



CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMI

To: Claudia Macias, Owner
 Divina Cosmetology & Barbering Academy
 1011 Mason Street, Units 5&6
 Vacaville, CA 95688

INSTITUTION CODE: 78865145
CITATION NUMBER: 2122146
CITATION ISSUANCE/SERVICE DATE: June 30, 2022
DUE DATE: July 30, 2022
FINE AMOUNT: \$ 8,500.00
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 Claudia Macias, Owner of Divina Cosmetology & Barbering Academy (Institution) located at 1011 Mason Street, Units 5&6, Vacaville, CA, 95688, pursuant to Business and Professions Code section 125.9; California Education Code (CEC) sections 94936 and 94932; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violations described below.

BACKGROUND

On March 21, 2022, Bureau staff conducted an Announced Compliance Inspection at the Institution. During the Compliance Inspection, the Institution failed to provide the supporting documentation to substantiate the data reported for the Student Tuition Recovery Fund (STRF) Assessment Reporting Forms, for the School Performance Fact Sheets (SPFS), and failed to provide the most current financial statement. In addition, the Institution was unable to provide all the requested documents for inspection and copying during normal business hours.

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.	<p>Violation: 5, CCR Section 76140(a)(1-13)(b) – Record-Keeping Requirements <i>“(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:</i></p> <p><i>(1) Student identification number,</i> <i>(2) First and last names,</i> <i>(3) Email address,</i> <i>(4) Local or mailing address,</i> <i>(5) Address at the time of enrollment,</i></p>

- (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 – Maintenance Records (e)

“(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 Inspection, Bureau staff requested the supporting documentation to substantiate the data reported for STRF. The Institution’s Owner stated that she was not tracking the required STRF data and could not provide the supporting documentation by the end of the onsite inspection.

Order of Abatement:

The Bureau orders the Institution to submit the most current supporting documentation for the most current STRF that includes all the required data. In addition, the Institution shall submit to the Bureau a written policy, or procedure, of how future compliance will be maintained per 5, CCR section 76140 and 71930.

Assessment of Fine

The fine for this violation is \$1,000.00

2.

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 – Maintenance Records (e)

"(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 Inspection, Bureau staff requested the supporting documentation to substantiate the data reported on the 2019-2020 SPFS. The Institution's Owner stated that the Institution did not have any documentation to provide as the pandemic caused the school to close and she did not track the data.

Order of Abatement:

The Bureau orders the Institution to submit the supporting documentation for the most current SPFS that includes all the required data. In addition, the Bureau orders the Institution to submit a written policy, or procedure, of how the Institution will maintain future compliance with 5, CCR Section 74112 and 71930.

Assessment of Fine

The fine for this violation is \$5,000.00

3. **Violation:**

5, CCR Section 71745(c) – Financial Statements

"(c) An institution shall provide to the Bureau its most current financial statements upon request."

5, CCR Section 71930 – Maintenance Records (e)

"(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 Inspection, Bureau staff requested the Institution's most recent financial statements. The Institution's Owner provided the Accounts Receivable report to the Bureau staff via email. The report did not contain a balance sheet, income statement, and cash flow statement; therefore, the Bureau was unable to determine if the Institution meets the required financial ratio. The Institution's Owner was unable to provide Bureau staff with financial statements that were compliant with 5, CCR section 74115.

Order of Abatement:

The Bureau orders the Institution to submit a hard copy of the financial statements for year-end 2021, and to submit a written policy, or procedure, of how the Institution will maintain future compliance with 5, CCR Section 71745, 74115, and 71930.

Assessment of Fine

	The fine for this violation is <u>\$2,500.00</u>
TOTAL ADMINISTRATIVE FINE DUE: \$8,500.00	

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 **\$8,500.00** 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 **July 30, 2022**, 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 **June 30, 2022**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **July 30, 2022**. 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:

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

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 Cheryl Lardizabal, Citation Analyst, at (916) 574-7427 or Cheryl.Lardizabal@dca.ca.gov.

“Original Signature on File”

“6/30/2022”

Christina Villanueva
Discipline Manager

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