

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KATHERINE MESSANA
Deputy Attorney General
4 State Bar No. 272953
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2554
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues
12 Against:
13 **VALLEY SCHOOL OF ALLIED HEALTH**
14 Application for Renewal of Approval to
Operate and Offer Education Programs for
15 Non-Accredited Institutions Applicant
16 Respondent.
17 School Code: 93794235

Case No. 1001039

**FIRST AMENDED STATEMENT OF
ISSUES**

18
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 (Bureau).

24 2. On or about April 13, 2012, the Bureau received an Application for Renewal of
25 Approval to Operate and Offer Educational Programs for Non-Accredited Institutions from
26 Valley School of Allied Health (Respondent). On or about April 9, 2012, Respondent certified
27 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
28 application. On April 30, 2012, the Bureau issued a 30 day letter to Respondent. On June 25,

1 2013, the Bureau received a response to the letter. On February 17, 2015, the Bureau issued a
2 deficiency letter to Respondent. On March 18, 2015, the Bureau received a response to the
3 deficiency letter. On August 17, 2015, the Bureau sent Respondent a “Notice of Denial” letter.
4 On September 17, 2015, Respondent submitted a request for an appeal.

5 **JURISDICTION AND STATUTORY PROVISIONS¹**

6 3. This First Amended Statement of Issues is brought before the Director of the
7 Department of Consumer Affairs (Director) for the Bureau, under the authority of the following
8 laws. All section references are to the Education Code (Code) unless otherwise indicated.

9 4. Section 94891 of the Education Code provides, in pertinent part:

10 “(b) To be granted a renewal of an approval to operate, the institution
11 shall demonstrate its continued capacity to meet the minimum operating standards.”

12 5. Section 94906 of the Code provides, as follows:

13 “(a) An enrollment agreement shall be written in language that is easily
14 understood. If English is not the student's primary language, and the student is unable
15 to understand the terms and conditions of the enrollment agreement, the student shall
16 have the right to obtain a clear explanation of the terms and conditions and all
17 cancellation and refund policies in his or her primary language.

18 (b) If the recruitment leading to enrollment was conducted in a language
19 other than English, the enrollment agreement, disclosures, and statements shall be in
20 that language.”

21 6. Section 94909 of the Code provides, in pertinent part:

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

25 ...

26 (5) A description of the programs offered and a description of the
27 instruction provided in each of the courses offered by the institution, the requirements
28 for completion of each program, including required courses, any final tests or
examinations, any required internships or externships, and the total number of credit
hours, clock hours, or other increments required for completion.

(6) If the educational program is designed to lead to positions in a
profession, occupation, trade, or career field requiring licensure in this state, a notice

¹ The California Private Postsecondary Education Act of 2009 was recently amended, effective January 1, 2015. See Senate Bill No. 1247. This First Amended Statement of Issues is based on the pre-amendment version of the Act.

1 to that effect and a list of the requirements for eligibility for licensure.

2 (7) Information regarding the faculty and their qualifications.

3 (8) A detailed description of institutional policies in the following areas:

4 (A) Admissions policies, including the institution's policies regarding the
5 acceptance of credits earned at other institutions or through challenge examinations
6 and achievement tests, admissions requirements for ability-to-benefit students, and a
7 list describing any transfer or articulation agreements between the institution and any
8 other college or university that provides for the transfer of credits earned in the
9 program of instruction. If the institution has not entered into an articulation or transfer
10 agreement with any other college or university, the institution shall disclose that fact.

11 (B) Cancellation, withdrawal, and refund policies, including an
12 explanation that the student has the right to cancel the enrollment agreement and
13 obtain a refund of charges paid through attendance at the first class session, or the
14 seventh day after enrollment, whichever is later. The text shall also include a
15 description of the procedures that a student is required to follow to cancel the
16 enrollment agreement or withdraw from the institution and obtain a refund consistent
17 with the requirements of Article 13 (commencing with Section 94919).

18 (C) Probation and dismissal policies.

19 ...

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

22 ...

23 (15) The following statement:

24 ‘NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND
25 CREDENTIALS EARNED AT OUR INSTITUTION

26 The transferability of credits you earn at (name of institution” is at the
27 complete discretion of an institution to which you mat seek to transfer. Acceptance
28 of the (degree, diploma, or certificate) you earn in (name of educational program) is
also at the complete discretion of the institution to which you mat seek to transfer. If
the (credits or degree, diploma, or certificate) that you earn at this institution are not
accepted at the institution to which you seek to transfer, you mat be required to repeat
some or all of your coursework at that institution. For this reason you should make
certain that your attendance at this institution will meet your educational goals. This
may include contacting an institution to which you mat seek to transfer after attending
(name of institution) to determine if your (credits or degree, diploma, or certificate)
will transfer.’”

