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7

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

12
13 In the Matter of the Statement of Issues
Against:
14 **PROFESSIONAL SCHOOLS OF**
15 **BEAUTY, FASHION AND ARTS, INC.**

Case No. 1003498

16 Application for Renewal of Approval to
Operate an Institution Non-Accredited

17 **STATEMENT OF ISSUES**

18 Institution Code: 42693340

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

23 1. Dr. Michael Marion, Jr (Complainant) brings this Statement of Issues solely in his
24 official capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
25 Consumer Affairs.

26 2. On or about February 1, 2017, the Bureau for Private Postsecondary Education
27 received an Application for Renewal of Approval to Operate an Institution Non-Accredited from
28 Professional Schools of Beauty, Fashion and Arts, Inc. (Respondent). On or about January 13,

1 2017, Florence N. Andongella certified under penalty of perjury to the truthfulness of all
2 statements, answers, and representations in the application. The Bureau denied the application on
3 May 4, 2018.

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 unless
8 otherwise indicated.

9 STATUTORY PROVISIONS

10 4. Business and Professions Code of 22 defines the term “board” to include “bureau.”

11 5. Education Code section 94885¹ states:

12 (a) The bureau shall adopt by regulation minimum operating standards for an institution
13 that shall reasonably ensure that all of the following occur:

14 (1) The content of each educational program can achieve its stated objective.

15 (2) The institution maintains specific written standards for student admissions for each
16 educational program and those standards are related to the particular educational program.

17 (3) The facilities, instructional equipment, and materials are sufficient to enable students to
18 achieve the educational program's goals.

19 (4) The institution maintains a withdrawal policy and provides refunds.

20 (5) The directors, administrators, and faculty are properly qualified.

21 (6) The institution is financially sound and capable of fulfilling its commitments to
22 students.

23 (7) That, upon satisfactory completion of an educational program, the institution gives
24 students a document signifying the degree or diploma awarded.

25 (8) Adequate records and standard transcripts are maintained and are available to students.

26 (9) The institution is maintained and operated in compliance with this chapter and all other
27 applicable ordinances and laws.

28 ¹ California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

1 (b) Except as provided in Section 94885.1, an institution offering a degree must satisfy one
2 of the following requirements:

3 (i) Accreditation by an accrediting agency recognized by the United States Department of
4 Education, with the scope of that accreditation covering the offering of at least one degree
5 program by the institution.

6 (ii) An accreditation plan, approved by the bureau, for the institution to become fully
7 accredited within five years of the bureau's issuance of a provisional approval to operate to the
8 institution. The provisional approval to operate to an unaccredited degree-offering institution
9 shall be in compliance with Section 94885.5.

10 6. Education Code Section 94886 states:

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

15 7. Education Code Section 94887 states:

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

21 8. Education Code Section 94891 subdivision (b) states:

22 To be granted a renewal of an approval to operate, the institution shall demonstrate its
23 continued capacity to meet the minimum operating standards.

24 9. Education Code Section 94894 states in pertinent part:

25 The following changes to an approval to operate are considered substantive changes and
26 require prior authorization:

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1 (a) A change in educational objectives, including an addition of a new diploma or a degree
2 educational program unrelated to the approved educational programs offered by the
3 institution.

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5 10. Education Code Section 94909 states in pertinent part:

6 (a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a
7 prospective student, either in writing or electronically, with a school catalog containing, at a
8 minimum, all of the following:

9

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

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16 11. Education Code Section 94911 states in pertinent part that an enrollment agreement
17 shall include, at a minimum, all of the following:

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19 “(c) In underlined capital letters on the same page of the enrollment agreement in which the
20 student’s signature is required, the total charges for the current period of attendance, the estimated
21 total charges for the entire educational program, and the total charges the student is obligated to
22 pay upon enrollment.”

23

24 (i) (1) The following statement: “Prior to signing this enrollment agreement, you must be
25 given a catalog or brochure and a School Performance Fact Sheet, which you are encouraged to
26 review prior to signing this agreement. These documents contain important policies and
27 performance data for this institution. This institution is required to have you sign and date the
28 information included in the School Performance Fact Sheet relating to completion rates,

1 placement rates, license examination passage rates, salaries or wages, and the most recent three-
2 year cohort default rate, if applicable, prior to signing this agreement.”

3 12. Education Code Section 94913 states:

4 (a) An institution that maintains an Internet Web site shall provide on that Internet Web site
5 all of the following:

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7 (5) The institution’s most recent annual report submitted to the bureau.

8 13. Education Code Section 94929.5 states:

9 (a) An institution shall annually report to the bureau, as part of the annual report, and shall
10 publish in its School Performance Fact Sheet, all of the following:

11 (1) The job placement rate, calculated by dividing the number of graduates employed in the
12 field by the number of graduates available for employment for each program that is either (1)
13 designed, or advertised, to lead to a particular career, or (2) advertised or promoted with any
14 claim regarding job placement.

