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

To: Jenny Yepiz
D'LaCreme School of Cosmetology and Barbering
1787 North Texas Street
Fairfield, CA 94533

**INSTITUTION CODE: 18431276**
**CITATION NUMBER: 1516048**
**CITATION ISSUANCE/SERVICE DATE: December 17, 2015**
**DUE DATE: January 16, 2016**
**FINE AMOUNT: $ 5,700.00**
**ORDER OF ABATEMENT INCLUDED:** YES

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

## CITATION

A Citation is hereby issued to Jenny Yepiz, Owner of D'LaCreme School of Cosmetology and Barbering 1787 North Texas Street, Fairfield, CA, 94533, pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5 CCR) section 75020 for the violations described below.

## VIOLATION

| # | The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the code section(s) of law you are charged with violating. |
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| 1. | **Violation:**<br>CEC 94900(b)(1),(2)&(3) – Required Student Records<br>*"(b) An institution shall maintain, for each student granted a degree or certificate by that institution, permanent records of all of the following:*<br>*(1) The degree or certificate granted and the date on which that degree or certificate was granted.*<br>*(2) The courses and units on which the certificate or degree was based.*<br>*(3) The grades earned by the student in each of those courses."*<br><br>An announced compliance inspection was conducted on July 30, 2014. Bureau staff inspected a random sample of student graduate files. None of the (5) five files inspected included copies of certificates issued, documentation of courses on which the certificate was based, or the grades that the students earned for the courses. A Notice to Comply (NTC) was issued to the institution for failure to maintain proper documentation in the graduated student files. The institution responded to the NTC stating "Graduate files contain a copy of a Proof of Training document that includes all necessary student information such as course completed, hours completed, date of start/end, address, phone number, etc." The institution's response does not demonstrate compliance with CEC |

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| | 94900(b)(1),(2)&(3) in that a Proof of Training document does not include all of the required documentation.<br><br>**Order of Abatement:**<br>The Bureau orders the Institution to submit a written policy and procedure addressing the maintenance of all student and graduate files to comply with CEC §94900(b)(1),(2)&(3). The institution shall demonstrate compliance by submitting copies of permanent records for all students who graduated within the last 90 days of the date of this citation. Copies shall include 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, and 3. The grades earned by the student in each of those courses.<br><br>**Assessment of Fine**<br>The fine for this violation is $1,000.00 |
| 2. | **Violation:**<br>5, CCR 71720(b)(2) – Faculty<br>*"(b) Instructors in an Educational Program Not Leading to a Degree.*<br>*(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."*<br><br>CEC 94900.5 Required Institutional Records<br>*"An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information:*<br>*(a) The educational programs offered by the institution and the curriculum for each.*<br>*(b) The names and addresses of the members of the institution's faculty and records of the educational qualifications of each member of the faculty.*<br>*(c) Any other records required to be maintained by this chapter, including, but not limited to, records maintained pursuant to Article 16 (commencing with Section 94928)."*<br><br>An announced compliance cnspection was conducted on July 30, 2014. Bureau staff inspected the faculty files of three assigned faculty members. The Institution failed to document in the faculty files or failed to produce in any form, information supporting continuing education courses, as required by 5, CCR 71720(b)(2). A Notice to Comply was issued and the institution's response asserted that one of the faculty members had attended a nail class demonstration on August 12, 2014. The response included a copy of a business card from the individual who provided the demonstration. The institution's response also asserted that the same faculty member was enrolled, as of September 5, 2014, in an online class for continuing education. The institution's response does not demonstrate compliance with 5, CCR §71720(b)(2) in that a business card does not suffice as proof of continuing education course completion.<br><br>**Order of Abatement:**<br>The Bureau orders the Institution to submit a written policy and procedure addressing the maintenance of faculty files that includes the requirement for faculty continuing education courses, and the institution shall submit copies of documents demonstrating proof of completion of continuing education by all its faculty members between September 1, 2014 and November 1, 2015.<br><br>**Assessment of Fine**<br>The fine for this violation is $2,500.00 |

