

**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
STATE OF CALIFORNIA**

In the Matter of the First Amended)	
Statement of Issues Against:)	
)	
CALIFORNIA PREPARATORY COLLEGE;)	Case No. 999877
GENE EDELBACH, OWNER,)	
)	OAH-No. 2015050681
Approval to Operate an Institution)	
Non- Accredited Institution)	
Respondent.)	
)	

DECISION AND ORDER AFTER REJECTION

This matter was heard before Matthew Goldsby, Administrative Law Judge with the Office of Administrative Hearings, on May 17, 2016, October 24, 2016, and March 13, 2017, at Los Angeles, California. Gillian E. Friedman, Deputy Attorney General, appeared and represented complainant Joanne Wenzel, Chief of the Bureau for Private Postsecondary Education (Bureau), Department of Consumer Affairs, State of California. Joel D. Peterson, Attorney at Law, appeared and represented respondent California Preparatory College (CPC), and Owner Gene Edelbach, who was present throughout the hearing. The record was held open for the following post-hearing filings: (1) CPC was allowed to file proof by March 20, 2017, that quarterly reports were filed with the Bureau, with any objections to be filed by March 27, 2017; and (2) both parties were allowed to file concurrent closing briefs by March 27, 2017. On March 27, 2017, both parties timely filed closing briefs. CPC attached to its brief evidence that quarterly reports were filed with the Bureau. The evidence was untimely and not admitted. The administrative law judge took the matter under submission on March 27, 2017, and on or about April 25, 2017, a Proposed Decision was issued in this matter.

On or about August 2, 2017, the Director of the Department of Consumer Affairs (Department or DCA) issued a notice rejecting the proposed decision.¹ The Director requested briefing from the parties and invited argument as to whether, pursuant to California Code of Regulations, title 5, section 71400, subdivision (d)(1), a school can be granted conditional

¹ In its Opposition to Non-Adoption of Proposed Decision, respondent argues that the Bureau did not make a decision until after the expiration of the 100-day period in which it is required to act pursuant to Government Code section 11517(c)(2). The 100-day period expired on August 4, 2017, and the Director issued the Notice rejecting the decision on August 2, 2017. The Director acted in a timely manner, and the Proposed Decision was not adopted by operation of law.

approval to operate where the Bureau for Private Postsecondary Education did not evaluate the degree-granting programs for whether they meet the minimum qualifications. In addition, arguments were invited as to whether, pursuant to Education Code section 94885.5 and California Code of Regulations, title 5, sections 71400, subdivisions (d)(2) and (d)(3), the granting of a provisional approval is appropriate where approval for a non-degree and degree-granting programs is sought by an institution for which there is no evidence that it is accredited. If a provisional approval is appropriate, the briefing was invited to address terms and conditions that are necessary to protect the public. The transcript was not ordered, nor did either party object to it not being ordered. Written argument having been submitted by both parties and such written argument, together with the record, having been read and considered pursuant to Government Code section 11517, subdivision (c)(2)(E), the Director hereby makes the following decision:

FACTUAL FINDINGS

Jurisdictional and Procedural Facts

1. On May 17, 2011, CPC completed an Application for Approval to Operate Institution Non-Accredited (Pending Application), proposing to offer postsecondary educational courses, including, but not limited to: Associate of Science Degree in Health Science, Associate of Science Degree in Business Administration, Associate of Arts Degree in General Studies and Communication, Western Healthcare Practices, and English as a Second Language. The Pending Application was filed with the Bureau on May 23, 2011.

2. On March 11, 2015, while in her official capacity, complainant brought a Statement of Issues against CPC and the Owner, alleging three causes for denial of the Pending Application. On May 26, 2015, the Owner filed and served a Request for Hearing.

