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

11
12 In the Matter of the Statement of Issues
Against:

Case No. 1001379

13
14 **CAREER DEVELOPMENT INSTITUTE,**
HECTOR CARTAGENA, OWNER

STATEMENT OF ISSUES

15 **Applicant for Renewal of Approval to**
Operate and Offer Educational Programs
16 **for Non-Accredited Institutions**

17 **School Code: 37992115**

18 Respondent.

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21 Complainant alleges:

22 **PARTIES**

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

26 2. On or about April 2, 2012, the Bureau for Private Postsecondary Education received
27 an application for Renewal of Approval to Operate and Offer Educational Programs for Non-
28 Accredited Institutions from Hector Cartagena, Owner, Career Development Institute

1 (Respondent). On or about March 30, 2012, Hector Cartagena certified under penalty of perjury
2 to the truthfulness of all statements, answers, and representations in the application. The Bureau
3 denied the application on July 22, 2015.

4 **JURISDICTION**

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

9 4. Section 94891¹ of the Code states, in pertinent part: “(b) To be granted a renewal
10 of an approval to operate, the institution shall demonstrate its continued capacity to meet the
11 minimum operating standards.”

12 5. Section 71700 of title 5 of the California Code of Regulations (5 CCR 71700)
13 states: “The Bureau may request that an institution document compliance with the standards set
14 forth in the Act and this Division to obtain and maintain an approval to operate.”

15 **STATUTORY PROVISIONS**

16 6. Section 94904 of the Code states, in pertinent part:

17 “(a) Except as provided in subdivision (c), before an ability-to-benefit student may execute
18 an enrollment agreement, the institution shall have the student take an independently administered
19 examination from the list of examinations prescribed by the United States Department of
20 Education pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C.
21 Sec. 1070a et seq.). The student shall not enroll unless the student achieves a score, as specified
22 by the United States Department of Education, demonstrating that the student may benefit from
23 the education and training being offered.”

24 7. Section 94906 of the Code states, in pertinent part:

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

¹ The California Private Postsecondary Education Act of 2009 was amended effective
January 1, 2015. All quoted sections from the Education Code are from the current version of the
Act, and were not substantively changed by the amendments.

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8. Section 94908 of the Code states:

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

9. Section 94909 of the Code states, in pertinent 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:

...

(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.

...

(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.”

REGULATIONS

10. Section 70000 of title 5 of the California Code of Regulations (5 CCR 70000) states, in pertinent part:

“(q) ‘Mission’ means an institution's stated educational reasons to exist. A mission statement contains all of the following characteristics:

(1) The mission includes the institution's broad expectations concerning the education that students will receive, including the acquisition of the body of knowledge presented in the

1 educational program, the development of intellectual, analytical, and critical abilities, and the
2 fostering of values such as a commitment to pursue lifelong learning; and

3 (2) The mission relates to the educational expectations of the institution's students, faculty
4 and community that the institution serves.

5 (r) 'Objectives' are the goals and methods by which the institution fulfills its mission and
6 transforms it into measurable student learning outcomes for each educational program."

7 11. 5 CCR 71475 states, in pertinent part:

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

12 ...

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

17 ...

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

20 12. 5 CCR 71745 states, in pertinent part:

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

23 ...

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

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

26 13. 5 CCR 71770 states, in pertinent part:

27 "(a) The institution shall establish specific written standards for student admissions for each
28 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 (1) Each student admitted to an undergraduate degree program, or a diploma program, shall
2 possess a high school diploma or its equivalent, or otherwise successfully take and pass the
3 relevant examination as required by section 94904 of the Code.”

4 14. 5 CCR 71810 states, in pertinent part:

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

7 ...

8 (2) A statement of the institution's missions and purposes and the objectives underlying
9 each of its educational programs;

10 ...

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

14 **CAUSE FOR DENIAL OF APPLICATION**

15 (Failure to demonstrate continued capacity to satisfy minimum operating standards)

16 15. Respondent's application for renewal of approval to operate is subject to denial under
17 section 94891(b) of the California Education Code in that Respondent did not present sufficient
18 evidence to the Bureau that Respondent has the continued capacity to satisfy the minimum
19 operating standards.

20 16. Respondent's “Application for Renewal of Approval to Operate and Offer
21 Educational Programs for Non-Accredited Institutions” was received on April 2, 2012, with the
22 application fee. The Bureau issued a deficiency letter on December 20, 2013. On January 23,
23 2014, the Bureau received a response to that deficiency letter. On January 27, 2014, the Bureau
24 sent a second deficiency letter to Respondent. On March 3, 2014, the Bureau received a response
25 to the second deficiency letter.

26 17. On July 22, 2015, the Bureau sent Respondent a “Notice of Denial” letter stating that
27 the application is subject to denial under Code section 94891 for the following reasons:

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(First Cause for Denial)

a. The institution failed to provide documentation showing that disclosures and statements, including the catalog and School Performance Fact Sheet, are provided in Spanish when the enrollment agreement is provided in Spanish, in violation of Code section 94906(a).

(Second Cause for Denial)

b. The institution failed to make the information required to be in the enrollment agreement of a consistent font size with subsequent pages, in violation of Code section 94908.

(Third Cause for Denial)

c. The institution failed to provide policies, practices, and disclosures related to state financial aid program funds with the application, in violation of 5 CCR 71475(p).

(Fourth Cause for Denial)

d. The institution failed to include the ability-to-benefit examination and scores that would be accepted for admission in lieu of a high school diploma or its equivalent, in violation of Code section 94904(a), 5 CCR 71475(t)(2), and 5 CCR 71770(a)(1).

(Fifth Cause for Denial)

e. The institution failed to provide financial statements showing its ability to pay timely refunds and maintain the financial resources to pay operating expenses due within 30 days, in violation of 5 CCR 71745(a)(4), (5).

(Sixth Cause for Denial)

f. The institution failed to provide statements of mission and objectives in its catalog that contained the required elements, in violation of 5 CCR 70000(q), (r), and 5 CCR 71810(b)(2).

(Seventh Cause for Denial)

g. The institution failed to provide a description of instruction of the type of ability-to-benefit examinations and scores that would be accepted for admission in its

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1 catalog, in violation of Code sections 94904(a) and 94909(a)(8)(A), and 5 CCR
2 71770(a)(1).

3 **(Eighth Cause for Denial)**

4 h. The institution failed to provide a description for each of the educational
5 programs offered in its catalog, in violation of Code section 94909(a)(5).

6 **(Ninth Cause for Denial)**

7 i. The institution failed to provide policies, practices, or required disclosures
8 regarding the forms of financial aid listed in its catalog, in violation of Code section
9 94909(a)(10) and 5 CCR 71810(b)(6).

10 **PRAYER**

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

14 1. Denying the application of Hector Cartagena, Owner, Career Development Institute
15 for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited
16 Institutions;

17 2. Taking such other and further action as deemed necessary and proper.
18

19 DATED: 5/26/16

20 
21 JOANNE WENZEL
22 Chief
23 Bureau for Private Postsecondary Education
24 Department of Consumer Affairs
25 State of California
26 *Complainant*

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