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

In the Matter of the Statement of Issues Against: **SER JOBS FOR PROGRESS INC.; RONALD W. PUENTE, OWNER** **Application for Renewal of Approval to Operate** **School Code: 3003731** Respondent.	Case No. 1000133 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

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

2. On or about March 20, 2012, the Bureau for Private Postsecondary Education received an Application for a Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions from SER Jobs for Progress Inc., Ronald W. Puente, owner

(Respondent). On or about March 15, 2012, Ronald W. Puente certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied the application on September 22, 2014.

JURISDICTION

3. This Statement of Issues 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.[1] All section references are to the Education Code unless otherwise indicated.

4. Education Code (hereinafter "Code") Section 94886 states:

> Except as exempted in Article 4 (commencing with section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter.

5. Code Section 94887 states:

> An approval to operate shall be granted only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified the information provided by the applicant through site visits or other methods deemed appropriate by the bureau, that the applicant has the capacity to satisfy the minimum operating standards. The bureau shall deny an application for an approval to operate if the application does not satisfy those standards.

STATUTORY AND REGULATORY PROVISIONS

6. Code section 94891, subdivision (b) stated that "[t]o be granted a renewal of an approval to operate, the institution shall demonstrate its continued capacity to meet the minimum operating standards."

7. Code section 94837 defines "educational program" as "a planned sequence composed of a single course or module, or set of related courses or modules, that provides education, training, skills, or experience, or a combination of these."

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[1] "The California Private Postsecondary Education Act of 2009 was recently amended, effective January 1, 2015. *See* Senate Bill No. 1247. This Statement of Issues is based on amended version of the Act."

8. Code section 94838 defines "educational program approval" as "authorization by the bureau, another government agency of this state, or a federal government agency, to provide educational programs, and is an element of an approval to operate."

9. Code section 94897 states in part:

> An institution shall not do any of the following:
>
> ....
>
> (l) Use the terms "approval," "approved," "approval to operate," or "approved to operate" without stating clearly and conspicuously that approval to operate means compliance with state standards as set forth in this chapter. If the bureau has granted an institution approval to operate, the institution may indicate that the institution is "licensed" or "licensed to operate," but may not state or imply either of the following:
>
> (1) The institution or its educational programs are endorsed or recommended by the state or by the bureau.
>
> (2) The approval to operate indicates that the institution exceeds minimum state standards as set forth in this chapter.
>
> ...

10. Code section 94904 states in part:

> (a) Before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed 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.
>
> ...

11. Code Section 94909 states in part:

> (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:
>
> ...
>
> (3) The following statements:
>
> ...

(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)."

...

(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.

...

(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.

...

(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.

...

(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.

...

12. Code 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.

13. Section 94911 of the Education Code states:

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

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

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

...

(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.

...

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

...

(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.'

14. Code section 94913 states:

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

(1) The school catalog.

(2) A School Performance Fact Sheet for each educational program offered by the institution.

(3) Student brochures offered by the institution.

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

(5) The institution's most recent annual report submitted to the bureau.

(b) An institution shall include information concerning where students may access the bureau's Internet Web site anywhere the institution identifies itself as being approved by the bureau.

15. Code section 94927.5 states in part:

(a) Prior to closing, an institution shall provide the bureau with the following:

(1) Pertinent student records, including transcripts, as determined by the bureau, pursuant to regulations adopted by the bureau.

...

16. Code section 94928 states in part:

As used in this article, the following terms have the following meanings:

...

(c) "Graduates" means the number of students who complete a program within

100 percent of the published program length. An institution may separately state completion information for students completing the program within 150 percent of the original contracted time, but that information may not replace completion information for students completing within the original scheduled time. Completion information shall be separately stated for each campus or branch of the institution.

...

17. Title 5, California Code of Regulations (hereinafter "CCR"), section 71475 states in part:

...

(b) An institution seeking to renew its Approval to Operate pursuant to section 94891 of the Code shall, prior to its expiration, complete and submit to the Bureau the "Application for Renewal of Approval to Operate and Offer Educations Programs for Non-Accredited Institutions," Form Application 94891 (rev. 2/10).

...