3. After presenting evidence on the initial Statement of Issues at two hearings, complainant filed a First Amended Statement of Issues on November 18, 2016, removing those causes for denial that were cured, adding three new causes for denial according to proof, and modifying two causes for denial. The amended pleading is deemed controverted pursuant to Government Code section 11507. During the final day of hearing, complainant withdrew the third cause for denial in the First Amended Statement of Issues.

4. The remaining issues in the case are as follows:

(A) Whether CPC operated without Bureau approval in violation of Education Code section 94886;

(B) Whether CPC advertised and offered courses without Bureau approval in violation of Education Code section 94893;

(C) Whether CPC failed to meet minimum operating standards in relation to student agreements in violation of Education Code sections 94887, 94916, and 94911,

subdivision (i)(1);

(D) Whether CPC failed to meet minimum operating standards in relation to its catalog in violation of Education Code sections 94886, 94887, 94913, and 94909, subdivisions (a)(5), (9), (15), and (16).

(E) Whether CPC failed to meet minimum operating standards in relation to the Student Tuition Recovery Fund (STRF) in violation of Education Code sections 94887 and 94934, and California Code of Regulations, title 5, sections 74000, subdivision (e)(1), 74006 and 76130.²

Background Information

5. CPC is a California corporation, founded by the Owner in 2007 to “provide a low-cost, private college experience with a nurturing small school feel in which academics are rigorous and student success is [a] passion.” (Ex. 9, p. 4.) CPC first offered courses to students in August 2007.

6. On January 1, 2007, the law authorizing the regulation of the private postsecondary education sector in California expired before the California legislature adopted new laws and regulations. Accordingly, no regulatory body existed to oversee private educational institutions at the time CPC was incorporated. On July 19, 2007, the acting dean of CPC sent an email to the Bureau for Private Postsecondary and Vocational Education (BPPVE), the agency formerly authorized to regulate private educational institutions in the state of California, to request guidance as to how CPC might “get some form of state approval in the meantime.” (Ex. F.) In response, a representative for BPPVE stated, “You may operate as there is no law to prevent you from operating at this point in time.” (Ex. F.)

7. Effective January 1, 2010, the California Private Postsecondary Education Act of 2009 (2009 Act) was enacted, creating the Bureau to regulate private postsecondary educational institutions operating within California. Pursuant to a “grandfather clause”³ in the 2009 Act, an institution that began operations after July 1, 2007, without a valid approval with BPPVE, was authorized to continue operations if it filed an application for approval with the Bureau by August 2, 2010,⁴ and otherwise maintained voluntary compliance with the 2009 Act.

8. The Pending Application was filed on May 23, 2011. There was a conflict in the evidence as to whether CPC filed any prior application for approval with the Bureau before August 2, 2010, the deadline for non-approved institutions established before the effective date of the 2009 Act. Dr. Jamie Bird, CPC’s Vice President for Academic Affairs, testified that he filed a “transitional application” sometime between June and August 2010. He further testified that the Bureau thereafter advised CPC that it had filed the wrong application and directed Dr.

² References to Regulations in this Decision and Order refer to Title 5 of the California Code of Regulations.

³ A “grandfather clause” is a common reference to a statutory provision in which an old law or rule continues to apply to circumstances existing at the time of the enactment or adoption of a new law or rule, whereas the new law or rule will apply to those circumstances arising after the date of enactment or adoption.

⁴ Education Code section 94809, subdivision (b).

Bird to file the Pending Application. His testimony was not corroborated by a copy of the application or any correspondence transmitting the purported application to the Bureau or responding to the purported filing. Dr. Bird explained that those documents were stored digitally and inadvertently deleted by an employee. As corroborating evidence, respondent presented a letter drafted by Dr. Bird on September 23, 2015, in which he wrote, "Upon the opening of the [Bureau] in 2010, CPC sought to work closely with reviewers at [the Bureau]. We were first advised . . . to apply as a transition applicant. We paid the fees and applied after about one year we were told that we had been wrongly advised and that we had submitted for the wrong application status. We began again and after about 8-10 months received a response." (Ex. 16.)

