

BEFORE THE DIRECTOR

DEPARTMENT OF CONSUMER AFFAIRS

BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

STATE OF CALIFORNIA

In the Matter of the Citation Against:

MARCUS HWANG, Owner

AMERICAN ENGLISH LANGUAGE SCHOOL, Respondent.

Citation No. 1819152

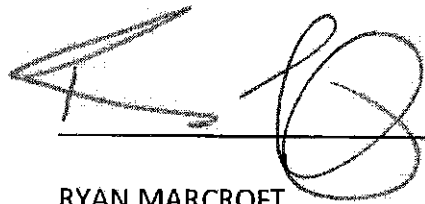
OAH No. 2019061101

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above entitled matter.

The Decision shall become effective MAY 08 2020.

DATED: April 4, 2020



A handwritten signature in black ink, appearing to read 'Ryan Marcroft', is written over a horizontal line. The signature is stylized and somewhat cursive.

RYAN MARCROFT

Deputy Director, Legal Affairs

Department of Consumer Affairs

**BEFORE THE
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DEPARTMENT OF CONSUMER AFFAIRS
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**MARCUS HWANG, owner, AMERICAN ENGLISH LANGUAGE
SCHOOL, Respondent**

Citation No. 1819152

OAH No. 2019061101

PROPOSED DECISION

Adam L. Berg, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on December 3, 2019, in San Diego, California.

Marichelle S. Tahimic, Deputy Attorney General, Department of Justice, State of California, represented complainant Christina Villanueva, Discipline Manager, Bureau of Private Postsecondary Education, Department of Consumer Affairs, State of California (bureau).

Marcus Hwang, respondent, represented himself.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on December 3, 2019.

FACTUAL FINDINGS

Jurisdictional Issues

1. On January 15, 2015, the bureau granted respondent approval to operate Optimus Language School as an accredited institution.¹ Subsequently, respondent changed the name of the institution to American English Language School (the institution). At the time the bureau granted approval to operate, the institution offered a single English as a Second Language (ESL) non-degree program consisting of 240 lesson hours.

2. On March 21, 2019, complainant issued to respondent citation number 1819152, listing three violations as follows:

The institution failed to have a separate School Performance Fact Sheet (SPFS) for each approved program, in violation of Regulation² 74112, subdivision (a). The citation assessed a \$2,501 fine and directed respondent to submit a 2015/2016 SPFS for each approved program.

The institution's 2015/2016 SPFS contained inconsistent information regarding the number of students who started and completed the program, in violation of

¹ The institution has been at all times accredited by the Commission on English Language Program Accreditation (CEA).

² All future references to "regulation" are to California Code of Regulations, title 5.

Regulation 74112, subdivision (i)(2), and Education Code³ section 94929, subdivision (a). The citation assessed a \$1,000 fine and ordered respondent to correct the SPFS.

The institution failed to maintain supporting documentation to substantiate the data reported in the 2015/2016 SPFS, in violation of Regulations 74112, subdivision (m), and 71930, subdivision (e). The citation assessed a \$5,000 fine and ordered respondent to provide a policy or procedure to the bureau of how the institution will maintain the supporting documentation for all SPFSs.

3. Respondent timely appealed the citation. This hearing ensued.

The Bureau's Evidence

4. Matthew Wiggins is a Compliance Analyst for the bureau, who testified at the hearing. Mr. Wiggins has worked for the bureau for the past four-and-a-half years. His responsibilities include conducting scheduled and unscheduled compliance inspections of bureau-approved institution.

5. On March 11, 2016, Michele Alleger, Enforcement Manager, notified respondent by letter that the bureau would be performing a compliance inspection. The letter stated that the inspection was a two-step process. The first step was for the institution to submit specific documentation and information for the bureau to review. The second step was for an onsite inspection. At the end of the inspection, a "Notice to Comply" would be issued for minor violations, and the institution would have 30 days to correct the violation(s) or submit a notice of disagreement. All non-minor and/or material violations found during the compliance inspection would be

³ All subsequent statutory references are to the Education Code.

forwarded to the enforcement unit for further review. The letter requested respondent complete a number of forms and provide the bureau with requested information.

