



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

December 15, 2020

Carlos Espadas, Owner
Swift Transportation
14392 Valley Blvd.
Fontana, CA 92335

Date of Issuance	Citation Number	Institution Code
December 15, 2020	2021060	Unapproved

On November 5, 2020, an informal telephone conference was held in the matter of Citation: Assessment of Fine and Order of Abatement 2021060 (Citation) against Carlos Espadas, Owner of Swift Transportation (Institution). In attendance were Beth Danielson, Enforcement Chief, Doug Smith, Department of Consumer Affairs Legal Counsel, Keith Zakarin, Swift Transportation’s Legal Counsel, and Jessica High, Swift Transportation’s Legal Counsel, and Charles Wirth, President.

Pursuant to Business and Professions Code, section 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. 2021060.

It is the decision of the Enforcement Chief that on December 1, 2020, Citation No. 2021060 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> 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>

CEC Section 94869. To Operate

"To operate" means to establish, keep, or maintain any facility or location in this state where, or from which, or through which, postsecondary educational programs are provided."

On August 11, 2016, the Bureau received an Application for Verification Status from the Institution.

On September 2016, the Bureau denied the Institution's Application for Verification of Exempt Status.

On July 31, 2019, the Bureau received a complaint alleging that the Institution was charging \$6,000.00 in tuition and operating without Bureau approval.

On August 8, 2019, Bureau staff contacted the Institution and the Institution staff confirmed that the Institution charges \$6,000.00 in tuition once the student passes a Commercial Truck Driving course administered through a third-party school, Truck Driving Academy (TDA), obtains a CDL Class A License, and starts to work for the Institution. Tuition is taken from the student's paycheck once employed by the Institution. The Institution also confirmed that students sign a Tuition Finance Agreement.

On August 22, 2019, Institution staff stated that students are given certificates created by TDA once the students have paid all the Institution's tuition and/or housing fees.

On August 27, 2019, Bureau staff found that Institution pays TDA \$1,100.00 for every student that completes the Commercial Truck Driving course and obtains a CDL Class A License.

The Institution enters students into enrollment agreements, collects tuition in the amount \$6,000.00 or more, and pays for students to attend a third-party school. The Institution is operating as a private postsecondary educational institution and does not qualify for an exemption under CEC section 94874.

Order of Abatement:

The Bureau orders that 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 <https://careers.swiftrtrans.com>, 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) 637-9195, 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.

Reason for modification: New substantive facts were presented at the conference. The Order of Abatement has been satisfied.

	<p><u>Assessment of Fine</u> The fine for this violation is \$50,000.00</p> <p style="color: red;">The administrative fine for this violation has been modified from \$50,000.00 to \$5,000.00.</p>
	<p>TOTAL MODIFIED ADMINISTRATIVE FINE DUE: <u>\$5,000.00</u></p>

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:

Nicole Mitchell, 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 **December 15, 2020**. The payment is due by **January 17, 2021**.

Failure 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 Nicole Mitchell Citation Analyst, at (916) 574-8995 or at Nicole.Mitchell@dca.ca.gov.

“Original Signature on File”

“12/15/2020”

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