(k) The institution shall identify in the application the chief executive officer, chief operating officer, and chief academic officer and describe their education, experience, and qualifications to perform their duties and responsibilities. If there have been no substantive changes since the last submission, the institution may so state and is not required to submit documentation.

...

(p) If an institution receives financial aid because its students qualify for it under any state or federal financial aid program, the application shall include a statement of its policies, practices, and disclosures regarding financial aid. If there have been no substantive changes since the last submission, the institution may so state and is not required to submit documentation.

...

(t) In addition, the institution shall list in the application, the following for each educational program offered unless there have been no substantive changes since the last submission. If there have been no substantive changes made the institution may so state and is not required to provide documentation.

...

(2) If applicable, information regarding the ability-to-benefit examination as required by section 94904 of the Code.

...

(5) The mode of instruction;

(6) The graduation requirements.

...

(u) For each educational program that the institution offers or proposes to offer, the application shall contain a statement that the educational program meets the requirements of section 71710, as well as the following unless there have been no substantive changes since the last submission. If there have been no substantive changes made the institution may so state and is not required to provide documentation:

(1) A description of the educational program.

(2) A description of the equipment to be used during the educational program.

...

(4) A projection, and the bases for the projection, of the number of students that the institution plans to enroll in the educational program during each of the three years following the date the application was submitted.

...

(cc) The institution shall submit with the application, a copy of the document that is awarded to a graduating student upon successful completion of each educational program unless there have been no substantive changes since the last submission. If there have been no substantive changes made the institution may so state and is not required to provide documentation.

...

(kk) An incomplete application filed under this section will render the institution ineligible for renewal.

18. Title 5, CCR, section 71700 states:

The Bureau may request that an institution document compliance with the standards set forth in the Act and this Division to obtain and maintain an approval to operate.

19. Title 5, CCR, section 71710 states:

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

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

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

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

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

(2) a statement of educational objectives;

(3) length of the educational program;

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

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

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

(7) instructional mode or methods.

(d) if degree granting, require research of an appropriate degree that utilizes a library and other learning resources;

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

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

20. Title 5, CCR, section 71750 states:

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

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

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

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

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

(3) Except as provided herein, all amounts that the student has paid shall be subject to refund unless the enrollment agreement and the refund policy outlined in the catalog specify amounts paid for an application fee or deposit not more than $250.00, books, supplies, or equipment, and specify whether 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.

(d) If an institution has collected money from a student for transmittal on the student's behalf to a third party for a bond, library usage, or fees for a license, application, or examination and the institution has not paid the money to the third party at the time of the student's withdrawal or cancellation, the institution shall refund the money to the student within 45 days of the student's withdrawal or cancellation.

(e) An institution shall refund any credit balance on the student's account within 45 days after the date of the student's completion of, or withdrawal from, the educational program in which the student was enrolled. For purposes of this subdivision and section 94919(d) of the Code, "day" means calendar day.

(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.

21. Title 5, CCR, section 71770 states in part:

(a) The institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program. In addition to any specific standards for an educational program, the admissions standards must specify as applicable that:

(1) Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant examination as required by section 94904 of the Code.

...

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

(1) Except as limited by subdivision (c) of this section, a maximum of 75 percent of the units or credit that may be applied toward the award of a

bachelor's degree may be derived from a combination of any or both of the following:

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

accredited by an accrediting association recognized by the U.S. Department of Education;

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

(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.

22. Title 5, CCR, 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:

...

(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.

...

23. Title 5, CCR, section 71810 states in part:

...

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

...

(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;

...

(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.

...

24. Title 5, CCR, section 74112 states in part:

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

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

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

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

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

(c) Reporting periods:

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

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

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

program. The Performance Fact Sheet shall disclose, if true, that the completion data is being reported for students completing within 150% of the published program length, and that data is not being separately reported for students completing the program within 100% of the published program length.

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

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

Name of Educational Program (Program Length)

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

Students Completing After Published Program Length - 150% Completion Rate

Name of Educational Program (Program Length)

Calendar Year	*Number of Students Who Began Program*[1]	*Students Available for Graduation*[2]	*150% Graduates*[3]	*150% Completion Rate*[4]
20XX	100	98	70	26%
20XY	80	80	55	29%

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

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

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

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

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

6 "150% Completion Rate" is the number of students who completed the

program in the reported calendar year within 101-150% of the published program length divided by the Number of Students Available for Graduation in the published program length period.