9. The Bureau disputed that any application had been filed before August 2, 2010. Jeff Mackey, licensing manager for the Bureau, testified that CPC's application was filed after the deadline set forth in the statutory grandfather clause, rendering the exemption inapplicable.

10. In determining the credibility of a witness, the administrative law judge may consider any matter that has any tendency in reason to prove or disprove the truthfulness of the witness's testimony at the hearing. (Evid. Code, § 780.) In determining the weight to be given the testimony of a witness, consideration may be given to the lapse of time, the witness's interest or bias, and the inherent improbability of the testimony. (*Curtis v. Mendenhall* (1962) 208 Cal.App.2d 834.) In this case, Dr. Bird's demeanor was resolute and sincere, but he acknowledged he was unfamiliar with the 2009 Act, and he exhibited confusion about legal procedures. Considering the lapse of five years between the purported filing date and the letter he composed describing having filed the purported application, the corroborating evidence is not persuasive to show that an application was actually filed. The loss of digitally stored documents merely explains the absence of corroborating evidence, but has no effect on the standard of proof applicable in this case. The preponderance of the evidence is insufficient to support a finding that CPC filed any application before May 23, 2011. The weight of the evidence establishes that the Pending Application is the only application CPC filed with the Bureau.

History of the Pending Application

11. On May 23, 2011, the Bureau received the Pending Application, which included an organizational chart, resumes, mission statements, exemplars of student agreements, program descriptions, and other similar supporting documents.

12. On November 3, 2011, the Bureau sent a deficiency letter to CPC, noting deficiencies in 10 areas of the application.

13. On January 17, 2012, CPC responded to the Bureau, furnishing 13 documents to address the deficiencies.

14. On January 31, 2012, the Bureau sent a deficiency letter to CPC, noting continuing deficiencies in the Pending Application. On July 20, 2012, CPC responded by furnishing master plan documents, a business tax certificate, a fire department survey, a declaration page, articles of incorporation, and a catalog.

15. On August 2, 2012, the Bureau sent another deficiency letter to CPC, noting continuing deficiencies in the application. On October 12, 2012, CPC responded to the deficiency letter by sending the Bureau a refund schedule, an enrollment agreement, a board resolution, articles of incorporation, bylaws, and a catalog.

16. On October 19, 2012, the Bureau sent another letter to CPC, noting continuing deficiencies with respect to the catalog. On November 15, 2012, CPC responded, furnishing the Bureau with an audited financial statement, “ability to benefit” information, a lease agreement, a fire safety survey, an enrollment agreement, and a catalog. (Ex. 5.)

17. On December 19, 2012, the Bureau sent a deficiency letter to CPC, noting continuing deficiencies with respect to the catalog. On February 4, 2013, CPC responded by sending the Bureau a catalog.

18. On February 14, 2013, the Bureau sent a deficiency letter to CPC noting continuing deficiencies with respect to the catalog. On March 14, 2013, CPC responded by sending the Bureau a catalog.

19. On July 1, 2013, a manager with the Bureau made a cursory status review of the Pending Application. On July 17, 2013, CPC sent a response to the Bureau with further documents to address the pending deficiencies.

20. On August 6, 2013, the Bureau sent a letter to CPC noting deficiencies in the proposed exemplars of student agreements, financial resources and reports, and the catalog. On September 23, 2013, CPC responded with the following documentation: “Faculty listing of developed curriculum,” diplomas and transcripts, instructional staff listings, an enrollment agreement, a course outline, a syllabus, a catalog, and audited financial statements. (Ex. 5.)

