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

11
12 In the Matter of the Statement of Issues
Against:

Case No. 1001763

13 **DUBLIN BEAUTY COLLEGE;**
14 **R 5 EDUCATIONAL SERVICES, INC.,**
OWNER;

STATEMENT OF ISSUES

15 **Applicant for Renewal of Approval to**
16 **Operate an Institution Non-Accredited,**
School Code No. 0100371

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official
22 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
23 Consumer Affairs.

24 2. On or about March 8, 2013, the Bureau for Private Postsecondary Education (Bureau)
25 received an application for a Renewal of Approval to Operate and Institution Non-Accredited for
26 Dublin Beauty College, which had been operating as an approved school since on or about March
27 1, 1982, with School Code Number 0100371. On or about February 5, 2013, Wendell Arnold, the
28 then-owner of the institution, certified under penalty of perjury to the truthfulness of all

1 statements, answers, and representations in the application. Dublin Beauty College (Respondent)
2 subsequently changed ownership, to R 5 Educational Services, Inc., as Owner and with Fred
3 Rasuli as Director. The Bureau denied the application on or about March 29, 2016.

4 JURISDICTION

5 3. This Statement of Issues is brought before the Director of the Department of
6 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
7 authority of the following laws. All section references are to the Education Code unless
8 otherwise indicated.

9 4. Section 94891, subdivision (b), of the Code, states that to be granted a renewal of an
10 approval to operate, the institution shall demonstrate its continued capacity to meet the minimum
11 operating standards.

12 5. California Code of Regulations, title 5, section 71700 provides that the Bureau
13 may request that an institution document compliance with the standards set forth in the California
14 Private Postsecondary Education Act of 2009 to obtain and maintain an approval to operate.

15 STATUTORY PROVISIONS

16 6. Section 94909 of the Code states in pertinent part:

17 “(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a
18 prospective student, either in writing or electronically, with a school catalog containing, at a
19 minimum, all of the following:

20 . . .

21 (12) A statement specifying whether the institution has a pending petition in bankruptcy, is
22 operating as a debtor in possession, has filed a petition within the preceding five years, or has had
23 a petition in bankruptcy filed against it within the preceding five years that resulted in
24 reorganization under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. Sec. 1101 et
25 seq.).

26 . . .

27 (15) The following statement:

28

1 "NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND
2 CREDENTIALS EARNED AT OUR INSTITUTION

3 The transferability of credits you earn at (name of institution) is at the
4 complete discretion of an institution to which you may seek to transfer. Acceptance of
5 the (degree, diploma, or certificate) you earn in (name of educational program) is also
6 at the complete discretion of the institution to which you may seek to transfer. If the
7 (credits or degree, diploma, or certificate) that you earn at this institution are not
8 accepted at the institution to which you seek to transfer, you may be required to
9 repeat some or all of your coursework at that institution. For this reason you should
10 make certain that your attendance at this institution will meet your educational goals.
11 This may include contacting an institution to which you may seek to transfer after
12 attending (name of institution) to determine if your (credits or degree, diploma, or
13 certificate) will transfer."

14 (16) A statement specifying whether the institution, or any of its degree programs, are
15 accredited by an accrediting agency recognized by the United States Department of Education. If
16 the institution is unaccredited and offers an associate, baccalaureate, master's, or doctoral degree,
17 or is accredited and offers an unaccredited program for an associate, baccalaureate, master's, or
18 doctoral degree, the statement shall disclose the known limitations of the degree program,
19 including, but not limited to, all of the following:

20 (A) Whether a graduate of the degree program will be eligible to sit for the applicable
21 licensure exam in California and other states.

22 (B) A degree program that is unaccredited or a degree from an unaccredited institution is
23 not recognized for some employment positions, including, but not limited to, positions with the
24 State of California.

25 (C) That a student enrolled in an unaccredited institution is not eligible for federal
26 financial aid programs."

27 7. Section 94910 of the Code states:

28 "Except as provided in subdivision (d) of Section 94909 and Section 94910.5, prior to
enrollment, an institution shall provide a prospective student with a School Performance Fact
Sheet containing, at a minimum, the following information, as it relates to the educational
program:

(a) Completion rates, as calculated pursuant to Article 16 (commencing with Section
94928).

1 (b) Placement rates for each educational program, as calculated pursuant to Article 16
2 (commencing with Section 94928), if the educational program is designed to lead to, or the
3 institution makes any express or implied claim related to preparing students for, a recognized
4 career, occupation, vocation, job, or job title.

5 (c) License examination passage rates for programs leading to employment for which
6 passage of a state licensing examination is required, as calculated pursuant to Article 16
7 (commencing with Section 94928).

