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8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:
13 **MANNA ADULT CONTINUING**
14 **EDUCATION CENTER; EDRA**
15 **BOZKURT, OWNER**
16 **Application for Approval to Operate a Non-**
Accredited Institution Applicant
17 Respondent.

Case No. 999858
FIRST AMENDED
STATEMENT OF ISSUES

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19 Complainant alleges:

20 **PARTIES**

- 21 1. Joanne Wenzel (Complainant) brings this First Amended Statement of Issues solely
22 in her official capacity as the Chief of the Bureau for Private Postsecondary Education,
23 Department of Consumer Affairs.
24 2. On or about July 29, 2013, the Bureau for Private Postsecondary Education received
25 an Application for Approval to Operate a Non-Accredited Institution from Manna Adult
26 Continuing Education Center; Edra Bozkurt, Owner (Respondent). On or about July 27, 2013,
27 Manna Adult Continuing Education Center; Edra Bozkurt, Owner certified under penalty of
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1 perjury to the truthfulness of all statements, answers, and representations in the application. The
2 Bureau denied the application on July 11, 2014.

3 JURISDICTION

4 3. This Statement of Issues is brought before the Director of the Department of
5 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
6 authority of the following laws. All section references are to the Business and Professions Code
7 unless otherwise indicated.

8 4. Section 94887 of the Education Code states:

9 "An approval to operate shall be granted only after an applicant has presented
10 sufficient evidence to the bureau, and the bureau has independently verified the information
11 provided by the applicant through site visits or other methods deemed appropriate by the
12 bureau, that the applicant has the capacity to satisfy the minimum operating standards. The
13 bureau shall deny an application for an approval to operate if the application does not
14 satisfy those standards."
15

16 5. Section 94910 of the Education Code states:

17 "Except as provided in subdivision (d) of Section 94909 and Section 94910.5, prior to
18 enrollment, an institution shall provide a prospective student with a School Performance Fact
19 Sheet containing, at a minimum, the following information, as it relates to the educational
20 program:

21 "(a) Completion rates, as calculated pursuant to Article 16 (commencing with Section
22 94928).

23 "(b) Placement rates, as calculated pursuant to Article 16 (commencing with Section
24 94928), if the educational program is designed to lead to, or the institution makes any express or
25 implied claim related to preparing students for, a particular career, occupation, vocation, job, or
26 job title.

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1 "(c) License examination passage rates for programs leading to employment for which
2 passage of a state licensing examination is required, as calculated pursuant to Article 16
3 (commencing with Section 94928).

4 "(d) Salary or wage information, as calculated pursuant to Article 16 (commencing with
5 Section 94928)

6 "(e) If a program is too new to provide data for any of the categories listed in this
7 subdivision, the institution shall state on its fact sheet: "This program is new. Therefore, the
8 number of students who graduate, the number of students who are placed, or the starting salary
9 you can earn after finishing the educational program are unknown at this time. Information
10 regarding general salary and placement statistics may be available from government sources or
11 from the institution, but is not equivalent to actual performance data."

12 "(f) All of the following:

13 "(1) A description of the manner in which the figures described in subdivisions (a) to (d),
14 inclusive, are calculated or a statement informing the reader of where he or she may obtain a
15 description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are
16 calculated.

17 "(2) A statement informing the reader of where he or she may obtain from the institution a
18 list of the employment positions determined to be within the field for which a student received
19 education and training for the calculation of job placement rates as required by subdivision (b).

20 "(3) A statement informing the reader of where he or she may obtain from the institution a
21 list of the objective sources of information used to substantiate the salary disclosure as required
22 by subdivision (d).

23 "(g) The following statements:

24 "(1) "This fact sheet is filed with the Bureau for Private Postsecondary Education.
25 Regardless of any information you may have relating to completion rates, placement rates,
26 starting salaries, or license exam passage rates, this fact sheet contains the information as
27 calculated pursuant to state law."

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1 "(2) "Any questions a student may have regarding this fact sheet that have not been
2 satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary
3 Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and
4 fax numbers).

5 “(h) If the institution participates in federal financial aid programs, the most recent
6 three-year cohort default rate reported by the United States Department of Education for the
7 institution and the percentage of enrolled students receiving federal student loans.

8 “(i) Data and information disclosed pursuant to subdivisions (a) to (d), inclusive, is
9 not required to include students who satisfy the qualifications specified in subdivision (d) of
10 Section 94909, but an institution shall disclose whether the data, information, or both
11 provided in its fact sheet excludes students pursuant to this subdivision. An institution shall
12 not actively use data specific to the fact sheet in its recruitment materials or other
13 recruitment efforts of students who are not California residents and do not reside in
14 California at the time of their enrollment.”¹

16 6. Title 5, California Code of Regulation section 71700 provides:

17 The Bureau may request that an institution document compliance with the standards set
18 forth in the Act and this Division to obtain and maintain an approval to operate.

19 7. Title 5, California Code of Regulation section 71730 provides:

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

23 (b) The duties, responsibilities, and performance evaluation criteria for
24 each administrator shall be set forth in a personnel manual or other writing
25 maintained by the institution.

