

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

In the Matter of the Citation Against:

**LANGUAGE SYSTEMS INTERNATIONAL COLLEGE OF ENGLISH – AMERICAN LEARNING**

**FOUNDATION, INC., OWNER**

750 South Placentia Ave.

Placentia, CA 92870

Institution Code: 1917471

Case No.: 2223005

OAH Case No.: 2023010732

Respondent.

**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on July 23, 2023.

It is so ORDERED June 21, 2023.

“Original Signature on File”

RYAN MARCROFT

DEPUTY DIRECTOR, LEGAL AFFAIRS DIVISION

DEPARTMENT OF CONSUMER AFFAIRS

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

**In the Matter of the Citation Against:**

**LANGUAGE SVTEMS INTERNATIONAL COLLEGE OF ENGLISH -  
AMERICAN LEARNING FOUNDATION, INC., OWNER,  
Respondent.**

**Agency Case No. 2223005**

**OAH No. 2023010732**

**PROPOSED DECISION**

Carmen D. Snuggs-Spraggins, Administrative Law Judge (AU), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on May 15, 2023.

Deputy Attorney General Michael Yi represented complainant Deborah Cochrane (Complainant), Chief of the Bureau for Private Postsecondary Education (Bureau), Department of Consumer Affairs, State of California.

Language Systems International College of English - American Learning Foundation, Inc., Owner (Respondent), was represented by Danette R. Kamahale, Attorney at Law.

Oral and documentary evidence was received. The record closed and the matter was submitted for decision on May 15, 2023.

## SUMMARY

Respondent failed to immediately make available to the Bureau during an unannounced inspection all records Respondent is required to maintain pursuant to the Bureau's laws and regulations. Complainant issued a citation to Respondent and initially assessed a \$5,000 penalty with an Order of Abatement that required Respondent to submit a written policy or procedure describing how it would comply in the future with the regulation governing record-keeping/inspections. After an informal conference, Complainant reduced the penalty to \$2,500 based on new information presented and issued a modified citation in this amount with an Order of Abatement. Respondent does not dispute that it failed to make some of the requested records immediately available but asks that the citation be vacated or, alternatively, that the penalty be reduced because of modified business hours in light of the inspection occurring during a pandemic and staff unavailability. After giving due consideration to the evidence and the factors under Education Code section 94936, subdivision (b), the citation is affirmed but the penalty is modified to \$1,250. The Order of Abatement is modified to give Respondent 60 days to submit its policy or procedure as to future compliance with Bureau inspections.

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## FACTUAL FINDINGS

### Jurisdiction and Citation

1. On October 1, 1987, the Bureau approved Respondent to operate a non-degree (vocational) private postsecondary education institution in Placentia, California, Institution Code 1917471, offering 21 programs/courses including GMAT/GRE programs and ESL courses, accredited by the Accrediting Council for Continuing Education & Training (ACCET). The Approval will expire on April 30, 2024, unless renewed.

2. On June 26, 1998, the Bureau approved Respondent to operate a Branch in Torrance, California, Institution Code 1917471, School Code 1936261, and a Branch in Los Angeles, California, Institution Code 1917471, School Code 1936251. The Approvals will expire on April 30, 2024, unless renewed.

3. On July 21, 2022, Christina Villanueva, acting in her official capacity as the Bureau's Discipline Manager, issued Citation number 2223005 (Citation) to Respondent.

4. The Citation asserts that on November 30, 2021, during an unannounced inspection by the Bureau, Respondent failed to make available to the Bureau for inspection and copying all records that Respondent is required to maintain pursuant to the California Private Postsecondary Education Act of 2009 (Act), and, as a result, violated California Code of Regulations, title 5 (CCR), section 71930, subdivision (e). Pursuant to this regulation, Respondent was required to make requested student, faculty and financial records immediately available to the Bureau for inspection and copying during normal business hours. The Bureau initially assessed an administrative

fine of \$5,000 for this violation and issued an Order of Abatement directing Respondent to submit a written policy or procedure as to how it would comply in the future with CCR section 71930, subdivision (e).

5. On August 19, 2022, Respondent timely filed a request for an informal conference and a request to schedule an administrative hearing. On September 15, 2022, an informal conference was held telephonically. On October 4, 2022, the Bureau's licensing chief modified the Citation and reduced the amount of the fine to \$2,500. The decision to modify the Citation was based upon Respondent's presentation of "new substantive facts" that warranted the reduction. (Ex. 1, p. A6). The Bureau did not modify the Order of Abatement.

