-absence  
9 policies.

10 (4) The faculty and their qualifications.

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

14 (6) The cancellation and refund policies.

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

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

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

26 94816. (a) Each institution offering a degree or  
27 diploma program designed to prepare students for a  
28 particular vocational, trade, or career field shall provide  
29 to each prospective student a school performance fact  
30 sheet disclosing all of the following information:

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

38 (2) The passage rates of graduates in the program for  
39 the most recent calendar year that ended not less than six  
40 months prior to the date of disclosure on any licensure or



1 certificate examination required by the state for  
2 employment in the particular vocational, trade, or career  
3 field and for any licensing preparation examination as  
4 required under subdivision (a) of Section 94734 for which  
5 data is available.

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

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

22 Each school that offers or advertises placement  
23 assistance for any course of instruction shall file with the  
24 council its placement statistics for the 12-month period or  
25 calendar year immediately preceding the date of the  
26 school's application for annual review for every course of  
27 instruction.

28 The council shall develop standards and criteria to be  
29 used by each institution in determining the statistical  
30 information required by this paragraph.

31 (b) In addition to the fact sheet required by  
32 subdivision (a), each institution offering a degree  
33 program designed to prepare students for a particular  
34 vocation, trade, or career field and each institution  
35 subject to Article 7 (commencing with Section 94850)  
36 shall provide to each prospective student a statement in  
37 at least 12-point type that contains the following  
38 statement:

39



1 “NOTICE CONCERNING TRANSFERABILITY OF  
2 UNITS AND DEGREES EARNED AT OUR SCHOOL  
3

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

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

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

24 (d) Except as provided in subdivision (b), this section  
25 does not apply to educational programs subject to Article  
26 7 (commencing with Section 94850).

27 94818. (a) Every institution shall designate and  
28 maintain an agent for service of process within this state  
29 and provide the name, address, and telephone number of  
30 the agent to the council. The council shall furnish the  
31 agent’s name, address, and telephone number to any  
32 person upon request.

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

38 (c) If an institution fails to designate or maintain an  
39 agent for service of process pursuant to subdivision (a)  
40 and if service on the institution cannot reasonably be

1 effected in the manner provided in Section 415.10, 415.20,  
 2 415.30, or 415.40 of the Code of Civil Procedure, the  
 3 institution may be served by leaving a copy of the process  
 4 or any other document in an office of the council and by  
 5 sending, by first-class mail, a notice of the service upon  
 6 the council and a copy of the process or other document  
 7 to the institution at its last address on file with the council.  
 8 Service in this manner shall be deemed complete on the  
 9 10th day after that mailing to the institution. Proof of  
 10 service may be made by a declaration showing  
 11 compliance with this subdivision.

12 94819. Within 30 days of any action by any accrediting  
 13 agency that establishes, reaffirms, or publicly sanctions  
 14 the accreditation of any private postsecondary  
 15 educational institution operating in the state, including  
 16 those institutions that satisfy the requirements of  
 17 paragraph (7) of subdivision (b) of Section 94739, the  
 18 accrediting agency shall notify the bureau of that action  
 19 and shall provide a copy of any public statements  
 20 regarding the reasons for the accrediting agency's action.

21 94820. (a) The institution shall have and maintain  
 22 the policy set forth in this article for the refund of the  
 23 unused portion of tuition fees and other charges if the  
 24 student does not register for the period of attendance or  
 25 withdraws therefrom at any time prior to completion of  
 26 the courses, or otherwise fails to complete the period of  
 27 enrollment. The institutional refund policy for students  
 28 who have completed 60 percent or less of the course of  
 29 instruction shall be a pro rata refund.

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

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

34 (2) Divide this figure by the number of hours in the  
 35 program.

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

37 (4) The amount owed by the student for the purposes  
 38 of calculating a refund is derived by multiplying the total  
 39 hours attended by the hourly charge for instruction plus



1 the amount of the registration fee specified in paragraph  
2 (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 (c) For an educational service offered by distance  
7 learning, home study, or correspondence, the refund  
8 shall be calculated as follows:

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

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

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

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

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

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

26 94821. Institutions offering distance learning, home  
27 study, or correspondence instruction may petition the  
28 council for an alternative method of calculating tuition  
29 refunds if they can demonstrate all of the following:

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

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

36 94822. Institutions, 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),  
40 if notice of cancellation is made prior to or on the first day



1 of instruction. If the first lesson in a home study or  
2 correspondence course is sent to the student by mail, the  
3 institution shall send it by first-class mail, postage prepaid,  
4 documented by a certificate of mailing, and the student  
5 shall have the right to cancel until midnight of the eighth  
6 business day after the first lesson was mailed. The  
7 institution shall advise each student that any notification  
8 of withdrawal or cancellation and any request for a refund  
9 is required to be made in writing.

10 94823. The institution shall provide a written  
11 statement containing its refund policy, together with  
12 examples of the application of the policy, to each student  
13 prior to signing the enrollment contract, and shall make  
14 its policy known to currently enrolled students.

15 94824. The institution shall pay or credit refunds due  
16 on a reasonable or timely basis, not to exceed 30 days  
17 following the date upon which the student's withdrawal  
18 has been determined.

19 94825. The institution shall publish a current schedule  
20 of all student charges, a statement of the purpose for those  
21 charges, and a statement of the cancellation and refund  
22 policies with examples of the application of the policies,  
23 and shall provide the schedule to all current and  
24 prospective students prior to enrollment. The schedule  
25 shall clearly indicate and differentiate all mandatory and  
26 optional student charges. The institution shall include a  
27 clear statement written in English describing the  
28 procedures that a student is required to follow to cancel  
29 the contract or agreement and obtain a refund. If the  
30 institution solicited the student or negotiated the  
31 agreement in a language other than English, the notice  
32 to the student shall be in that same language. The  
33 schedule shall specify the total costs of attendance which  
34 shall include, but not be limited to, tuition, fees,  
35 equipment costs, housing, transportation, books,  
36 necessary supplies, materials, shop and studio fees, and  
37 any other fees and expenses that the student will incur  
38 upon enrollment.

39 The schedule shall clearly identify all charges and  
40 deposits that are nonrefundable.



1 94826. Where the refund calculations set forth in this  
2 article cannot be utilized because of the unique way in  
3 which an educational program is structured, the council  
4 shall determine the details of an alternative refund policy,  
5 by regulation, and shall take into consideration the  
6 contract for educational services entered into with the  
7 student, as well as the length and character of the  
8 educational program in determining standards for  
9 refunds. The decision of the council shall be final. This  
10 section does not apply to the refunds subject to Sections  
11 94869 and 94870.

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

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

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

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

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

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

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



1 (4) The degrees or diplomas and honorary degrees  
2 and diplomas granted, the date of granting, together with  
3 the curricula upon which the diplomas and degrees were  
4 based.

5 94830. The council may refuse to issue or renew any  
6 private postsecondary or vocational educational  
7 institution's approval to operate, or may revoke any  
8 approval to operate for any one, or any combination, of  
9 the following causes:

10 (a) A violation of this chapter, or any standard, rule, or  
11 regulation established under this chapter, or an order of  
12 the council made under this chapter.

13 (b) Furnishing false, misleading, or incomplete  
14 information to the council, or the failure to furnish  
15 information requested by the council or required by this  
16 chapter.

17 (c) A finding that an owner, a person in control, a  
18 director, or an officer of an institution is not in compliance  
19 with this chapter or was not in compliance with  
20 applicable law while serving as an owner, person in  
21 control, director, or officer of an institution within the  
22 previous five-year period.

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

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

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

37 (g) The failure of the institution to maintain the  
38 minimum educational standards prescribed by this  
39 chapter, or to maintain standards that are the same as, or



1 substantially equivalent to, those represented in the  
2 school's applications and advertising.

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

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

11 (j) The failure to provide timely and correct refunds  
12 to students.

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

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

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

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

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

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

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

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

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



1 institution is currently approved to operate pursuant to  
2 this chapter. The council may institute an action,  
3 pursuant to Section 94955, to prevent any individual or  
4 entity from operating an institution in this state that has  
5 not been approved to operate pursuant to this chapter  
6 and to obtain any relief authorized by that section.

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

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

31 (d) Use, or allow the use of, any reproduction or  
32 facsimile of the Great Seal of the State of California on any  
33 diploma.

34 (e) Promise or guarantee employment.

35 (f) Advertise concerning job availability, degree of  
36 skill and length of time required to learn a trade or skill  
37 unless the information is accurate and in no way  
38 misleading.

39 (g) Advertise, or indicate in any promotional material,  
40 that correspondence instruction, or correspondence



1 courses of study are offered without including in all  
2 advertising or promotional material the fact that the  
3 instruction or programs of study are offered by  
4 correspondence or home study.

5 (h) Advertise, or indicate in any promotional material,  
6 that resident instruction, or programs of study are offered  
7 without including in all advertising or promotional  
8 material the location where the training is given or the  
9 location of the resident instruction.

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

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

21 (k) Fail to comply with federal requirements relating  
22 to the disclosure of information to students regarding  
23 vocational and career training programs, as described in  
24 Section 94816.

25 94832. (a) No institution or representative of an  
26 institution shall make or cause to be made any statement  
27 that is in any manner untrue or misleading, either by  
28 actual statement, omission, or intimation.

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

39 (c) An institution is liable in any civil or administrative  
40 action or proceeding for any violation of this article



1 committed by a representative of the institution. An  
2 institution is liable in a criminal action for violations of this  
3 article committed by a representative of the institution to  
4 the extent permitted by law.

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

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

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

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

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

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

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

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



1 (B) Up to one-half of the compensation may be paid  
2 before the student completes the program only if the  
3 student has made satisfactory academic progress,  
4 documented by the institution in the student's file, for  
5 more than 90 days.

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

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

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

15 (1) The institution is affiliated with any governmental  
16 agency, public or private corporation, agency, or  
17 association.

18 (2) The institution is a public institution.

19 (3) The institution grants degrees.

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

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

29 (B) Any information or record relating to the student's  
30 eligibility for financial assistance or attendance at the  
31 institution.

32 (C) Any other record or document required by this  
33 chapter or by the council.

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

39 (i) No institution or representative of an institution  
40 shall use the terms "approval," "approved," "approval to



1 operate,” or “approved to operate” without stating  
2 clearly and conspicuously that approval to operate means  
3 compliance with minimum state standards and does not  
4 imply any endorsement or recommendation by the state  
5 or by the council. If the council has granted an institution  
6 approval to operate, the institution or its representative  
7 may indicate that the institution is “licensed” or “licensed  
8 to operate” but may not state or imply any of the  
9 following:

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

12 (2) The council’s grant to the institution of approval to  
13 operate indicates that the institution exceeds minimum  
14 state standards.

15 (3) The council or the state endorses or recommends  
16 the institution.

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

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

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

36 94834. (a) Any person or business entity, regardless  
37 of the form of organization that willfully violates Section  
38 94800, Sections 94810 to 94826, inclusive, or Section 94828,  
39 94829, 94831, or 94832 is guilty of a crime and shall be  
40 subject to separate punishment for each violation either



1 by imprisonment in a county jail not to exceed one year,  
2 by a fine not to exceed ten thousand dollars (\$10,000), or  
3 by both that imprisonment and fine; or by imprisonment  
4 in the state prison, by a fine not to exceed fifty thousand  
5 dollars (\$50,000), or by both that imprisonment and fine.

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

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

13 (d) In addition to any other fines or penalties imposed  
14 pursuant to this section, any person or business entity  
15 found guilty of a crime as described in subdivision (a)  
16 shall be ordered to pay the Attorney General, any district  
17 attorney, or any city attorney all of their costs and  
18 expenses in connection with any investigation incident to  
19 that prosecution. An institution shall not be required to  
20 pay the same costs and expenses to more than one  
21 investigating agency.

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

33 (b) At the council's request in connection with an  
34 investigation to determine compliance with this chapter,  
35 an institution, during its normal business hours, shall  
36 immediately make available for inspection and copying  
37 all records required to be maintained by this chapter or  
38 that relate to the institution's compliance with this  
39 chapter and permit the council's representatives to have  
40 immediate access to the institution's primary



1 administrative location and sites of instruction during the  
2 institution's normal business hours to examine and copy  
3 these records, to inspect the institution's physical  
4 facilities, equipment, library and other learning  
5 resources, and to interview school administrators, faculty,  
6 and students.

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

14 94836. (a) If there is reasonable cause to believe that  
15 there has been a violation by a private postsecondary  
16 educational institution of the standards prescribed by this  
17 chapter, the council shall conduct an investigation of the  
18 institution.

19 (b) Within a reasonable time after the  
20 commencement of the investigation required in  
21 subdivision (a), the council shall conclude its  
22 investigation and take action against the institution  
23 involved, as appropriate.

24 94838. (a) No note, other instrument of  
25 indebtedness, or contract relating to payment for  
26 educational services shall be enforceable by any  
27 institution within or outside this state governed by this  
28 chapter unless at the time of execution of that note, other  
29 instrument of indebtedness, or contract, the institution  
30 has a valid approval to operate pursuant to this chapter.

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



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

9

10 “NOTICE

11

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

20

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

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

38 (e) Institutions that participate in federal student  
39 assistance programs and that comply with the financial  
40 disclosure and notification requirements for those



1 programs shall be deemed to be in compliance with the  
2 standards prescribed by this section.

3 94840. At least 90 days prior to the expiration of an  
4 approval to operate, the institution shall complete and file  
5 with the council an application form for renewal of its  
6 approval to operate. The renewal application need only  
7 contain a description of any changes made by the  
8 institution since the time its last application was reviewed  
9 by the council. Fees for processing the renewal  
10 application shall be based on the number and types of  
11 changes it contains. The renewal application shall be  
12 reviewed and acted upon as provided in Sections 94802,  
13 94804, and 94835, and Section 94900 or 94915, whichever  
14 is applicable.

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

26 94842. If a review and decision on a renewal  
27 application submitted pursuant to Section 94840 cannot  
28 be completed by the council prior to the expiration of the  
29 institution's current pending approval, that expiration  
30 date shall be extended until the date that the council  
31 notifies the institution of its decision.

32 94846. (a) If a shift in control or change of ownership  
33 of an institution occurs, an application for a new approval  
34 to operate for the institution under the changed  
35 ownership or control shall be filed with the council at least  
36 20 days prior to the shift in control or change in  
37 ownership. Whenever an institution is operated at  
38 different locations, an application for approval shall be  
39 filed for each location.



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

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

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

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

31 94848. An institution may not claim an exception  
32 pursuant to Section 94739 or 94785 if the bureau finds,  
33 after notice and hearing as provided in Section 94975, that  
34 the institution adopted a form of organization or method  
35 of operation for the purpose of avoiding any provision of  
36 this chapter.

37



1 Article 7. Maxine Waters Student Protection Act

2

3 94850. (a) This article shall be known, and may be  
4 cited, as the Maxine Waters School Reform and Student  
5 Protection Act of 1989.

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

26 (c) The Legislature further finds and declares that  
27 many students who enroll in these schools pay their  
28 tuition from the proceeds of loans and grants guaranteed  
29 or provided by the state and federal governments.  
30 Students who leave schools before the completion of  
31 instruction, often because of misrepresentations and  
32 inadequate instruction, do not receive adequate refunds  
33 of tuition for the instruction not received. Students  
34 remain liable to repay student loans but are frequently  
35 unable to do so in part because they were unable to obtain  
36 the proper educational preparation for jobs. Students are  
37 also harmed by the closure of institutions, often caused by  
38 the fraud or mismanagement of the institution's  
39 operators, because the students neither obtain the  
40 education promised nor a refund of tuition and the cost



1 of materials. As a result of all of the foregoing, the state  
2 and federal governments spend many millions of dollars  
3 annually to satisfy loan guarantees for often inadequate  
4 and misrepresented vocational school courses.

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

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

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

20 94851. (a) The Legislature further finds and declares  
21 that students have been harmed by some institutions  
22 because of the financial improprieties and  
23 mismanagement of those institutions, their failure to fully  
24 disclose the student's financial and contractual  
25 obligations, and their failure to have sufficient resources  
26 to provide the promised training. The Legislature also  
27 finds that the tuition refund policies of institutions often  
28 encourage unfair practices by creating a financial benefit  
29 to the institution if a student drops out, and do not  
30 encourage institutions to provide adequate counseling or  
31 to adopt policies designed to curb student dropouts. In  
32 addition, the Legislature finds that many institutions  
33 have poor records of student completion and job  
34 placement, even though these institutions expressly or  
35 implicitly represent that students will receive sufficient  
36 training and skills to obtain well-paid employment in the  
37 field that is the subject of the training, and that a  
38 reputable institution is one that complies with this  
39 chapter. Consequently, the Legislature finds that the  
40 business of providing occupational training, instruction,



1 and related equipment by commercial enterprises has a  
2 substantial impact on the economy of this state and the  
3 welfare of its citizens.

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

19 94852. The following definitions and provisions apply  
20 to this article:

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

27 (b) "Council" means the Council for Private  
28 Postsecondary and Vocational Education established  
29 pursuant to Section 94770.

30 (c) "Educational service" means any education,  
31 training, or instruction offered by an institution,  
32 including any equipment.

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

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



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

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

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

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

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

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

31 (l) “Year” means a calendar year.

32 94853. (a) In addition to making any other required  
33 disclosures, a representative of an institution who in any  
34 manner solicits or recruits any person in person at any  
35 place other than the institution’s premises or by  
36 telephone for enrollment in a course of instruction shall  
37 disclose the following, orally, and, if the solicitation is in  
38 person, in a correctly dated written document given to  
39 the person and printed in at least 10-point type and signed  
40 by the representative.



- 1 (1) The representative is a paid recruiter for an  
2 institution and the institution is not a public school.
- 3 (2) The representative is not offering a job, making job  
4 referrals, or conducting a survey.
- 5 (3) There is no guarantee of a job after a student  
6 graduates from the course of instruction.
- 7 (4) The total charge for the course of instruction or if  
8 the solicitation or recruitment is for more than one  
9 course, the range of the total charges for the courses  
10 offered.
- 11 (b) The representative shall make the disclosures  
12 required by paragraphs (1) to (3), inclusive, of  
13 subdivision (a) before attempting to solicit or recruit any  
14 person. The representative shall make the disclosure  
15 required by paragraph (4) of subdivision (a) before the  
16 end of a solicitation or attempt to recruit any person.
- 17 (c) A representative who solicits or recruits any  
18 person as described in subdivision (a) shall provide the  
19 person with a copy of the institution's current catalog or  
20 brochure, containing the information described in  
21 paragraph (4) of subdivision (a) of Section 94859, which  
22 the person may obtain without charge. The institution or  
23 its representative shall provide the catalog or brochure  
24 required by this subdivision at the time of an in-person  
25 solicitation or recruitment or send the catalog brochure  
26 within two days of a telephonic solicitation or  
27 recruitment.
- 28 (d) No institution shall enter an agreement for a  
29 course of instruction with, or prepare or assist in  
30 preparation of a student loan or grant application for, a  
31 person solicited or recruited as described in subdivision  
32 (a) within three days of the date on which the person was  
33 solicited or recruited.
- 34 (e) This section does not apply to solicitations or  
35 presentations made at informational public appearances  
36 directed to five or more people or to advertisements in  
37 print or broadcast media.
- 38 94854. (a) Every institution shall meet all of the  
39 following performance standards for each program



1 offered during the applicable time period described in  
2 subdivision (l):

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

11 (A) Limitations on enrollment for specific courses of  
12 instruction.

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

17 (C) Increased academic counseling and other student  
18 support services.

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

20 (E) Revisions to the qualifications and number of  
21 faculty.

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

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

37 (H) Any other reasonable procedure required by the  
38 council.

39 (3) If an institution is subject to an order pursuant to  
40 paragraph (2), the council may require that the



1 institution file information or reports requested by the  
2 council. The council may also monitor the institution in  
3 the manner provided in subdivision (d) of Section 94878.

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

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

28 (g) If an institution fails to meet any of the standards  
29 established in subdivision (a) and does not have a  
30 placement rate of 42 percent or more for the program in  
31 which the standard was failed, the council shall order the  
32 institution to cease offering the program of instruction at  
33 the campus where the course was offered. If the  
34 institution fails to meet any of the standards prescribed in  
35 subdivision (b) and does not have a placement rate of 42  
36 percent or more for all programs in the aggregate, the  
37 council shall revoke the institution's approval to operate,  
38 or approval to operate the branch or satellite campus  
39 where the programs were offered. No action shall be



1 taken pursuant to this subdivision without notice and, if  
2 requested by the institution, a hearing.

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

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

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

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

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

38 (j) An institution shall maintain records of the name,  
39 address, and telephone number of students who enroll in  
40 a program of instruction, including students who begin



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

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

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

36 (2) (A) "Employment" means either of the following:

37 (i) Full-time employment for at least 32 hours per  
38 week for a period of at least 60 days in the occupations or  
39 job titles to which the program of instruction is  
40 represented to lead.



1 (ii) Part-time employment for at least 17.5 hours, but  
2 less than 32 hours, per week for a period of at least 60 days  
3 in the occupations or job titles to which the program of  
4 instruction is represented to lead, provided the student  
5 completes a handwritten statement at the beginning of  
6 the program and at the end of the program which states  
7 that the student's educational objective is part-time  
8 employment. The institution shall not require that any  
9 student complete such a statement or provide any  
10 incentive, financial or otherwise, to any student for  
11 signing such a statement.

12 (B) The bureau shall adopt regulations to specify the  
13 job tasks, other than those directly related to generating  
14 income, which may be counted towards meeting the hour  
15 requirements for full-time and part-time employment for  
16 students who are self employed.

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

37 (p) If an order to cease offering a program or a  
38 revocation is issued pursuant to this section, the council  
39 may permit the institution to continue to offer the  
40 program or programs of instruction to the students who



1 had begun the course or courses before the effective date  
2 of the order or revocation or may order the institution to  
3 cease instruction and provide a refund of tuition and all  
4 other charges to students.

