



Bureau for Private Postsecondary Education
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APPEAL OF CITATION INFORMAL CONFERENCE
DECISION: CITATION MODIFIED

February 2, 2021

San Francisco Institute of Esthetics of & Cosmetology, Inc., Owner
San Francisco Institute of Esthetics of & Cosmetology, Inc.
1067 Folsom, 2nd Floor
San Francisco, CA 94103

Date of Issuance	Citation Number	Institution Code
February 2, 2021	2021134	3806621

On January 14, 2021, an informal telephone conference was held in the matter of Citation: Assessment of Fine and Order of Abatement No. 2021134 (Citation) against San Francisco Institute of Esthetics of & Cosmetology, Inc., Owner of San Francisco Institute of Esthetics of & Cosmetology, Inc. (Institution). In attendance were Beth Danielson, Enforcement Chief, Michael Kanotz, Department of Consumer Affairs Legal Counsel, Deedee Crossett, Dean, Ed Cramp, Legal Counsel, and Yuto Navarrete, Financial Director.

Pursuant to Business and Professions Code, section 125.9; California Education Code, section 94936; and Title 5 of the California Code of Regulations, section 75020 and section 75040, the Bureau for Private Postsecondary Education (Bureau) renders the following decision relative to your appeal of the Citation No. 2021134.

It is the decision of the Enforcement Chief that on January 19, 2021, Citation No. 2021134 is modified and makes the following change(s):

VIOLATION CODE SECTIONS

#	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><u>Violation:</u> 5, CCR Section 74112 (i)(2)(4)(k)(m)(3) – Uniform Data – Annual Report, Performance Fact Sheet <i>“(i) Job Placement Rates</i> <i>(2) Placement is measured six months from the graduation date of each student. For programs that require passage of a licensing examination, placement shall be measured six months after the announcement of the examination results for the first examination available after a student completes an applicable educational program. Reporting of placement rates shall include for each educational program: the number of students who began the program, the number of graduates as defined in subdivision (b) section 94842 of the Code, the graduates available for employment, graduates employed in the field and job placement rate(s).</i> <i>(4) Placement rate shall be calculated as follows: the number of graduates employed in the field as defined in section 94928(e)(1) of the Code in conjunction with section 74112(d)(3) divided by the number of graduates available for employment as defined in section 94928(d) of the Code.”</i></p>

“(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).”

“(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:

(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;”

CEC Section 94897 (j)(3) – Prohibited Business Practices

“(j) In any manner make an untrue or misleading change in, or untrue or misleading statement related to, a test score, grade or record of grades, attendance record, record indicating student completion, placement, employment, salaries, or financial information, including any of the following:

(3) Any other record or document required by this chapter or by the bureau.”

CEC Section 94929.5 (a)(1)(3) – Reporting of Student Performance Data

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

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

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

Bureau staff reviewed the supporting documentation to substantiate the data reported on the 2017-2018 SPFS and found that the supporting documentation was missing information and/or provided misleading information.

Violation: 5, CCR Section 74112 (i)(2)(4): The Institution’s documentation to substantiate the data reported on the 2017-2018 SPFS’s failed to contain the hours worked for graduates employed in the field used to determine gainful employment. The Institution included all employed graduates in the “Graduates Employed in the Field” in the Job Placement Rates and Gainful Employment Categories without complete information to determine gainful employment.

Violation: 5, CCR Section 74112 (k) and CEC Section 94929.5(a)(1)(3): The Institution’s documentation to substantiate the data reported on the 2017-2018 SPFS’s failed to contain the hours worked for graduates employed in the field used to determine gainful employment. The institution included all employed graduates in the “Graduates Employed in the Field” in the Salary and Wage Data without complete information to determine gainful employment. The supporting data collected and provided does not substantiate the Job Placement Rates reported.

Violation: 5, CCR Section 74112 (m)(3): The Institution’s documentation to substantiate the data reported on the 2017-2018 SPFS’s does not contain the graduates’ hours per week worked. The

supporting documentation contained the column header for the data, however the data contained therein was either blank or stated, "Not Reported."

Violation: CEC Section 94929.5 (a)(1)(3): The data reported in 2017-2018 SPFS is not substantiated by the supporting data maintained. Therefore, the Institution reported untrue and misleading statements relative to the "Number of Graduates Employed in the Field."