6. Due to staffing shortages within the bureau, an onsite inspection did not occur immediately. On April 25, 2018, Mr. Wiggins notified respondent by letter (sent electronically) that the onsite inspection would occur on May 15, 2018. Mr. Wiggins provided respondent with a "Pre-Arrival Checklist" that addressed the documentation that was to be assembled and made available to him at the time of the inspection. However, the letter made clear that additional items or information may be requested.

7. On May 10, 2018, before Mr. Wiggins conducted the inspection, he notified respondent that in reviewing the documentation and information respondent provided in preparation for the inspection, there were multiple deficiencies with the submissions. Mr. Wiggins requested respondent review the listed items and provide a response at the start of the scheduled inspection on May 15, 2018. Mr. Wiggins notified respondent that there was a deficiency with the SPFS because the institution provided a single SPFS for a 1440-hour program, but the institution was only approved to offer six 240-hour programs – not a combined 1440-hour program. To remedy the deficiency, respondent was asked to provide a SPFS for each program approved by the bureau and to cease using a SPFS for a combined 1440-hour program. Finally, the letter indicated that failure to submit the items requested in the letter could result in the issuance of a Notice to Comply following the on-site inspection.

8. Mr. Wiggins conducted the inspection on May 15, 2018. He issued a Notice to Comply for 13 minor violations, which were subsequently remedied.

However, he also determined that several material violations⁴ existed that would be referred for possible enforcement action.

9. The first material violation that Mr. Wiggins identified and is charged in the citation relates to the SPFS. At the time of the inspection, the institution had six approved programs: ESL Basic and ESL Level 1 through ESL Level 5. Each of the programs was 240 hours in length. In the May 10, 2018, deficiency letter, Mr. Wiggins noted that the institution was offering a single 1440-hour ESL program; however, the institution was only approved to offer six 240-hour programs (ESL-Basic through ESL Level 5). To remedy this deficiency, Mr. Wiggins requested that the institution update the bureau's licensing unit to reflect a 1440-hour combined program, along with documentation from its accreditor showing approval of a 1440-hour combined program. Similarly, the institution provided a single SPFS for a 1440-hour program. Because the institution was approved for six separate programs, Mr. Wiggins requested the institution to provide a SPFS for each program approved by the bureau and not have an SPFS for a combined 1440-hour program.

At the inspection, instead of providing an SPFS for each of the six programs, respondent provided Mr. Wiggins with a single SPFS for the combined ESL program. Respondent's response is summarized as follows: When the institution was originally creating a program with the bureau's licensing unit, it was told that the listing had to be created with six different programs to show the different levels. However, according

⁴ A "material violation" includes but is not limited to, "misrepresentation, fraud in the inducement of a contract, and false or misleading claims or advertising, upon which a student reasonably relied in executing an enrollment agreement and that resulted in harm to the student." (Ed. Code, § 94937, subd. (a)(2).)

to the accreditor, CEA, the institution was accredited for one ESL program containing six levels (Basic through Level 5). The bureau representative, Audria Arceo, a bureau Licensing Analyst, insisted that the institution could not list it as a single program with six levels because not all students would complete all six levels. Instead, students could begin at a higher level than basic and would not necessarily complete all the levels. This meant the institution had to list the levels separately to show six available levels. However, students only applied once for the program, regardless of how many of the 240-hour levels they completed. Students only received a certificate of completion upon satisfactorily finishing level 5, regardless of which level they were placed in to start the program.

Complainant submitted communication between the bureau and respondent regarding this issue. In January 2015, Ms. Arceo asked respondent how he wished for the program(s) to be listed on the approved-programs list from the bureau. Specifically, Ms. Arceo wanted to clarify whether it would be listed as one program or five. Respondent replied that it should be listed as a single ESL "20 clock hour" program. The institution was approved to operate with this single program on January 25, 2015.

On August 31, 2015, respondent emailed Ms. Arceo and stated the institution was in the process of getting approval from the Department of Homeland Security (DHS). DHS requested clarification because the bureau records indicated the duration of the ESL program was 20 hours. However, the program for which the institution was seeking DHS certification has six levels, each lasting 12 weeks, and each with 20 hours per week of instruction. DHS requested evidence issued by the bureau showing that this program of study was approved by the bureau.

On September 2, 2015, CEA issued a letter requesting that the bureau update its records to make the approved programs more accurate. CEA advised that the ESL program was reviewed for the grant of accreditation, and six ESL levels were approved, each consisting of 240 total hours.

