KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General
CARTER OTT
Deputy Attorney General
State Bar No. 221660
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2219
Facsimile: (510) 622-2270
E-mail: Carter.Ott@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against: **NORTHERN CALIFORNIA INSTITUTE OF COSMETOLOGY** **601 East 14th St.** **San Leandro, CA 94577** **Accredited Institution Approval to Operate No. 0107101** Respondent.	Case No. 999780 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about February 25, 2003, the Bureau for Private Postsecondary Education ("Bureau") granted an Accredited Institution Approval to Operate to Northern California Institute of Cosmetology ("Respondent"). Respondent is jointly and equally owned by two shareholders: Rodrigo Solis and Rosalinda Solis. The Accredited Institution Approval to Operate was in full force and effect at all times relevant to the charges brought in this Accusation, and will expire on

September 30, 2017. Pursuant to Respondent's Accredited Institution Approval to Operate, Respondent is permitted to teach the following programs: Barbering, Cosmetology, Nail Care, and Skin Care.

JURISDICTION

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

4. **Business and Professions Code section 118** states, in part:

. . .

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

"(c) As used in this section, 'board' includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 'registration,' and 'permit.'"

5. **Business and Professions Code section 477** states:

"As used in this division:

"(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and 'agency.'

"(b) 'License' includes certificate, registration or other means to engage in a business or profession regulated by this code."

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6. **Government Code section 11460.60** states:

"(a) After issuing an emergency decision under this article for temporary, interim relief, the agency shall conduct an adjudicative proceeding under a formal, informal, or other applicable hearing procedure to resolve the underlying issues giving rise to the temporary, interim relief.

"(b) The agency shall commence an adjudicative proceeding under another procedure within 10 days after issuing an emergency decision under this article, notwithstanding the pendency of proceedings for judicial review of the emergency decision."

RELEVANT STATUTES

7. **Section 94896** states:

"(a) An institution that has been granted an approval to operate by means of accreditation shall only make a substantive change in accordance with the institution's accreditation standards.

"(b) The institution shall notify the bureau of the substantive change on a form provided by the bureau."

8. **Section 94897** states, in part:

"An institution shall not do any of the following:

. . .

"(h) Pay any consideration to a person to induce that person to sign an enrollment agreement for an educational program.

. . .

"(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:

"(1) A financial report filed with the bureau.

"(2) Information or records relating to the student's eligibility for student financial aid at the institution.

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

"(k) Willfully falsify, destroy, or conceal any document of record while that document of record is required to be maintained by this chapter.

. . .

"(m) Direct any individual to perform an act that violates this chapter, to refrain from reporting unlawful conduct to the bureau or another government agency, or to engage in any unfair act to persuade a student not to complain to the bureau or another government agency.

. . . ."

9. **Section 94900** 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."

10. **Section 94900.5** states, in part:

"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:

. . .

"(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.

"(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)."

11. **Section 94902** states, in 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. 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.

"(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."

12. **Section 94905** states, in part:

"(a) During the enrollment process, an institution offering educational programs designed to lead to positions in a profession, occupation, trade, or career field requiring licensure in this state shall exercise reasonable care to determine if the student will not be eligible to obtain licensure in the profession, occupation, trade, or career field at the time of the student's graduation and shall provide all students enrolled in those programs with a written copy of the requirements for licensure established by the state, including any applicable course requirements established by the state. If the minimum course requirements of the institution exceed the minimum requirements for state licensure, the institution shall disclose this information, including a list of those courses that are not required for state licensure. The institution shall not execute an enrollment agreement with a student that is known to be ineligible for licensure, unless the student's stated objective is other than licensure.

. . . ."

13. **Section 94906** states, in 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.

. . . ."

14. **Section 94909** states:

"(a) Except as provided in subdivision (d), 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.

"(2) Except as specified in Article 2 (commencing with Section 94802), a statement that the institution is a private institution and that it is approved to operate by the bureau.

"(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.

"(6) If the educational program is designed to lead to positions in a profession, occupation, trade, or career field requiring licensure in this state, a notice to that effect and a list of the requirements for eligibility for licensure.

"(7) Information regarding the faculty and their qualifications.

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

"(A) Admissions policies, including the institution's policies regarding the acceptance of credits earned at other institutions or through challenge examinations and achievement tests, admissions requirements for ability-to-benefit students, and a list describing any transfer or articulation agreements between the institution and any other college or university that provides for the transfer of credits earned in the program of instruction. If the institution has not entered into an articulation or transfer agreement with any other college or university, the institution shall disclose that fact.

"(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).

"(C) Probation and dismissal policies.

"(D) Attendance policies.

"(E) Leave-of-absence policies.

"(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.).

"(13) If the institution provides placement services, a description of the nature and extent of the placement services.

"(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:

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

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

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

"(b) If the institution has a general student brochure, the institution shall provide that brochure to the prospective student prior to enrollment. In addition, if the institution has a program-specific student brochure for the program in which the prospective student seeks to enroll, the institution shall provide the program-specific student brochure to the prospective student prior to enrollment.

"(c) An institution shall provide the school catalog to any person upon request. In addition, if the institution has student brochures, the institution shall disclose the requested brochures to any interested person upon request.

"(d) An accredited institution is not required to provide a School Performance Fact Sheet to a prospective student who is not a California resident, not residing in California at the time of his or her enrollment, and enrolling in an accredited distance learning degree program offered by the institution, if the institution complies with all federal laws, the applicable laws of the state where

the student is located, and other appropriate laws, including, but not limited to, consumer protection and student disclosure requirements."