7. Section 94911 of the Code provides, in pertinent part:

“An enrollment agreement shall include, at a minimum, all of the
following:

...

1 (b) A schedule of total charges, including a list of any charges that are
2 nonrefundable and the student's obligations to the Student Tuition Recovery Fund,
3 clearly identified as nonrefundable charges.”

4 8. Section 94916 of the Code states:

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

10 ‘NOTICE’

11 “You may assert against the holder of the promissory note you signed in
12 order to finance the cost of the educational program all of the claims and defenses
13 that you could assert against this institution, up to the amount you have already paid
14 under the promissory note.”

15 9. Section 94917 of the Code states:

16 “A note, instrument, or other evidence of indebtedness relating to
17 payment for an educational program is not enforceable by an institution unless, at the
18 time of execution of the note, instrument, or other evidence of indebtedness, the
19 institution held an approval to operate.”

20 10. Section 94918 of the Code states:

21 “In making consumer loans to students, an institution shall also comply
22 with the requirements of the Federal Truth in Lending Act pursuant to Title 15 of the
23 United States Code.”

24 11. Section 94900 of the Code states:

25 “(a) An institution shall maintain records of the name, address, e-mail
26 address, and telephone number of each student who is enrolled in an educational
27 program in that institution.

28 (b) An institution shall maintain, for each student granted a degree or
certificate by that institution, permanent records of all of the following:

(1) The degree or certificate granted and the date on which that degree or
certificate was granted.

(2) The courses and units on which the certificate or degree was based.

(3) The grades earned by the student in each of those courses.”

12. Section 94910 of the Code states:

“Except as provided in subdivision (d) of Section 94909 and Section
94910.5, prior to enrollment, an institution shall provide a prospective student with a
School Performance Fact Sheet containing, at a minimum, the following information,

as it relates to the educational program:

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

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

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

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

...

(f) All of the following:

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

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

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

(g) The following statements:

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

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

REGULATORY PROVISIONS

13. California Code of Regulations, title 5, section 71700 provides, as follows:

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

///

1 14. California Code of Regulations, title 5, section 71475 provides, in pertinent part”

2 “(i) The institution shall include in its application an organization chart
3 that shows the governance and administrative structure of the institution and the
4 relationship between faculty and administrative positions. If there have been no
substantive changes since the last submission of an organizational chart, the
institution may so state and is not required to submit documentation.

5 ...

6 (n) The institution shall describe in the application, in detail its mission
7 and objectives. If there have been no substantive changes since the last submission,
the institution may so state and is not required to submit documentation.

8 ...

9 (y)(1) For each program offered, the application shall contain a
10 description of the facilities and the equipment which is available for use by students
at the main, branch, and satellite locations of the institution unless there have been no
11 substantive changes since the last submission. If there have been no substantive
changes made the institution may so state and is not required to provide
12 documentation.

13 ...

14 (4) The description in the application shall include specifications of
significant equipment that demonstrate that the equipment meets the standards
15 prescribed by the Code and this chapter and is sufficient to enable students to achieve
the educational objectives of each education program unless there have been no
16 substantive changes since the last submission. If there have been no substantive
changes made the institution may so state and is not required to provide
17 documentation.

18 ...

19 (dd)(1) The application shall contain a description of how records
required by Article 9 of the Act or this chapter are or will be organized and
20 maintained, the types of documents contained in student files, how the records are
stored, and whether academic and financial records are maintained in separate files.
21 The description shall include a statement of the institution's procedures for security
and safekeeping of records unless there have been no substantive changes since the
22 last submission. If there have been no substantive changes made the institution may
so state and is not required to provide documentation.

23 (2) The description in the application shall include the name, physical
address, email address, and telephone number of the custodian of records, and the
24 physical addresses and telephone numbers of the offices or buildings where the
records will be maintained unless there have been no substantive changes since the
25 last submission. If there have been no substantive changes made the institution may
so state and is not required to provide documentation.

26 (ee) The application shall contain a description of the procedures used by
27 the institution to assure that it is maintained and operated in compliance with the Act
and this Division.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

...

(kk) An incomplete application filed under this section will render the institution ineligible for renewal.”

15. California Code of Regulations, title 5, section 71140 provides, in pertinent part:

“(c) The institution shall identify the chief executive officer, chief operating officer, and chief academic officer and describe their education, experience, and qualifications to perform their duties and responsibilities.”

