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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 999861

13 **FEDERICO CAREER COLLEGES, INC.**
14 **SAMUEL FEDERICO, PRESIDENT**

STATEMENT OF ISSUES

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official
19 capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of
20 Consumer Affairs.

21 2. On or about December 2, 2011, the Bureau received an Application for Approval to
22 Operate an Accredited Institution, Application No. 24205 from Federico Career Colleges, Inc.,
23 Samuel Federico, President (collectively Respondent). On or about November 29, 2011, Samuel
24 Federico certified under penalty of perjury to the truthfulness of all statements, answers, and
25 representations in the application. The Bureau denied the application on May 12, 2014.

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JURISDICTION

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

6 4. Code section 94875 states:

7 “The Bureau for Private Postsecondary Education, as established by Section 6 of Chapter
8 635 of the Statutes of 2007, is continued in existence and shall commence operations. This
9 chapter establishes the functions and responsibilities of the bureau, for the purposes of Section 6
10 of Chapter 635 of the Statutes of 2007. The bureau shall regulate private postsecondary
11 educational institutions through the powers granted, and the duties imposed, by this chapter. In
12 exercising its powers, and performing its duties, the protection of the public shall be the bureau’s
13 highest priority. If protection of the public is inconsistent with other interests sought to be
14 promoted, the protection of the public shall be paramount.”

15 5. Code section 94887 states

16 “An approval to operate shall be granted only after an applicant has presented sufficient
17 evidence to the bureau, and the bureau has independently verified the information provided by the
18 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
19 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
20 for approval to operate if the application does not satisfy those standards.”

21 6. Code section 94890 states that:

22 “(a)(1) The bureau shall grant an institution that is accredited an approval to operate by
23 means of its accreditation.

24 (2) The bureau shall, by January 1, 2011, adopt by regulation, the process and procedures
25 whereby an institution that is accredited may apply for and obtain an approval by means of that
26 accreditation.

27 (b) The term of an approval to operate pursuant to section shall be coterminous with the
28 term of accreditation. Upon renewal of the institution’s accreditation, the institution shall submit

1 verification to the bureau, on a form provided by the bureau, that the institution's accreditation
2 has been renewed.

3 (c) Institutions that are granted an approval to operate by means of the institution's
4 accreditation shall comply with all other applicable requirements in this chapter."

5 7. Code section 94930.5 states:

6 "An institution shall remit to the bureau for deposit in the Private Postsecondary Education
7 Administration Fund the following fees, in accordance with the following schedule:

8 (a) The following fees shall be remitted by an institution submitting an application for an
9 approval to operate, if applicable:

10 (1) Application fee for an approval to operate: five thousand dollars (\$5,000).

11 (2) Application fee for the approval to operate a new branch of the institution: three
12 thousand dollars (\$3,000).

13 (3) Application fee for an approval to operate by means of accreditation: seven hundred
14 fifty dollars (\$750).

15 (b) The following fees shall be remitted by an institution seeking a renewal of its approval
16 to operate, if applicable:

17 (1) Renewal fee for the main campus of the institution: three thousand five hundred dollars
18 (\$3,500).

19 (2) Renewal fee for a branch of the institution: three thousand dollars (\$3,000).

20 (3) Renewal fee for an institution that is approved to operate by means of accreditation: five
21 hundred dollars (\$500).

22 (c) The following fees shall apply to an institution seeking authorization of a substantive
23 change to its approval to operate, if applicable:

1 (1) Processing fee for authorization of a substantive change to an approval to operate: five
2 hundred dollars (\$500).

3 (2) Processing fee in connection with a substantive change to an approval to operate by
4 means of accreditation: two hundred fifty dollars (\$250).

5 (d)(1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c),
6 inclusive, each institution that is approved to operate pursuant to this chapter shall remit both of
7 the following:

8 (A) An annual institutional fee, in an amount equal to three-quarters of 1 percent of the
9 institution's annual revenues derived from students in California, but not exceeding a total of
10 twenty-five thousand dollars (\$25,000) annually.

11 (B) An annual branch fee of one thousand dollars (\$1,000) for each branch or campus of the
12 institution operating in California.

13 (2) The amount of the annual fees pursuant to paragraph (1) shall be proportional to the
14 bureau's cost of regulating the institution under this chapter.

15 (e) If the bureau determines that the annual cost of providing oversight and review of an
16 institution, as required by this chapter, is less than the amount of any fees required to be paid by
17 that institution pursuant to this article, the bureau may decrease the fees applicable to that
18 institution to an amount that is proportional to the bureau's costs associated with that institution.”
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20 8. Section 71700, title 5, California Code of Regulations states:

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

23 9. Section 71390, title 5, Code of California Regulations, states, in pertinent part,
24 that:

25 “(a) An applicant seeking approval to operate by means of accreditation pursuant to Section
26 94890(a)(1) of the Code shall complete the “Application for Approval to operate for an
27 Accredited Institution, Form Application 94890 (rev.2/10).
28

1 (b) An applicant shall submit to the Bureau the form required by subdivision (a) of this
2 section a certified copy of its current verification of accreditation granted by its accrediting
3 agency, and the appropriate application fee, as provided in Section 94390.5(a)(3) of the Code.