15. **Section 94910** states:

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

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

"(b) Placement rates for each educational program, 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 recognized 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) Salary or wage information, as calculated pursuant to Article 16 (commencing with Section 94928).

"(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.

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

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16. **Section 94911** 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.

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"(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, salaries or wages, and the most recent three-year cohort default rate, if applicable, 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, salary or wage information, and the most recent three-year cohort default rate, if applicable, 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.'

17. **Section 94912** 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."

18. **Section 94913** states, in part:

"(a) An institution that maintains an Internet Web site shall provide on that Internet Web site all of the following:

"(1) The school catalog.

. . .

"(3) Student brochures offered by the institution.

"(4) A link to the bureau's Internet Web site.

. . . ."

19. **Section 94916** states:

"An institution extending credit or lending money to an individual for institutional and noninstitutional charges for an educational program shall cause any note, instrument, or other

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evidence of indebtedness taken in connection with that extension of credit or loan to be conspicuously marked on its face in at least 12-point type with the following notice:

"'NOTICE'

"'You may assert against the holder of the promissory note you signed in order to finance the cost of the educational program all of the claims and defenses that you could assert against this institution, up to the amount you have already paid under the promissory note.'"

20. **Section 94919** states, in part:

. . .

"(c) The institution shall also provide a pro rata refund of nonfederal student financial aid program moneys paid for institutional charges to students who have completed 60 percent or less of the period of attendance.

. . . ."

21. **Section 94924** states, in part:

. . .

"(c) Except when an institution provides a full refund pursuant to Section 94919 or Section 94920, the Student Tuition Recovery Fund assessment is nonrefundable."

22. **Section 94929** states:

"(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 on-time 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."

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23. **Section 94929.5** 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 data 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) Nothing in this section shall limit the bureau's authority to collect information from an institution to comply with this section and ensure, by regulation and other lawful means, that the information required by this section, and the manner in which it is collected and reported, is all of the following:

"(1) Useful to students.

"(2) Useful to policymakers.

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

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

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

24. **Section 94929.7** states, in part:

"(a) The information used to substantiate the rates and information calculated pursuant to Sections 94929 and 94929.5 shall do both of the following:

"(1) Be documented and maintained by the institution for five years from the date of the publication of the rates and information.

"(2) Be retained in an electronic format and made available to the bureau upon request.

. . . ."

RELEVANT REGULATIONS

25. **California Code of Regulations, title 5, section 71650** states, in part:

"(a) An institution seeking to change its educational objectives shall complete the 'Change in Educational Objectives' form (OBJ rev. 2/10) to obtain prior authorization. The form shall be submitted to the Bureau along with the appropriate fee as provided in Section 94930.5(c) of the Code. For an institution approved under section 94885 of the Code it shall be signed and dated by the signatory(ies) required by section 71380, and for an institution approved under section 94890 of the Code it shall be signed and dated by the signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

. . . ."

26. **California Code of Regulations, title 5, section 71715** states, in 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.

. . . ."

27. **California Code of Regulations, title 5, section 71720** states, in 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.

. . . ."

28. **California Code of Regulations, title 5, section 71730** states, in part:

. . .

"(d) The administrative staffing at each branch location shall reflect the purposes, size, and educational operations at that location and at any satellite location for which the branch has administrative responsibilities.

. . .

"(f) The institution shall employ administrative personnel who have the expertise to ensure the achievement of the institution's mission and objectives and the operation of the educational programs.

. . . ."

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29. **California Code of Regulations, title 5, section 71740** states, in part:

. . .

"(c) An institution shall describe onsite library and other learning resources, if any, that enable students to pursue inquiries, searches for information and documentation, and assignments connected with their study programs.

. . . ."

30. **California Code of Regulations, title 5, section 71745** states, in part:

"(a) The institution shall document that it has at all times sufficient assets and financial resources to do all of the following:

. . .

"(3) Maintain the minimum standards required by the Act and this chapter.

"(4) Pay timely refunds as required by Article 13 of the Act.

"(5) Pay all operating expenses due within 30 days.

. . . ."

31. **California Code of Regulations, title 5, section 71750** states, in 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.

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"(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 and 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.

. . .

"(f) The institution shall maintain a cancellation and withdrawal log, kept current on a monthly basis, which shall include the names, addresses, telephone numbers, and dates of cancellations or withdrawal of all students who have cancelled the enrollment agreement with, or withdrawn from, the institution during the calendar year."

32. **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."

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33. **California Code of Regulations, title 5, section 71770** states:

"(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.

"(2) Each student admitted into a post-baccalaureate degree program shall possess a bachelor's degree or its equivalent. If a graduate program leads to a profession or an occupation requiring state licensure and the licensing agency does not require that a member of the profession or occupation possess a Bachelor's degree or its equivalent, this subdivision does not apply.

"(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.

"(2) No more than 20% of graduate semester units or the equivalent in other units awarded by another institution may be transferred for credit toward a Master's degree. An institution may accept transfer credits only from the institutions of higher learning described in subsection (1)(A).

"(3) No more than 30 graduate semester credits or its equivalent awarded by another institution may be credited toward a doctoral degree. This subdivision does not apply to graduate programs that lead to a profession or an occupation requiring state licensure where the licensing agency has a regulation permitting a different standard.

"(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.

"(3) Each college or university level learning experience shall be evaluated by faculty qualified in that specific subject area who shall ascertain (1) to what college or university level learning the student's prior experience is equivalent and (2) how many credits toward a degree may be granted for that experience.