8 (d) Salary or wage information, as calculated pursuant to Article 16 (commencing with
9 Section 94928).

10 (e) If a program is too new to provide data for any of the categories listed in this
11 subdivision, the institution shall state on its fact sheet: "This program is new. Therefore, the
12 number of students who graduate, the number of students who are placed, or the starting salary
13 you can earn after finishing the educational program are unknown at this time. Information
14 regarding general salary and placement statistics may be available from government sources or
15 from the institution, but is not equivalent to actual performance data."

16 (f) All of the following:

17 (1) A description of the manner in which the figures described in subdivisions (a) to (d),
18 inclusive, are calculated or a statement informing the reader of where he or she may obtain a
19 description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are
20 calculated.

21 (2) A statement informing the reader of where he or she may obtain from the institution a
22 list of the employment positions determined to be within the field for which a student received
23 education and training for the calculation of job placement rates as required by subdivision (b).

24 (3) A statement informing the reader of where he or she may obtain from the institution a
25 list of the objective sources of information used to substantiate the salary disclosure as required
26 by subdivision (d).

27 (g) The following statements:
28

1 (1) "This fact sheet is filed with the Bureau for Private Postsecondary Education.
2 Regardless of any information you may have relating to completion rates, placement rates,
3 starting salaries, or license exam passage rates, this fact sheet contains the information as
4 calculated pursuant to state law."

5 (2) "Any questions a student may have regarding this fact sheet that have not been
6 satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary
7 Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and
8 fax numbers)."

9 (h) If the institution participates in federal financial aid programs, the most recent three-
10 year cohort default rate reported by the United States Department of Education for the institution
11 and the percentage of enrolled students receiving federal student loans.

12 (i) Data and information disclosed pursuant to subdivisions (a) to (d), inclusive, is not
13 required to include students who satisfy the qualifications specified in subdivision (d) of Section
14 94909, but an institution shall disclose whether the data, information, or both provided in its fact
15 sheet excludes students pursuant to this subdivision. An institution shall not actively use data
16 specific to the fact sheet in its recruitment materials or other recruitment efforts of students who
17 are not California residents and do not reside in California at the time of their enrollment."

18 8. Section 94911 of the Code states in pertinent part:

19 "An enrollment agreement shall include, at a minimum, all of the following:

20 ...

21 "(c) In underlined capital letters on the same page of the enrollment agreement in which the
22 student's signature is required, the total charges for the current period of attendance, the estimated
23 total charges for the entire educational program, and the total charges the student is obligated to
24 pay upon enrollment.

25 "(d) A clear and conspicuous statement that the enrollment agreement is legally binding
26 when signed by the student and accepted by the institution.

27 "(e) (1) A disclosure with a clear and conspicuous caption, "STUDENT'S RIGHT TO
28 CANCEL," under which it is explained that the student has the right to cancel the enrollment

1 agreement and obtain a refund of charges paid through attendance at the first class session, or the
2 seventh day after enrollment, whichever is later.

3 “(2) The disclosure shall contain the institution's refund policy and a statement that, if the
4 student has received federal student financial aid funds, the student is entitled to a refund of
5 moneys not paid from federal student financial aid program funds.

6 . . .

7 “(g) A statement specifying that, if the student is eligible for a loan guaranteed by the
8 federal or state government and the student defaults on the loan, both of the following may occur:

9 (1) The federal or state government or a loan guarantee agency may take action against
10 the student, including applying any income tax refund to which the person is entitled to reduce the
11 balance owed on the loan.

12 (2) The student may not be eligible for any other federal student financial aid at another
13 institution or other government assistance until the loan is repaid.

14 “(h) The transferability disclosure that is required to be included in the school catalog, as
15 specified in paragraph (15) of subdivision (a) of Section 94909.

16 “(i) (1) The following statement: "Prior to signing this enrollment agreement, you must be
17 given a catalog or brochure and a School Performance Fact Sheet, which you are encouraged to
18 review prior to signing this agreement. These documents contain important policies and
19 performance data for this institution. This institution is required to have you sign and date the
20 information included in the School Performance Fact Sheet relating to completion rates,
21 placement rates, license examination passage rates, salaries or wages, and the most recent three-
22 year cohort default rate, if applicable, prior to signing this agreement."

23 (2) Immediately following the statement required by paragraph (1), a line for the student
24 to initial, including the following statement: "I certify that I have received the catalog, School
25 Performance Fact Sheet, and information regarding completion rates, placement rates, license
26 examination passage rates, salary or wage information, and the most recent three-year cohort
27 default rate, if applicable, included in the School Performance Fact sheet, and have signed,
28 initialed, and dated the information provided in the School Performance Fact Sheet."”

