



Bureau for Private Postsecondary Education
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APPEAL OF CITATION INFORMAL CONFERENCE
DECISION: CITATION MODIFIED

February 11, 2021

Breining Institute, Owner
Breining Institute
8894 Greenback Lane
Orangevale, CA 95662-4019

Date of Issuance	Citation Number	Institution Code
February 11, 2021	2021067	3403181

On October 15, 2020, an informal telephone conference was held in the matter of Citation: Assessment of Fine and Order of Abatement No. 2021067 (Citation) against Breining Institute, Owner of Breining Institute (Institution). In attendance were Beth Scott, Enforcement Chief and Michael Breining, President.

Pursuant to Business and Professions Code, section 125.9; California Education Code, section 94936; and Title 5 of the California Code of Regulations, section 75020 and section 75040, the Bureau for Private Postsecondary Education (Bureau) renders the following decision relative to your appeal of the Citation No. 2021067.

It is the decision of the Enforcement Chief that on January 29, 2021 Citation No. 2021067 is modified and makes the following change(s):

VIOLATION CODE SECTIONS

#	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.	<p><u>Violation:</u> CEC Section 94910 (b)(d)(f)(1)(2)(3) - Minimum Requirements for School Performance Fact Sheet</p> <p><i>“(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.</i></p> <p><i>(d) Salary or wage information, as calculated pursuant to Article 16 (commencing with Section 94928).</i></p> <p><i>(f) All of the following:</i></p> <p><i>(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.</i></p> <p><i>(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).</i></p> <p><i>(3) A statement informing the reader of where he or she may obtain from the institution a list of the</i></p>

objective sources of information used to substantiate the salary disclosure as required by subdivision (d).”

CEC Section 94929.5(a)(1)(3) – Reporting of Student Performance Data

“(a) An institution shall annually report to the bureau, as part of the annual report, and shall publish in its School Performance Fact Sheet, all of the following:

(1) The job placement rate, calculated by dividing the number of graduates employed in the field by the number of graduates available for employment for each program that is either (1) designed, or advertised, to lead to a particular career, or (2) advertised or promoted with any claim regarding job placement.

(3) Salary and wage information, consisting of the total number of graduates employed in the field and the annual wages or salaries of those graduates stated in increments of five thousand dollars (\$5,000).”

CEC Section 94929.7(b) – Documentation of Performance Data

“(b) An institution shall provide a list of employment positions used to determine the number of graduates employed in the field for purposes of calculating job placement rates pursuant to this article.”

Bureau staff reviewed the Institution’s website, 2018-2019 School Catalog, and 2016-2017 School Performance Fact Sheet (SPFS) along with the supporting documentation, and found the following violations:

Violation: CEC Section 94910(b) and 94929.5(a)(1): The 2016-2017 SPFS failed to contain placement rate.

Violation: CEC Section 94910(d) and 94929.5(a)(3): The 2016-2017 SPFS failed to contain salary and wage information.

Violation: CEC Section 94910(f)(1): The 2016-2017 SPFS failed to contain a description of the manner in which the figures regarding placement and salary and wage were calculated or a statement with information of where to obtain such a description.

Violation: CEC Section 94910(f)(2) and 94929.7(b): The 2016-2017 SPFS failed to contain a statement with information of where to 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 the job placement rates.

Violation: CEC Section 94910(f)(3): The 2016-2017 SPFS failed to contain a statement with information of where to obtain from the institution a list of the objective sources used to substantiate the salary disclosures.

Order of Abatement:

The Bureau orders the Institution to submit to the Bureau a policy, or procedure, of how the Institution will maintain future compliance with CEC sections 94910, 94929.5, and 94929.7.

Modified Order of Abatement:

The Bureau orders the Institution to update the SPFS to include Salary and Wage Information or remove the implied claim of preparing students for a recognized career from the catalog.

Assessment of Fine

The fine for this violation is \$2,500.00

Reason for modification: New substantive facts were presented at the conference.

The administrative fine for this violation has been modified from \$2,500.00 to \$500.00.

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Violation:

5, CCR Section 74112(a)(h)(i)(4)(k)(m)(1)(2)(3)(6)(9)(n) - 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.

