



Bureau for Private Postsecondary Education
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APPEAL OF CITATION INFORMAL CONFERENCE
DECISION: CITATION MODIFIED

September 21, 2021

Cali Cosmo DJH, Inc., Owner
Cali Cosmo DJH, Inc.
1760 Fremont Boulevard, Suite F2
Seaside, CA 93955

Date of Issuance	Citation Number	Institution Code
September 21, 2021	2021214	64494433

On May 19, 2021, an informal telephone conference was held in the matter of Citation: Assessment of Fine and Order of Abatement No. 2021214 (Citation) against Cali Cosmo DJH, Inc., Owner of Cali Cosmo DJH, Inc. (Institution). In attendance were Beth Scott, Enforcement Chief, Linh T. Nguyen, Department of Consumer Affairs Legal Counsel, Hannah Zander, Chief Executive Officer, and Michael Lykken, Cali Cosmo DJH, Inc.'s Legal Counsel.

Pursuant to Business and Professions Code, section 125.9; California Education Code, section 94936; and Title 5 of the California Code of Regulations, section 75020 and section 75040, the Bureau for Private Postsecondary Education (Bureau) renders the following decision relative to your appeal of the Citation No. 2021214.

It is the decision of the Insert Enforcement Chief that on July 27, 2021, Citation No. 2021214 is modified and makes the following change(s):

VIOLATION CODE SECTIONS

#	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>MODIFIED</p> <p>Violation: CEC Section 94893 – Authorization Required for Substantive Change <i>“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.”</i></p> <p>CEC Section 94894 – Substantive Change Defined <i>“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”</i></p> <p>5, CCR, Section 71600 – Application for Significant Change in Method of Instructional Delivery</p>

“(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) 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:”

The Institution failed to notify the Bureau of its intention to make a substantive change. The Institution began offering distance education hours on July 27, 2020, without receiving prior authorization from the Bureau.

Order of Abatement:

The Bureau orders the Institution to submit an Application for a Change in Method of Instructional Delivery if they wish to offer distance learning education. The Institution shall not offer distance learning education and/or distance learning hours until approval from the Bureau is obtained. The Institution shall submit evidence of compliance to the Bureau.

Modified Order of Abatement:

The Institution shall not offer distance learning education and/or distance learning hours unless approval from the Bureau is obtained.

Reason for Modification: New substantive facts were presented at the informal conference.

Assessment of Fine

The fine for this violation is \$501.00

The administrative fine has been modified from \$501.00 to \$100.00.

2.

MODIFIED

Violation:

5, CCR Section 71750 (c)(1) – Withdrawals and Refunds

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

(1) The amount owed equals the daily charge for the program (total institutional charge, divided by the number of days or hours in the program), multiplied by the number of days student attended, or was scheduled to attend, prior to withdrawal.”

The Institution failed to include the proper pro rata refund calculation sheet. The document failed to include the total institutional charges in its pro rata refund calculation formula, therefore the pro rata refund was miscalculated by the Institution.

Order of Abatement:

The Bureau orders the Institution to submit a copy of correct pro rata refund calculation formula to the Bureau for approval. In addition, the Bureau orders the Institution to submit a written policy, or

procedure, of how the Institution will maintain future compliance with 5, CCR section 71750(c)(1).

Modified Order of Abatement:

The Bureau orders the Institution to provide student K.C. with the correct refund and provide proof of said refund to the Bureau.

Reason for Modification: New substantive facts were presented at the informal conference.

Assessment of Fine

The fine for this violation is \$1,000.00

The administrative fine has been modified from \$1,000.00 to \$500.00.

3. **WITHDRAWN**

Violation:

5, CCR Section 74006 (a) and (b) - Annual Fee

“(a) An institution’s annual fee is due within 30 days of the date on which the institution originally receives its approval to operate and each year thereafter on the anniversary of the date of the original approval. (b) An institution shall pay its annual fee in addition to any other applicable fees.”

CEC Section 94930.5 (g) - Fee Schedule

“(g) Notwithstanding subdivision (d), effective July 1, 2018, the annual fee for each campus described in subparagraphs (A) and (B) of paragraph (1) of subdivision (d) shall be in an amount equal to 0.55 percent of that campus’ total gross revenue derived from students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000) for each campus.”

