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:

BAY AREA VIDEO COALITION
2727 Mariposa Street, 2nd Floor
San Francisco, CA 94110

School Code No. 3806101
Institution Code No. 3806101

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 (Bureau), Department of
Consumer Affairs.

2. On the following dates, the Bureau issued an approval to operate the following
programs to Bay Area Video Coalition (Respondent).
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<thead>
<tr>
<th>Approved Program Name</th>
<th>Approval Date</th>
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<tbody>
<tr>
<td>Beginning Avid Certification Program</td>
<td>6/17/1999</td>
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<tr>
<td>Beginning Digital Post Production Certification Program</td>
<td>6/17/1999</td>
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<tr>
<td>Beginning Multimedia Certification Program</td>
<td>6/17/1999</td>
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<tr>
<td>Beginning Video Production Certification Program</td>
<td>6/17/1999</td>
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<tr>
<td>Intermediate Avid Certification Program</td>
<td>6/17/1999</td>
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<tr>
<td>Intermediate Video Production Certification Program</td>
<td>6/17/1999</td>
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<tr>
<td>Media link – Web Development</td>
<td>1/15/2002</td>
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<tr>
<td>Video Core</td>
<td>8/6/2002</td>
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<td>Video Editing</td>
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<td>Video Graphic</td>
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<td>Video Production</td>
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<td>Web Core</td>
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<td>Web Design</td>
<td>8/6/2002</td>
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<tr>
<td>Web Streaming</td>
<td>8/6/2002</td>
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3. Respondent’s approval to operate expired on October 20, 2011 and has not been renewed.

4. On or about October 12, 2011, the Bureau received an Application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions from Respondent. On or about October 5, 2011, Marc Vogl, Respondent’s Executive Director, certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application.
5. On or about July 26, 2012, the Bureau sent a letter to Respondent that set forth numerous deficiencies in Respondent’s renewal application. Respondent did not respond to the Bureau’s July 26, 2012 letter.

6. On or about August 21, 2012, the Bureau sent Respondent a second deficiency letter. Respondent did not respond to the Bureau’s August 21, 2012 letter.


8. The Bureau denied Respondent’s renewal application on or about July 9, 2014.

JURISDICTION

9. This Statement of Issues is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau under the authority of the following laws. All section references are to the Education Code unless otherwise indicated.

10. Section 118, subdivision (b) of the Business and Professions Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

STATUTORY PROVISIONS

11. Education Code section 94909 provides, in pertinent part:

“(a) 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:

...
“(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.”

12. Education Code section 94911 provides, in pertinent part:

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

. . .

“(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.

“(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:

..."

"(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).

..."

REGULATORY PROVISIONS

13. California Code of Regulations, title 5, section 71475 provides, in pertinent 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).

..."

"(e) The institution shall submit at the time it applies for renewal current financial statements that meet the requirements of section 74115 as follows: (1) for an institution with annual gross revenues of $500,000 and over, statements shall be audited; (2) for an institution with annual gross revenues less than $500,000, statements shall be reviewed.

..."

"(j) The institution shall provide in the application a description of the job duties and responsibilities of each administrative and faculty position. If there have been no substantive changes since the last submission, the institution may so state and is not required to submit documentation.

"(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.

"(o) The institution shall include, with its application, exemplars of all student enrollment
agreements and instruments of indebtedness.

"(w)(2) The institution shall submit current, audited financial statements at the time it
applies for approval to operate. Each set of financial statements shall comply with Section 74115
of this chapter.

"(bb) The application shall include a copy of the institution's catalog, in published or
proposed-to-be-published form. The catalog shall meet the requirements of the Act and of section
71810.

California Code of Regulations, title 5, section 71800 provides, in pertinent 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:

"(c) Program start date and scheduled completion date.

"(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:

"(2) registration fee (non-refundable);

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

..."
15. California Code of Regulations, title 5, section 76215 provides, in pertinent 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.'

16. California Code of Regulations, title 5, section 74115 provides, in pertinent part:

"(a) This section applies to every set of financial statements required to be prepared or filed by the Act or by this chapter.

