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8
9 **BEFORE THE**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
12 **STATE OF CALIFORNIA**

13
14 In the Matter of the Statement of Issues
Against:

Case No. 1006495

15 **CENTER FOR EARLY CHILDHOOD**
16 **PROFESSIONALS,**

STATEMENT OF ISSUES

17 **Application for Approval to Operate an**
18 **Institution Non-Accredited**

Respondent.

19
20
21 **PARTIES**

22 1. Deborah Cochrane (Complainant) brings this Statement of Issues solely in her
23 official capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
24 Consumer Affairs.

25 2. On or about May 2, 2019, the Bureau for Private Postsecondary Education received
26 an Application for an Approval to Operate an Institution Non-Accredited from Center for Early
27 Childhood Professionals, owned by Milestones Montessori, Inc., Tan Pham 50% owner and Thy
28

1 Le 50% owner (hereafter Respondent). On or about April 24, 2019, Respondent certified under
2 penalty of perjury to the truthfulness of all statements, answers, and representations in the
3 application. The Bureau denied the application on August 17, 2020.

4 **JURISDICTION**

5 3. This Statement of Issues is brought before the Director of the Department of
6 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
7 authority of the following laws. All section references are to the Education Code (Code) unless
8 otherwise indicated.

9 4. Code Section 94886 states:

10 Except as exempted in Article 4 (commencing with section 94874) or in
11 compliance with the transition provisions in Article 2 (commencing with Section
12 94802), a person shall not open, conduct, or do business as a private
13 postsecondary educational institution in this state without obtaining an approval
14 to operate under this chapter.

15 5. Code Section 94887 states:

16 An approval to operate shall be granted only after an applicant has presented
17 sufficient evidence to the bureau, and the bureau has independently verified the
18 information provided by the applicant through site visits or other methods
19 deemed appropriate by the bureau, that the applicant has the capacity to satisfy
20 the minimum operating standards. The bureau shall deny an application for an
21 approval to operate if the application does not satisfy those standards.

22 **STATUTORY AND REGULATORY PROVISIONS**

23 6. Section 94920 of the Education Code states:

24 An institution that does not participate in the federal student financial aid
25 programs shall do all of the following:

26 ...

27 (b) Institutions shall refund 100 percent of the amount paid for institutional
28 charges, less a reasonable deposit or application fee not to exceed two hundred fifty
dollars (\$250), if notice of cancellation is made through attendance at the first class
session, or the seventh class day after enrollment, whichever is later.

...

(d) The institution shall have a refund policy for the return of unearned
institutional charges if the student cancels an enrollment agreement or withdraws
during a period of attendance. The refund policy for students who have

completed 60 percent or less of the period of attendance shall be a pro rata refund.

...

7. Title 5, CCR, section 71240 states:

(a) The Form Application 94886 shall contain a statement that the institution has and can maintain the financial resources required pursuant to section 71745.

(b) The institution shall submit current, reviewed financial statements at the time it applies for approval to operate. Each set of financial statements shall comply with Section 74115 of this chapter.

8. Title 5, CCR, section 71700 states, “The Bureau may request that an institution document compliance with the standards set forth in the Act and this Division to obtain and maintain an approval to operate.”

9. Title 5, CCR, section 71745 states in part:

(a) The institution shall document that it has at all times sufficient assets and financial resources to do all of the following:

(1) Provide all of the educational programs that the institution represented it would provide.

(2) Ensure that all students admitted to its educational programs have a reasonable opportunity to complete the programs and obtain their degrees or diplomas.

(3) Maintain the minimum standards required by the Act and this chapter.

(4) Pay timely refunds as required by Article 13 of the Act.

(5) Pay all operating expenses due within 30 days.

(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal year when using generally accepted accounting principles, or for an institution participating in Title IV of the federal Higher Education Act of 1965, meet the composite score requirements of the U.S. Department of Education. For the purposes of this section, current assets does not include: intangible assets, including goodwill, going concern value, organization expense, startup costs, long-term prepayment of deferred charges, and non-returnable deposits, or state or federal grant or loan funds that are not the property of the institution but are held for future disbursement for the benefit of students. Unearned tuition shall be accounted for in accordance with general accepted accounting principles.

...

10. Title 5, CCR, section 74115 states in part:

(a) This section applies to every set of financial statements required to be prepared or filed by the Act or by this chapter.

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2 (b) A set of financial statements shall contain, at a minimum, a balance sheet, an
3 income statement, and a cash flow statement, and the preparation of financial
4 statements, shall comply with all of the following:

5 (1) Audited and reviewed financial statements shall be conducted and
6 prepared in accordance with the generally accepted accounting principles
7 established by the American Institute of Certified Public Accountants by an
8 independent certified public accountant who is not an employee, officer, or
9 corporate director or member of the governing board of the institution.

10 (2) Financial statements prepared on an annual basis as required by section
11 74110(b) shall be prepared in accordance with the generally accepted accounting
12 principles established by the American Institute of Certified Public Accountants.
13 Nonprofit institutions shall provide annual financial statements as required under
14 generally accepted accounting principles for nonprofit organizations.

15 (3) The financial statements shall establish that the institution meets the
16 requirements for financial resources required by Section 71745.

17 (4) If an audit performed to determine compliance with any federal or state
18 student financial aid program reveals any failure to comply with the requirements
19 of the program and the noncompliance creates any liability or potential liability
20 for the institution, the financial statements shall reflect the liability or potential
21 liability.

22 (5) Any audits shall demonstrate that the accountant obtained an
23 understanding of the institution's internal financial control structure, assessed any
24 risks, and has reported any material deficiencies in the internal controls.

25 ...

26 (d) "Current" with respect to financial statements means completed no sooner
27 than 120 days prior to the time it is submitted to the Bureau, and covering no less
28 than the most recent complete fiscal year. If more than 8 months will have elapsed
between the close of the most recent complete fiscal year and the time it is
submitted, the fiscal statements shall also cover no less than five months of that
current fiscal year.

CAUSE FOR DENIAL OF APPLICATION

(Minimum Operating Standards - Financial Resources and Statements)

11. Respondents' application is subject to denial for failing to demonstrate the capacity to satisfy minimum operating standards under Education Code, section 94887, and Title 5, CCR, sections 71240, 71700, 71745 and 74115. Respondents have failed to demonstrate that they can maintain the financial resources required. Specifically, Respondents have not provided financial statements that demonstrate a current assets-to-liabilities ratio of 1.25:1 or greater.

