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

In the Matter of the First Amended Accusation Against: **CITY BEAUTY COLLEGE** **JOHN THAI TRAN, OWNER** 2300 Florin Road Sacramento, CA 95822 **Institution Code No. 93832312** And **CITY BEAUTY COLLEGE** **NGA HUYNH, PERSON IN CONTROL** **TERI NGO AKA THI NGO, PERSON IN CONTROL** 6853 65TH Street, Suite C Sacramento, CA 95828 And **8587 Culpepper Drive** **Sacramento, CA 95828** Respondents.	Case No. 998285 OAH No. 2013071135 **SUPPLEMENTAL STATEMENT TO RESPONDENT** [Gov. Code §§ 11505, 11506, 11507]

TO RESPONDENTS:

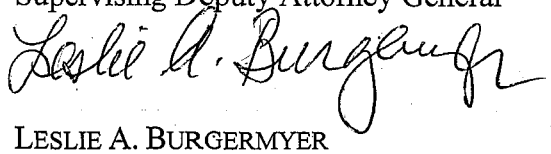
Enclosed is a copy of the First Amended Accusation that has been filed with the Director of the Department of Consumer Affairs, for the Bureau for Private Postsecondary Education

("Bureau"), pursuant to section 11507 of the Government Code, and which is hereby served on you.

You previously filed a Notice of Defense with the Director of the Department of Consumer Affairs, pursuant to sections 11505 and 11506 of the Business and Professions Code, thereby requesting an administrative hearing to present your defense to the charges and allegations in the Accusation. Section 11507 of the Government Code states that you are not entitled to file a further pleading in response to the First Amended Accusation unless the agency in its discretion so orders. All new charges contained in the First Amended Accusation are deemed controverted, and any objections to the First Amended Accusation may be made orally and shall be noted in the record.

Dated: April 7, 2014

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General



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Complainant alleges:

PARTIES

1. Joanne Wenzel ("Complainant") brings this First Amended Accusation solely in her official capacity as the Chief of the Bureau for Private Postsecondary Education ("Bureau"), Department of Consumer Affairs.

2. On or about December 10, 2004, the former Bureau for Private Postsecondary and Vocational Education ("BPPVE")[1] issued Full Approval to Operate Institution Code Number 93832312 to City Beauty College, John Thai Tran, Owner, ("Tran"). Said Full Approval to Operate was in full force and effect at all times alleged herein through September 29, 2013, when it expired, without renewal.[2] City Beauty College is a non-accredited institution. Respondents have continued to operate after the expiration of the Full Approval to Operate.

3. Before, on or about July 28, 2010, Nga Huynh ("Huynh"), Person in Control, and Teri Ngo, also known as Thi Ngo, ("Ngo"), Person in Control, took over control of City Beauty College, without approval by the Bureau to operate under the California Private Postsecondary Education Act of 2009 ("Act"), pursuant to Education Code section 94886.

4. On or about July 28, 2010, Respondent Huynh submitted an Application for Change of Ownership, which the Bureau deemed incomplete. The Bureau notified Respondent Huynh in writing of the deficiencies and requested documentation. Respondent Huynh failed to submit the required information and documentation by the deadline provided, thus abandoning the application pursuant to California Code of Regulations, title 5, section 71401. Huynh and Ngo continued to operate City Beauty College without legal approval to do so.

5. "Respondents," as used herein, refers collectively to City Beauty College, Tran, Huynh, and Ngo, unless otherwise stated.

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[1] The former Bureau for Private Postsecondary and Vocational Education sun-setted on July 1, 2007. On October 11, 2009, the California Private Postsecondary Education Act of 2009 ("Act") was signed into law. (Educ. Code, §§94800, et seq.) The Act, became operative on January 1, 2010, and established the Bureau for Private Postsecondary Education ("Bureau").

[2] On or about February 10, 2014, the Bureau received Respondents incomplete Application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions, signed by Nga Huynh and dated January 9, 2014. The renewal application was deemed deficient and denied by the Bureau.

JURISDICTION

6. This First Amended Accusation is brought before the Director of the Department of Consumer Affairs ("Director") for the Bureau under the authority of the following laws. All section references are to the Education Code unless otherwise indicated.

7. Section **94932** of the Education Code states:

> The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to monitor compliance. When the bureau has reason to believe that an institution may be out of compliance, it shall conduct an investigation of the institution. If the bureau determines, after completing an investigation, that an institution has violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this article.

8. Section **94937** of the Education Code states, in pertinent part:

> (a) As a consequence of an investigation, and upon a finding that an institution has committed a violation, the bureau may place an institution on probation or may suspend or revoke an institution's approval to operate for:
>
> (2) A material violation or repeated violations of this chapter or regulations adopted pursuant to this chapter that have resulted in harm to students. For purposes of this paragraph, "material violation" includes, but is not limited to, misrepresentation, fraud in the inducement of a contract, and false or misleading claims or advertising, upon which a student reasonably relied in executing an enrollment agreement and that resulted in harm to the student.

9. Title 5, California Code of Regulations, section **75100, subdivision (a)**, authorizes the Bureau to discipline its licensees including license suspension or revocation, or place the licensees on probation with terms and conditions and approval to operate.

10. Section **94851** of the Education Code states: "Owner" means an individual in the case of a sole proprietorship, partners in a partnership, members in a limited liability company, or shareholders in a corporation.

11. Section **94852** of the Education Code states: "Ownership" means a legal or equitable interest in an institution, including ownership of assets or stock

12. Section **94856** of the Education Code states: "Person in control" means a person who, by his or her position's authority or conduct, directs the management of an institution.

STATUTORY PROVISIONS

13. Section **94886** of the Education Code states, in pertinent part:

[A] person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter.

14. Section **94893** of the Education Code states:

If an institution intends to make a substantive change to its approval to operate, the institution shall receive prior authorization from the bureau. Except as provided in subdivision (a) of Section of 94896, if the institution makes the substantive change without prior bureau authorization, the institution's approval to operate may be suspended or revoked.

15. Section **94897** of the Education Code states, in pertinent part:

An institution shall not do any of the following:

(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.

16. Section **94900** of the Education Code states:

(a) An institution shall maintain records of the name, address, e-mail address, and telephone number of each student who is enrolled in an educational program in that institution.

(b) An institution shall maintain, for each student granted a degree or certificate by that institution, permanent records of all of the following:

(1) The degree or certificate granted and the date on which that degree or certificate was granted.

(2) The courses and units on which the certificate or degree was based.

(3) The grades earned by the student in each of those courses.

17. Section **94902** of the Education Code states, in pertinent part:

(a) A student shall enroll solely by means of executing an enrollment agreement. The enrollment agreement shall be signed by the student and by an authorized employee of the institution.

(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. The Student Performance Fact Sheet shall include a line for the student to initial and shall be initialed and dated by the student.

(c) A student shall receive a copy of the signed enrollment agreement, in writing or electronically, regardless of whether total charges are paid by the student.

18. Section **94904** of the Education Code states, in pertinent part:

(a) 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.) as it is, from time to time, amended. 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.

19. Section **94906** of the Education Code states, in pertinent part:

(a) An enrollment agreement shall be written in language that is easily understood. If English is not the student's primary language, and the student is unable to understand the terms and conditions of the enrollment agreement, the student shall have the right to obtain a clear explanation of the terms and conditions and all cancellation and refund policies in his or her primary language.

(b) If the recruitment leading to enrollment was conducted in a language other than English, the enrollment agreement, disclosures, and statements shall be in that language.

20. Section **94908** of the Education Code states:

Any information or statement required by this article to be included in the catalog, School Performance Fact Sheet, or enrollment agreement shall be printed in at least the same size font as the majority of the text in that document.

21. Section **94909** of the Education Code states, in pertinent part:

(a) Prior to enrollment, an institution shall provide a prospective student, either in writing or electronically, with a school catalog containing, at a minimum, all of the following:

(1) The name, address, telephone number, and, if applicable, Internet Web site address of the institution.

. . .

(3) The following statements:

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

(B) "As a prospective student, you are encouraged to review this catalog prior to signing an enrollment agreement. You are also encouraged to review the School Performance Fact Sheet, which must be provided to you prior to signing an enrollment agreement."

(C) "A student or any member of the public may file a complaint about this institution with the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by completing a complaint form, which can be obtained on the bureau's Internet Web site (Internet Web site address)."

(4) The address or addresses where class sessions will be held.

(5) A description of the programs offered and a description of the instruction provided in each of the courses offered by the institution, the requirements for completion of each program, including required courses, any final tests or examinations, any required internships or externships, and the total number of credit hours, clock hours, or other increments required for completion.

. . .

(7) Information regarding the faculty and their qualifications.

(8) A detailed description of institutional policies in the following areas:

(B) Cancellation, withdrawal, and refund policies, including an explanation that the student has the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later. The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund consistent with the requirements of Article 13 (commencing with Section 94919).

(9) The schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program.

(10) A statement reporting whether the institution participates in federal and state financial aid programs, and if so, all consumer information that is required to be disclosed to the student pursuant to the applicable federal and state financial aid programs.

(11) A statement specifying that, if a student obtains a loan to pay for an educational program, the student will have the responsibility to repay the full amount of the loan plus interest, less the amount of any refund, and that, if the student has received federal student financial aid funds, the student is entitled to a refund of the moneys not paid from federal student financial aid program funds.

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

. . .

(14) A description of the student's rights and responsibilities with respect to the Student Tuition Recovery Fund. This statement shall specify that it is a state requirement that a student who pays his or her tuition is required to pay a state-imposed assessment for the Student Tuition Recovery Fund. This statement shall also describe the purpose and operation of the Student Tuition Recovery Fund and the requirements for filing a claim against the Student Tuition Recovery Fund.

(15) The following Statement:

"NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS EARNED AT OUR INSTITUTION
The transferability of credits you earn at (name of institution) is at the complete discretion of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or certificate) you earn in (name of educational program) is also at the complete discretion of the institution to which you may seek to transfer. If the (credits or degree, diploma or certificate) that you earn at this institution are not accepted at the institution to which you seek to transfer, you may be required to repeat some or all of your coursework at that institution. For this reason you should make certain that your attendance at this institution will meet your educational goals. This may include contacting an institution to which you may seek to transfer after attending (name of institution) to determine if your (credits or degree, diploma or certificate) will transfer."

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

. . .

(C) That a student enrolled in an unaccredited institution is not eligible for federal financial aide programs.

22. Section **94910** of the Education Code states:

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.

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

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

(d)(1) Salary or wage information, as calculated pursuant to Article 16 (commencing with Section 94928),if the institution or a representative of the

institution makes any express or implied claim about the salary that may be earned after completing the educational program.