26 (c) An institution with one or more branch locations shall establish
27 written institutional policies, consistent with subdivision (d), regarding the division
28 and sharing of administrative responsibilities between the central administration at the
main location and the administration at the branch locations.

¹ Education Code section 94910 was amended effective January 1, 2015.

1 (d) The administrative staffing at each branch location shall reflect the
2 purposes, size, and educational operations at that location and at any satellite location
3 for which the branch has administrative responsibilities.

4 (e) The chief academic officer shall possess a degree or equivalent
5 acceptable experience at least equal to the highest qualifications required of the
6 institution's faculty. Chief academic officers employed on the date of implementation
7 of these regulations, who do not meet the qualifications for their positions, shall have
8 three years to earn the necessary degrees or experience to qualify them for their
9 position.

10 (f) The institution shall employ administrative personnel who have the
11 expertise to ensure the achievement of the institution's mission and objectives and the
12 operation of the educational programs.

13 (g) The institution shall not employ or continue to employ any
14 administrative personnel who were adjudicated in a judicial or administrative
15 proceeding as having violated any provision of the Act or this chapter or as having
16 committed any act that would constitute grounds for the denial of a license under
17 Section 480 of the Business and Professions Code.

18 8. Title 5, California Code of Regulation section 74112 provides in pertinent part:

19 “(a) Format. The format for the Performance Fact Sheet shall be in at
20 least 12 pt. type, in an easily readable font, with 1.15 line spacing. The Performance
21 Fact Sheet shall contain all and only the information required or specifically
22 permitted by section 94910 of the Code or this chapter.”

23 9. Title 5, California Code of Regulation section 71745 provides:

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

26 (1) Provide all of the educational programs that the institution represented
27 it would provide.

28 (2) Ensure that all students admitted to its educational programs have a
reasonable opportunity to complete the programs and obtain their degrees or
diplomas.

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

(4) Pay timely refunds as required by Article 13 of the Act.

(5) Pay all operating expenses due within 30 days.

(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.

(b) At an institution's request, the Bureau may consider the financial resources of a parent company if the parent company, as defined by section 94853 of the Code, meets and maintains all of the following provisions:

(1) consents in writing to be sued in California;

(2) consents in writing to be subject to the jurisdiction of the Bureau with respect to the institution's regulation under the Act and this Chapter;

(3) designates and maintains an agent for service of process, consistent with section 74190;

(4) agrees in writing to pay any refund, claim, penalty, or judgment that the institution is obligated to pay; and

(5) files financial reports, maintains financial records, and consents in writing to permit the inspection and copying of financial records to the same extent as is required of the institution.

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

10. Following Respondent's submission of their Application for Approval to Operate a Non-Accredited Institution, the Bureau sent deficiency letters on August 8, 2013, November 12, 2013, February 13, 2014, and March 19, 2014. A informal visit was conducted on April 3, 2014. The Bureau's Notice of Denial of the Application for Renewal of Approval to Operate was sent on July 11, 2014.

FIRST CAUSE FOR DENIAL OF APPLICATION

(No Performance Evaluation Criteria)

11. Respondent's application is subject to denial pursuant to the Education Code section 94887 in conjunction with Title 5, California Code of Regulations section 71730(b) in that during the informal visit on April 3, 2014, the institution did not provide the performance evaluation criteria for each administrator as required by statute.

SECOND CAUSE FOR DENIAL OF APPLICATION

(List of Employment Positions)

12. Respondent's application is subject to denial pursuant to Education Code section 94887 in conjunction with the California Education Code section 94910 (f)(2) in that the institution failed to provide a list of employment positions within the field for which a student

1 would receive education and training as required by statute and instead provided a link to the
2 Bureau's online sample of a School Performance Fact Sheet.

3 THIRD CAUSE FOR DENIAL OF APPLICATION

4 (Unauthorized Information included in the School Performance Fact Sheet)

5 13. Respondent's application is subject to denial pursuant to Education Code section
6 94887 in conjunction with the Title 5, California Code of Regulations Section 74112 (a) in that
7 the School's Performance Fact Sheet listed EDD Certified Nursing Assistant low, median and
8 high salaries and a certification statement and definition of the certificate of completion, which is
9 not permitted.

10 FOURTH CAUSE FOR DENIAL OF APPLICATION

11 (Insufficient Assets/Resources)

12 14. Respondent's application is subject to denial based upon their financial
13 documentation which reflects that there are insufficient assets or resources as required by Title 5,
14 California Code of Regulation Section 71745 (a)(1-5) in that their statement of cash flow shows a
15 negative \$82,466. Additionally, the financial statements submitted to the Bureau, for the year
16 ending October 31, 2013, the company incurred a net loss of \$38,028. The same financial
17 statement indicates that the company had not filed its 2012 federal or state tax returns.

18 A financial Statement for year ending December 31, 2013, was also submitted to the
19 Bureau which in their statement of cash flow shows a negative \$83,543. Additionally the
20 financial statements show a net income loss of \$44,937.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

1. Denying the application of Manna Adult Continuing Education Center; Edra Bozkurt, Owner for an Approval to Operate a Non-Accredited Institution;
2. Taking such other and further action as deemed necessary and proper.

DATED: 9/20/16


JOANNE WENZEL
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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