6. On October 13, 2022, Ms. Villanueva signed a modified Citation which was served upon Respondent with the reduced \$2,500 penalty and an Order of Abatement that required Respondent to submit a written policy or procedure as to how it would comply in the future with CCR section 71930, subdivision (e).

7. The effective date of the modified citation was October 13, 2022, and the due date for the order of abatement and payment of fine were set for November 12, 2022.

8. On November 4, 2022, Respondent timely requested an administrative hearing.

9. All jurisdictional requirements have been met.

### **Prior Discipline**

10. The ALJ took official notice that on September 25, 2019, the Bureau issued citation number 1920092 to Respondent for violation of CCR section 76130,

subdivisions (a) through (e) (failure to submit Student Tuition Recovery Fund (STRF) Assessment Reporting Forms}. The citation asserts Respondent failed to submit STRF Assessment Reporting Forms to the Bureau for the second quarter of 2015, the fourth quarter of 2017, the first and fourth quarters of 2018, and the first and second quarters of 2019. For the violation, the Bureau assessed a \$50 fine and issued an Order of Abatement ordering Respondent to submit the delinquent STRF Assessment Reporting forms and supporting documents in compliance with the law. On October 28, 2019, the Bureau received payment of the fine and evidence of compliance with the citation.

### **Testimony of Laura Cheah**

11. Laura Cheah has been employed by the Bureau as a compliance inspector for more than five years. Her duties include conducting announced and unannounced inspections of Bureau-approved institutions to ensure they are operating within Bureau standards.

12. The Bureau is required to make announced and unannounced inspections every five years. The frequency of the inspections depends on the date of an institution's last inspection, whether the Bureau has received any complaints about an institution, whether an institution has timely paid required fees and submitted required reports, and whether an institution has any applications pending with the Bureau.

13. On a date not established, Ms. Cheah was assigned to conduct an unannounced inspection at Respondent's Orange County campus. On November 4, 2021, Ms. Cheah visited Respondent's website and reviewed its catalog to determine Respondent's hours of operation, but that information was not available from either source. She did not call the Orange County campus to determine the office hours.

14. Ms. Cheah arrived for the inspection at 9:30 a.m. on Tuesday, November 30, 2021. Ms. Cheah selected 9:30 a.m. as her arrival time because in her experience most schools open between 8:00 a.m. and 9:00 a.m. Ms. Cheah asserted that in the event Respondent's Orange County campus opened at 10:00 a.m., she could have waited until that time to begin the inspection.

15. Ms. Cheah observed a sign on the door indicating the office opens at 11:00 a.m., but two staff members were present and working. She entered the institution and asked for Michelle Buell, Respondent's Academic Program Director. Because Ms. Buell was not in, Radames Anacleto, an administrative assistant and student advisor at the Orange County campus, contacted Ms. Buell via text message.

16. Ms. Buell called the office in response to the text message and spoke with Ms. Cheah, who informed her of the purpose of her visit. She also described to Ms. Buell the documents she wanted to review and informed her that she needed someone with authority or a designee to provide access to those records. Ms. Buell told Ms. Cheah that she could not come to the institution right then and that staff did not have access to the requested documents. She asked Ms. Cheah if she could wait until she made some telephone calls to locate someone to assist with the inspection.

17. Ms. Chea waited in the reception area for approximately one hour. During that time, several telephone calls were made to and from staff about the inspection. Ms. Cheah next spoke with Ms. Kamahele, Respondent's designated school official (DSO) and attorney, and relayed to her the same information she had provided to Ms. Buell; specifically, the purpose of her visit, the documents she needed to inspect, and the need for someone with authority to access the requested documents to come to the campus and assist her. Ms. Cheah also told Ms. Kamahele she could authorize staff to provide her with access to the documents.

18. Ms. Kamahele told Ms. Cheah she was unable to come to the campus and that Respondent would make efforts to provide the information to Ms. Cheah. Ms. Kamahele asked Ms. Cheah to wait for Ms. Buell to call again.