(2) Additionally, each institution that offers an educational program designed to lead to a particular career, occupation, vocation, trade, job, or job title shall disclose the wage and salary data for the particular career, occupation, trade, job, or job title, as provided by the Employment Development Department's Occupational Employment Statistics, if that data is available.

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

(f) All of the following:

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

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

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

(g) The following statements:

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

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

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

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23. Section **94911** of the Education Code states:

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

(a) The name of the institution and the name of the educational program, including the total number of credit hours, clock hours, or other increment required to complete the educational program.

(b) A schedule of total charges, including a list of any charges that are nonrefundable and the student's obligations to the Student Tuition Recovery Fund, clearly identified as nonrefundable charges.

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

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

(e)(1) A disclosure with a clear and conspicuous caption, "STUDENT'S RIGHT TO CANCEL," under which it is explained that the student has the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later.

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

(3) The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund.

(f) A statement specifying that, if the student obtains a loan to pay for an educational program, the student will have the responsibility to repay the full amount of the loan plus interest, less the amount of any refund.

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

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

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

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

(i)(1) The following statement: "Prior to signing this enrollment agreement, you must be given a catalog or brochure and a School Performance Fact Sheet,

which you are encouraged to review prior to signing this agreement. These documents contain important policies and performance data for this institution. This institution is required to have you sign and date the information included in the School Performance Fact Sheet relating to completion rates, placement rates, license examination passage rates, and salaries or wages, prior to signing this agreement."

(2) Immediately following the statement required by paragraph (1), a line for the student to initial, including the following statement: "I certify that I have received the catalog, School Performance Fact Sheet, and information regarding completion rates, placement rates, license examination passage rates, and salary or wage information included in the School Performance Fact sheet, and have signed, initialed, and dated the information provided in the School Performance Fact Sheet."

(j) The following statements:

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

(2) "A student or any member of the public may file a complaint about this institution with the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by completing a complaint form, which can be obtained on the bureau's Internet Web site (Internet Web site address)."

(k) The following statement above the space for the student's signature:

"I understand that this is a legally binding contract. My signature below certifies that I have read, understood, and agreed to my rights and responsibilities, and that the institution's cancellation and refund policies have been clearly explained to me."

24. Section **94912** of the Education Code states:

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.

25. Section **94920** of the Education Code states, in pertinent part:

An institution that does not participate in the federal student financial aid programs shall do all of the following:

(b) Institutions shall refund 100 percent of the amount paid for institutional charges, less a reasonable deposit or application fee not to exceed two hundred fifty dollars ($250), if notice of cancellation is made through attendance at the first class session, or the seventh day after enrollment, whichever is later.

. . .

(d) The institution shall have a refund policy for the return of unearned institutional charges if the student cancels an enrollment agreement or withdraws

during a period of attendance. The refund policy for students who have completed 60 percent or less of the period of attendance shall be a pro rata refund.

(e) The institution shall pay or credit refunds within 45 days of a student's cancellation or withdrawal.

26. Section **94929** of the Education Code states, in pertinent part:

(a) An institution shall annually report to the bureau, as part of the annual report, and publish in its School Performance Fact Sheet, the completion rate for each program. Except as provided in subdivision (b), the completion rate shall be calculated by dividing the number of graduates by the number of students available for graduation.

(b) In lieu of calculating graduation data pursuant to subdivision (a), an institution may report graduation data reported to, and calculated by, the Integrated Postsecondary Education Data System of the United States Department of Education.

27. Section **94929.5** of the Education Code states:

(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.

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

(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).

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

(b) The license examination passage rates for the immediately preceding two years for programs leading to employment for which passage of a state licensing examination is required, calculated by dividing the number of graduates who pass the examination by the number of graduates who take the licensing examination the first time that the examination is available after completion of the educational

program. The institution shall use state agency licensing data to calculate license examination passage rates. If those data are unavailable, the institution shall calculate the license examination passage rate in a manner consistent with regulations adopted by the bureau.

(c) 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).

28. Section **94929.7** of the Education Code states, in pertinent part:

(a) The information used to substantiate the rates calculated pursuant to Sections 94929 and 94929.5 shall be documented and maintained by the institution for five years from the date of the publication of those rates. An institution may retain this information in an electronic format.

(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.

29. Section **94934** of the Education Code states:

(a) As part of the compliance program, an institution shall submit an annual report to the bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year, or another date designated by the bureau, and it shall include the following information for educational programs offered in the reporting period:

(1) The total number of students enrolled by level of degree or for a diploma.

(2) The number of degrees, by level, and diplomas awarded.

(3) The degree levels and diplomas offered.

(4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

(5) The school catalog, as required pursuant to Section 94909.

(6) The total charges for each educational program by period of attendance.

(7) A statement indicating whether the institution is, or is not, current in remitting Student Tuition Recovery Fund assessments.

(8) A statement indicating whether an accrediting agency has taken any final disciplinary action against the institution.

(9) Additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter.

(b) The bureau, by January 1, 2011, shall prescribe the annual report's format and method of delivery.

30. Section **94943** states in pertinent part:

The following violations of this chapter are public offenses:

(a) knowingly operate a private postsecondary institution without an approval to operate is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code.

31. Section **94944** of the Education Code states in pertinent part:

Notwithstanding any other provision of the law, the Bureau shall cite any person, and that person shall be subject to a fine not to exceed fifty thousand dollars ($50,000), for operating an institution without proper approval to operate issued by the bureau pursuant to this chapter.

REGULATORY PROVISIONS

32. California Code of Regulations, title 5, section **71230**, states:

If the institution offers an educational program, or a portion of it, in a language other than English, the Form Application 94886 shall contain a description of all of the following for each educational program or portion thereof.

(a) The language in which each educational program will be offered.

(b) A statement that the institution has contracted with sufficient duly qualified faculty who will teach each language group of students.

(c) The language of the textbooks and other written materials to be used by each language group of students.

33. California Code of Regulations, title 5, section **71660** states:

An institution shall notify the Bureau of a non-substantive change including: change of location of less than 10 miles; addition of a program related to the approved programs offered by the institution; addition of a new branch five miles or less form the main or branch campus; addition of a satellite; and change of mailing address. All such notifications shall be made within 30 days of the change and sent to the Bureau, in writing to the address listed in section 70020.

34. California Code of Regulations, title 5, section **71710** states, in pertinent part:

In order to meet its mission and objectives, the educational program defined in section 94837 of the Code shall be comprised of a curriculum that includes:

(a) those subject areas that are necessary for a student to achieve the educational objectives of the educational program in which the student is enrolled;

(b) subject areas and courses or modules that are presented in a logically organized manner or sequence to students;

(c) course or module materials that are designed or organized by duly qualified faculty. For each course or module, each student shall be provided with a syllabus or course outline that contains:

(1) a short, descriptive title of the educational program;

(2) a statement of educational objectives;

(3) length of the educational program;

(4) sequence and frequency of lessons or class sessions;

(5) complete citations of textbooks and other required written materials;

(6) sequential and detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured;

(7) instructional mode or methods.

(e) specific learning outcomes tied to the sequence of the presentation of the material to measure the students' learning of the material; and

(f) evaluation by duly qualified faculty of those learning outcomes.

35. California Code of Regulations, title 5, section **71715** states, in pertinent part:

(a) Instruction shall be the central focus of the resources and services of the institution.

(b) The institution shall document that the instruction offered leads to the achievement of the learning objectives of each course.

(c) Direct instruction requires the physical presence of one or more students and one or more faculty members at the same location. Direct instruction includes instruction presented in a classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or other physical learning settings consistent with the mission, purposes, and objectives of the institution.

36. California Code of Regulations, title 5, section **71720** states, in pertinent part:

(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.

(2) Each instructor shall maintain their knowledge by completing continuing education courses in his or her subject area, classroom management or other courses related to teaching.

37. California Code of Regulations, title 5, section **71735** states, in pertinent part:

(b) An institution's facilities, including heating and cooling, ventilation, lighting, classrooms, laboratories, and campus environs, shall be well-maintained. The institution shall maintain all valid permits required by any public agencies relating to the health and safety of the institution's facilities and equipment on file, and such permits shall be available to the Bureau upon request.

38. California Code of Regulations, title 5, section **71750** states, in pertinent part:

(a) Every institution shall make refunds that are no less than the refunds required under the Act and this Division.

(b) An institution may not enforce any refund policy that is not specified in the catalog as required pursuant to section 94909(a)(8)(B) of the Code, and must refund all institutional charges upon a student's withdrawal. Withdrawal policy procedures pursuant to section 94909(a)(8)(B) of the Code shall include, at a minimum: the acceptable methods of delivery of a notice to withdraw; whether withdrawal can be accomplished by conduct, and if so, how; the position or positions to whom the notice to withdraw must be delivered; and the date that the notice to withdraw is considered effective, which shall be no later than the date received by the institution.

(c) A pro rata refund pursuant to section 94919(c) or 94920(d) or 94927 of the Code shall be no less than the total amount owed by the student for the portion of the educational program provided subtracted from the amount paid by the student, calculated as follows:

(1) the amount owed equals the daily charge for the program (total institutional charge, divided by the number of days or hours in the program), multiplied by the number of days student attended, or was scheduled to attend, prior to withdrawal.

(2) Except as provided for in subdivision (a)(3) of this section, all amounts paid by the student in excess of what is owed as calculated in subdivision (a)(1) shall be refunded.

(3) Except as provided herein, all amounts that the student has paid shall be subject to refund unless the enrollment agreement and the refund policy outlined in the catalog specify amounts paid for an application fee or deposit not more than $250.00, books, supplies, or equipment, and specify whether an under what circumstances those amounts are non-refundable. Except when an institution provides a 100% refund pursuant to section 94919(d) or section 94920(b) of the Code, any assessment paid pursuant to section 94923 of the Code is non-refundable.

(4) For purposes of determining a refund under the Act and this section, a student shall be considered to have withdrawn from an educational program

when he or she withdraws or is deemed withdrawn in accordance with the withdrawal policy stated in its catalog.

39. California Code of Regulations, title 5, section **71760** states:

Each institution shall develop and maintain adequate procedures used by the institution to assure that it is maintained and operated in compliance with the Act and this Division.

40. California Code of Regulations, title 5, section **71770** states, in pertinent part:

(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.

. . .

(b) The institution shall specify the maximum credit it will transfer from another institution for each educational program, and the basis upon which the transferred credit will be awarded.

(1) Except as limited by subdivision (c) of this section, a maximum of 75 percent of the units or credit that may be applied toward the award of a bachelor's degree may be derived from a combination of any or both of the following:

(A) Units earned at institutions approved by the Bureau, public or private institutions of higher learning accredited by an accrediting association recognized by the U.S. Department of education, or any institution of higher learning, including foreign institutions, if the institution offering the undergraduate program documents that the institution of higher learning at which the units were earned offers degree programs equivalent to degree programs approved by the Bureau or accredited by an accrediting association recognized by the U.S. Department of Education;

(B) Challenge examinations and standardized tests such as the College Level Placement Tests (CLEP) for specific academic disciplines.

