



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

To: Rafael Chavez
Truck Driver Institute – Santa Maria
546 East Beach St.
Watsonville, CA 95076

INSTITUTION CODE: 65686845
CITATION NUMBER: 1617027
CITATION ISSUANCE/SERVICE DATE: OCTOBER 26, 2016
DUE DATE: NOVEMBER 25, 2016
FINE AMOUNT: \$ 1,500.00
ORDER OF ABATEMENT INCLUDED: YES

Elainea Shotwell issues this Citation: Assessment of Fine and/or Order of Abatement (Citation) in her official capacity as Enforcement Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to Rafael Chavez, Owner of Truck Driver Institute – Santa Maria (TDI) located at 222 W. Carmen Lane, Suite 106 Santa Maria, CA 93454, pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5 CCR) section 75020 for the violations described below.

BACKGROUND

On June 3, 2015, The Bureau's Compliance Unit conducted an announced inspection; minor and material violations were detected. A notice to comply was issued for the minor violations and the Bureau received an Enforcement Referral regarding the material violations on September 1, 2015. The Enforcement Referral alleged that TDI failed to provide documentation supporting all data for the Annual Report, failed to submit their Annual Fees for 2013, failed to submit their Student Tuition Recovery Fund (STRF) Assessment Forms for 2010, 2011, and 2012, failed to maintain records of students information for the STRF assessment reporting form, and failed to maintain information used to substantiate the rates for the School Performance Fact Sheets (SPFS). The allegations indicate violations of California Education Code (CEC) §94929.7 (a) (1) (2) (b) (c), CEC §94930.5 (d) (1) (A), and California Code of Regulations (CCR) §74112 (h), CCR 76130 (b) (1-4), and CCR 76140 (a) (1-13) (b). My investigation included telephone conversations with Gildardo Chavez (Chavez), one of the owners of TDI, and Liz Diaz (Diaz), TDI's office coordinator. Through those conversations and several attempts to obtain the requested documentation, TDI failed to provide all of the requested documentation; as such, TDI is in violation of CEC §94929.7(a) (1)(2)(b)(c), CCR §74112(h), CCR §76140 (a)(1-13)(b), and CCR §76130(b) (4).

VIOLATION

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the code section(s) of law you are charged with violating.
1.	<p><u>Violation:</u> CEC 94929.7 (a)(1)(2)(b)(c)- Documentation of Performance Data <i>(a) The information used to substantiate the rates and information calculated pursuant to Sections 94929 and 94929.5 shall do both of the following:</i> <i>(1) Be documented and maintained by the institution for five years from the date of the publication of the rates and information.</i> <i>(2) Be retained in an electronic format and made available to the bureau upon request.</i> <i>(b) An institution shall provide a list of employment positions used to determine the number of graduates employed in the field for purposes of calculating job placement rates pursuant to this article.</i> <i>(c) The bureau shall identify the specific information that an institution is required to document and maintain to substantiate rates and information pursuant to this section.</i></p> <p>5, CCR 74112(h)- Uniform Data - Annual Report, Performance Fact Sheet <i>(h) Documentation supporting all data reported shall be maintained by the institution for at least five years from the time included in either an Annual Report or a Performance Fact Sheet, and shall include at a minimum: student name(s), address, phone number, email address, program completed, program start and completion dates, place of employment and position, salary, hours, and a description of all attempts to contact each student. Documentation shall also include the name, email address, phone number, and position or title of the institution's representative who is 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>On September 17, 2015, October 6, 2015, October 7, 2015, November 2, 2015, and November 4, 2015, the Bureau sent TDI letters and e-mails requesting documentation to substantiate the data that was reported on the SPFS and Annual Report. On November 4, 2015, the bureau provided TDI with an e-mail stating exactly what documentation is needed to substantiate the data reported on the Annual Report and SPFS. After several attempts to obtain the requested documentation, TDI failed to provide the Bureau with any of the requested documentation.</p> <p><u>Order of Abatement:</u> The Bureau orders the institution to submit all supporting documentation that substantiates the data reported on the Annual Report and School Performance Fact Sheets in accordance with 5, CCR 74112 (h) and CEC 94929.7 (a)(1)(2)(b)(c).</p> <p><u>Assessment of Fine</u> The fine for this violation is <u>\$500.00</u></p>

<p>2.</p>	<p><u>Violation:</u></p> <p>5, CCR 76130.(b)(4)- Collection and Submission of Assessments <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: (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></p> <p>On September 17, 2015, and October 6, 2015, the Bureau sent a letter to TDI requesting the STRF Assessment Form for years 2010, 2011, and 2012. On October 16, 2015, TDI provided the STRF Assessment Forms as requested; however, TDI failed to provide the Assessment Form for the 4th quarter for the year 2010. The Bureau contacted TDI on November 2, 2015, and informed them of the missing Assessment Form. On November 4, 2015 the Bureau sent another letter to TDI requesting the Assessment Form for the 4th quarter for the year 2010. TDI failed to provide the Bureau with the requested documentation.</p> <p><u>Order of Abatement:</u> The Bureau orders the institution to submit the STRF Assessment Form for the 4th quarter for the year 2010 in accordance with 5, CCR 76130 (b)(4).</p> <p><u>Assessment of Fine</u> The fine for this violation is <u>\$500.00</u></p>
<p>3</p>	<p><u>Violation:</u></p> <p>5, CCR 76140 (a) (1-13) (b)- Record Keeping Requirements (a) <i>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:</i></p> <ol style="list-style-type: none"> (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. <p><i>(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</i></p>

days of the request. All records shall be provided to the Bureau in an intelligible and orderly manner and in an electronic format.

On September 17, 2015, October 6, 2015, October 7, 2015, November 2, 2015, and November 4, 2015, the Bureau sent TDI letters and e-mails requesting documentation to substantiate the data that was reported on the STRF Assessment Forms. On October 16, 2015, the Bureau received the STRF Assessment Forms from TDI for years 2010, 2011, and 2012 by fax; however, TDI failed to provide the Bureau any documentation to substantiate the data reported on the Assessment Reporting forms. On November 4, 2015, the bureau provided TDI with an e-mail stating exactly what documentation is needed to substantiate the data reported on the STRF Assessment Forms. After several attempts to obtain the requested documentation, TDI failed to provide the Bureau with any of the requested documentation.

Order of Abatement:

The Bureau orders the institution to collect and maintain student information to substantiate the data reported on the STRF Assessment Reporting Form and records of the students' eligibility under the Fund. The Bureau orders the institution to submit all supporting documentation that substantiates the data reported on the STRF Assessment Forms in accordance with 5, CCR 76140 (a) (1-13) (b).

Assessment of Fine

The fine for this violation is \$500.00

TOTAL ADMINISTRATIVE FINE DUE: \$1,500.00

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 **\$1,500.00** for the violations described above.

Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.

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 25, 2016**, 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 26, 2016**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **NOVEMBER 25, 2016**. 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:

Ben Graber, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

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 Ben Graber, Enforcement Analyst, at 916-576-2409 or Benjamin.graber@dca.ca.gov.



Elainea Shotwell
Enforcement Manager

October 26, 2016
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