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| 3. | **Violation:**<br>5, CCR 71735(b) – Facilities and Equipment<br>*"(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."*<br><br>An announced compliance inspection was conducted on July 30, 2014. Bureau staff inspected the institution's facility and equipment and found the floor to be in need of repair. Although the floor had been partially renovated, a large portion of the floor throughout the facility had stains and chips in the linoleum. Additionally, several salon chairs were torn and one electrical outlet was utilized for six hair dryers. A Notice to Comply was issued and the institution responded as follows: "The flooring has been updated by removing the old flooring and installing new flooring. Styling chairs with any tears in the upholstery have been removed and are being reupholstered. Every student has a styling chair with no tears. The dryer chairs have been moved to a different area in the school with sufficient electrical outlets."<br><br>**Order of Abatement:**<br>The Bureau orders the Institution to submit photos of the institution's renovated flooring, all styling chairs, and all dryer chairs, and receipts to demonstrate that the facility meets the requirements of 5, CCR 71735(b).<br><br>**Assessment of Fine**<br>The fine for this violation is $0.00 |
| 4. | **Violation:**<br>5, CCR 71740(b) – Library and Other Learning Resources<br>*"(b) An institution shall provide or make provisions for the library and other learning resources needed to support each educational program it offers, including resources such as reference works, periodicals, monographs, and media and equipment specific to the educational programs offered."*<br><br>An announced compliance inspection was conducted on July 30, 2014. The Institution's catalog states that a library is located within the school that holds a collection of textbooks, review books, practical books, theory books, instructional movies, DVDs, industry periodicals, and other reading material. Bureau staff inspected the institution's library revealed that a storage closet was being utilized as a student library. The closet was cluttered, unorganized, and contained outdated learning materials. A Notice to Comply was issued and the institution's response included a statement that the library had been reorganized and new reference materials have been ordered at a cost of $601.52. Included with the institution's response is a copy of several website pages showing an online order for several learning materials but no confirmation of receipt of any materials ordered.<br><br>**Order of Abatement:**<br>The Bureau orders the Institution to submit documents that demonstrate the receipt of up-to-date learning materials and photos of the institution's reorganized library, as well as a written policy or procedure addressing the ongoing review and maintenance of its learning resources to demonstrate that the facility meets the requirements of 5, CCR 71740(b).<br><br>**Assessment of Fine**<br>The fine for this violation is $200.00 |

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| 5. | **Violation:**<br>5, CCR 71920(a)(b)(3) – Student Records<br>*"(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: (3) Copies of all documents signed by the student, including contracts, instruments of indebtedness, and documents relating to financial aid"*<br><br>*CEC 94902(b)(3) – General Enrollment Requirements*<br>*"(b) An enrollment agreement is not enforceable unless all of the following requirements are met: (3) Prior to the execution of an 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. Each of these items in the Student Performance Fact Sheet shall include a line for the student to initial and shall be initialed and dated by the student."*<br><br>An announced compliance inspection was conducted on July 30, 2014. Bureau staff inspected a random sample of student files. None of the student files inspected contained a signed copy of the School Performance Fact Sheet as required and the institution was unable to produce any signed copies. Therefore, Bureau staff was not able to determine whether enrolled students received a copy of the School Performance Fact Sheets.<br><br>**Order of Abatement:**<br>The Bureau orders the Institution to submit signed, initialed, and dated copies of School Performance Fact Sheets for each student enrolled between September 1, 2014 and November 1, 2015, to demonstrate compliance with CEC 94902(b)(3). Submit procedures for completing the enrollment process.<br><br>**Assessment of Fine**<br>The fine for this violation is $2,000.00 |
| | **TOTAL ADMINISTRATIVE FINE DUE: $5,700.00** |

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5 CCR Sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **$5,700.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

ORDER OF ABATEMENT

In accordance with the provisions of CEC Section 94936 and 5 CCR Section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

BACKGROUND

D'LeCreme School of Cosmetology and Barbering (Institution), Institution Code 18431276, was issued a Notice to Comply #CA 18431276 0714 (NTC) the Bureau on July 30, 2014 as a result of minor violations detected during the desk review and on-site compliance inspection. The institution was provided 30 days from the date of the inspection to either remedy the violations or submit a

written notice of disagreement. The Bureau received documents from the Institution to remedy two of the seven violations listed on the NTC. The two violations that were fixed are 76120(a) Amount of STRF assessment and 74112(h) Uniform Data – Annual Report Fact Sheet. However, five outstanding violations remain.

## APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by January , 2016, you will be deemed to have waived or forfeited your right to appeal this matter.

## EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **December 17, 2015.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **January 16, 2016**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

**Payment of the administrative fine and/or written request for appeal must be mailed to:**

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

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

## CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Jody Wright, Enforcement Analyst, at 916-431-6940 or Jody.Wright@dca.ca.gov.

**Elainea Shotwell**
**Enforcement Manager**

December 17, 2015
**Date**

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First Class Mail