

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804
Attorneys for Complainant
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8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
STATE OF CALIFORNIA
10

11 In the Matter of the Statement of Issues
Against:

Case No. 999877

12 **CALIFORNIA PREPARATORY**
13 **COLLEGE;**
GENE EDELBACH, Owner

STATEMENT OF ISSUES

14 Approval to Operate an Institution Non-
15 Accredited Applicant

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about May 23, 2011, the Bureau for Private Postsecondary Education received
24 an application for Approval to Operate an Institution Non-Accredited from California Preparatory
25 College; Gene Edelbach, owner (Respondent). On or about May 16, 2011, Gene Edelbach
26 certified under penalty of perjury to the truthfulness of all statements, answers, and
27 representations in the application. The Bureau denied the application on July 10, 2014.

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APPLICANT'S LICENSE HISTORY

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2 3. On or about May 23, 2011, the Bureau received an "Application for Approval to
3 Operate an Institution Non-Accredited" (application number 23542) from Respondent.

4 4. On November 3, 2011, the Bureau issued a deficiency letter to Respondent. On
5 January 17, 2012, the Bureau received a response to the deficiency letter.

6 5. On January 31, 2012, the Bureau issued a subsequent deficiency letter to Respondent.
7 On July 20, 2012, the Bureau received a response from Respondent.

8 6. On August 2, 2012, the Bureau sent a subsequent deficiency letter to Respondent. On
9 October 12, 2012, the Bureau received a response from Respondent.

10 7. On October 19, 2012, the Bureau sent a subsequent deficiency letter to Respondent.
11 On November 15, 2012, the Bureau received a response from Respondent.

12 8. On December 19, 2012, the Bureau sent a subsequent deficiency letter to Respondent.
13 On February 4, 2013, the Bureau received a response from Respondent.

14 9. On February 14, 2013, the Bureau sent a subsequent deficiency letter to Respondent.
15 On March 14, 2013, the Bureau received a response from Respondent.

16 10. On July 1, 2013, the Bureau completed its application review. On July 17, 2013, the
17 Bureau received a response from Respondent. On August 6, 2013, the Bureau sent Respondent a
18 deficiency letter. On September 23, 2013, the Bureau received a response from Respondent.

19 11. On October 1, 2013, Respondent was given a provisional approval to operate and
20 offer an English as a Second Language (ESL) program from October 1, 2013 through April 2,
21 2014. The institution was to correct remaining deficiencies noted in their provisional approval
22 letter. However, the institution did not maintained compliance with Student Tuition Recovery
23 Fund and Annual Reports.

24 12. On July 10, 2014, the Bureau sent Respondent a "Notice of Denial" letter.

25 13. On August 4, 2014, Respondent sent the Bureau a letter requesting an administrative
26 hearing.

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1 (b) Except as provided in Section 94855.1, an institution offering a degree must satisfy
2 one of the following requirements:

3 (i) Accreditation by an accrediting agency recognized by the United States Department
4 of Education, with the scope of that accreditation covering the offering of at least one degree
5 program by the institution.

6 (ii) An accreditation plan, approved by the bureau, for the institution to become fully
7 accredited within five years of the bureau's issuance of provisional approval to operate to the
8 institution. The provisional approval to operate to an unaccredited degree-offering institution
9 shall be in compliance with Section 94885.5.

10 17. Education Code section 94886 states:

11 "Except as exempted in Article 4 (commencing with Section 94874) or in compliance with
12 the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,
13 conduct, or do business as a private postsecondary educational institution in this state without
14 obtaining an approval to operate under this chapter."

15 18. Education Code section 94887:

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 an approval to operate if the application does not satisfy those standards."

21 19. Education Code section 94909 states in pertinent part:

22 "(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide
23 a prospective student, either in writing or electronically, with a school catalog containing, at a
24 minimum, all of the following:

25

26 "(5) A description of the programs offered and a description of the instruction provided in
27 each of the courses offered by the institution, the requirements for completion of each program,
28 including required courses, any final tests or examinations, any required internships or

1 externships, and the total number of credit hours, clock hours, or other increments required for
2 completion.

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4 “(9) The schedule of total charges for a period of attendance and an estimated schedule of
5 total charges for the entire educational program.

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7 “(15) The following statement:

8 NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND
9 CREDENTIALS EARNED AT OUR INSTITUTION

10 The transferability of credits you earn at (name of institution) is at the
11 complete discretion of an institution to which you may seek to transfer.
12 Acceptance of the (degree, diploma, or certificate) you earn in (name of
13 educational program) is also at the complete discretion of the institution
14 to which you may seek to transfer. If the (credits or degree, diploma, or
15 certificate) that you earn at this institution are not accepted at the
16 institution to which you seek to transfer, you may be required to repeat
17 some or all of your coursework at that institution. For this reason you
18 should make certain that your attendance at this institution will meet
19 your educational goals. This may include contacting an institution to
20 which you may seek to transfer after attending (name of institution) to
21 determine if your (credits or degree, diploma, or certificate) will transfer.”