19. When Ms. Buell called Ms. Cheah the second time, she asked Ms. Cheah to wait until 11:00 a.m. while she determined whether on-site staff could obtain access to the requested documents. Ms. Cheah could not wait because she had a second unannounced inspection scheduled for that afternoon, and she would not be able to complete the second inspection if she waited, as inspections typically take four to six hours. If Ms. Buell or Ms. Kamahele had authorized staff that were on-site to give Ms. Cheah access to student files, Ms. Cheah would have been able to start the inspection while someone with authorization traveled to the campus to give her access to the other inspection documents. Ms. Cheah contends that staff did not provide or offer her the opportunity to inspect the student files.

20. Ms. Cheah explained to Ms. Buell that she would be submitting an enforcement referral to the Bureau because no one with authority at Respondent's institution was able to assist her with accessing the inspection documents and she was therefore unable to conduct the inspection. Ms. Cheah further explained to Ms. Buell that the enforcement referral would be forwarded to Ms. Cheah's supervisor and then to the enforcement chief for a decision regarding discipline, and that Respondent would have an opportunity to submit an appeal.

21. Ms. Cheah left Respondent's Orange County location at 10:40 a.m. She prepared an Attempted Inspection Summary Report dated December 7, 2021, summarizing her visit to Respondent's Orange County campus (Exhibit 3), and an Enforcement Referral to Discipline Unit dated February 15, 2022, alleging Respondent's violation of CCR section 71930, subdivision (e) (Exhibit 4). Ms. Cheah determined



Respondent committed the violation because the records she requested were not made immediately available and no person with authority was present on the date of the inspection or came to the institution to assist with the inspection.

### **Testimony of Maria Sarry**

22. Maria Sarry is Respondent's co-owner. Her testimony established that prior to the COVID-19 pandemic in March 2020, Respondent's office hours were 8:30 a.m. to 9:00 p.m., Monday through Friday. Because of the pandemic, Respondent suspended in-person classes and shortened its campus's office hours.

23. From March 2020 to December 2021, Respondent's office hours varied and fluctuated. In November 2021, the office was open on Tuesdays and Thursdays from 11:00 a.m. to 3:00 p.m.

24. Respondent notified students and staff of the changes to the office hours via email. Respondent returned to in-person classes in January 2022. According to Ms. Sarry, prospective students would have been made aware of Respondent's changed office hours by calling the office or obtaining the information from enrolled students. She noted that Ms. Cheah could have called the Orange County campus and inquired about the office hours without stating why she wanted the information. Ms. Sarry asserted that in that way, the purpose of the unannounced visit would not have been frustrated.

25. While Ms. Sarry is aware that Respondent is subject to unannounced inspections by the Bureau, she is unaware whether Respondent notified the Bureau of the changes to its office hours in November 2021. She is also unaware of whether there was a manager on campus on the date of Ms. Cheah's unannounced inspection.

## Testimony of Michelle Buell

26. As Respondent's Academic Director, Ms. Buell oversees Respondent's academic programs and accreditation with ACCET.

27. Prior to the COVID-19 pandemic, Ms. Buell visited each of Respondent's three campus once per week. She did not maintain this schedule after the pandemic; she worked remotely from home because classes were online, and she communicated with Respondent's program coordinators by telephone and/or email.

28. On November 30, 2021, Respondent's classes were held remotely. Respondent received emergency approval from ACCET and the U.S. Citizenship and Immigration Services (USCIS) to offer online instruction.

29. Before the COVID-19 pandemic, the manager and assistant manager of Respondent's Orange County campus were present from 8:30 a.m. to 8:00 p.m. Monday through Thursday, and from 8:30 a.m. to 5:00 p.m. on Friday. On November 30, 2021, the Orange County campus employed a manager, but the assistant manager had quit by that date.

30. Ms. Buell is responsible for maintaining the academic content of Respondent's student catalog. She does not recall whether the catalog contained Respondent's modified office hours in November 2021. Ms. Buell did not inform the Bureau of the change in Respondent's office hours and is not aware whether any of Respondent's other representatives did so. She is responsible for maintaining the academic content of Respondent's website and Respondent's marketing coordinator is responsible for other content. Respondent's modified business hours were not posted on the website in November 2021 because they frequently changed. Prospective

students could have called or emailed the office to obtain Respondent's current office hours.