"(4) The faculty evaluating the prior learning shall prepare a written report indicating all of the following:

"(A) The documents in the student's record on which the faculty member relied in determining the nature of the student's prior experience;

"(B) The bases for determining that the prior experience (i) is equivalent to college or university level learning and (ii) demonstrates a balance between theory and practice; and

"(C) The bases for determining (i) to what college or university level the experience is equivalent and (ii) the proper number of credits to be awarded toward the degree for that experience.

"(5)(A) The institution shall designate at least one administrator to be responsible for the review of faculty determinations regarding the award of credit for prior experiential learning.

"(B) The administrator shall document the institution's periodic review of faculty evaluations to assure that the faculty written evaluations and awards of credit comply with this section and the institution's policies and are consistent.

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

"(7)(A) Of the first 60 semester credits awarded a student in an undergraduate program, no more than 15 semester credits may be awarded for prior experiential learning.

"(B) Of the second 60 semester units (i.e., credits 61 to 120) awarded a student in an undergraduate program, no more than 15 semester credits may be awarded for prior experiential learning.

"(C) Of the first 30 semester credits awarded a student in a graduate program, no more than 6 semester credits may be awarded for prior experiential learning.

"(D) Of the second 30 semester credits (i.e., credits 31 to 60) awarded a student in a graduate program, no more than 3 semester credits may be awarded for prior experiential learning.

"(E) No credit for experiential learning may be awarded after a student has obtained 60 semester credits in a graduate program."

34. **California Code of Regulations, title 5, section 71800** states, in 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.

. . .

"(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:

. . .

"(9) assessment fees for transfer of credits;

"(10) fees to transfer credits;

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

"(12) any other institutional charge or fee.

. . . ."

35. **California Code of Regulations, title 5, section 71810** states, in 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 (B) whether English

language services, including instruction such as ESL, are provided and, if so, the nature of the service and its cost;

. . .

"(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;

. . .

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

. . .

"(12) A description of all student services;

"(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

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

. . .

"(15) Policies on the retention of student records."

36. **California Code of Regulations, title 5, section 71920** states, in 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;

. . .

"(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;

. . .

"(8) A copy of documents relating to student financial aid that are required to be maintained by law or by a loan guarantee agency;

"(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;

. . . ."

37. **California Code of Regulations, title 5, section 71930** states, in 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.

. . .

"(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.

. . . ."

38. **California Code of Regulations, title 5, section 74112** states, in part:

. . .

"(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."

39. **California Code of Regulations, title 5, section 76120** states, in part:

"(a) Each qualifying institution shall collect an assessment of zero dollars ($0) 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 zero dollars ($0).

. . .

"(c) Except when an institution provides a 100% refund pursuant to section 94919(d) or section 94920(b) of the Code, the assessment is non-refundable."

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40. **California Code of Regulations, title 5, section 76140** states:

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

41. **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.'"

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

COST RECOVERY

42. Business and Professions Code section 125.3 provides, in part, that the Bureau 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE
(Substantive Change for Institution Approved by Means of Accreditation)
(Educ. Code § 94896, subds. (a) and (b))

43. Respondent has subjected its approval to operate to disciplinary action for making a substantive change not in accordance with its accreditation standards and without notifying the Bureau. (Educ. Code § 94896, subds. (a) and (b)). In particular, Respondent is enrolling Spanish-speaking students with limited or no English proficiency and teaching in Spanish without approval from its accrediting agency, National Accrediting Commission of Career Arts and Sciences ("NACCAS"), or notifying the Bureau.

SECOND CAUSE FOR DISCIPLINE
(Application for a Change in Educational Objectives)
(Cal. Code of Regs., title 5, § 71650, subd. (a))

44. Respondent has subjected its approval to operate to disciplinary action for failing to comply with requirements for changing educational objectives. (Cal. Code of Regs., title 5, § 71650, subd. (a)). In particular, Respondent changed its educational objectives by enrolling

Spanish-speaking students with limited or no English proficiency and teaching in Spanish, without complying with California Code of Regulations, title 5, section 71650, subdivision (a).

THIRD CAUSE FOR DISCIPLINE
(Admissions Standards and Transferred Credits Policy)
(Cal. Code of Regs., title 5, § 71770)

45. Respondent has subjected its approval to operate to disciplinary action for failing to apply or have required admissions standards and a transferred credits policy. (Cal. Code of Regs., title 5, § 71770). In particular:

a. Respondent is not following its own admissions standards set forth in its student catalog. Respondent admitted students who obviously did not qualify or who did not appear to have a reasonable prospect of completing the program and its educational objectives. (Cal. Code of Regs., title 5, § 71770, subd. (a)).

b. Respondent admitted students without proof of a high school diploma or its equivalent. (Cal. Code of Regs., title 5, § 71770, subd. (a)(1)).

c. Respondent does not have an established policy for the acceptance of transfer credits from other institutions. (Cal. Code of Regs., title 5, § 71770, subd. (b)).

d. Respondent does not have a policy for prior experiential learning listed in its catalog. (Cal. Code of Regs., title 5, § 71770, subd. (c)).