21. On October 1, 2013, the Bureau granted provisional approval⁵ to operate and offer courses in English as a Second Language (ESL) from October 1, 2013, to April 2, 2014, provided CPC corrected the remaining deficiencies. The notice made no mention of the degree programs in the Pending Application. According to the testimony of the Bureau’s witness Jeff Mackey, the Bureau would “shift focus on the degree programs” if the conditions were satisfied. The notice provided, “If the requirements stated below are not met by April 2, 2014, the approval will be revoked and your application will be denied.” (Ex. 3.)

22. There is no evidence to show that CPC submitted any correcting records by April 2, 2014. On July 10, 2014, the Bureau issued its Notice of Denial of Application for Approval to Operate. The notice stated, “Unless exempt as outlined in [the 2009 Act] or in compliance with the transition provisions of [the 2009 Act], an institution is prohibited from operating without Bureau approval.” (Ex. 5.)

⁵ Prior to the enactment of Education Code section 94885.5, the terms conditional approval and provisional approval were used somewhat interchangeably. Now, however, a conditional approval refers to that approval granted where there are minor deficiencies pursuant to section 71400, subdivision (d) of the Regulations, whereas a provisional approval involves a degree granting institution that is not accredited. (Ed. Code, § 94885.5.)

Operation without Approval

23. With limited exception, a person may not “open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under [the Education Code].” (Ed. Code, § 94886.)

24. Although CPC was formed in 2007, it was not authorized to do business under the grandfather clause of 2009 Act because the evidence fails to establish that the Pending Application was filed before August 2, 2010.

25. CPC otherwise continued to operate after the Bureau denied the Pending Application on July 10, 2014, and expressly warned CPC that “an institution is prohibited from operating without Bureau approval.” CPC’s violation of Education Code section 94886 makes its approval to operate subject to denial. (Cal. Code Regs., tit. 5, § 71400.5, subd. (b).)

Advertising or Offering Courses Without Bureau Approval

26. If an institution intends to make a substantive change to its approval to operate, the institution must receive prior authorization from the Bureau, or else its approval to operate may be suspended or revoked. (Ed. Code, § 94893.)

27. CPC was granted conditional approval to offer ESL courses. On July 10, 2014, the Pending Application was denied when CPC failed to satisfy the conditions of approval.

28. Nonetheless, CPC continued to advertise in its catalog that it offered degree programs, a substantive change to its approval to operate ESL courses. As of October 19, 2016, CPC published on its website that “CPC is Approved to Operate as a Non-Accredited Institution (Application #23542) Ed. Code §94902(a)(2). Approval to operate means compliance with state standards as set forth in the Ed. Code.” (Ex. 13.)

29. Accordingly, CPC was not in compliance with Education Code section 94893 and its approval to operate is now subject to denial. (Cal. Code Regs., tit. 5, § 71400.5, subd. (b).)

Minimum Operating Standards in Relation to Student Agreements

30. An institution extending credit to a student must cause any note, instrument, or other evidence of indebtedness taken in connection with that extension of credit to be conspicuously marked on its face in at least 12 point type with the following notice: “You may assert against the holder of the promissory note you signed in order to finance the cost of the education program all of the claims and defenses that you could assert against this institution, up to the amount you have already paid under the promissory note.” (Ed. Code, § 94916.)

31. Enrollment agreements must include, at a minimum, the following statement: “Prior to signing this enrollment agreement, you must be given a catalog or brochure and a school performance fact sheet, which you are encouraged to review prior to signing this

agreement. These documents contain important policies and performance data for this institution. This institution is required to have you sign and date the information included in the school performance fact sheet relating to completion rates, placement rates, license examination passage rates, salaries or wages, and the most recent three-year cohort default rate, if applicable, prior to signing this agreement.” (Ed. Code, § 94911, subd. (i)(1).)

32. Dr. Bird and the Owner credibly testified that CPC is no longer extending credit or financial aid to students. The enrollment agreement contains the following express statement: “Financial Note Disclaimer: This institution does not extend or lend money to any student for school fees or tuition of any kind. Students do not sign any promissory note in order to finance the cost of the educational program.” (Ex. 8.) The enrollment agreement otherwise substantially complies with the disclosure requirements described at Factual Finding 31.