5 94855. (a) As a condition of maintaining its approval  
6 to operate, an institution offering any educational  
7 programs or educational services subject to this article  
8 shall meet the following financial resource requirements  
9 in addition to the financial requirements of Section 94804.

10 (1) Satisfy minimum standards prescribed by Section  
11 94900, 94905, or 94915, whichever is applicable.

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

15 (3) Pay timely refunds as required by Sections 94867,  
16 94869, 94870, 94873, and 94877.

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

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

28 (A) Consent to be sued in California.

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

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

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

37 (E) File financial reports, maintain financial records,  
38 and permit the inspection and copying of financial  
39 records to the same extent as is required of the institution.



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

5 (c) If an institution does not comply with Section  
6 94804, the council may do any or any combination of the  
7 following:

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

10 (2) Require the institution to post satisfactory security  
11 for the performance of its financial obligations pursuant  
12 to Section 94804.

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

18 (4) Proceed pursuant to Section 94879.

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

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

31 94857. (a) No institution shall establish a branch or  
32 satellite campus unless the council approves the branch  
33 or satellite campus before any students are enrolled for  
34 instruction, or any instruction is offered, at that campus.

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

37 (1) The institution or the branch or satellite campus  
38 fail to satisfy all of the standards and requirements of  
39 Sections 94900 and 94901, or Section 94915, whichever  
40 applies.



1 (2) The institution proposes to offer a course of  
2 instruction at the branch or satellite campus that could  
3 not be offered at another site operated by the institution  
4 because of the institution’s failure to satisfy the standards  
5 prescribed in Section 94854.

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

12 (4) The establishment of a branch or satellite campus  
13 would, in any manner, facilitate the institution’s  
14 avoidance or evasion of this chapter or of any state or  
15 federal law applicable to a student financial aid program  
16 in which the institution participates.

17 94859. (a) Before a person executes an agreement  
18 obligating that person to pay any money to an institution  
19 for a program of instruction or related equipment, the  
20 institution shall provide the person with all of the  
21 following:

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

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

27 (A) The percentage of students completing that  
28 program of instruction as determined pursuant to Section  
29 94854, for the time period that is required to be covered  
30 in the last annual report that institution was required to  
31 file with the council pursuant to Section 94861.

32 (B) The percentage of students who completed the  
33 program of instruction and obtained employment as  
34 determined pursuant to Section 94854, for the time  
35 period that is required to be covered in the last annual  
36 report that the institution was required to file with the  
37 council pursuant to Section 94861.

38 (C) Any other information necessary to substantiate  
39 the truth of any claim made by the institution as to job  
40 placement.



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

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

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

17 (E) If the institution or a representative of the  
18 institution in any manner represents that the program of  
19 instruction might lead to employment in an occupation  
20 or job title for which a state licensing examination is  
21 required, the following disclosures, orally and in writing:

22 (i) All licensure or certification requirements  
23 established by the state for the occupation or job title  
24 category.

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

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

37 (4) A current catalog or brochure containing  
38 information describing the courses offered, all of the  
39 occupations or job titles, if any, to which the program of  
40 instruction is represented to lead, length of program,



1 faculty and their qualifications, schedule of tuition  
2 payments, fees, and all other charges and expenses  
3 necessary for completion of the course of instruction,  
4 cancellation and refund rights, the total cost of tuition  
5 over the entire period, a description of the student's  
6 rights under the Student Tuition Recovery Fund  
7 established pursuant to Section 94944, and all other  
8 material facts concerning the institution and the program  
9 of instruction that might reasonably affect the student's  
10 decision to enroll.

11 (5) If applicable, the following disclosures, orally and  
12 in writing:

13 (A) If the student obtains a loan to pay for the course  
14 of instruction, the student will have the responsibility to  
15 repay the full amount of the loan plus interest, less the  
16 amount of any refund.

17 (B) If the student is eligible for a loan guaranteed or  
18 reinsured by the state or federal government and the  
19 student defaults on the loan:

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

24 (ii) The student may not be eligible for any other  
25 federal financial assistance for education at a different  
26 school or for government housing assistance until the loan  
27 is repaid.

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

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

31 (6) A written statement set forth in a table of the  
32 amount of the refund to which the student would be  
33 entitled if the student withdrew from the program after  
34 completing a period of days or weeks of instruction  
35 equivalent to 10 percent, 25 percent, 50 percent, 60  
36 percent, and 75 percent of the program of instruction.  
37 The disclosures required by this paragraph may be set  
38 forth in the agreement for the course.

39 (b) The information required by paragraph (2) of  
40 subdivision (a) shall be documented by the institution



1 with all facts needed to substantiate that information. Any  
2 information regarding a student's employment shall be  
3 based on an inquiry by the institution and shall be  
4 documented by a list indicating the student's name,  
5 address, and telephone number; the employer's name,  
6 address, and telephone number; the name and address or  
7 telephone number of the person who provided the  
8 information regarding the student's employment to the  
9 institution; the name, title, or description of the job; the  
10 date the student obtained the job; the duration of the  
11 student's employment; and the amount of the salary, if  
12 any salary claim has been made. Except as provided in  
13 Section 94874, an institution shall not disclose the records  
14 maintained pursuant to this subdivision unless  
15 production of those records are required by any law or by  
16 subpoena or court order, or are necessary for a certified  
17 public accountant to prepare a compliance report  
18 pursuant to subdivision (g) of Section 94870.

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

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

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

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

37 (g) The disclosure of any information pursuant to  
38 Section 94853 shall not relieve any institution of any  
39 obligation to make any disclosure required under this  
40 section.



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

7 94860. If a state board, bureau, department, or agency  
8 has established the minimum number of classes or class  
9 hours or the minimum criteria of a course of instruction  
10 necessary for licensure in an occupation and an institution  
11 offers a course of instruction differing from the state  
12 entity's minimum requirements, the institution shall  
13 disclose orally and in writing the state entity's minimum  
14 requirements and how the course of instruction differs  
15 from those criteria. The institution shall make this  
16 disclosure before a prospective student executes an  
17 agreement obligating that person to pay any money to  
18 the institution for the course of instruction.

19 94861. (a) Every institution shall file annually with  
20 the council, on July 1, or another date designated by the  
21 council, a report subscribed under penalty of perjury that  
22 contains all of the following:

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

25 (2) The information described in paragraph (2) of  
26 subdivision (a) of Section 94859.

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

30 (4) Financial information demonstrating compliance  
31 with Section 94855.

32 (5) Any additional information that the council may  
33 prescribe.

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

37 (c) Based on the review of the information submitted  
38 pursuant to this section, the council may initiate a  
39 compliance review, may take action including placing  
40 the institution on probation as provided in Section 94878,



1 or may require evidence of compliance with this article  
2 in a form satisfactory to the council.

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

7 (e) If the institution uses any of the categories  
8 identified in subparagraph (B) of paragraph (2) of  
9 subdivision (k) of, or subdivision (n) or (o) of, Section  
10 94854 in determining compliance with that section, the  
11 information submitted pursuant to this section shall  
12 include the number of students that were included in  
13 each of the categories identified in those provisions.

14 94862. The institution shall file biennially with the  
15 council a financial report prepared pursuant to Section  
16 94806. The report shall include the financial information  
17 required by Section 94855 and average monthly  
18 expenditures. Work papers for the audit shall be retained  
19 for five years from the date of the audit report and shall  
20 be made available to the council upon request after the  
21 completion of the audit.

22 94863. (a) No institution shall pay any consideration  
23 to any agent subject to Section 94940 who has not  
24 complied with that section, or enter into an agreement,  
25 as described in Section 94871, with any person who was  
26 recruited or solicited to enroll in that institution by an  
27 agent who was not in compliance with Section 94940 at  
28 the time of the recruitment or solicitation.

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

38 94864. The enrollment, course completion, and  
39 employment data used to determine compliance with  
40 subdivisions (a) and (b) of Section 94854 and paragraph



1 (2) of subdivision (a) of Section 94859 shall continue to  
2 apply to an institution notwithstanding a change in the  
3 institution's ownership, name, or identification number.

4 94865. (a) As used in this section, "ESL instruction"  
5 means any educational service involving instruction in  
6 English as a second language.

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

9 (c) The bureau shall not approve an institution's  
10 offering of ESL instruction unless that institution  
11 complies with the minimum standards established in  
12 subdivision (a) of Section 94915.

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

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

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



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

10 (h) If the results of a test administered pursuant to  
11 subdivision (d), (e), (f), or (g) indicate that the student  
12 has not attained adequate English language proficiency  
13 after the completion of ESL instruction, the institution  
14 shall offer the student additional instruction without  
15 charge, for a period of up to 50 percent of the number of  
16 hours of instruction previously offered by the institution  
17 to the student, to enable the student to attain adequate  
18 English language proficiency.

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

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

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

35 (2) For the purpose of determining compliance with  
36 this article, ESL instruction shall be deemed a course, and  
37 a charge shall be deemed to be made for ESL instruction  
38 if a student is obligated to make any payment in  
39 connection with the educational service, including, but



1 not limited to, the ESL instruction that is offered by the  
2 institution.

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

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

31 (n) The bureau shall adopt regulations concerning the  
32 manner of documenting the nature of a student's existing  
33 knowledge, training, and skill and that ESL instruction  
34 offered by the institution is necessary to enable the  
35 student to use that existing knowledge, training, and skill,  
36 as prescribed in subdivision (f). The regulations shall  
37 specify all of the following:

38 (1) Reliable sources of information, independent of  
39 the student and the institution, from which



1 documentation of a student's existing knowledge,  
2 training, and skill shall be obtained.

3 (2) Circumstances that must be documented by the  
4 institution to establish that information from a designated  
5 reliable source of information cannot reasonably be  
6 obtained.

7 (3) Alternate acceptable sources of information if  
8 designated reliable sources are not available.

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

10 (o) The bureau shall develop and distribute  
11 instructions, informational materials, or forms to assist  
12 institutions in developing the documentation described  
13 in this section. These instructions, materials, and forms  
14 shall not be subject to review or approval by the Office of  
15 Administrative Law pursuant to any provision of the  
16 Government Code.

17 94866. (a) When a person executes an agreement  
18 obligating that person to pay any money to an institution  
19 for a course program of instruction or related equipment,  
20 the institution shall provide the person with a document  
21 containing only the following notice:

22  
23 “NOTICE OF STUDENT RIGHTS (12-point bold  
24 type)  
25

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

38 “2. After the end of the cancellation period, you also  
39 have the right to stop school at any time, and you have the  
40 right to receive a refund for the part of the course not



1 taken. Your refund rights are described in the contract.  
2 If you have lost your contract, ask the school for a  
3 description of the refund policy.

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

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

11  
12 \_\_\_\_\_  
13 (insert address and telephone number of the Council for  
14 Private Postsecondary and Vocational Education)”  
15

16 (b) Except as otherwise provided in subdivision (a),  
17 the notice required by subdivision (a) shall be printed in  
18 10-point type in English and, if any solicitation or  
19 negotiation leading to the agreement for a course of  
20 instruction was in a language other than English, in that  
21 other language.

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

30 (d) Upon request, the institution shall provide a  
31 student with a copy of a Notice of Cancellation form, a  
32 written description of the student’s refund rights, a copy  
33 of the contract executed by the student, a copy of  
34 documents relating to loans or grants for the student, and  
35 a copy of any document executed by the student.

36 (e) The council may provide for the inclusion of  
37 additional information in the notice set forth in  
38 subdivision (a).

39 94867. (a) (1) In addition to any other right of  
40 rescission, for programs in excess of 50 days, the student



1 shall have the right to cancel an agreement for a program  
2 of instruction including any equipment, until midnight of  
3 the fifth business day after the day on which the student  
4 did any of the following:

5 (A) Attended the first class of the program of  
6 instruction that is the subject of the agreement or  
7 received the first lesson in a home study or  
8 correspondence course.

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

11 (C) Received a copy of the agreement and the  
12 disclosures as required by subdivision (a) of Section  
13 94859, whichever is later.

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

19 If the first lesson in a home-study or correspondence  
20 course is sent to the student by mail, the institution shall  
21 send it by first-class mail, postage prepaid, documented  
22 by a certificate of mailing, and the student shall have a  
23 right to cancel until midnight of the eighth business day  
24 after the first lesson was mailed.

25 (b) Cancellation shall occur when the student gives  
26 written notice of cancellation to the institution at the  
27 address specified in the agreement.

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

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

35 (e) Except as provided in subdivision (f), if the  
36 student cancels the agreement, the student shall have no  
37 liability, and the institution shall refund any consideration  
38 paid by the student within 10 days after the institution  
39 receives notice of the cancellation.

1 (f) If the institution gave the student any equipment,  
 2 the student shall return the equipment within 10 days  
 3 following the date of the Notice of Cancellation. If the  
 4 student fails to return the equipment within this 10  
 5 day-period, the institution may retain that portion of the  
 6 consideration paid by the student equal to the  
 7 documented cost to the institution of the equipment and  
 8 shall refund the portion of the consideration exceeding  
 9 the documented cost to the institution of the equipment  
 10 within 10 days after the period within which the student  
 11 is required to return the equipment. The student may  
 12 retain the equipment without further obligation to pay  
 13 for it.

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

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

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

23 94868. The institution shall provide the student with  
 24 two cancellation forms at the first class attended by the  
 25 student or with the first lesson in a home study course  
 26 submitted by the student. The form shall be completed  
 27 in duplicate, captioned “Notice of Cancellation,” and  
 28 shall contain the following statement:

29  
 30 “Notice of Cancellation

31 \_\_\_\_\_

32 (Date)

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

36  
 37 “You may cancel this contract for school, without any  
 38 penalty or obligation by the date stated below.

39 “If you cancel, any payment you have made and any  
 40 negotiable instrument signed by you shall be returned to



1 you within 30 days following the school’s receipt of your  
2 cancellation notice.

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

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

19 \_\_\_\_\_, at \_\_\_\_\_.  
20  
21 (name of institution) (address of institution)

22  
23 “NOT LATER THAN \_\_\_\_\_  
24 [Enter midnight of the date that is the fifth  
25 business day following the day of the first  
26 class or the day the first lesson was re-  
27 ceived; or, if the program is fifty or fewer  
28 days, midnight of the date that is one busi-  
29 ness day for every 10 days of scheduled pro-  
30 gram length, rounded up for any fractional  
31 increment thereof; or, if the lesson was  
32 sent by mail, the eighth business day fol-  
33 lowing the day of mailing, whichever is ap-  
34 plicable]

35  
36 “I cancel the contract for school.  
37



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

\_\_\_\_\_  
(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:

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

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

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

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

(d) Within 10 days of the day on which the refund is made, the institution shall notify the student in writing of the date on which the refund was made, the amount of the refund, the method of calculating the refund, and the name and address of the entity to which the refund was sent. The following statement shall be placed at the top



1 of the notice in at least 10-point boldface type: “This  
2 Notice is Important. Keep It For Your Records.”

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

5 (1) All of that student’s tuition and fees are paid by a  
6 third-party organization, such as a Job Training  
7 Partnership Act agency, a Regional Occupational  
8 Program or Regional Occupational Center, a Private  
9 Industry Council, or a vocational rehabilitation program,  
10 if the student is not obligated to repay the third-party  
11 organization or does not lose time-limited educational  
12 benefits.

13 (2) The third-party organization and the institution  
14 have a written agreement, entered into on or before the  
15 date the student enrolls, that no refund will be due to the  
16 student if the student withdraws prior to completion.

17 The institution shall provide a copy of the written  
18 agreement to the bureau. The institution shall disclose to  
19 any student whose refund rights are affected by this  
20 agreement, in all disclosures required to be given to the  
21 student by this chapter, that the student is not entitled to  
22 a refund. It is the intent of the Legislature that this  
23 subdivision not apply to any student whose tuition and  
24 fees are paid with funds provided to the third-party  
25 organization for the student’s benefit as part of any  
26 program that provides funds for training welfare  
27 recipients or that is related to welfare reform.

28 94870. (a) (1) Except as provided in paragraph (2),  
29 the refund to be paid to a student for a program of  
30 instruction subject to this article shall be calculated as  
31 follows:

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

34 (B) Divide this figure by the number of hours in the  
35 program.

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

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



1 (E) The refund would be any amount in excess of the  
2 figure derived in subparagraph (D) that was paid by the  
3 student.

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

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

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

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

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

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

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

36 (b) If the institution specifies in the agreement a  
37 separate charge for equipment that the student actually  
38 obtains and the student returns that equipment in good  
39 condition, allowing for reasonable wear and tear, within  
40 30 days following the date of the student's withdrawal, the



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

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

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

35 (e) For the purpose of determining a refund under  
36 this section, a student shall be deemed to have withdrawn  
37 from a program of instruction when any of the following  
38 occurs:



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

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

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

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

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

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

31 (1) To qualify under this subdivision, an institution  
32 shall submit to the bureau a compliance report prepared  
33 by a certified public accountant, who is not an officer,  
34 director, shareholder, or employee of the institution, any  
35 parent corporation, or any subsidiary, prepared pursuant  
36 to an attestation engagement in accordance with the  
37 Statements on Standards for Attestation Engagements of  
38 the American Institute of Certified Public Accountants,  
39 which states that for a period of two years prior to the  
40 compliance report, the beginning and ending dates of



1 which shall be determined by the bureau, the institution  
2 has:

3 (A) Complied with Section 94824 or subdivision (b) of  
4 Section 94869 and with this section for refunds owed by  
5 the institution.

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

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

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

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

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

30 (2) (A) The bureau shall review the compliance  
31 report submitted by the institution pursuant to this  
32 subdivision.

33 (B) The bureau shall review any complaints against  
34 the institution by current or former students, any civil  
35 lawsuit in which the institution is a defendant or any  
36 lawsuit, action, charges, proceeding, or investigation by  
37 any government agency or any accrediting agency in  
38 which the institution is a party which were filed, pending,  
39 or resolved during the two-year period covered by the  
40 compliance report. After reviewing such complaints,



1 lawsuits, actions, charges, proceedings, or investigations,  
2 as well as any other information available to the bureau  
3 and performing whatever other investigation it deems  
4 appropriate, the bureau shall make a determination, in  
5 writing, of whether the institution has materially violated  
6 Section 94831, 94832, 94834, 94853, 94859, 94860, 94866,  
7 94868, 94869, 94870, 94871, 94873, 94875, 94881, or their  
8 predecessor sections, based on a preponderance of the  
9 evidence. The bureau's determination shall contain a  
10 summary of the evidence relied upon in making the  
11 determination and the sections for which a material  
12 violation exists. The bureau's determination shall have no  
13 probative value in connection with any lawsuits, actions,  
14 charges, or proceedings pending before any court or any  
15 other agency.

16 (C) If the bureau determines that the institution has  
17 met all of the criteria in paragraph (1) and that no  
18 material violation exists pursuant to subparagraph (B) of  
19 this paragraph, it shall notify the institution that it  
20 qualifies under this subdivision. Following such  
21 notification, the refund provisions of this subdivision shall  
22 apply to the institution for a period of two years, unless  
23 revoked by the bureau.

24 (D) If the bureau determines that the institution has  
25 not met all of the criteria in paragraph (1) or that a  
26 material violation exists pursuant to subparagraph (B) of  
27 this paragraph, it shall notify the institution that it does  
28 not qualify under this subdivision.

29 (E) The institution shall receive notice of any  
30 determination with a summary of evidence pursuant to  
31 this paragraph and, if requested in writing, a hearing. The  
32 institution may appeal the bureau's adverse decision  
33 under this paragraph. To the extent feasible, the bureau  
34 shall adopt regulations to provide for a streamlined  
35 appeal process for purposes of appeals pursuant to this  
36 subparagraph. Pending resolution of the appeal, the  
37 institution is not eligible to qualify under this subdivision.  
38 If the institution prevails on appeal, it may obtain relief  
39 limited to a determination that it is eligible for the refund  
40 provisions of this subdivision at the next time when it



1 starts new students in its programs following the  
2 determination of the appeal. If the institution does not  
3 prevail on appeal, it may not seek to qualify under this  
4 subdivision for one year following the determination of  
5 the appeal.

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

20 (4) (A) Any institution that has been notified by the  
21 bureau that it qualifies for the refund provisions in this  
22 subdivision shall lose its qualification if the bureau  
23 determines either of the following:

24 (i) The institution has materially violated Section  
25 94831, 94832, 94834, 94853, 94859, 94860, 94866, 94868,  
26 94869, 94870, 94871, 94873, 94875, or 94881, or has failed to  
27 meet the criteria in paragraph (1) during the period  
28 covered by the compliance report upon which the bureau  
29 based its determination of qualification.

30 (ii) The institution has been found by any court or any  
31 other governmental agency in any proceeding, to have  
32 violated any of the provisions set forth in clause (i) and  
33 that violation was material or the institution has been  
34 found by any court or any other governmental agency in  
35 any proceeding, to have failed to meet the criteria in  
36 paragraph (1) during the period covered by the  
37 compliance report upon which the bureau based its  
38 determination of eligibility.

39 (B) If the bureau, a court, or other government  
40 agency finds that the institution willfully supplied



1 information required by this subdivision which it knew or  
2 should have known was inaccurate or misleading, the  
3 institution's approval to operate may be subject to  
4 termination, suspension, or probation.

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

25 (D) The penalties in this paragraph supplement, but  
26 do not supplant, any other sanction or remedy allowed by  
27 law.

28 (5) If an institution does not qualify under this  
29 subdivision because it fails to meet the requirement of  
30 subparagraph (A) of paragraph (1) by three students out  
31 of all students to whom it owed refunds during the period  
32 examined by the compliance report or 1 percent of all  
33 students to whom it owed refunds during the period  
34 covered by the compliance report, whichever is greater,  
35 the bureau may determine that the institution qualifies  
36 under this subdivision.