FOURTH CAUSE FOR DISCIPLINE
(Minimum Requirements for School Catalog)
(Educ. Code § 94909, subds. (a), (a)(7), (a)(8)(A), (a)(9), (a)(12), (a)(14), and (a)(15))

46. Respondent has subjected its approval to operate to disciplinary action for failing to provide a school catalog containing the minimum requirements. (Educ. Code § 94909, subds. (a), (a)(7), (a)(8)(A), (a)(9), (a)(12), (a)(14), and (a)(15)). In particular:

a. In the course of an investigation, three enrolled students informed the Bureau's investigator that Respondent did not provide a catalog to them upon enrollment. (Educ. Code § 94909, subd. (a)).

b. Respondent's 2015 catalog does not contain information about the school's faculty and their qualifications. (Educ. Code § 94909, subd. (a)(7)).

c. Respondent's 2015 catalog does not contain information about requirements for ability-to-benefit ("ATB") students. (Educ. Code § 94909, subd. (a)(8)(A)).

d. Respondent's 2015 catalog does not contain required statements for total charges for the period of attendance. (Educ. Code § 94909, subd. (a)(9)).

e. Respondent's 2015 catalog does not contain the required statement about whether or not Respondent has any pending petitions in bankruptcy, is operating as a debtor in possession, or has filed a petition within the last five years. (Educ. Code § 94909, subd. (a)(12)).

f. Respondent's 2015 catalog does not contain the required Student Tuition Recovery Fund ("STRF") disclosures. (Educ. Code § 94909, subd. (a)(14)).

g. Respondent's 2015 catalog does not contain the required verbatim disclosures about the transferability of credits and credentials earned at Respondent's institution. (Educ. Code § 94909, subd. (a)(15)).

FIFTH CAUSE FOR DISCIPLINE
(Institutional Website Requirements)
(Educ. Code § 94913, subds. (a)(1), (a)(3), and (a)(4))

47. Respondent has subjected its approval to operate to disciplinary action because Respondent's website does not contain a current school catalog, student brochures, or a link to the Bureau's website. (Educ. Code § 94913, subds. (a)(1), (a)(3), and (a)(4)).

SIXTH CAUSE FOR DISCIPLINE
(Catalog)
(Cal. Code of Regs., title 5, § 71810, subds. (a), (b)(1), (b)(3), (b)(4)(A), (b)(7), (b)(10), (b)(12), (b)(13)(A)-(C), and (b)(15))

48. Respondent has subjected its approval to operate to disciplinary action for failing to comply with applicable regulations regarding the maintenance and content of the school catalog. (Cal. Code of Regs., title 5, § 71810, subds. (a), (b)(1), (b)(3), (b)(4)(A), (b)(7), (b)(10), (b)(12), (b)(13)(A), (b)(13)(B), (b)(13)(C), and (b)(15)). In particular:

a. Respondent fails to update its catalog annually. (Cal. Code of Regs., title 5, § 71810, subd. (a)).

b. Respondent's 2015 catalog does not contain information about admitting students from other countries, including information about visa services, despite having currently-enrolled students who are not U.S. Citizens. (Cal. Code of Regs., title 5, § 71810, subd. (b)(3)).

c. Respondent's 2015 catalog does not contain information about a library or other resources including the procedures for student access. (Cal. Code of Regs., title 5, § 71810, subd. (b)(10)).

d. Respondent's 2015 catalog does not contain the requisite information regarding housing. (Cal. Code of Regs., title 5, § 71810, subd. (b)(13)(A)-(C)).

e. Respondent's 2015 catalog does not contain policies on the retention of student records. (Cal. Code of Regs., title 5, § 71810, subd. (b)(15)).

SEVENTH CAUSE FOR DISCIPLINE
(Student Tuition Recovery Fund Disclosures)
(Cal. Code of Regs., title 5, § 76215, subds. (a) and (b))

49. Respondent has subjected its approval to operate to disciplinary action for failing to provide the requisite STRF disclosures. (Cal. Code of Regs., title 5, § 76215, subds. (a) and (b)). In particular:

a. Respondent's 2014 and 2015 enrollment agreements do not contain the required disclosures for the STRF. (Cal. Code of Regs., title 5, § 76215, subds. (a) and (b)).

b. Respondent's 2015 catalog does not include the required disclosures for the STRF. (Cal. Code of Regs., title 5, § 76215, subds. (a) and (b)).

EIGHTH CAUSE FOR DISCIPLINE
(Minimum Requirements for Enrollment Agreements)
(Educ. Code § 94911, subds. (a), (b), (c), (d), (e)(1)-(3), (f), (g)(1), (g)(2), (h), (i)(1), (i)(2), (j)(1), (j)(2), and (k))

50. Respondent has subjected its approval to operate to disciplinary action for employing an enrollment agreement that does not comply with the applicable statute. (Educ. Code § 94911, subds. (a), (b), (c), (d), (e)(1), (e)(2), (e)(3), (f), (g)(1), (g)(2), (h), (i)(1), (i)(2), (j)(1), (j)(2), and (k)). In particular:

a. Respondent's 2014 and 2015 enrollment agreements do not include an itemization of all fees charged by the institution, is missing some fees that are stated in the

catalog, does not include the STRF assessment, and does not clearly identify the non-refundable charges. Respondent's 2016 enrollment agreement includes the STRF assessment and lists it as non-refundable, but also includes non-descript "other charges" as non-refundable. (Educ. Code § 94911, subd. (b)).

b. Respondent's 2014 and 2015 enrollment agreements do not include the requisite underlined capital letters, a statement of total charges for the current period of attendance, and estimated charges for the entire educational program. (Educ. Code § 94911, subd. (c)).

c. Respondent's 2014 enrollment agreement does not contain a clear and conspicuous statement that the enrollment agreement is legally binding when signed by the student and accepted by the institution. (Educ. Code § 94911, subd. (d)).

