



APPEAL OF CITATION INFORMAL CONFERENCE
DECISION: CITATION MODIFIED

June 27, 2019

Jeannie Jongeward, Owner
 American Beauty Academy
 558 Main Street
 Brawley, CA 92227

Date of Issuance	Citation Number	Institution Code
June 27, 2019	1819158	1300291

On May 13, 2019, an informal telephone conference was held in the matter of Citation: Assessment of Fine and Order of Abatement No. 1819158 (Citation) against Jeannie Jongeward, Owner of American Beauty Academy (Institution). In attendance were Beth Scott, Enforcement Chief, and Jeannie Jongeward, Owner.

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. 1819158.

It is the decision of the Enforcement Chief that on June 20, 2019, Citation No. 1819158 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 94893 - Authorization Required for Substantive Change <i>If an institution intends to make a substantive change to its approval to operate, the institution shall receive prior authorization from the bureau. Except as provided in subdivision (a) of Section 94896, if the institution makes the substantive change without prior bureau authorization, the institution's approval to operate may be suspended or revoked.</i></p> <p>5, CCR Section 71600(a) - Application for Significant Change in Method of Instructional Delivery</p>

(a) An institution seeking to make a significant change in its method of instructional delivery shall complete the "Significant Change in Method of Instructional Delivery" form (INS rev. 2/10) to obtain prior authorization. For the purposes of this section a "significant change in instructional delivery" is any change that alters the way students interact with faculty or access significant equipment. The form shall be submitted to the Bureau along with the appropriate fee as provided in Section 94930.5(c) of the Code. For an institution approved under section 94885 of the Code, it shall be signed and dated by the signatory(ies) required by section 71380, and for an institution approved under section 94890 of the Code, it shall be signed and dated by the signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

"I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct."

During the Bureau's investigation, Bureau staff found that the Institution is providing instruction and educational materials in Spanish without Bureau approval

The Institution is in violation of CEC section 94893 and 5, CCR section 71600(a) for failure to submit an Application for a Change in Method of Instructional Delivery and failure to receive Bureau approval prior to making a substantive change.

Order of Abatement:

The Bureau orders the Institution to cease providing instruction in Spanish until they submit an Application for a Change in Method of Instructional Delivery and receive approval from the Bureau to do so. The Institution shall submit evidence of compliance to the Bureau.

Reason for modification: New substantive facts were presented at the conference. Order of Abatement satisfied.

Assessment of Fine

The fine for this violation is \$50.00

The administrative fine for this violation has been modified from \$50.00 to \$00.00.

2.

Violation:

CEC Section 94885(a)(6) and (9) – Minimum Operating Standards

(a) The bureau shall adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur: [...]

(6) The institution is financially sound and capable of fulfilling its commitments to students. [...]

(9) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws.

5, CCR Section 71745(a)(3),(6) – Financial Resources

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

(3) Maintain the minimum standards required by the Act and this chapter.

(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal year when using generally accepted accounting principles, or for an institution

participating in Title IV of the federal Higher Education Act of 1965, meet the composite score requirements of the U.S. Department of Education. For the purposes of this section, current assets does not include: intangible assets, including goodwill, going concern value, organization expense, startup costs, long-term prepayment of deferred charges, and non-returnable deposits, or state or federal grant or loan funds that are not the property of the institution but are held for future disbursement for the benefit of students. Unearned tuition shall be accounted for in accordance with general accepted accounting principles.

5, CCR Section 74115(b)(3) - Financial Statements

(b) A set of financial statements shall contain, at a minimum, a balance sheet, an income statement, and a cash flow statement, and the preparation of financial statements, shall comply with all of the following:

(3) The financial statements shall establish that the institution meets the requirements for financial resources required by Section 71745.