. . .

(c) If credit for prior experiential learning is to be granted, the policy for granting such credit shall be included in the institution's catalog.

(1) An institution may grant credit to a student for prior experiential learning only if:

(A) The prior learning is equivalent to a college or university level of learning;

(B) The learning experience demonstrates a balance between theory and practice and;

(C) The credit awarded for the prior learning experience directly relates to the student's degree program and is applied in satisfaction of some of the degree requirements

(2) Each college or university level learning experience for which credit is sought shall be documented by the student in writing.

. . .

(6) The amount of credit awarded for prior experiential learning shall not be related to the amount charged the student for the assessment process.

41. California Code of Regulations, title 5, section **71800**, states, in pertinent part:

In addition to the requirements of section 94911 of the Code, an institution shall provide to each student an enrollment agreement that contains at the least the following information:

(a)The name and address of the institution and the addresses where instruction will be provided.

(b) Period covered by the enrollment agreement.

. . .

(d) Date by which the student must exercise his or her right to cancel or withdraw, and the refund policy, including any alternative method of calculation if approved by the Bureau pursuant to section 94921 of the Code.

(e) Itemization of all institutional charges and fees including, as applicable:

. . .

(5) textbooks, or other learning media;

(6) uniforms or other special protective clothing;

. . .

(9) assessment fees for transfer of credits;

(10) fees to transfer credits;

(11) Student Tuition Recovery Fund fee (non-refundable);

(f) Charges paid to an entity other than an institution that is specifically required for participation in the educational program.

42. California Code of Regulations, title 5, section **71810** states, in pertinent part:

(a) Each institution shall provide a catalog pursuant to section 94909 of the code, which shall be updated annually. Annual updates may be made by the use of supplements or inserts accompanying the catalog. If changes in educational programs, educational services, procedures, or policies required to be included in the catalog by statute or regulation are implemented before the issuance of the annually updated catalog, those changes shall be reflected at the time they are made in supplements or inserts accompanying the catalog.

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

(1) The specific beginning and ending dates defining the time period covered by the catalog;

. . .

(3) If the institution admits students from other countries, whether visa services are provided or whether the institution will vouch for student status, and any associated charges;

(4) Language proficiency information, including:

(A) the level of English language proficiency required of students and the kind of documentation of proficiency, such as the Test of English as a Foreign Language (TOEFL), that will be accepted; and

. . .

(5) Whether any instruction will occur in a language other than English and, if so, the level of proficiency required and the kind of documentation of proficiency, such as the United States Foreign Service Language Rating System, that will be accepted;

(6) The institution's policies and practices regarding any form of financial aid, including all consumer information which the institution is required to disclose to the student under any state or federal financial aid program;

(7) The institution's policies and procedures for the award of credit for prior experiential learning, including assessment policies and procedures, provisions for appeal, and all charges that a student may be required to pay;

. . .

(9) A description of the facilities and of the types of equipment and materials that will be used for instruction;

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

. . .

(13) Housing information including all of the following:

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

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

. . .

(15) Policies on the retention of student records.

43. California Code of Regulations, title 5, section **71920** states, in pertinent part:

(a) The institution shall maintain a file for each student who enrolls in the institution whether or not the student completes the educational service.

(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;

(B) Records documenting units of credit earned at other institutions that have been accepted and applied by the institution as transfer credits toward the student's completion of an educational program;

. . .

(3) Copies of all documents signed by the student, including contracts, instruments of indebtedness, and documents relating to financial aid;

(4) Records of the dates of enrollment and, if applicable, withdrawal from the institution, leaves of absence, and graduation; and

(5) In addition to the requirements of section 94900(b) of the Code, a transcript showing all of the following:

(A) The courses or other educational programs that were completed , or were attempted but not completed, and the dates of completion or withdrawal;

(B) Credit awarded for prior experiential learning, including the course title for which credit was awarded and the amount of credit;

(C) Credit for courses earned at other institutions;

(D) Credit based on any examination of academic ability or educational achievement used for admission or college placement purposes;

(E) The name, address, website address, and telephone number of the institution.

(9) A document showing the total amount of money received from or on behalf of the student and the date or dates on which the money was received;

(10) A document specifying the amount of a refund, including the amount refunded for tuition and the amount for other itemized charges, the method of calculating the refund, the date the refund was made, and the name and address of the person or entity to which the refund was sent;

44. California Code of Regulations, title 5, section **71930** states, in pertinent part:

(a) An institution shall maintain all records required by the Act and this chapter. The records shall be maintained in this state.

(b)(1) In addition to permanently retaining a transcript as required by section 94900(b) of the Code, the institution shall maintain for a period of 5 years the pertinent student records described in Section 71920 from the student's date of completion or withdrawal.

(c) A record is considered current for three years following a student's completion or withdrawal. A record may be stored on microfilm, microfiche, computer disk, or any other method of record storage only if all of the following apply:

(1) The record may be stored without loss of information or legibility for the period within which the record is required to be maintained by the Act;

(2) For a record that is current, the institution maintains functioning devices that can immediately reproduce exact, legible printed copies of stored records. The devices shall be maintained in reasonably close proximity to the stored records at the institution's primary administrative location in California. For a record that is no longer current, the institution shall be able to reproduce exact, legible printed copies within two (2) business days.

. . .

(d) The institution shall maintain a second set of all academic and financial records required by the Act and this chapter at a different location unless the original records, including records stored pursuant to subdivision (b) of this section, are maintained in a manner secure from damage or loss. An acceptable manner of storage under this subsection would include fire resistant cabinets.

(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.

45. California Code of Regulations, title 5, section **74006** states:

(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.

(c) The annual institutional fee is based on the institution's annual revenue. For purposes of this article, annual revenue is annual gross revenue.

46. California Code of Regulations, title 5, section **74110** states:

(a) The annual report required by section 94934 of the Code shall include the information required by section 94934 for all educational programs offered in the prior calendar year.

(b) In addition to the information required by section 94934 provided under penalty of perjury, the institution shall have annual financial statements prepared for the institution's prior fiscal year and signed under penalty of perjury, and shall submit a hard copy under separate cover of such statements in conjunction with its annual report. The form, content and mode of preparation of financial statement shall comply with section 74115 of this Division. The Bureau may request that the institution immediately make available for inspection to a representative of the Bureau, these financial statements at the offices of the institution.

(c) An institution shall file its annual report by September 1st. The Bureau may extend the period for filing if the institution demonstrates evidence of substantial need but in no case longer than 60 days. The institution shall not change the date of its filing its annual report because of a change n the fiscal year without the Bureau's approval.

(d) The annual report shall be electronically filed by submitting the information required by section 94934 of the Code via the Bureau's website, electronically attaching, as directed, the School performance Fact Sheet and the school catalog. An institution without the capability to submit the information electronically shall inform the Bureau not less than 45 days prior to the date the information is required by subdivision (c), and receive direction on alternative means of submission.

47. California Code of Regulations, title 5, section **74112** states:

(a) Format. The format for the Performance Fact Sheet shall be in at least 12 pt. type, in an easily readable font, with 1.15 line spacing. The Performance Fact Sheet shall contain all and only the information required or specifically permitted by section 94910 of the Code or this chapter.

(b) In addition to the definitions contained in section 94928 of the Code:

(1) "Number of Students Who began Program" means the number of students who began a program who are scheduled to complete the program with 100% of the published program length within the reporting calendar year, and includes all the students who remained enrolled after their cancellation period.

(2) "Number of Graduates" means the number of students who completed the program within 100% of the published length within the reporting calendar year.

(3) "Graduates Employed in the Field" means those graduates who meet the definition of section 94928(e) of the Code, who have reported their employment to the institution.

(c) Reporting periods:

(1) An Annual Report shall include data for all educational programs as defined in section 94837 of the Code for the previous one calendar year.

(2) A Performance Fact Sheet shall be current and available not later than August 1st, and shall report data for the previous two calendar years based upon the "number of students who began program" or the "number of graduates," as defined in subdivision (b), for each reported calendar year.

(d) Completion Rates. Reporting of completion rates for an institution's Annual Report and Performance Fact Sheet shall include, for each educational program, the number of students who began program as defined in subdivision (b), the number of students available for graduation, number of graduates, and completion rate(s). An optional column may be added to include completion rate data for students completing within 101-150% of the published program length. For an institution reporting completion data pursuant to section 94929(b) of the Code, completion data shall be separately reported for each program. The Performance Fact Sheet shall disclose, if true, that the completion data is being reported for students completing within 150% of the published program length, and that data is not being separately reported for students completing the program within 100% of the published program length.

Completion rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Completion Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)[3]

(e) Placement Rates.

(1) Any placement data required by sections 94910(b) and 94929.5(a) of the Code shall be reported for the number of students who began the program as defined in subdivision (b) for each reported calendar year.

(2) Placement is measured six months from the graduation date of each student. 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), graduates available for employment, graduates employed in the field and placement rate(s).

[3] See Appendix A, hereto, a copy of California Code of Regulations, title 5, section 74112 for the format for the reports, information, and footnotes, required under subpart (d) of this regulation.

(3) Placement rate shall be calculated as follows: the number of graduates employed in the field as defined in subsection 74112(b)(3) divided by the number of graduates available for employment as defined in section 94928(d) of the Code.

(4) Graduates employed in the field shall be reported for those graduates employed in the field in a single position that averages under 32 hours per week and those employed in the field in a single position that averages at least 32 hours per week.

References to the Code are to the California Education Code where the California Private Postsecondary Education Act of 2009 is located.

Placement rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Placement Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)[4]

(f) License Examination Passage Rates. If license examination passage rates are not available from the appropriate state agency, an institution shall collect the information directly from its graduates. If an institution demonstrates that, after reasonable efforts, it is unable to obtain the examination passage information from its graduates, the institution shall report the number of students it could not contact and note in a font the same size as the majority of the data on the Performance Fact Sheet, "License examination passage data is not available from the state agency administering the examination. We were unable to collect data from [enter the number] graduates."

Reporting of license examination passage rates for the Annual Report and the Performance Fact Sheet shall include, for each educational program: the number of students completing the program within 150% of published program length in the reported year, the number of documented graduates who passed the first examination, number of documented graduates who failed the first examination, the number of graduates for whom data is not available. An optional column may be added to separately report licensing examination data for students who take and pass the exam after failing initially. The Annual Report shall also include a description of the processes for attempting to contact those students.