37 (6) The certified public accountant shall submit any  
38 initial compliance report prepared pursuant to this  
39 subdivision to both the institution and the bureau. The  
40 institution shall submit any comments, suggested



1 corrections, or exceptions to the initial compliance report  
2 to the certified public accountant and the bureau. The  
3 certified public accountant shall submit a final  
4 compliance report to both the institution and the bureau.  
5 The certified public accountant shall maintain possession  
6 of all work papers for a period of five years following  
7 completion of the final compliance report. The bureau  
8 shall make a copy of the compliance report available to  
9 any student, prospective student, or former student of the  
10 institution upon request.

11 (7) If the bureau determines that the institution has  
12 met the criteria in this subdivision based on the  
13 information contained in a compliance report prepared  
14 by a certified public accountant pursuant to this  
15 subdivision, the following shall be deemed to be the  
16 intended beneficiaries of that compliance report:

17 (A) The bureau.

18 (B) The Student Aid Commission.

19 (C) The United States Department of Education.

20 (D) Any student who enrolls in the institution during  
21 the time period the institution qualifies under this  
22 subdivision.

23 (8) In lieu of the attestation engagement referred to  
24 in paragraph (1), an institution that qualifies as a small  
25 institution under this paragraph may show that it has  
26 complied with each of the criteria in paragraph (1)  
27 pursuant to a review performed by the bureau, or any  
28 other alternative review that meets all of the  
29 requirements for an attestation by a certified public  
30 accountant pursuant to this subdivision which shall  
31 conform with the bureau's regulations. If the bureau  
32 performs the review requested by the institution, the  
33 institution shall pay the bureau all of its costs and expenses  
34 associated with conducting the review. The bureau shall,  
35 by regulation, define "small institution" for the purposes  
36 of this paragraph in terms of assets, number of students,  
37 gross revenues, other appropriate criteria, as determined  
38 by the bureau, or any combination thereof.

39 (9) An institution may apply to the bureau for a  
40 renewal of the bureau's determination that the institution



1 qualifies under this subdivision subject to the same terms  
2 and conditions as required for the bureau’s initial  
3 determination.

4 (10) If an institution qualifies under this subdivision, it  
5 shall disclose that refund policy in any disclosure,  
6 catalogue, notice, or agreement in which disclosure of a  
7 refund policy is required by this chapter. The institution  
8 may not state in any advertising, disclosure, catalogue,  
9 notice, or agreement that it qualifies for a “good school”  
10 or a “high performance” exemption, that it qualifies for  
11 a “good school” or “high performance” refund policy, or  
12 that it has been determined by the state to be a “good  
13 school” or a “high performing school,” or use any similar  
14 words or phrases.

15 (11) If a request for approval under this subdivision is  
16 filed concurrently with an initial or renewal application,  
17 no additional fees shall be charged. If a request for  
18 approval is not filed concurrently with an initial or  
19 renewal application, fees shall be charged as authorized  
20 by Section 94932 and the bureau’s regulations.

21 94871. (a) No institution shall offer any program of  
22 instruction to any person, or receive any consideration  
23 from any person for a course of instruction, except  
24 pursuant to a written agreement as described in this  
25 section. Every agreement for a program of instruction  
26 shall provide the following:

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

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

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

38 “YOU ARE RESPONSIBLE FOR THIS AMOUNT. IF  
39 YOU GET A STUDENT LOAN, YOU ARE



1 RESPONSIBLE FOR REPAYING THE LOAN  
2 AMOUNT PLUS ANY INTEREST.”

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

9 (5) A schedule of payments.

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

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

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

20 (9) The following statement shall be printed in  
21 12-point boldface type on the first page of the agreement:  
22 “If you have any complaints, questions, or problems  
23 which you cannot work out with the school, write or call  
24 the Council for Private Postsecondary and Vocational  
25 Education:

26  
27 \_\_\_\_\_  
28 (insert address and telephone number of the Council for  
29 Private Postsecondary and Vocational Education)”  
30

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

37 (c) When a student is a client of a third-party  
38 organization and that organization pays all of the  
39 student’s tuition and fees, the institution may substitute  
40 for the enrollment agreement required by this section a



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

8 94872. (a) An institution shall not enter into an  
9 agreement for a program of instruction with a student  
10 unless the institution first administers to the student and  
11 the student passes a test as provided in subdivision (b).

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

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

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

34 (B) Upon reasonable notice to the institution, the  
35 council may order the institution to demonstrate to the  
36 reasonable satisfaction of the council that the test and  
37 passing score are an appropriate measure of the student's  
38 ability to be trained to perform the tasks associated with  
39 the occupations or job titles to which the course is  
40 represented to lead. If the test is not an appropriate



1 measure, the council, after notice, and if requested, a  
2 hearing as provided in Section 94965 or 94975, shall order  
3 that the institution cease administering the test.

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

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

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

22 (A) Answer any of the test questions.

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

24 (C) Provide any assistance whatsoever to the student  
25 in answering test questions.

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

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

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

1 form of the same test or a substantially different test than  
2 the preceding test and shall satisfy the requirements of  
3 paragraph (1) or, if applicable, paragraph (3) of  
4 subdivision (b).

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

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

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

13 (3) State the minimum passing score used by the  
14 institution.

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

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

25 94873. (a) If a program of instruction is based on a  
26 sequence of classes, class sessions, or lessons and the  
27 learning experience to be derived from any class, class  
28 sessions, or lesson within the sequence is based in any  
29 manner on a student's attendance at or completion of a  
30 prior class, class session, or lesson, an institution shall not  
31 enroll a student in that program of instruction unless the  
32 instruction begins with the first class, class session, or  
33 lesson and proceeds in the appropriate sequence.

34 (b) (1) If a program of instruction is based on a series  
35 of modules comprised of class sessions or lessons and the  
36 learning experience to be derived from any module is  
37 based in a manner on a student's attendance at, or  
38 completion of, any class sessions or lessons in any other  
39 module, an institution shall not enroll a student in that



1 course of instruction unless the student begins and  
2 proceeds in the appropriate sequence.

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

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

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

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

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

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

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

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

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

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

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



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

4 94874. (a) Every institution shall maintain for a  
5 period of not less than five years at its principal place of  
6 business in California accurate records that show all of the  
7 following:

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

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

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

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

16 (5) All information and records required by this  
17 chapter or required by the council.

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

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

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

32 (e) If the student has made partial payment of his or  
33 her tuition obligation, the institution may only withhold  
34 that portion of the grades or transcript that corresponds  
35 to the amount of tuition or loan obligation that the  
36 student has not paid. If the course of study consists of only  
37 one course, the institution may withhold the grades or the  
38 transcript until the tuition or loan obligation is paid in full.

39 (f) Each institution shall be deemed to have  
40 authorized the accrediting agency that accredited the

1 institution to provide to the council, the Attorney  
2 General, any district attorney or city attorney, or the  
3 Student Aid Commission, within 30 days of written notice,  
4 copies of all documents and other material concerning  
5 the institution that is maintained by the accrediting  
6 agency.

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

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

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

29 94875. (a) The institution shall provide sufficient  
30 instruction and materials pursuant to a planned  
31 curriculum appropriate to the student's educational  
32 program and establish sufficient student attendance,  
33 progress, and performance standards to reasonably  
34 ensure that students acquire the necessary level of  
35 education, training, skill, and experience to obtain  
36 employment in the occupation or job title to which the  
37 course of instruction is represented to lead.

38 (b) The institution shall provide each student with  
39 sufficient materials, including current publications and



1 equipment, not later than the time the materials are  
2 appropriate for use in the course of instruction.

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

10 94876. No student may waive any provision of this  
11 article. Any waiver or limitation of any substantive or  
12 procedural right or remedy is in violation of this section  
13 and is void and unenforceable.

14 94877. (a) If an institution violates this article or  
15 Section 94832 or commits an act as set forth in Section  
16 94830 in connection with an agreement for a course of  
17 instruction, that agreement shall be unenforceable, and  
18 the institution shall refund all consideration paid by or on  
19 behalf of the student.

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

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

34 (d) The remedies provided in this article supplement,  
35 but do not supplant, the remedies provided under other  
36 provisions of law.

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



1 (f) Any provision in any agreement that purports to  
2 require a student to invoke any grievance dispute  
3 procedure established by the institution or any other  
4 procedure before bringing an action to enforce any right  
5 or remedy is void and unenforceable.

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

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

13 94878. (a) An institution is legally authorized to  
14 provide courses of instruction if the institution complies  
15 with both this article and Sections 94831, 94832, and 94985,  
16 or former Section 94320 as that section was in effect on  
17 January 1, 1991, has received approval from the council,  
18 and has not been found to be in violation of this article by  
19 the council, the Student Aid Commission, or a court. No  
20 institution shall offer any course of instruction if the  
21 institution's approval to offer that course of instruction  
22 has been suspended or revoked.

23 (b) (1) The council, after notice and, if requested by  
24 the institution, a hearing as provided in Section 94965 or  
25 94975, may suspend or revoke an institution's approval to  
26 operate or approval to operate a branch or satellite  
27 campus or may order that an institution cease offering a  
28 class or course of instruction because of any violation of  
29 this article, Section 94831, 94832, or 94985, or former  
30 Section 94320 as that section was in effect on January 1,  
31 1991, or any regulation or order issued pursuant to this  
32 article.

33 (2) If the council takes any of the actions described in  
34 paragraph (1), the council may permit the institution to  
35 continue to offer the class or course of instruction to  
36 students already enrolled or may order the institution to  
37 cease instruction and provide a refund of tuition and all  
38 other charges to students.

39 (c) If the council determines after notice and if  
40 requested by the institution, a hearing, that an institution



1 has violated this article, Section 94831, 94832, or 94985, or  
2 former Section 94320 as that section was in effect on  
3 January 1, 1991, but that the institution's approval to  
4 operate, or approval to operate a branch or satellite  
5 campus should not be suspended or revoked, or that the  
6 institution should not be ordered to cease offering a class  
7 or program of instruction, the council may do any or all  
8 of the following:

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

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

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

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

29 (e) If, at the period of probation, the council is not  
30 satisfied with the steps taken by the institution to  
31 eliminate the violations of this article, Sections 94831,  
32 94832, and 94985, or former Section 94320 as that section  
33 was in effect on January 1, 1991, upon which the probation  
34 was based, the council may revoke the institution's  
35 approval to operate or the institution's approval to  
36 operate a branch or satellite campus.

37 (f) The council may assess a penalty of up to ten  
38 thousand dollars (\$10,000) as part of a probation order for  
39 violations of this article, Sections 94831, 94832, and 94985,  
40 or former Section 94320 as that section was in effect on



1 January 1, 1991. In determining the amount of that  
2 penalty, the council shall consider the number and  
3 gravity of the violations, the degree of the institution's  
4 good faith or culpability, the history of the institution's  
5 previous violations, and the institution's ability to pay. If  
6 the institution fails to pay a penalty within the time  
7 prescribed by the council the institution's approval to  
8 operate the institution, or approval to operate a branch  
9 or satellite campus, shall be automatically suspended  
10 until the penalty is paid in full.

11 (g) (1) Any bond ordered by the council shall be  
12 issued by an admitted surety insurer in an amount  
13 established at the discretion of the council that is  
14 sufficient to protect students from the potential  
15 consequences of the violation.

16 (2) The bond shall be in favor of the State of California  
17 for the indemnification of any person for any loss,  
18 including the loss of prepaid tuition, suffered as a result  
19 of the occurrence of any violation of this chapter during  
20 the period of coverage.

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

28 (4) The council may order the institution to file  
29 reports at any interval the council deems necessary to  
30 enable the council to monitor the adequacy of the bond  
31 coverage and to determine whether further action is  
32 appropriate.

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

39 (i) The council may revoke the approval to operate of  
40 any institution that fails to pay an order imposing a



1 penalty or an order for the reimbursement of costs and  
2 expenses. The council may enforce any administrative  
3 order requiring the payment of money in the same  
4 manner as if it were a money judgment pursuant to Title  
5 9 (commencing with Section 680.010) of Part 1 of the  
6 Code of Civil Procedure. All penalties and  
7 reimbursements paid pursuant to this section shall be  
8 deposited in the vocational education account in the  
9 Private Postsecondary and Vocational Education  
10 Administration Fund established pursuant to Section  
11 94932.

12 (j) Proceedings by the council under this section shall  
13 be conducted in accordance with regulations adopted by  
14 the council or, if there are no regulations establishing  
15 hearing procedures, Section 94965 or 94975, and the  
16 council shall have all of the powers granted therein.

17 94879. The council may suspend or revoke an  
18 institution's approval to operate or order probation or the  
19 posting of a bond, as provided in Section 94878, for any of  
20 the following reasons:

21 (a) The institution has failed to make timely refunds  
22 to, or on behalf of students, as required by Sections 94867,  
23 94869, 94870, and 94877, or has not satisfied, within 30 days  
24 of its issuance, a final judgment obtained by a student  
25 against the institution.

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

34 (c) The institution, or a person in control of the  
35 institution is, or has been, found in any criminal, civil, or  
36 administrative proceeding, after notice and an  
37 opportunity to be heard, to have unpaid financial  
38 liabilities involving the refund or unlawful acquisition,  
39 use, or expenditure of state or federal financial aid funds.



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

3 (A) A person in control of the institution was a person  
4 in control of another institution within one year before  
5 that institution’s closure.

6 (B) While the person was acting as a person in control  
7 of the other institution, the person knew or, by the  
8 exercise of reasonable care, should have known that the  
9 institution violated this chapter.

10 (C) That violation was a cause of that institution’s  
11 closure or of damage to students.

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

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

30 94880. (a) The council may bring an action for  
31 equitable relief for any violation of this article in addition  
32 to, or instead of, any other remedy or procedure.

33 (b) The suspension or revocation of an institution’s  
34 approval to operate also may be embraced in any action  
35 otherwise proper in any court involving the institution’s  
36 compliance with this chapter or performance of its legal  
37 obligations.

38 94881. (a) For the purposes of this section, the  
39 following definitions apply:



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

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

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

21 (c) Any person who willfully falsifies, destroys, fails to  
22 maintain, or conceals any document or record that is  
23 required to be maintained by this chapter or by the  
24 council is guilty of a crime, punishable as provided in  
25 subdivision (e).

26 (d) Any person who is required to file any report  
27 required by paragraph (3) of subdivision (f) of Section  
28 94854, or Section 94861 or 94862 and who willfully fails to  
29 file that report as required, or willfully violates or causes  
30 the violation of subdivision (b) of Section 94874, is guilty  
31 of a crime and is subject to punishment for each violation  
32 as provided in paragraph (2) of subdivision (e).

33 (e) Any person who violates subdivision (b) or (c), or  
34 who willfully violates Section 94831, 94832, 94853, or  
35 94985, or former Section 94320 as that section was in effect  
36 January 1, 1991, is guilty of a crime and is subject to  
37 separate punishment for each violation either by:

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



1 (2) Imprisonment in a county jail not to exceed one  
2 year, by a fine not to exceed ten thousand dollars  
3 (\$10,000), or by both that imprisonment and fine.

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

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

11 94882. The council may adopt and enforce regulations  
12 as may be necessary, appropriate, or useful to interpret  
13 and otherwise implement this article. Pending the  
14 adoption of regulations, the council may adopt  
15 emergency regulations, which shall be immediately  
16 effective, notwithstanding any other provision of law, and  
17 which shall be superseded upon the adoption of  
18 subsequent regulations.

19

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

22

23 94900. (a) No private postsecondary educational  
24 institution may issue, confer, or award an academic or  
25 honorary degree unless the institution is approved by the  
26 council to operate in California and award degrees.

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

35 (1) The institution has the facilities, financial  
36 resources, administrative capabilities, faculty, and other  
37 necessary educational expertise and resources to ensure  
38 its capability of fulfilling the program or programs for  
39 enrolled students.



1 (2) The faculty are fully qualified to undertake the  
2 level of instruction that they are assigned and shall possess  
3 degrees or credentials appropriate to the degree program  
4 and level they teach and have demonstrated professional  
5 achievement in the major field or fields offered, in  
6 sufficient numbers to provide the educational services.

7 (3) The education services and curriculum clearly  
8 relate to the objectives of the proposed program or  
9 programs and offer students the opportunity for a quality  
10 education.

11 (4) The facilities are appropriate for the defined  
12 educational objectives and are sufficient to ensure quality  
13 educational services to the students enrolled in the  
14 program or programs.

15 (5) The program of study for which the degree is  
16 granted provides the curriculum necessary to achieve its  
17 professed or claimed academic objective for higher  
18 education, and the institution requires a level of academic  
19 achievement appropriate to that degree.

20 (6) The institution provides adequate student  
21 advisement services, academic planning and curriculum  
22 development activities, research supervision for students  
23 enrolled in Ph.D. programs, and clinical supervision for  
24 students enrolled in various health profession programs.

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

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

- 36 (1) Institutional purpose, mission, and objectives.
- 37 (2) Governance and administration.
- 38 (3) Curriculum.
- 39 (4) Instruction.
- 40 (5) Faculty, including their qualifications.

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

13 The standards and procedures utilized by the council  
 14 shall foster the development of high quality, innovative  
 15 educational programs and emerging new fields of study  
 16 within postsecondary education. In addition, the  
 17 standards and procedures utilized by the council shall not  
 18 unreasonably hinder educational innovation and  
 19 competition.

20 (c) (1) The Committee of Bar Examiners for the State  
 21 of California, in lieu of the council, shall be responsible for  
 22 the approval, regulation, and oversight of  
 23 degree-granting law schools that (A) exclusively offer  
 24 bachelor's, master's, or doctorate degrees in law, such as  
 25 Juris Doctor, and (B) are not otherwise exempt under  
 26 Section 94750. This paragraph does not apply to  
 27 unaccredited law schools that remain subject to the  
 28 jurisdiction of the bureau.

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

36 94901. (a) The council shall conduct a qualitative  
 37 review and assessment of the institution. It also shall  
 38 conduct a qualitative review and assessment of all  
 39 programs offered except continuing education programs  
 40 and programs that are exclusively avocational or



1 recreational in nature. The review shall include the items  
2 listed in subdivision (b) of Section 94900, through a  
3 comprehensive onsite review process, performed by a  
4 qualified visiting committee impaneled by the council for  
5 that purpose.

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

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

24 (b) The number of sites inspected by the council as  
25 part of its review process shall be subject to the following  
26 considerations:

27 (1) If the application for approval includes branches  
28 and satellites, the council shall inspect each branch and  
29 may inspect any satellite campus.

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

34 (c) The council may waive or modify the onsite  
35 inspection for institutions offering home study or  
36 correspondence courses. The visiting committee shall be  
37 impaneled by the council within 90 days of the date of the  
38 receipt of a completed application and shall be composed  
39 of educators, and other individuals with expertise in the  
40 areas listed in subdivision (b) of Section 94900, from



1 degree-granting institutions legally operating within the  
2 state. Within 90 days of the receipt of the visiting  
3 committee's evaluation report and recommendations, or  
4 any reasonable extension of time not to exceed 90 days,  
5 the council shall take one of the following actions:

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

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

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

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

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

37 (f) Each institution or instructional program offering  
38 education for entry into a health care profession in which  
39 the provider has primary care responsibilities shall offer  
40 that education within a professional degree program



1 which shall be subject to approval by the council pursuant  
2 to this section.

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

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

35 (h) If at any time the council determines that an  
36 institution has deviated from the standards for approval,  
37 the council, after identifying for the institution the areas  
38 in which it has deviated from the standards, and after  
39 giving the institution due notice and an opportunity to be  
40 heard, may place the institution on probation for a



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

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

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

39 94905. (a) Any public or private postsecondary  
40 educational institution incorporated in another state that



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

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

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

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

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

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

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



1 (c) The period of any approval issued under this  
2 section shall be subject to Section 94901.

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

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

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

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

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

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



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

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

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

11 (B) 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.

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

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

25

26 Article 9. Standards and Evaluation Procedures for  
27 Nondegree-Granting Institutions

28

29 94915. (a) No private postsecondary educational  
30 institution, except those offering degrees and approved  
31 under Article 8 (commencing with Section 94900) or  
32 those registered under Article 9.5 (commencing with  
33 Section 94931), may offer educational services or  
34 programs unless the institution or locations at which these  
35 services or programs are offered have been approved by  
36 the council as meeting the requirements of this section.  
37 In addition, if the institution is regulated by any other  
38 state licensing agency, the institution shall have obtained  
39 and retained the approval of that agency.



1 (b) If an institution is operating under the council's  
2 prior approval and the institution has applied for  
3 approval to operate for itself or a branch or satellite  
4 campus that is operating, the council shall not grant  
5 approval to operate until the council has conducted a  
6 qualitative review and assessment of the operations of the  
7 institution in California and determined that all of the  
8 following minimum standards have been satisfied.

9 (1) The quality and content of each course or program  
10 of instruction, training, or study may reasonably and  
11 adequately be expected to achieve the objective for  
12 which the course or program is offered. Except for  
13 continuing education programs and programs that are  
14 exclusively avocational or recreational in nature, all  
15 programs offered by the institution shall meet the  
16 minimum standards prescribed by this subdivision. If an  
17 institution represents that a course or program leads to  
18 employment, the quality, content, and instruction of the  
19 course or program shall be sufficient to ensure that  
20 students may acquire the necessary level of education,  
21 training, skill, and experience to obtain employment in  
22 the occupation or job title to which the course or program  
23 of instruction is represented to lead.

24 (2) The institution has adequate space, equipment,  
25 instructional material, and instructor personnel to  
26 provide training of the quality needed to attain the  
27 objective described in paragraph (1).

28 (3) Every instructor and administrator possesses  
29 adequate academic, experiential, and professional  
30 qualifications to teach the course or to perform the duties  
31 that the person is assigned, satisfies all standards  
32 established by the council by regulation, and holds an  
33 applicable and valid certificate of authorization for  
34 service issued by the council in the specified competence  
35 area in which the individual will serve. No person shall  
36 serve as an instructor or member of the administrative  
37 staff if that person has been convicted of, or has pled nolo  
38 contendere or guilty to, a crime involving the acquisition,  
39 use, or expenditure of federal or state funds, or who has  
40 been judicially or administratively determined to have



1 committed any violation of this chapter or of any law  
2 involving state or federal funds.