In response, on September 9, 2015, the bureau notified the institution that it received its notification of a non-substantive change regarding the revision of program hours. The bureau identified six ESL programs, each 240 hours. Attached to the letter was an Approved Educational Program List indicating bureau approval to offer six ESL programs (Basic through Level 5), each consisting of 240 hours.

Thus, Mr. Wiggins explained that at the time of the inspection, the institution was approved to offer six individual programs, and by regulation, was required to have an SPFS for each of the six programs. Although respondent was adamant that it was a single program with six courses, the above communication clearly indicated the institution's request to have six different programs. At the very least, respondent never notified the bureau that the September 9, 2015, change was inaccurate.

10. The next cited violation related to the 2015/2016 SPFS. The SPFS is required by regulation to list certain information including graduation rates and job placement rates, for two calendar years prior to reporting. For the graduation rates, the SPFS indicated 4 students began the program in 2015 and 8 students began the program in 2016. However, under the category of job placement rates, the SPFS indicated 7 students began the program in 2015 and 12 students began the program in 2016. Mr. Wiggins explained that the data for the number of students beginning the program should be the same. The fact that two different sets of numbers were listed was a material discrepancy.

11. Finally, Regulation 74112 requires that the institution electronically maintain supporting documentation for all information contained in the SPFS and must be provided to the bureau upon request. Mr. Wiggins requested respondent provide documentation to support the data reported in the 2015/2016 SPFS. Respondent provided graduate rosters but could not provide the documentation required to fulfill Regulation 74112, subdivision (m)(1) through (m)(9). Respondent told Mr. Wiggins he was unaware that he was required to collect the data in accordance with this regulation. Mr. Wiggins explained that respondent did show him various places where the data was kept, but respondent did not provide with Mr. Wiggins the data for him to review. In addition, there was no documentation as to why certain criteria that were labeled "N/A" in the SPFS were unavailable; the regulation requires the institution to document the reason for the unavailability of information.

12. Mr. Wiggins testified that he was only responsible for forwarding the information on the violations he identified to the enforcement unit. The enforcement unit was responsible for issuing the citation and assessing a fine for each violation. Pursuant to regulation, the bureau classifies violations according to severity and assesses fines accordingly, from "Class A" through "Class D." The first and third violations were categorized as "Class A" violations, the most serious. Mr. Wiggins explained that students rely on the SPFS, which is required to be given to students along with the enrollment agreement. The SPFS contains important information that students rely upon in deciding whether to enroll in an institution because it relates to the institution's performance. If an institution does not maintain the supporting documentation to substantiate the information contained in the SPFS, then the bureau has no way of determining whether the information is indeed accurate.

13. Following the inspection, Mr. Wiggins submitted updated information on the institution to the bureau's licensing unit, including respondent's request to change the institution's programs to a single ESL program with six levels.

Respondent's Testimony

14. Respondent's testimony and letter he submitted contesting the citation are summarized as follows: Respondent was extremely upset at having received a citation and believed the fines were excessive. He criticized the bureau for not better communicating the problems it identified and, instead, issuing him a citation. Regarding the first violation, respondent maintained that the institution has always offered one ESL program, as confirmed by a letter sent by the CEA to the bureau confirming its accreditation. When respondent initially created the program offering, Ms. Arceo insisted that the listing had to be created with six different programs in order to show students there were six different levels. Respondent has always submitted one single SPFS for the single program. Respondent maintained that he repeatedly tried to correct the bureau's information that the institution offered six different programs, but to no avail. Respondent had no documentation or other corroborating evidence that he had ever contacted the bureau for this purpose.

15. Regarding the second violation, respondent believed that much of the information contained in the SPFS was inapplicable to his institution. In his letter, he noted, "The SPFS is just something we fill out each year because we have to as part of the Annual Report, but it isn't necessary (or even reasonable) for small businesses like me to have to fill out since nearly none of it applies to us." Respondent admitted there was a discrepancy in the numbers of students enrolling and completing the program in the 2015/2016 SPFS. However, it was an honest mistake and the resulting fine was excessive.