On October 23, 2018, Bureau staff reviewed the financial statements submitted to the Bureau by the Institution as part of the 2016 Annual Report. According to the statement provided, the Institution has a current asset to liabilities ratio of -18.57 to 1.00. The Institution does not meet the minimum standards for financial resources and is in violation of 5, CCR section 71745(a)(3),(6) which requires an assets to liabilities ratio of 1.25 (or greater) to 1.00, and 5,CCR section 74115(b)(3) which requires that the financial statements provided establish that the institution meets the minimum financial resources.

Order of Abatement:

The Bureau orders the Institution to:

1. Submit a detailed plan to address its financial shortfalls and to meet the ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal year in accordance with 5, CCR section 71745(a)(6).
2. In addition, please provide an explanation of all measures to be taken by the Institution to ensure it meets future financial responsibilities.
3. Please provide the Bureau with, in electronic format:
 - a) a roster of all currently enrolled students that includes the student (1) names, (2) addresses, (3) telephone numbers, (4) email addresses, (5) program in which they are enrolled, (6) date of enrollment, (7) total cost of the program and (8) the total amount the student has paid.

Assessment of Fine

The fine for this violation is \$00.00

3. **Violation:**

5, CCR Section 71730 (a) – Administration

(a) Each institution shall have a chief executive officer, a chief operating officer and chief academic officer. One person may serve more than one function.

During the Bureau's investigation, the Institution provided a statement to Bureau staff stating that they do not currently have a Chief Academic Officer. The Institution is in violation of the Bureau's regulations for failure to have a Chief Academic Officer as required by 5, CCR section 71730(a)

Order of Abatement:

The Bureau orders the Institution to provide documentation demonstrating that they have appointed a qualified Chief Academic Officer. The Institution shall submit evidence of compliance to the Bureau.

Reason for modification: Abatement has been satisfied.

Assessment of Fine

The fine for this violation is \$501.00

The administrative fine for this violation has been modified from \$501.00 to \$100.00.

4.

Violation:

CEC Section 94900(a)(b)(1)(2)(3) - Required Student Records

(a) An institution shall maintain records of the name, address, e-mail address, and telephone number of each student who is enrolled in an educational program in that institution.

(b) An institution shall maintain, for each student granted a degree or certificate by that institution, permanent records of all of the following:

(1) The degree or certificate granted and the date on which that degree or certificate was granted.

(2) The courses and units on which the certificate or degree was based.

(3) The grades earned by the student in each of those courses.

5, CCR Section 71920(b)(5)(A-E) - Student Records

(b) In addition to the requirements of section 94900, the file shall contain all of the following pertinent student records:

(5) In addition to the requirements of section 94900(b) of the Code, a transcript showing all of the following:

(A) The courses or other educational programs that were completed, or were attempted but not completed, and the dates of completion or withdrawal;

(B) Credit awarded for prior experiential learning, including the course title for which credit was awarded and the amount of credit;

(C) Credit for courses earned at other institutions;

(D) Credit based on any examination of academic ability or educational achievement used for admission or college placement purposes;

(E) The name, address, website address, and telephone number of the institution.

5, CCR Section 71930(b)(1) - Maintenance of Records

(b)(1) In addition to permanently retaining a transcript as required by section 94900(b) of the Code, the institution shall maintain for a period of 5 years the pertinent student records described in Section 71920 from the student's date of completion or withdrawal.

During the Bureau's investigation, the Institution provided a statement to Bureau staff stating that they do not maintain transcripts for graduated or withdrawn students. The Institution was unable to provide a copy of a transcript for all graduated student files that were reviewed. The Institution

does not keep records of the certificates awarded, the courses attended on which the certificate was based, or the grades for those courses, as required by statute and regulation.

Order of Abatement:

The Institution shall submit written policy of how future compliance with this code section will be maintained.

Modified Order of Abatement:

The Bureau orders the Institution to provide the Bureau with a policy stating student transcripts will be kept indefinitely.

Assessment of Fine

The fine for this violation is \$501.00

The administrative fine for this violation has been modified from \$501.00 to \$250.00.