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

6 (5) A copy of the course outline, description of the  
7 occupations or job titles, if any, to which the course of  
8 instruction is represented to lead, schedule of tuition,  
9 fees, and other charges, refund policy, regulations  
10 pertaining to tardiness, absences, and the grading policy,  
11 and rules of operation and conduct is given to students  
12 prior to enrollment.

13 (6) The institution maintains and enforces adequate  
14 standards relating to, and maintains records of,  
15 attendance, satisfactory academic progress, and student  
16 performance to achieve the objective described in  
17 paragraph (1).

18 (7) The institution complies with all local city, county,  
19 municipal, state, and federal regulations relative to the  
20 safety and health of all persons upon the premises such as  
21 fire, building, and sanitation codes. The council may  
22 require evidence of compliance.

23 (8) The institution does not exceed enrollment that  
24 the facilities and equipment of the institution can  
25 reasonably handle.

26 (9) The institution's officers, directors, and owners  
27 demonstrate financial and fiduciary responsibility, as  
28 prescribed by statute, or by regulations adopted by the  
29 council.

30 (10) The institution is in compliance with this chapter  
31 and has developed policies and procedures designed to  
32 ensure that compliance.

33 (11) No circumstances exist that may constitute  
34 grounds for the revocation or suspension of an approval  
35 to operate.

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

39 (13) Application for approval shall be made in writing  
40 on forms prescribed by the council. The application for



1 approval shall include, if applicable to the institution, a  
2 statement of whether the institution claims that it is  
3 exempt or that a course or other educational service it  
4 offers is exempt from Article 7 (commencing with  
5 Section 94850), and the information required by  
6 subdivision (f) of Section 94873.

7 An institution may include some, or all, of its separate  
8 operating sites under one application. Alternately, it may  
9 submit separate applications for any one site or  
10 combination of sites. The satellites or branches included  
11 in either an initial or renewal application shall be  
12 considered by the council to comprise a separate, single  
13 institution for purposes of regulation, approval, and  
14 compliance under this chapter. The application shall  
15 include a single fee based on the number of branches,  
16 satellites, and programs included within a single  
17 application in order to cover the costs involved for those  
18 multisite and multiprogram reviews.

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

35 (1) If the application for approval includes branch or  
36 satellite campuses, the council shall inspect each branch  
37 campus and may inspect any satellite campus.

38 (2) If the application is for approval to operate a  
39 branch or a satellite, the council, in addition to inspecting



1 the branch or satellite, also may inspect the institution  
2 operating the branch or satellite campus.

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

7 (4) If the application is for reapproval of an existing  
8 approval, the institution need only submit information  
9 necessary to document any changes made since the time  
10 its previous application was filed with the council. Fees  
11 for reapproval applications shall be based on the actual  
12 costs involved in the administrative review process.

13 (d) The council shall review all operations of the  
14 institution both within and outside of California. The  
15 council may conduct site visits outside of California,  
16 including the institution's foreign operations, when the  
17 council deems these visits to be necessary. The institution  
18 shall be responsible for the expenses of any visiting team  
19 members including the council's staff liaison.

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

24 (1) If the institution is in compliance with this chapter  
25 and has not operated within three years before the filing  
26 of the application in violation of this chapter then in  
27 effect, the council may grant approval for a period not to  
28 exceed four years.

29 (2) If the institution is in compliance with this chapter,  
30 but has operated within three years before the filing of  
31 the application in violation of this chapter then in effect,  
32 or if the council determines that an unconditional grant  
33 of approval to operate is not in the public interest, the  
34 council may grant a conditional approval to operate  
35 subject to whatever restrictions the council deems  
36 appropriate. The council shall notify the institution of the  
37 restrictions, the basis for the restrictions, and the right to  
38 request a hearing to contest the restrictions.

39 (3) The council may deny the application if the  
40 institution does not comply with this chapter, including

1 the minimum standards established in subdivision (b), or  
2 has operated within three years before the filing of the  
3 application in violation of this chapter then in effect. If  
4 the application is denied, the council may permit the  
5 institution to continue offering the course or courses of  
6 instruction to students already enrolled or may order the  
7 institution to cease all instruction and provide a refund of  
8 tuition and all other charges to students. The council shall  
9 notify the institution of the denial, the basis for the denial,  
10 and the right of the institution to request a hearing to  
11 contest the denial.

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

26 (2) If the council determines that the operational plan  
27 satisfies the minimum standards described in subdivision  
28 (b), that the institution demonstrates that it will  
29 implement the plan, and that no ground for denial of the  
30 application exists, the council shall grant a temporary  
31 approval to operate, subject to any restrictions the  
32 council reasonably deems necessary to ensure  
33 compliance with this chapter, pending a qualitative  
34 review and assessment as provided in subdivisions (b)  
35 and (c). The council shall inspect the institution, or  
36 branch or satellite campus if approval is sought for that  
37 campus, between 90 days and 180 days after operation has  
38 begun under the temporary approval to operate. Within  
39 90 days following the council's inspection of the



1 institution, the council shall act as provided in subdivision  
2 (e).

3 (g) If an institution approved to operate in California  
4 applies for approval to operate an additional site location  
5 that has not been previously approved by the council, the  
6 institution shall file an operational plan for the additional  
7 site location as described in subdivision (f). The council  
8 shall evaluate the additional site location as provided in  
9 subdivision (f). The council also may evaluate the  
10 institution as provided in subdivisions (b) and (c) before  
11 determining whether to grant to the institution  
12 temporary or final approval to operate the additional site  
13 location. If the institution or the additional site location  
14 does not meet the requirements of this chapter or if the  
15 institution has operated within three years before the  
16 filing of the application in violation of this chapter then  
17 in effect, the council may deny the application for  
18 approval to operate the additional site location or may  
19 grant a conditional approval to operate the additional site  
20 location subject to any restrictions it deems appropriate.  
21 The provisions for notice and hearing described in  
22 paragraphs (2) and (3) of subdivision (e) shall apply.

23 (h) No institution shall offer a course or program of  
24 instruction, training, or study at a campus that had not  
25 offered the course or program at the time the institution  
26 applied for approval to operate that campus unless the  
27 council first approves the offering of the course or  
28 program after determining that it satisfies the minimum  
29 standards established in subdivision (b).

30 (i) The council may enter into an agreement for the  
31 regulation and oversight of nondegree-granting private  
32 postsecondary institutions with the Federal Aviation  
33 Administration or with the state agency responsible for  
34 administering Article 1 (commencing with Section 1250)  
35 of Chapter 2 of Division 2 of the Health and Safety Code.

36 The council may enter into a regulatory agreement  
37 only when the appropriate agency can demonstrate that  
38 its standards and procedures for the review of institutions  
39 encompass the standards and consumer protection  
40 requirements prescribed by this chapter and that these



1 standards and procedures are rigorously enforced.  
2 Nothing in this section shall modify the existing authority  
3 of regulatory agencies within the Department of  
4 Consumer Affairs relating to schools or programs.

5 (j) If at any time the council determines that an  
6 institution has deviated from the standards for approval,  
7 the council, after giving the institution due notice and an  
8 opportunity to be heard, may place the institution on  
9 probation for a specified period of time not to exceed 24  
10 calendar months. During the period of probation, the  
11 institution shall be subject to special monitoring. The  
12 conditions for probation may include the required  
13 submission of periodic reports, as prescribed by the  
14 council, and special visits by authorized representatives  
15 of the council to determine progress toward total  
16 compliance. If at the end of the specified probationary  
17 period, the institution has not taken steps to eliminate the  
18 causes for its probation to the satisfaction of the council,  
19 the council may revoke the institution's approval and  
20 provide notice to the institution to cease its operations.

21 94920. (a) Each individual submitting an application  
22 for a certificate of authorization for service, pursuant to  
23 paragraph (3) of subdivision (b) of Section 94915, shall  
24 provide the council with the following information:

25 (1) A completed application as supplied by the  
26 council.

27 (2) Certified copies of educational transcripts, where  
28 applicable.

29 (3) Verified employment history.

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

32 (b) To be eligible for a certificate of authorization for  
33 service, the applicant shall fulfill the following  
34 requirements:

35 (1) Instructors shall have all of the following  
36 qualifications:

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

38 (B) Verification that he or she possesses a combination  
39 of at least three years' experience and training or



1 education in the occupation or job title category for  
2 which the certification is sought.

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

6 (2) Directors shall have both of the following  
7 qualifications:

8 (A) Three years' experience in an administrative  
9 position in a public or an approved private postsecondary  
10 school.

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

12 (3) Associate directors shall have both of the following  
13 qualifications:

14 (A) Two years' experience in an administrative or  
15 other responsible position in a public or state approved  
16 private postsecondary school.

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

18 (4) Financial aid directors shall have all of the  
19 following qualifications:

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

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

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

29 (D) Any other requirements the council deems  
30 necessary.

31 (5) Financial aid officers shall possess all of the  
32 following qualifications:

33 (A) Verification of completion within the previous  
34 two years of a training seminar or workshop certified by  
35 the Student Aid Commission as providing up-to-date  
36 comprehensive information on financial aid programs  
37 and policies.

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

39 (C) Other requirements the council deems necessary.



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

5 (d) Any individual filling a position left vacant by a  
6 previously certified financial aid director or financial aid  
7 officer shall verify with the council completion of the  
8 training referred to in subparagraph (A) of paragraph  
9 (5) of subdivision (b) within one year of accepting that  
10 position.

11 (e) Each individual certified for authorization for  
12 service in the positions listed in paragraphs (1), (4), and  
13 (5) of subdivision (b) shall maintain at each private  
14 postsecondary educational institution where he or she is  
15 employed a validated transcript evidencing the  
16 successful completion of three continuing education units  
17 of recognized in-service training in their education, job  
18 title category, or employment field during every period  
19 of certification. These units may be completed through  
20 in-service training offered by accrediting associations,  
21 professional organizations, or council-approved  
22 programs.

23 (f) Every certificate of authorization issued to a person  
24 who possesses the qualifications described in paragraphs  
25 (1), (4), and (5) of subdivision (b) shall be valid for a  
26 period of three years.

27 (g) In addition to the requirements set forth in this  
28 section, the council may impose additional requirements  
29 by regulation.

30 94925. No person shall own or operate a school, or give  
31 instruction, for the driving of motortrucks of three or  
32 more axles that are more than 6,000 pounds unladen  
33 weight unless all of the following conditions are met:

34 (a) The school or instruction has been approved by the  
35 council.

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

38 (1) Proof of compliance with liability insurance  
39 requirements that are the same as those established by  
40 the Department of Motor Vehicles for a driving school



1 owner, pursuant to Section 11103 of the Vehicle Code,  
2 unless the council deems it necessary to establish a higher  
3 level of insurance coverage.

4 (2) A satisfactory safety rating by the Department of  
5 the California Highway Patrol is established pursuant to  
6 Division 14.8 (commencing with Section 34500) of the  
7 Vehicle Code.

8 (c) The school, at all times, shall maintain the vehicles  
9 used in driver training in safe mechanical condition. The  
10 school shall keep all records concerning the maintenance  
11 of the vehicles.

12 (d) The driving instructors meet the requirements set  
13 forth in Section 11104 of the Vehicle Code.

14 (e) Any other terms and conditions required by the  
15 council to protect the public safety or to meet the  
16 requirements of this chapter.

17 94930. (a) All institutions that were certified to offer  
18 flight instruction by the Federal Aviation Administration  
19 (FAA) and that operated in California on December 31,  
20 1990, pursuant to prior authority of subdivision (a) or (b)  
21 of former Section 94311, shall receive approval from the  
22 council for a period not to exceed three years. On or  
23 before June 30, 1999, the council shall work in cooperation  
24 with the FAA to review each of these institutions to  
25 determine whether the institution is in compliance with  
26 the requirements of this chapter. It is the intent of the  
27 Legislature that all institutions whose cumulative gross  
28 student loan default rate is above 40 percent, as  
29 determined by the Student Aid Commission, shall be  
30 reviewed by the FAA and the council to determine if  
31 these institutions are in compliance with the  
32 requirements of this chapter and should continue to be  
33 approved to offer educational programs in California. It  
34 is further the intent of the Legislature that the bureau  
35 develop a memorandum of understanding with the FAA  
36 to delineate the responsibilities of each agency for the  
37 approval and monitoring of these institutions that were  
38 operating on December 31, 1990, under the prior  
39 authority of subdivision (a) or (b) of former Section  
40 94311.

1 (b) Institutions certified to offer flight instruction by  
 2 the FAA, or its successor agency, shall comply with all of  
 3 the requirements of Sections 94800, 94810, 94814, and  
 4 94816, Sections 94820 to 94826, inclusive, and Sections  
 5 94828 and 94829 and Article 7 (commencing with Section  
 6 94850) if applicable, but shall not be required to file any  
 7 materials with the council that are not required by the  
 8 FAA or its successor agency, except those minimally  
 9 necessary to administer the Student Tuition Recovery  
 10 Fund as determined by the council. The responsibility for  
 11 monitoring and enforcing institutional compliance for  
 12 these institutions shall be with the council.

13 (c) This chapter does not apply to individual flight  
 14 instructors not requiring any advance payments, who do  
 15 not negotiate a formal contract of indebtedness, and who  
 16 do not have an established place of business other than  
 17 their residences.

18

19

Article 9.5. Registered Institutions

20

21 94931. (a) No private postsecondary educational  
 22 institution, except those offering degrees and approved  
 23 under Article 8 (commencing with Section 94900) or  
 24 offering vocational and nondegree granting programs  
 25 and approved under Article 9 (commencing with Section  
 26 94915), or those that are exempt from this chapter, may  
 27 offer educational services or programs unless the  
 28 institution has been registered by the bureau as meeting  
 29 the requirements of this section.

30 (b) An institution approved to offer degrees under  
 31 Article 8 (commencing with Section 94900) or approved  
 32 to offer vocational and nondegree granting programs  
 33 under Article 9 (commencing with Section 94915) may  
 34 offer registered programs without affecting its status  
 35 under either of those articles so long as the registered  
 36 program is disclosed in its approval to operate application  
 37 or the institution completes a registration application and  
 38 receives specific authorization for the program,  
 39 maintains compliance for all registered programs in  
 40 conformity with this article, and maintains a set of student



1 records for registered programs separate from its  
2 approved programs. Any registered institution that offers  
3 an educational program not specified in subdivision (c)  
4 or not otherwise exempt from this chapter shall be  
5 approved under Article 8 (commencing with Section  
6 94900) or Article 9 (commencing with Section 94915) and  
7 shall comply with this chapter.

8 (c) Except as otherwise provided in this article, this  
9 chapter does not apply to an educational service that  
10 qualifies for registration status and that complies with this  
11 article. The educational services that qualify for  
12 registration status are limited to:

13 (1) An educational service, as defined in Section 94733,  
14 that is offered to provide an intensive English language  
15 program.

16 (2) An educational service, as defined in Section  
17 94742.1, that is offered to provide short-term career  
18 training.

19 (3) An educational service, as defined in Section  
20 94742.2, that is offered to provide short-term seminar  
21 training.

22 (4) An educational service that is offered to assist  
23 students to prepare for an examination for licensure,  
24 except as provided in Section 94787.

25 (5) An educational service that consists of continuing  
26 education not otherwise exempt from this chapter.

27 (d) An institution that qualifies under any of  
28 paragraphs (1) to (4), inclusive, of subdivision (c) shall  
29 complete a registration form provided by the bureau,  
30 including a signed declaration by the chief executive  
31 officer of the institution under penalty of perjury, and  
32 provide all of the following information for public  
33 disclosure:

34 (1) The owner's legal name, headquarters address,  
35 and the name of an agent for the service of process within  
36 California.

37 (2) All names, whether real or fictitious, under which  
38 the owner is doing and will do business.

39 (3) The names and addresses of the principal officers  
40 of the institution.



- 1 (4) A list of all California locations at which the  
2 institution operates, its offerings, and, if previously  
3 registered, the number of students enrolled in California  
4 during the preceding year.
- 5 (5) A copy of the registration form or agreement that  
6 enrolls the student in the educational service that  
7 contains all of the following:
  - 8 (A) The name and address of the location where  
9 instruction will be provided.
  - 10 (B) The title of the educational program.
  - 11 (C) The total amount the student is obligated to pay  
12 for the educational service.
  - 13 (D) A clear and conspicuous statement that the  
14 enrollment form or agreement is a legally binding  
15 instrument when signed by the student and accepted by  
16 the institution.
  - 17 (E) The refund policy developed by the institution  
18 unless this article specifies a different refund policy.
  - 19 (F) Unless this article specifies that the institution is  
20 required to participate in the Student Tuition Recovery  
21 Fund, a statement that the institution does not participate  
22 in that fund.
  - 23 (G) In 10-point boldface print or larger, the following  
24 statement: “Any questions or problems concerning this  
25 school that have not been satisfactorily answered or  
26 resolved by the school should be directed to the Bureau  
27 for Private Postsecondary and Vocational Education in  
28 the Department of Consumer Affairs, (insert city,  
29 address, CA ZIP, and telephone number).”
  - 30 (H) Schools approved under paragraph (1) of  
31 subdivision (c) of Section 94931 shall also include with the  
32 statement required by subparagraph (G) information  
33 referring the student to a consulate of his or her country  
34 and the United States Immigration and Naturalization  
35 Service.
- 36 (6) A brochure or catalog and a sample advertisement  
37 used to promote the educational service.
- 38 (7) A copy of its certificate of completion.



1 (8) If the educational service offers short-term career  
2 training, the institution shall comply with the  
3 requirements of Sections 94804 and 94806.

4 (9) If the institution assists students in obtaining  
5 financing from a third party for the cost of the educational  
6 services at the institution, a copy of the contract or  
7 finance agreement reflecting that financing.

8 (e) The bureau shall establish the initial registration  
9 fee and the annual fee to be paid by institutions registered  
10 under this article. No institution shall be registered  
11 pursuant to this article unless it has paid the appropriate  
12 fees required by the bureau. Upon receipt of an  
13 institution's initial application for registration for a  
14 program, the bureau may conduct a site visit pursuant to  
15 subdivision (c) of Section 94915.

16 (f) For the purposes of communication with other  
17 state agencies, any organization or individual registered  
18 to offer short-term seminar training may state that they  
19 are "authorized" by the State of California.

20 (g) Except as provided by subdivision (f), any  
21 institution registered pursuant to this article shall be  
22 restricted to stating that their training is "registered"  
23 with the State of California and is prohibited from using  
24 the words "approval," "approved," "approval to  
25 operate," "approved to operate," "authorized,"  
26 "licensed," or "licensed to 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."

1 (h) Sections 94812 and 94818, Sections 94822 to 94825,  
2 inclusive, and Sections 94829 to 94838, inclusive, and  
3 Sections 94841 and 94846 shall apply to any institution  
4 registered pursuant to this article.

5 (i) Article 13 (commencing with Section 94950) shall  
6 apply to any institution registered pursuant to this article.

7 94931.1. (a) Before accepting any consideration  
8 from a student, an institution registered pursuant to this  
9 article shall provide the student with an enrollment  
10 agreement or registration form containing in a single  
11 document all of the terms related to the instruction and  
12 payment. The agreement or registration form shall  
13 contain all of the information set forth in paragraph (5)  
14 of subdivision (d) of Section 94931.

15 (b) The enrollment agreement or registration form  
16 shall be printed in at least 10-point type in English and,  
17 except for educational services described in paragraph  
18 (1) of subdivision (c) of Section 94931, if any solicitation  
19 or negotiation leading to the student's enrollment was in  
20 a language other than English, in that other language.  
21 Institutions that provide educational services described  
22 in paragraph (1) of subdivision (c) of Section 94931 shall  
23 provide in a written agreement with any agent or  
24 representative that the agent or representative is  
25 required to disclose to each prospective student in  
26 writing, in the language of any solicitation or negotiation  
27 leading to the student's enrollment, all of the information  
28 described in paragraph (5) of subdivision (d) of Section  
29 94931.

30 (c) If the institution fails to comply with this section,  
31 any enrollment agreement or registration form shall be  
32 invalid and the institution shall refund to the student all  
33 of the tuition paid by the student to the institution.

34 (d) In addition to any other requirement in this  
35 article, each institution registered under paragraph (2) of  
36 subdivision (c) of Section 94931 shall provide to each  
37 prospective student all of the information required by  
38 Section 94816 and shall be subject to Section 94820 and  
39 Article 12 (commencing with Section 94944).



1 94931.2. (a) Each institution registered under  
2 paragraph (1) of subdivision (c) of Section 94931 shall  
3 maintain, and provide to each prospective student on the  
4 registration form or enrollment agreement, the following  
5 refund policy:

6 (1) A refund shall be provided for the unused portion  
7 of tuition fees and other charges if the student does not  
8 register for the period of attendance or withdraws  
9 therefrom at any time prior to completion of the courses,  
10 or otherwise fails to complete the period of enrollment.  
11 Institutions shall pay or credit refunds due on a  
12 reasonable or timely basis, not to exceed 30 days following  
13 the date upon which the student's withdrawal has been  
14 determined.

15 (2) The institution shall advise each student that any  
16 notification of withdrawal or cancellation and any request  
17 for refund must be made in writing.

18 (b) The refund shall be determined as follows:

19 (1) The institution, for all students, without penalty or  
20 obligation, shall refund 100 percent of the amount paid  
21 for institutional charges, less a reasonable deposit or  
22 application fee not to exceed one hundred dollars (\$100),  
23 if notice of cancellation is made prior to the first day of  
24 instruction or if the student never attends the institution.

25 (2) The institutional refund policy for students who  
26 did not cancel pursuant to paragraph (1) and who have  
27 completed 60 percent or less of the course of instruction  
28 shall be a pro rata refund if any of the following occurs:

29 (A) The student transfers to another school.

30 (B) The student returns to his or her country of  
31 residence.

32 (C) The student gains admittance to a college or  
33 university.