15 (2) The license examination passage rates for the immediately preceding two years for
16 programs leading to employment for which passage of a state licensing examination is required,
17 calculated by dividing the number of graduates who pass the examination by the number of
18 graduates who take the licensing examination the first time that the examination is available after
19 completion of the educational program. The institution shall use state agency licensing data to
20 calculate license examination passage rates. If those data are unavailable, the institution shall
21 calculate the license examination passage rate in a manner consistent with regulations adopted by
22 the bureau.

23 (3) Salary and wage information, consisting of the total number of graduates employed in
24 the field and the annual wages or salaries of those graduates stated in increments of five thousand
25 dollars (\$5,000).

26 (4) If applicable, the most recent official three-year cohort default rate reported by the
27 United States Department of Education for the institution and the percentage of enrolled students
28 receiving federal student loans.

1 (b) Nothing in this section shall limit the bureau's authority to collect information from an
2 institution to comply with this section and ensure, by regulation and other lawful means, that the
3 information required by this section, and the manner in which it is collected and reported, is all of
4 the following:

5 (1) Useful to students.

6 (2) Useful to policymakers.

7 (3) Based upon the most credible and verifiable data available.

8 (4) Does not impose undue compliance burdens on an institution.

9 (c) Data and information disclosed pursuant to paragraphs (1) to (3), inclusive, of
10 subdivision (a) is not required to include students who satisfy the qualifications specified in
11 subdivision (d) of Section 94909, but an institution shall disclose on its fact sheet and to the
12 bureau whether its data, information, or both, excludes any students pursuant to this subdivision.

13 **REGULATORY PROVISIONS**

14 14. Title 5, CCR, section 71700 states:

15 "The Bureau may request that an institution document compliance with the standards set
16 forth in the Act and this Division to obtain and maintain an approval to operate."

17 15. Title 5, CCR, section 71800 states in pertinent part:

18 In addition to the requirements of section 94911 of the Code, an institution shall provide to
19 each student an enrollment agreement that contains at the least the following information:

20 . . .

21 (d) Date by which the student must exercise his or her right to cancel or withdraw, and the
22 refund policy, including any alternative method of calculation if approved by the Bureau pursuant
23 to section 94921 of the Code.

24 16. Title 5, CCR, section 74112 states:

25 (a) Format. The format for the Performance Fact Sheet shall be in at least 12 pt. type, in an
26 easily readable font, with 1.15 line spacing and all titles and column headings shall be in bold 14
27 pt. type, which shall also identify the program for which the Performance Fact Sheet pertains. The
28 Performance Fact Sheet shall contain all and only the information required or specifically

1 permitted by sections 94910 and 94929.5 of the Code or this chapter. A separate Performance
2 Fact Sheet shall be prepared for each program.

3 (b) An institution offering educational programs that are too new to provide the required
4 two years of data shall include the date the program began as well as the statement required by
5 section 94910(e) of the Code. The Performance Fact Sheet shall also disclose the estimated date
6 of availability for two full years of data for those programs.

7 (c) Institutions approved under section 94874.8 of the Code, which do not include all
8 required information per section 94874.8(a)(4), shall include on the Performance Fact Sheet the
9 date of approval to operate and when the required data will be available.

10 (d) In addition to the definitions contained in section 94928 of the Code:

11 (1) "Number of Students Who Began the Program" means the number of students who
12 began a program who were scheduled to complete the program within 100% of the published
13 program length within the reporting calendar year, and excludes all students who cancelled during
14 the cancellation period.

15 (2) "Number of On-time Graduates" means the number of students who completed the
16 program within 100% of the published program length within the reporting calendar year.

17 (3) "Gainfully Employed" means:

18 (A) (i) The graduate is employed in a job classification under the United States Department
19 of Labor's Standard Occupational Classification codes, using the Detailed Occupation (six-digit)
20 level, for which the institution has identified in its catalog and in its employment positions list
21 required by section 94910(f)(2) of the Code that the program prepares its graduates; and

22 (ii) The graduate is employed in a single position or concurrent aggregated positions
23 totaling at least 30 hours per week for 5 weeks (35 calendar days), or totaling at least 20 hours per
24 week for 5 weeks (35 calendar days) with a statement signed by the graduate stating that he or she
25 chose to seek part-time employment rather than fulltime employment after graduation; or

26 (B) The graduate is employed by the same employer that employed the graduate before
27 enrollment, and any of the following conditions are met:

28 ///

1 (i) the graduate is employed in an occupation with a different Detailed Occupation (six-
2 digit) level Standard Occupational Classification code than applies to the position in which the
3 graduate was employed before enrollment; or

4 (ii) the employer or the graduate provides a statement to the effect that the employment
5 after graduation was the result of a promotion with increased pay, due at least in part to
6 graduation from the program; or

7 (iii) the employer or the graduate provides a statement to the effect that the degree or the
8 completed program was required as a condition of continued employment; or

9 (C) The graduate is self-employed or working freelance as reasonably evidenced by, but
10 not limited to, a business license, fictitious business name statement, advertising (other than
11 business cards), website, or business receipts or other evidence of income from business; or an
12 attestation signed by the graduate of self-employment or freelance work and dated after
13 graduation.