..."

"(d) 'Current' with respect to financial statements means completed no sooner than 120 days prior to the time it is submitted to the Bureau, and covering no less than the most recent complete fiscal year. If more than 8 months will have elapsed between the close of the most recent complete fiscal year and the time it is submitted, the financial statements shall also cover no less than five months of that current fiscal year."

FIRST CAUSE FOR DENIAL OF APPLICATION
(Failure to Provide Catalog)

17. Respondent's renewal application is subject to denial under California Code of Regulations, title 5, section 71475, subdivision (bb), in that Respondent failed to submit with its renewal application a catalog that meets the requirements of the Private Postsecondary Education Act of 2009 and California Code of Regulations, title 5, section 71810.

SECOND CAUSE FOR DENIAL OF APPLICATION
(Failure to Identify Chief Operating Officer and Chief Academic Officer)

18. Respondent's renewal application is subject to denial under California Code of Regulations, title 5, section 71475, subdivision (k), in that Respondent's renewal application does
not identify Respondent's chief operating officer or chief academic officer or describe their
education, experience, and qualifications to perform their duties and responsibilities.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Failure to Provide a Description of Job Duties and Responsibilities of Administrative and
Faculty Positions)

19. Respondent's renewal application is subject to denial under California Code of
Regulations, title 5, section 71475, subdivision (j), in that Respondent failed to provide in its
renewal application a description of the job duties and responsibilities of each administrative and
faculty position.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Failure to Provide Enrollment Agreement that Complies with Statutory and Regulatory
Requirements)

20. Respondent's renewal application is subject to denial under California Code of
Regulations, title 5, sections 71475, subdivision (o) and 71800, and/or Education Code section
94911, in that the enrollment agreement Respondent submitted with its renewal application does
not contain the following required information:

a. The enrollment agreement does not contain the start date or scheduled completion
date of Respondent's educational programs. (Cal. Code Regs., tit. 5, § 71800, subd. (c).)

b. The enrollment agreement does not contain the date by which students must exercise
their right to cancel or withdraw from Respondent's educational programs. (Cal. Code Regs., tit.
5, § 71800, subd. (d).)

c. The enrollment agreement does not contain an itemization of the registration fee or
the Student Tuition Recovery Fund fee. (Cal. Code Regs., tit. 5, § 71800, subs. (e)(2) and
(e)(11).)

d. The enrollment agreement does not include 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. (Educ. Code, § 94911, subd. (b).)
e. The enrollment agreement does not contain 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. (Educ. Code, § 94911, subd. (c).)

f. The enrollment agreement does not contain the statements set forth in California Code of Regulations, title 5, section 76215, subdivisions (a) and (b) regarding the Student Tuition Recovery Fund.

g. The enrollment agreement does not contain the disclosure information set forth in Education Code section 94911, subdivisions (e)(1), (e)(2), and (e)(3).

h. The enrollment agreement does not contain 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. (Educ. Code, § 94911, subd. (f).)

i. The enrollment agreement does not contain 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; and (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. (Educ. Code, § 94911, subds. (g)(1), (g)(2).)

j. The enrollment agreement does not contain the transferability disclosure that is required to be included in the school catalog, as specified in Education Code section 94909, subdivision (a)(15). (Educ. Code, § 94911, subd. (h).)

k. The enrollment agreement does not contain the following statement: "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).”

(Educ. Code, § 94911, subd. (j)(2).)

1. The enrollment agreement does not contain the statements set forth in Education Code section 94911, subdivisions (i)(1) and (i)(2).

m. The 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 Respondent. (Educ. Code, § 94911, subd. (d).)

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Failure to Provide Current Audited Financial Statements)

21. Respondent’s renewal application is subject to denial under California Code of Regulations, title 5, sections 71475, subdivisions (e) and (w)(2), and 74115, subdivision (d), in that Respondent did not provide the Bureau with audited financial statements for the fiscal year ending December 31, 2013.

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 for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions submitted by Bay Area Video Coalition;

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

DATED: 3/11/18

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