16. California Code of Regulations, title 5, section 71730 provides, as follows:

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

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

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

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

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

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

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

17. California Code of Regulations, title 5, section 71170 provides, as follows:

“The institution shall describe in detail its mission and objectives.”

18. California Code of Regulations, title 5, section 71705 provides, as follows:

“An institution shall have a written statement of its mission and the objectives for each educational program. The mission and the objectives shall indicate the kind of education offered, for whom the instruction is intended and the expected

1 outcomes for graduates.”

2 19. California Code of Regulations, title 5, section 71800 provides, as follows:

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

6 (a) The name and address of the institution and the addresses where
7 instruction will be provided.

8 (b) Period covered by the enrollment agreement.

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

10 (d) Date by which the student must exercise his or her right to cancel or
11 withdraw, and the refund policy, including any alternative method of calculation if
12 approved by the Bureau pursuant to section 94921 of the Code.

13 (e) Itemization of all institutional charges and fees including, as
14 applicable:

15 (1) tuition;

16 (2) registration fee (non-refundable);

17 (3) equipment;

18 (4) lab supplies or kits;

19 (5) Textbooks, or other learning media;

20 (6) uniforms or other special protective clothing;

21 (7) in-resident housing;

22 (8) tutoring;

23 (9) assessment fees for transfer of credits;

24 (10) fees to transfer credits;

25 (11) Student Tuition Recovery Fund fee (non-refundable);

26 (12) any other institutional charge or fee.

27 (f) Charges paid to an entity other than an institution that is specifically
28 required for participation in the educational program.”

20. California Code of Regulations, title 5, section 71260 provides, in pertinent part:

“(a) For each program offered, the Form Application 94886 shall
contain a description of the facilities and the equipment which is available for use by
students at the main, branch, and satellite locations of the institution.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

...

(d) The description shall include specifications of significant equipment that demonstrate that the equipment meets the standards prescribed by the Code and this chapter and is sufficient to enable students to achieve the educational objectives of each education program.”

21. California Code of Regulations, title 5, section 71735 provides, in pertinent part:

“(a) An institution shall have sufficient facilities and necessary equipment to support the achievement of the educational objectives of all of the courses and educational programs in which students are enrolled. If an institution represents that the educational service will fit or prepare a student for employment in a particular occupation or as described in particular job titles, either of the following conditions shall be met:

(1) The equipment used for instruction or provided to the student shall be comparable in model type or features to equipment generally used in those occupations or job titles at the time the instruction is offered.

(2) The institution shall establish that the equipment used for instruction or provided to a student is not obsolete and is sufficient for instructional purposes to reasonably assure that a student acquires the necessary level of education, training, skill, and experience to obtain employment in the field of training and to perform the tasks associated with the occupation or job title to which the educational program was represented to lead.”

22. California Code of Regulations, title 5, section 71810 provides, in pertinent part:

“(b) The catalog shall contain the information prescribed by Section 94909 of the Code and all of the following:

...

(2) A statement of the institution's missions and purposes and the objectives underlying each of its educational programs;

...

(6) The institution's policies and practices regarding any form of financial aid, including all consumer information which the institution is required to disclose to the student under any state or federal financial aid program;

(7) The institution's policies and procedures for the award of credit for prior experiential learning, including assessment policies and procedures, provisions for appeal, and all charges that a student may be required to pay;

...

(9) A description of the facilities and of the types of equipment and materials that will be used for instruction;

...

(14) Policies on student rights, including the procedure for addressing student grievances;”

1 23. California Code of Regulations, title 5, section 71770 provides, in pertinent part:

2 “(c) If credit for prior experiential learning is to be granted, the policy for
3 granting such credit shall be included in the institution's catalog.

4 (1) An institution may grant credit to a student for prior experiential
5 learning only if:

6 (A) The prior learning is equivalent to a college or university level of
7 learning;

8 (B) The learning experience demonstrates a balance between theory and
9 practice and;

10 (C) The credit awarded for the prior learning experience directly relates to
11 the student's degree program and is applied in satisfaction of some of the degree
12 requirements.

13 (2) Each college or university level learning experience for which credit
14 is sought shall be documented by the student in writing.

15 (3) Each college or university level learning experience shall be evaluated
16 by faculty qualified in that specific subject area who shall ascertain (1) to what
17 college or university level learning the student's prior experience is equivalent and (2)
18 how many credits toward a degree may be granted for that experience.