Violation: 5, CCR Section 74112 (i)(2)(4)(k)(m)(3), CEC Section 94897 (j)(3), and CEC Section 94929.5 (a)(1)(3):

2017:

The 2017 SPFS supporting documentation identifies 12 graduates employed in the field for the Cosmetology program which meets the gainful employment definitions. The Institution reported 19 graduates employed in the field in their SPFS.

The 2017 SPFS supporting documentation identifies three graduates employed in the field for the Esthetics program which meets the gainful employment definitions. The Institution reported 9 graduates employed in the field in their SPFS.

The 2017 SPFS supporting documentation identifies no graduates employed in the field for the Barbering program which meets the gainful employment definitions. The Institution reported six graduates employed in the field in their SPFS.

2018:

The 2018 SPFS supporting documentation identifies one graduate employed in the field for the Cosmetology program which meets the gainful employment definitions. The Institution reported 21 graduates employed in the field in their SPFS.

The 2018 SPFS supporting documentation identifies one graduate employed in the field for the Esthetics program which meets the gainful employment definitions. The Institution reported 30 graduates employed in the field in their SPFS.

The 2018 SPFS supporting documentation identifies no graduates employed in the field for the Barbering program which meets the gainful employment definitions. The Institution reported six graduates employed in the field in their SPFS.

Order of Abatement:

The Bureau orders the Institution to submit a written policy, or procedure, of how future compliance will be maintained with 5, CCR Section 74112, CEC Section 94897, and CEC Section 94929.5.

Modified Order of Abatement:

The Bureau orders the Institution to submit a written policy, or procedure, of how future compliance will be maintained with 5, CCR Section 74112, and CEC Section 94929.5., and will not report any graduate as gainfully employed if the graduate's work hours worked per week is not reported.

	<p><u>Assessment of Fine</u> The fine for this violation is <u>\$6,500.00</u></p> <p><u>Reason for modification:</u> New substantive facts were presented at the conference.</p> <p><u>The administrative fine for this violation has been modified from \$6,500.00 to \$500.00.</u></p>
<p>TOTAL MODIFIED ADMINISTRATIVE FINE DUE: <u>\$500.00</u></p>	

ORDER OF ABATEMENT

The Bureau orders that you comply with the orders described in the ‘Violation Code Sections’ of this document and submit evidence of compliance within 30 days from the date of this decision.

PENALTY – ASSESSMENT OF A FINE

Payment of the administrative fine is due within 30 days from the date of this decision. Please complete the Payment of Fine form. Payment must be made to the Bureau by check, or money order. Please include the citation number on the payment of the fine assessment. Payment of the administrative fine shall not constitute an admission of the violation(s) charged and shall be represented as satisfactory resolution of the matter for purposes of public disclosure. Payments may be mailed to:

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

APPEAL OF CITATION

You *do not* have the right to request another Informal Conference to appeal this modified Citation. You *do*, however, have the right to appeal this affirmed or modified Citation through an Administrative Hearing. A hearing before an Administrative Law Judge will be scheduled and you will be notified of the hearing date. The hearing will be held pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you do not wish to appeal this modified Citation you must withdraw your initial request for an Administrative Hearing, if one was made. Please complete and mail the enclosed Withdrawal – Request for Administrative Hearing within **30 Days** of the date of this decision.

EFFECTIVE DATE OF CITATION AND FINE ASSESSMENT

This modified Citation is effective on **February 2, 2021**. The Order of Abatement and payment are due by **March 4, 2021**.

Failure to abate the violation or to pay the administrative fine within the time allowed is grounds for denial of an application for an approval to operate or discipline. The Bureau will promptly take all appropriate action to enforce the Modified 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 decision or desire further information, please contact Cheryl Lardizabal, Citation Analyst, at Cheryl.Lardizabal@dca.ca.gov.

“Original Signature on file”

“2/2/2021”

Christina Villanueva
Discipline Manager

Date

Enclosures

- Payment of Fine – Waiver of Appeal Rights
- Withdrawal- Request for Administrative Hearing
- Declaration of Service by Certified and First-Class Mail