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

Name of Educational Program (Program Length)

Calendar Year	Number of Students Who Began the Program	Number of Graduates	Graduates Available for Employment	Graduates Employed in the Field	Placement Rate % Employed in the Field
20XX	100	70	70	55	79%
20XY	80	55	55	20	36%

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

Gainful Employment Categories (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Part time vs. Full Time Employment

	Graduates Employed in the field 20 to 29 hours per week	Graduates Employed in the field at least 30 hours per week	Total Graduates Employed in the Field
20XX	15	40	55

20XY	5	15	20
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Single Position vs. Concurrent Aggregated Positions

	Graduates Employed in the field in a single position	Graduates Employed in the field in concurrent aggregated positions	Total Graduates Employed in the Field
20XX	52	3	55
20XY	19	1	20

Self-Employed/Freelance Positions

	Graduates Employed who are self-employed or working freelance	Total Graduates Employed in the Field
20XX	3	55
20XY	5	20

Institutional Employment

	Graduates Employed in the field who are employed by the institution, an employer owned by the institution, or an employer who shares ownership with the institution	Total Graduates Employed in the Field
20XX	15	55
20XY	5	20

*Student's Initials: _____ Date: _____
Initial only after you have had sufficient time to read and understand the information.*

(k) Salary and Wage Information

All Salary and Wage Information shall be reported to the Bureau pursuant to sections 94910(d) and 94929.5(a)(3) of the Code and shall be included in the Performance Fact Sheet, for each educational program, in a format substantially similar to the chart below (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)

Name of Educational Program (Program Length)

Annual Salary and Wages Reported for Graduates Employed in the Field

Calendar Year	Graduates Available for Employment	Graduates Employed in the Field	\$15,000 - \$20,000	\$20,001 - \$25,000	\$25,001 - \$30,000	\$30,001 - \$35,000	No Salary Information Reported
20XX	100	70	5	40	6	3	16
20XY	80	55	5	7	3	5	35

A list of sources used to substantiate salary disclosures is available from the school. (Insert how student can obtain this information.)

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information."

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

Name of Educational Program (Program Length)

Calendar Year	Number of Students Who Began the Program	Number of Graduates	Graduates Available for Employment	Graduates Employed in the Field	Placement Rate % Employed in the Field
20XX	100	70	70	55	79%
20XY	80	55	55	20	36%

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

Gainful Employment Categories (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Part time vs. Full Time Employment

	Graduates Employed in the field 20 to 29 hours per week	Graduates Employed in the field at least 30 hours per week	Total Graduates Employed in the Field
20XX	15	40	55
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Single Position vs. Concurrent Aggregated Positions

	Graduates Employed in the field in a single position	Graduates Employed in the field in concurrent aggregated positions	Total Graduates Employed in the Field
20XX	52	3	55
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Self-Employed/Freelance Positions

	Graduates Employed who are self-employed or working freelance	Total Graduates Employed in the Field
20XX	3	55
20XY	5	20

Institutional Employment

	Graduates Employed in the field who are employed by the institution, an employer owned by the institution, or an employer who shares ownership with the institution	Total Graduates Employed in the Field
20XX	15	55
20XY	5	20

*Student's Initials: _____ Date: _____
Initial only after you have had sufficient time to read and understand the information.*

(1) Salary and Wage Information

All Salary and Wage Information shall be reported to the Bureau pursuant to sections 94910(d) and 94929.5(a)(3) of the Code and shall be included in the Performance Fact Sheet, for each educational program, in a format substantially similar to the chart below (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)

Name of Educational Program (Program Length)

Annual Salary and Wages Reported for Graduates Employed in the Field

Calendar Year	Graduates Available for Employment	Graduates Employed in the Field	\$15,000 - \$20,000	\$20,001 - \$25,000	\$25,001 - \$30,000	\$30,001 - \$35,000	No Salary Information Reported
20XX	100	70	5	40	6	3	16
20XY	80	55	5	7	3	5	35

A list of sources used to substantiate salary disclosures is available from the school. (Insert how student can obtain this information.)

*Student's Initials: _____ Date: _____
Initial only after you have had sufficient time to read and understand the information."*

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

(n) The institution shall provide on a separate document along with the Performance Fact Sheet the same cancellation disclosure as that which is required to be included with the enrollment agreement by Section 94911(e)(1) of the Code. The separate document shall be substantially the same size as the Performance Fact Sheet and shall be captioned "STUDENT'S RIGHT TO CANCEL" using bold 14 pt. type."

