



**Bureau for Private Postsecondary Education**  
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## **CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT**

To: ELS Educational Services, Inc. dba ELS Language Centers, Owner  
ELS Language Centers  
50 Acacia Ave.  
San Rafael, CA 94901

**INSTITUTION CODE: 2101311**

**CITATION NUMBER: 2021124**

**CITATION ISSUANCE/SERVICE DATE: October 22, 2020**

**DUE DATE: November 21, 2020**

**FINE AMOUNT: \$ 8,551.00**

**ORDER OF ABATEMENT INCLUDED: Yes**

Christina Villanueva issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Discipline Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

### CITATION

A Citation is hereby issued to ELS Educational Services, Inc. dab ELS Language Centers, Owner of ELS Language Centers (Institution) located at 50 Acacia Ave., San Rafael, CA 94901, pursuant to Business and Professions Code section 125.9; California Education Code (CEC) sections 94936 and 94932; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violations described below.

### BACKGROUND

All institutions are required to submit a Student Tuition Recovery Fund (STRF) Assessment Reporting Form to the Bureau no later than the last day of the month following the close of the quarter.

Pursuant to CEC section 94923(a) The Student Tuition Recovery Fund relieves or mitigates economic loss suffered by a student while enrolled in an institution not exempt from this article pursuant to Article 4 (commencing with section 94874), who, at the time of his or her enrollment, was a California resident or was enrolled in a California residency program, prepaid tuition, and suffered economic loss.

The Bureau sends notifications/reminders to all approved institutions 30 days prior to close of each quarter.

As of October 22, 2020, the Institution has not submitted the STRF Assessment Reporting Forms for the 1<sup>st</sup> and 2<sup>nd</sup> quarters of 2020.

In addition, on February 26, 2020, Bureau staff conducted an Unannounced Compliance Inspection at the Institution. Through the course of the inspection, Bureau staff found multiple material violations.

VIOLATION

#	Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5, CCR code) section(s) of law you are charged with violating.
1.	<p><b>Violation:</b>  <b>5, CCR Section 76130 (a-e)- Collection and Submission of Assessments</b>  <i>“(a) A qualifying institution shall collect the assessment from each student in an educational program at the time it collects the first payment from or on behalf of the student at or after enrollment. The assessment shall be collected for the entire period of enrollment, regardless of whether the student pays the institutional charges in increments.</i>  <i>(b) A qualifying institution shall complete the STRF Assessment Reporting Form (Rev. 2/10) and remit it with the STRF assessments collected from students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:</i>  <i>(1) April 30 for the first quarter,</i>  <i>(2) July 31 for the second quarter,</i>  <i>(3) October 31 for the third quarter, and</i>  <i>(4) January 31 for the fourth quarter. If the due date falls on a Saturday, Sunday or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.</i>  <i>If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.</i>  <i>(c) The STRF Assessment Reporting Form shall contain the following information:</i>  <i>(1) Total number of students who signed enrollment agreements for educational programs during the reporting period; and</i>  <i>(2) Total number of students eligible for STRF who signed enrollment agreements for educational programs during the reporting period; and</i>  <i>(3) The total number of students who signed their enrollment agreement during the reporting period, were eligible for STRF, and who made their first payment during the reporting period; and</i>  <i>(4) The total number of students who signed their enrollment agreement in a previous reporting period, were eligible for STRF, and who made their first payment during the current reporting period; and</i>  <i>(5) Total amount of institutional charges after rounding each student's institutional charges to the nearest \$1,000, for all eligible STRF students whose STRF assessment was collected in the reporting period; and</i>  <i>(6) Current contact telephone number of the person preparing the form; and</i>  <i>(7) A declaration dated and signed under penalty of perjury by the person preparing the form that the form and any attachments are true and correct.</i>  <i>(d) In the event of a school closure, any collected assessments shall be remitted to the Bureau within seven days following the cessation of instruction.</i>  <i>(e) Submission of all prior reports and assessments required by this section is a condition of renewal.”</i></p> <p><b>The Institution has failed to submit STRF Assessment Reporting Forms for the following quarters:</b></p> <ul style="list-style-type: none"> <li>• <b>First and Second Quarters of 2020.</b></li> </ul> <p><b>On March 24, 2020, the Institution was notified via mail at 50 Acacia Avenue, San Rafael, CA 94901, that the STRF Assessment Reporting Form for the 1<sup>st</sup> quarter of 2020 was due. As of October 22, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution.</b></p>

On June 18, 2020, the Institution was notified via mail at 50 Acacia Avenue, San Rafael, CA 94901, that the STRF Assessment Reporting Form for the 2<sup>nd</sup> quarter of 2020 was due. As of October 22, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution.