For licensing examinations that are not continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a

[4] See Appendix A, hereto, a copy of California Code of Regulations, title 5, section 74112 for the format for the reports, information, and footnotes, required under subpart (e) of this regulation.

format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Examination Passage Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)[5]

(g) Salary and Wage Information.

All Salary and Wage Information shall be reported to the Bureau pursuant to section 94929.5(c) of the Code and, if required by section 94910(d) of the Code, shall be included in the Performance Fact Sheet, for each educational program, in a format substantially similar to the chart below, including the footnoted information (dates, numbers, salaries, and other data shown are for example only).

Salary and Wage Information (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)[6]

(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.

48. California Code of Regulations, title 5, section **74140** states:

Every institution shall retain, for a minimum of five years, copies of all advertising, including (a) flyers, brochures, newspaper, and other print advertisements, (b) scripts for, and audio and video recordings of, broadcast advertisements, and (c) internet content, and (d) scripts for telephone solicitations. The institution shall make these records immediately available for inspection and copying during normal business hours to site visit teams and the Bureau.

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[5] See Appendix A, hereto, a copy of California Code of Regulations, title 5, section 74112 for the format for the reports, information, and footnotes, required under subpart (f) of this regulation.

[6] See Appendix A, hereto, a copy of California Code of Regulations, title 5, section 74112 for the format for the reports, information, and footnotes, required under subpart (g) of this regulation.

49. In 2012, California Code of Regulations, title 5, section **76120** stated, in pertinent part:

> (a) Each qualifying institution shall collect an assessment of two dollars and fifty cents ($2.50) per one thousand dollars ($1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident or is enrolled in a residency program. For institutional charges of one thousand dollars ($1,000) or less, the assessment is two dollars and fifty cents ($2.50).

50. Commencing on January 1, 2013, California Code of Regulations, title 5, section **76120**, provided, in pertinent part:

> (a) Each qualifying institution shall collect an assessment of fifty cents ($.50) per one thousand dollars ($1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident or is enrolled in a residency program. For institutional charges of one thousand dollars ($1,000) or less, the assessment is fifty cents ($.50).

51. California Code of Regulations, title 5, section **76130** sates, in pertinent part:

> (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.

52. California Code of Regulations, title 5, section **76140** states in pertinent part:

> (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.

(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 provide to the Bureau in an intelligible and orderly manner and in an electronic format.

53. California Code of Regulations, title 5, section **76215** states:

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

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

1. You are a student in an educational program, who is a California 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

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

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:

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

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

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

"The State of California created the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic losses suffered by students in educational 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.

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

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

2. The school's failure to pay refunds or charges on behalf of a student to 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.

3. The school's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the school prior to closure in excess of tuition and other costs.

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

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

COST RECOVERY

54. Section **94937** of the Education Code states, in pertinent part:

(c) The bureau may seek reimbursement pursuant to Section 125.3 of the Business and Professions Code.

(d) An institution shall not be required to pay the cost of investigation to more than one agency.

55. Section **125.3** of the Business and Professions Code provides, in pertinent part, that the Director may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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FACTUAL BACKGROUND

56. From on or about December 10, 2004, and continuing, Respondents have operated City Beauty College, a cosmetology institution, ("Institution") approved for operation at 2300 Florin Road, Sacramento, California, ("Approved Location"). Respondents accepted tuition from students for completion of a cosmetology program that would prepare them to take the licensing examination administered by the California Board of Barbering and Cosmetology.

57. On or about June 13, 2012, an Enforcement Inspection Analyst with the Bureau began conducting an announced compliance inspection of the Institution at its Approved Location resulting in multiple possible violations of the Education Code ("Code").

58. On or about June 14, 2012, the Enforcement Inspection Analyst along with a Bureau Representative returned to complete the announced compliance inspection of the Institution and to confirm the multiple possible violations of the Code.

59. On or about June 14, 2012, the Enforcement Inspection Analyst and Bureau Representative toured the Institution's facility at its Approved Location and reviewed the school catalog, a blank enrollment agreement, and student files. The following are among the violations found on June 14, 2012:

a. Respondent's facility and equipment at the Approved Location were unsafe in that multiple extension cords were running through the facility, doors were closed with telephone extension cord, and there was no air conditioning in 100 degree weather.

b. Respondent's facility at the Approved Location was unsanitary, including, but not limited to, trash was overflowing and the work areas were filthy.

c. Respondents failed to post the Health and Safety permits at the Approved Location.

d. Respondent's student files were incomplete in that they failed to contain properly executed enrollment agreements, verification of prior education, copies of documents signed by the students and the institution, financial ledgers, and transcripts.

e. Respondent's school catalog failed to contain required statements, disclosures, and a complete list of faculty and their qualifications.

f. Respondents failed to maintain files and documents showing the faculty had the

minimum qualifications to teach.

g. Respondents failed to maintain a School Performance Fact Sheet.

h. Respondents failed to develop and maintain adequate procedures to assure the facility is maintained and operated in compliance with the California Private Postsecondary Act of 2009 ("Act") and California Code of Regulations.

60. On or about June 14, 2012, a student informed the Enforcement Analyst and Bureau Representative, during the inspection, that approximately two weeks earlier, Respondents provided the students with enrollment agreements and instructed them to fill in the agreements.

61. On or about June 14, 2012, the Bureau issued Notice to Comply 000271 to the Institution and Respondents notifying them of the violations set forth hereinbelow under the subheading "June 14, 2012, Violations." The Institution and Respondents failed to timely appeal the Notice to Comply within the thirty (30) day period or remedy their noncompliance.

62. On or about January 15, 2013, a Bureau Investigator conducted a follow-up inspection of City Beauty College at its Approved Location and noted the following:

a. At or near the entrance of the Institution, there was fecal waste and used toilet paper in the facility, a discarded shopping cart containing clothing and trash was in the facility along with paper trash.

b. The Institution's heater was not working and, instead, space heaters were operating.

c. Telephone wires were wrapped around the handles of the exit doors, preventing exit.

d. There were large, open holes in the drywall next to the entry door and a large hole in the floor covered with wood board.

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e. Trash was overflowing, the work stations were dirty and stained, the restrooms were dirty, and there was dirty equipment and equipment in need of repair and/or replacement.

f. Notes of instruction were written on whiteboard in Vietnamese.

g. Respondents' Enrollment Agreement failed to comply with the minimum standards

set forth in Education Code section 94911.

h. Ngo failed to produce a complete list of students or faculty. The faculty files that were produced failed to comply with the requirements of the Education Code.

63. On or about February 22, 2013, the Bureau issued Citation No. 1213012 to Respondents, as set forth in paragraph 124, below, stating statutory and regulatory violations, civil penalties imposed, an order of abatement, and a deadline for payment and compliance with the order of abatement. Respondents timely paid the civil penalties but failed to comply with the order of abatement.

64. On or about January 31, 2014, the Bureau learned that Respondents were operating the Institution even though the Full Approval to Operate had expired on or about September 29, 2013.

65. On or about January 31, 2014, the Bureau learned that Respondents had moved the physical location of the Institution from its Approved Location to 6853 65th Street, Sacramento, California, ("Unapproved Location") on or about December 2013, without notification to the Bureau.

66. On or about February 5, 2014, a Bureau Investigator confirmed that City Beauty College was operating at the Unapproved Location and was operating with an expired approval to operate and issued a notice of "Operating Educational Institution without Proper Approval" to Respondents.

67. On or about March 6 and 7, 2014, a Bureau Investigator conducted an Unannounced Compliance Inspection on Respondent at the Unapproved Location and issued Notice to Comply #CU 93832312-034 stating numerous statutory and regulatory violations by Respondent. The violations stated in paragraph 62, subparagraphs "d" through "h," incorporated herein by reference, were continuing, and additional violations were noted as set forth in the subheading "March 6 and 7, 2014, Violations," below. Those violations and additional violations were referred to enforcement on or about March 14, 2014. The additional violations are included under the subheading "March 6 and 7, 2014, Violations."

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JUNE 14, 2012, VIOLATIONS

FIRST CAUSE FOR DISCIPLINE

(Committed Prohibited Business Practices)

68. Respondents' license is subject to discipline under Education Code ("Code") sections **94932** and California Code of Regulations ("CCR"), title 5, section **75100**, and Code section **94897, subdivision (j)**, in that their Admissions Officer, Teri Ngo committed prohibited business practices when she made untrue statements during the June 14, 2012, on-site compliance inspection, by stating that enrollment agreements were completed at the time of student enrollment. In fact, student enrollment agreements maintained in their files were falsified in that students were instructed to complete them after the Bureau had scheduled the June 14, 2012, on-site compliance inspection, as set forth in paragraph 60, above, incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Violated Requirements for Student Records)

69. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, and Code section **94900** as follows:

a. Respondents violated Code section **94900, subdivision (a)**, in that they failed to maintain records of the name, address, e-mail address, and telephone number of each student enrolled in an educational program.

b. Respondents violated Code section **94900, subdivision (b)(1)**, in that they failed to maintain for each student granted a certificate, a record of the certificate granted and the date on which it was granted.

c. Respondents violated Code section **94900, subdivision (b)(2)**, in that they failed to maintain for each student, the courses and units on which the student's certificate or degree was based.

d. Respondents violated Code section **94900, subdivision (b)(3)**, in that they failed to maintain for each student, the grades earned in each of his/her courses.

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THIRD CAUSE FOR DISCIPLINE

(Violated General Enrollment Requirements)

70. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, and Code section **94902**, as follows:

a. Respondents violated Code section **94902, subdivision (a)**, in that they failed to ensure that students and an authorized employee of Respondents signed enrollment agreements.

b. Respondents violated Code section **94902, subdivision (b)(1)**, in that they failed to provide a School Performance Fact Sheet to students prior to their enrollment.

c. Respondents violated Code section **94902, subdivision (b)(3)**, in that they failed to ensure that students and an authorized employee of Respondents signed and dated the information required to be disclosed in the School Performance Fact Sheet.

d. Respondents violated Code section **94902, subdivision (c)**, in that they failed to provide a copy of the signed enrollment agreement to students.

FOURTH CAUSE FOR DISCIPLINE

(Failed to Show Compliance with Ability-to-Benefit Requirements)

71. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, and Code section **94904**, in that they failed to provide documentation showing an ability-to-benefit student had taken and passed an independently administered exam prior to permitting the student's enrollment.

FIFTH CAUSE FOR DISCIPLINE

(Violated Requirement to Provide Documents in Students' Primary Language)

72. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, and Code section **94906**, as follows:

a. Respondents violated Code section **94906, subdivision (a)**, in that they failed to provide enrollment agreements to students in their primary language including a clear explanation of the terms and conditions and all cancellation and refund policies.

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b. Respondents violated Code section **94906, subdivision (b)**, in that they recruited students in Vietnamese, but failed to provide copies of the enrollment agreement, disclosures, and statements in Vietnamese.

