Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833
P.O. Box 980818, West Sacramento, CA 95798-0818
P (916) 431-6959 F (916) 263-1897 www.bppe.ca.gov

APPEAL OF CITATION INFORMAL CONFERENCE DECISION:

CITATION MODIFIED

February 23, 2016

Moises Castaneda
United School of America
701 E. Ball Road #100
Anaheim, CA 92805

Date of Issuance	Citation Number	Institution Code
February 23, 2016	1516041	3014371

On January 28, 2016, an informal conference was held in the matter of Citation: Assessment of Fine and Order of Abatement No. 1516041 (Citation) against Moises Castaneda, Owner of United School of America. In attendance were Yvette Johnson, Enforcement Chief, and Larry Madoski, Director.

Pursuant to Business and Professions Code, §148; California Education Code (CEC), §94944; and Title 5 of California Code of Regulations (5 CCR), §75020 and §75040, the Bureau for Private Postsecondary Education (Bureau) renders the following decision relative to your appeal of the Citation No. 1516041.

It is the decision of the Enforcement Chief that on February 23, 2016, Citation No. 1516041 is modified and makes the following change(s):

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.
1.	**MODIFIED** **Violation:** CEC 94904(a) - Ability to Benefit Students *"(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 as of July 1, 2012, 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.). 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."*

	In an email sent to Bureau staff on 10/25/13, N. R., United School of America's school counselor, confirmed that the institution administers the Wonderlic exam for admission to the institution, however, it is administered by the staff at the school, not a proctor. The Ability to Benefit testing method used by United School of America does not comply with CEC 94904(a). **Order of Abatement:** The Bureau orders that United School of America implement new procedures for administering an approved ATB test to prospective students in compliance with CEC 94904(a). Submit evidence of compliance indicating how ATB tests are administered to the Bureau. **Assessment of Fine** The modified fine for this violation is $2,500.00
2.	**MODIFIED** **Violation:** 5, CCR 71770(a)(1) - Admissions Standards and Transferred Credits Policy. *"(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. "* CEC 71920(b)(1)(A) - Student Records "(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;" On 11/26/12, student A.G. was registered at United School of America without a high school diploma or GED. The institution failed to give A.G. an ATB test in violation of their admission policy which states "non-high school graduates will be administered an Ability to Benefit test. Acceptance into a program is contingent upon a student's achievement of a qualifying score." **Order of Abatement:** The Bureau orders that United School of America implement new procedures for administering an approved ATB test to prospective students in compliance with 5, CCR 71770(a)(1) and submit written evidence of compliance to the Bureau. Maintain evidence of a properly administered ABT in student files as required by 71920(b)(1)(A). **Assessment of Fine**

	The modified fine for this violation is $2,500.00
3.	**MODIFIED** **Violation:** CEC94911(d) – Minimum Requirements for Enrollment Agreement *"An enrollment agreement shall include, at a minimum, all of the following:* *(d) A clear and conspicuous statement that the enrollment agreement is legally binding when signed by the student and accepted by the institution."* On 10/25/13, N. R., United School of America's school counselor, emailed Bureau staff a revised enrollment agreement. The agreement did not include *"a clear and conspicuous statement that the enrollment agreement is legally binding when signed by the student and accepted by the institution"* as required by CEC 94911(d). **Order of Abatement:** The Bureau orders that the institution update their Enrollment Agreement with a clear and conspicuous statement that the Enrollment Agreement is legally binding when signed by the student and accepted by the institution. The statement provided to the Bureau omitted the words "accepted by the institution". The Bureau orders that the institution submit a copy of the updated enrollment agreement to be in compliance with CEC 94911(d). **Assessment of Fine** The modified fine for this violation is $0.00
4.	**AFFIRMED** **Violation:** 5, CCR 76215(a) and (b) Student Tuition Recovery Fund Disclosures *"(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."* *However, no claim can be paid to any student without a social security number or a taxpayer identification number."* On 10/25/13, N. R., United School of America's school counselor, emailed Bureau staff the revised Enrollment Agreement. The agreement did not include the language as required by 5, CCR 76215(a) and (b). **Order of Abatement:** **The Bureau orders that the institution update their Enrollment Agreement to include the exact format in compliance with 5, CCR 76215(a) and (b).** The Bureau orders that the institution submit a copy of the updated Enrollment Agreement with the required information. **Assessment of Fine** The fine for this violation is $50.00
	TOTAL MODIFIED ADMINISTRATIVE FINE DUE: $5,050.00

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5, CCR Sections 75020 and 75030, the Bureau hereby orders this MODIFIED assessment of fine in the amount of $**5,050.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

ORDER OF ABATEMENT

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

APPEAL OF CITATION

You *do not* have the right to request another Informal Conference to appeal this modified Citation. You *do*, however, have the right to appeal this modified Citation through an Administrative Hearing, *only if* you initially requested one within 30 days from the issuance date of the original citation. A hearing before an Administrative Law Judge will be scheduled and you will be notified of the

hearing date. The hearing will be held pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If you did not initially request an Administrative Hearing within 30 days from when the original citation was issued, you can no longer request one.

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

EFFECTIVE DATE OF CITATION AND FINE ASSESSMENT

This modified Citation is effective on February 23, 2016**.** The order of abatement and payment are due by **March 22, 2016**.

Failure to abate the violation or to pay the administrative fine within the time allowed is grounds for denial of an application for an approval to operate or discipline. The Bureau will promptly take all appropriate action to enforce the Affirmed Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

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

Yvette Johnson

YVETTE JOHNSON
Enforcement Chief

February 23, 2016
Date

Enclosures

- Payment of Fine – Waiver of Appeal
- Notice of Appeal of Citation: Request for Administrative Hearing
- Withdrawal of Request for Administrative Hearing