



APPEAL OF CITATION INFORMAL CONFERENCE
DECISION: CITATION MODIFIED

June 5, 2019

James Martinez, Owner
 Southwestern Vocational College
 15776 Main Street Suite 23
 Hesperia, CA 92340

Date of Issuance	Citation Number	Institution Code
June 5, 2019	1819123	Unapproved

On March 27, 2019, an informal telephone conference was held in the matter of Citation: Assessment of Fine and Order of Abatement No. 1819123 (Citation) against James Martinez, Owner of Southwestern Vocational College. In attendance were Marina O'Connor, Licensing Chief; Mina Hamilton, Attorney; and James Martinez, Owner.

Pursuant to Business and Professions Code, §148; California Education Code (CEC), section 94944; and Title 5 of California Code of Regulations (5, CCR), section 75020 and section 75040, the Bureau for Private Postsecondary Education (Bureau) renders the following decision relative to your appeal of the Citation No. 1819123.

It is the decision of the Licensing Chief that on June 3, 2019, Citation No. 1819123 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><u>Violation:</u></p> <p>CEC Section 94886. Approval to Operate Required <i>"Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter."</i></p> <p>CEC Section 94817.5. Approved to Operate or Approved <i>"Approved to operate" or "approved" means that an institution has received authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs."</i></p> <p>CEC Section 94868. To Offer to the Public <i>"To offer to the public" means to advertise, publicize, solicit, or recruit."</i></p> <p>CEC Section 94869. To Operate <i>"To operate" means to establish, keep, or maintain any facility or location in this state where, or</i></p>

from which, or through which, postsecondary educational programs are provided.”

On November 7, 2018, the Bureau mailed an official notice via certified and regular mail to the Owner of the Institution stating the verification of exempt status for the Institution was cancelled effective November 7, 2018, and the Institution must have an approval to operate issued by the Bureau. The Institution’s verification of exemption under CEC Section 94874(h) was cancelled for the following reasons:

- Evidence obtained by the Bureau identifies that the Institution is not organized specifically to provide workforce development or rehabilitation services;
- Evidence obtained by the Bureau identifies that the Institution is not accredited by an accrediting organization for workforce development or rehabilitation services recognized by the Department of Rehabilitation; and
- Evidence obtained by the Bureau identifies that the Institution advertises to the public acceptance of California Veterans funding.

On November 26, 2018, the Owner emailed the Bureau confirming receipt of the notice mailed to the Institution on November 7, 2018, regarding the cancellation of the Institution’s verification of exemption status.

On November 28, 2018, the Owner emailed the San Bernardino County Workforce and Career Development Division and mentioned that the classes were conducted in November 2018. This email also stated that the course completion would be December 11, 2018.

As of February 21, 2019, the Bureau determined the Owner is acting as the Chief Operating Officer and Chief Instructor for the Institution and is operating outside the scope of the exemption as verified by the Bureau on January 12, 2012.

Order of Abatement:

The Bureau orders the Institution cease to operate as a private postsecondary educational Institution, unless the Institution qualifies for an exemption under CEC section 94874. The Institution must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media, including www.svc.edu.org and any other websites not identified here that are associated with the Institution, until such time as an approval to operate is obtained from the Bureau. The Institution must disconnect all telephone service-numbers including but not limited to (909) 972-4957 that are associated with the Institution until such time as an approval to operate is obtained from the Bureau. To comply with the Order of Abatement the Institution must submit a school closure plan to the Bureau pursuant to California Education Code section 94926. The Institution must provide a roster of each student currently enrolled at the Institution. The roster must include the names of the students, their contact information (including phone number, email address, and physical address), the programs in which they are enrolled, the amount paid for the programs.

Assessment of Fine

The fine for this violation is ~~\$100,000.00~~

The administrative fine for this violation has been modified from \$100,000.00 to \$25,000.00.

TOTAL MODIFIED ADMINISTRATIVE FINE DUE: \$25,000.00

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:

Cheryl Lardizabal, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

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 modified Citation through an Administrative Hearing, *only if* you initially requested one within 30 days from the issuance date of the original citation. 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. 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 **June 5, 2019**. The order of abatement and payment are due by **July 5, 2019**.

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 Cheryl Lardizabal, Discipline Analyst, at (916) 621-2591 or at Cheryl.Lardizabal@dca.ca.gov.



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