Minimum Operating Standards in Relation to its Catalog

33. A school catalog is required by law to contain, at a minimum, the following provisions:

(A) A description of the programs offered and a description of the instruction provided in each of the courses offered by the institution, the requirements for completion of each program, including required courses, any final tests or examinations, any required internships or externships, and the total number of credit hours, clock hours, or other increments required for completion. (Ed. Code, § 94909, subd. (a)(5).)

(B) The schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program. (Ed. Code, § 94909, subd. (a)(9).)

(C) The following notice concerning transferability of credits and credentials: “The transferability of credits you earn at (name of institution) is at the complete discretion of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or certificate) you earn in (name of educational program) is also at the complete discretion of the institution to which you may seek to transfer. If the (credits or degree, diploma, or certificate) that you earn at this institution are not accepted at the institution to which you seek to transfer, you may be required to repeat some or all of your coursework at that institution. For this reason you should make certain that your attendance at this institution will meet your educational goals. This may include contacting an institution to which you may seek to transfer after attending (name of institution) to determine if your (credits or degree, diploma, or certificate) will transfer.” (Ed. Code, § 94909, subd. (a)(15).)

(D) A statement specifying whether the institution, or any of its degree programs, are accredited by an accrediting agency recognized by the United States Department of Education. (Ed. Code, § 94909, subd. (a)(16).)

34. In its catalog, CPC has regularly used the term “degree,” rather than “certificate,” even though the conditional approval was only granted as to the ESL certificate program and did not extend to the degree programs.

35. In its catalog, CPC contains course descriptions and program information for degree programs that the Bureau has not yet approved.

36. In its catalog, CPC initially included STRF fees. At the hearing, CPC presented evidence that the catalog was amended to delete those previously stated charges. (Ex. H.)

Minimum Operating Standards in Relation to STRF

37. CPC failed to timely submit quarterly STRF assessment forms to the Bureau for the fourth quarter of 2013 and continuing through the third quarter of 2016. At the hearing, CPC presented copies of STRF assessment forms, which were admitted into evidence. (Ex. I.) The evidence was insufficient to show that the forms were duly filed with the Bureau.

38. CPC failed to make annual payments to the Bureau for the annual fee and penalty fee commencing in October 2013 and continuing through October 2016. The evidence did not clearly establish the amount of the arrearage. The Owner gave assurances that all annual fees would be promptly paid upon receipt of notice of the amount due.

39. CPC failed to submit a complete annual report to the Bureau for 2013 and 2014. At the hearing, CPC presented copies of complete annual reports for 2013 and 2014. (Ex. J.) The evidence was insufficient to show that the annual reports were duly filed with the Bureau.

Other Evidence

40. Dr. Bird and the Owner both testified and exhibited a genuine intent to comply with the law and regulations. Their inability to satisfy the numerous deficiency notices appears to be an issue of competency, rather than willful evasion. On July 24, 2007, before the Bureau was established, Dr. Bird sent an email to the BPPVE and inquired, "Is there anything that I can do to get some form of state approval [pending the establishment of the Bureau]." (Ex. F.) On March 13, 2008, Dr. Bird wrote a letter to his Assembly Member Bill Emerson regarding the sunset provisions of the BPPVE and stated, "The state approval of our institution is of vital importance to [CPC]." (Ex. G.) Although this evidence was insufficient to establish that an application was filed before August 2, 2010, the correspondence is evidence of a good faith intent to comply with requirements to obtain the Bureau's approval.

41. The enforcement branch of the Bureau has made compliance checks at the site of CPC programming and no citations have been issued. The Bureau, however, has yet to make a determination on the merits of the degree programs offered by CPC. This is consistent with the testimony of Jeff Mackey that the Bureau would not focus on the qualifications of the degree programs until the conditions were satisfied with respect to the ESL program.

