



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

To: Commercial Drivers Learning Center, LLC., Owner
Commercial Drivers Learning Center
1787 Tribute Road, Suite L
Sacramento, CA 95815

INSTITUTION CODE: 64417859

CITATION NUMBER: 2021065

CITATION ISSUANCE/SERVICE DATE: August 27, 2020

DUE DATE: September 26, 2020

FINE AMOUNT: \$ 16,050.00

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 Commercial Drivers Learning Center, LLC,, Owner of Commercial Drivers Learning Center (Institution) located at 1787 Tribute Road, Suite L , Sacramento, CA 95815, 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

Between September 11th and September 19, 2019, the Bureau received 11 complaints alleging that the Institution failed to provide quality instruction, failed to provide operational vehicles for students to practice with, and failed to provide operational vehicles for the Class A Drivers Exam.

On September 20, 2019, Bureau staff attempted to conduct a field investigation at the Institution and contacted the Institution staff at the phone number listed on the front door of the Institution with no success. An additional Bureau staff conducting a field investigation at the Institution's Satellite location confirmed that there would not be any Institution staff available at the Main location as a faculty member stated that all Institution employees had resigned the week prior. Bureau staff departed the Institution's Main location and arrived at the Institution's Satellite location.

Bureau staff notified the faculty member that they would be conducting interviews with students in order to further investigate the allegations. Based on the student interviews Bureau staff confirmed that that Institution used faulty and insufficient equipment, road ready vehicles were insufficient, vehicles supplied for the Class A Driving Examination were noncompliant resulting in students failing the exam, and due to the Institution maintaining nonoperational vehicles, the Class A Driving Examinations were canceled. Furthermore, Bureau staff confirmed that Class A Driving Examinations

were canceled due to insufficient instructors and vehicles, in addition to students experiencing insufficient practice drive time due to a high student to vehicle ratio.

In addition, 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 August 27, 2020, the Institution has not submitted the STRF Assessment Reporting Forms for 2nd, 3rd, and 4th quarters of 2019, and 2nd quarter of 2020.

Additionally, all institutions are required to pay annual fee within 30 days of the date on which the Institution originally receives its approval to operate and each year thereafter on the anniversary of the date of the original approval. An institution shall pay its annual fee in addition to any other applicable fees.

Pursuant to 5, CCR section 74006(a) and (b) and CEC section 94930.5 (g) Notwithstanding subdivision (d), effective July 1, 2018, the annual fee for each campus described in subparagraphs (A) and (B) of paragraph (1) of subdivision (d) shall be in an amount equal to 0.55 percent of that campus' total gross revenue derived from students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000) for each campus.

As of August 27, 2020, the Bureau has not received the annual fee or late payment penalty fee for the 2020 calendar year from the Institution.

VIOLATION(S)

#	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>Violation: 5, CCR Section 76240(a)(1)(2)(3)(4)(A)(B)(5)(6)(b)(1)(2) - Required Notices and Teach-Out Plan <i>"All institutions, including those exempt from Bureau regulation pursuant to the Code, shall do the following prior to closing:</i> <i>(a) At least 30 days prior to closing, the institution shall notify the Bureau in writing of its intention to close and provide a closure plan. The closure plan shall include:</i> <i>(1) The exact date and reason for the closure.</i> <i>(2) The last date of instruction for each educational service or program.</i> <i>(3) A list of students who were enrolled at any time during the 60 days prior to closure.</i> <i>(4) If any student will not be provided complete educational services or the educational program, the</i></p>

institution shall provide:

(A) A plan for providing teach-outs or transfers, including the details of any agreements with other institutions.

(B) If no teach-out is contemplated, or for students who do not wish to participate in a teach-out, arrangements for making refunds within 45 days from the date of closure, or for institutions that participate in federal student financial aid programs arrangements for making refunds and returning federal student financial aid program funds.

(5) A plan for the disposition of student records.

(6) A plan to notify students of their rights and options under the Act and this chapter.

(b) The institution shall notify the students of the following:

(1) If the institution is a participant in federal student financial aid programs, it shall provide students information concerning those programs and institutional closures.

(2) If any student will not be provided complete educational services or the educational program, information regarding the Student Tuition Recovery Fund and the Bureau's physical and Internet addresses."