19 (4) The faculty evaluating the prior learning shall prepare a written report
20 indicating all of the following:

21 (A) The documents in the student's record on which the faculty member
22 relied in determining the nature of the student's prior experience;

23 (B) The bases for determining that the prior experience (i) is equivalent to
24 college or university level learning and (ii) demonstrates a balance between theory
25 and practice; and

26 (C) The bases for determining (i) to what college or university level the
27 experience is equivalent and (ii) the proper number of credits to be awarded toward
28 the degree for that experience.

(5)(A) The institution shall designate at least one administrator to be
responsible for the review of faculty determinations regarding the award of credit for
prior experiential learning.

(B) The administrator shall document the institution's periodic review of
faculty evaluations to assure that the faculty written evaluations and awards of credit
comply with this section and the institution's policies and are consistent.

(6) The amount of credit awarded for prior experiential learning shall not
be related to the amount charged the student for the assessment process.

(7)(A) Of the first 60 semester credits awarded a student in an
undergraduate program, no more than 15 semester credits may be awarded for prior
experiential learning.

1 (B) Of the second 60 semester units (i.e., credits 61 to 120) awarded a
2 student in an undergraduate program, no more than 15 semester credits may be
awarded for prior experiential learning.

3 (C) Of the first 30 semester credits awarded a student in a graduate
4 program, no more than 6 semester credits may be awarded for prior experiential
learning.

5 (D) Of the second 30 semester credits (i.e., credits 31 to 60) awarded a
6 student in a graduate program, no more than 3 semester credits may be awarded for
prior experiential learning.

7 (E) No credit for experiential learning may be awarded after a student has
obtained 60 semester credits in a graduate program.”

8 24. California Code of Regulations, title 5, section 71920 provides, as follows:

9 “(a) The institution shall maintain a file for each student who enrolls in
10 the institution whether or not the student completes the educational service.

11 (b) In addition to the requirements of section 94900, the file shall contain
all of the following pertinent student records:

12 (1) Written records and transcripts of any formal education or training,
13 testing, or experience that are relevant to the student's qualifications for admission to
the institution or the institution's award of credit or acceptance of transfer credits
14 including the following:

15 (A) Verification of high school completion or equivalency or other
documentation establishing the student's ability to do college level work, such as
16 successful completion of an ability-to-benefit test;

17 (B) Records documenting units of credit earned at other institutions that
have been accepted and applied by the institution as transfer credits toward the
18 student's completion of an educational program;

19 (C) Grades or findings from any examination of academic ability or
educational achievement used for admission or college placement purposes;

20 (D) All of the documents evidencing a student's prior experiential
21 learning upon which the institution and the faculty base the award of any credit;

22 (2) Personal information regarding a student's age, gender, and ethnicity
if that information has been voluntarily supplied by the student;

23 (3) Copies of all documents signed by the student, including contracts,
24 instruments of indebtedness, and documents relating to financial aid;

25 (4) Records of the dates of enrollment and, if applicable, withdrawal from
the institution, leaves of absence, and graduation; and

26 (5) In addition to the requirements of section 94900(b) of the Code, a
27 transcript showing all of the following:

28 (A) The courses or other educational programs that were completed, or
were attempted but not completed, and the dates of completion or withdrawal;

1 (B) Credit awarded for prior experiential learning, including the course
title for which credit was awarded and the amount of credit;

2 (C) Credit for courses earned at other institutions;

3 (D) Credit based on any examination of academic ability or educational
4 achievement used for admission or college placement purposes;

5 (E) The name, address, website address, and telephone number of the
6 institution.

7 (6) For independent study courses, course outlines or learning contracts
8 signed by the faculty and administrators who approved the course;

9 (7) The dissertations, theses, and other student projects submitted by
10 graduate students;

11 (8) A copy of documents relating to student financial aid that are required
12 to be maintained by law or by a loan guarantee agency;

13 (9) A document showing the total amount of money received from or on
14 behalf of the student and the date or dates on which the money was received;

15 (10) A document specifying the amount of a refund, including the amount
16 refunded for tuition and the amount for other itemized charges, the method of
17 calculating the refund, the date the refund was made, and the name and address of the
18 person or entity to which the refund was sent;

19 (11) Copies of any official advisory notices or warnings regarding the
20 student's progress; and

21 (12) Complaints received from the student.”

22 25. California Code of Regulations, title 5, section 71320 provides, as follows:

23 The Form Application 94886 shall contain a description of the procedures
24 used by the institution to assure that it is maintained and operated in compliance with
25 the Act and this Division.

26 26. California Code of Regulations, title 5, section 71760 provides, as follows:

27 “Each institution shall develop and maintain adequate procedures used by
28 the institution to assure that it is maintained and operated in compliance with the Act
and this Division.”