SIXTH CAUSE FOR DISCIPLINE

(Violated Statutory Catalog Requirements)

73. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, and Code section **94909** as follows:

a. Respondents violated Code section **94909, subdivision (a)(7)**, in that their catalog does not contain a complete list of faculty and their qualifications.

b. Respondents violated Code section **94909, subdivision (a)(8)(B)**, in that their catalog does not contain the following: an explanation that students have the right to cancel their enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later; a description of the procedures for students to follow to cancel their enrollment agreement or withdraw from the institution; and, the address to send their notice of cancellation or withdrawal.

c. Respondents violated Code section **94909, subdivision (a)(9)**, in that the total charges set forth in their catalog do not identify the Registration Fee (non-refundable) and the Student Tuition Recovery Refund (non-refundable).

d. Respondents violated Code section **94909, subdivision (a)(14)**, in that their catalog does not contain a complete description of the student's rights and responsibilities with respect to the Student Tuition Recovery Refund.

SEVENTH CAUSE FOR DISCIPLINE

(Violated Requirements for School Performance Fact Sheet)

74. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100, and Code section 94910**, in that they failed to maintain a School Performance Fact Sheet as required by section **94910** as follows:

a. Respondents violated **section 94910, subdivisions (a), (b), and (c)**, in that they failed to maintain a School Performance Fact Sheet stating the completion, placement, and license

examination passage rates.

b. Respondents violated section **94910, subdivision (d),** in that they failed to maintain a School Performance Fact Sheet stating the salary or wage information and disclo-sure of salary or wage data for the careers, occupations, vocations, trades, jobs, or job titles.

c. Respondents violated section **94910, subdivision (e),** in that they failed to maintain a School Performance Fact Sheet stating, if the program is new, the following: "This program is new. Therefore, the number of students who graduate, the number of students who are placed, or the starting salary you can earn after finishing the educational program are unknown at this time. Information regarding general salary and placement statistics may be available from government sources or form the institution, but is not equivalent to actual performance data."

d. Respondents violated section **94910, subdivision (f),** in that they failed to maintain a School Performance Fact Sheet stating all of the following information:

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

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

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

e. Respondents violated section **94910, subdivision (g),** in that they failed to maintain a School Performance Fact Sheet stating all of the following statements:

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

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

h. Respondents violated section **94910, subdivision (h),** in that they failed to maintain a School Performance Fact Sheet stating, if the Institution participates in federal financial aid programs, the most recent three-year cohort default rate reported by the U.S. Department of Education for the institution and the percentage of enrolled students receiving federal student loans.

EIGHTH CAUSE FOR DISCIPLINE

(Violated Statutory Requirements for Enrollment Agreement)

75. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, and Code section **94911** as follows:

a. Respondents violated Code section **94911, subdivision (a),** in that their enrollment agreement failed to identify the educational program and the clock hours required to complete the educational program.

b. Respondents violated Code section **94911, subdivision (b),** in that their enrollment agreement failed to state that the Student Tuition Recovery Fund is non-refundable.

c. Respondents violated Code section **94911, subdivision (c),** in that their enrollment agreement failed to state, in underlined letters on the same page of the enrollment agreement in which the student's signature is required, the total charges for the current period of attendance, the estimated total charges for the entire educational program, and the total charges the student is obligated to pay upon enrollment.

d. Respondents violated Code section **94911, subdivision (d),** in that their enrollment agreement failed to include a clear and conspicuous statement that the enrollment agreement is legally binding when signed by the student and accepted by Respondent.

e. Respondents violated Code section **94911, subdivision (e),** in that their enrollment agreement failed to contain disclosure statements as follows:

(1) A clear and conspicuous statement of the student's right to cancel the enrollment agreement and the right to obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later;

(2) The institution's refund policy and a statement regarding refunding of moneys not paid from federal student financial aid program funds; and,

(3) Text including a description of the procedures a student is required to follow to cancel the enrollment agreement or to withdraw from the institution and obtain a refund.

f. Respondents violated Code section **94911, subdivision (f)**, in that their enrollment agreement failed to include a statement of the student's responsibility if he/she obtains an educational loan.

g. Respondents violated Code section **94911, subdivision (g)**, in that their enrollment agreement failed to include a statement that if the student obtained a federal or state loan and defaults, the government may take action against the student and he/she may be ineligible for other financial aid.

h. Respondents violated Code section **94911, subdivision (h)**, in that their enrollment agreement failed to include a statement of transferability disclosure, as specified in Code section **94909, subdivision (a)(15)**.

i. Respondents violated Code section **94911, subdivision (i)**, in that their enrollment agreement failed to include the following required statements:

(1) "Prior to signing this enrollment agreement, you must be given a catalog or brochure and a School Performance Fact Sheet, which you are encouraged to review prior to signing this agreement. These documents contain important policies and performance data for this institution. This institution is required to have you sign and date the information included in the School Performance Fact sheet relating to completion rates, placement rates, license examination passage rates, and salaries or wages, prior to signing this agreement."

(2) Immediately following the statement in paragraph 63.i.(1), above, a line for the student to initial, and the following statement: "I certify that I have received the catalog, School Performance Fact Sheet, and information regarding completion rates, placement rates, license

examination passage rates, and salary or wage information included in the School Performance Fact Sheet, and have signed, initialed, and dated the information provided in the School Performance Fact Sheet."

j. Respondents violated Code section **94911, subdivision (j)**, in that their enrollment agreement failed to include all of the following statements:

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

(2) "A student or any member of the public may file a complaint about this institution with the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by completing a complaint form, which can be obtained on the bureau's Internet Web site (Internet Web site address)."

k. Respondents violated Code section **94911, subdivision (k)**, in that their enrollment agreement failed to include, above the space for the student's signature, the following statement: "I understand that this is a legally binding contract. My signature below certifies that I have read, understood, and agreed to my rights and responsibilities, and that the institution's cancellation and refund policies have been clearly explained to me."

NINTH CAUSE FOR DISCIPLINE

(Violated Refund Policy Requirements)

76. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, and Code section **94920, subdivision (d)**, in that their refund policy failed to address the maximum percentage of instruction that a student can complete to be eligible for a pro rata refund.

TENTH CAUSE FOR DISCIPLINE

(Violated School Performance Fact Sheet Requirements)

77. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, as follows:

a. Respondents violated Code section **94929** in that they failed to maintain and publish its School Performance Fact Sheet for reporting the completion rate for each of Respondent's programs.

b. Respondents violated Code section **94929.5** in that they failed to maintain and publish its School Performance Fact Sheet for reporting the job placement rate, license examination passage rates, and salary and wage information.

c. Respondents violated Code section **94929.7** in that they failed to maintain and publish its School Performance Fact Sheet stating the information used to substantiate the rates calculated pursuant to Code sections 94929 and 94929.5, above, and a list of employment positions used to determine the number of graduates employed in the field and used to calculate job placement rates.

ELEVENTH CAUSE FOR DISCIPLINE

(Violated Language Requirement)

78. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **71230** in that they provided a class schedule showing "Cosmo theory in Vietnamese" when Respondents were not approved to offer educational programs in a language other than English.

TWELFTH CAUSE FOR DISCIPLINE

(Violated Educational Program Requirements)

79. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **71710** as follows:

a. Respondents violated CCR, title 5, section **71710, subdivision (a)**, in that their educational program failed to comprise a curriculum that includes those subject areas that are necessary for a student to achieve the educational objectives of the educational program in which the student was enrolled.

b. Respondents violated CCR, title 5, section **71710, subdivision (b)**, in that their educational program failed to comprise a curriculum that includes subject areas and courses or modules that are presented in a logically organized manner or sequence to students.

c. Respondents violated CCR, title 5, section **71710, subdivision (c)**, in that:

(1) Respondent's educational program failed to comprise a curriculum that includes course or module materials that are designed or organized by duly qualified faculty; and

(2) Respondents failed to show they provided students with a syllabus or course outline for each course or module stating a short, descriptive title of the educational program; a statement of educational objectives, the length of the program, the sequence and frequency of lessons or class sessions, a complete citation of textbooks and other required written materials, a sequential and detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured, and instructional mode or methods.

d. Respondents violated CCR, title 5, section **71710, subdivision (f)**, in that they failed to show that its educational programs are comprised of a curriculum that includes evaluation by duly qualified faculty of those learning outcomes.

THIRTEENTH CAUSE FOR DISCIPLINE

(Violated Requirements for Instruction)

80. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **71715** as follows:

a. Respondents violated CCR, title 5, section **71715, subdivision (a)**, in they failed to show that instruction was the central focus of the resources and services of the institution.

b. Respondents violated CCR, title 5, section **71715, subdivision (b)**, in that they failed to provide documentation showing that the instruction offered leads to the achievement of the learning objectives of each course offered by Respondents.

c. Respondents violated CCR, title 5, section **71715, subdivision (c)**, in that they failed to ensure direct instruction to students during the June 14, 2012, onsite compliance inspection, when students were observed to be using cell phones, talking in small groups, and indicated they have no set instruction periods.

FOURTEENTH CAUSE FOR DISCIPLINE

(Violated Requirements for Faculty)

81. Respondents' license is subject to discipline under Code sections **94932** and CCR,

title 5, sections **75100** and **71720** as follows:

a. Respondents violated CCR, title 5, section **71720, subdivision (b)(1),** as follows:

(1) Respondents failed to show the Bureau's inspectors that the instructors possessed the required academic, experiential, and professional qualifications to teach at the institution including a minimum of three years of experience, education and training in current practices of the subject area they are teaching.

(2) Respondents failed to show the Bureau documents that, if the instructor did not possess the requirements in paragraph 81.a.(1), above, the qualifications the instructor did possess were equivalent to the minimum qualifications.

b. Respondents violated CCR, title 5, section **71720, subdivision (b)(2),** as follows:

(1) Respondents failed to show the Bureau documents that each instructor maintained their knowledge by completing continuing education courses in his/her subject area, classroom management or other courses related to teaching.

FIFTEENTH CAUSE FOR DISCIPLINE

(Violated Facilities and Equipment Requirements)

82. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **71735, subdivision (b),** as follows:

a. Student workstations lacked electricity for blow dryers, clippers, and nail dryers.

b. Hair washing stations were not secured properly and had little to no running water.

c. The facility had exposed wiring and did not properly secure the extension cords to prevent a tripping hazard for students as the cords were strewn throughout the building.

d. Dirt and hair covered the floor of the facility.

e. Student equipment was not sanitary.

f. Respondents did not provide current health and safety permits upon request.