34 The refund under this paragraph shall be the amount  
35 the student paid for the instruction multiplied by a  
36 fraction, the numerator of which is the number of hours  
37 of instruction in the course which the student has not  
38 received, but for which the student has paid, and the  
39 denominator of which is the total number of hours of  
40 instruction for which the student has paid. The school



1 may deduct a fee which shall not exceed an amount  
 2 derived by multiplying the hourly charge for the program  
 3 by the number of hours that were taught in the first four  
 4 weeks of instruction, or for a student who withdraws  
 5 during the first four weeks, the hours taught and which,  
 6 at the time of the student's withdrawal, were scheduled  
 7 to be taught in the first four weeks of instruction plus, if  
 8 the student withdraws pursuant to subparagraph (B), 30  
 9 percent of the total tuition amount. For the purposes of  
 10 this paragraph, the hourly charge for the program shall be  
 11 derived by dividing the total tuition charge by the  
 12 number of hours in the program.

13 (c) The bureau shall conduct, or contract with the  
 14 California Postsecondary Education Commission to  
 15 conduct, a study on the effect of the refund policy  
 16 specified in this section on the student dropout rate. The  
 17 bureau shall report the results of the study to the  
 18 Legislature no later than March 30, 1999.

19 (d) This section shall remain in effect only until  
 20 January 1, 2000, and as of that date is repealed, unless a  
 21 later enacted statute, that is enacted before January 1,  
 22 2000, deletes or extends that date.

23

24 Article 10. Fees and Costs

25

26 94932. (a) The Private Postsecondary and Vocational  
 27 Education Administration Fund is continued in  
 28 existence. All fees collected pursuant to this section shall  
 29 be credited to this fund along with any interest on the  
 30 money, for the administration of this chapter. If the  
 31 Legislature makes an appropriation for the support of the  
 32 council in the Budget Act of any fiscal year, the amount  
 33 for the support of the council expended from the fund  
 34 during the fiscal year shall not exceed the amount  
 35 appropriated by the Budget Act, unless that amount is  
 36 modified in accordance with the Budget Act.

37 (b) On and after January 1, 1998, a minimum of 50  
 38 percent of the funds appropriated to the council shall be  
 39 used to cover the costs of enforcing all of the following:



1 (1) Enforcing the act and the council's regulations by  
2 taking actions against violators while ensuring due  
3 process for all institutions.

4 (2) Ensuring that independent onsite evaluations and  
5 random and targeted inspections and audits of  
6 institutions are conducted, and that students have easy  
7 access to information concerning their rights to contract  
8 cancellation, withdrawal, refunds, and remedies.

9 (3) Mediating student complaints to achieve balanced  
10 outcomes for students and institutions.

11 (c) (1) For the approval of private institutions  
12 operating under this chapter, the council shall charge an  
13 amount not to exceed the actual costs of approving or  
14 renewing the approval of the private institutions. The  
15 council shall adopt a fee schedule for all institutions  
16 approved under this chapter, including the maximum  
17 amounts to be charged for an institution's initial  
18 application and annual renewal.

19 (2) On January 1, 1998, the bureau shall reduce the  
20 application fees for approval and reapproval to operate  
21 and the annual fees, that are in effect on December 31,  
22 1997, as follows:

23 (A) By 5 percent for institutions whose annual gross  
24 revenues or projected annual gross revenues are one  
25 million dollars (\$1,000,000) or more.

26 (B) By 10 percent for institutions whose annual gross  
27 revenues or projected annual gross revenues are one  
28 hundred thousand dollars (\$100,000) or more but less  
29 than one million dollars (\$1,000,000).

30 (C) By 15 percent for institutions whose annual gross  
31 revenues or projected annual gross revenues are less than  
32 one hundred thousand dollars (\$100,000).

33 (3) The council may propose modifications to the fee  
34 schedule to the Governor and the Legislature to add or  
35 delete categories of fees related to work performed by the  
36 council and propose to the Governor and the Legislature  
37 the maximum amount to be charged for each fee category  
38 added to the fee schedule. The fee schedule shall provide  
39 adequate resources for the council to implement this  
40 chapter effectively. It is the intent of the Legislature that

1 the council shall adopt a fee schedule that reflects the size  
2 of the institution, with institutions enrolling a larger  
3 number of students being required to pay a larger annual  
4 fee than those with smaller student enrollments. The fee  
5 schedule, consistent with this section, also may contain  
6 provisions for fees assessed in conjunction with the  
7 evaluation of an application for a certificate of  
8 authorization for service issued pursuant to paragraph  
9 (3) of subdivision (b) of Section 94915. The council shall  
10 annually present its proposed budget and fee schedule,  
11 penalty fees assessed for delinquent payments pursuant  
12 to regulations adopted by the council and additions and  
13 deletions of fee categories to the Department of Finance  
14 and the Joint Legislative Budget Committee for their  
15 review and approval as part of the annual budget process.  
16 The council shall annually publish a schedule of the  
17 current fees to be charged pursuant to this section and  
18 shall make this schedule generally available to the public.  
19 The fees may be increased annually up to the maximum  
20 allowable level by a majority vote of the council, without  
21 any additional review and approval by the Office of  
22 Administrative Law. The adoption of the annual fee  
23 schedule, any modification of the fee schedule, and any  
24 increase in fees up to the maximum allowable level shall  
25 be subject to Article 5 (commencing with Section 11346)  
26 of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the  
27 Government Code. Increases above the maximum level  
28 shall be changed through legislation enacted by the  
29 Legislature and signed by the Governor.

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

34 94935. If the council determines after an investigation  
35 that an institution has violated this chapter, the council  
36 may order the institution to pay the costs and expenses  
37 incurred in connection with the investigation and any  
38 civil or administrative proceeding involving the violation  
39 that was investigated, including charges made by the  
40 Attorney General for his or her services, and any expenses



1 incurred by a district attorney. Before any order for the  
2 payment of costs and expenses is made under this section,  
3 the council shall provide the institution with written  
4 notice, including notice of the institution's right to  
5 request a hearing within 15 days of service of the notice.  
6 If a hearing is not timely requested, the council may order  
7 payment. If a hearing is requested, the council shall  
8 comply with Section 94965, 94975, or 94980. Within 30 days  
9 after the effective date of the order, the council may  
10 enforce the order as if it were a money judgment  
11 pursuant to Title 9 (commencing with Section 680.10) of  
12 Part 2 of the Code of Civil Procedure. Alternatively, the  
13 council may seek the costs and expenses allowed under  
14 this section in a civil proceeding. An institution shall not  
15 be required to pay the same costs and expenses incurred  
16 in connection with the investigation and any civil or  
17 administrative proceeding to more than one  
18 investigating agency.

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

25

#### 26 Article 11. Agents and Agencies

27

28 94940. (a) Notwithstanding any other provision of  
29 this chapter concerning agents, the owner of at least 51  
30 percent of the equitable interest in an institution shall be  
31 exempt from this section if the institution is approved to  
32 operate pursuant to Article 8 (commencing with Section  
33 94900) or Article 9 (commencing with Section 94915).

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



1 The application for a permit shall be furnished by the  
2 council and shall include the following:

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

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

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

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

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



1 (d) A permit shall be valid for the calendar year in  
2 which it is issued, unless sooner revoked or suspended by  
3 the council for fraud or misrepresentation in connection  
4 with the solicitation for the sale of any course of study, for  
5 any violation of this chapter, or for the existence of any  
6 condition in respect to the permittee or the school he or  
7 she represents which, if in existence at the time the  
8 permit was issued, would have been grounds for denial of  
9 the permit.

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

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

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

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

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

39 (j) The council shall maintain records for five years of  
40 each application for a permit, each bond, and each



1 issuance, denial, termination, suspension, and revocation  
2 of a temporary permit or permit.

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

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

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

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

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



1 surety. The council shall adopt regulations establishing  
2 the procedure for administrative enforcement of liability  
3 and hearings under this section. This paragraph  
4 supplements, but does not supplant, any other rights or  
5 remedies to enforce liability on the bond.

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

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

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

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

18 (D) A verbatim statement, as follows:

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

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

28 (i) The courses offered.

29 (ii) Program objectives.

30 (iii) Length of program.

31 (iv) The faculty and their qualifications.

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

35 (vi) The cancellation and refund policies.

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

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



1 (ix) Other material facts concerning the institution  
2 and the program or course of instruction that are  
3 reasonably likely to affect the decision of the student to  
4 enroll in the institution.

5 (4) Identification of all employees of the agency and  
6 their titles, and of all agents with whom the agency  
7 contracts.

8 (5) Identification of all owners, and if the entity is a  
9 corporation, the identification of all persons possessing an  
10 interest equal to, or in excess, of 10 percent.

11 (6) Identification of all vendors of educational services  
12 for which the agency provides recruitment services.

13 (7) A signed statement by the applicant that all  
14 employees engaged in recruitment activities will be  
15 required to read Sections 94831, 94832, and 94985 and, if  
16 the educational program for which the agency recruits is  
17 subject to Article 7 (commencing with Section 94850),  
18 Section 94853.

19 (b) Within 30 days of receipt of a completed  
20 application and prior to issuance of an authorization a  
21 representative of the council shall inspect the applicant  
22 agency and verify the application. Within 30 days of the  
23 inspection, the council shall issue the authorization for a  
24 one-year period, subject to annual renewal at the end of  
25 that period, or deny the application. The council shall  
26 deny the authorization if the agency or any owner,  
27 officer, or director of the agency previously has been  
28 found in any judicial or administrative proceeding to  
29 have violated this chapter, or if there exists any of the  
30 grounds for denial set forth in Section 480 of the Business  
31 and Professions Code.

32 (c) Any employee of an authorized agency engaged in  
33 student recruitment activities of an authorized agency is  
34 exempt from the bond requirements of Section 94940.

35 (d) Neither the agency nor any of its employees shall  
36 make any untrue or misleading statement in the course  
37 of any solicitation or recruitment activity or engage in the  
38 sales, collection, credit, or other practices of any type that  
39 are false, deceptive, misleading, or unfair.



1 (e) An agency or an employee of an agency shall  
2 provide a prospective student with the disclosure  
3 statement described in paragraph (3) of subdivision (a)  
4 and shall allow the prospective student a sufficient  
5 opportunity to read it before soliciting or recruiting him  
6 or her for enrollment or referring him or her to an  
7 institution. That disclosure statement shall be printed in  
8 10-point type in English and, if the solicitation,  
9 recruitment, or referral is to be conducted in a language  
10 other than English, in that other language.

11 (f) Any institution approved under this chapter shall  
12 cease any and all recruitment activities involving the  
13 agency upon action by the council to revoke or deny an  
14 agency's authorization. The failure of the institution to do  
15 so upon presentation of notice of the council's action shall  
16 be cause to deny or revoke any approval held by that  
17 institution.

18 (g) This section does not apply to any agency  
19 recruiting solely for institutions described in Article 8  
20 (commencing with Section 94900).

21 (h) The council shall maintain records for five years of  
22 each application for an authorization, each verification by  
23 the council of an application, each bond, and each denial,  
24 issuance, and revocation of an authorization.

25 (i) A student may bring any action against any agency  
26 if the agency or an employee of the agency violates this  
27 chapter or commits any fraud or misrepresentation and,  
28 upon prevailing, is entitled to the recovery of damages,  
29 reasonable attorney's fees, and costs. If a court finds that  
30 the violation was willfully committed, the court shall, in  
31 addition to the award of damages, award a civil penalty  
32 of up to two times the amount of damages sustained by  
33 the student.

34 (j) Any person who violates this section is guilty of a  
35 misdemeanor punishable by imprisonment in a county  
36 jail not exceeding six months, by a fine not to exceed five  
37 thousand dollars (\$5,000), or by both that imprisonment  
38 and fine.

39



Article 12. Student Tuition Recovery Fund and Student Obligations

94944. (a) The Student Tuition Recovery Fund is continued in existence. All assessments collected pursuant Section 94945 shall be credited to this fund along with any interest on the money, for the administration of this article. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the council without regard to fiscal years for the purposes of this chapter. The fund shall consist of a degree-granting postsecondary educational institution account, a vocational educational institution account, and an account for institutions approved under any provision of this chapter that charge each enrolled student a total charge, as defined in subdivision (k) of Section 94852, of less than one thousand dollars (\$1,000), for the purpose of relieving or mitigating pecuniary losses suffered by any California resident who is a student of an approved institution and who meets either of the following conditions:

- (1) The student was enrolled in an institution, prepaid tuition, and suffered loss as a result of, (A) the closure of the institution, (B) the institution's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the institution's closure, (C) the institution's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the institution prior to closure in excess of tuition and other costs, (D) the institution's breach or anticipatory breach of the agreement for the course of instruction, or (E) a decline in the quality or value of the course of instruction within the 30-day period before the institution's closure or, if the decline began before that period, the period of decline determined by the council. For the purpose of this section, "closure" includes closure of a branch or satellite campus, the termination of either



1 the correspondence or residence portion of a home study  
2 or correspondence course, and the termination of a  
3 course of instruction for some or all of the students  
4 enrolled in the course before the time these students  
5 were originally scheduled to complete it, or before a  
6 student who has been continuously enrolled in a course  
7 of instruction has been permitted to complete all the  
8 educational services and classes that comprise the course.

9 (2) The student obtained a judgment against the  
10 institution for any violation of this chapter and the  
11 student certifies that the judgment cannot be collected  
12 after diligent collection efforts.

13 (b) Payments from the fund to any student shall be  
14 made from the appropriate account with the fund, as  
15 determined by the type of institution into which the  
16 student has paid his or her fees, and shall be subject to any  
17 regulations and conditions as the council shall prescribe.

18 (c) (1) The institution shall provide to the council, at  
19 the time of the institution's closure, the names and  
20 addresses of persons who were students of an institution  
21 within 60 days prior to its closure, and shall notify these  
22 students, within 30 days of the institution's closure, of  
23 their rights under the fund and how to apply for payment.  
24 If the institution fails to comply with this subdivision, the  
25 council shall attempt to obtain the names and addresses  
26 of these students and shall notify them, within 90 days of  
27 the institution's closure, of their rights under the fund and  
28 how to apply for payment.

29 The council shall develop a form in English and Spanish  
30 fully explaining a student's rights, which shall be used by  
31 the institution or the council to comply with this  
32 paragraph. The form shall include, or be accompanied by,  
33 a claim application and an explanation of how to  
34 complete the application.

35 (2) If an institution fails to comply with paragraph (1),  
36 the council shall order the institution, or any person  
37 responsible for the failure to provide notice as required  
38 by paragraph (1), to reimburse the council for all  
39 reasonable costs and expenses incurred in notifying  
40 students as required in paragraph (1). In addition, the



1 council may impose a penalty of up to five thousand  
2 dollars (\$5,000) against the institution and any person  
3 found responsible for the failure to provide notice. The  
4 amount of the penalty shall be based on the degree of  
5 culpability and the ability to pay. Any order may impose  
6 joint and several liability. Before any order is made  
7 pursuant to this paragraph, the council shall provide  
8 written notice to the institution and any person from  
9 whom the council seeks recovery of the council's claim  
10 and of the right to request a hearing within 30 days of the  
11 service of the notice.

12 If a hearing is not requested within 30 days of service  
13 of the notice, the council may order payment in the  
14 amount of the claim. If a hearing is requested, Chapter 5  
15 (commencing with Section 11500) of Part 1 of Division 3  
16 of Title 2 of the Government Code shall apply, and the  
17 council shall have all of the powers therein prescribed.  
18 Within 30 days after the effective date of the issuance of  
19 an order, the council may enforce the order in the same  
20 manner as if it were a money judgment pursuant to Title  
21 9 (commencing with Section 680.010) of Part 2 of the  
22 Code of Civil Procedure. All penalties and  
23 reimbursements paid pursuant to this section shall be  
24 deposited in the Private Postsecondary and Vocational  
25 Education Administration Fund established pursuant to  
26 Section 94932 or any successor fund.

27 (d) (1) Students entitled to payment as provided in  
28 paragraph (1) of subdivision (a) shall file with the council  
29 a verified application indicating each of the following:

30 (A) The student's name, address, telephone number,  
31 and social security number.

32 (B) If any portion of the tuition was paid from the  
33 proceeds of a loan, the name of the lender, and any state  
34 or federal agency that guaranteed or reinsured the loan.

35 (C) The amount of the prepaid tuition, the amount  
36 and description of the student's loss, and the amount of  
37 the student's claim.

38 (D) The date the student started and ceased attending  
39 the institution.



1 (E) A description of the reasons the student ceased  
2 attending the institution.

3 (F) If the student ceased attending because of a  
4 breach or anticipatory breach or because of the decline  
5 in the quality or value of the course of instruction as  
6 described in subparagraph (E) of paragraph (1) of  
7 subdivision (a), a statement describing in detail the  
8 nature of the loss incurred. The application shall be filed  
9 within one year of the council's service on the student of  
10 the notice described in paragraph (1) of subdivision (c)  
11 or, if no notice is served, within four years of the  
12 institution's closure.

13 (2) Students entitled to payment as provided in  
14 paragraph (2) of subdivision (a) shall file with the council  
15 a verified application indicating the student's name,  
16 address, telephone number, and social security number,  
17 the amount of the judgment obtained against the  
18 institution, a statement that the judgment cannot be  
19 collected, and a description of the efforts attempted to  
20 enforce the judgment. The application shall be  
21 accompanied by a copy of the judgment and any other  
22 documents indicating the student's efforts made to  
23 enforce the judgment.

24 The application shall be filed within two years after the  
25 date upon which the judgment became final.

26 (3) The council may require additional information  
27 designed to facilitate payment to entitled students. The  
28 council shall relieve a student from the requirement to  
29 provide all of the information required by this subdivision  
30 if the council has the information or the information is not  
31 reasonably necessary for the resolution of a student's  
32 claim.

33 (e) Within 60 days of the council's receipt of a  
34 completed application for payment, the council shall pay  
35 the claim from the Student Tuition Recovery Fund or  
36 deny the claim. The council, for good cause, may extend  
37 the time period for up to an additional 90 days to  
38 investigate the accuracy of the claim.

39 (f) (1) If the council pays the claim, the amount of the  
40 payment shall be (A) the greater of either (i) the total



1 guaranteed student loan debt incurred by the student in  
2 connection with attending the institution, or (ii) the total  
3 of the student's tuition and the cost of equipment and  
4 materials related to the course of instruction, less (B) the  
5 amount of any refund, reimbursement, indemnification,  
6 restitution, compensatory damages, settlement, debt  
7 forgiveness, discharge, cancellation, or compromise, or  
8 any other benefit received by, or on behalf of, the student  
9 before the council's payment of the claim in connection  
10 with the student loan debt or cost of tuition, equipment,  
11 and materials. The payment also shall include the amount  
12 the institution collected and failed to pay to third parties  
13 on behalf of the student for license fees or any other  
14 purpose. However, if the claim is based solely on the  
15 circumstances described in subparagraph (B) or (C) of  
16 paragraph (1) of subdivision (a), the amount of the  
17 payment shall be the amount of the loss suffered by the  
18 student.

19 In addition to the amount determined under this  
20 paragraph, the amount of the payment shall include all  
21 interest and collection costs on all student loan debt  
22 incurred by the student in connection with attending the  
23 institution.

24 (2) The council may reduce the total amount specified  
25 in paragraph (1) by the value of the benefit, if any, of the  
26 education obtained by the student before the closure of  
27 the institution. If the council makes any reduction  
28 pursuant to this paragraph, the council shall notify the  
29 claimant in writing at the time the claim is paid of the  
30 basis of its decision and provide a brief explanation of the  
31 reasons upon which the council relied in computing the  
32 amount of the reduction.

33 (3) No reduction shall be made to the amount  
34 specified in paragraph (1) if (A) the student did not  
35 receive adequate instruction to obtain the training, skills,  
36 or experience, or employment to which the instruction  
37 was represented to lead, or (B) credit for the instruction  
38 obtained by the student is not generally transferable to  
39 other institutions approved by the council.



1 (4) The amount of the payment determined under  
2 this subdivision is not dependent on the amount of the  
3 refund to which the student would have been entitled  
4 after a voluntary withdrawal.

5 (5) Upon payment of the claim, all of the student's  
6 rights against the institution shall be deemed assigned to  
7 the council to the extent of the amount of the payment.

8 (g) (1) The director of the council may negotiate with  
9 a lender, holder, guarantee agency, or the United States  
10 Department of Education for the full compromise or  
11 write-off of student loan obligations to relieve students of  
12 loss and thereby reduce the amount of student claims.

13 (2) The director of the council, with the student's  
14 permission, may pay a student's claim directly to the  
15 lender, holder, guarantee agency, or the United States  
16 Department of Education under a federally guaranteed  
17 student loan program only if the payment of the claim  
18 fully satisfies all of the student's loan obligations related  
19 to attendance at the institution for which the claim was  
20 filed.

21 (3) Notwithstanding subdivision (e), the council may  
22 delay the payment of a claim pending the resolution of  
23 the council's attempt to obtain a compromise or write-off  
24 of the claimant's student loan obligation. However, the  
25 council shall immediately pay the claim in the event any  
26 adverse action that is not stayed is taken against the  
27 claimant, including the commencement of a civil or  
28 administrative action, tax offset, the enforcement of a  
29 judgment, or the denial of any government benefit.

30 (h) If the council denies the claim, or reduces the  
31 amount of the claim pursuant to paragraph (2) of  
32 subdivision (f), the council shall notify the student of the  
33 denial or reduction and of the student's right to request  
34 a hearing within 60 days or any longer period permitted  
35 by the council. If a hearing is not requested within 60 days  
36 or any additional period reasonably requested by the  
37 student, the council's decision shall be final. If a hearing  
38 is requested, Chapter 5 (commencing with Section  
39 11500) of Part 1 of Division 3 of Title 2 of the Government  
40 Code shall apply.



1 It is the intent of the Legislature that, when a student  
2 is enrolled in an institution that closes prior to the  
3 completion of the student's program, the student shall  
4 have the option for a teach-out at another institution  
5 approved by the council. The council shall seek to  
6 promote teach-out opportunities wherever possible and  
7 shall inform the student of his or her rights, including  
8 payment from the fund, transfer opportunities, and  
9 available teach-out opportunities, if any.