(e) Placement Rates.

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

(2) Placement is measured six months from the graduation date of each student. Reporting of placement rates shall include for each educational program: the number of students who began the program, the number of graduates as defined in subdivision (b), graduates available for employment, graduates employed in the field and placement rate(s).

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

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

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

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

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

Name of Educational Program (Program Length)

[*Please see text of regulation for chart*]

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

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

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

4 "Graduates employed in the field" means graduates who report that they are gainfully employed within six months of graduation in a position for which the

skills obtained through the education and training provided by the institution are required or provided a significant advantage to the graduate in obtaining the position.

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

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

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

For licensing examinations that are not continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

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

Name of Educational Program (Program Length)

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

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

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

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

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

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

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

Name of Educational Program (Program Length)

Calendar Year	*Number of Students Taking Exam*[1]	*Number Who Passed First Exam Taken*[2]	*Number Who Failed First Exam Taken*[3]	*Passage Rate*[4]
20XX	80	40	40	50%
20XY	100	75	25	75%

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

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

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

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

(g) Salary and Wage Information.

All Salary and Wage Information shall be reported to the Bureau pursuant to section 94929.5(c) of the Code and, if required by section 94910(d) of the Code, shall be included in the Performance Fact Sheet, for each educational

program, in a format substantially similar to the chart below, including the footnoted information (dates, numbers, salaries, and other data shown are for example only).

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

[*Please see text of regulation for chart*]

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

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

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

(h) Documentation supporting all data reported shall be maintained by the institution for at least five years from the time included in either an Annual Report or a Performance Fact Sheet, and shall include at a minimum: student name(s), address, phone number, email address, program completed, program start and completion dates, place of employment and position, salary, hours, and a description of all attempts to contact each student. Documentation shall also include the name, email address, phone number, and position or title of the institution's representative who is primarily responsible for obtaining the students' completion, placement, licensing, and salary and wage data, the date that the information was gathered, and copies of notes, letters or emails through which the information was requested and gathered.

25. Title 5, CCR, section 76215 states in part:

(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.

FACTS

26. On March 20, 2012, the Bureau received an Application for Renewal of Approval to Operate a Non-Accredited Institution, Application Number 24592, from Respondent. Respondent had been previously approved to offer the following non-degree educational programs: Clerical Business Skills (390 hours), Computer Skills (390 hours) and English as a Second Language (ESL) (1040 hours).

27. On September 9, 2013, the Bureau sent Respondent a letter advising that the Bureau could not grant Respondent a renewal of approval to operate because of deficiencies in the application. The Bureau requested additional information regarding deficiencies pertaining to the institution's organization and management, enrollment agreement, financial aid policies and disclosures, description of educational programs, and school catalog, among other things. On March 3, 2014, the Bureau received Respondent's response to the deficiency letter.

28. On March 4, 2014, the Bureau sent Respondent another deficiency letter advising of the deficiencies that remained with Respondent's application and requested additional information. On June 24, 2014, the Bureau received Respondent's response to the deficiency letter and on September 8, 2014, the Bureau received additional documentation from Respondent.

29. On September, 22, 2014, the Bureau denied Respondent's Application for Renewal of Approval to Operate a Non-Accredited Institution and sent Respondent a "Notice of Denial."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Discrepancies in Organizational Chart)

30. Respondent's application is subject to denial under Education Code section 94891, subdivision (b) and title 5, CCR, section 71475, subdivision (kk), in conjunction with title 5, CCR, section 71475, subdivision (k), because Respondent failed to demonstrate its continued capacity to meet the minimum operating standards in that Respondent failed to clearly identify the CEO and CAO. The circumstances are as follows.