d. Respondent's 2014 and 2015 enrollment agreements do not contain a statement specifying that, if a student obtains a loan to pay for an educational program, he or she is required to repay the loan plus any interest less any refund. (Educ. Code § 94911, subd. (f)).

e. Respondent's 2014 and 2015 enrollment agreements do not contain the verbatim statement required by Section 94911, subdivision (i)(1) and do not contain a line for the student to initial following that statement. (Educ. Code § 94911, subd. (i)(1) and (2)).

f. Respondent's 2014 enrollment agreement does not contain requisite disclosures regarding the return of federal financial aid in the refund policy. (Educ. Code § 94911, subd. (e)(2)).

g. Respondent's 2014 enrollment agreement does not contain the requisite procedures students must follow to cancel the enrollment agreement or withdraw from the institution. (Educ. Code § 94911, subd. (e)(3)).

h. Respondent's 2014 enrollment agreement does not contain the requisite disclosures regarding students defaulting on federal student loans. (Educ. Code § 94911, subd. (g)(1) and (2)).

i. Respondent's 2014 enrollment agreement does not contain the requisite, verbatim disclosure regarding transferability of credits. (Educ. Code § 94911, subd. (h)).

j. Respondent's 2014 enrollment agreement does not contain the requisite, verbatim disclosure regarding student questions regarding the enrollment agreement. (Educ. Code § 94911, subd. (j)(1)).

k. Respondent's 2014 enrollment agreement does not contain the requisite, verbatim disclosure regarding filing a complaint with the Bureau. (Educ. Code § 94911, subd. (j)(2)).

l. Respondent's 2014 enrollment agreement does not contain the requisite, verbatim disclosure required by Section 94911, subdivision (k). (Educ. Code § 94911, subd. (k)).

m. Respondent's 2015 enrollment agreement does not have "STUDENT'S RIGHT TO CANCEL" written in a clear and conspicuous caption in all caps. (Educ. Code § 94911, subd. (e)(1)).

n. During its investigation, the Bureau found that enrollment agreements Respondent provided to two students ("YY" and "TO") have incomplete "transfer of credits" disclosures. (Educ. Code § 94911, subd. (h)).

NINTH CAUSE FOR DISCIPLINE
(Enrollment Agreement)
(Cal. Code of Regs., title 5, § 71800, subds. (a), (d), and (e)(9)-(12))

51. Respondent has subjected its approval to operate to disciplinary action for employing an enrollment agreement that does not comply with the applicable regulation. (Cal. Code of Regs., title 5, § 71800, subds. (a), (d), (e)(9)-(12)). In particular:

a. Respondent's 2014 and 2015 enrollment agreements do not specify the address where instruction shall be provided. (Cal. Code of Regs., title 5, § 71800, subd. (a)).

b. Respondent's 2014 enrollment agreement does not contain the date by which students must exercise his or her right to cancel or withdraw. (Cal. Code of Regs., title 5, § 71800, subd. (d)).

c. Respondent's 2014 and 2015 enrollment agreements do not include itemized charges for assessment of fees for transfer of credits; fees to transfer credits; assessment fees for STRF, including listing STRF charges as non-refundable and other institutional charges such as fees for unexcused absences; withdrawal fees and "baby board" examinations. Student YY's

enrollment agreement is missing the itemized per hour charge for exceeding the scheduled hours of the program. (Cal. Code of Regs., title 5, § 71800, subd. (e)(9)-(12)).

TENTH CAUSE FOR DISCIPLINE
(General Enrollment Requirements)
(Educ. Code § 94902, subds. (a), (b)(1), (b)(3), and (c))

52. Respondent has subjected its approval to operate to disciplinary action for failing to comply with general enrollment requirements. (Educ. Code § 94902, subds. (a), (b)(1), (b)(3), and (c)). In particular:

a. Respondent enrolled student YY without having her sign an enrollment agreement. (Educ. Code § 94902, subd. (a)).

b. Respondent does not provide a copy of its catalog or the School Performance Fact Sheet ("SPFS") to students when they enroll. (Educ. Code § 94902, subd. (b)(1) and (3)).

c. Respondent does not provide a signed copy of the enrollment agreement to enrolled students upon request. According to numerous students, they do not have copies of the enrollment agreements they signed and are not able to obtain a copy from Respondent. (Educ. Code § 94902, subd. (c)).

ELEVENTH CAUSE FOR DISCIPLINE
(Language of Enrollment Agreement)
(Educ. Code § 94906, subds. (a))

53. Respondent has subjected its approval to operate to disciplinary action for enrolling students whose primary language is not English, while using an English-language enrollment agreement that it not translated into the students' primary language. (Educ. Code § 94906, subds. (a)).

TWELFTH CAUSE FOR DISCIPLINE
(Statement on Loans to Students)
(Educ. Code § 94916)

54. Respondent has subjected its approval to operate to disciplinary action for using its enrollment agreement as an instrument to extend credit without including within that document the requisite language required for an institution extending credit. (Educ. Code § 94916).