10 (i) This section applies to all claims filed or pending  
11 under former Chapter 7 (commencing with Section  
12 94700) after January 1, 1990.

13 94945. (a) The council shall assess each institution  
14 that collects any moneys in advance of rendering  
15 services.

16 (1) The amount assessed each institution shall be  
17 calculated only for those students who are California  
18 residents and who are eligible to be reimbursed from the  
19 fund. It shall be based on the actual amount charged each  
20 of these students for total course cost, regardless of the  
21 portion that is prepaid. The assessment shall be as follows:

22 (A) For a total course cost of one cent (\$0.01) to nine  
23 hundred ninety-nine dollars and ninety-nine cents  
24 (\$999.99), inclusive, the assessment is one dollar (\$1) per  
25 student.

26 (B) For a total course cost of one thousand dollars  
27 (\$1,000) to two thousand nine hundred ninety-nine  
28 dollars and ninety-nine cents (\$2,999.99), inclusive, the  
29 assessment is two dollars and fifty cents (\$2.50) per  
30 student.

31 (C) For a total course cost of three thousand dollars  
32 (\$3,000) to five thousand nine hundred ninety-nine  
33 dollars and ninety-nine cents (\$5,999.99), inclusive, the  
34 assessment is three dollars and fifty cents (\$3.50) per  
35 student.

36 (D) For a total course cost of six thousand dollars  
37 (\$6,000) to eight thousand nine hundred ninety-nine  
38 dollars and ninety-nine cents (\$8,999.99), inclusive, the  
39 assessment is four dollars and fifty cents (\$4.50) per  
40 student.



1 (E) For a total course cost of nine thousand dollars  
2 (\$9,000) or more, the assessment is five dollars and fifty  
3 cents (\$5.50) per student.

4 (2) The council shall levy additional reasonable  
5 assessments only if they are required to ensure that  
6 sufficient funds are available to satisfy the anticipated  
7 costs of paying student claims pursuant to Section 94944.

8 (3) The assessments shall be paid into the Student  
9 Tuition Recovery Fund and credited to the appropriate  
10 account in the fund, and the deposits shall be allocated,  
11 except as otherwise provided for in this chapter, solely for  
12 the payment of valid claims to students. Unless additional  
13 reasonable assessments are required, no assessments for  
14 the degree-granting postsecondary educational  
15 institution account shall be levied during any fiscal year  
16 if, as of June 30 of the prior fiscal year, the balance in that  
17 account of the fund exceeds one million dollars  
18 (\$1,000,000). Unless additional reasonable assessments  
19 are required, no assessments for the vocational  
20 educational institution account shall be levied during any  
21 fiscal year if, as of June 30 of the prior fiscal year, the  
22 balance in that account exceeds three million dollars  
23 (\$3,000,000). Unless additional reasonable assessments  
24 are required, no assessments for the account for  
25 institutions approved under any provision of this chapter  
26 that charge each enrolled student a total charge, as  
27 defined in subdivision (k) of Section 94852, of less than  
28 one thousand dollars (\$1,000) shall be levied during any  
29 fiscal year if, as of June 30 of the prior fiscal year, the  
30 balance in that account exceeds three hundred thousand  
31 dollars (\$300,000). However, regardless of the balance in  
32 the fund, assessments shall be made on any newly  
33 approved institution for a period established pursuant to  
34 regulation by the council. Notwithstanding Section 13340  
35 of the Government Code, the moneys so deposited in the  
36 fund are continuously appropriated to the council for the  
37 purpose of paying claims to students pursuant to Section  
38 94944. The bureau shall adjust the amounts in this  
39 subdivision to reflect changes in the United States Cost of  
40 Living Index published by the United States Bureau of



1 Labor Statistics subsequent to January 1, 1990. The  
2 adjustments shall be made on January 1 of each year.

3 (b) The council may deduct from the fund the  
4 reasonable costs of administration of the tuition recovery  
5 program authorized by Section 94944 and this section.  
6 The maximum amount of administrative costs that may  
7 be deducted from the fund, in a fiscal year, shall not  
8 exceed one hundred thousand dollars (\$100,000) from the  
9 degree-granting postsecondary educational institution  
10 account, three hundred thousand dollars (\$300,000) from  
11 the vocational educational institution account, and thirty  
12 thousand dollars (\$30,000) from the account for  
13 institutions approved under any provision of this chapter  
14 that charge each enrolled student a total charge, as  
15 defined in subdivision (k) of Section 94852, of less than  
16 one thousand dollars (\$1,000), plus the interest earned on  
17 money in the fund that is credited to the fund. Prior to the  
18 council's expenditure of any amount in excess of one  
19 hundred thousand dollars (\$100,000) from the fund for  
20 administration of the tuition recovery program, the  
21 council shall develop a plan itemizing that expenditure.  
22 The plan shall be subject to the approval of the  
23 Department of Finance. Institutions, except for schools of  
24 cosmetology licensed pursuant to Article 8 (commencing  
25 with Section 7362) of Chapter 10 of Division 3 of the  
26 Business and Professions Code and institutions that offer  
27 vocational or job training programs, that meet the  
28 student tuition indemnification requirements of a  
29 California state agency, or that demonstrate to the  
30 council that an acceptable alternative method of  
31 protecting their students against loss of prepaid tuition  
32 has been established, shall be exempted from this section.

33 (c) Reasonable costs in addition to those permitted  
34 under subdivision (b) may be deducted from the fund for  
35 any of the following purposes:

36 (1) To make and maintain copies of student records  
37 from institutions which close.

38 (2) To reimburse the council or a third party serving  
39 as the custodian of records.



1 (3) To review records in order to determine whether  
2 a student improperly received a loan due to false  
3 certification, in which case the student would be eligible  
4 for a loan write-off or discharge in lieu of reimbursement  
5 in whole or in part from the fund.

6 (d) In the event of a closure by any approved  
7 institution under this chapter, any assessments that have  
8 been made against those institutions, but have not been  
9 paid into the fund, shall be recovered. Any payments  
10 from the fund made to students on behalf of any  
11 institution shall be recovered from that institution.

12 (e) In addition to civil remedies, the council may order  
13 an institution to pay previously unpaid assessments or to  
14 reimburse the council for any payments made from the  
15 fund in connection with the institution. Before any order  
16 is made pursuant to this section, the council shall provide  
17 written notice to the institution and notice of the  
18 institution's right to request a hearing within 30 days of  
19 the service of the notice. If a hearing is not requested  
20 within 30 days of the service of the notice, the council may  
21 order payment. If a hearing is requested, Chapter 5  
22 (commencing with Section 11500) of Part 1 of Division 3  
23 of Title 2 of the Government Code shall apply, and the  
24 council shall have all powers prescribed in that chapter.  
25 Within 30 days after the effective date of the issuance of  
26 the order, the council may enforce the order in the same  
27 manner as if it were a money judgment pursuant to Title  
28 9 (commencing with Section 680.010) of Part 2 of the  
29 Code of Civil Procedure.

30 (f) In addition to any other action that the council may  
31 take under this chapter, the council may suspend or  
32 revoke an institution's approval to operate because of the  
33 institution's failure to pay assessments when due or failure  
34 to pay reimbursement for any payments made from the  
35 fund within 30 days of the council's demand for payment.

36 (g) The moneys deposited in the fund shall be exempt  
37 from execution and shall not be the subject of litigation  
38 or liability on the part of creditors of those institutions or  
39 students.



1 (h) Claims for approved institutions that charge each  
2 enrolled student a total charge, as defined in subdivision  
3 (k) of Section 94852, of less than one thousand dollars  
4 (\$1,000) shall be paid from (1) the account established for  
5 these institutions if the claim relates to a period of student  
6 enrollment beginning on or after the effective date of this  
7 section, or (2) the vocational educational institution  
8 account if the claim relates to a period of student  
9 enrollment that began before the effective date of this  
10 section.

11 (i) This section shall become inoperative on January 1,  
12 1999, and on that date is repealed unless a later enacted  
13 statute that becomes effective on or before January 1,  
14 1999, deletes or extends that date.

15 94945. (a) The council shall assess each institution  
16 that collects any moneys in advance of rendering  
17 services.

18 (1) The amount assessed each institution shall be  
19 calculated only for those students who are California  
20 residents and who are eligible to be reimbursed from the  
21 fund. It shall be based on the actual amount charged each  
22 of these students for total course cost, regardless of the  
23 portion that is prepaid. The assessment shall be as follows:

24 (A) For a total course cost of one cent (\$0.01) to two  
25 thousand nine hundred ninety-nine dollars and  
26 ninety-nine cents (\$2,999.99), inclusive, the assessment is  
27 two dollars and fifty cents (\$2.50) per student.

28 (B) For a total course cost of three thousand dollars  
29 (\$3,000) to five thousand nine hundred ninety-nine  
30 dollars and ninety-nine cents (\$5,999.99), inclusive, the  
31 assessment is three dollars and fifty cents (\$3.50) per  
32 student.

33 (C) For a total course cost of six thousand dollars  
34 (\$6,000) to eight thousand nine hundred ninety-nine  
35 dollars and ninety-nine cents (\$8,999.99), inclusive, the  
36 assessment is four dollars and fifty cents (\$4.50) per  
37 student.

38 (D) For a total course cost of nine thousand dollars  
39 (\$9,000) or more, the assessment is five dollars and fifty  
40 cents (\$5.50) per student.



1 (2) The council shall levy additional reasonable  
2 assessments only if they are required to ensure that  
3 sufficient funds are available to satisfy the anticipated  
4 costs of paying student claims pursuant to Section 94944.

5 (3) The assessments shall be paid into the Student  
6 Tuition Recovery Fund and credited to the appropriate  
7 account in the fund, and the deposits shall be allocated,  
8 except as otherwise provided for in this chapter, solely for  
9 the payment of valid claims to students. Unless additional  
10 reasonable assessments are required, no assessments for  
11 the degree-granting postsecondary educational  
12 institution account shall be levied during any fiscal year  
13 if, as of June 30 of the prior fiscal year, the balance in that  
14 account of the fund exceeds one million dollars  
15 (\$1,000,000). Unless additional reasonable assessments  
16 are required, no assessments for the vocational  
17 educational institution account shall be levied during any  
18 fiscal year if, as of June 30 of the prior fiscal year, the  
19 balance in that account exceeds three million dollars  
20 (\$3,000,000). However, regardless of the balance in the  
21 fund, assessments shall be made on any newly approved  
22 institution. Notwithstanding Section 13340 of the  
23 Government Code, the moneys so deposited in the fund  
24 are continuously appropriated to the council for the  
25 purpose of paying claims to students pursuant to Section  
26 94944.

27 (b) The council may deduct from the fund the  
28 reasonable costs of administration of the tuition recovery  
29 program authorized by Section 94944 and this section.  
30 The maximum amount of administrative costs that may  
31 be deducted from the fund, in a fiscal year, shall not  
32 exceed one hundred thousand dollars (\$100,000) from the  
33 degree-granting postsecondary educational institution  
34 account and three hundred thousand dollars (\$300,000)  
35 from the vocational educational institution account, plus  
36 the interest earned on money in the fund that is credited  
37 to the fund. Prior to the council's expenditure of any  
38 amount in excess of one hundred thousand dollars  
39 (\$100,000) from the fund for administration of the tuition  
40 recovery program, the council shall develop a plan



1 itemizing that expenditure. The plan shall be subject to  
2 the approval of the Department of Finance. Institutions,  
3 except for schools of cosmetology licensed pursuant to  
4 Article 8 (commencing with Section 7362) of Chapter 10  
5 of Division 3 of the Business and Professions Code and  
6 institutions that offer vocational or job training programs,  
7 that meet the student tuition indemnification  
8 requirements of a California state agency, or that  
9 demonstrate to the council that an acceptable alternative  
10 method of protecting their students against loss of  
11 prepaid tuition has been established, shall be exempted  
12 from this section.

13 (c) Reasonable costs in addition to those permitted  
14 under subdivision (b) may be deducted from the fund for  
15 any of the following purposes:

16 (1) To make and maintain copies of student records  
17 from institutions which close.

18 (2) To reimburse the council or a third party serving  
19 as the custodian of records.

20 (d) In the event of a closure by any approved  
21 institution under this chapter, any assessments that have  
22 been made against those institutions, but have not been  
23 paid into the fund, shall be recovered. Any payments  
24 from the fund made to students on behalf of any  
25 institution shall be recovered from that institution.

26 (e) In addition to civil remedies, the council may order  
27 an institution to pay previously unpaid assessments or to  
28 reimburse the council for any payments made from the  
29 fund in connection with the institution. Before any order  
30 is made pursuant to this section, the council shall provide  
31 written notice to the institution and notice of the  
32 institution's right to request a hearing within 30 days of  
33 the service of the notice. If a hearing is not requested  
34 within 30 days of the service of the notice, the council may  
35 order payment. If a hearing is requested, Chapter 5  
36 (commencing with Section 11500) of Part 1 of Division 3  
37 of Title 2 of the Government Code shall apply, and the  
38 council shall have all powers prescribed in that chapter.  
39 Within 30 days after the effective date of the issuance of  
40 the order, the council may enforce the order in the same



1 manner as if it were a money judgment pursuant to Title  
2 9 (commencing with Section 680.010) of Part 2 of the  
3 Code of Civil Procedure.

4 (f) In addition to any other action that the council may  
5 take under this chapter, the council may suspend or  
6 revoke an institution's approval to operate because of the  
7 institution's failure to pay assessments when due or failure  
8 to pay reimbursement for any payments made from the  
9 fund within 30 days of the council's demand for payment.

10 (g) The moneys deposited in the fund shall be exempt  
11 from execution and shall not be the subject of litigation  
12 or liability on the part of creditors of those institutions or  
13 students.

14 (h) This section shall become operative on January 1,  
15 1999.

16 94946. (a) Any institution that willfully violates  
17 Section 94945 shall be subject to all of the following:

18 (1) The institution shall lose all rights to enforce the  
19 terms of any contract or agreement arising from the  
20 transaction in which the violation occurred.

21 (2) The institution shall refund to the student any fees  
22 that it has collected from that student.

23 (b) An institution's willful violation of Section 94945  
24 may be grounds for the revocation of that institution's  
25 approval to operate in this state.

26 94947. Students enrolling in institutions that come  
27 under Sections 94944 and 94945, shall disclose in writing,  
28 if applicable, the source of any and all guaranteed or  
29 insured loans granted for the purposes of paying tuition  
30 to that institution. In the event of a closure of any  
31 institution, the council shall provide any lending  
32 institution that is the source of any guaranteed or insured  
33 student loan with the names of students maintaining  
34 loans with that lending institution.

35 94948. (a) The governing board or other governing  
36 authority of any private postsecondary or vocational  
37 educational institution shall adopt rules providing for the  
38 withholding of institutional services from students or  
39 former students who have been notified, in writing, at the  
40 student's or former student's last known address, that he



1 or she is in default on a loan or loans under either of the  
2 following loan programs:

3 (1) The Stafford Student Loan program.

4 (2) The Supplemental Loans for Students program.

5 (3) Any program directly or indirectly financed by the  
6 California Educational Facilities Authority.

7 “Default,” as used in this section, with respect to a loan  
8 under the Stafford Student Loan program or  
9 Supplemental Loans for Students program means the  
10 failure of a borrower to make an installment payment  
11 when due, or to meet other terms of the promissory note  
12 under circumstances where the guarantee agency finds  
13 it reasonable to conclude that the borrower no longer  
14 intends to honor the obligation to repay, provided that  
15 this failure persists for 180 days for a loan repayable in  
16 monthly installments, or 240 days for a loan repayable in  
17 less frequent installments. “Default,” as used in this  
18 section, with respect to a program directly or indirectly  
19 financed by the California Educational Facilities  
20 Authority, means the failure of a borrower to make an  
21 installment payment when due, or to meet other terms  
22 of the loan, within that period and under the  
23 circumstances determined by the California Educational  
24 Facilities Authority with respect to that program.

25 (b) The rules adopted pursuant to subdivision (a) shall  
26 provide that the services withheld may be provided  
27 during a period when the facts are in dispute and when  
28 the student or former student demonstrates to either the  
29 governing board or other appropriate governing  
30 authority of the institution, or the Student Aid  
31 Commission and the appropriate entity or its designee,  
32 that reasonable progress has been made to repay the loan  
33 or that there exists a reasonable justification for the delay  
34 as determined by the institution. The rules shall specify  
35 the services to be withheld from the student and may  
36 include, but are not limited to, the following:

37 (1) The provision of grades.

38 (2) The provision of transcripts.

39 (3) The provision of diplomas.



1 The rules shall not include the withholding of  
2 registration privileges.

3 (c) When it has been determined that an individual is  
4 in default on a loan or loans under either of the loan  
5 programs specified in subdivision (a), the Student Aid  
6 Commission shall give notice of the default to all  
7 institutions through which that individual acquired the  
8 loan or loans.

9 (d) Guarantors, or those who act as their agents or act  
10 under their control, who provide information to  
11 institutions pursuant to this section, shall defend,  
12 indemnify, and hold harmless the governing board or  
13 other governing authority of the institutions from action  
14 resulting from compliance with this section when the  
15 action arises as a result of incorrect, misleading, or  
16 untimely information provided to the institution by the  
17 guarantors, their agents, or those acting under the control  
18 of the guarantors.

19

20 Article 13. Administrative and Judicial Procedures

21

22 94950. (a) The procedures set forth in Section 94965  
23 or, alternatively, in Section 94975 govern the following  
24 types of administrative actions:

25 (1) Denial of an application for an approval or renewal  
26 of an approval.

27 (2) Suspension or revocation of an existing approval.

28 (3) Appeals of conditional approvals.

29 (b) In lieu of the procedures set forth in Section 94965  
30 or 94975, an institution may voluntarily elect to utilize the  
31 procedures set forth in Section 94980 if it appeals a  
32 conditional approval by the council.

33 (c) The procedures set forth in Section 94970 govern  
34 emergency suspensions of an institution's approval to  
35 operate initiated by the council.

36 (d) Sections 94952 and 94955 authorize the council and  
37 the Attorney General to seek various forms of judicial  
38 relief in order to enforce this chapter.

39 (e) Section 94960 governs actions based on student  
40 complaints.



1 (f) Section 94985 authorizes civil remedies for  
 2 individual students in addition to those available under  
 3 other provisions of law.

4 (g) Procedures established pursuant to regulations  
 5 adopted by the council shall govern the following types  
 6 of administrative appeals:

7 (1) Probationary actions.

8 (2) Decisions by the council denying an institution's  
 9 claim for an exemption or exclusion from this chapter or  
 10 any provision thereof.

11 94952. (a) The Attorney General, or any district  
 12 attorney, or city attorney, may make investigations as  
 13 may be necessary to carry out this chapter, including, but  
 14 not limited to, investigations of complaints. The council  
 15 may jointly bring actions as necessary to enforce this  
 16 chapter, including, but not limited to, civil actions for  
 17 injunctive relief. In actions brought pursuant to this  
 18 subdivision, the council shall be represented by the  
 19 Attorney General.

20 (b) The Attorney General shall represent the council  
 21 in the following administrative proceedings arising under  
 22 this chapter:

23 (1) Suspension or revocation of an institution's  
 24 approval.

25 (2) Denial of an institution's application for approval.

26 (3) An appeal of a conditional approval to operate  
 27 issued following a review of an institution's application for  
 28 approval.

29 (c) Nothing in this section or this chapter shall  
 30 preclude the Attorney General, or any district attorney  
 31 or city attorney, from any of the following:

32 (1) Bringing any action on behalf of the people as he  
 33 or she is empowered by law to bring, including, but not  
 34 limited to, actions based upon alleged violations of  
 35 Chapter 5 (commencing with Section 17200) of Part 2,  
 36 and Chapter 1 (commencing with Section 17500) of Part  
 37 3, of Division 7 of the Business and Professions Code.

38 (2) Conducting investigations necessary to determine  
 39 whether there have been violations of law specified in  
 40 paragraph (1).



1 (3) Conducting any investigations that he or she is  
2 authorized to conduct, including, but not limited to,  
3 investigations authorized under Section 11180 of the  
4 Government Code.

5 (4) In the case of the Attorney General, delegating his  
6 or her representation authority under subdivision (b) to  
7 staff attorneys of the council.

8 (5) Entering into an agreement or understanding with  
9 the council with respect to representation in any judicial  
10 or administrative proceeding not expressly enumerated  
11 herein.

12 94955. (a) The council may bring an action for  
13 equitable relief for any violation of this chapter. The  
14 equitable relief may include restitution, a temporary  
15 restraining order, the appointment of a receiver, and a  
16 preliminary or permanent injunction. The action may be  
17 brought in the county in which the defendant resides or  
18 in which any violation has occurred or may occur.

19 (b) The remedies provided in this section supplement,  
20 and do not supplant, the remedies and penalties under  
21 other provisions of law.

22 (c) In actions brought pursuant to this section, the  
23 council shall be represented by the Attorney General.

24 94957. (a) In addition to or in lieu of any other  
25 remedy or penalty, the council may issue a citation to an  
26 institution for committing any violation of this chapter or  
27 regulation adopted under this chapter.

28 (b) The citation may contain an order of abatement or  
29 the assessment of an administrative fine. The  
30 administrative fine may not exceed two thousand five  
31 hundred dollars (\$2,500) for each violation. The council  
32 shall base its assessment of the administrative fine on the  
33 nature and seriousness of the violation, the persistence of  
34 the violation, the good faith of the institution, the history  
35 of previous violations, and the purposes of this chapter.