**Order of Abatement:**

The Bureau orders that the Institution submit the delinquent STRF Assessment Reporting Forms with the STRF Assessments collected from students for the quarters listed above. The information provided shall comply with "Record Keeping Requirements" Pursuant to 5, CCR section 76140.

**Assessment of Fine**

The fine for this violation is \$50.00

2.

**Violation:**

**5, CCR Section 71770 (a)(1) – Admissions Standards and Transferred Credits Policy**

*"(a) The institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program. In addition to any specific standards for an educational program, the admissions standards must specify as applicable that:*

*(1) Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant examination as required by section 94904 of the Code."*

**5, CCR Section 71920(b)(1)(A) – Student Records**

*"(b) In addition to the requirements of section 94900, the file shall contain all of the following pertinent student records:*

*(1) Written records and transcripts of any formal education or training, testing, or experience that are relevant to the student's qualifications for admission to the institution or the institution's award of credit or acceptance of transfer credits including the following:*

*(A) Verification of high school completion or equivalency or other documentation establishing the student's ability to do college level work, such as successful completion of an ability-to-benefit test;"*

**CEC 94904 (a) – Ability to Benefits Students**

*"(a) Except as provided in subdivision (c), before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed by the United States Department of Education pursuant to Section 484 (d) of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.). The student shall not enroll unless the student achieves a score, as specified by the United States Department of Education, demonstrating that the student may benefit from the education and training being offered."*

On February 26, 2020, Bureau staff reviewed student files and found that files failed to include verification of high school completion, equivalency, or other documentation establishing the student's ability to do college level work, such as a successful completion of an Ability to Benefit (ATB) exam upon admissions. Institution staff stated that they did not require these documents and that the Institution administered their own placement test.

**Order of Abatement:**

The Bureau orders the Institution to submit an established policy, or procedure, of how the Institution will maintain future compliance with 5, CCR sections 71770(a)(1), 71920(b)(1)(a), and

	<p>CEC section 94904(a)(b). In addition, if the Institution plans to offer an ATB exam, the Institution must submit the name of the ATB exam they would like to administer to incoming students and obtain Bureau approval to offer it.</p> <p><b><u>Assessment of Fine</u></b>  The fine for this violation is <u>\$1,501.00</u></p>
3.	<p><b><u>Violation:</u></b>  <b>5, CCR Section 94902 (b)(1)(3) – General Enrollment Requirements</b>  <i>“(b) An enrollment agreement is not enforceable unless all of the following requirements are met:  (1) The student has received the institution’s catalog and School Performance Fact Sheet prior to signing the enrollment agreement.  (3) Prior to the execution of the enrollment agreement, the student and the institution have signed and dated the information required to be disclosed in the Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of Section 94910. Each of these items in the Student Performance Fact Sheet shall include a line for the student to initial and shall be initialed and dated by the student.”</i></p> <p><b>CEC Section 94912 – Signature, Initials Required</b>  <i>“Prior to the execution of an enrollment agreement, the information required to be disclosed pursuant to subdivisions (a) to (d), inclusive, of Section 94910 shall be signed and dated by the institution and the student. Each of these items shall also be initialed and dated by the student.”</i></p> <p><b>5, CCR Section 74112 (m)(1-9) – Uniform Data – Annual Report, Performance Fact Sheet</b>  <i>“(m) Documentation supporting all data reported shall be maintained electronically by the institution for at least five years from the last time the data was included in either an Annual Report or a Performance Fact Sheet, and shall be provided to the Bureau upon request; and the data for each program shall include at a minimum:  (1) the list of job classifications determined to be considered gainful employment for the educational program;  (2) student name(s), address, phone number, email address, program completed, program start date, scheduled completion date, and actual completion dates;  (3) graduate’s place of employment and position, date employment began, date employment ended, if applicable, actual salary, hours per week, and the date employment was verified;  (4) for each employer from which employment or salary information was obtained, the employer name(s) address and general phone number, the contact person at the employer and the contact’s phone number and email address, and all written communication with employer verifying student’s employment or salary;  (5) for students who become self-employed, all documentation necessary to demonstrate selfemployment;  (6) a description of all attempts to contact each student. or employer;  (7) any and all documentation used to provide data regarding license examinations and examination results;  (8) for each student determined to be unavailable for graduation or unavailable for employment, the identity of the student, the type of unavailability, the dates of unavailability, and the documentation of the unavailability; and  (9) the name, email address, phone number, and position or title of the institution’s representative who was primarily responsible for obtaining the students’ completion, placement, licensing, and salary and wage data, the date that the information was gathered, and copies of notes, letters or emails through which the information was requested and gathered.”</i></p> <p><b>5, CCR Section 71930 (e) – Maintenance of Records</b></p>

*“(e) 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.”*

Bureau staff reviewed student files and found that files failed to include Student Performance Fact Sheets (SPFS) to show that prior to the execution of an Enrollment Agreement, the Institution disclosed the required information. Institution staff confirmed that the Institution did not provide SPFS to the students during the time of enrollment.