29 27. California Code of Regulations, title 5, section 74112 provides, in pertinent part:

“(b) In addition to the definitions contained in section 94928 of the Code:

(1) ‘Number of Students Who Began Program’ means the number of
students who began a program who are scheduled to complete the program within
100% of the published program length within the reporting calendar year, and
includes all the students who remained enrolled after their cancellation period.

(2) ‘Number of Graduates’ means the number of students who completed
the program within 100% of the published program length within the reporting

1 calendar year.

2 (3) 'Graduates Employed in the Field' means those graduates who meet
3 the definition of section 94928(e) of the Code, who have reported their employment
4 to the institution.

5 ...

6 (d) Completion Rates. Reporting of completion rates for an institution's
7 Annual Report and Performance Fact Sheet shall include, for each educational
8 program, the number of students who began program as defined in subdivision (b),
9 the number of students available for graduation, number of graduates, and completion
10 rate(s). An optional column may be added to include completion rate data for students
11 completing within 101-150% of the published program length. For an institution
12 reporting completion data pursuant to section 94929(b) of the Code, completion data
13 shall be separately reported for each program. The Performance Fact Sheet shall
14 disclose, if true, that the completion data is being reported for students completing
15 within 150% of the published program length, and that data is not being separately
16 reported for students completing the program within 100% of the published program
17 length. Completion rates shall be included in the Performance Fact Sheet in a format
18 substantially similar to the chart below, including the footnoted information below
19 (dates, numbers, and other data shown are for example only):

20 Completion Rates (includes data for the two calendar years prior to reporting)

<i>Calendar Year</i>	<i>Number of Students Who Began Program (1)</i>	<i>Students Available for Graduation (2)</i>	<i>Graduates (3)</i>	<i>Completion Rate (4)</i>
20XX	100	98	70	71%
20XY	80	80	55	69%

21 Students Completing After Published Program Length -- 150% Completion Rate

22 Name of Educational Program (Program Length)

<i>Calendar Year</i>	<i>Number of Students Who Began Program (1)</i>	<i>Students Available for Graduation (2)</i>	<i>150% Graduates (5)</i>	<i>150% Completion Rate (6)</i>
20XX	100	98	25	26%
20XY	80	80	23	29%

23 1 'Number of Students Who Began Program' is the number of students who began
24 the program who are scheduled to complete the program within the reporting calendar
25 year.

26 2 'Students available for graduation' is the number of students who began program
27 minus the number of "Students unavailable for graduation," which means those
28 students who have died, been incarcerated, or called to active military duty.

1 3 'Graduates' is the number of students who completed the program within 100% of
the published program length.

2 4 'Completion Rate' is the number of Graduates divided by the Number of Students
Available for Graduation.

3 5 '150% Graduates' is the number of students who completed the program within
4 101-150% of the published program length.

5 6 '150% Completion Rate' is the number of students who completed the program in
6 the reported calendar year within 101-150% of the published program length divided
by the Number of Students Available for Graduation in the published program length
7 period.

8 (e) Placement Rates.

9 (1) Any placement data required by sections 94910(b) and 94929.5(a) of
the Code shall be reported for the number of students who began the program as
10 defined in subdivision (b) for each reported calendar year.

11 (2) Placement is measured six months from the graduation date of each
student. Reporting of placement rates shall include for each educational program: the
12 number of students who began the program, the number of graduates as defined in
subdivision (b), graduates available for employment, graduates employed in the field
13 and placement rate(s).

14 (3) Placement rate shall be calculated as follows: the number of graduates
employed in the field as defined in subsection 74112(b)(3) divided by the number of
15 graduates available for employment as defined in section 94928(d) of the Code.

16 (4) Graduates employed in the field shall be reported for those graduates
employed in the field in a single position that averages under 32 hours per week and
17 those employed in the field in a single position that averages at least 32 hours per
week.

18 References to the Code are to the California Education Code where the
California Private Postsecondary Education Act of 2009 is located.

19 Placement rates shall be included in the Performance Fact Sheet in a
20 format substantially similar to the chart below, including the footnoted information
below (dates, numbers, and other data shown are for example only):