On October 1, 2019, the Institution informed Bureau staff that it would like to surrender its Approval to Operate. As a result, enrolled students were unable to complete the program. On October 14, 2019, the Institution informed Bureau staff it would like to withdraw its initial request to surrender its Approval to Operate.

Order of Abatement:

The Bureau orders the Institution to submit a policy, or procedure, of how the Institution will maintain future compliance with CEC Section 76240. In addition, the Bureau orders the Institution to issue refunds of all institutional charges to all students affected within 45 days of the issued Citation. The Institution must provide the Bureau with the roster of each student. The roster must include the name of the student, their contact information (including phone number, email address, and physical address) the date of enrollment, the amount paid for the program, the amount the student was refunded and proof of refund.

Assessment of Fine

The fine for this violation is \$5,000.00

2.

Violation:

CEC Section 94927 – Institutions in Default of Enrollment Agreement

"An institution shall be considered in default of the enrollment agreement when an educational program is discontinued or canceled or the institution closes prior to completion of the educational program. When an institution is in default, student institutional charges may be refunded on a pro rata basis if the bureau determines that the school has made provision for students enrolled at the time of default to complete a comparable educational program at another institution at no additional charge to the students beyond the amount of the total charges in the original enrollment agreement. If the institution does not make that provision, a total refund of all institutional charges shall be made to students."

Bureau staff found that the Institution ceased all instruction prior to allowing enrolled students to complete their program.

Order of Abatement:

The Bureau orders the Institution to submit to the Bureau a policy, or procedure, of how the Institution will maintain future compliance with CEC Section 94927.

	<p><u>Assessment of Fine</u> The fine for this violation is <u>\$5,000.00</u></p>
3.	<p><u>Violation:</u> 5, CCR Section 71730(f) – Administration <i>“(f) The institution shall employ administrative personnel who have the expertise to ensure the achievement of the institution's mission and objectives and the operation of the educational programs.”</i></p> <p>Bureau staff found that the Institution failed to employ administrative staff who could ensure that students ensure the operation of the educational programs. The remaining Office Manager resigned the week of September 16, 2019. As of September 20, 2019, the Institution did not have any employees.</p> <p><u>Order of Abatement:</u> The Bureau orders the Institution to submit to the Bureau a policy, or procedure, of how the Institution will maintain future compliance with 5, CCR section 71730(f).</p> <p><u>Assessment of Fine</u> The fine for this violation is <u>\$500.00</u></p>
4.	<p><u>Violation:</u> 5, CCR Section 71720(b)(1) – Faculty <i>“(b) Instructors in an Educational Program Not Leading to a Degree. (1) An institution shall employ instructors who possess the academic, experiential and professional qualifications to teach, including a minimum of three years of experience, education and training in current practices of the subject area they are teaching. If an instructor does not possess the required three years of experience, education and training in the subject area they are teaching, the institution shall document the qualifications the instructor possesses that are equivalent to the minimum qualifications.”</i></p> <p>On September 20, 2019, the Bureau found that the Institution failed to have any instructors on staff.</p> <p><u>Order of Abatement:</u> The Bureau orders the Institution to submit a policy, or procedure, of how the Institution will maintain future compliance with 5, CCR section 71920.</p> <p><u>Assessment of Fine</u> The fine for this violation is <u>\$1,000.00</u></p>
5.	<p><u>Violation:</u> 5, CCR Section 71735(a)(2) – Facilities and Equipment <i>“(a) An institution shall have sufficient facilities and necessary equipment to support the achievement of the educational objectives of all of the courses and educational programs in which students are enrolled. If an institution represents that the educational service will fit or prepare a student for employment in a particular occupation or as described in particular job titles, either of the following conditions shall be met: (2) The institution shall establish that the equipment used for instruction or provided to a student is not obsolete and is sufficient for instructional purposes to reasonably assure that a student acquires the necessary level of education, training, skill, and experience to obtain employment in the field of</i></p>

training and to perform the tasks associated with the occupation or job title to which the educational program was represented to lead.”

Bureau staff found that the Institution failed to provide students with training trucks (necessary equipment) that were in operating condition. Furthermore, during the month of September 2019, students recorded the training trucks as being nonoperational the following dates:

- September 3rd - September 6th
- September 9th - September 13th
- September 16th - September 20th

As a result of the Institution failing to maintain the practice and examination trucks in proper operational condition, students experienced deficient practice and drive time in preparation for the driving examination.