THIRTEENTH CAUSE FOR DISCIPLINE
(Instruction)
(Cal. Code of Regs., title 5, § 71715, subds. (a), (b), and (c))

55. Respondent has subjected its approval to operate to disciplinary action for failing to provide the requisite instruction. (Cal. Code of Regs., title 5, § 71715, subds. (a), (b), and (c)). In particular:

a. Respondent is on probation with NACCAS based on Respondent's placement rates, and was on low outcome monitoring for passage and licensure rates. The California Board of Barbering and Cosmetology lists Respondent's student's 2013 passage rates as low as 63% for its written test. Respondent does not provide evaluation of academic progress as required by its own policies, making it impossible to document that the instruction offered leads to the achievement of the educational objectives. (Cal. Code of Regs., title 5, § 71715, subds. (a) and (b)).

b. Respondent had students enrolled but did not have any faculty employed to accomplish the educational goals of the institution. In interviews the Bureau conducted with enrolled students, many students reported having no teachers available during classroom instruction time or unqualified teachers. One of Respondent's instructors ("Instructor VR") obtained a cosmetology license six months after being hired as a cosmetology instructor and has no prior cosmetology or teaching experience. (Cal. Code of Regs., title 5, § 71715, subds. (a) and (c)).

FOURTEENTH CAUSE FOR DISCIPLINE
(Prohibited Business Practices)
(Educ. Code § 94897, subds. (h), (j), (k), and (m))

56. Respondent has subjected its approval to operate to disciplinary action for committing prohibited business practices. (Educ. Code § 94897, subds. (h), (j), (k), and (m)). In particular:

a. Respondent compelled students who do not qualify to enroll as students and who do not qualify for federal financial aid to sign a contract by providing compensation in the form of a discount on tuition. (Educ. Code § 94897, subd. (h)).

b. Respondent falsified financial documents for students who were no longer attending the school to continue collecting financial aid disbursements. Respondent also controls students' Flexible Spending Account ("FSA") and Free Application for Federal Student Aid ("FASFA") accounts, and changed account pins so that students could no longer access their information. (Educ. Code § 94897, subd. (j)).

c. Respondent has misrepresented attendance records, giving credit for partial days when full days were attended, as well as giving credit for full days when partial days were attended. Respondent forced one student ("MV") to sign a leave of absence request for a period of time that she was attending classes so as to stop giving her credit for the hours she was attending. (Educ. Code § 94897, subd. (j)).

d. Respondent concealed payments made by students to the institution on its payment ledgers. (Educ. Code § 94897, subd. (j)).

e. Respondent forged student signatures on leave of absence ("LOA") paperwork, Federal Aid disbursement paperwork, and other student files. (Educ. Code § 94897, subd. (k)).

f. One of Respondent's owners, Rosalinda Solis, told Bureau staff that Instructor VR does not hold a license and is not an instructor. However, Instructor VR's faculty file contains a signed duty statement for "Cosmetology Instructor," and Instructor VR has an active cosmetology license. (Educ. Code § 94897, subd. (k)).

g. According to Respondent's students, Rosalinda Solis gathered students and informed them that reporting issues to the Bureau is illegal and that she would sue them if she learned they submitted complaints to the Bureau. (Educ. Code § 94897, subd. (m)).

h. Rosalinda Solis threatened to dismiss students from Respondent's institution if they did not give a positive report of the institution or complained to Bureau staff while the staff were onsite. (Educ. Code § 94897, subd. (m)).

FIFTEENTH CAUSE FOR DISCIPLINE
(Faculty)
(Cal. Code of Regs., title 5, § 71720, subd. (b)(1))

57. Respondent has subjected its approval to operate to disciplinary action for failing to employ qualified faculty. (Cal. Code of Regs., title 5, § 71720, subd. (b)(1)). In particular,

Respondent employs Instructor VR as an instructor for Respondent's Cosmetology program. But Instructor VR's job experience, as listed in her employee file, is limited to cashier and receptionist experience. Instructor VR obtained a license to practice cosmetology six months before Respondent hired her as an instructor.

SIXTEENTH CAUSE FOR DISCIPLINE
(Administration)
(Cal. Code of Regs., title 5, § 71730, subds. (d) and (f))

58. Respondent has subjected its approval to operate to disciplinary action for failing to employ requisite staff. (Cal. Code of Regs., title 5, § 71730, subds. (d) and (f)). In particular:

a. Respondent does not maintain the level of administrative staffing required to reflect the purpose, size, and educational operations at its location. (Cal. Code of Regs., title 5, § 71730, subds. (d)).

b. Respondent does not have a school administrator on staff, thereby compromising its ability to achieve its mission and educational objectives. (Cal. Code of Regs., title 5, § 71730, subds. (f)).

SEVENTEENTH CAUSE FOR DISCIPLINE
(Financial Resources)
(Cal. Code of Regs., title 5, § 71745, subds. (a)(3)-(5))

59. Respondent has subjected its approval to operate to disciplinary action for failing to document that it has at all times sufficient assets and financial resources to maintain the minimum standards required by law, pay timely refunds as required by law, and pay all operating expenses due within 30 days. (Cal. Code of Regs., title 5, § 71745, subds. (a)(3)-(5)). In particular, Respondent does not timely pay refunds to students who are entitled to a refund, and does not maintain financial resources to be able to pay all operating expenses due within 30 days.

EIGHTEENTH CAUSE FOR DISCIPLINE
(Library and Other Learning Resources)
(Cal. Code of Regs., title 5, § 71740, subd. (c))

60. Respondent has subjected its approval to operate to disciplinary action for failing to have any kind of documentation in regards to access to an onsite library or other learning resources for students. (Cal. Code of Regs., title 5, § 71740, subd. (c)).

