BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Marcus Hwang, Owner
American English Language School
451 W. Lambert Rd. # 210
Brea, CA 92821

INSTITUTION CODE: 73117006
CITATION NUMBER: 1819152
CITATION ISSUANCE/SERVICE DATE: March 21, 2019
DUE DATE: April 10, 2019
FINE AMOUNT: $ 8,501.00
ORDER OF ABATEMENT INCLUDED: YES

Christina Villanueva issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Discipline Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to: Marcus Hwang, Owner of American English Language School (Institution), located at 451 W. Lambert Rd. # 210, Brea, CA 92821, pursuant to Business and Professions Code Section 125.9; California Education Code (CEC) Section 94936; and Title 5 of the California Code of Regulations (5, CCR) Section 75020 for the violations described below.

BACKGROUND

On May 15, 2018, Bureau staff conducted an announced compliance inspection at the Institution. During the compliance inspection, the Institution provided a single 2015/2016 School Performance Fact Sheet (SPFS) for all programs. Bureau staff reviewed the SPFS and found that it contained inconsistent information for the Number of students who began the Program between the On-Time Completion Rates and Job Placement Rates tables.

Additionally, the Institution did not provide supporting documentation upon the Bureau's request to substantiate the data reported on the Institution's 2015/2016 SPFS. Bureau staff requested the supporting documentation from the owner, and he provided graduate rosters. The owner stated that he was unaware that he was required to collect the data in accordance with 5, CCR section 74112 (m)(1-9).

VIOLATION

#	Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5, CCR code) section(s) of law you are charged with violating.
1.	**Violation:** **5, CCR Section 74112(a) Uniform Data- Annual Report, Performance Fact Sheet.** *(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.* The Institution combined all of the approved program information into one SPFS. As required by 5, CCR section 74112 (a), the Institution shall prepare a separate SPFS for each approved program. **Order of Abatement:** The Bureau orders the Institution to submit the 2015/2016 SPFS for each approved program, per 5, CCR section 74112 (a). **Assessment of Fine** The fine for this violation is $2501.00
2.	**Violation:** **5, CCR Section 74112(i)(2) Uniform Data- Annual Report, Performance Fact Sheet** *(i) Job Placement Rates.* *(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 subdivision (b) section 94842 of the Code, the graduates available for employment, graduates employed in the field and job placement rate(s).* **CEC Section 94929(a)- Reporting of Completion Rate** *(a) An institution shall annually report to the bureau, as part of the annual report, and publish in its School Performance Fact Sheet, the completion rate for each program. Except as provided in subdivision (b), the completion rate shall be calculated by dividing the number of on-time graduates by the number of students available for graduation.* The On-time Completion Rates table in the 2015/2016 SPFS stated the "Number of Students Who Began the Program" were four in 2015 and eight in 2016. The Placement Rates table in the 2015/2016 SPFS stated the "Number of Students Who Began the Program" were seven in 2015 and twelve in 2016. The data for "Number of Students Who Began the Program" on the On-time Completion Rates table should be the same data reported in the "Number of Students Who Began the Program"

	column on the Placement Rates table. **<u>Order of Abatement:</u>** The Bureau orders the Institution to submit the correct 2015/2016 SPFS data to the Bureau, per 5, CCR Section 74112 (i)(2) and CEC Section 94929 (a). **<u>Assessment of Fine</u>** The fine for this violation is $1000.00
3.	**<u>Violation:</u>** **5, CCR Section 74112(m)(1-9) Uniform Data- Annual Report, Performance Fact Sheet** *(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; and 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 dates;* *(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.* **5, CCR Section 71930 (e) -Maintenance of Records** *(e) All records that the institution is required to maintain by the Act or this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations.* The Institution did not maintain the supporting documentation to substantiate the data reported on the 2015/2016 SPFS. The owner stated he was unaware he was required to collect the data in accordance with 5, CCR Section 74112 (m)(1-9) and 5, CCR section 71930(e).

	Order of Abatement: The Bureau orders the Institution to provide a policy or procedure to the Bureau of how the Institution will maintain the supporting documentation for the all SPFS per 5, CCR section 74112 (m)(1-9). **Assessment of Fine** The fine for this violation is $5,000.00
	TOTAL ADMINISTRATIVE FINE DUE: $8,501.00

ASSESSMENT OF A FINE

In accordance with CEC Section 94936; and 5, CCR Sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **$8,501.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

COMPLIANCE WITH ORDER OF ABATEMENT

In accordance with the provisions of CEC Section 94936 and 5, CCR Section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **April 20, 2019**, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **March 21, 2019.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **April 20, 2019**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Gurinder Sandhu, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Gurinder Sandhu, Citation Analyst, at (916) 431-6940 or Gurinder.sandhu@dca.ca.gov.

Christina Villanueva
Discipline Manager

3/21/19
Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First-Class Mail