36 (c) The citation shall be in writing and shall describe  
37 the nature of the violation and the specific provision of  
38 law determined to have been violated. The citation shall  
39 inform the institution of its right to request a hearing in  
40 writing within 15 days of the date that the citation was



1 issued. If a hearing is not requested, payment of the  
2 administrative fine shall not constitute an admission of  
3 the violation charged. If a hearing is requested, the  
4 council shall provide a hearing as described in Section  
5 94965, 94975, or 94980. Payment of the administrative fine  
6 is due 15 days after the citation was issued if a hearing is  
7 not requested, or when a final order is entered if a hearing  
8 is requested. The council may enforce the administrative  
9 fine as if it were a money judgment pursuant to Title 9  
10 (commencing with Section 680.10) of Part 2 of the Code  
11 of Civil Procedure.

12 (d) All administrative fines shall be deposited in the  
13 Private Postsecondary and Vocational Education  
14 Administration Fund.

15 94960. (a) Any person claiming damage or loss as a  
16 result of any act or practice by a postsecondary or  
17 vocational educational institution or its agent, or both,  
18 that is a violation of this chapter or of the regulations  
19 adopted pursuant to this chapter, may file with the  
20 council a verified complaint against that institution or its  
21 agent, or both.

22 The complaint shall set forth the alleged violation and  
23 shall contain any other information as may be required by  
24 the council.

25 (b) The council shall investigate any complaint and  
26 may attempt to effectuate settlement by persuasion and  
27 conciliation.

28 (c) If, upon all the evidence at a hearing, the council  
29 finds that an institution or its agent, or both, have  
30 engaged in, or are engaging in, any act or practice that  
31 violates this chapter or the regulations adopted pursuant  
32 to this chapter, the council shall report that evidence to  
33 the Attorney General. The council, based on its own  
34 investigation or the evidence adduced at a hearing, or  
35 both, also may commence an action to revoke an  
36 institution's approval to operate or an agent's permit.

37 (d) Complaints received by the council pertaining to  
38 institutions accredited by the Western Association of  
39 Schools and Colleges shall be forwarded to the  
40 association. Actions by the council relating to complaints



1 against these institutions shall be limited to the  
2 transmittal of this information.

3 (e) A person entitled to bring an action for the  
4 recovery of damages or other relief shall not be required  
5 to file a complaint pursuant to this section, or to pursue  
6 or exhaust any administrative process or remedy before  
7 bringing the action.

8 94965. (a) Proceedings in connection with the denial  
9 of an application to operate, the grant of a conditional  
10 approval to operate, or the revocation of an approval to  
11 operate shall be conducted in accordance with Chapter  
12 5 (commencing with Section 11500) of Part 1 of Division  
13 3 of Title 2 of the Government Code, and the council shall  
14 have all of the powers granted in that chapter. Any action  
15 by the council to place an institution on probation shall be  
16 subject to appeal to the full council, and the council shall  
17 establish procedures that provide the institution with  
18 adequate notice and an opportunity to be heard and to  
19 present evidence as to why the action recommended by  
20 staff or by a visiting committee shall not be taken.

21 (b) Upon taking any action to suspend or revoke an  
22 institution's approval to operate, or to deny an application  
23 for renewal of an approval to operate, the council shall  
24 provide written notice to the Student Aid Commission,  
25 the United States Department of Education, and to any  
26 appropriate accrediting association.

27 94970. (a) If an institution has violated this chapter  
28 and determines that immediate action is necessary to  
29 protect students, prevent misrepresentations to the  
30 public, or prevent the loss of public funds, tuition, or other  
31 money paid by students, the council may institute an  
32 emergency action to suspend the approval of an  
33 institution to operate, or the approval to operate a branch  
34 or satellite campus, for not more than 30 days unless the  
35 council initiates a proceeding to suspend or revoke the  
36 approval to operate within that period.

37 (b) (1) The council shall provide notice of the  
38 emergency action to the institution by certified mail, if  
39 the effective date of the emergency action is 10 or more  
40 working days after mailing, or personal service, if the

1 effective date of the emergency action is five or more  
2 days after service.

3 (2) The notice shall specify all of the following:

4 (A) The violations upon which the emergency action  
5 is based.

6 (B) The nature and grounds of the emergency action,  
7 including whether the action applies to the continuation  
8 of instruction to enrolled students or to the enrollment of  
9 new students.

10 (C) The effective date of the action, which shall not be  
11 less than five days after the notice is provided.

12 (D) The institution's right to show cause that the  
13 emergency action is unwarranted by submitting to the  
14 council, at least two days before the effective date of the  
15 emergency action, declarations, documentary evidence,  
16 and written arguments demonstrating that the violations  
17 did not occur or that immediate action is not required.

18 (E) The right of the institution to request, in writing,  
19 within 30 days of the service of the notice, a hearing.

20 (c) The council may (1) continue the effective date of  
21 an emergency action or (2) terminate the emergency  
22 action at any time if the council concludes that the  
23 institution has shown cause that the emergency action is  
24 unwarranted or that the grounds for instituting the  
25 emergency action no longer remain. The council shall  
26 provide written notice of a continuance or termination of  
27 an emergency action to the institution.

28 (d) (1) If the institution does not take the opportunity  
29 to show cause why the emergency action is unwarranted,  
30 the emergency action shall become effective on the date  
31 specified in the notice or notice of continuance.

32 (2) If the institution takes the opportunity to show  
33 cause and the council decides, after a consideration of the  
34 declarations, documentary evidence and written  
35 argument submitted by the institution, that the  
36 emergency action should become effective, the  
37 emergency action shall be effective on the date specified  
38 in the notice or notice of continuance. The council shall  
39 notify the institution of the decision at least one day  
40 before the effective date, and the institution may



1 thereafter seek judicial relief upon notice to the council  
2 and the Attorney General.

3 (e) (1) If a hearing is requested within the 30-day  
4 period specified in subdivision (b) the council shall set a  
5 date for the hearing within 20 days after receipt of the  
6 request.

7 (2) If the institution does not request a hearing within  
8 the 30-day period specified in subdivision (b) or if the  
9 council concludes after a hearing requested by the  
10 institution that grounds exist for the suspension or  
11 revocation of the institution's approval to operate or  
12 approval to operate a branch or satellite campus, the  
13 council may extend the suspension or revoke the  
14 institution's approval to operate or approval to operate a  
15 branch or satellite campus, order probation and a penalty,  
16 order the posting of a bond, or condition the institution's  
17 approval to operate or approval to operate a branch or  
18 satellite campus as the council deems appropriate.

19 (f) During the pendency of an emergency action, the  
20 council may investigate the institution's compliance with  
21 this chapter, including an onsite inspection, and may  
22 institute a proceeding pursuant to Section 94878, if  
23 applicable, or Section 94965 or 94975 to suspend or revoke  
24 an institution's approval to operate or approval to operate  
25 a branch or satellite campus, order a bond, or order  
26 probation and a penalty, based on any violation of this  
27 chapter.

28 (g) This section supplements, but does not supplant,  
29 the authority of the council to seek judicial relief,  
30 including a temporary restraining order and injunction,  
31 to redress any violation of this chapter.

32 94975. (a) This section establishes the procedure for  
33 notice and hearing required under this chapter and,  
34 except as provided in Section 94970, may be used in lieu  
35 of other notice or hearing requirements provided in this  
36 chapter.

37 (b) If notice of administrative action is required by this  
38 chapter, the council shall serve notice stating the  
39 following:



1 (1) The action, including the penalties and  
2 administrative sanctions sought.

3 (2) The grounds for the action with sufficient  
4 particularity to give notice of the transactions,  
5 occurrences, violations, or other matters on which the  
6 action is based.

7 (3) The right to a hearing and the time period within  
8 which the party subject to the notice may request a  
9 hearing in writing. The time period shall not be less than  
10 15 days after service of the notice unless a longer period  
11 is provided by statute.

12 (4) The right to be present at the hearing, to be  
13 represented by counsel, to cross-examine witnesses, and  
14 to present evidence.

15 (5) That, if the party subject to the notice does not  
16 request a hearing in writing within the time period  
17 expressed in the notice, he or she will waive or forfeit his  
18 or her right to an administrative hearing and the action  
19 will become final.

20 (c) If a party subject to a notice provided pursuant to  
21 subdivision (b) requests a hearing in writing within the  
22 time period specified in subparagraph (3) of paragraph  
23 (b), then within 10 days of receiving this request, the  
24 council shall schedule a hearing. The hearing shall be held  
25 in a location determined pursuant to Section 11508 of the  
26 Government Code. The council shall serve reasonable  
27 notice of the time and place for the hearing at least 10  
28 days before the hearing. The council may continue the  
29 date of the hearing upon a showing of good cause.

30 (d) (1) Any party, including the council, may submit  
31 a written request to any other party before the hearing  
32 to obtain the names and addresses of any person who has  
33 personal knowledge, or who the party receiving the  
34 request claims to have personal knowledge, of any of the  
35 transactions, occurrences, violations, or other matters  
36 that are the basis of the administrative action. In addition,  
37 the requesting party shall have the right to inspect and  
38 copy any written statement made by that person and any  
39 writing, as defined by Section 250 of the Evidence Code,  
40 or thing that is in the custody, or under the control, of the



1 party receiving the request and that is relevant and not  
2 privileged. This subdivision shall constitute the exclusive  
3 method for prehearing discovery. However, nothing in  
4 this paragraph shall affect the council's authority, at any  
5 time, to investigate, inspect, monitor, or obtain and copy  
6 information under any provision of this chapter.

7 (2) The written request described in paragraph (1)  
8 shall be made before the hearing and within 30 days of the  
9 service of the notice described in subdivision (b). Each  
10 recipient of a request shall comply with the request  
11 within 15 days of its service by providing the names and  
12 addresses requested and by producing at a reasonable  
13 time at the council's office, or other mutually agreed  
14 reasonable place, the requested writings and things. The  
15 council may extend the time for response upon a showing  
16 of good cause.

17 (3) Except as provided in this paragraph, no party may  
18 introduce the testimony or statement of any person or  
19 any writing or thing into evidence at the hearing if that  
20 party failed to provide the name and address of the  
21 person or to produce the writing or thing for inspection  
22 and copying as provided by this subdivision. A party may  
23 introduce the testimony, statement, writing, or thing that  
24 was not identified or produced as required herein only if  
25 there is no objection or if the party establishes that the  
26 person, writing, or thing was unknown at the time when  
27 the response was made to the written request, the party  
28 could not have informed other parties within a reasonable  
29 time after learning of the existence of the person, writing,  
30 or thing, and no party would be prejudiced by the  
31 introduction of the evidence.

32 (e) Before the hearing has commenced, the council  
33 shall issue subpoenas at the written request of any party  
34 for the attendance of witnesses or the production of  
35 documents or other things in the custody or under the  
36 control of the person subject to the subpoena. Subpoenas  
37 issued pursuant to this section are subject to Section 11510  
38 of the Government Code.

39 (f) (1) The council shall designate an impartial  
40 hearing officer to conduct the hearing. The hearing



1 officer may administer oaths and affirmations, regulate  
2 the course of the hearing, question witnesses, and  
3 otherwise investigate the issues, take official notice  
4 according to the procedure provided in Division 4  
5 (commencing with Section 450) of the Evidence Code of  
6 any technical or educational matter in the council's  
7 special field of expertise and of any matter that may be  
8 judicially noticed, set the time and place for continued  
9 hearings, fix the time for the filing of briefs and other  
10 documents, direct any party to appear and confer to  
11 consider the simplification of issues by consent, and  
12 prepare a statement of decision.

13 (2) Neither a hearing officer nor any person who has  
14 a direct or indirect interest in the outcome of the hearing  
15 shall communicate directly or indirectly with each other  
16 regarding any issue involved in the hearing while the  
17 proceeding is pending without notice and opportunity for  
18 all parties to participate in the communication. A hearing  
19 officer who receives any ex parte communication shall  
20 immediately disclose the communication to the council  
21 and all other parties. The council may disqualify the  
22 hearing officer if necessary to eliminate the effect of the  
23 ex parte communication. If the council finds that any  
24 party willfully violated, or caused the violation of, this  
25 paragraph, the council shall enter that party's default and  
26 impose the administrative sanction set forth in the notice  
27 provided pursuant to subdivision (b).

28 (g) (1) Each party at the hearing shall be afforded an  
29 opportunity to present evidence, respond to evidence  
30 presented by other parties, cross-examine, and present  
31 written argument or, if permitted by the hearing officer,  
32 oral argument on the issues involved in the hearing. The  
33 council may call any party as a witness who may be  
34 examined as if under cross-examination.

35 (2) Each party may appear through its representative  
36 or through legal counsel.

37 (3) The technical rules relating to evidence and  
38 witnesses shall not apply. However, only relevant  
39 evidence is admissible.



1 (4) Oral evidence shall be taken only upon oath or  
2 affirmation. The hearing shall be conducted in the  
3 English language. The proponent of any testimony to be  
4 offered by a witness who is not proficient in English shall  
5 provide, at the proponent's cost, an interpreter proficient  
6 in English and the language in which the witness will  
7 testify.

8 (5) The hearing shall be recorded by tape recording or  
9 other phonographic means unless all parties agree to  
10 another method of recording the proceedings.

11 (6) (A) At any time 10 or more days before the  
12 hearing, any party may serve on the other parties a copy  
13 of any declaration that the party proposes to introduce in  
14 evidence.

15 (B) The declaration shall be accompanied by a notice  
16 indicating the date of service of the notice and stating that  
17 the declarations will be offered into evidence, the  
18 declarants will not be called as witnesses, and there will  
19 be no right of cross-examination unless the party  
20 receiving the notice requests the right to cross-examine,  
21 in writing, within seven days of the service of the  
22 declarations and notice.

23 (C) If no request for cross-examination is served  
24 within seven days of the service of the declarations and  
25 notice described in subparagraph (B), the right to  
26 cross-examination is deemed waived and the declaration  
27 shall have the same effect as if the declarant testified  
28 orally. Notwithstanding this paragraph, a declaration may  
29 be admitted as hearsay evidence without  
30 cross-examination.

31 (7) Disposition of any issues involved in the hearing  
32 may be made by stipulation or settlement.

33 (8) If a party fails to appear at a hearing, that party's  
34 default shall be taken and the party shall be deemed to  
35 have waived the hearing and agreed to the administrative  
36 action and the grounds for that action described in the  
37 notice given pursuant to subdivision (b). The council  
38 shall serve the party with an order of default including the  
39 administrative action ordered. The order shall be  
40 effective upon service or at any other time designated by



1 the council. The council may relieve a party from an  
2 order of default if the party applies for relief within 15  
3 days after the service of an order of default and establishes  
4 good cause for relief. An application for relief from  
5 default shall not stay the effective date of the order unless  
6 expressly provided by the council.

7 (h) (1) At any time before the matter is submitted for  
8 decision, the council may amend the notice provided  
9 pursuant to subdivision (b) to set forth any further  
10 grounds for the originally noticed administrative action  
11 or any additional administrative action and the grounds  
12 therefor. The statement of the further grounds for the  
13 originally noticed administrative action, or of the grounds  
14 for any additional administrative action, shall be made  
15 with sufficient particularity to give notice of the  
16 transactions, occurrences, violations, or other matters on  
17 which the action or additional action is based. The  
18 amended notice shall be served on all parties. All parties  
19 affected by the amended notice shall be given reasonable  
20 opportunity to respond to the amended notice as  
21 provided in this section.

22 (2) The council may amend the notice after the case  
23 is submitted for decision. The council shall serve each  
24 party with notice of the intended amendment and shall  
25 provide the party with an opportunity to show that the  
26 party will be prejudiced by the amendment unless the  
27 case is reopened to permit the party to introduce  
28 additional evidence. If prejudice is shown, the council  
29 shall reopen the case to permit the introduction of  
30 additional evidence.

31 (i) (1) Within 30 days after the conclusion of the  
32 hearing or at another time established by the council, the  
33 hearing officer shall submit a written statement of  
34 decision setting forth a recommendation for a final  
35 decision and explaining the factual and legal basis for the  
36 decision as to each of the grounds for the administrative  
37 action set forth in the notice or amended notice. The  
38 council shall serve the hearing officer's statement of  
39 decision on each party and its counsel within 10 days of its  
40 submission by the hearing officer.



1 (2) The council shall make the final decision which  
2 shall be based exclusively on evidence introduced at the  
3 hearing. The final decision shall be supported by  
4 substantial evidence in the record. The council also shall  
5 issue a statement of decision explaining the factual and  
6 legal basis for the final decision as to each of the grounds  
7 for the administrative action set forth in the notice or  
8 amended notice. The council shall issue an order based on  
9 its decision which shall be effective upon service or at any  
10 other time designated by the council. The council shall  
11 serve a copy of the final decision and order, within 10 days  
12 of their issuance, on each party and its counsel.

13 (3) The council may hold a closed session to deliberate  
14 on a decision to be reached based upon evidence  
15 introduced at the hearing.

16 (4) The council shall serve a certified copy of the  
17 complete record of the hearing, or any part thereof  
18 designated by a party, within 30 days after receiving the  
19 party's written request and payment of the cost of  
20 preparing the requested portions of the record. The  
21 complete record shall include all notices and orders  
22 issued by the council, a transcript of the hearing, the  
23 exhibits admitted or rejected, the written evidence and  
24 any other papers in the case, the hearing officer's  
25 statement of decision, and the final decision and order.

26 (j) The council shall serve all notices and other  
27 documents that are required to be served by this section  
28 on each party by personal delivery, by certified mail,  
29 return receipt requested, or by any other means  
30 designated by the council.

31 (k) (1) Any party aggrieved by the council's final  
32 decision and order may seek judicial review by filing a  
33 petition for a writ of mandate pursuant to Section 1085 of  
34 the Code of Civil Procedure within 30 days of the issuance  
35 of the final decision and order. If review is not sought  
36 within that period, the party's right to review shall be  
37 deemed waived.

38 (2) The aggrieved party shall present the complete  
39 record of the hearing or all portions of the record  
40 necessary for the court's review of the council's final



1 decision and order. The court shall deny the petition for  
2 a writ of mandate if the record submitted by the party is  
3 incomplete. The court shall not consider any matter not  
4 contained in the record. The factual basis supporting the  
5 final decision set forth in the council's statement of  
6 decision shall be conclusive if supported by substantial  
7 evidence on the record considered as a whole.

8 (3) The final order shall not be stayed or enjoined  
9 during review except upon the court's grant of an order  
10 on a party's application after due notice to the council and  
11 the Attorney General. The order shall be granted only if  
12 the party establishes the substantial likelihood that it will  
13 prevail on the merits and posts a bond sufficient to  
14 protect fully the interests of the students, the council, and  
15 the fund, from any loss.

16 (l) The council may adopt regulations establishing  
17 alternative means of providing notice and an opportunity  
18 to be heard in circumstances in which a full hearing is not  
19 required by law.

20 (m) For the purposes of this section, "good cause" shall  
21 require sufficient ground or reason for the determination  
22 to be made by the council.

23 94980. (a) If the council, through the program  
24 administrator, denies an institution's application for  
25 approval, grants a conditional approval, or initiates a  
26 proceeding to suspend or revoke an institution's approval  
27 to operate, the institution may request a hearing pursuant  
28 to this section in lieu of the hearing procedure designated  
29 by the council under Section 94965 or 94975.

30 (b) At the time the council provides notice to an  
31 institution of its right to a hearing under Section 94965 or  
32 94975 in connection with the denial of an application for  
33 approval to operate, the issuance of a conditional  
34 approval to operate, or a proposed suspension or  
35 revocation of approval to operate, the council also shall  
36 provide notice of the provisions of this section.

37 (c) Within 15 days after service of the notice described  
38 in subdivision (b), the institution may request in writing  
39 a hearing under this section in lieu of the hearing  
40 procedure in Section 94965 or 94975. The request shall



1 acknowledge that by electing to proceed under this  
2 section, the institution is knowingly waiving all rights  
3 under the hearing procedure otherwise provided by the  
4 council.

5 (d) After receiving the institution's request for a  
6 hearing under this section, the council shall provide the  
7 institution or its representative with copies of all the  
8 documents, testimony in declaration form, and written  
9 arguments on which the council relies to support its  
10 proposed administrative action.

11 (e) The institution shall have 30 days from the service  
12 of the council's written evidence and arguments to  
13 submit all the documents, testimony in declaration form,  
14 and written arguments on which the institution relies in  
15 opposition to the council's proposed administrative  
16 action.

17 (f) Neither the council nor the institution has any right  
18 to discovery or to compel the production of documents or  
19 the testimony of witnesses by subpoena.

20 (g) The program administrator shall review all of the  
21 documents, declarations, and arguments and shall render  
22 a proposed decision in writing based solely on the written  
23 evidence and arguments that set forth the proposed  
24 administrative action and the factual and legal bases for  
25 it.

26 (h) Within 10 days of the service of the program  
27 administrator's decision, the institution may request in  
28 writing to have the matter reviewed by the members of  
29 the council and may also request oral argument, as  
30 described in subdivision (i). If a timely request for review  
31 is not submitted, the program administrator's decision  
32 shall be deemed the final decision of the council. If a  
33 timely request for review is submitted without a request  
34 for oral argument, the right to make oral argument is  
35 deemed waived.

36 (i) If a timely request for review is made, the matter  
37 shall be considered by the members of the council based  
38 solely on the written evidence and arguments submitted  
39 to the program administrator and, if oral argument was  
40 timely requested, any oral argument permitted by the



1 council. No new evidence may be presented during oral  
2 argument. An institution requesting oral argument shall  
3 receive at least 10 days advance notice of the council  
4 meeting at which time oral argument may be made. The  
5 council members may deliberate on the decision to be  
6 reached in a closed session as provided in paragraph (3)  
7 of subdivision (c) of Section 11126 of the Government  
8 Code. The council shall issue its final decision within 30  
9 days after the council meeting at which the matter was  
10 reviewed. The program administrator's proposed  
11 decision shall be sustained if it is supported by substantial  
12 evidence on the record considered as a whole.

13 (j) The council shall serve the institution with a  
14 written decision setting forth the administrative action  
15 taken and the legal and factual bases for it. The decision  
16 shall become final within 30 days unless another time is  
17 specified by the council.