22 “(16) A statement specifying whether the institution, or any of its degree programs, are
23 accredited by an accrediting agency recognized by the United States Department of Education. If
24 the institution is unaccredited and offers an associate, baccalaureate, master's, or doctoral degree,
25 or is accredited and offers an unaccredited program for an associate, baccalaureate, master's, or
26 doctoral degree, the statement shall disclose the known limitations of the degree program,
27 including, but not limited to, all of the following:

28 (A) Whether a graduate of the degree program will be eligible to sit for the applicable
licensure exam in California and other states.

(B) A degree program that is unaccredited or a degree from an unaccredited institution is
not recognized for some employment positions, including, but not limited to, positions with the
State of California.

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1 (C) That a student enrolled in an unaccredited institution is not eligible for federal financial
2 aid programs.”

3 20. Education Code section 94911 states in pertinent part:

4 “(i) 1. The following statement: "Prior to signing this enrollment agreement, you must
5 be given a catalog or brochure and a School Performance Fact Sheet, which you are encouraged
6 to review prior to signing this agreement. These documents contain important policies and
7 performance data for this institution. This institution is required to have you sign and date the
8 information included in the School Performance Fact Sheet relating to completion rates,
9 placement rates, license examination passage rates, salaries or wages, and the most recent three-
10 year cohort default rate, if applicable, prior to signing this agreement."

11 21. Education Code section 94913 states:

12 “(a) An institution that maintains an Internet Web site shall provide on that Internet Web
13 site all of the following:

14 (1) The school catalog.

15 (2) A School Performance Fact Sheet for each educational program offered by the
16 institution.

17 (3) Student brochures offered by the institution.

18 (4) A link to the bureau's Internet Web site.

19 (5) The institution's most recent annual report submitted to the bureau.

20 (b) An institution shall include information concerning where students may access the
21 bureau's Internet Web site anywhere the institution identifies itself as being approved by the
22 bureau.”

23 22. Education Code section 94916 states:

24 “An institution extending credit or lending money to an individual for institutional and
25 noninstitutional charges for an educational program shall cause any note, instrument, or other
26 evidence of indebtedness taken in connection with that extension of credit or loan to be
27 conspicuously marked on its face in at least 12-point type with the following notice:

28 "NOTICE"

1 "You may assert against the holder of the promissory note you signed in order to finance
2 the cost of the educational program all of the claims and defenses that you could assert against
3 this institution, up to the amount you have already paid under the promissory note."

4 **REGULATORY PROVISIONS**

5 23. California Code of Regulations, title 5, division 7.5, section 71100 states:

6 "(a) An applicant seeking approval to operate pursuant to Section 94886 of the Code,
7 other than Approval to Operate by Accreditation pursuant to Section 94890(a)(1) of the Code,
8 shall complete the "Application for Approval to Operate for an Institution Not Accredited," Form
9 Application 94886 (rev. 2/10). An applicant seeking approval to operate by accreditation pursuant
10 to Section 94890(a)(1) of the Code shall comply with section 71390.

11 "(b) An applicant shall submit the completed form, the information or documentation,
12 required by this Article, the appropriate application fee as provided in Section 94930.5(a)(1) of
13 the Code, and any appropriate annual fee as required by Article 1 of Chapter 5 of this Division, to
14 the Bureau.

15 "(c) An application that fails to contain all of the information required by this article shall
16 render it incomplete."

17 24. California Code of Regulations, title 5, division 7.5, section 71700 states:

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

20 25. California Code of Regulations, title 5, division 7.5, section 71750, states in pertinent
21 part:

22 "(c) A pro rata refund pursuant to section 94919(c) or 94920(d) or 94927 of the Code shall
23 be no less than the total amount owed by the student for the portion of the educational program
24 provided subtracted from the amount paid by the student, calculated as follows:

25

26 "(3) Except as provided herein, all amounts that the student has paid shall be subject to
27 refund unless the enrollment agreement and the refund policy outlined in the catalog specify
28 amounts paid for an application fee or deposit not more than \$ 250.00, books, supplies, or

1 equipment, and specify whether and under what circumstances those amounts are non-refundable.
2 Except when an institution provides a 100% refund pursuant to section 94919(d) or section
3 94920(b) of the Code, any assessment paid pursuant to section 94923 of the Code is non-
4 refundable.”