14 (e) Reporting periods:

15 (1) An Annual Report shall include data for all educational programs as defined in section
16 94837 of the Code for the previous one calendar year.

17 (2) A Performance Fact Sheet shall be current and available not later than December 1st,
18 and shall report data for the previous two calendar years based upon the "number of students who
19 began the program," as defined in subdivision (d)(1) of this section and were scheduled to
20 graduate in the reported year(s).

21 (f) Total Charges. The institution's Annual Report and Performance Fact Sheet shall
22 include the total charges for a student to complete the program within 100% of the program
23 length. The institution must include the disclosure that there may be additional charges if the
24 program is not completed on-time. Total charges shall be disclosed in the Performance Fact Sheet
25 in a format substantially similar to the format listed below (dates and numbers are for example
26 only):

27 Cost of Educational Program:

28 Total Charges for the program for students completing on-time in 20XX: \$ 50,000.

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Total Charges may be higher for students that do not complete on-time.

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

(g) Student Loan/Debt Information.

(1) If the institution participates in federal financial aid programs, the institution shall include loan information in the institution's Annual Report and on the Performance Fact Sheet.

The loan information shall include:

(A) The most recent three year cohort default rate, as reported by the United States Department of Education;

(B) The percentage of enrolled students receiving federal student loans;

(C) The average amount of federal student loan debt of those graduates who have federal student loan debt in the reporting year; and

(D) The percentage of graduates with federal student loans, as calculated by the institution.

Loan information shall be included in the Performance Fact Sheet in a format substantially similar to the format listed below (dates and numbers are for example only):

Federal Student Loan Debt at (Name of Institution)	
Percentage of students who defaulted	
on their federal student loans at this school:	28%<1>

Percentage of students enrolled in 20XX	
who took out federal student loans to pay for this program:	43%

Percentage of graduates in 20XX who	
took out federal student loans to pay for this program:	65%

1 Average federal student loan debt of
2 20XX graduates who took out federal student loans
3
4 at this institution: \$ 26,000

5 <1>The percentage of students who defaulted on their federal student loans is called the
6 Cohort Default Rate (CDR). It shows the percentage of this school's students who were more than
7 270 days (about 9 months) behind on their federal student loans within three years of when the
8 first payment was due. This is the most recent CDR reported by the U.S. Department of
9 Education.

10 Student's Initials: _____ Date: _____

11 **Initial only after you have had sufficient time to read and understand the information.**

12 (2) Institutions that do not participate in federal financial aid programs shall include one of
13 two statements in the Performance Fact Sheet in a format substantially similar to the following:

14 Students at (name of institution) are not eligible for federal student loans. The U.S.
15 Department of Education has determined that this institution does not meet the criteria that would
16 allow its students to participate in federal student aid programs.

17 or

18 (Name of Institution) is eligible, but chooses not to participate in federal student aid
19 programs. So students here do not have federal student loans.

20 Student's Initials: _____ Date: _____

21 **Initial only after you have had sufficient time to read and understand the information.**

22 (h) Completion Rates. Reporting of completion rates for an institution's Annual Report and
23 Performance Fact Sheet shall include, for each educational program, the number of students who
24 began the program as defined in subdivision (d)(1) of this section, the number of students
25 available for graduation, number of on-time graduates, and completion rate(s). An optional table
26 may be added to include completion rate data for students completing within 150% of the
27 published program length. For an institution reporting completion data pursuant to section
28 94929(b) of the Code, completion data shall be separately reported for each program and the

1 Performance Fact Sheet shall disclose, if true, that the completion data is being reported for
 2 students completing within 150% of the published program length, and that data is not being
 3 separately reported for students completing the program within 100% of the published program
 4 length. Programs that are more than one year in length which are reporting 150% Completion
 5 Rate will provide four calendar years of data.

6 Completion rates shall be included in the Performance Fact Sheet in a format substantially
 7 similar to the chart below (dates, numbers, and other data shown are for example only):

8 On-time Completion Rates (Graduation Rates) (includes data for the two calendar years
 9 prior to reporting)

10 Name of Educational Program (Program Length)

11	Number of	Students	Number of	On-time	
12	Students Who	Available for	On-time	Completion	
13	Began Program	Graduation	Graduates	Rate	
14	Year				
15					
16	20XX	100	98	70	71%
17	20XY	80	80	55	69%

18 Students Completing Within 150% of the Published Program Length

19 Name of Educational Program (Program Length)

20	Number of	Students	Number of	150%	
21	Students Who	Available for	150%	Completion	
22	Began Program	Graduation	Graduates	Rate	
23	Year				
24					
25					
26	20XX	100	98	95	97%
27	20XY	80	80	78	98%

1	*20XZ	90	90	87	97%
2	*20YA	87	85	74	87%

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4 *Included only if program is more than one year in length

5 Student's Initials: _____ Date: _____

6 **Initial only after you have had sufficient time to read and understand the information.**

7 (i) Job Placement Rates.