5. **Violation:**

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.

During the Bureau's investigation, the Institution was unable to provide the supporting documentation for the 2014/2015 and 2015/2016 SPFS. The Institution failed to maintain SPFS supporting documentation and provide it to the Bureau upon request as required by regulation.

Order of Abatement:

The Bureau orders the Institution to provide a copy of the supporting documentation for the 2016/2017 SPFS. In addition, the Bureau orders that the Institution submit a written policy of how future compliance with this code section will be maintained.

Modified Order of Abatement:

The Bureau orders the Institution to provide the Bureau with a policy and updated procedure for how future compliance with this code section will be maintained.

Assessment of Fine

The fine for this violation is \$5,000.00

The administrative fine for this violation has been modified from \$5,000.00 to \$500.00.

6.

Violation:

5, CCR Section 76140(a)(1-13),(b) – Record-Keeping Requirements

(a) A qualifying institution shall collect and maintain records of student information to substantiate the data reported on the STRF Assessment Reporting Form and records of the students' eligibility under the Fund. Such records shall include the following for each student:

- (1) Student identification number,*
- (2) First and last names,*
- (3) Email address,*
- (4) Local or mailing address,*
- (5) Address at the time of enrollment,*
- (6) Home address,*
- (7) Date enrollment agreement signed,*
- (8) Courses and course costs,*
- (9) Amount of STRF assessment collected,*
- (10) Quarter in which the STRF assessment was remitted to the Bureau,*
- (11) Third-party payer identifying information,*
- (12) Total institutional charges charged, and*
- (13) Total institutional charges paid.*

(b) The qualifying institution shall maintain the data required under this section in an electronic format that is readily available and open to inspection by the Bureau upon request. The institution shall make the records immediately available to a Bureau representative conducting a site inspection or, upon written request, shall provide a copy within 14 calendar days of the request. All records shall be provided to the Bureau in an intelligible and orderly manner and in an electronic format.

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.

During the Bureau's investigation, the Institution was unable to provide the supporting documentation for the information reported on the STRF Assessment Reporting forms for 2018. The Institution failed to maintain the STRF supporting documentation and provide it to the Bureau upon request.

Order of Abatement:

The Bureau orders the Institution to provide a copy of the STRF supporting documentation for the first quarter of 2019. In addition, the Bureau orders that the Institution submit a written policy of how future compliance with this code section will be maintained.

Modified Order of Abatement:

The Bureau orders the Institution to provide the Bureau a copy of the STRF supporting documentation for the first quarter of 2019 that includes the student identification number.

Assessment of Fine

The fine for this violation is \$5,000.00

The administrative fine for this violation has been modified from \$5,000.00 to \$100.00.

TOTAL MODIFIED ADMINISTRATIVE FINE DUE: \$950.00

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:

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

APPEAL OF CITATION

You *do not* have the right to request another Informal Conference to appeal this modified Citation. You *do*, however, have the right to appeal this modified Citation through an Administrative Hearing. A hearing before an Administrative Law Judge will be scheduled and you will be notified of the hearing date. The hearing will be held pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you do not wish to appeal this modified Citation you must withdraw your initial request for an Administrative Hearing. Please complete and mail the enclosed Withdrawal - Request for Administrative Hearing within **30 Days** of the date of this decision.

EFFECTIVE DATE OF CITATION AND FINE ASSESSMENT

This modified Citation is effective on June 27, 2019. The order of abatement and payment are due by **July 27, 2019**.


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

Should you have any questions regarding this decision or desire further information, please contact Ray Delaney, Citation Analyst, at (916) 431-6946 or at Ray.Delaney@dca.ca.gov.



Christina Villanueva
Discipline Manager



Date

Enclosures

- Payment of Fine - Waiver of Appeal Rights
- Withdrawal- Request for Administrative Hearing
- Declaration of Service by Certified and First-Class Mail