



CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Woodrow Lucas, Owner
Advance Bus & Truck Driving School
1401 S. Fresno Avenue
Stockton, CA 95206

INSTITUTION CODE: 16191308
CITATION NUMBER: 2021099
CITATION ISSUANCE/SERVICE DATE: October 1, 2020
DUE DATE: October 31, 2020
FINE AMOUNT: \$ 6,550.00
ORDER OF ABATEMENT INCLUDED: YES

Christina Villanueva issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Discipline Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to Woodrow Lucas, Owner of Advance Bus & Truck Driving School (Institution) located at 1401 S. Fresno Avenue, Stockton, CA 95206 pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violations described below.

BACKGROUND

On June 4, 2019, the Bureau received a complaint alleging that the Institution was not providing proper instruction or training, therefore students were unable to pass the state licensing exam administered by the California Department of Motor Vehicles. As a result, students requested a refund of tuition paid. Furthermore, the Institution issued a Certificate of Completion to students prior to the students completing the program.

On June 24, 2019, the Bureau requested documentation from Institution staff. On June 27, 2019, Bureau staff received the requested documentation and found material violations related to enrollment agreements, falsification of attendance records, and changes in methods of instructional delivery.

In addition, all institutions are required to submit a Student Tuition Recovery Fund (STRF) Assessment Reporting Form to the Bureau no later than the last day of the month following the close of the quarter.

Pursuant to CEC section 94923(a) The Student Tuition Recovery Fund relieves or mitigates economic loss suffered by a student while enrolled in an institution not exempt from this article pursuant to Article 4 (commencing with section 94874), who, at the time of his or her enrollment, was a California resident or was enrolled in a California residency program, prepaid tuition, and suffered economic loss.

The Bureau sends notifications/reminders to all approved institutions 30 days prior to close of each quarter.

As of October 1, 2020, the Institution has not submitted the STRF Assessment Reporting Form for the 3rd and 4th quarters of 2019.

VIOLATION(S)

#	Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5, CCR code) section(s) of law you are charged with violating.
1.	<p>Violation: CEC Section 94897 (j)(3) – Prohibited Business Practices <i>“An institution shall not do any of the following:</i> <i>(j) In any manner make an untrue or misleading change in, or untrue or misleading statement related to, a test score, grade or record of grades, attendance record, record indicating student completion, placement, employment, salaries, or financial information, including any of the following:</i> <i>(3) Any other record or document required by this chapter or by the bureau.”</i></p> <p style="color: red;">Bureau staff reviewed student records and found that the Institution issued Certificates of Completion to students who had not completed the program. The certificates indicate that students completed “up to 196 hours” of training. According to documentation provided by Institution staff, the students were enrolled in Super Session Commercial Drivers Class A with Passenger Endorsement, which is a 196-hour program approved by the Bureau. However, documentation provided by Institution staff stated that students completed 152 hours of study, at 4 hours per day, which included self/at-home study hours. Without the self/at-home study hours being included, students completed only 42 hours of on-campus instruction. The amount of hours that the Institution calculated is below the Bureau approved amount of 196 hours as required for this educational program. As a result, certificates issued to students contain misleading or untrue information.</p> <p><u>Order of Abatement:</u> The Bureau orders the Institution to submit a policy, or procedure, of how future compliance will be maintained with CEC Section 94897(j)(3).</p> <p><u>Assessment of Fine</u> The fine for this violation is <u>\$5,000.00</u></p>
2.	<p>Violation: 5, CCR Section 71600 (a) – Application for Significant Change in Method of Instructional Delivery <i>“(a) An institution seeking to make a significant change in its method of instructional delivery shall complete the “Significant Change in Method of Instructional Delivery” form (INS rev. 2/10) to obtain prior authorization. For the purposes of this section a “significant change in instructional delivery” is any change that alters the way students interact with faculty or access significant equipment. The form shall be submitted to the Bureau along with the appropriate fee as provided in Section 94930.5(c)</i></p>

of the Code. For an institution approved under section 94885 of the Code, it shall be signed and dated by the signatory(ies) required by section 71380, and for an institution approved under section 94890 of the Code, it shall be signed and dated by the signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

"I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

(Date) (Signature)

CEC Section 94893 (g) – Authorization Required for Substantive Change

"If an institution intends to make a substantive change to its approval to operate, the institution shall receive prior authorization from the bureau. Except as provided in subdivision (a) of Section 94896, if the institution makes the substantive change without prior bureau authorization, the institution's approval to operate may be suspended or revoked."