8 (1) Any placement data required by sections 94910(b) and 94929.5(a) of the Code shall be
 9 reported for the number of students who began the program as defined in subdivision (d)(1) of
 10 this section for each reported calendar year.

11 (2) Placement is measured six months from the graduation date of each student. For
 12 programs that require passage of a licensing examination, placement shall be measured six
 13 months after the announcement of the examination results for the first examination available after
 14 a student completes an applicable educational program. Reporting of placement rates shall
 15 include for each educational program: the number of students who began the program, the
 16 number of graduates as defined in section 94842 of the Code, the graduates available for
 17 employment, graduates employed in the field and job placement rate(s).

18 (3) If the institution makes any claim related to preparing students for a job or regarding
 19 job placement, the list required by section 94910(f)(2) of the Code shall identify the employment
 20 positions by using the Detailed Occupation or six-digit level of the Standard Occupational
 21 Classification codes.

22 (4) Placement rate shall be calculated as follows: the number of graduates employed in the
 23 field as defined in section 94928(e) (1) of the Code in conjunction with section 74112(d)(3)
 24 divided by the number of graduates available for employment as defined in section 94928(d) of
 25 the Code.

26 Job Placement rates and related disclosures shall be included in the Performance Fact Sheet
 27 in a format substantially similar to the charts below, (dates, numbers, and other data shown are for
 28 example only):

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Job Placement Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Calendar Year	Number of Students Who Began Program	Number of Graduates	Available for Employment	Graduates Employed in the Field	Placement Rate % Employed in the Field
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20XX	100	70	70	55	79%
20XY	80	55	55	20	36%

Gainful Employment Categories (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Part Time vs. Full Time Employment

Graduates Employed in the field 20 to 29 hours per week	Graduates Employed in the field at least 30 hours per week	Total Graduates Employed in the Field
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20XX	15	40	55
20XY	5	15	20

Single Position vs. Concurrent Aggregated Positions

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	Graduates Employed in	Graduates Employed in	Total Graduates
	the field in a single	the field in concurrent	Employed in the Field
	position	aggregated positions	

20XX	52	3	55
20XY	19	1	20

Self-Employed/Freelance Positions

Graduates Employed who are	
self-employed or	Total Graduates Employed in the
working freelance	Field

20XX	3	55
20XY	5	20

Institutional Employment

Graduates Employed in the field	
who are employed by the	
institution, an employer owned	
by the institution, or an	
employer who shares ownership	Total Graduates Employed in the
with the institution	Field

20XX	15	55
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Graduates Employed in the field

who are employed by the

institution, an employer owned

by the institution, or an

employer who shares ownership

with the institution

Total Graduates Employed in the

Field

20XY 5

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Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

(5) The following self-employment/freelance worker disclosure shall be initialed by students entering any programs in which the majority of graduates who obtain jobs obtain in this type of work:

This program may result in freelance or self-employment.

* The work available to graduates of this program is usually for freelance or self-employment.

* This type of work may not be consistent.

* The period of employment can range from one day to weeks to several months.

* Hours worked in a day or week may be more or less than the traditional 8 hour work day to 40 hour work week.

* You can expect to spend unpaid time expanding your networks, advertising, promoting your services, or honing your skills.

* Once graduates begin to work freelance or are self-employed, they will be asked to provide documentation that they are employed as such so that they may be counted as placed for our job placement records.

1 * Students initialing this disclosure understand that either a majority or all of this school's
2 graduates are employed in this manner and understand what comprises that work style.

3 Student's Initials: _____ Date: _____

4 **Only initial after you have had sufficient time to read and understand the information.**

5 (j) License Examination Passage Rates. If license examination passage rates are not
6 available from the appropriate state agency, an institution shall collect the information directly
7 from its graduates. If an institution demonstrates that, after reasonable efforts, it is unable to
8 obtain the examination passage information from its graduates, the institution shall report the
9 number of students it could not contact and note in a font the same size as the majority of the data
10 on the Performance Fact Sheet, "License examination passage data is not available from the state
11 agency administering the examination. We were unable to collect data from [enter the number]
12 graduates."