5 26. California Code of Regulations, title 5, division 7.5, section 74000, states in pertinent
6 part:

7 “(e) (1) If an institution fails to pay any fee and any penalty fees timely, the Bureau may
8 initiate proceedings to revoke the institution's approval to operate for failure to pay fees.”

9 27. California Code of Regulations, title 5, division 7.5, section 76210, states in pertinent
10 part:

11 “(a) The Bureau may negotiate with a lender, holder, guarantee agency, or the U.S.
12 Department of Education for the full compromise or write-off of student loan obligations to
13 relieve students of economic loss and, if possible, to reduce the liability of the Fund for the
14 payment of claims.”

15 **FIRST CAUSE FOR DENIAL OF APPLICATION**

16 (Failed to Meet Minimum Operating Standards – Student Agreements)

17 28. Respondent’s application is subject to denial under Education Code sections 94887,
18 94916 and 94911, subdivision (i)(1) and California Code of Regulations, title 5, division 7.5,
19 section 71750(c)(3) in that the proposed enrollment agreement fails to comply with California law
20 as follows:

21 29. The Institution's Enrollment Agreement has multiple registration or application
22 charges equaling a total of \$350 which is beyond the regulatory maximum.

23 30. The Institution's Enrollment Agreement shall include specific required language.
24 “This institution is required to have you sign and date the information included in the School
25 Performance Fact Sheet relating to completion rates, placement rates, license examination
26 passage rates, salaries or wages, and the most recent three-year cohort default rate, if applicable,
27 prior to signing this agreement.” The Institution failed to reference the term “three- year” from
28 the required language.

1 31. Institution failed to provide the required statement when an institution extending
2 credit or lending money to an individual for institutional and non-institutional charges for an
3 educational program shall cause any note, instrument, or other evidence of indebtedness taken in
4 connection with that extension of credit or loan to be conspicuously marked on its face in at least
5 12-point type.

6 **SECOND CAUSE FOR DENIAL OF APPLICATION**

7 (Failed to Meet Minimum Operating Standards – Catalog)

8 32. Respondent's application is subject to denial under Education Code sections 94885,
9 94886, 94887 and 94909 subdivisions (a)(5), (a)(9) (a)(15) and (a)(16) and section 94913 and
10 California Code of Regulations, title 5, division 7.5, section 76210 subdivision (a) in that
11 Respondent's application does not satisfy the legally required minimum operating standards for
12 faculty at the facility as described more fully below:

13 33. The Institution failed to insert the proper title of the completion document (i.e.
14 Diploma or Certificate) into the statement required under Education Code section 94909
15 subdivision (a)(15).

16 34. The Institution failed to provide a description of the English as a Second Language
17 (ESL) and Western Healthcare Practices and Communication Program offered. The Institution
18 also failed to provide a description of the instruction provided in each of the courses. The
19 Institution also failed to provide the requirements for completion of the ESL and Western
20 Healthcare Practices and Communication Programs that were offered, including any required
21 courses, final tests or examinations, required internships or externships, and the total number of
22 credit hours, clock hours, or other increments required for completion.

23 35. The Institution failed to provide a statement specifying whether the institution or any
24 of its degree programs are accredited by an accrediting agency recognized by the United States
25 Department of Education.

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1 36. The Institution failed to provide in its Catalog a schedule of total charges for a period
2 of attendance and an estimated schedule of total charges for ESL and Western Healthcare
3 Practices and Communication Programs.

4 37. The Institution failed to provide a catalog that contains a schedule of student charges
5 that includes a correct calculation of the Student Tuition Recovery Fund (STRF) fee.

6 38. The Institution failed to maintain on its website the following: a compliant school
7 Catalog, a link to the website for the Bureau for Private Postsecondary Education, and a
8 compliant School Performance Fact Sheet for each educational program offered by the institution.

9 **THIRD CAUSE FOR DENIAL OF APPLICATION**

10 (Failure to Meet Minimum Operating Standards – Student Tuition Recovery Fund (STRF))

11 39. Respondent's application is subject to denial under Education Code section 94887
12 and California Code of Regulations, title 5, division 7.5, section 74000 subdivision (e)(1) in that
13 Respondent's application does not satisfy the legally required minimum operating standards for
14 STRF as described more fully below:

15 40. The Institution failed to submit 4th quarter 2013 and 1st quarter 2014 STRF
16 assessments and fees as required.


17 **PRAYER**

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

21 1. Denying the application of California Preparatory College; Gene Edelbach (owner)
22 for an Approval to Operate an Institution Non-Accredited;

23 2. Taking such other and further action as deemed necessary and proper.

24 DATED: 3/11/15

25 
26 JOANNE WENZEL
27 Chief
28 Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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