SIXTEENTH CAUSE FOR DISCIPLINE

(Violated Requirement for Self-Monitoring Procedures)

83. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **71760** in that they failed to develop and maintain procedures used by

the institution to assure that it is maintained and operated in compliance with the Act and regulations.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Violated Requirements for Written Standards for Admissions)

84. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **71770** as follows:

a. Respondents violated CCR, title 5, section **71770, subdivision (a)**, in that they failed to provide documentation showing it had specific written standards for student admissions for each educational program.

b. Respondents violated CCR, title 5, section **71770, subdivision (a)(1)**, in that they failed to provide documentation that each student admitted possessed a high school diploma or its equivalent, or otherwise successfully took and passed the ability-to-benefit exam required by Code section 94904.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Violated Regulatory Enrollment Agreement Requirements)

85. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **71800** as follows:

a. Respondents violated CCR, title 5, section **71800, subdivision (a)**, in that their enrollment agreement was incomplete in that it failed to state the name and address of the institution and the address(es) where instruction will be provided.

b. Respondents violated CCR, title 5, section **71800, subdivision (b)**, in that their enrollment agreement was incomplete in that it failed to state the period covered by the enrollment agreement.

c. Respondents violated CCR, title 5, section **71800, subdivision (d)**, in that their enrollment agreement was incomplete in that it failed to state the date by which the student must exercise his/her right to cancel or withdraw.

d. Respondents violated CCR, title 5, section **71800, subdivision (e)(11)**, in that their enrollment agreement was incomplete in that it failed to itemize and state that the Student

Tuition Recovery Fund fee was non-refundable.

NINETEENTH CAUSE FOR DISCIPLINE

(Violated Regulatory Requirements for Catalog)

86. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **71810** as follows:

a. Respondents violated CCR, title 5, section **71810, subdivision (a),** in that they failed to provide a catalog or supplement or insert to accompany the catalog that had been updated with the information required to be included in the catalog by the Act or regulations.

b. Respondents violated CCR, title 5, section **71810, subdivision (b)(3),** in that their catalog did not state if students from other countries are admitted and whether visa services are provided or whether the institution will vouch for student status, and any associated charges.

c. Respondents violated CCR, title 5, section **71810, subdivision (b)(5),** in that their catalog did not state instruction will occur in another language despite documentation showing "Cosmo theory in Vietnamese." In fact, the instruction in all courses was in Vietnamese only.

TWENTIETH CAUSE FOR DISCIPLINE

(Violated Regulatory Requirements for Student Records)

87. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **71920** as follows:

a. Respondents violated CCR, title 5, section **71920, subdivision (b)(1)(A),** in that their student files failed to include documentation verifying students' high school completion or equivalency, or documentation showing successful completion of an ability-to-benefit test.

b. Respondents violated CCR, title 5, section **71920, subdivision (b)(1)(B),** in that their student files for transfer students failed to include records documenting acceptance of units or credits earned at the other institution and accepted and applied as transfer credits to Respondent's institution.

c. Respondents violated CCR, title 5, section **71920, subdivision (b)(3),** in that their student files failed to include copies of all documents signed by the student including contracts, instruments of indebtedness, and documents relating to financial aid.

d. Respondents violated CCR, title 5, section **71290, subdivision (b)(4)**, in that their student files failed to include copies of documents recording the dates of enrollment, and, if applicable, withdrawal, leaves of absence, and graduation.

e. Respondents violated CCR, title 5, section **71290, subdivision (b)(9)**, in that their student files failed to include documents showing the total amount of money received from or on behalf of the student and the date or dates on which the money was received.

f. Respondents violated CCR, title 5, section **71290, subdivision (b)(10)**, in that their student files for students who had withdrawn from the Institution, failed to include documentation specifying the amount of a refund, including the amount refunded for tuition and the amount for other itemized charges, the method of calculating the refund, the date the refund was made, and the name and address of the person or entity to which the refund was sent.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Violated Regulatory Requirements for Institution Records)

88. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **71930** as follows:

a. Respondents violated CCR, title 5, section **71930, subdivision (a)**, in that they failed to maintain all records required by the Act and regulations.

b. Respondents violated CCR, title 5, section **71930, subdivision (b)(1)**, in that they failed to permanently retain student transcripts and failed to maintain student records required by CCR, title 5, section **71920** for a minimum of five years from the student's date of completion or withdrawal from the institution.

c. Respondents violated CCR, title 5, section **71930, subdivision (c)(1)**, in that they failed to maintain records free from loss of information or legibility for the period within which the record is required to be maintained by the Act.

d. Respondents violated CCR, title 5, section **71930, subdivision (c)(2)**, in that they failed to maintain functioning devices that can immediately reproduce exact, legible printed copies of the institution's stored records.

e. Respondents violated CCR, title 5, section **71930, subdivision (d)**, in that they

failed to maintain a second set of all academic and financial records at a different location from the originals which were not maintained in a manner secure from damage or loss.

f. Respondents violated CCR, title 5, section **71930, subdivision (e)**, in that they failed to immediately make available to the Bureau or investigatory entity, all requested records that Respondents are required by the Act or regulations to maintain.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Violated Advertising Requirements)

89. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **74140, subdivisions (a) through (d)**, in that they failed to maintain copies of its advertisements (English and Vietnamese) for a minimum of five years.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Violated Requirement to Assess Student Tuition Recovery Fund Fees)

90. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **76120, subdivision (a)**, in that they failed to assess Student Tuition Recovery Fund assessment fees on eligible students the.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Violated Requirement to Collect and Submit Student Tuition Recovery Fund Fees)

91. Respondents are subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **76130**, as follows:

a. Respondents violated CCR, title 5, section **76130, subdivision (a)**, in that they failed to collect the Student Tuition Recovery Fund ("STRF") fees from students. Respondents collected the first payment from students after enrollment.

b. Respondents violated CCR, title 5, section **76130, subdivision (b)**, in that they failed to complete the Student Tuition Recovery Fund ("STRF") Assessment Reporting Form and remit it with the assessments collected from students to the Bureau no later than the last day of the month following the close of the quarter, for the second, third, and fourth quarters in 2012 and all quarters in 2013.

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TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Violated Record Keeping Requirements)

92. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **76140, subdivision (a)(1) through (13)**, in that they failed to collect and maintain records of student information to substantiate the data reported on the Student Tuition Recovery Fund Assessment Reporting Form.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

(Violated Requirements for Student Tuition Recovery Fund Disclosures)

93. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **76215**, as follows:

a. Respondents violated CCR, title 5, section **76215, subdivision (a)**, in that their catalog and enrollment agreement for an educational program and current schedule of student charges failed to state the complete required statement of student's rights, responsibilities, and protections with respect to the Student Tuition Recovery Fund.

b. Respondents violated CCR, title 5, section **76215, subdivision (b)**, in that their catalog failed to state the complete required statement of student's eligibility for the Student Tuition Recovery Fund if he/she suffered economic losses resulting from specific conditions.

JANUARY 15, 2013

TWENTY-SEVENTH CAUSE FOR DISCIPLINE

(Failed to Well-Maintain the Facilities)

94. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5 sections **75100** and **71735, subdivision (b)**, in that Respondents failed to maintain the Institution's facilities, including heating and cooling ventilation lighting, classrooms, laboratories and campus environs at Approved Location in a well-maintained condition, as set forth in paragraph 62, subparagraphs "a" through "e," above, incorporated herein by reference.

TWENTY-EIGHTH CAUSE FOR DISCIPLINE

(Violated Language Requirements)

95. Respondents' license is subject to discipline under Code section **94932** and CCR, title

5 sections **75100** and **71230** in that notes of instruction at the Approved Location were written on the whiteboard in Vietnamese, when Respondents were not approved to offer educational programs in a language other than English.

TWENTY-NINTH CAUSE FOR DISCIPLINE

(Violated Statutory Requirements for Enrollment Agreement)

96. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, sections **75100** and **94911, subdivisions "a" through "k,"** in that their enrollment agreement failed to comply with the required minimum standards, as alleged in paragraph 75, and its subparts, above, incorporated herein by this reference.

MARCH 6 AND 7, 2014, VIOLATIONS

THIRTIETH CAUSE FOR DISCIPLINE

(Violated Requirement for Submitting Annual Fees)

97. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, sections **75100** and **74006, subdivision (a),** in that Respondents failed to submit to the Bureau its annual fee by October 1, 2012, and October 1, 2013, based upon the Bureau's definition of annual revenue as provided in section **74006, subdivision (c).**

THIRTY-FIRST CAUSE FOR DISCIPLINE

(Violated Requirement to Submit Annual Report)

98. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **74110, subdivisions (a) through (d),** in that they failed to file their annual report by September 1st along with their annual financial statements for fiscal years 2012 and 2013.

THIRTY-SECOND CAUSE FOR DISCIPLINE

(Violated Requirement for Prior Approval for Substantive Change)

99. Respondents' license is subject to discipline under Code sections **94932** and **94893,** and CCR, title 5, section **75100** in that Respondents made a substantive change in approval to operate the Institution, as follows: On, about, or before July 28, 2010, Respondents changed the ownership of the Institution to Respondent Huynh without obtaining the Bureau's prior approval.

THIRTY-THIRD CAUSE FOR DISCIPLINE

(Violated Requirement to Notify Bureau Prior to Non-Substantive Change)

100. Respondents' license is subject to discipline under Code sections **94932** and **94893**, and CCR, title 5, sections **75100** and **71660**, in that they failed to notify the Bureau in writing within 30 days of the change of location from the Approved Location to the Non-Approved Location and of the change of mailing address.

THIRTY-FOURTH CAUSE FOR DISCIPLINE

(Violated Requirements for Student Records)

101. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, and Code section **94900, subdivision (a),** as alleged in paragraph 69, subpart "a," above, incorporated herein by this reference.

THIRTY-FIFTH CAUSE FOR DISCIPLINE

(Violated General Enrollment Requirements)

102. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, and Code section **94902, subdivisions (a)(1) through (b)(3),** as alleged in paragraph 70, subparts "a" and "b," above, incorporated herein by this reference.

THIRTY-FIFTH CAUSE FOR DISCIPLINE

(Violated Requirement to Provide Documents in Students' Primary Language)

103. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100**, and Code section **94906, subdivisions (a) and (b),** as alleged in paragraph 72, subparts "a" and "b," above, incorporated herein by this reference.

THIRTY-SIXTH CAUSE FOR DISCIPLINE

(Violated Statutory Font Size in Required Documents)

104. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, section **75100,** and Code section **94908,** in that Respondent's Enrollment Agreement failed to contain all text in the same size font as the majority of the text in the document.