1 9. Section 94929.5 of the Code states:

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

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

8 (2) The license examination passage rates for the immediately preceding two years for
9 programs leading to employment for which passage of a state licensing examination is required,
10 calculated by dividing the number of graduates who pass the examination by the number of
11 graduates who take the licensing examination the first time that the examination is available after
12 completion of the educational program. The institution shall use state agency licensing data to
13 calculate license examination passage rates. If those data are unavailable, the institution shall
14 calculate the license examination passage rate in a manner consistent with regulations adopted by
15 the bureau.

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

19 (4) If applicable, the most recent official three-year cohort default rate reported by the
20 United States Department of Education for the institution and the percentage of enrolled students
21 receiving federal student loans.

22 “(b) Nothing in this section shall limit the bureau's authority to collect information from
23 an institution to comply with this section and ensure, by regulation and other lawful means, that
24 the information required by this section, and the manner in which it is collected and reported, is
25 all of the following:

26 (1) Useful to students.

27 (2) Useful to policymakers.

28 (3) Based upon the most credible and verifiable data available.

1 (4) Does not impose undue compliance burdens on an institution.

2 “(c) Data and information disclosed pursuant to paragraphs (1) to (3), inclusive, of
3 subdivision (a) is not required to include students who satisfy the qualifications specified in
4 subdivision (d) of Section 94909, but an institution shall disclose on its fact sheet and to the
5 bureau whether its data, information, or both, excludes any students pursuant to this subdivision.”

6 REGULATORY PROVISIONS

7 10. California Code of Regulations, title 5, section 71475, subdivision (e), states:

8 “The institution shall submit at the time it applies for renewal current financial statements
9 that meet the requirements of section 74115 as follows: (1) for an institution with annual gross
10 revenues of \$500,000 and over, statements shall be audited; (2) for an institution with annual
11 gross revenues less than \$500,000, statements shall be reviewed.”

12 11. California Code of Regulations, title 5, section 71810, states in pertinent part:

13 “(b) The catalog shall contain the information prescribed by Section 94909 of the Code and
14 all of the following:

15 (2) A statement of the institution's missions and purposes and the objectives underlying
16 each of its educational programs;

17 ...

18 (10) A description of library and other learning resources and the procedures for student
19 access to those resources;

20 ...

21 (13) Housing information including all of the following:

22 (A) Whether the institution has dormitory facilities under its control;

23 (B) The availability of housing located reasonably near the institution's facilities and an
24 estimation of the approximate cost or range of cost of the housing; and

25 (C) If the institution has no responsibility to find or assist a student in finding housing, a
26 clear and conspicuous statement so indicating. A statement that the program is “non- residential”
27 does not satisfy this subparagraph.”

28

1 12. California Code of Regulations, title 5, section 74112 provides that an institution
2 must prepare a Performance Fact Sheet for each educational program containing the information
3 required or permitted by Code sections 94910 and 94929.5.

4 13. California Code of Regulations, title 5, section 76215, states:

5 “(a) A qualifying institution shall include the following statement on both its enrollment
6 agreement for an educational program and its current schedule of student charges:

7 “You must pay the state-imposed assessment for the Student Tuition
8 Recovery Fund (STRF) if all of the following applies to you:

9 1. You are a student in an educational program, who is a California
10 resident, or are enrolled in a residency program, and prepay all or part of your tuition
either by cash, guaranteed student loans, or personal loans, and

11 2. Your total charges are not paid by any third-party payer such as an
12 employer, government program or other payer unless you have a separate agreement
to repay the third party.

13 You are not eligible for protection from the STRF and you are not
required to pay the STRF assessment, if either of the following applies:

14 1. You are not a California resident, or are not enrolled in a residency
15 program, or

16 2. Your total charges are paid by a third party, such as an employer,
17 government program or other payer, and you have no separate agreement to repay the
third party.”

18 “(b) In addition to the statement described under subdivision (a) of this section, a qualifying
19 institution shall include the following statement on its current schedule of student charges:

20 “The State of California created the Student Tuition Recovery Fund
21 (STRF) to relieve or mitigate economic losses suffered by students in educational
22 programs who are California residents, or are enrolled in a residency programs
attending certain schools regulated by the Bureau for Private Postsecondary and
Vocational Education.

23 You may be eligible for STRF if you are a California resident or are
24 enrolled in a residency program, prepaid tuition, paid the STRF assessment, and
suffered an economic loss as a result of any of the following:

25 1. The school closed before the course of instruction was completed.

26 2. The school's failure to pay refunds or charges on behalf of a student to
27 a third party for license fees or any other purpose, or to provide equipment or
materials for which a charge was collected within 180 days before the closure of the
school.