CEC Section 94931(a) and (b) - Late Payment

“(a) A fee that is not paid on or before the 30th calendar day after the due date for payment of the fee shall be subject to a 25 percent late payment penalty fee.”

“(b) A fee that is not paid on or before the 90th calendar day after the due date for payment of the fee shall be subject to a 35 percent late payment penalty fee.”

The Institution has failed to pay its 90-day late payment penalty fee for the 2018 annual fee and the 30-day late payment penalty fee for the 2020 annual fee.

2018 Late Payment Penalty Fee

On November 5, 2018, the Institution was notified, Invoice # 900337725, via mail at 1760 Fremont Boulevard, Suite F2, Seaside, CA 93955, stating that the annual fee for calendar year 2018 was due on December 1, 2018.

On January 16, 2019, the Institution was notified, Invoice # 900339474, via mail at 1760 Fremont Boulevard, Suite F2, Seaside, CA 93955, stating that the annual fee for calendar year 2018 was due on December 1, 2018.

On March 19, 2019, the Institution was notified, Invoice # 900339474, via mail at 1760 Fremont Boulevard, Suite F2, Seaside, CA 93955, stating that the annual fee for calendar year 2018 was due on December 1, 2018.

On October 23, 2019, the Bureau received a \$2,500 payment for the 2018 annual fee.

2020 Late Payment Penalty Fee

On September 1, 2020, the Institution was notified, Invoice # 900352175, via mail at 1760 Fremont Boulevard, Suite F2, Seaside, CA 93955, stating that the annual fee for calendar year 2020 was due on October 1, 2020.

On November 16, 2020, the Institution was notified, Invoice # 900353960, via mail at 1760 Fremont Boulevard, Suite F2, Seaside, CA 93955, stating that the annual fee for calendar year 2020 was due on October 1, 2020.

On November 12, 2020, the Bureau received a \$2,500 payment for the 2020 annual fee.

As of March 24, 2021, the Bureau has not received the late payment penalty fees for 2018 and 2020 from the Institution.

Order of Abatement:

The Bureau orders the Institution to pay all late payment penalty fees in accordance with 5, CCR section 74006 (a)(b), CEC section 94930.5(g) and 94931 (a)(b).

Reason for Withdrawal of Violation: New substantive facts were provided at the informal conference. The violation is withdrawn as the matter was resolved.

Assessment of Fine

The fine for this violation is \$00.00

TOTAL MODIFIED ADMINISTRATIVE FINE DUE: \$600.00

ORDER OF ABATEMENT

The Bureau orders that you comply with the orders described in the ‘Violation Code Sections’ of this document and submit evidence of compliance within 30 days from the date of this decision.

PENALTY – ASSESSMENT OF A FINE

Payment of the administrative fine is due within 30 days from the date of this decision. Please complete the Payment of Fine form. Payment must be made to the Bureau by check, or money order. Please include the citation number on the payment of the fine assessment. Payment of the administrative fine shall not constitute an admission of the violation(s) charged and shall be represented as satisfactory resolution of the matter for purposes of public disclosure. Payments may be mailed to:

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

APPEAL OF CITATION

You *do not* have the right to request another Informal Conference to appeal this modified Citation. You *do*, however, have the right to appeal this affirmed or modified Citation through an Administrative Hearing. A hearing before an Administrative Law Judge will be scheduled and you will be notified of the hearing date. The hearing will be held pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you do not wish to appeal this modified Citation you must withdraw your initial request for an Administrative Hearing, if one was made. Please complete and mail the enclosed Withdrawal – Request for Administrative Hearing within **30 Days** of the date of this decision.

EFFECTIVE DATE OF CITATION AND FINE ASSESSMENT

This modified Citation is effective on **September 21, 2021**. The Order of Abatement and payment are due by **October 21, 2021**.

Failure to abate the violation or to pay the administrative fine within the time allowed is grounds for denial of an application for an approval to operate or discipline. The Bureau will promptly take all appropriate action to enforce the Modified 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 decision or desire further information, please contact Gabriella Perez, Citation Analyst, at (916) 574-8969 or at Gabriella.Perez@dca.ca.gov.

“Original Signature on File”

“9/21/2021”

Christina Villanueva
Discipline Manager

Date

Enclosures

- Payment of Fine – Waiver of Appeal Rights
- Withdrawal- Request for Administrative Hearing
- Declaration of Service by Certified and First-Class Mail