31. During normal office hours, Ms. Buell, the program coordinator, the program manager, front office staff, and the DSO were authorized to access student files. The program manager, chief executive officer (CEO), financial coordinator, DSO, principal designated school official (PDSO), and assistant manager were authorized to access Respondent's financial files. Ms. Buell and the program coordinator for Respondent's Orange County campus had access to faculty files.

32. Ms. Buell was not scheduled to be on Respondent's Orange County campus on November 30, 2021. She estimated that it would have taken her 30 minutes to travel there. At approximately 9:45 a.m., Ms. Buell received Mr. Anacleto's text message informing her that a Bureau representative had arrived and was requesting access to records. Ms. Buell asserted she did not recall speaking to Ms. Cheah but believes she did. Ms. Buell recalled speaking with Ms. Kamahale.

33. Ms. Buell was aware that the Bureau conducts announced inspections and had participated in at least two previous inspections, most recently in 2013. She was unaware in November 2021 that Respondent was subject to unannounced inspections. Similarly, Ms. Buell was unaware in November 2021 that someone with access to inspection documents must always be present at Respondent's campuses but she now knows of this requirement.

34. Ms. Buell acknowledged that on November 30, 2021, there was no one present at the Orange County campus between 9:30 a.m. and 10:30 a.m. with access to the documents to be inspected by the Bureau. She asserted that there would have

been someone on campus after 11:00 a.m. with authority to provide the Bureau access to student, financial and faculty records.

35. Respondent sought emergency approval for distance education during the pandemic so that students could maintain their status and continue their programs. According to Ms. Buell, Respondent submitted to the Bureau its emergency approval to offer distance education. However, she does not recall when it was sent or whether the Bureau acknowledged receipt. Respondent did not seek approval from the Bureau to offer online courses because Respondent did not intend to permanently offer online courses. Respondent returned to in-person learning in January 2022.

### **Testimony of Radames Anacleto**

36. Mr. Anacleto's duties as an administrative assistant and student advisor at Respondent's Orange County campus included assisting students with enrollment, payments, and transfers to Respondent's programs, and explaining the programs to enrolled and prospective students.

37. On the date of the Bureau's unannounced visit, no teachers or academic staff were on campus because classes were being conducted remotely. Mr. Anacleto confirmed Respondent's office hours of 11:00 a.m. to 3:00 p.m. on Tuesday and Thursday; however, he worked from 9:00 a.m. to 5:00 a.m. on those days. He explained that he met with students between 11:00 a.m. and 3:00 p.m., and before and after those times he performed administrative duties.

38. Mr. Anacleto testified that he worked alone on November 30, 2021, and he did not recall anyone else scheduled to work on that date. Typically, the assistant manager also worked from 9:00 a.m. to 5:00 p.m. on Tuesday and Thursday, but that individual had recently quit.

39. Mr. Analecta had access to student files but could not provide the Bureau access to those records without authorization from a manager or Ms. Kamahele because the documents contain confidential information. Mr. Anacleto did not have access to financial or faculty records.

40. Ms. Kamahele authorized Mr. Anacleto to provide Ms. Cheah with access to the student files. (Ex. T, p. B58.) Mr. Anacleto testified he offered to make the student files available to Ms. Cheah, but she indicated she had another appointment and she needed to inspect the student and financial records at the same time. Mr. Anacleto's understanding was that someone would come later to provide Ms. Cheah access to the financial and other files she requested. According to Mr. Anacleto, Ms. Cheah left the campus at approximately 10:30 a.m.

### **Testimony of Terry Huang**

41. Terry Huang is currently a campus manager at Respondent's Torrance Branch. In November 2021, Mr. Huang served as the interim manager of the Orange County campus after the manager there quit because of the pandemic. He worked remotely and never visited the campus until 2022. It is Mr. Huang's understanding that the assistant manager of the Orange County campus also quit prior to the Bureau's unannounced inspection.

42. Mr. Huang recalled that the office hours for the Orange County campus on November 30, 2021, were from 11:00 a.m. to 3:00 p.m., during which time students were served by appointment.

43. Mr. Huang was not notified of the unannounced inspection. He contended that even if he had been notified, he did not have the authority to grant access to the financial or faculty files as an interim manager.

## LEGAL CONCLUSIONS

1. On October 11, 2009, the Act was signed into law and became operative on January 1, 2010, establishing the Bureau. The Bureau is responsible for regulating private postsecondary educational institutions. Protection of the public is its highest priority. (Ed. Code, § 94875.)