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THIRTY-SEVENTH CAUSE FOR DISCIPLINE

(Violated Statutory Catalog Requirements)

105. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, section **75100,** and Code section **94909, subdivisions (a)(9),** as alleged in paragraph 73, subpart "c," and as follows:

a. Respondents violated Code section **94909, subdivision (a),** in that they failed to provide their school catalog meeting all of the statutory minimum requirements.

b. Respondents violated Code section **94909, subdivision (a)(1),** in that their school catalog failed to contain the school's current address and telephone number.

c. Respondents violated Code section **94909, subdivision (a)(3)(A), (a)(3)(B), and (a)(3)(C),** in that their school catalog failed to contain the specific language and statements required by this statute.

d. Respondents violated Code section **94909, subdivision (a)(4),** in that their school catalog failed to contain the address where class sessions would be held.

e. Respondents violated Code section **94909, subdivision (a)(5),** in that their school catalog failed to describe any final tests or examinations required for completion of the program.

f. Respondents violated Code section **94909, subdivision (a)(8)(A),** in that their school catalog failed to specify whether the Institution has entered into an articulation or transfer agreement with any other college or university.

g. Respondents violated Code section **94909, subdivision (a)(10),** in that their school catalog failed to contain a statement reporting whether the Institution participates in Federal and State financial aid programs.

h. Respondents violated Code section **94909, subdivision (a)(11),** in that their school catalog failed to contain the required statements relative to student loans and Federal student financial aid program refunds.

i. Respondents violated Code section **94909, subdivision (a)(12),** in that their school catalog failed to contain the required bankruptcy statement.

j. Respondents violated Code section **94909, subdivision (a)(15),** in that their school

catalog failed to contain the specific required transferability caption and disclosure statement.

k. Respondents violated Code section **94909, subdivision (a)(16)(C),** in that their school catalog failed to contain a statement that students enrolled in an unaccredited institution are not eligible for Federal financial aid programs.

THIRTY-EIGHTH CAUSE FOR DISCIPLINE

(Violated Statutory Requirements for School Performance Fact Sheet)

106. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, section **75100,** and Code Section **94910, subdivisions (a) through (h),** in that failed to maintain a School Performance Fact Sheet as alleged in paragraph 74, and all of its subparts, above, incorporated herein by reference.

THIRTY-NINTH CAUSE FOR DISCIPLINE

(Violated Statutory Requirements for Enrollment Agreement)

107. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100,** and Code section **94911, subdivisions (b), (c), (d), (e)(1), (e)(2), (f), (g)(1), (g)(2), (h)(15), (i)(1), (i)(2), (j)(1), (j)(2), and (k),** as alleged in paragraph 75, subparts (b) through (k), above, incorporated herein by reference.

FORTIETH CAUSE FOR DISCIPLINE

(Violated Statutory Requirement for Signature and Initials)

108. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100,** and Code section **94912,** in that they failed to maintain a Performance Fact Sheet to be signed and dated by the Institution and each student, and initialed and dated by each student at each item required under Code section 94910.

FORTY-FIRST CAUSE FOR DISCIPLINE

(Violated Statutory Requirement for Cancellation, Withdrawal, and Refund Policies)

109. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100,** and Code section **94920, subdivision (b),** in that they failed to maintain student files showing cancellation documentation and failed to provide documentation showing how they

made refunds.

FORTY-SECOND CAUSE FOR DISCIPLINE

(Violated School Performance Fact Sheet Requirements)

110. Respondents' license is subject to discipline under Code sections **94932** and CCR, title **75100,** and Code sections **94929, 94929.5,** and **94929.7,** as alleged in paragraph 77, and all of its subparts, above, incorporated herein by reference, and as follows:

a. Respondents violated Code section **94929.7, subdivisions (a)(1) and (a)(2),** in that they failed to maintain, in an electronic format, the information required for calculating and substantiating the rates for at least five years from the date of publication of the rates and information.

b. Respondents violated Code section **94929.7, subdivision (b),** in that they failed to provide a list of employment positions used o determine the number of graduates employed in the field, for calculating job placement rates.

FORTY-THIRD CAUSE FOR DISCIPLINE

(Violated Requirements for Annual Reports)

111. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, section **75100,** and Code section **94934, subdivision (a)(1) through (a)(9),** and CCR title, title 5, section **74110,** in that they failed to submit their Annual Reports for 2011, 2012, and 2013, including all of the required information and in the required format.

FORTY-FOURTH CAUSE FOR DISCIPLINE

(Violated Requirements for Faculty)

112. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, section **75100,** and Code section **71720, subdivisions (b)(1) and (b)(2),** as alleged in paragraph 81, and all of its subparts, above, incorporated herein by reference,

FORTY-FIFTH CAUSE FOR DISCIPLINE

(Violated Requirements for Refunds)

113. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, section **75100,** as follows:

a. Respondents violated Code section **71750, subdivision (a),** in that they failed to provide documentation showing refunds made were no less than the refunds required under the Act and regulations.

b. Respondents violated Code section **71750, subdivision (b),** in that they failed to maintain documentation showing refunds are made in accordance with the policies and procedures identified in their school catalog.

c. Respondents violated Code section **71750, subdivisions (c)(1) through (c)(4),** in that they failed to maintain documentation showing refunds are made in accordance with the refund calculations provided in this subdivision.

FORTY-SIXTH CAUSE FOR DISCIPLINE

(Violated Requirements for Written Standards for Admissions)

114. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, sections **75100** and **71770, subdivision (a)(1),** as alleged in paragraph 84, and its subparts, above, incorporated herein by reference.

FORTY-SEVENTH CAUSE FOR DISCIPLINE

(Violated Regulatory Requirements for Catalog)

115. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, sections **75100** and **71810, subdivision (a),** as alleged in paragraph 86, subpart (a), above, incorporated herein by reference.

FORTY-EIGHTH CAUSE FOR DISCIPLINE

(Violated Regulatory Requirements for Student Records)

116. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, sections **75100** and **71920, subdivisions (a), (b)(1)(A), (b)(3), (b)(4), and (b)(10),** as alleged in paragraph 87, subparts "a," "b," "e," and "f," incorporated herein by reference, and section **71920, subdivisions (b)(5)(A) through (b)(5)(E),** in that they failed to maintain a transcript in students files containing all of the information required by these regulations.

FORTY-NINTH CAUSE FOR DISCIPLINE

(Violated Regulatory Requirements for Institution Records)

117. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, sections **75100** and **71930, subdivisions (d) and (e),** as alleged in paragraph 88, subparts "e" and "f," incorporated herein by reference.

FIFTIETH CAUSE FOR DISCIPLINE

(Violated Regulatory Requirements for Filing Annual Report)

118. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, sections **75100** and **74110,** as follows:

a. Respondents violated CCR, title 5, section **74100, subdivision (a),** in that they failed to submit their Annual Reports for the years 2010, 2011, and 2012, including all information required under Code section 94934.

b. Respondents violated CCR, title 5, section **74100, subdivision (b),** in that they failed to submit Annual Reports and financial statements, under penalty of perjury, in the form, content, and mode of preparation of financial statements complying with section 74115.

c. Respondents violated CCR, title 5, section **74110, subdivision (c),** in that they failed to file their Annual Reports by September 1 for the years 2010, 2011, and 2012, or receive a 60 day extension from the Bureau based upon demonstrated evidence of substantial need.

d. Respondents violated CCR, title 5, **section 74110, subdivision (d),** in that they failed to electronically file their Annual Reports with the information required by Code section 94934 via the Bureau's website, with attached School Performance Fact Sheet and the school catalog, or submit by alternative means pursuant to the Bureau's directive.

FIFTY-FIRST CAUSE FOR DISCIPLINE

(Violated Requirements for Performance Fact Sheet)

119. Respondents' license is subject to discipline under Code section **94932** and CCR, title 5, sections **75100** and **74112, subdivisions (a) through (h),** in that Respondents failed to provide and maintain their Performance Fact Sheet in the format, by August 1 reporting data for the prior two calendar years, stating the completion rates, placement rates, license examination rates, salary and wage information, and supporting documentation, all as specified in CCR, title 5, section 74112, and its subdivisions.

FIFTY-SECOND CAUSE FOR DISCIPLINE

(Violated Requirement to Assess Student Tuition Recovery Fund Fees)

120. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **76120, subdivision (a)**, as alleged in paragraph 90, above, incorporated herein by reference.

FIFTY-THIRD CAUSE FOR DISCIPLINE

(Violated Requirement to Collect and Submit Student Tuition Recovery Fund Fees)

121. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **76130, subdivisions (a) and (b),** as alleged in paragraph 91, and its subparts, above, incorporated herein by reference.

FIFTY-FOURTH CAUSE FOR DISCIPLINE

(Violated Record Keeping Requirements)

122. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and 76140**, subdivision (a)(1) through (13)**, as alleged in paragraph 92, above, incorporated herein by reference, and as follows:

a. Respondents violated CCR, title 5, **section 76140, subdivision (b),** in that Respondents failed to maintain the data required for the Student Tuition Recovery Fund under section 76140, subdivision (a), in an intelligible and orderly manner and in an electronic format.

FIFTY-FIFTH CAUSE FOR DISCIPLINE

(Violated Requirements for Student Tuition Recovery Fund Disclosures)

123. Respondents' license is subject to discipline under Code sections **94932** and CCR, title 5, sections **75100** and **76215, subdivisions (a) and (b),** as alleged in paragraph 93, and its subparts, above, incorporated herein by this reference.

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FACTORS IN AGGRAVATION

124. On or about February 22, 2013, the Bureau served Citation: Assessment of Fine and Order of Abatement, Citation Number 1213012, on Respondents alleging the following: violations of Education Code sections **94909, subdivisions (a)(3)(A) and (a)(15),** $500.00 civil penalty for each violation. The Citation also alleged Respondents had violated the following sections of the California Code of Regulations, title 5: **71730, subdivision (b),** $50.00 civil penalty; **71750, subdivision (f),** $550.00 civil penalty; **71760,** $501.00 civil penalty; and **71810, subdivision (b)(1),** $550.00 civil penalty. The total civil penalties assessed were $2,701.00. The Bureau's Order of Abatement ordered Respondents to comply with specified orders for each violation mentioned above. Respondents failed to request an Informal Conference and/or Administrative Hearing within 30 days from the date of service, failed to pay the civil penalties, and failed to comply with the orders of abatement. Citation Number 1213012 was final on March 24, 2013. Respondents paid the $2,701.00 fine on April 9, 2013. Respondents have not satisfied the orders of abatement.