4 ...”

5 10. Section 74000, title 5, California Code of Regulations states, in pertinent part, that “(a)
6 an institution shall pay the fees established by Article 17 of the Act. A failure to include a fee
7 with an application or other request renders the application incomplete.”

8 11. Section 71405, title 5, California Code of Regulations states:

9
10 “(a) If, after the submission of an application but prior to the Bureau's decision to approve
11 or deny an approval to operate, there is any material change in circumstances affecting any
12 information contained in the application or submitted by the institution in support of the
13 application, the institution shall immediately inform the Bureau in writing.

14 (b) For the purposes of this section, a change in circumstance is "material" if, without the
15 inclusion of the new or different information into the application, the information contained in or
16 the supporting documentation to the application would be false, misleading, or incomplete.”

17 12. Business & Professions Code Section 118, subdivision (b) provides that the
18 suspension/expiration/surrender/cancellation of a license shall not deprive the
19 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
20 within which the license may be renewed, restored, reissued or reinstated.

21 FACTUAL BACKGROUND

22 13. On or about December 2, 2011, the Bureau received Respondent’s “Application for
23 Approval to Operate an Institution Accredited”, Number 24205 (Application).

24 14. By letter dated December 29, 2011, the Bureau notified Respondent that the Bureau
25 was not able to grant the Application because it was incomplete. The Application did not provide
26 the Bureau with required information, and the letter from the National Accrediting Commission
27

1 of Career Arts & Sciences dated September 15, 2010, submitted as part of the Application was
2 not current.

3 15. By letter dated December 29, 2011, the Bureau notified Respondent that Respondent
4 had not paid the Bureau money due for Student Tuition Recovery Fees for the 1st, 2nd and 3rd
5 Quarters of 2010, or 2011 Annual Fees, and that the Bureau could not grant the Application until
6 the fees were paid by Respondent.

7 16. In January 2012, Respondent submitted additional information to the Bureau,
8 including a letter from the National Accrediting Commission of Career Arts & Sciences dated
9 January 20, 2012.

10 17. By letter of February 1, 2012, the Bureau notified Respondent for the second time
11 that Respondent had not paid the Bureau the money due for Student Tuition Recovery Fees for
12 the 1st, 2nd and 3rd Quarters of 2010, or 2011 Annual Fees, and that the Bureau could not grant the
13 Application until they were paid by Respondent.

14 18. By letter of May 14, 2012, the Bureau notified Respondent for the third time that
15 Respondent had not paid the Bureau the money due for Student Tuition Recovery Fees for the 1st,
16 2nd and 3rd Quarters of 2010, or 2011 Annual Fees, and that the Bureau could not grant the
17 Application until they were paid by Respondent.

18 19. On or about April 29, 2014, the Bureau researched Respondent's accreditation status
19 on the website of the National Accrediting Commission of Career Arts & Sciences. The website
20 showed that Respondent had lost its accreditation by National Accrediting Commission of Career
21 Arts & Sciences.

22 20. At the time that the Bureau denied the Application, Respondent's institution was not
23 accredited, All required information was not provided by Respondent to the Bureau and
24 Respondent had not paid any of the money due for Student Tuition Recovery Fees for the 1st, 2nd
25 and 3rd Quarters of 2010, or 2011 Annual Fees.

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FIRST CAUSE FOR DENIAL

(Incomplete Application)

21. Based upon Paragraphs 13-21 above, the Application is subject to denial because at all relevant times it was incomplete. Respondent violated Section 74000(a), title 5, Code of California Regulations by not providing all required information or paying the Bureau the Student Tuition Recovery fees for the 1st, 2nd and 3rd Quarters of 2010, or 2011 Annual Fees.

SECOND CAUSE FOR DENIAL

(Loss of Accreditation)


22. The Application is subject to denial because Respondent violated Code section 94890 and Section 71405, title 5, California Code of Regulations. While the incomplete Application was under submission with the Bureau, Respondent suffered a material change in circumstances affecting information contained in the Application and/or information submitted by Respondent in support of the Application. The material change of circumstances is that Respondent lost its accreditation by National Accrediting Commission of Career Arts & Sciences. Respondent did not report its loss of accreditation to the Bureau in violation of Section 71405, title 5, California Code of Regulations.

PRAYER

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

1. Denying the Application for Approval to Operate an Accredited Institution submitted by Samuel Federico and Federico Career Colleges, Inc.; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 10/17/14


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