The Institution also failed to provide Bureau staff with the supporting documentation to substantiate the data reported on the 2017/2018 School Performance Fact Sheet (SPFS) as required by 5, CCR section 47112 (m)(1-9).

**Order of Abatement:**

The Bureau orders the Institution to submit a written policy, or procedure, of how future compliance with 5, CCR sections 94902(b)(1)(3), 74112 (m)(1-9), 71930 (e), and CEC section 94912 will be maintained.

**Assessment of Fine**

The fine for this violation is \$5,000.00

4.

**Violation:**

**5, CCR Section 76140 (a)(1-13)(b) – Record-Keeping Requirements**

*“(a) A qualifying institution shall collect and maintain records of student information to substantiate the data reported on the STRF Assessment Reporting Form and records of the students' eligibility under the Fund. Such records shall include the following for each student:*

- (1) Student identification number,*
- (2) First and last names,*
- (3) Email address,*
- (4) Local or mailing address,*
- (5) Address at the time of enrollment,*
- (6) Home address,*
- (7) Date enrollment agreement signed,*
- (8) Courses and course costs,*
- (9) Amount of STRF assessment collected,*
- (10) Quarter in which the STRF assessment was remitted to the Bureau,*
- (11) Third-party payer identifying information,*
- (12) Total institutional charges charged, and*
- (13) Total institutional charges paid.*

*California Code of Regulations*

*(b) The qualifying institution shall maintain the data required under this section in an electronic format that is readily available and open to inspection by the Bureau upon request. The institution shall make the records immediately available to a Bureau representative conducting a site inspection or, upon written request, shall provide a copy within 14 calendar days of the request. All records shall be provided to the Bureau in an intelligible and orderly manner and in an electronic format.”*

**5, CCR Section 71930 (e) – Maintenance of Records**

*(e) 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.”*

	<p>The Institution failed to provide Student Tuition Recovery Fund (STRF) supporting documentation to substantiate the data reported on the STRF Assessment Forms. Institution staff stated they were unsure if the Institution was collecting the required documentation.</p> <p><b><u>Order of Abatement:</u></b> The Bureau orders the Institution to submit a written policy, or procedure, of how future compliance with 5, CCR sections 76140 (a)(1-13)(b) and 71930(e) will be maintained.</p> <p><b><u>Assessment of Fine</u></b> The fine for this violation is <u>\$1,000.00</u></p>
5.	<p><b><u>Violation:</u></b> <b>CEC Section 94913 (a)(1-5)(b) – Institutional Web Site Requirements</b> <i>“(a) An institution that maintains an Internet Web site shall provide on that Internet Web site all of the following: (1) The school catalog. (2) A School Performance Fact Sheet for each educational program offered by the institution. (3) Student brochures offered by the institution. (4) A link to the bureau’s Internet Web site. (5) The institution’s most recent annual report submitted to the bureau. (b) An institution shall include information concerning where students may access the bureau’s Internet Web site anywhere the institution identifies itself as being approved by the bureau.”</i></p> <p>On June 11, 2014, during an Announced Compliance Inspection, the Institution was notified of the violations regarding the Institution’s website. The violation was also documented on a Notice to Comply.</p> <p>On February 26, 2020, Bureau staff found that the Institution failed to make the needed changes to the Institution’s website. The Institution was unable to correct the violations prior to the end of the inspection.</p> <p><b><u>Order of Abatement:</u></b> The Bureau orders the Institution to update their website to comply with CEC section 94913 (a)(1-5)(b). In addition, the Bureau orders the Institution to submit evidence of compliance.</p> <p><b><u>Assessment of Fine</u></b> The fine for this violation is <u>\$1,000.00</u></p>
<b>TOTAL ADMINISTRATIVE FINE DUE: \$8,551.00</b>	

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5, CCR sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **\$8,551.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

COMPLIANCE WITH ORDER OF ABATEMENT

In accordance with the provisions of CEC section 94936 and 5, CCR section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the**

**order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

#### APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **November 21, 2020**, you will be deemed to have waived or forfeited your right to appeal this matter.

#### EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **October 22, 2020**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **November 21, 2020**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

**Payment of the administrative fine and/or written request for appeal must be mailed to:**

Nicole Mitchell, Discipline Citation Program  
Bureau for Private Postsecondary Education  
1747 N. Market Blvd., Suite 225  
Sacramento, CA 95834

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

#### CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Nicole Mitchell, Citation Analyst, at (916) 574-8995 or [Nicole.Mitchell@dca.ca.gov](mailto:Nicole.Mitchell@dca.ca.gov).

“Original Signature on File”

“10/22/2020”

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**Christina Villanueva**  
**Discipline Manager**

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**Date**

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First- Class Mail