18 (k) The council shall serve a certified copy of the  
19 complete record, or any part thereof designated by an  
20 institution, within 30 days after receiving the institution's  
21 written request and payment of the cost of preparing the  
22 requested record or portions thereof. The complete  
23 record shall consist of all notices and orders of the council,  
24 the documents, declarations, and written argument  
25 submitted, a transcript of any oral argument, and the final  
26 decision and order.

27 (l) Any party aggrieved by the council's final decision  
28 and order may seek judicial review as provided in, and  
29 subject to, the requirements of subdivision (k) of Section  
30 94975.

31 (m) All documents required by this section to be  
32 served by the council shall be served on the institution,  
33 its counsel, or authorized representative by any means  
34 authorized for service pursuant to Chapter 5  
35 (commencing with Section 1010) of Title 14 of Part 2 of  
36 the Code of Civil Procedure.

37 94985. (a) Any institution that willfully violates any  
38 provision of Section 94800, 94810, 94814, or 94816, Sections  
39 94820 to 94826, inclusive, Section 94829, 94831, or 94832  
40 may not enforce any contract or agreement arising from



1 the transaction in which the violation occurred, and any  
2 willful violation is a ground for revoking an approval to  
3 operate in this state or for denying a renewal application.

4 (b) Notwithstanding any provision of the contract or  
5 agreement, a student may bring an action for a violation  
6 of this article or for an institution's failure to perform its  
7 legal obligations and, upon prevailing thereon, is entitled  
8 to the recovery of damages, equitable relief, or any other  
9 relief authorized by this article, and reasonable attorney's  
10 fees and costs.

11 (c) If a court finds that a violation was willfully  
12 committed or that the institution failed to refund all  
13 consideration as required by subdivision (b) on the  
14 student's written demand, the court, in addition to the  
15 relief authorized under subdivision (b), shall award a civil  
16 penalty of up to two times the amount of the damages  
17 sustained by the student.

18 (d) The remedies provided in this article supplement,  
19 but do not supplant, the remedies provided under any  
20 other provision of law.

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

24 (f) Any provision in any agreement that purports to  
25 require a student to invoke any grievance dispute  
26 procedure established by the institution before enforcing  
27 any right or remedy is void and unenforceable.

28 (g) A student may assign his or her cause 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 that provided any grant or other financial aid.

32 (h) This section applies to any action pending on the  
33 effective date of this section.

34 (i) This section supplements, but does not supplant,  
35 the authority granted the Division of Labor Law  
36 Enforcement under Section 1700.4 of the Labor Code to  
37 the extent that placement activities of trade schools are  
38 subject to regulation by the division under the Labor  
39 Code.

40



Article 14. Council Reports

1  
 2  
 3 94990. The bureau is subject to the sunset review  
 4 process conducted by the Joint Legislative Sunset Review  
 5 Committee pursuant to Division 1.2 (commencing with  
 6 Section 473) of the Business and Professions Code.  
 7 Notwithstanding that this chapter does not specify that it  
 8 will become inoperative on a specified date, the analyses,  
 9 reports, public hearings, evaluations, and determinations  
 10 required to be prepared, conducted, and made pursuant  
 11 to Division 1.2 (commencing with Section 473) of the  
 12 Business and Professions Code shall be prepared,  
 13 conducted, and made in 2001 and every four years  
 14 thereafter as long as this chapter is operative.

15 94995. (a) Notwithstanding Section 7550.5 of the  
 16 Government Code, on or before January 31 of each  
 17 calendar year, the council shall submit a written report to  
 18 the Legislature and to the California Postsecondary  
 19 Education Commission, summarizing its activities during  
 20 the previous fiscal year.

21 (b) Annual reports prepared pursuant to this section  
 22 shall include, but shall not necessarily be limited to, all of  
 23 the following:

24 (1) Timely information relating to the enforcement  
 25 activities of the council pursuant to this chapter.

26 (2) Statistics providing a composite picture of the  
 27 private postsecondary educational community, including  
 28 data on how many schools, as classified by subject matter,  
 29 and how many students there are within the scope of the  
 30 activities of the council.

31 (c) Any reports submitted by the council to the Joint  
 32 Legislative Sunset Review Committee pursuant to  
 33 Division 1.2 (commencing with Section 473) of the  
 34 Business and Professions Code during any calendar year  
 35 shall satisfy the reporting requirements of this section for  
 36 that year.

37



1 Article 15. Severability  
2

3 94998. The provisions of this chapter are severable. If  
4 any provision of this chapter or its application is held  
5 invalid, that invalidity shall not affect other provisions or  
6 applications that can be given effect without the invalid  
7 provision or application.

8  
9 Article 16. Termination  
10

11 94999. This chapter shall remain in effect only until  
12 January 1, 2005, and as of that date is repealed, unless a  
13 later enacted statute, that is enacted on or before January  
14 1, 2005, deletes or extends that date.

15 SEC. 4. Section 1095 of the Unemployment Insurance  
16 Code is amended to read:

17 1095. The director shall permit the use of any  
18 information in his or her possession to the extent  
19 necessary for any of the following purposes:

20 (a) To properly present a claim for benefits.

21 (b) To acquaint a worker or his or her authorized  
22 agent with his or her existing or prospective right to  
23 benefits.

24 (c) To furnish an employer or his or her authorized  
25 agent with information to enable him or her to fully  
26 discharge his or her obligations or safeguard his or her  
27 rights under this division or Division 3 (commencing with  
28 Section 9000). This subdivision, as it relates to Division 3  
29 (commencing with Section 9000), applies only to  
30 subdivision (j) of this section.

31 (d) To enable an employer to receive a reduction in  
32 contribution rate.

33 (e) To enable the Director of Social Services or his or  
34 her representatives or the Director of Health Services or  
35 his or her representatives, subject to federal law, to verify  
36 or determine the eligibility or entitlement of an applicant  
37 for, or a recipient of, public social services provided  
38 pursuant to the Welfare and Institutions Code, and  
39 directly connected with, and limited to, the  
40 administration of public social services.

1 (f) To enable county administrators of general relief or  
2 assistance, or their representatives, to determine  
3 entitlement to locally provided general relief or  
4 assistance, where the determination is directly connected  
5 with, and limited to, the administration of general relief  
6 or assistance.

7 (g) To enable county district attorneys, or their  
8 representatives, to seek criminal, civil, or administrative  
9 remedies in connection with the unlawful application for,  
10 or receipt of, relief provided under Division 9  
11 (commencing with Section 10000) of the Welfare and  
12 Institutions Code.

13 (h) To enable the director or his or her representative  
14 to carry out his or her responsibilities under this code.

15 (i) To enable county departments of collection or their  
16 representatives to determine entitlement to medical  
17 assistance services rendered pursuant to Part 5  
18 (commencing with Section 17000) of Division 9 of the  
19 Welfare and Institutions Code, and, when appropriate, to  
20 enable collection for the county's expenditures for these  
21 medical assistance services.

22 (j) To furnish an employer, or his or her authorized  
23 agent, with information including, but not limited to, the  
24 applicant's or recipient's name, social security number,  
25 address, employable skills, and job placement in order to  
26 enable him or her to fully discharge his or her obligations  
27 or safeguard his or her rights under the elements of a joint  
28 union, management, and Employment Development  
29 Department agreement as are deemed necessary to assist  
30 displaced workers to obtain new employment under  
31 Chapter 2.9 (commencing with Section 9970) of Part 1 of  
32 Division 3 and related provisions of Division 3  
33 (commencing with Section 9000). The information shall  
34 be limited to any information gathered under these  
35 divisions by the department and authorized for release by  
36 the labor organization which shall act as an agent for the  
37 affected workers under terms of the agreement and shall  
38 participate in defining the information release provisions.

39 (k) To provide any law enforcement agency with the  
40 name, address, telephone number, birth date, social



1 security number, physical description, and names and  
2 addresses of present and past employers, of any victim,  
3 suspect, missing person, potential witness, or person for  
4 whom a felony arrest warrant has been issued, when a  
5 request for this information is made by any investigator  
6 or peace officer as defined by Sections 830.1 and 830.2 of  
7 the Penal Code and designated by the head of the law  
8 enforcement agency and who requests this information  
9 in the course of and as a part of an investigation into the  
10 commission of a crime where there is a reasonable  
11 suspicion that the crime is a felony and that the  
12 information would lead to relevant evidence. The  
13 information provided pursuant to this subdivision shall be  
14 provided to the extent permitted by federal law and  
15 regulations, and to the extent the information is available  
16 and accessible within the constraints and configurations  
17 of existing department records. Any person who receives  
18 any information under this subdivision shall make a  
19 written report of the information to the law enforcement  
20 agency that employs him or her, for filing under the  
21 normal procedures of that agency. Any officer or  
22 employee of the department who discloses information in  
23 violation of this subdivision is guilty of a misdemeanor.  
24 Any person who obtains information in violation of this  
25 subdivision is guilty of a misdemeanor.

26 (1) This subdivision shall not be construed to authorize  
27 the release of a general list identifying individuals  
28 applying for or receiving benefits to any law enforcement  
29 agency.

30 (2) The department shall maintain records pursuant  
31 to this subdivision only for periods required under  
32 regulations or statutes enacted for the administration of  
33 its programs.

34 (3) This subdivision shall not be construed as limiting  
35 the information provided to law enforcement agencies to  
36 that pertaining only to applicants for, or recipients of,  
37 benefits.

38 (4) The department shall notify all applicants for  
39 benefits that release of confidential information from  
40 their records will not be protected should there be a



1 felony arrest warrant issued against the applicant or in the  
2 event of an investigation by a law enforcement agency  
3 into the commission of a felony.

4 (l) Nothing in this section shall be construed to  
5 authorize or permit the use of information obtained in the  
6 administration of this code by any private collection  
7 agency.

8 (m) To provide the State Teachers' Retirement  
9 System, pursuant to Section 22327 of the Education Code,  
10 with information relating to the earnings of any person  
11 who is receiving a disability allowance, or disability  
12 retirement allowance, from the State Teachers'  
13 Retirement System. The earnings information shall be  
14 released to the Teachers' Retirement Board only upon  
15 written request from the board specifying that the person  
16 is receiving a disability allowance or disability retirement  
17 allowance from the system. The request may be made by  
18 the chief executive officer of the system or by an  
19 employee of the system so authorized and identified by  
20 name and title by the chief executive officer in writing.

21 (n) To provide the Public Employees' Retirement  
22 System, pursuant to Section 20231 of the Government  
23 Code, with information relating to the earnings of any  
24 person who is receiving a disability retirement allowance  
25 from the Public Employees' Retirement System. The  
26 earnings information shall be released to the Board of  
27 Administration of the system only upon written request  
28 from the board specifying that the person is receiving a  
29 disability retirement allowance from the system. The  
30 request may be made by the executive officer of the  
31 system or by an employee of the system so authorized and  
32 identified by name and title by the executive officer in  
33 writing.

34 (o) To provide the University of California  
35 Retirement System with information in its possession  
36 relating to the earnings of any person who has applied for  
37 or is receiving disability income from the system. The  
38 earnings information shall be disclosed only upon written  
39 request from the system specifying that the person has  
40 applied for or is receiving disability income from the



1 system. The request may be made by the chief  
2 administrative officer of the system or by an employee so  
3 authorized and identified by name and title by the chief  
4 administrative officer in writing. The system shall notify  
5 applicants for and recipients of disability income that  
6 earnings information from the department's records will  
7 be released upon the system's request. The information  
8 obtained pursuant to this subdivision shall be used or  
9 disclosed by the system only to determine or to verify  
10 entitlement to, or continuing eligibility for, disability  
11 income. The system shall reimburse the department for  
12 all reasonable administrative expenses incurred pursuant  
13 to this subdivision.

14 (p) To enable the Division of Labor Standards  
15 Enforcement in the Department of Industrial Relations  
16 to seek criminal, civil, or administrative remedies in  
17 connection with the failure to pay, or the unlawful  
18 payment of, wages pursuant to Chapter 1 (commencing  
19 with Section 200) of Part 1 of, and Chapter 1  
20 (commencing with Section 1720) of Part 7 of, Division 2  
21 of, the Labor Code. The Division of Labor Standards  
22 Enforcement shall reimburse the department for all  
23 reasonable administrative expenses incurred pursuant to  
24 this subdivision.

25 (q) To enable the federal Department of Health and  
26 Human Services, Office of Child Support Enforcement,  
27 Federal Parent Locator Service, to administer its child  
28 support enforcement programs under Title IV of the  
29 Social Security Act (42 U.S.C. Sec. 651 et seq.).

30 (r) To provide county probation departments, the  
31 State Board of Control, and the United States Attorney  
32 General with wage and claim information in its possession  
33 that will assist those departments and agencies in the  
34 location of victims of crime who, by state mandate or  
35 court order, are entitled to restitution that has been, or  
36 can be recovered, and to assist in the collection of money  
37 owed to the county, the state, or the United States by any  
38 person who has been directed by state mandate or court  
39 order to pay restitution, fines, penalties, assessments, or  
40 fees as a result of a violation of law. Information provided



1 about victims of crime shall be limited to data necessary  
2 to assist in locating them. Nothing in this section shall be  
3 construed to prevent the department from providing  
4 information to the State Board of Control or the United  
5 States Attorney General through electronic methods.  
6 The department may charge a fee for all reasonable  
7 administrative expenses incurred pursuant to this  
8 subdivision. Except as provided by Section 1463.007 of the  
9 Penal Code, any officer or employee of the department  
10 who discloses information in violation of this subdivision  
11 is guilty of a misdemeanor. Except as provided by Section  
12 1463.007 of the Penal Code, any person who obtains  
13 information in violation of this subdivision is guilty of a  
14 misdemeanor.

15 (s) To provide the Student Aid Commission with  
16 information concerning any individuals who are  
17 delinquent or in default on guaranteed student loans or  
18 who owe repayment of funds received through other  
19 financial assistance programs administered by the  
20 commission. The information obtained pursuant to this  
21 subdivision shall be utilized by the commission  
22 exclusively to enable the collection of defaulted loans and  
23 other funds owed, pursuant to the authority granted in  
24 Chapter 2 (commencing with Section 69500) of Part 42 of  
25 the Education Code and Chapter 1 (commencing with  
26 Section 30000) of Title 5 of the California Code of  
27 Regulations. The information released by the director for  
28 the purposes of this subdivision shall not include any  
29 employment, wage, or other information concerning any  
30 person who is receiving unemployment insurance  
31 benefits. The information shall be released to the  
32 commission only upon written request from the director  
33 of the commission or by an employee so authorized and  
34 identified by name and title by the director. The  
35 commission shall reimburse the department for all  
36 reasonable administrative expenses incurred pursuant to  
37 this subdivision.

38 (t) To provide an authorized governmental agency  
39 with any or all relevant information that relates to any  
40 specific workers' compensation insurance fraud



1 investigation. The information shall be provided to the  
2 extent permitted by federal law and regulations. For the  
3 purposes of this subdivision, “authorized governmental  
4 agency” means the district attorney of any county, the  
5 office of the Attorney General, the Department of  
6 Industrial Relations, and the Department of Insurance.  
7 An authorized governmental agency may disclose this  
8 information to the State Bar, the Medical Board of  
9 California, or any other licensing board or department  
10 whose licensee is the subject of a workers’ compensation  
11 insurance fraud investigation. This subdivision shall not  
12 prevent any authorized governmental agency from  
13 reporting to any board or department the suspected  
14 misconduct of any licensee of that body. The Department  
15 of Insurance or Department of Industrial Relations shall  
16 reimburse the department for all reasonable  
17 administrative expenses incurred relative to a request  
18 that it submits pursuant to this subdivision. Relevant  
19 information may include, but is not limited to, all of the  
20 following:

21 (1) Copies of unemployment and disability insurance  
22 application and claim forms and copies of any supporting  
23 medical records, documentation, and records pertaining  
24 thereto.

25 (2) Copies of returns or reports filed by an employer  
26 pursuant to Section 1088 and copies of supporting  
27 documentation.

28 (3) Copies of benefit payment checks issued to  
29 claimants.

30 (4) Copies of any documentation that specifically  
31 identifies the claimant by social security number,  
32 residence address, or telephone number.

33 (u) To enable the Director of the Bureau for Private  
34 Postsecondary and Vocational Education, or his or her  
35 representatives, to access unemployment insurance  
36 quarterly wage data on a case-by-case basis to verify  
37 information on school administrators, school staff, and  
38 students provided by those schools who are being  
39 investigated for possible violations of Chapter 7



1 (commencing with Section 94700) of Part 59 of the  
2 Education Code.

3 (v) To provide employment tax information to the tax  
4 officials of Mexico, if a reciprocal agreement exists. For  
5 purposes of this subdivision, “reciprocal agreement”  
6 means a formal agreement to exchange information  
7 between national taxing officials of Mexico and taxing  
8 authorities of the State Board of Equalization, the  
9 Franchise Tax Board, and the Employment  
10 Development Department. Furthermore, the reciprocal  
11 agreement shall be limited to the exchange of  
12 information which is essential for tax administration  
13 purposes only. Taxing authorities of the State of California  
14 shall be granted tax information only on California  
15 residents. Taxing authorities of Mexico shall be granted  
16 tax information only on Mexican nationals.

17 (w) Wages as defined by Section 13009 and amounts  
18 required to be deducted and withheld under Section  
19 13020 shall not be disclosed except as provided in Article  
20 2 (commencing with Section 19542) of Chapter 7 of Part  
21 10.2 of Division 2 of the Revenue and Taxation Code.

22 (x) To enable city and county planning agencies to  
23 develop economic forecasts for planning purposes. The  
24 information shall be limited to businesses within the  
25 jurisdiction of the city or county whose planning agency  
26 is requesting the information, and shall not include  
27 information regarding individual employees. The city or  
28 county planning agency receiving the information shall  
29 adhere to the same standards regarding confidentiality  
30 and the protection of proprietary information that the  
31 department is required to follow. The city and county  
32 planning agencies shall reimburse the department for all  
33 reasonable administrative expenses incurred pursuant to  
34 this subdivision.

35 (y) To provide the State Department of  
36 Developmental Services with wage and employer  
37 information that will assist in the collection of moneys  
38 owed by the recipient, parent, or any other legally liable  
39 individual for services and supports provided pursuant to  
40 Chapter 9 (commencing with Section 4775) of Division



1 4.5 of, and Chapter 2 (commencing with Section 7200)  
2 and Chapter 3 (commencing with Section 7500) of  
3 Division 7 of, the Welfare and Institutions Code. The  
4 State Department of Developmental Services shall  
5 reimburse the department for all reasonable  
6 administrative expenses incurred pursuant to this  
7 subdivision.

8 SEC. 5. (a) All funds in the Private Postsecondary  
9 and Vocational Education Administration Fund and in  
10 the Student Tuition Recovery Fund on December 31,  
11 1997, shall remain in those funds and may be used for the  
12 purposes authorized by Chapter 7 (commencing with  
13 Section 94700) of Part 59 of the Education Code  
14 commencing January 1, 1998.

15 (b) It is the intent of the Legislature that any  
16 unencumbered funds appropriated to the Council for  
17 Private Postsecondary and Vocational Education by Item  
18 Numbers 6880-001-0305, 6880-001-0890, and 6880-001-0960  
19 in the Budget Act of 1997 be reappropriated for  
20 expenditure by the Bureau for Private Postsecondary and  
21 Vocational Education in the Department of Consumer  
22 Affairs for the purposes of Chapter 7 (commencing with  
23 Section 94700) of Part 50 of the Education Code on and  
24 after January 1, 1998. To the extent of any conflict  
25 between this section and any conditions specified in the  
26 above item numbers, this section shall prevail.

27 (c) It is the intent of the Legislature that on and after  
28 January 1, 1998, any moneys received as a result of  
29 litigation involving the former Council for Private be  
30 deposited in the Private Postsecondary and Vocational  
31 Education be deposited in the Private Postsecondary and  
32 Vocational Education Administration Fund to be used by  
33 the Bureau for Private Postsecondary and Vocational  
34 Education in the Department of Consumer Affairs, upon  
35 appropriation, to enforce the Private Postsecondary and  
36 Vocational Education Reform Act of 1989.

37 SEC. 6. Every cause of action that accrued pursuant  
38 to former Chapter 7 (commencing with Section 94700) of  
39 Part 59 of the Education Code prior to its repeal by this  
40 act shall be unaffected by that repeal, regardless of



1 whether the cause of action was reduced to final  
2 judgment, and shall remain fully enforceable under that  
3 chapter as though it had not been repealed but remained  
4 in full force and effect on and after January 1, 1998. It is  
5 the intent of the Legislature in enacting this section to  
6 preserve all causes of action filed under that chapter,  
7 including all causes of action alleged in any pending  
8 action.

9 SEC. 6.5. This act shall become operative only if  
10 Senate Bill 819, or any other bill of the 1997–98 Regular  
11 Session, extends the operation of the Private  
12 Postsecondary and Vocational Education Reform Act of  
13 1989 until at least December 31, 1997, and is enacted and  
14 takes effect on or before July 18, 1997.

15 SEC. 7. The provisions of this act are severable. If any  
16 provision of this act or its application is held invalid, that  
17 invalidity shall not affect other provisions or applications  
18 that can be given effect without the invalid provision or  
19 application.

20 SEC. 8. No reimbursement is required by this act  
21 pursuant to Section 6 of Article XIII B of the California  
22 Constitution because the only costs that may be incurred  
23 by a local agency or school district will be incurred  
24 because this act creates a new crime or infraction, or  
25 changes the penalty for a crime or infraction, within the  
26 meaning of Section 17556 of the Government Code, or  
27 changes the definition of a crime within the meaning of  
28 Section 6 of Article XIII B of the California Constitution.

29 Notwithstanding Section 17580 of the Government  
30 Code, unless otherwise specified, the provisions of this act  
31 shall become operative on the same date that the act  
32 takes effect pursuant to the California Constitution.



1 \_\_\_\_\_  
2 CORRECTIONS  
3  
4 Title — Line 2.  
5 Text — Pages 20, 98, 139, 159, 163.  
6 \_\_\_\_\_  
7

O