16. Regarding the third violation, respondent admitted that he did not have the supporting documentation containing all of the information in the SPFS in a readily available format to provide to Mr. Wiggins at the time of the inspection. However, all of the information was available in different parts of his online management system. He did not provide Mr. Wiggins the requested information because he believed Mr. Wiggins only wanted a single document containing all of the information. He did provide Mr. Wiggins with a roster and showed him where names, dates, and other information was kept. When he told Mr. Wiggins that he did not know he had to collect the data, he meant that he did not know that all of the data had be kept in one place.

17. In conclusion, respondent believed that the bureau has acted unprofessionally and that it owes him an apology. He believed that some of the regulations do not apply to his institution; enforcing these regulations against him makes little sense. Respondent was particularly upset that nobody at the bureau understood that he was offering a single program with six different levels and continued to insist that he create a SPFS for each of the six levels.

LEGAL CONCLUSIONS

1. The bureau operates pursuant to the California Private Postsecondary Education Act of 2009 (Act) (Ed. Code, § 94800, et seq.) and its regulations (Cal. Code Regs., tit. 5, § 71100, et seq.).

Burden and Standard of Proof

2. The burden of proof is on complainant. Because the citations at issue in this disciplinary matter cannot result in an order that suspends, limits, or revokes

respondent's registration or licenses, the preponderance of the evidence standard applies. (*Owen v. Sands* (2009) 176 Cal.App.4th 985, 992.) Preponderance of the evidence means evidence that has more convincing force than that opposed to it. If the evidence is so evenly balanced that a fact finder is unable to say that the evidence on either side of an issue preponderates, the finding on that issue must be against the party who had the burden of proving it. (*People v. Mabini* (2001) 92 Cal.App.4th 654, 663.)

Authority to Issue Citations

3. Section 94936 provides:

(a) As a consequence of an investigation, which may incorporate any materials obtained or produced in connection with a compliance inspection, and upon a finding that the institution has committed a violation of this chapter or that the institution has failed to comply with a notice to comply pursuant to Section 94935, the bureau shall issue a citation to an institution for violation of this chapter, or regulations adopted pursuant to this chapter.

(b) The citation may contain any of the following:

(1) An order of abatement that may require an institution to demonstrate how future compliance with this chapter or regulations adopted pursuant to this chapter will be accomplished.

(2) Notwithstanding Section 125.9 of the Business and Professions Code, an administrative fine not [s/c] to exceed five thousand dollars (\$5,000) for each violation. The bureau shall base its assessment of the administrative fine on:

(A) The nature and seriousness of the violation.

(B) The persistence of the violation.

(C) The good faith of the institution.

(D) The history of previous violations.

(E) The purposes of this chapter.

(F) The potential harm to students.

(3) An order to compensate students for harm, including a refund of moneys paid to the institution by or on behalf of the student, as determined by the bureau.

(c)(1) The citation shall be in writing and describe the nature of the violation and the specific provision of law or regulation that is alleged to have been violated.

(2) The citation shall inform the institution of its right to request a hearing in writing within 30 days from service of the citation.

(3) If a hearing is requested, the bureau shall select an informal hearing pursuant to Article 10 (commencing with

Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code or a formal hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(4) If a hearing is not requested, payment of the administrative fine is due 30 days from the date of service, and shall not constitute an admission of the violation charged.

(5) If a hearing is conducted and payment of an administrative fine is ordered, the administrative fine is due 30 days from when the final order is entered. . . .

4. Regulation 75020, subdivision (a), authorizes the bureau to issue citations to approved private, postsecondary institutions that have committed any acts or omissions that are in violation of the Act or any regulation adopted pursuant thereto.

5. Regulation 75030 provides:

Where citations pursuant to section 94936 of the Code and section 75020, subsection (a) include an assessment of an administrative fine, the fine shall be not less than \$50 or exceed \$5,000 for each violation. Each violation shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:

(a) A "Class A" violation shall not be less than \$2,501 nor more than \$5,000. A Class A violation is one that the Bureau

has, in its discretion, determined to be more serious in nature, deserving the maximum fine. A Class A violation may, in the Bureau's discretion, be issued to an institution that has committed one or more prior, separate Class B violations.

(b) A "Class B" violation shall not be less than \$1,001 nor more than \$2,500. A Class B violation is one that the Bureau has, in its discretion, determined to be less serious in nature and may include, but is not limited to, a violation that could have resulted in student harm. Typically some degree of mitigation will exist. A Class B violation may be issued to an institution that has committed one or more prior, separate Class C violations.