21 Placement Rates (includes data for the two calendar years prior to
22 reporting)

23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1	Name of Educational Program (Program Length)							
2 3 4 5 6	<i>Calendar Year</i>	<i>Number of Students Who Began Program (1)</i>	<i>Number of Graduates (2)</i>	<i>Graduates Available for Employment (3)</i>	<i>Graduates Employed in the Field (4)</i>	<i>Placement Rate % Employed in the Field (5)</i>	<i>Graduates Employed in the Field an average of less than 32 hours per week</i>	<i>Graduates Employed in the Field at least 32 hours per week</i>
7	20XX	100	70	70	55	79%	5	50
8	20XY	80	55	55	20	36%	9	11
9	<p>1 'Number of Students Who Began Program' means the number of students who began the program who are scheduled to complete the program within the reporting calendar year.</p> <p>2 'Number of Graduates' is the number of students who have completed the program within 100% of the published program length.</p> <p>3 'Graduates available for employment' means the number of graduates minus the number of graduates unavailable for employment. Graduates unavailable for employment" means graduates who, after graduation, die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the United States, or are continuing their education in an accredited or bureau-approved postsecondary institution.</p> <p>4 'Graduates employed in the field' means graduates who report that they are gainfully employed within six months of graduation in a position for which the skills obtained through the education and training provided by the institution are required or provided a significant advantage to the graduate in obtaining the position.</p> <p>5 Placement Rate is calculated by dividing the number of graduates gainfully employed in the field by the number of graduates available for employment.</p> <p>(f) License Examination Passage Rates. If license examination passage rates are not available from the appropriate state agency, an institution shall collect the information directly from its graduates. If an institution demonstrates that, after reasonable efforts, it is unable to obtain the examination passage information from its graduates, the institution shall report the number of students it could not contact and note in a font the same size as the majority of the data on the Performance Fact Sheet, License examination passage data is not available from the state agency administering the examination. We were unable to collect data from [enter the number] graduates."</p> <p>Reporting of license examination passage rates for the Annual Report and the Performance Fact Sheet shall include, for each educational program: the number of students completing the program within 150% of published program length in the reported year, the number of documented graduates who passed the first examination, number of documented graduates who failed the first examination, the number of graduates for whom data is not available. An optional column may be added to separately report licensing examination data for students who take and pass the exam</p>							

1 after failing initially. The Annual Report shall also include a description of the
2 processes for attempting to contact those students.

3 For licensing examinations that are not continuously administered, license
4 examination passage rates shall be included in the Performance Fact Sheet in a format
5 substantially similar to the chart below, including the footnoted information below
6 (dates, numbers, and other data shown are for example only):

7 Examination Passage Rates (includes data for the two calendar years prior to
8 reporting)

9 Name of Educational Program (Program Length)

10	<i>Number of Students Taking Exam (1)</i>	<i>Exam Date (2)</i>	<i>Number Who Passed Exam</i>	<i>Number Who Failed Exam</i>	<i>Passage Rate (3)</i>
11	80	2/1/20XX	40	40	50%
12	100	6/1/20XX	75	25	75%
13	82	10/1/20XX	68	14	76%
14	80	2/1/20XY	40	40	50%
15	100	6/1/20XY	70	30	70%
16	92	10/1/20XY	62	30	67%

17 License examination passage data is not available from the state agency administering
18 the examination. We were unable to collect data from 32 graduates.

19 1 Number of Students Taking Exam is the number of students who completed the
20 program within 150% of published program length and for whom the reported exam
21 is the first exam that was available after their completion of the program.

22 2 Exam Date is the date for the first available exam after the students completed the
23 program.

24 3 Passage Rate is calculated by dividing the number of students who pass the exam
25 by the number of graduates who take the reported licensing exam.

26 For licensing examinations that are continuously administered, license examination
27 passage rates shall be included in the Performance Fact Sheet in a format
28 substantially similar to the chart below, including the footnoted information below
(dates, numbers, and other data shown are for example only):

Examination Passage Rates (includes data for the two calendar years prior to
reporting)

///

///

///

///

Name of Educational Program (Program Length)				
<i>Calendar Year</i>	<i>Number of Students Taking Exam (1)</i>	<i>Number Who Pass First Exam Taken (2)</i>	<i>Number Who Failed First Exam Taken</i>	<i>Passage Rate (3)</i>
20XX	80	40	40	50%
20XY	100	75	25	75%

License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 10 graduates.

1 Number of Students Taking Exam is the number of students who completed the program within 150% of the published program length and who took the exam in the reported calendar year for the first time.

2 Number Who Passed First Exam Taken is the number of students who took and passed the licensing exam in the reported calendar year on the first attempt.

3 Passage Rate is calculated by dividing the number of graduates who pass the exam the first time that they take it by the number of graduates who took the licensing exam for the first time after completion of the program.

(g) Salary and Wage Information.

All Salary and Wage Information shall be reported to the Bureau pursuant to section 94929.5(c) of the Code and, if required by section 94910(d) of the Code, shall be included in the Performance Fact Sheet, for each educational program, in a format substantially similar to the chart below, including the footnoted information (dates, numbers, salaries, and other data shown are for example only).