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NINETEENTH CAUSE FOR DISCIPLINE
(Self-Monitoring Procedures)
(Cal. Code of Regs., title 5, § 71760)

61. Respondent has subjected its approval to operate to disciplinary action for failing to develop and maintain any procedures to assure that its institution is maintained and operated in compliance with applicable law. (Cal. Code of Regs., title 5, § 71760).

TWENTIETH CAUSE FOR DISCIPLINE
(Required Student Records)
(Educ. Code § 94900, subds. (a) and (b)(1)-(3))

62. Respondent has subjected its approval to operate to disciplinary action for failing to maintain student records. (Educ. Code § 94900, subds. (a) and (b)(1)-(3)). In particular:

a. Respondent does not have an accurate student roster. A Bureau investigator found that some students who were currently enrolled were not listed on the current student roster Respondent provided; telephone numbers listed in the roster for current students are not accurate; and Respondent did not attempt to collect or maintain email addresses for students. (Educ. Code § 94900, subd. (a)).

b. Respondent did not provide to the Bureau's investigator graduation documentation for any students listed as graduated. The graduate student file for one student ("MG") did not contain any attendance records, grades, transcripts, or a graduation certificate. (Educ. Code § 94900, subd. (b)(1)-(3)).

TWENTY-FIRST CAUSE FOR DISCIPLINE
(Required Institutional Records)
(Educ. Code § 94900.5, subds. (b) and (c))

63. Respondent has subjected its approval to operate to disciplinary action for failing to maintain institutional records. (Educ. Code § 94900.5, subds. (b) and (c)). In particular:

a. Respondent was unable to provide records showing the names and addresses of each faculty member, as well as records of faculty members' educational qualifications. (Educ. Code § 94900.5, subd. (b)).

b. Respondent does not have student files or records required to be maintained for the SPFS, specifically graduation and placement data. (Educ. Code § 94900.5, subd. (c)).

TWENTY-SECOND CAUSE FOR DISCIPLINE
(Professions Requiring Licensure; Internships)
(Educ. Code § 94905, subd. (a))

64. Respondent has subjected its approval to operate to disciplinary action for admitting students without exercising reasonable care to determine that the students would be eligible to obtain licensure in the profession or occupation in which the educational program was designed to lead. (Educ. Code § 94905, subd. (a)).

TWENTY-THIRD CAUSE FOR DISCIPLINE
(Student Records)
(Cal. Code of Regs., title 5, § 71920, subds. (a), (b)(1), (b)(1)(A), (b)(3), (b)(4), (b)(5)(A), (b)(8), and (b)(9))

65. Respondent has subjected its approval to operate to disciplinary action for failing to maintain a file for each of its students. (Cal. Code of Regs., title 5, § 71920, subds. (a), (b)(1), (b)(1)(A), (b)(3), (b)(4), (b)(5)(A), (b)(8), and (b)(9)). In particular:

a. Respondent does not maintain student files for all current, graduated or withdrawn students. (Cal. Code of Regs., title 5, § 71920, subd. (a)).

b. Respondent was unable to produce some requested student files during the Bureau's onsite inspection. In addition, student files that Respondent was able to provide were missing required documentation, including admission documents, proof of completion of high school for enrolled students, signed SPFSs, signed enrollment agreements, withdrawal paperwork, graduation documents, transcripts, grades, documentation of courses completed, instruments of indebtedness, financial aid documents, and documents showing monies received or monies refunded to the student. (Cal. Code of Regs., title 5, § 71920, subds. (b)(1), (b)(1)(A), (b)(3), (b)(4), (b)(5)(A), (b)(8), and (b)(9)).

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TWENTY-FOURTH CAUSE FOR DISCIPLINE
(Maintenance of Records)
(Cal. Code of Regs., title 5, § 71930, subds. (a), (b)(1), (d), and (e))

66. Respondent has subjected its approval to operate to disciplinary action for failing to maintain all records as required by law. (Cal. Code of Regs., title 5, § 71930, subds. (a), (b)(1), (d), and (e)). In particular:

a. Respondent does not maintain all records as required by law. (Cal. Code of Regs., title 5, § 71930, subd. (a)).

b. Respondent does not maintain permanent transcripts, as required by Section 94900, subdivision (b); and proper academic or financial aid documentation for all students currently enrolled and for students enrolled in the last five years, as required by California Code of Regulations, title 5, section 71920. (Cal. Code of Regs., title 5, § 71930, subd. (b)(1)).

c. Respondent stores institutional records in uncovered boxes with no protection from damage or loss and does not have a secondary set of records at a different location. (Cal. Code of Regs., title 5, § 71930, subd. (d)).

d. Respondent was not able to produce student and faculty files that the Bureau requested while onsite within the eight hour period of the Bureau's inspection. (Cal. Code of Regs., title 5, § 71930, subd. (e)).

TWENTY-FIFTH CAUSE FOR DISCIPLINE
(Institution Participating in Federal Student Financial Aid Programs)
(Educ. Code § 94919, subd. (c))

67. Respondent has subjected its approval to operate to disciplinary action for failing to provide refunds according to the law. (Educ. Code § 94919, subd. (c)). In particular, Respondent did not provide refunds of nonfederal student financial aid program moneys paid for institutional charges to students who completed 60 percent or less of the period of attendance. Respondent is also charging a withdrawal fee assessed above and beyond the deposit or application fee.