(c) A "Class C" violation shall not be less than \$501 nor more than \$1,000. A Class C violation is one that the Bureau has, in its discretion, determined to be a minor or technical violation, which may be directly or potentially detrimental to students or potentially impacts their education.

(d) A "Class D" violation shall not be less than \$50 nor more than \$500. A Class D violation is one that the Bureau has, in its discretion, determined to be a minor or technical violation, which is neither directly or potentially detrimental to students nor potentially impacts their education.

Relevant Statutes and Regulations

6. Section 94929, subdivision (a), requires an institution to annually report to the bureau, as part of the annual report, and in its SPFS, the completion rate for each program.

7. Regulation 74112 provides:

(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 and all titles and column headings shall be in bold 14 pt. type, which shall also identify the program for which the Performance Fact Sheet pertains. The Performance Fact Sheet shall contain all and only the information required or specifically permitted by sections 94910 and 94929.5 of the Code or this chapter. A separate Performance Fact Sheet shall be prepared for each program.

[¶] . . . [¶]

(i) Job 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 (d)(1) of this section for each reported calendar year.

(2) Placement is measured six months from the graduation date of each student. For programs that require passage of

a licensing examination, placement shall be measured six months after the announcement of the examination results for the first examination available after a student completes an applicable educational program. 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 section 94842 of the Code, the graduates available for employment, graduates employed in the field and job placement rate(s).

[1] . . . [1]

(m) Documentation supporting all data reported shall be maintained electronically by the institution for at least five years from the last time the data was included in either an Annual Report or a Performance Fact Sheet and shall be provided to the Bureau upon request; the data for each program shall include at a minimum:

(1) the list of job classifications determined to be considered gainful employment for the educational program;

(2) student name(s), address, phone number, email address, program completed, program start date, scheduled completion date, and actual completion date;

(3) graduate's place of employment and position, date employment began, date employment ended, if applicable,

actual salary, hours per week, and the date employment was verified;

(4) for each employer from which employment or salary information was obtained, the employer name(s) address and general phone number, the contact person at the employer and the contact's phone number and email address, and all written communication with employer verifying student's employment or salary;

(5) for students who become self-employed, all documentation necessary to demonstrate self-employment;

(6) a description of all attempts to contact each student or employer;

(7) any and all documentation used to provide data regarding license examinations and examination results;

(8) for each student determined to be unavailable for graduation or unavailable for employment, the identity of the student, the type of unavailability, the dates of unavailability, and the documentation of the unavailability; and

(9) the name, email address, phone number, and position or title of the institution's representative who was 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. . . .

8. Regulation 71930, subdivision (e), requires all records that the institution is required to maintain by the Act be made immediately available by the institution for inspection and copying during normal business hours by the bureau.

Cause Exists to Affirm the Citation

FIRST VIOLATION

9. A preponderance of the evidence established a violation of Regulation 74112, subdivision (a). The regulation requires the institution to prepare a separate SPFS for each approved program. At the time of the inspection, the institution had six approved programs. Respondent repeatedly maintained that the institution had only one program with six separate levels. Indeed, at the time respondent received his approval to operate, the bureau had approved a single ESL program for 240 lesson hours. However, on September 2, 2015, this institution's accreditor, CEA, requested the bureau to "update the records" for the institution. In response, the bureau notified the institution that it had processed the request and revised the institution's programs to include six ESL programs, each with 240 lesson hours. The bureau also provided an Approved Educational Program List indicating bureau approval for six different programs.

Respondent maintained that this was in error as he always intended to have a single ESL program with six levels. Despite claiming that he attempted to have the bureau fix this error, he offered no supporting documentation of this claim. More importantly, on May 10, 2018, in its deficiency letter, the bureau informed respondent

that if it was offering a single 1440-hour ESL program, it would need to provide a program offering to the bureau's licensing unit as the current listing was for six separate programs. The notice also stated that the single SPFS respondent provided was insufficient; he needed to provide a SPFS for each program.

Respondent elected to ignore these requests. Rather than providing six separate SPFSs as requested, he chose to provide only one. This violated the regulation which explicitly states that an institution must provide an SPFS for each program. Respondent could have attempted to change the program offerings with the bureau's licensing unit before the inspection; he did not. He was placed on notice that having only a single SPFS was a violation and failed to remedy the violation by the time of the inspection.