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

1. Revoking or suspending Institution Code Number 93832312 issued to Respondent City Beauty College, John Thai Tran, Owner, and Nga Huyhn, Teri Ngo also known as Thi Ngo, Persons in Control;

2. Ordering Respondents John Thai Tran, Owner of City Beauty College, Institution Code number 93832312, and Nga Huyhn, Teri Ngo, also known as Thi Ngo, Persons in Control, to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case;

3. Ordering Respondents John Thai Tran, Owner of City Beauty College, Institution Code Number 93832312, and Nga Huyhn, Teri Ngo also known as Thi Ngo, Persons in Control, to pay the annual fees and STRF fees as required by the Act; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 4/4/14

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

SA2012108091 / 11317378.docx

APPENDIX A

Cal. Admin. Code tit. 5, § 74112

Barclays Official California Code of Regulations Currentness
Title 5. Education
Division 7.5. Private Postsecondary Education
Chapter 4. Institutions - General Provisions
Article 2. Reports
§ 74112. Uniform Data - Annual Report, Performance Fact Sheet.

(a) Format. The format for the Performance Fact Sheet shall be in at least 12 pt. type, in an easily readable font, with 1.15 line spacing. The Performance Fact Sheet shall contain all and only the information required or specifically permitted by section 94910 of the Code or this chapter.

(b) In addition to the definitions contained in section 94928 of the Code:

(1) "Number of Students Who Began Program" means the number of students who began a program who are scheduled to complete the program within 100% of the published program length within the reporting calendar year, and includes all the students who remained enrolled after their cancellation period.

(2) "Number of Graduates" means the number of students who completed the program within 100% of the published program length within the reporting calendar year.

(3) "Graduates Employed in the Field" means those graduates who meet the definition of section 94928(e) of the Code, who have reported their employment to the institution.

(c) Reporting periods:

(1) An Annual Report shall include data for all educational programs as defined in section 94837 of the Code for the previous one calendar year.

(2) A Performance Fact Sheet shall be current and available not later than August 1st, and shall report data for the previous two calendar years based upon the "number of students who began program" or the "number of graduates," as defined in subdivision (b), for each reported calendar year.

(d) Completion Rates. Reporting of completion rates for an institution's Annual Report and Performance Fact Sheet shall include, for each educational program, the number of students who began program as defined in subdivision (b), the number of students available for graduation, number of graduates, and completion rate(s). An optional column may be added to include completion rate data for students completing within 101-150% of the published program length. For an institution reporting completion data pursuant to section 94929(b) of the Code, completion data shall be separately reported for each program. The Performance Fact Sheet shall disclose, if true, that the

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completion data is being reported for students completing within 150% of the published program length, and that data is not being separately reported for students completing the program within 100% of the published program length.

Completion rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Completion Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Calendar Year	*Number of Students Who Began Program*[1]	*Students Available for Graduation*[2]	*Graduates*[3]	*Completion Rate*[4]
20XX	100	98	70	71%
20XY	80	80	55	69%

Students Completing After Published Program Length - 150% Completion Rate

Name of Educational Program (Program Length)

Calendar Year	*Number of Students Who Began Program*[1]	*Students Available for Graduation*[2]	*150% Graduates*[5]	*150% Completion Rate*[6]
20XX	100	98	25	26%
20XY	80	80	23	29%

[1] "Number of Students Who Began Program" is the number of students who began the program who are scheduled to complete the program within the reporting calendar year.

[2] "Students available for graduation" is the number of students who began program minus the number of "Students unavailable for graduation," which means those students who have died, been incarcerated, or called to active military duty.

[3] "Graduates" is the number of students who completed the program within 100% of the published program length.

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[4] "Completion Rate" is the number of Graduates divided by the Number of Students Available for Graduation.

[5] "150% Graduates" is the number of students who completed the program within 101-150% of the published program length.

[6] "150% Completion Rate" is the number of students who completed the program in the reported calendar year within 101-150% of the published program length divided by the Number of Students Available for Graduation in the published program length period.

(e) Placement Rates.

(1) Any placement data required by sections 94910(b) and 94929.5(a) of the Code shall be reported for the number of students who began the program as defined in subdivision (b) for each reported calendar year.

(2) Placement is measured six months from the graduation date of each student. 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), graduates available for employment, graduates employed in the field and placement rate(s).

(3) Placement rate shall be calculated as follows: the number of graduates employed in the field as defined in subsection 74112(b)(3) divided by the number of graduates available for employment as defined in section 94928(d) of the Code.

(4) Graduates employed in the field shall be reported for those graduates employed in the field in a single position that averages under 32 hours per week and those employed in the field in a single position that averages at least 32 hours per week.

References to the Code are to the California Education Code where the California Private Postsecondary Education Act of 2009 is located.

Placement rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Placement Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Calendar	*Number of Students Who*	*Number of*	*Graduates Available for*	*Graduates Employed in*	*Placement Rate % Employed in*	*Graduates Employed in the Field an average of*	*Graduates Employed in the Field at least 32 hours per*

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Year	*Began Program*[1]	*Graduates*[2]	*Employment*[3]	*the Field*[4]	*the Field*[5]	*less than 32 hours per week*	*week*
20XX	100	70	70	55	79%	5	50
20XY	80	55	55	20	36%	9	11

[1] "Number of Students Who Began Program" means the number of students who began the program who are scheduled to complete the program within the reporting calendar year.

[2] "Number of Graduates" is the number of students who have completed the program within 100% of the published program length.

[3] "Graduates available for employment" means the number of graduates minus the number of graduates unavailable for employment. "Graduates unavailable for employment" means graduates who, after graduation, die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the United States, or are continuing their education in an accredited or bureau-approved postsecondary institution.

[4] "Graduates employed in the field" means graduates who report that they are gainfully employed within six months of graduation in a position for which the skills obtained through the education and training provided by the institution are required or provided a significant advantage to the graduate in obtaining the position.

[5] Placement Rate is calculated by dividing the number of graduates gainfully employed in the field by the number of graduates available for employment.

(f) License Examination Passage Rates. If license examination passage rates are not available from the appropriate state agency, an institution shall collect the information directly from its graduates. If an institution demonstrates that, after reasonable efforts, it is unable to obtain the examination passage information from its graduates, the institution shall report the number of students it could not contact and note in a font the same size as the majority of the data on the Performance Fact Sheet, "License examination passage data is not available from the state agency administering the examination. We were unable to collect data from [enter the number] graduates."

Reporting of license examination passage rates for the Annual Report and the Performance Fact Sheet shall include, for each educational program: the number of students completing the program within 150% of published program length in the reported year, the number of documented graduates who passed the first examination, number of documented graduates who failed the first examination, the number of graduates for whom data is not available. An optional column may be added to separately report licensing examination data for students who take and pass the exam after failing initially. The Annual Report shall also include a description of the processes for attempting to contact those students.

For licensing examinations that are not continuously administered, license examination passage rates

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shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Examination Passage Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Number of Students Taking Exam[1]	*Exam Date*[2]	*Number Who Passed Exam*	*Number Who Failed Exam*	*Passage Rate*[3]
80	2/1/20XX	40	40	50%
100	6/1/20XX	75	25	75%
82	10/1/20XX	68	14	76%
80	2/1/20XY	40	40	50%
100	6/1/20XY	70	30	70%
92	10/1/20XY	62	30	67%

License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 32 graduates.

[1] Number of Students Taking Exam is the number of students who completed the program within 150% of published program length and for whom the reported exam is the first exam that was available after their completion of the program.

[2] Exam Date is the date for the first available exam after the students completed the program.

[3] Passage Rate is calculated by dividing the number of students who pass the exam by the number of graduates who take the reported licensing exam.

For licensing examinations that are continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Examination Passage Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

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Calendar Year	Number of Students Taking Exam[1]	Number Who Passed First Exam Taken[2]	Number Who Failed First Exam Taken	Passage Rate[3]
20XX	80	40	40	50%
20XY	100	75	25	75%

License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 10 graduates.

[1] Number of Students Taking Exam is the number of students who completed the program within 150% of the published program length and who took the exam in the reported calendar year for the first time.

[2] Number Who Passed First Exam Taken is the number of students who took and passed the licensing exam in the reported calendar year on the first attempt.

[3] Passage Rate is calculated by dividing the number of graduates who pass the exam the first time that they take it by the number of graduates who took the licensing exam for the first time after completion of the program.

(g) Salary and Wage Information.

All Salary and Wage Information shall be reported to the Bureau pursuant to section 94929.5(c) of the Code and, if required by section 94910(d) of the Code, shall be included in the Performance Fact Sheet, for each educational program, in a format substantially similar to the chart below, including the footnoted information (dates, numbers, salaries, and other data shown are for example only).

Salary and Wage Information (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

			Annual Salary and Wages Reported by Graduates Employed in the Field[3]				
Calendar Year	*Graduates Available for Employment[1]*	*Graduates Employed in the Field[2]*	*$15,000.00 - $20,000.00*	*$20,001.00 - $25,000.00*	*$25,001.00 - $30,000.00*	*$30,001.00 - $35,000.00*	*Students Not Reporting Salary*
20XX	100	70	5	40	6	3	16

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20XY	80	55	5	7	3	5	35

[1] "Graduates available for employment" means the number of graduates minus the number of graduates unavailable for employment. Graduates unavailable for employment means graduates who, after graduation, die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the United States, or are continuing their education in an accredited or bureau-approved postsecondary institution.

[2] "Graduates employed in the field" means graduates who are gainfully employed within six months of graduation in a position for which the skills obtained through the education and training provided by the institution are required or provided a significant advantage to the graduate in obtaining the position.

[3] Salary is as reported by the student. Not all graduates reported salary.

(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.

Note: Authority cited: Sections 94877 and 94929.8, Education Code. Reference: Sections 94910, 94928, 94929, 94929.5, 94929.7 and 94929.8, Education Code.

HISTORY

1. New section filed 9-19-2011; operative 10-19-2011 (Register 2011, No. 38).

5 CCR § 74112, 5 CA ADC § 74112

This database is current through 3/21/14 Register 2014, No. 12

END OF DOCUMENT

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DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: **In the Matter of the Accusation Against: City Beauty College; Tran, John Thai, Owner**

No.: 2013071135

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On April 7, 2014, I served the attached **SUPPLEMENTAL STATEMENT TO RESPONDENT** by placing a true copy thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the **SUPPLEMENTAL STATEMENT TO RESPONDENT** was enclosed in a second sealed envelope as first class mail in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

City Beauty College
Teri Ngo
and
Nga Huynh
6853 65th Street
Sacramento, CA 95823

Certified Article Number
7196 9008 9111 1727 8186
SENDERS RECORD

Teri Ngo
and
Nga Huynh
8587 Culpepper Drive
Sacramento, CA 95828

Certified Article Number
7196 9008 9111 1727 8162
SENDERS RECORD

Certified Article Number
7196 9008 9111 1727 8179
SENDERS RECORD

Courtesy copy via email to:
SacFilings@dgs.ca.gov
Christina.villaneuva@dca.ca.gov
Yvette.Johnson@dca.ca.gov

Certified Article Number
7196 9008 9111 1727 8193
SENDERS RECORD

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 7, 2014, at Sacramento, California.

Nickell Mosely
Declarant

Signature

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