42. Approximately 1,000 students have completed educational programs at CPC. No evidence was presented of any consumer complaint filed by a past or present student at CPC. While the outright denial of CPC's application under the circumstances could affect current students, permitting the operation of degree programs whose merits have never been evaluated by the Bureau is potentially harmful. It permits students to continue with programs that may not

meet the academic standards required by the Bureau's laws and regulations, or the standards of an accrediting agency.⁶

43. CPC has, by this time, satisfied all the conditions and cured all deficiencies set forth in the conditional grant of approval dated October 1, 2013, for the ESL program.

LEGAL CONCLUSIONS

1. Respondent bears the burden of proving that it meets all prerequisites necessary for the requested approval. (See *Kensington Univ. v. Council for Private Postsecondary and Vocational Education* (1997) 54 Cal.App.4th 27, 47, fn. 7.) This burden requires proof by a preponderance of the evidence. (*Ibid.*; see also Evid. Code, § 115.)

2. "Preponderance of the evidence" means evidence that has more convincing force than that opposed to it. If the evidence is so evenly balanced that one is unable to say that the evidence on either side of an issue preponderates, the finding on that issue must be against the party who had the burden of proving it. (*People v. Mabini* (2000) 92 Cal.App.4th 654, 663.)

3. Education Code Section 94887 provides:

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

4. Cause exists to deny the Pending Application under Education Code section 94886, because CPC continued to operate without prior approval. (Factual Findings 1-25.)

5. Cause exists to deny the Pending Application under Education Code section 94893, in that CPC made a substantive change to its conditional approval to offer ESL courses by advertising degree programs in its catalog. (Factual Findings 1-29.)

6. Cause does not exist to deny the Pending Application under Education Code sections 94887, 94916, and 94911, subdivision (i)(1), because CPC does not extend credit or lend money to students and the enrollment agreement contains disclosures that comply with the law. (Factual Findings 30-32.)

7. Cause exists to deny the Pending Application under Education Code sections 94886, 94887, 94913, and 94909, subdivisions (a)(S), (9), (15), and (16), because CPC's catalog

⁶ An institution that is not accredited by an accrediting agency recognized by the U.S. Department of Education must seek a provisional approval from the Bureau in order to offer a degree program. The purpose of a provisional approval is to permit the institution to achieve the required accreditation prior to full approval, and it may not offer more than two degree programs during the term of its provisional approval. (Ed. Code, § 94885.5.) CPC may apply for a Substantive Change in Educational Objectives pursuant to section 71650 of the Regulations, for up to two degree programs.

fails to contain provisions required by law. (Factual Findings 1-29, 33-36.)

8. Cause exists to deny the Pending Application under Education Code sections 94887 and 94934, and sections 74000, subdivision (e)(1), 74006 and 76130 of the Regulations, because CPC has failed to make payment of the annual fees. (Factual Finding 38.)

9. Section 71400, subdivision (d)(1) of the Regulations provides:

When specific minor deficiencies are identified during processing but the institution is substantially in compliance with the requirements of the [Education] Code and this Division [of the Regulations], a conditional authorization to operate may be granted for a period not to exceed six (6) months, to permit the institution to correct those deficiencies identified. If those deficiencies are not corrected after the first period of conditional approval, or the condition upon which an approval may be granted is not satisfied, the conditional authorization to operate may be extended for a period not to exceed six (6) months if the program demonstrates to the Bureau a good faith effort and ability to correct the deficiencies. A conditional authorization to operate shall expire at the end of its stated period and the application shall be deemed denied, unless the deficiencies are removed prior to its expiration and an approval to operate has been granted before that date.

10. Consumer protection is the Bureau's highest priority. (Ed. Code, § 94875.) CPC has failed to meet its burden to show that it now meets all operating standards, namely in the areas of its continuing operation without prior approval, advertising, catalog, filings, and fee payment. Pursuant to Section 94887, respondent is not eligible for an outright approval to operate at this time. (Legal Conclusions 6-10.)