SECOND VIOLATION

10. A preponderance of evidence established a violation of Education Code section 94929, subdivision (a), and Regulation 74112, subdivision (i)(2). On the SPFS, respondent's institution reported conflicting data for the number of students who began the program in the years 2015 and 2016. Although respondent argued this was a simple, unintentional error, respondent is required to report accurate information in the SPFS.

THIRD VIOLATION

11. A preponderance of evidence established a violation of Regulations 74112, subdivision (m), and 71930, subdivision (e). Respondent's institution was required to electronically maintain documentation supporting *all* data reported in the SPFS and provide it to the bureau upon request. Although respondent provided Mr. Wiggins a roster of students, this did not contain all of the information required to be

retained under Regulation 74112, subdivision (m). Respondent argued that much of the information (such as job placement) is not relevant for his institution, which only offers an ESL program. Regardless of whether respondent believes a regulation is sensible, he is required to comply with its requirements. In this case, respondent was required to provide Mr. Wiggins all the information listed in subdivision (m), and his failure to do so constitutes a violation.

Assessment of Fines

12. Education Code section 94936, subdivision (b)(2), requires that the assessment of a fine be based on the following factors: the nature and seriousness of the violation; the persistence of the violation; the good faith of the institution; the history of previous violations; the purposes of [the Act]; and the potential harm to students. Regulation 75030 provides that the minimum fine for a violation is \$50 and the maximum is \$5,000. Under the regulation, violations are classified according to the nature of the violation, with "Class A" the most serious and "Class D" the least serious. In assessing a fine, the bureau is required to evaluate the nature of the violation and factors surrounding the violation.

13. Applying the factors enumerated in Education Code section 94936, subdivision (b)(2), respondent incurred three violations that were all relatively minor and technical. There was no fraud, and respondent exhibited good faith in attempting to comply with the bureau's regulations. Respondent has no history of previous violations. Although SPFSs have an important role in students' decision to enroll in an institution, and the bureau considers any violation to be "material," under the circumstances of this case, there was no actual or potential harm to students.

14. For the first violation, the bureau assessed a \$2,501 fine, which indicates a "Class A" violation. The assessed fine is excessive and based on the factual circumstance of the violation, improperly classified. At most, the circumstances indicate a "Class D" violation – a minor or technical violation, which is neither directly or potentially detrimental to students nor potentially impacts their education. Based on respondent's failure to correct the issue despite having received notice in the deficiency letter, a \$400 fine is appropriate.

15. For the second violation, the bureau assessed a \$1,000 fine, which indicates a "Class C" violation. This violation is properly classified as it is a minor or technical violation, which may be directly or potentially detrimental to students. A student seeking information on the institution's on-time graduation rates would potentially not be able to obtain accurate information based on the conflicting data contained in the SPFS. The assessed \$1,000 fine is the maximum for a Class C violation. In this case, the inconsistent data was for the number of students enrolled in the program for two years. The mistake was unintentional and the minimum fine of \$501 is appropriate.

16. For the third violation, the bureau assessed a \$5,000 fine, the maximum for a "Class A" violation. The assessed fine is excessive and based on the factual circumstance of the violation, improperly classified. While respondent did not provide the bureau with all of the supporting data as required by regulation, he did maintain all of the data to support the relevant information contained in the SPFS. Although it is important that the bureau have access to the supporting documentation regarding the information contained in the SPFS, there was no fraud or intentional misrepresentation. Under these circumstances, it is properly classified as a "Class C" violation, and a \$501 fine is appropriate.

Order of Abatement

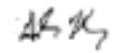
17. Under Section 94936, subdivision (b)(1), the bureau is authorized to issue an order of abatement that may require an institution to demonstrate how future compliance with the Act or regulations will be accomplished. The orders of abatement contained in the citation are reasonable.

ORDER

Citation No. 1819152 issued to respondent Marcus Hwang, owner of American English Language School, is affirmed as modified. Respondent is ordered to pay a fine of \$1,402 within 30 days of the effective date of this decision.

Respondent must submit evidence of compliance with the orders of abatement listed in the citation within 30 days of the effective date of this decision.

DATE: December 31, 2019

DocuSigned by:

190ED247728C419L

ADAM L. BERG

Administrative Law Judge

Office of Administrative Hearings