31. The organizational chart submitted to the Bureau did not identify a CEO. Ronald Puente was listed as the Executive Director, however Puente's resume identified him as the "Executive Director, CEO, CAO" of the institution. The organizational chart identified Esmeralda Godoy as the Chief Academic Officer, however Godoy's resume stated she is an "Adult Instructor" for the institution.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Deficiencies in Exemplars of Enrollment Agreement)

32. Respondent's application is subject to denial under Education Code section 94891, subdivision (b) and title 5, CCR, section 71475, subdivision (kk), because Respondent failed to

demonstrate its continued capacity to meet the minimum operating standards in that Respondent failed to provide a compliant enrollment agreement as follows:

a. The enrollment agreement failed to state the date by which the student must exercise his or her right to cancel or withdraw, and the refund policy, as required by title 5, CCR, section 71800, subdivision (d).

b. The enrollment agreement failed to include the specific required language related to the Student Tuition Recovery Fund, as required by title 5, CCR, section 76215(a) and (b).

c. The enrollment agreement failed to include the required cancellation disclosures, as required by Code section 94911, subdivision (e)(1), (2) and (3).

d. The enrollment agreement failed to include the required statement specifying the consequences of the student defaulting on a federal or state loan, as required by Code section 94911, subdivision (g), and only contained a disclosure regarding loans from a financial institution.

e. The enrollment agreement failed to directly quote the specific required statements directing students to the Bureau for unanswered questions, as required by Code section 94911, subdivision (j)(1).

f. The enrollment agreement failed to include the specific transferability disclosure, as required by as required by Code sections 94911, subdivision (h) and 94909, subdivision (a)(15).

g. The enrollment agreement failed to include a clear and conspicuous statement that the enrollment agreement is legally binding when signed by the student and accepted by the institution, as required by Code section 94911, subdivision (d).

h. The enrollment agreement failed to directly quote the specific required statement above the space for the student's signature whereby the student certifies that he or she has read, understood and agreed to the student's rights and responsibilities, and that the institution's cancellation and refund policies have been clearly explained to him or her, as required by Code section 94911, subdivision (k).

i. The enrollment agreement set forth an unapproved educational program in violation of Code sections 94838 and 94911, subdivision (a). The circumstances are as follows. English

as a Second Language (ESL) for 1040 clock hours of instruction is an approved program for Respondent. The enrollment agreement lists ESL Beginning Classes Levels 1, 2 and 3 and ESL Intermediate Classes Levels 1, 2 and 3, consisting of 260 clock hours for each level or a total of 1,560 clock hours of ESL instruction. Such an educational program was not authorized by the Bureau.

j. The enrollment agreement failed to state a schedule of total charges, including a list of nonrefundable charges and the student's obligations to the Student Tuition Recovery Fund, clearly identified as a nonrefundable charge, as required by Code section 94911(b). The schedule of total charges must be included even though the institution does not charge the student tuition.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Deficiencies Regarding Financial Aid Policies, Practices and Disclosures)

33. Respondent's application is subject to denial under Education Code section 94891, subdivision (b) and title 5, CCR, section 71475, subdivision (kk), in conjunction with title 5, CCR, section 71475, subdivision (p), because Respondent failed to demonstrate its continued capacity to meet the minimum operating standards by failing to provide a statement of its policies, practices and disclosures regarding financial aid when it receives funding from the California Department of Education and Employment Development Department.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Failure to Use Ability-to-Benefit Examination)

34. Respondent's application is subject to denial under Education Code section 94891, subdivision (b) and title 5, CCR, section 71475, subdivision (kk), because Respondent failed to demonstrate its continued capacity to meet the minimum operating standards in that Respondent failed to use an ability-to-benefit examination from the list of examinations prescribed by the United States Department of Education pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a, et seq.), as required by Code section 94904, subdivision (a) and title 5, CCR, section 71475, subdivision (t)(2). Respondent is using the Comprehensive Adult Student Assessment System, which is not on the list of examinations prescribed by the United States Department of Education.

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Instruction and Certificates Offered)

35. Respondent's application is subject to denial under Education Code section 94891, subdivision (b) and title 5, CCR, section 71475, subdivision (kk), because Respondent failed to demonstrate its continued capacity to meet the minimum operating standards as follows:

a. Respondent is providing certificates of completion of the Computer Skills educational program to students who do not complete the entire course in violation of Code sections 94928, subdivision (c) and 94838 and title 5, CCR, section 71475, subdivision (t)(6).