13 Reporting of license examination passage rates for the Annual Report and the Performance
14 Fact Sheet shall include, for each educational program: the number of graduates in the reported
15 year, the number of documented graduates who passed the first available examination, number of
16 documented graduates who failed the first available examination, the number of graduates for
17 whom data is not available. An optional column may be added to separately report licensing
18 examination data for graduates who take and pass the exam after failing initially. The Annual
19 Report shall also include a description of the processes for attempting to contact those students.

20 For licensing examinations that are not continuously administered, license examination
21 passage rates shall be included in the Performance Fact Sheet in a format substantially similar to
22 the chart below, (dates, numbers, and other data shown are for example only):

23 License Examination Passage Rates (includes data for the two calendar years prior to
24 reporting)

25 Name of Educational Program (Program Length)

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First Available Exam Date	Date Exam Results Announced	Number of Graduates in Calendar Year	Number of Graduates Taking Exam
2/1/20XX	3/15/20XX	277	80
6/1/20XX	7/15/20XX	277	100
10/1/20XX	11/15/20XX	277	82
2/1/20XY	3/20/20XX	304	80
6/1/20XY	7/19/20XX	304	100
10/1/20XY	11/19/20XX	304	92

First Available Exam Date	Number Who Passed Exam	Number Who Failed Exam	Passage Rate
2/1/20XX	40	40	50%
6/1/20XX	75	25	75%
10/1/20XX	68	14	76%
2/1/20XY	40	40	50%

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First Available Exam Date	Date Exam Results Announced	Number of Graduates in Calendar Year	Number of Graduates Taking Exam
6/1/20XY	70	30	70%
10/1/20XY	62	30	67%

License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 32 graduates.

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

For licensing examinations that are continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below (dates, numbers, and other data shown are for example only):

License Examination Passage Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

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Calendar Year	Number of Graduates in Calendar Year	Number of Graduates Taking Exam	Number Who Passed First Available Exam
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20XX	95	80	40
20XY	109	100	75

Calendar Year	Number Who Failed First Available Exam	Passage Rate
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20XX	40	50%
20XY	25	75%

License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 10 graduates.

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

(k) Salary and Wage Information.

All Salary and Wage Information shall be reported to the Bureau pursuant to sections 94910(d) and 94929.5(a)(3) of the Code and shall be included in the Performance Fact Sheet, for each educational program, in a format substantially similar to the chart below (dates, numbers, salaries, and other data shown are for example only).

Salary and Wage Information (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

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	Graduates	Graduates		
Calendar	Available for	Employed in	\$ 15,000-	\$ 20,001-
Year	Employment	the Field	\$ 20,000	\$ 25,000
20XX	100	70	5	40
20XY	80	55	5	7
			No Salary	
Calendar	\$ 25,001-	\$ 30,001	Information	
Year	\$ 30,000	\$ 35,000	Reported	
20XX	6	3	16	
20XY	3	5	35	

A list of sources used to substantiate salary disclosures is available from the school. (Insert how student can obtain this information.)

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

(l) Definitions. Definitions for all terms contained on the Performance Fact Sheet shall be included as part of the Performance Fact Sheet, in the same format as required in subdivision (a).

The following are the definitions for the Performance Fact Sheet:

"Number of Students Who Began the Program" means the number of students who began a program who were scheduled to complete the program within 100% of the published program length within the reporting calendar year and excludes all students who cancelled during the cancellation period.

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1 "Students Available for Graduation" is the number of students who began the program
2 minus the number of students who have died, been incarcerated, or been called to active military
3 duty.

4 "Number of On-time Graduates" is the number of students who completed the program
5 within 100% of the published program length within the reporting calendar year.

6 "On-time Completion Rate" is the number of on-time graduates divided by the number of
7 students available for graduation.

8 "150% Graduates" is the number of students who completed the program within 150% of
9 the program length (includes on-time graduates).

10 "150% Completion Rate" is the number of students who completed the program in the
11 reported calendar year within 150% of the published program length, including on-time
12 graduates, divided by the number of students available for graduation.

13 "Graduates Available for Employment" means the number of graduates minus the number
14 of graduates unavailable for employment.

15 "Graduates Unavailable for Employment" means the graduates who, after graduation, die,
16 become incarcerated, are called to active military duty, are international students that leave the
17 United States or do not have a visa allowing employment in the United States, or are continuing
18 their education in an accredited or bureau-approved postsecondary institution.

19 "Graduates Employed in the Field" means graduates who beginning within six months after
20 a student completes the applicable educational program are gainfully employed, whose
21 employment has been reported, and for whom the institution has documented verification of
22 employment. For occupations for which the state requires passing an examination, the six month
23 period begins after the announcement of the examination results for the first examination
24 available after a student completes an applicable educational program.

25 "Placement Rate Employed in the Field" is calculated by dividing the number of graduates
26 gainfully employed in the field by the number of graduates available for employment.

27 "Number of Graduates Taking Exam" is the number of graduates who took the first
28 available exam in the reported calendar year.

1 "First Available Exam Date" is the date for the first available exam after a student
2 completed a program.