CEC Section 94894 – Substantive Change Defined

"The following changes to an approval to operate are considered substantive changes and require prior authorization:

(g) A significant change in the method of instructional delivery."

Bureau staff found that the Institution was offering distance education in the form of self/home-study without Bureau approval.

Order of Abatement:

The Bureau orders the Institution to submit an Application for a Change in Method of Instructional Delivery the Institution wishes to offer distance education. The Institution shall not offer distance education without first obtaining Bureau approval. The Institution shall submit evidence of compliance to the Bureau.

Assessment of Fine

The fine for this violation is \$500.00

3. **Violation:**

CEC Section 94902 (a) – General Enrollment Requirements

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

Bureau staff reviewed student files and found that enrollment agreements were missing the signature of an authorized employee of the Institution.

Order of Abatement:

The Bureau orders the Institution to submit a policy, or procedure, of how future compliance will be maintained with CEC Section 94902(a).

Assessment of Fine

The fine for this violation is \$1,000.00

4. **Violation:**

5, CCR Section 76130 (a-e)– Collection and Submission of Assessments

"(a) A qualifying institution shall collect the assessment from each student in an educational program at the time it collects the first payment from or on behalf of the student at or after enrollment. The

assessment shall be collected for the entire period of enrollment, regardless of whether the student pays the institutional charges in increments.

(b) A qualifying institution shall complete the STRF Assessment Reporting Form (Rev. 2/10) and remit it with the STRF assessments collected from students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:

(1) April 30 for the first quarter,

(2) July 31 for the second quarter,

(3) October 31 for the third quarter, and

(4) January 31 for the fourth quarter. If the due date falls on a Saturday, Sunday or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.

If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.

(c) The STRF Assessment Reporting Form shall contain the following information:

(1) Total number of students who signed enrollment agreements for educational programs during the reporting period; and

(2) Total number of students eligible for STRF who signed enrollment agreements for educational programs during the reporting period; and

(3) The total number of students who signed their enrollment agreement during the reporting period, were eligible for STRF, and who made their first payment during the reporting period; and

(4) The total number of students who signed their enrollment agreement in a previous reporting period, were eligible for STRF, and who made their first payment during the current reporting period; and

and

(5) Total amount of institutional charges after rounding each student's institutional charges to the nearest \$1,000, for all eligible STRF students whose STRF assessment was collected in the reporting period; and

(6) Current contact telephone number of the person preparing the form; and

(7) A declaration dated and signed under penalty of perjury by the person preparing the form that the form and any attachments are true and correct.

(d) In the event of a school closure, any collected assessments shall be remitted to the Bureau within seven days following the cessation of instruction.

(e) Submission of all prior reports and assessments required by this section is a condition of renewal."

The Institution has failed to submit STRF Assessment Reporting Form for the following quarters:

- **Third and Fourth Quarters of 2019**

On September 18, 2019, the Institution was notified via mail at 1401 S. Fresno Avenue, Stockton, CA 95206, that the STRF Assessment Reporting Form for the 3rd quarter of 2019 was due. As of October 1, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution.

On December 17, 2019, the Institution was notified via mail at 1401 S. Fresno Avenue, Stockton, CA 95206, that the STRF Assessment Reporting Form for the 4th quarter of 2019 was due. As of October 1, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution.

Order of Abatement:

The Bureau orders that the Institution submit the delinquent STRF Assessment Reporting Form with the STRF Assessments collected from students for the quarter listed above. The information provided shall comply with "Record Keeping Requirements" Pursuant to 5, CCR section 76140.

Assessment of Fine

	The fine for this violation is <u>\$50.00</u>
TOTAL ADMINISTRATIVE FINE DUE: \$6,550.00	

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5, CCR sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **\$6,550.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

COMPLIANCE WITH ORDER OF ABATEMENT

In accordance with the provisions of CEC section 94936 and 5, CCR section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the order of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference **and/or** Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference **and/or** an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference **and/or** an administrative hearing is signed by you and delivered to the Bureau by October 31, 2020, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **October 1, 2020**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **October 31, 2020**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Gabriella Perez, Discipline Citation Program
 Bureau for Private Postsecondary Education
 1747 N. Market Blvd., Suite 225
 Sacramento, CA 95834

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Gabriella Perez, Citation Analyst, at (916) 574-8969 or Gabriella.Perez@dca.ca.gov.

“Original signature on file”

“10/1/2020”

Christina Villanueva
Discipline Manager

Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First-Class Mail