TWENTY-SIXTH CAUSE FOR DISCIPLINE
(Withdrawals and Refunds)
(Cal. Code of Regs., title 5, § 71750, subds. (a), (b), (c)(1)-(4), and (f))

68. Respondent has subjected its approval to operate to disciplinary action for imposing withdrawal and refund policies that do not comply with applicable regulations. (Cal. Code of Regs., title 5, § 71750, subds. (a), (b), (c)(1)-(4), and (f)). In particular:

a. Respondent's refund policy does not meet compliance standards. The policy Respondent is using is the refund policy provided by NACCAS, which does not meet requirements of a pro rata refund. (Cal. Code of Regs., title 5, § 71750, subd. (a)).

b. The refund policy stated in Respondent's 2015 catalog is different from the refund policy stated in Respondent's 2015 enrollment agreement. (Cal. Code of Regs., title 5, § 71750, subd. (b)).

c. Respondent charges a withdrawal fee not permitted by law, and provides a prorated refund of STRF assessment charges which is also not permitted by law. (Cal. Code of Regs., title 5, § 71750, subd. (c)(1)-(4)).

d. Respondent does not maintain a cancellation and withdrawal log or documentation in student files of withdrawal information. (Cal. Code of Regs., title 5, § 71750, subd. (f)).

TWENTY-SEVENTH CAUSE FOR DISCIPLINE
(Signature; Initials Required)
(Educ. Code §§ 94910, subds. (a) and (b); and 94912)

69. Respondent has subjected its approval to operate to disciplinary action for failing to have students, prior to execution of an enrollment agreement, sign and date the information required to be disclosed pursuant to Section 94910, subdivisions (a) and (b). (Educ. Code §§ 94910, subds. (a) and (b); and 94912).

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TWENTY-EIGHTH CAUSE FOR DISCIPLINE
(Reporting of Student Performance Data)
(Educ. Code § 94929.5, subds. (a)(1) and (a)(2))

70. Respondent has subjected its approval to operate to disciplinary action for failing to report accurate data to the Bureau. (Educ. Code § 94929.5, subds. (a)(1) and (a)(2)). In particular:

a. Respondent inflated placement data, as reported in Respondent's SPFS. (Educ. Code § 94929.5, subd. (a)(1)).

b. Respondent also failed to adequately report license exam passage rates for its Nail Care program for 2014. (Educ. Code § 94929.5, subd. (a)(2)).

TWENTY-NINTH CAUSE FOR DISCIPLINE
(Documentation of Performance Data)
(Educ. Code § 94929.7, subds. (a)(1) and (a)(2))

71. Respondent has subjected its approval to operate to disciplinary action for failing to properly document, maintain, and retain performance data. (Educ. Code § 94929.7, subds. (a)(1) and (a)(2)). In particular, when requested, Respondent could not provide accurate or complete documentation to substantiate performance data for the last five years, and Respondent did not have this information in electronic format and available for the Bureau upon request.

THIRTIETH CAUSE FOR DISCIPLINE
(Uniform Data – Annual Report; Performance Fact Sheet)
(Cal. Code of Regs., title 5, § 74112, subd. (h))

72. Respondent has subjected its approval to operate to disciplinary action for failing to properly maintain performance data. (Cal. Code of Regs., title 5, § 74112, subd. (h)). In particular, Respondent does not maintain proper documentation for SPFS backup data. Data Respondent provided to the Bureau does not include address, phone number, email address, salary, hours, or a description of all attempts to contact students. In addition, backup data Respondent provided to the Bureau does not include any information about the institution's representative who is responsible for collecting the data.

THIRTY-FIRST CAUSE FOR DISCIPLINE
(Assessments and Continuous Appropriation)
(Educ. Code § 94924, subd. (c))

73. Respondent has subjected its approval to operate to disciplinary action because Respondent is prorating STRF refunds in its refund calculations for withdrawn students, in contravention of Section 94924, subdivision (c). (Educ. Code § 94924, subd. (c)).

THIRTY-SECOND CAUSE FOR DISCIPLINE
(Amount of Student Tuition Recovery Fund Assessment)
(Cal. Code of Regs., title 5, § 76120, subds. (a) and (c))

74. Respondent has subjected its approval to operate to disciplinary action for improperly charging and refunding STRF amounts. (Cal. Code of Regs., title 5, § 76120, subds. (a) and (c)). In particular:

a. Respondent overcharged a former student ("ES") for the STRF Assessment fee. (Cal. Code of Regs., title 5, § 76120, subd. (a)).

b. Respondent is prorating STRF refunds in its refund calculation for withdrawn students. (Cal. Code of Regs., title 5, § 76120, subd. (c)).

THIRTY-THIRD CAUSE FOR DISCIPLINE
(Record-Keeping Requirements)
(Cal. Code of Regs., title 5, § 76140, subds. (a)(1)-(13) and (b))

75. Respondent has subjected its approval to operate to disciplinary action for failing to 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. (Cal. Code of Regs., title 5, § 76140, subds. (a)(1)-(a)(13) and (b)). In particular:

a. During the Bureau's December 16, 2015 onsite visit, Respondent was unable to provide the Bureau with any records of student information to substantiate STRF reporting. (Cal. Code of Regs., title 5, § 76140, subd. (a)(1)-(13)).

b. During the Bureau's December 16, 2015 onsite visit, Respondent was unable to provide copies of submitted STRF assessment reporting forms for 2015 upon the Bureau's request. (Cal. Code of Regs., title 5, § 76140, subd. (b)).

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PRAYER

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 or otherwise imposing discipline upon Accredited Institution Approval to Operate No. 0107101, issued to Respondent;

2. Ordering Respondent to pay the Bureau the reasonable costs of the investigation and enforcement of this case; and

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

DATED: 4/20/16

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

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