



Bureau for Private Postsecondary Education
1747 N. Market Blvd. Ste 225 Sacramento, CA 95834
P.O. Box 980818, West Sacramento, CA 95798-0818
P (916) 574-8900 F (916) 263-1897 www.bppe.ca.gov



NOTICE AND EMERGENCY DECISION

January 24, 2020

CERTIFIED AND OVERNIGHT DELIVERY

TO: Holberton, Inc., Owner
Holberton School
972 Mission Street - 1st Floor
San Francisco, CA 94103

Pursuant to Education Code section 94938, California Code of Regulations, Title 5, section 75150, and article 13 (commencing with section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, the Bureau for Private Postsecondary Education (Bureau) issues the following Emergency Decision:

The Bureau hereby orders Holberton School, Inc. (Institution) to:

- 1. CEASE ENROLLMENT OF NEW STUDENTS IN ALL OF THE INSTITUTE’S PROGRAMS;**
- 2. CEASE ALL INSTRUCTION FOR ALL OF THE INSTITUTE’S PROGRAMS; AND**
- 3. CEASE COLLECTION OF TUITION AND FEES FOR ALL OF THE INSTITUTE’S PROGRAMS.**

At the following location:

HOLBERTON SCHOOL
School Code: 47845455
972 Mission Street - 1st Floor
San Francisco, CA 94103

This Order is effective upon close of business February 4, 2020:

This Order is based on an immediate danger to the public’s health, safety, and welfare. Specifically, as set forth in the attached Declaration of Brian Kauth:

- There is a substantial failure by the Institution to meet institutional minimum operating standards in that, among other violations, the institution is charging students and then not offering completion of the educational programs approved by the Bureau and relatedly misrepresenting the cost for, and quality of education



students receive, in violation of the California Private Postsecondary Education Act of 2009 and the California Code of Regulations, Title 5.

- Additionally, there is substantial evidence the institution obtained their approval by fraud in July of 2018, and falsified their Application for Approval, enrollment agreements, and catalog and the institution engaged in numerous prohibited Business practices.
- There is a substantial failure by the Institution to obtain the proper approval to operate before operating as a private postsecondary institution. As a result, numerous students continue to be harmed financially by being forced to repay ISAs entered into in connection with enrollment agreements, that are unenforceable because the institution was engaging in unlicensed activity.
- Additionally, the institution continues to enforce enrollment agreements and ISAs entered into before proper approval was granted, all in violation of the California Private Postsecondary Education Act of 2009 and the California Code of Regulations, Title 5.

These circumstances require immediate action by the Bureau to protect students, prevent misrepresentations to the public, and prevent the loss of public funds or monies paid by students.

You have the right to be heard before the Director of the Department of Consumer Affairs, or her designee, regarding the allegations in the Emergency Decision prior to the effective date of the Emergency Decision.

If you would like to be heard before the Director, please submit a request by fax to Renee Walters, Bureau for Private Postsecondary Education, 1747 N. Market Blvd. Suite 225, Sacramento, CA 95834 (916) 263-18976 (fax). Alternatively, you may request a hearing before the Director, or her designee, by telephoning Renee Walters at (916) 574-8970. Unless the Bureau receives your request by 5:00 p.m. on January 27, 2020, you will be deemed to have waived your right to be heard before the Director, or her designee.

If requested, the hearing before the Director of the Department of Consumer Affairs, or her designee, will be held on January 30, 2020 at 10:00 a.m. at the Department of Consumer Affairs Executive Office, located at 1625 North Market Blvd., Suite S-309 Sacramento, CA 95834.



Bureau for Private Postsecondary Education
1747 N. Market Blvd. Ste 225 Sacramento, CA 95834
P.O. Box 980818, West Sacramento, CA 95798-0818
P (916) 574-8900 F (916) 263-1897 www.bppe.ca.gov



Within 10 days after issuance of the Emergency Decision, the Bureau will file an Accusation to revoke the Institution’s Approval to Operate based, in part, on the charges and allegations set forth in the Emergency Decision. The adjudicative proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Upon issuance of the Emergency Decision, you have the right under Government Code section 11460.80 to obtain judicial review of the Decision.

The Emergency Decision shall remain in effect until such time as the Accusation has been fully adjudicated or upon issuance of the final decision following judicial review.

“Original signature on file”

Dr. Michael Marion, Jr.
Bureau Chief
Bureau for Private Postsecondary Education

“1/24/2020”

Date

Declaration of Brian Kauth

I, Brian Kauth, declare that if called to testify I would testify competently and relevantly as follows:

1. Since March 2015, I have been an Associate Governmental Program Analyst/Field Investigator for the Bureau for Private Postsecondary Education (“Bureau”) with the California Department of Consumer Affairs (DCA). My duties include investigation of institutions approved by the Bureau, as well as unapproved institutions, including but not limited to reviewing documents and writing investigative reports. I have personal knowledge of the matters set forth herein.

2. The Bureau has discretion to make an emergency decision to protect the public. California Education Code section 94938 states, in part:

“(a) If the bureau determines that it needs to make an emergency decision to protect students, prevent misrepresentation to the public, or prevent the loss of public funds or moneys paid by students, it may do so pursuant to Article 13 (commencing with Section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.”

Title 5, California Code of Regulations Division 7.5, section 75150, states, in part:

- “(a) The Bureau may make an emergency decision for temporary, interim relief pursuant to Article 13 (commencing with section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) The Bureau may make an emergency decision pursuant to subdivision (a) where there is an immediate danger to the public health, safety, or welfare that requires immediate action to protect students, prevent misrepresentations to the public, or prevent the loss of public funds or monies paid by students, including but not limited to fraud; a substantial misrepresentation in the institution's Performance Fact Sheet, school catalog, or enrollment agreement; a substantial failure to meet institutional minimum operating standards; failure to meet statutory and regulatory requirements for accreditation; or a substantial failure to obtain a necessary approval or permit from another agency or regulatory body, affecting public health, safety or welfare.