2. A "private postsecondary educational institution" is "a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge." (Ed. Code, § 94858.) "Postsecondary education" is "a formal institutional educational program whose curriculum is designed primarily for students who have completed or terminated their secondary education . . . , including programs whose purpose is academic, vocational, or continuing professional education." (Ed. Code, § 94857.) "To offer to the public" means "to advertise, publicize, solicit, or recruit." (Ed. Code, § 94868.) "To operate means "to establish, keep, or maintain any facility or location in this state where, or from which, or through which, postsecondary educational programs are provided." (Ed. Code, § 94869.)

3. The Bureau may issue a citation for violations of the Act. (Ed. Code, § 94936, subd. (a).) The citation may include an order of abatement, and an administrative fine not to exceed \$5,000 for each violation. The fine shall be based on the nature and seriousness of the violation, the persistence of the violation, the good faith of the institution, the history of previous violations, the potential harm to students, and the purposes of the Act. (Ed. Code, § 94936, subd. (b).)

4. CCR section 71930, subdivision (e), provides: "All records that the institution is required to maintain by the Act or this chapter shall be made immediately

available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations."

5. Cause exists to affirm Citation number 2223005 issued to Respondent for violating CCR section 71930, subdivision (e). Respondent failed to make immediately available to the Bureau on November 30, 2021, all records that it is required to maintain by the Act during normal business hours at the time of the Bureau's unannounced inspection.

6. Consistent with the factors under Education Code section 94936, the \$2,500 penalty the Bureau set for this violation is reduced to \$1,250 for these reasons: Respondent's failure to make the records immediately available for inspection deprived prospective students, current students, and the public of important information about the institution and, in this sense, students and prospective students have been potentially harmed. Respondent also failed to update its website and catalog with its modified off hours.

Respondent, however, appears to have made an effort to make the student files available to Ms. Cheah and to send someone to the campus to provide access to the financial and faculty records. It is likely Ms. Cheah may have been able to proceed with the inspection if she did not need to leave in order to conduct an unannounced inspection at another institution. In addition, while it is true that Ms. Cheah arrived at Respondent's Orange County campus on November 30, 2021, during normal business hours as defined by California Code of Regulations, title 2, section 1181.2, subdivision (f), it was objectively reasonable for Respondent to modify its hours to Tuesday and Thursday from 11:00 a.m. and 3:00 p.m. under the facts and circumstances, namely: the COVID-19 pandemic; the declared state of emergency during that time; and the transition of most institutions to distance learning. Therefore, it is reasonable that

individuals with access to the inspection documents were not on campus during normal business hours at the time of the unannounced inspection. Moreover, the evidence established that the assistant manager, who was normally on campus during Respondent's normal and modified business hours and had access to documents to be inspected, had recently quit. Respondent offered a credible and reasonable explanation as to why its website had not been updated with Respondent's modified office hours, and Ms. Cheah could have called the Respondent's Orange County campus prior to the inspection to determine the current office hours without divulging the imminent unannounced inspection. Thus, reducing the penalty is appropriate under these circumstances.

7. With respect to the Order of Abatement, the record does not indicate whether Respondent has submitted a written policy or procedure as to how it would comply in the future with CCR section 71930, subdivision (e). To give Respondent the opportunity to submit this information to the Bureau, the Order of Abatement is modified to require Respondent to submit a written policy or procedure within 60 days of the effective date of this decision.

## **ORDER**

1. Citation number 2223005 issued to respondent Language Systems International College of English - American Learning Foundation, Inc., Owner, is affirmed but modified to require respondent to pay an administrative penalty of \$1,250. Respondent is required pay the \$1,250 penalty in full within 60 days following the effective date of this decision, unless the Bureau agrees to extend this time.

*III*



2. The Order of Abatement is affirmed but modified to require respondent to submit a written policy or procedure as to how it would comply in the future with CCR section 71930, subdivision (e), within 60 days of the effective date of this decision unless the Bureau agrees to extend this time.

DATE: 06/05/2023

"Original Signature on File"

[Carmen Snuggs-Spraggins \(June 5, 2013 16:18 PDT\)](#)

CARMEN D. SNUGGS-SPRAGGINS

Administrative Law Judge

Office of Administrative Hearings