Violation: 5, CCR Section 74112(a): The 2016-2017 SPFS failed to contain all and only the information required or specifically permitted by sections CEC 94910 and 94929.5. The SPFS includes additional statements regarding federal loans not permitted by the law. The SPFS does not include placement or salary and wage information, as required by law.

Violation: 5, CCR Section 74112(h): The 2016-2017 SPFS failed to contain the proper formatting for the Completion Rates table. The On Time Completion Rates table is missing the program length from the title line. The Program Length does not match the program length that the Bureau has on file. The SPFS lists "(scheduled completion within two years)", however, the Bureau has the Addiction Studies Certificate listed as a 350-hour clock hour program.

Violation: 5, CCR Section 74112(i)(4): The 2016-2017 SPFS failed to contain the proper formatting for the Job Placement table and Gainful Employment tables. Under the Job Placement section, the Institution provided a statement that the educational program is not designed to lead to a particular career, occupation, vocation, job title, job classification or field.

Violation: 5, CCR Section 74112(k): The 2016-2017 SPFS failed to contain the proper formatting for the Salary and Wage table. Under the Salary and Wage section, the Institution provided a statement that the educational program is not designed to lead to a particular career, occupation, vocation, job title, job classification or field.

Violation: 5, CCR Section 74112(m)(1): The 2016-2017 SPFS supporting documentation failed to include the list of job classifications determined to be considered gainful employment for the educational program.

Violation: 5, CCR Section 74412(m)(2): The 2016-2017 SPFS supporting documentation failed to include address, phone number, email address, scheduled completion date.

Violation: 5, CCR Section 74112(m)(3): The 2016-2017 SPFS supporting documentation failed to include 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.

Violation: 5, CCR Section 74112(m)(6): The 2016-2017 SPFS supporting documentation failed to include a description of all attempts to contact each student. or employer.

Violation: 5, CCR Section 74112(m)(9): The 2016-2017 SPFS supporting documentation failed to include 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.

Violation: 5, CCR Section 74112(n): The 2016-2017 SPFS failed to contain the Institution's cancellation disclosure.

Order of Abatement:

The Bureau orders the Institution to submit to the Bureau a policy, or procedure, of how the Institution will maintain future compliance with 5, CCR section 74112.

Modified Order of Abatement:

The Bureau orders the Institution to update the SPFS to include Salary and Wage Information or remove the implied claim of preparing students for a recognized career from the catalog.

Assessment of Fine

The fine for this violation is \$5,000.00

Reason for modification: New substantive facts were presented at the conference.

The administrative fine for this violation has been modified from \$5,000.00 to \$00.00.

TOTAL MODIFIED ADMINISTRATIVE FINE DUE: \$500.00

ORDER OF ABATEMENT

The Bureau orders that you comply with the orders described in the 'Violation Code Sections' of this document and submit evidence of compliance within 30 days from the date of this decision.

PENALTY – ASSESSMENT OF A FINE

Payment of the administrative fine is due within 30 days from the date of this decision. Please complete the Payment of Fine form. Payment must be made to the Bureau by check, or money order. Please include the citation number on the payment of the fine assessment. Payment of the administrative fine shall not constitute an admission of the violation(s) charged and shall be represented as satisfactory resolution of the matter for purposes of public disclosure. Payments may be mailed to:

Cheryl Lardizabal, Discipline Citation Program
Bureau for Private Postsecondary Education
1747 N. Market Blvd., Suite 225
Sacramento, CA 95834

APPEAL OF CITATION

You *do not* have the right to request another Informal Conference to appeal this modified Citation. If you did not initially request an Administrative Hearing within 30 days from when the original citation was issued, you can no longer request one.

EFFECTIVE DATE OF CITATION AND FINE ASSESSMENT

This modified Citation is effective on **February 11, 2021**. The Order of Abatement and payment are due by **March 13, 2021**.

Failure to abate the violation or to pay the administrative fine within the time allowed is grounds for denial of an application for an approval to operate or discipline. The Bureau will promptly take all appropriate action to enforce the Modified 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 decision or desire further information, please contact Cheryl Lardizabal Citation Analyst, at (916) 574-8968 or at Cheryl.Lardizabal@dca.ca.gov.

“Original signature on file”

“2/11/2021”

Christina Villanueva
Discipline Manager

Date

Enclosures

- Payment of Fine – Waiver of Appeal Rights
- Declaration of Service by Certified and First-Class Mail