Salary and Wage Information (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)							
<i>Calendar Year</i>	<i>Graduates Available for Employment (1)</i>	<i>Graduates Employed in the Field (2)</i>	<i>15,000.00</i>	<i>20,001.00</i>	<i>25,001.00</i>	<i>30,001.00</i>	<i>Students Not Reporting Salary</i>
20XX	100	70	5	40	6	3	16
20XY	80	55	5	7	3	5	35

1 Graduates available for employment means the number of graduates minus the number of graduates unavailable for employment. Graduates unavailable for employment means graduates who, after graduation, die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the United States, or are continuing their education in an accredited or bureau-approved postsecondary institution.

2 Graduates employed in the field means graduates who are gainfully employed within six months of graduation in a position for which the skills obtained through the education and training provided by the institution are required or provided a

1 significant advantage to the graduate in obtaining the position.

2 3 Salary is as reported by the student. Not all graduates reported salary.

3 (h) Documentation supporting all data reported shall be maintained by the institution
4 for at least five years from the time included in either an Annual Report or a
5 Performance Fact Sheet, and shall include at a minimum: student name(s), address,
6 phone number, email address, program completed, program start and completion
7 dates, place of employment and position, salary, hours, and a description of all
8 attempts to contact each student. Documentation shall also include the name, email
9 address, phone number, and position or title of the institution's representative who is
10 primarily responsible for obtaining the students' completion, placement, licensing,
11 and salary and wage data, the date that the information was gathered, and copies of
12 notes, letters or emails through which the information was requested and gathered.

13 **FIRST CAUSE FOR DENIAL OF APPLICATION**

14 **(Organization and Management)**

15 28. Respondent's application is subject to denial under section 94891, subdivision (b) of
16 the Code and California Code of Regulations, title 5, sections 71475, subdivision (i), 71140
17 subdivision (c), and 71730 in that the institution did not identify and describe the education,
18 experience, and qualifications to perform the duties and responsibilities for the Chief Academic
19 Officer and the Chief Operating Officer.

20 **SECOND CAUSE FOR DENIAL OF APPLICATION**

21 **(Mission and Objectives)**

22 29. Respondent's application is subject to denial under section 94891, subdivision (b) of
23 the Code and California Code of Regulations, title 5, sections 71475, subdivision (n), 71170, and
24 71705 in that the institution failed to provide an updated mission statement (excluding the
25 Vocational Nursing program) after providing a statement to the Bureau that Respondent
26 institution will not be offering the Vocational Nursing program (effective April 30, 2015).

27 **THIRD CAUSE FOR DENIAL OF APPLICATION**

28 **(Exemplars of Student Agreement)**

30. Respondent's application is subject to denial under sections 94891, subdivision (b),
and 94906, subdivisions (a) and (b) of the Code in that the institution did not provide a statement
indicating how they provide the enrollment agreement, disclosures and statements to students
when they are unable to understand the terms and conditions of the enrollment agreement due to
English not being their primary language.

1 and 94909, subdivision (a)(8)(A) of the Code in that the institution did not provide sufficient
2 admission requirements for each program and did not indicate whether they accept ability-to-
3 benefit students.

4 37. Respondent's application is subject to denial under section 94891, subdivision (b) of
5 the Code and California Code of Regulations, title 5, sections 71810, subdivision (b)(7), and
6 71770, subdivision (c). Specifically, the institution stated that an applicant may be required to
7 pay for the time allotted for the assessment of skills and knowledge regarding prior award of
8 credit for prior experiential learning, but failed to provide the fee for the time allotted for the
9 assessment of skills or provide an explanation in regards to when this fee may apply.

10 38. Respondent's application is subject to denial under sections 94891, subdivision (b),
11 and 94909, subdivision (a)(5) of the Code in that the institution did not remove the Vocational
12 Nursing Program Curriculum from the catalog even though the institution states they will no
13 longer offer the Vocational Nursing Program effective April 30, 2015.

14 39. Respondent's application is subject to denial under sections 94891, subdivision (b)
15 and 94909, subdivision (a)(6) of the Code in that the institution did not remove the requirements
16 for eligibility for the Vocational Nursing Program from the catalog when the institution states
17 they will no longer offer the Vocational Nursing Program (effective April 30, 2015).

18 40. Respondent's application is subject to denial under sections 94891, subdivision (b)
19 and 94909, subdivision (a)(9) of the Code in that the institution did not exclude the Vocational
20 Nursing Program from the schedule of total charges, even though the institution states they will
21 no longer offer the Vocational Nursing Program (effective April 30, 2015).