3 "Passage Rate" is calculated by dividing the number of graduates who passed the exam by
4 the number of graduates who took the reported licensing exam.

5 "Number Who Passed First Available Exam" is the number of graduates who took and
6 passed the first available licensing exam after completing the program.

7 "Salary" is as reported by graduate or graduate's employer.

8 "No Salary Information Reported" is the number of graduates for whom, after making
9 reasonable attempts, the school was not able to obtain salary information.

10 (m) Documentation supporting all data reported shall be maintained electronically by the
11 institution for at least five years from the last time the data was included in either an Annual
12 Report or a Performance Fact Sheet and shall be provided to the Bureau upon request; the data for
13 each program shall include at a minimum:

14 (1) the list of job classifications determined to be considered gainful employment for the
15 educational program;

16 (2) student name(s), address, phone number, email address, program completed, program
17 start date, scheduled completion date, and actual completion date;

18 (3) graduate's place of employment and position, date employment began, date
19 employment ended, if applicable, actual salary, hours per week, and the date employment was
20 verified;

21 (4) for each employer from which employment or salary information was obtained, the
22 employer name(s) address and general phone number, the contact person at the employer and the
23 contact's phone number and email address, and all written communication with employer
24 verifying student's employment or salary;

25 (5) for students who become self-employed, all documentation necessary to demonstrate
26 self-employment;

27 (6) a description of all attempts to contact each student or employer;

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1 (7) any and all documentation used to provide data regarding license examinations and
2 examination results;

3 (8) for each student determined to be unavailable for graduation or unavailable for
4 employment, the identity of the student, the type of unavailability, the dates of unavailability, and
5 the documentation of the unavailability; and

6 (9) the name, email address, phone number, and position or title of the institution's
7 representative who was primarily responsible for obtaining the students' completion, placement,
8 licensing, and salary and wage data, the date that the information was gathered, and copies of
9 notes, letters or emails through which the information was requested and gathered.

10 (n) The institution shall provide on a separate document along with the Performance Fact
11 Sheet the same cancellation disclosure as that which is required to be included with the
12 enrollment agreement by Section 94911(e)(1) of the Code. The separate document shall be
13 substantially the same size as the Performance Fact Sheet and shall be captioned "STUDENT'S
14 RIGHT TO CANCEL" using bold 14 pt. type.

15 17. Title 5, CCR, section 74117 states:

16 "In addition to the requirement in Section 94913(b) of the Code, an institution that
17 maintains a website shall provide on the homepage of that website clear and conspicuous links to
18 all the items required in Section 94913(a) of the Code."

19 18. Title 5, CCR, section 76215 states:

20 (a) A qualifying institution shall include the following statement on both its enrollment
21 agreement and school catalog:

22 "The State of California established the Student Tuition Recovery Fund (STRF) to relieve
23 or mitigate economic loss suffered by a student in an educational program at a qualifying
24 institution, who is or was a California resident while enrolled, or was enrolled in a residency
25 program, if the student enrolled in the institution, prepaid tuition, and suffered an economic loss.
26 Unless relieved of the obligation to do so, you must pay the state-imposed assessment for the
27 STRF, or it must be paid on your behalf, if you are a student in an educational program, who is a
28 California resident, or are enrolled in a residency program, and prepay all or part of your tuition.

1 You are not eligible for protection from the STRF and you are not required to pay the STRF
2 assessment, if you are not a California resident, or are not enrolled in a residency program."

3 (b) In addition to the statement required under subdivision (a) of this section, a qualifying
4 institution shall include the following statement in its school catalog:

5 "It is important that you keep copies of your enrollment agreement, financial aid
6 documents, receipts, or any other information that documents the amount paid to the school.
7 Questions regarding the STRF may be directed to the Bureau for Private Postsecondary
8 Education, 2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833, (916) 431-6959 or (888)
9 370-7589.

10 To be eligible for STRF, you must be a California resident or enrolled in a residency
11 program, prepaid tuition, paid or deemed to have paid the STRF assessment, and suffered an
12 economic loss as a result of any of the following:

13 1. The institution, a location of the institution, or an educational program offered by the
14 institution was closed or discontinued, and you did not choose to participate in a teach-out plan
15 approved by the Bureau or did not complete a chosen teach-out plan approved by the Bureau.

16 2. You were enrolled at an institution or a location of the institution within the 120 day
17 period before the closure of the institution or location of the institution, or were enrolled in an
18 educational program within the 120 day period before the program was discontinued.

19 3. You were enrolled at an institution or a location of the institution more than 120 days
20 before the closure of the institution or location of the institution, in an educational program
21 offered by the institution as to which the Bureau determined there was a significant decline in the
22 quality or value of the program more than 120 days before closure.

23 4. The institution has been ordered to pay a refund by the Bureau but has failed to do so.