- (c) The Bureau may order temporary, interim relief in the form of some or all of the following measures:
 - (1) cease or limit enrollment of new students;
 - (2) cease part or all instruction for some or all programs;
 - (3) cease collection of tuition or fees for some or all programs.
 - (4) suspend approval or provisional approval to operate or offer any degree programs.”

3. State statutes and regulations require that private postsecondary educational institutions, such as Holberton School, be approved by the Bureau. Holberton School is currently approved by the Bureau to offer a two-year, 4331 hour, Full-Stack Software Engineer program. The educational objective for the program is for the students to learn to develop websites from the front end, or user interface to the back end or server, applications, and database. As a condition of that approval, Holberton School was prohibited from offering students Income Share Agreement (ISA) as a method of paying for their education. The ISA allows students to forgo paying their tuition at the beginning of their education program in exchange for paying the institution 17.0% of their income for 3.5 years after graduating.

4. To ensure public protection, the Bureau’s law mandates that institutions meet and maintain institutional minimum operating standards, which include ensuring that the content of each educational program achieves its stated objective, and that upon satisfactory completion of an educational program, the institution gives students a document signifying the completion. [Ed. Code § 94885.] Minimum operating standards are not met where instruction of the approved program is not the central focus of the resources and services of the institution, or where direct instruction does not include the physical presence of students and faculty at the same location. [Title 5, Code of Regulations, § 71715.]

5. As set forth below, my investigation of Holberton School revealed that there is an

immediate danger to the public's health, safety, and welfare that warrants an order to prevent Holberton School from enrolling new students and collecting tuition from any students pending the outcome of an action to revoke Holberton School's approval to operate. In sum, my investigation found that, among other violations of law, Holberton School was operating without the Bureau's approval, it obtained its approval to operate by fraud, and it is fraudulently graduating students before they complete the Full Stack Software Engineer program. Holberton School was enrolling students into its Full Stack Software Engineer program before the Bureau issued it an Approval to Operate on July 11, 2018. As a condition of its Approval to Operate, Holberton School agreed that it would not offer ISAs to students. However, it continued to offer ISAs to students after the Bureau issued it an Approval to Operate on July 11, 2018, thereby, obtaining its Approval to Operate by fraud. Holberton School issues graduation certificates to students after they have completed nine-months of education, have left Holberton School's Full Stack Software Engineer program, and have maintained employment for six months. Holberton School is defrauding current students and may harm future students out of thousands of dollars by charging for a two-year education program and training yet only providing nine-months.

6. Specifically, the following forms the basis for the Bureau's Emergency Decision:

a. During the course of the investigation, I obtained and reviewed numerous student files and other documents, and interviewed students enrolled in Holberton School's Full Stack Software Engineer program as well as institution administrators. During my investigation, I made the following determinations:

b. Holberton School enrolled students before obtaining the Bureau's Approval to Operate on July 11, 2018.

c. During the application process, the Bureau told Holberton School that it would not issue an Approval to Operate if Holberton School continued to offer ISAs to students. Holberton School agreed to that condition in order to obtain its Approval to Operate and removed all mention of ISAs from its School Catalog and Enrollment Agreement. After obtaining its Approval to Operate, Holberton School offered ISAs to students violating the condition of its Approval to Operate. To this date, Holberton School continues to offer ISAs to students.

c. Holberton School encouraged students to leave the Full Stack Software Engineer program after nine-months of education and pursue employment. After finding and maintaining employment for six months, Holberton School requested that the student have their employer write a letter to verify they completed six months of employment and were in good standing. Based on that letter, Holberton School gave students credit for fifteen months of education which the student had not completed. Holberton School then issued graduation certificates to those students and insisted they pay the full price of \$85,000 for the Full Stack Software Engineer program.

7. I have recommended the Bureau take disciplinary action against Holberton School to prevent the institution from causing further, and/or future, student harm. This recommendation was based on the determination that Holberton School violated California Education Code (CEC) § 94886 – Approval to Operate Required, CEC § 94837(a)(1) – Probation, Revocation, Cost Recovery, and CEC § 94897(j) – Prohibited Business Practices.

8. The Bureau believes that there is immediate danger to the public's health, safety, or welfare that requires immediate action to protect students, prevent misrepresentations to the public, and prevent the loss of monies paid by students. The Bureau has a duty to ensure that Holberton School continues to meet minimum operating standards. An emergency decision is necessary to prevent new student enrollment as well as collection of tuition by Holberton School.

The Bureau's findings are that Holberton School was operating prior to obtaining Bureau approval, obtained an Approval to Operate by fraud, is fraudulently graduating students, and is in violation of other Bureau's laws and regulations.

9. During the course of my investigation, students advised me they continue to incur financial harm by being forced to pay back ISA's for an education they did not receive. Some of these ISA's were entered into during the time Holberton was operating unlicensed by the Bureau. In addition, students enrolled after the fraudulent approval was obtained, are incurring and being forced to pay back ISA's entered for education hours they did not receive, but were charged anyway. Holberton continues to operate the same way today. If not stopped, additional students will be harmed and forced to pay back costs for an education never delivered.

I declare under penalty of perjury under the laws of the State of California that the above statements are true and correct of my personal knowledge.

Executed this 24th day of January 2020 at
Sacramento, California.

"Original signature on file"
BRIAN KAUTH
Associate Governmental Program Analyst