(i) The circumstances are as follows. The graduation requirements for the Computer Skills program in Respondent's catalog states that "the student needs to complete one or all of the four sessions of the Microsoft Office 2010 to be able to receive a certificate." However, the approved Computer Skills program consists of 390 hours and includes all four sessions. Furthermore, Word 2010, Excel 2010, Access 2010 and PowerPoint 2010 are not listed as approved programs for this institution.

b. Respondent failed to provide the mode of instruction and graduation requirement for the English as a Second Language program as required by title 5, CCR, section 71475, subdivision (t)(5) and (6).

SIXTH CAUSE FOR DENIAL OF APPLICATION

(Description of Educational Program)

36. Respondent's application is subject to denial under Education Code section 94891, subdivision (b) and title 5, CCR, section 71475, subdivision (kk), because Respondent failed to demonstrate its continued capacity to meet the minimum operating standards as follows:

a. Respondent failed to provide a description of the ESL Intermediate Level 2 and ESL Intermediate Level 3 programs, as required by title 5, CCR, section 71475, subdivision (t)(5) and (6). These programs were offered in the enrollment agreement.

b. Respondent failed to provide the equipment to be used in the ESL program as required by title 5, CCR, section 71475, subdivision (u)(2).

c. Respondent failed to provide a projection and the bases for the projection, of the number of students that the institution plans to enroll in each educational program during each of the three years after the date the application was submitted, as required by title 5, CCR, section 71475, subdivision (u)(4).

(i) The circumstances are as follows. Respondent stated, "For the past 2-years we have been averaging about 125 new and returning students per year into our ESL program. The vocational program we project 10 students per fiscal year [sic]." Respondent's statement failed to project the next three years for the ESL program and no basis was given for the vocational programs.

SEVENTH CAUSE FOR DENIAL OF APPLICATION

(Deficiencies in School Catalog)

37. Respondent's application is subject to denial under Education Code section 94891, subdivision (b) and title 5, CCR, section 71475, subdivision (kk), because Respondent failed to demonstrate its continued capacity to meet the minimum operating standards in that Respondent failed to provide a compliant school catalog as follows:

a. The school catalog sets forth programs that were not approved by the Bureau, in violation of Code sections 94909, subdivision (a)(5) and 94838. The catalog lists ESL Beginning Levels 1, 2 and 3 and ESL Intermediate Levels 1, 2 and 3 and ESL Conversation 2. The Bureau has approved ESL with 1040 hours of instruction.

b. The school catalog failed to set forth the institution's admission policies, including the policies requiring each student to possess a high school diploma or its equivalent, or otherwise to successfully take and pass the relevant examination as set forth in Code section 94904, which is a violation of title 5, CCR, section 71770, subdivision (a)(1).

c. The school catalog failed to set forth the specific required language that encourages students to review the catalog and School Performance Fact Sheet prior to signing an enrollment agreement, as required by Code section 94909, subdivision (a)(3)(B).

d. The school catalog failed to set forth housing information, as required by title 5, CCR, section 71810, subdivision (b)(13)(A), (B) and (C). Said information should include

whether the institution has dormitory facilities under its control, the availability of housing located reasonably near the institution's facilities and an estimate of the approximate cost or range of cost of housing. And, if the institution has no responsibility to find or assist a student in finding housing, the catalog failed to state this clearly and conspicuously.

e. The school catalog failed to set forth the withdrawal and refund policies as required by title 5, CCR, section 71750.

f. The school catalog failed to set forth the specific required language that refers each individual wishing to file a complaint about the institution to the Bureau, as required by Code section 94909, subdivision (a)(3)(C).

g. The school catalog failed to identify English as a Second Language as an educational program that would result in certification, which is a violation of Code section 94837.

h. The school catalog failed to set forth a schedule of student charges that includes the specific required language related to the Student Tuition Recovery Fund (STRF), as required by title 5, CCR, section 76215 subdivision (a) and (b) and Code section 94909, subdivision (a)(14).

i. The school catalog failed to state 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 federal and state financial aid programs, as required by Code section 94909, subdivision (a)(10).

(i) Page 4 of the catalog states, "Any student that receives financial aid (Unemployment Insurance Benefits) through EDD receives it in accordance with EDD policies, practices and procedures. SER monitors those students' academic progress along with the rest of the student population."