24 5. The institution has failed to pay or reimburse loan proceeds under a federal student loan
25 program as required by law, or has failed to pay or reimburse proceeds received by the institution
26 in excess of tuition and other costs.

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1 6. You have been awarded restitution, a refund, or other monetary award by an arbitrator or
2 court, based on a violation of this chapter by an institution or representative of an institution, but
3 have been unable to collect the award from the institution.

4 7. You sought legal counsel that resulted in the cancellation of one or more of your student
5 loans and have an invoice for services rendered and evidence of the cancellation of the student
6 loan or loans.

7 To qualify for STRF reimbursement, the application must be received within four (4) years
8 from the date of the action or event that made the student eligible for recovery from STRF.

9 A student whose loan is revived by a loan holder or debt collector after a period of
10 noncollection may, at any time, file a written application for recovery from STRF for the debt that
11 would have otherwise been eligible for recovery. If it has been more than four (4) years since the
12 action or event that made the student eligible, the student must have filed a written application for
13 recovery within the original four (4) year period, unless the period has been extended by another
14 act of law.

15 However, no claim can be paid to any student without a social security number or a
16 taxpayer identification number."

17 **FIRST CAUSE FOR DENIAL OF APPLICATION**

18 (Failure to Meet Minimum Requirements-Enrollment Agreement)

19 19. Respondent's application is subject to denial under California Education Code
20 Sections 94891 subdivision (b), 94911 subdivision (c), (i)(1) and 5, California Code of
21 Regulations Sections 71800 subdivision (d), 76215 subdivision (a) in that the Respondent failed
22 to meet the minimum requirements for the enrollment agreement. The circumstances are as
23 follows:

24 20. The Enrollment Agreement does not contain the date by which the student must
25 exercise their right to cancel or withdraw.

26 21. The Enrollment Agreement does not contain a statement in underlined capital letters
27 on the same page as the student signature that the [TOTAL CHARGES FOR THE CURRENT
28 PERIOD OF ATTENDANCE; THE ESTIMATED TOTAL CHARGES FOR THE ENTIRE

1 EDUCATION PROGRAM; AND THE TOTAL CHARGES THE STUDENT IS OBLIGATED
2 TO PAY UPON ENROLLMENT.”]

3 22. The Enrollment Agreement does not include the required disclosure for the Student
4 Tuition Recovery Fund (STRF).

5 23. The Enrollment Agreement did not include the specific required statement that,

6 "Prior to signing this enrollment agreement, you must be given a catalog or brochure
7 and a School Performance Fact Sheet, which you are encouraged to review prior to
8 signing this agreement. These documents contain important policies and performance
9 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, and salaries or wages, and
the most recent three-year cohort default rate, if applicable, prior to signing."

10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 (Failure to Meet Minimum Requirements – School Catalog)

12 24. Respondent's application is subject to denial under California Education Code
13 Sections 94891 subdivision (b), 94909 subdivision (a)(5), 94913 subdivision (a)(5), and
14 California Code of Regulations Sections 74117 and 76215 subdivision (a) and (b) in that
15 Respondent failed to provide sufficient documentation to meet the minimum operating standard
16 regarding the school catalog as follows:

17 25. The Catalog states that the Cosmetology Crossover program is "four hundred (300)
18 hours." The Catalog also states that the Barber Crossover program is "fifteen hundred (200)
19 hours," while the program is currently approved by the Bureau for 400 hours. In addition, the
20 Cosmetology Crossover program description is a duplicate of the Cosmetology program, and
21 shows that there are 1600 hours required for the program.

22 26. The Catalog did not include the required disclosures for the STRF.

23 27. Respondent's website did not include the institution's most recent annual report
24 submitted to the Bureau.

25 **THIRD CAUSE FOR DENIAL OF APPLICATION**

26 (Failure to Meet Minimum Requirements - School Performance Fact Sheets)

27 28. Respondent's application is subject to denial under California Education Code
28 Sections 94891 subdivision (b) and 94910 and 5 California Code of Regulations Section 74112

1 for not meeting the minimum requirements for a School Performance Fact Sheet. The
2 circumstances are as follows:

3 29. Respondent did not submit a School Performance Fact Sheet in the correct format. It
4 did not contain the information required or specifically permitted by sections 94910 and 94929.5
5 of the Code.

6 30. Respondent provided a School Performance Fact Sheet that did not include the
7 definition that the "Number of Students Who Began the Program" means the number of students
8 who began a program who were scheduled to complete the program within 100% of the published
9 program length within the reporting calendar year, and excludes all students who cancelled during
10 the cancellation period.

11 31. Respondent provided a School Performance Fact Sheet that did not include a
12 definition that the "Number of On-time Graduates" means the number of students who completed
13 the program within 100% of the published program length, within the reporting calendar year.