Order of Abatement:

The Bureau orders the Institution to submit to the Bureau a policy, or procedure, of how the Institution will maintain future compliance with 5, CCR section 71735(a)(2).

Assessment of Fine

The fine for this violation is \$5,000.00

6.

Violation:

5, CCR Section 76130 (a-e)- Collection and Submission of Assessments

“(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.

(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:

(1) April 30 for the first quarter,

(2) July 31 for the second quarter,

(3) October 31 for the third quarter, and

(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.

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.

(c) The STRF Assessment Reporting Form shall contain the following information:

(1) Total number of students who signed enrollment agreements for educational programs during the reporting period; and

(2) Total number of students eligible for STRF who signed enrollment agreements for educational programs during the reporting period; and

(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

(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

and

(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

- (6) Current contact telephone number of the person preparing the form; and
- (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.
- (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.
- (e) Submission of all prior reports and assessments required by this section is a condition of renewal.”

The Institution has failed to submit STRF Assessment Reporting Forms for the following quarters:

- Second, Third, and Fourth Quarters of 2019
- Second Quarter of 2020

On June 24, 2019, the Institution was notified via mail at 1787 Tribute Road, Suite L, Sacramento, CA 95815, that the STRF Assessment Reporting Form for the 2nd quarter of 2019 was due. As of August 27, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution.

On September 19, 2019, the Institution was notified via mail at 1787 Tribute Road, Suite L, Sacramento, CA 95815, that the STRF Assessment Reporting Form for the 3rd quarter of 2019 was due. As of August 27, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution.

On December 19, 2019, the Institution was notified via mail at 1787 Tribute Road, Suite L, Sacramento, CA 95815, that the STRF Assessment Reporting Form for the 4th quarter of 2019 was due. As of August 27, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution.

On June 18, 2020, the Institution was notified via mail at 1787 Tribute Road, Suite L, Sacramento, CA 95815, that the STRF Assessment Reporting Form for the 2nd quarter of 2020 was due. As of August 27, 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

7.

Violation:

5, CCR Section 74006(a) and (b) - Annual Fee

“(a) An institution's annual fee is due within 30 days of the date on which the institution originally receives its approval to operate and each year thereafter on the anniversary of the date of the original approval. (b) An institution shall pay its annual fee in addition to any other applicable fees.

CEC Section 94930.5 (g)- Fee Schedule

“(g) Notwithstanding subdivision (d), effective July 1, 2018, the annual fee for each campus described in subparagraphs (A) and (B) of paragraph (1) of subdivision (d) shall be in an amount equal to 0.55 percent of that campus' total gross revenue derived from students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000) for each campus.”

CEC Section 94931(b)- Late Payment

“(b) A fee that is not paid on or before the 90th calendar day after the due date for payment of the fee shall be subject to a 35 percent late payment penalty fee.”

The Institution has failed to pay its annual fee for calendar year 2020.

On March 3, 2020 the Institution was notified (Invoice # 900347942) via mail at 1787 Tribute Road, Suite L, Sacramento, CA 95815, stating that the annual fee for calendar year 2020 was due on April 1, 2020.

On May 15, 2020 the Institution was notified (Invoice # 900347827) via mail at 1787 Tribute Road, Suite L, Sacramento, CA 95815, stating that the annual fee for calendar year 2020 was due on April 1, 2020.

As of August 27, 2020, the Bureau has not received the annual fee from the Institution.

Order of Abatement:

The Bureau orders the Institution to submit its annual fees for calendar year 2020 in accordance with 5, CCR section 74006(a)(b) and CEC section 94930.5(g). In addition, the Institution must pay all late payment penalty fees.

Assessment of Fine

The fine for this violation is \$00.00

TOTAL ADMINISTRATIVE FINE DUE: \$16,050.00

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 **\$16,050.00** 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 **September 26, 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 **August 27, 2020**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **September 26, 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:

Gabriella Perez, 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 Gabriella Perez, Citation Analyst, at (916) 574-8969 or Gabriella.Perez@dca.ca.gov.

“Original signature on file”

“8/27/2020”

Christina Villanueva
Discipline Manager

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