28 3. The school's failure to pay or reimburse loan proceeds under a federally

1 guaranteed student loan program as required by law or to pay or reimburse proceeds
2 received by the school prior to closure in excess of tuition and other costs.

3 4. There was a material failure to comply with the Act or this Division
4 within 30 days before the school closed or, if the material failure began earlier than
5 30 days prior to closure, the period determined by the Bureau.

6 5. An inability after diligent efforts to prosecute, prove, and collect on a
7 judgment against the institution for a violation of the Act.”

8 However, no claim can be paid to any student without a social security number or a
9 taxpayer identification number.”

10 FIRST CAUSE FOR DENIAL OF APPLICATION

11 (Enrollment Agreement)

12 14. Respondent has subjected its application to denial based on deficiencies in its
13 enrollment agreement. The specific violations are described below.

14 A. Respondent’s enrollment agreement lacks required text in underlined capital letters on
15 the same page as the student’s signature (Ed. Code, § 94911, subd. (c)).

16 B. Respondent’s enrollment agreement lacks a disclosure stating that if the student has
17 received federal student financial aid funds, the student is entitled to a refund of moneys not paid
18 from federal student financial aid program funds (Ed. Code, § 94911, subd. (e)(2)).

19 C. Respondent’s enrollment agreement lacks a statement specifying that, if the student
20 defaults on a federal or state loan, both the following may occur: (1) the federal or state
21 government or a loan guarantee agency may take action against the student, including applying
22 any income tax refund to which the person is entitled to reduce the balance owed on the loan; and
23 (2) the student may not be eligible for any other federal student financial aid at another institution
24 or other government financial assistance until the loan is repaid (Ed. Code, § 94911, subd. (g)).

25 D. Respondent’s enrollment agreement lacks the transferability disclosure referencing
26 the institution; the enrollment agreement references “Fremont Beauty College” instead of “Dublin
27 Beauty College” (Ed. Code, §§ 94909, subd. (a)(15) and 94911, subd. (h)).

28 E. Respondent’s enrollment agreement lacks required statements, required to be initialed
by the student, regarding the student’s receipt of the catalog and School Performance Fact Sheet
Sheet (Ed. Code, § 94911, subd. (i)(1)(2)).

1 F. Respondent's enrollment agreement lacks a clear and conspicuous statement that the
2 enrollment is legally binding when signed by the student and accepted by the institution (Ed.
3 Code, § 94911, subd. (d)).

4 SECOND CAUSE FOR DENIAL OF APPLICATION

5 (Financial Resources and Statements)

6 15. Respondent has subjected its application to denial because Respondent failed to
7 submit audited or reviewed financial statement that were prepared by a certified public accountant
8 (Cal. Code Regs., tit. 5, § 71475, subd. (e)).

9 THIRD CAUSE FOR DENIAL OF APPLICATION

10 (Catalog)

11 16. Respondent has subjected its application to denial based on deficiencies in its catalog.
12 The specific violations are described below.

13 A. Respondent's catalog lacks required bankruptcy information (Ed. Code, § 94909,
14 subd. (a)(12)).

15 B. Respondent's catalog lacks a statement of the institution's missions and purposes and
16 the objectives underlying each of its educational programs (Cal. Code Regs., tit. 5, § 71810, subd.
17 (b)(2)).

18 C. Respondent's catalog lacks information regarding the procedures for student access to
19 the library and other learning resources (Cal. Code Regs., tit. 5, § 71810, subd. (b)(10)).

20 D. Respondent's catalog lacks a statement specifying whether the institution or any of its
21 degree programs are accredited by an accrediting agency recognized by the United States
22 Department of Education (Ed. Code, § 94909, subd. (a)(16)).

23 E. Respondent's catalog lacks specifically required language related to the Student
24 Tuition Recovery Fund (Cal. Code Regs., tit. 5, § 76215, subs. (a)(b)).

25 F. Respondent's catalog lacks required information about housing (Cal. Code Regs., tit.
26 5, § 71810, subd. (b)(13)(A)(B)(C)).

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FOURTH CAUSE FOR DENIAL OF APPLICATION

(School Performance Fact Sheet)

17. Respondent has subjected its application to denial because it failed to submit a School Performance Fact Sheet as required (Ed. Code, §§ 94910 and 94929.5; Cal. Code Regs., tit. 5, § 74112).

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Statement of Issues, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

- 1. Denying the application for a renewal of approval to operate an institution non-accredited by Dublin Beauty College; R 5 Educational Services, Inc., Owner; School Code No. 0100371;
- 2. Taking such other and further action as deemed necessary and proper.

DATED: 11/30/14

JOANNE WENZEL
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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