14 32. Respondent provided a School Performance Fact Sheet that did not include a
15 definition that the "On-time Completion Rate" is the number of on-time graduates divided by the
16 number of students available for graduation.

17 33. Respondent provided a School Performance Fact Sheet that did not include in the
18 definition of "Graduates Employed in the Field" that it means that it is for graduates whose
19 employment has been reported, and for whom Respondent has documented verification of
20 employment.

21 34. Respondent provided a School Performance Fact Sheet that did not include a
22 definition that the "Number of Graduates Taking Exam" is the number of graduates who took the
23 first available exam in the reported calendar year.

24 35. Respondent provided a School Performance Fact Sheet that did not include a
25 definition for the "First Available Exam Date," and instead states that the Exam Date is the date
26 for the first available exam after the students completed the program.

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1 36. Respondent provided a School Performance Fact Sheet that did not include a
2 definition that the "Number Who Passed First Available Exam" is the number of graduates who
3 took and passed the first available licensing exam after completing the program.

4 37. Respondent provided a School Performance Fact Sheet that did not include in the
5 definition that the " Salary" is as reported by graduate's employer.

6 38. Respondent provided a School Performance Fact Sheet that did not include a
7 definition that "No Salary Information Reported" is the number of graduates for whom, after
8 making reasonable attempts, the school was not able to obtain salary information.

9 39. Respondent did not provide documentation supporting all data reported on the School
10 Performance Fact Sheets.

11 40. Respondent did not provide a separate document, along with the School Performance
12 Fact Sheet, a cancellation disclosure that is captioned "STUDENT'S RIGHT TO CANCEL."

13 41. Respondent provided School Performance Fact Sheets that included the 2017 data for
14 the Barber Crossover, Barbering, Manicuring, and Cosmetology Crossover programs, however,
15 the School Performance Fact Sheets for the Esthetician and Cosmetology programs were not
16 completed to include data for 2017.

17 42. Respondent provided a School Performance Fact Sheet that did not include the
18 Number of On-Time Graduates and the On-Time Completion Rate.

19 43. Respondent provided School Performance Fact Sheets that did not include Gainful
20 Employment Categories, to include a table for Part-Time vs. Full-Time Employment and
21 including the Graduates Employed in the field 20 to 29 hours per week, Graduates Employed in
22 the field at least 30 hours per week, and the Total Graduates Employed in the Field. It also failed
23 to include a Single Position vs. Concurrent Aggregated Positions Table, to include Graduates
24 Employed in the Field in a single position, Graduates Employed in the field in concurrent
25 aggregated positions, and Total Graduates Employed in the Field.

26 44. Respondent provided School Performance Fact Sheets that did not include a Self-
27 Employed/Freelance Positions Table, to include the Graduates Employed who are Self-Employed
28 or Working Freelance, and the Total Graduates Employed in the Field. It also failed to include an

1 Institutional Employment Table, to include the Graduates Employed in the Field who are
2 employed by the institution, an employer owned by the institution, or an employer who shares
3 ownership with the institution, and the Total Graduates Employed in the Field.

4 45. Respondent provided School Performance Fact Sheets that did not include in the
5 License Examination Passage Rates table for licensing examinations that are not continuously
6 administered, the First Available Exam Date, the Date Exam Results Announced, Number of
7 Graduates in Calendar Year, Number of Graduates Taking Exam, and the Number Who Failed
8 Exam. It also failed to include information for licensing examinations that are continuously
9 administered, the Licensing Examination Passage Rates table did not include the Number of
10 Graduates in the Calendar Year, Number of Graduates Taking Exam, Number Who Passed First
11 Available Exam, and Number Who Failed First Available Exam.

12 46. Respondent provided School Performance Fact Sheets that did not include the total
13 charges for the program for a student to complete the program within 100% of the program
14 length, and a disclosure that there may be additional charges if the program is not completed on-
15 time, followed by the student's initials and date.

16 47. Respondent provided School Performance Fact Sheets that did not include one of the
17 following statements below: Students at (name of institution) are not eligible for federal student
18 loans. The U.S. Department of Education has determined that this institution does not meet the
19 criteria that would allow its students to participate in federal student aid programs. OR (Name of
20 Institution) is eligible, but chooses not to participate in federal student aid programs. So students
21 here do not have federal student loans.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Director of the Department of Consumer Affairs issue a
25 decision:

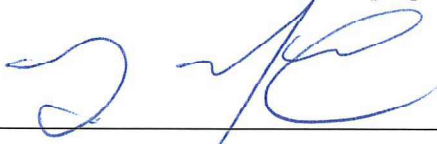
26 1. Denying the Application for Renewal of Approval to Operate an Institution Non-
27 Accredited of Professional School of Beauty, Fashion and Arts, Inc.;

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2. Taking such other and further action as deemed necessary and proper.

DATED: 3/19/19



DR. MICHAEL MARION, JR
Chief, Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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(Revised 3/18/19)