22 41. Respondent's application is subject to denial under sections 94891, subdivision (b)
23 and 94909, subdivision (a)(8)(B) of the Code in that the registration fee referenced in the
24 institution's catalog is inconsistent.

25 42. Respondent's application is subject to denial under sections 94891, subdivision (b)
26 and 94909, subdivision (a)(7) of the Code in that the institution did not provide sufficient
27 information regarding the faculty and their qualifications referenced on page (73).

28 43. Respondent's application is subject to denial under section 94891, subdivision (b) of

1 the Code and California Code of Regulations, title 5, section 71810, subdivision (b)(6) in that the
2 institution failed to provide its policies and practices regarding the payment plan in the catalog.

3 44. Respondent's application is subject to denial under sections 94891, subdivision (b)
4 and 94909, subdivision (a)(8)(C) of the Code in that the institution provided inconsistent
5 information regarding the probation policy. Specifically, the catalog references automatic
6 termination but also references a Plus (Remediation) Program.

7 45. Respondent's application is subject to denial under section 94891, subdivision (b) of
8 the Code and California Code of Regulations, title 5, section 71810, subdivision (b)(14) in that
9 the institution's catalog was outdated in that it referred concerned students to the California Board
10 of Vocational Nursing and Psychiatric Technicians even though the institution states they will no
11 longer offer the Vocational Nursing Program (effective April 30, 2015).

12 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

13 **(Student Records and Recordkeeping)**

14 46. Respondent's application is subject to denial under sections 94891, subdivision (b)
15 and 94900 of the Code and California Code of Regulations, title 5, sections 71920 and 71475,
16 subdivision (dd) in that the institution stated that transcripts are kept for five years (but failed to
17 exclude transcripts, meaning that they must be kept permanently).

18 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

19 **(Self-Monitoring)**

20 47. Respondent's application is subject to denial under section 94891, subdivision (b) of
21 the Code and California Code of Regulations, title 5, sections 71320, 71760, and 71475,
22 subdivision (ee) in that the institution did not identify comprehensive self-monitoring procedures
23 (to ensure that the institution is maintained and operated in compliance).

24 **EIGHTH CAUSE FOR DENIAL OF APPLICATION**

25 **(School Performance Fact Sheet)**

26 48. Respondent's application is subject to denial under sections 94891, subdivision (b)
27 and 94910 of the Code and California Code of Regulations, title 5, section 74112 in that the
28 institution did not provide a School Performance Fact Sheet for each Educational Program, as

1 requested. Specifically, the institution did not provide a School Performance Fact Sheet for the
2 Home Health Aide program.

3 49. Respondent's application is subject to denial under sections 94891, subdivision (b)
4 and 94910, subdivision (a) of the Code and California Code of Regulations, title 5, section 74112,
5 subdivision (d) in that the institution did not provide a complete School Performance Fact Sheet
6 for the Nursing Assistant Program. Specifically, the institution failed to provide complete
7 completion rate information.

8 50. Respondent's application is subject to denial under sections 94891, subdivision (b)
9 and 94910, subdivision (b) of the Code and California Code of Regulations, title 5, section 74112,
10 subdivision (e) in that the institution did not provide a complete School Performance Fact Sheet
11 for the Nursing Assistant Program. Specifically, the institution failed to provide complete
12 placement rate information.

13 51. Respondent's application is subject to denial under sections 94891, subdivision (b)
14 and 94910, subdivision (c) of the Code and California Code of Regulations, title 5, section 74112,
15 subdivision (f) in that the institution did not provide a complete School Performance Fact Sheet
16 for the Nursing Assistant Program. Specifically, the institution failed to provide complete
17 license/examination passage or certification passage rate information.

18 52. Respondent's application is subject to denial under sections 94891, subdivision (b)
19 and 94910, subdivision (d) of the Code and California Code of Regulations, title 5, section 74112,
20 subdivision (g) in that the institution did not provide a complete School Performance Fact Sheet
21 for the Nursing Assistant Program. Specifically, the institution failed to provide complete salary
22 and wage information and the institution has incorrect column for placement rates.

23 53. Respondent's application is subject to denial under sections 94891, subdivision (b)
24 and 94910, subdivisions (f) through (i) of the Code and California Code of Regulations, title 5,
25 section 74112, subdivision (b) in that the institution did not provide the definitions, required
26 disclosures, signatures and initials.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Valley School of Allied Health for a Renewal of Approval to Operate and Offer Education Programs for Non-Accredited Institutions;
2. Taking such other and further action as deemed necessary and proper.

DATED: 3/2/2017 Amya Ripoli for Joanne Wenzel.

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

LA2015603991
52403066.doc