(ii) Page 11 of the catalog states, "SER-Jobs for Progress, Inc. does not participate in federal and state financial aid programs nor makes loans to its students to pay for an educational program. SER's educational and vocational programs are tuition free. The student attendance is covered by funding from the California Department of Education through Santa Ana College School of Continuing Education."

j. The school catalog failed to set forth compliant information about providing student records to the Bureau, as required by Section 94927.5, subdivision (a)(1). Page 11 of the catalog states, "In the event that SER closes, all records will transferred to School of Continuing Adult Education Centennial Center which is located in 2900 West Edinger, Santa Ana, CA 92704."

k. The school catalog failed to set forth language proficiency information, including the level of English language proficiency required of students and the kind of documentation of proficiency that will be accepted, as required by title 5, CCR, section 71810, subdivision (b)(4).

l. The school catalog failed to include a statement specifying whether the institution is accredited by an accrediting agency recognized by the United States Department of Education, as required by Code section 94909, subdivision (a)(16).

m. The school catalog failed to set forth a description of the instruction provided in each of the courses offered by the institution, as required by Code section 94909, subdivision (a)(5). The description should include the requirements for completion of each program, including required courses, and the total number of credit hours, clock hours, or other increments required for completion. This information was not provided for the ESL Program.

n. The school catalog failed to set forth the specific required language that addresses transferability of credits and credentials, as required by Code section 94909, subdivision (a)(15).

o. The school catalog failed to set forth the institution's policies and procedures for the award of credit for prior experiential learning, including assessment policies and procedures and provisions for appeal, as required by title 5, CCR, section 71810, subdivision (b)(7).

p. The school catalog failed to set forth the institution's admission policies, including 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 had not entered into an articulation or transfer agreement with any other college or university, the institution must disclose that fact. The preceding information is required by Code section 94909, subdivision (a)(8)(A) and title 5, CCR, section 71770, subdivision (b).

q. The school catalog failed to set forth a schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program, as required by Code section 94909, subdivision (a)(9).

EIGHTH CAUSE FOR DENIAL OF APPLICATION

(Deficiencies in School Website)

38. Respondent's application is subject to denial under Education Code section 94891, subdivision (b) and title 5, CCR, section 71475, subdivision (kk), because Respondent failed to demonstrate its continued capacity to meet the minimum operating standards as follows:

39. The school website did not contain a correctly formatted School Performance Fact Sheet, as required by Code sections 94910 and 94913, and title 5, CCR, section 74112. The information for both the Clerical Business Skills and Computer Skills programs were combined and no information was provided for the ESL program on the website. In addition, only the first page of the School Performance Fact Sheet for the ESL program was submitted to the Bureau in Respondent's September 8, 2014 response to the March 4, 2014 deficiency letter.

40. The school website did not contain the most recent annual report submitted to the Bureau, as required by Code section 94913.

41. The school website stated the institution was accredited by the Bureau in violation of Code section 94897, subdivision (l).

NINTH CAUSE FOR DENIAL OF APPLICATION

(Failure to Provide Completion Document for ESL Program)

42. Respondent's application is subject to denial under Education Code section 94891, subdivision (b) and title 5, CCR, section 71475, subdivision (kk), because Respondent failed to demonstrate its continued capacity to meet the minimum operating standards as follows. Respondent failed to provide to the Bureau a copy of the document that is awarded to a graduating student upon successful completion of the ESL program with the renewal application, as required by title 5, CCR, section 71475, subdivision (cc).

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TENTH CAUSE FOR DENIAL OF APPLICATION

(Recordkeeping - Custodian of Boards)

43. Respondent's application is subject to denial under Education Code section 94891, subdivision (b) and title 5, CCR, section 71475, subdivision (kk), because Respondent failed to demonstrate its continued capacity to meet the minimum operating standards as follows. Respondent failed to provide verification of compliance with recordkeeping regulations, including a cancellation and withdrawal log, kept current on a monthly basis and which includes the names, addresses, telephone numbers, and dates of cancellation or withdrawal of all students who have cancelled the enrollment agreement with, or withdrawn from, the institution during the calendar year. This information is required by title 5, CCR, section 71750, subdivision (f).

44. Respondent stated, "Since our classes are tuition free there is no financial records kept [sic]."

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. Denying the application of SER Jobs for Progress Inc.; Ronald W. Puente (owner) for a Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions;

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

DATED: May 1, 2015

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

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