11. After approximately six years since the Pending Application was filed, seven deficiency notices, and three hearings during which corrective records were presented, CPC is in substantial compliance with the requirements of the 2009 Act for the ESL program. The remaining deficiencies relating to operating standards are relatively minor.

12. A number of mitigating facts have been presented. At all times during the application process, CPC's officers and directors have been cooperative and acted in good faith with the Bureau. During the hearing, Dr. Bird and the Owner were candid in their testimony and accepted responsibility for the remaining areas of deficiency. CPC has taken meaningful action to correct the deficiencies cited by Bureau, resulting in the correction of all of the deficiencies described in the final deficiency letter.

13. Under the facts and circumstances, outright denial of the application for the previously-approved ESL program would be unduly harsh. The Bureau's review of the Pending Application has continuously raised new deficiencies, many of which relate to compliance and enforcement, rather than qualification. But the enforcement division has not cited CPC after site inspections. Nonetheless, acts that violate the 2009 Act may still support a basis for denial of the application. And although the Bureau granted conditional approval of the ESL certificate program, it has never issued a determination on the degree programs described in the Pending Application.

CPC's approval to operate its degree programs cannot be granted simply because of the passage of time. While the Bureau's failure to conduct a meaningful evaluation of the degree programs is unfortunate, an approval cannot be issued until there has been a determination that any degree program offered meets the more stringent requirements of Education Code section 94885.5, and the related regulations. Respondent also indicates that it is willing to have its two remaining degree programs evaluated separately from the ESL program.⁷

14. Based on the above, a conditional approval of the ESL program for a period of six months is warranted. CPC must be required to properly file all STRF assessment forms and Annual Reports within that time, and to pay all unpaid annual fees. Upon successful completion of the conditional approval, the Application with respect to the ESL program should be approved as indicated.

ORDER

Respondent's May 23, 2011, Application for Approval to Operate an Institution Non-Accredited is granted with respect to its English as a Second Language course, and a conditional authorization to operate pursuant to California Code of Regulation, title 5, section 71400(d)(1) shall issue for six months upon the terms and conditions below. The application is denied in all other respects. The terms and conditions are as follows:

1. Respondent shall file with the Bureau the appropriate STRF assessment forms and Annual Reports, and pay all unpaid STRF and annual fees, as required by the Bureau.
2. If the deficiencies are not corrected after the first six months of the conditional approval granted, pursuant to section 71400(d)(1) of the Regulations, the conditional authorization to operate may be extended for a period not to exceed six (6) months if the program demonstrates to the Bureau a good faith effort and ability to correct the deficiencies. A conditional authorization to operate shall expire at the end of its stated period and the application shall be deemed denied, unless the deficiencies are removed prior to its expiration and an approval to operate has been granted before that date.
3. Failure to timely comply with these requirements shall result in the expiration of the conditional authorization to operate and the application shall be deemed denied.
4. Upon completion of the terms and conditions to the satisfaction of the Bureau, respondent's May 23, 2011, application shall be granted as to the ESL program as of the effective date of this decision.
5. Respondent shall comply with any and all other provisions of law applicable to the operation of a private postsecondary institution. The Bureau has continuing jurisdiction to investigate compliance with the laws and bring any enforcement action it deems necessary, regardless of the status of the conditional authorization or granting of the application.

⁷ Respondent's opposition states that its program in General Studies is no longer offered, leaving the Associate of Science Degree in Health Science and the Associate of Science Degree in Business Administration as the remaining degree programs that were included in its application for approval.

Upon successful completion of the conditional approval, CPC's approval to operate will be granted as set out above.

Dated: December 8, 2017



RYAN MARCROFT
Deputy Director, Legal Affairs
Department of Consumer Affairs