



CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMI

To: Ninh Nguyen, Owner
Milpitas Massage College
106 S. Abel St.
Milpitas, CA 95035

INSTITUTION CODE: 60985589
CITATION NUMBER: 2223011
CITATION ISSUANCE/SERVICE DATE: August 8, 2022
DUE DATE: September 7, 2022
FINE AMOUNT: \$ 5,000.00
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 Ninh Nguyen, Owner of Milpitas Massage College (Institution) located at 106 S. Abel St, Milpitas, CA, 95035, 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 July 29, 2021, Bureau staff conducted an announced Compliance inspection at the Institution. Bureau staff reviewed student files and found possible material violations related to the Enrollment Agreements, Student Performance Fact Sheets (SPFS), and SPFS supporting documentation. In addition, the Owner 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 71920 (a)(b)(3) – Student Records <i>“(a) The institution shall maintain a file for each student who enrolls in the institution whether or not the student completes the educational service.</i> <i>(b) In addition to the requirements of section 94900, the file shall contain all of the following pertinent student records:</i> <i>(3) Copies of all documents signed by the student, including contracts, instruments of indebtedness, and documents relating to financial aid;</i></p>

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.”

5, CCR Section 71800(c) – Enrollment Agreement

“In addition to the requirements of section 94911 of the Code, an institution shall provide to each student an enrollment agreement that contains at the least the following information:

(c) Program start date and scheduled completion date.”

CEC Section 94902(a)(b)(1)(3) – General Enrollment Requirements

(a) A student shall enroll solely by means of executing an enrollment agreement. The enrollment agreement shall be signed by the student and by an authorized employee of the institution.

(b) An enrollment agreement is not enforceable unless all of the following requirements are met:

(1) The student has received the institution’s catalog and School Performance Fact Sheet prior to signing the enrollment agreement.

(3) Prior to the execution of the enrollment agreement, the student and the institution have signed and dated the information required to be disclosed in the Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of Section 94910. Each of these items in the Student Performance Fact Sheet shall include a line for the student to initial and shall be initialed and dated by the student.”

Violation: 5, CCR Section 71920 (a)(b)(3), 5, CCR Section 71800 (c), and CEC Section 94902

(a)(b)(1)(3): Bureau staff reviewed student files and found that the files did not contain a copy of the SPFS document as required. In addition, Bureau staff found that the Enrollment Agreement was not complete, as the financial section, program start date, and scheduled completion date sections were missing.

Violation: 5, CCR Section 71930(e): The Institution did not have faculty files for the Bureau staff to review. The Owner stated that faculty information could be found in the catalog. Bureau staff informed the Owner that the Institution must keep faculty records to show proof of education requirements.

Order of Abatement:

The Bureau orders the Institution to complete and submit the following:

- Update, complete, and provide current students with a new updated, compliant, Enrollment Agreement for signature. The Institution shall submit proof of compliance to the Bureau via a declaration, or similar documentation.
- Provide the most current SPFS to current and prospective students for review and signature. The Institution shall submit proof of compliance to the Bureau via a declaration, or similar documentation.
- Create faculty files and submit copies of the completed files, along with a roster of names of current faculty, to the Bureau for review.
- Submit a policy, or procedure, of how future compliance will be maintained per 5, CCR Section 71920, 71800, 71930 and CEC Section 94902.

Assessment of Fine

The fine for this violation is \$5,000.00

TOTAL ADMINISTRATIVE FINE DUE: \$5,000.00

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 **\$5,000.00** 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 **September 7, 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 **August 8, 2022**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **September 7, 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”

“ 8/8/2022”

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