



**Bureau for Private Postsecondary Education**  
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## **CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT**

To: Herguan University, Inc.  
Herguan University  
595 Lawrence Expressway  
Sunnyvale, CA 94085

**INSTITUTION CODE: 88680649**  
**CITATION NUMBER: 1718002**  
**CITATION ISSUANCE/SERVICE DATE: October 10, 2017**  
**DUE DATE: November 9, 2017**  
**FINE AMOUNT: \$10,501.00**  
**ORDER OF ABATEMENT INCLUDED: YES**

Yvette Johnson issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Enforcement Chief of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

### CITATION

A Citation is hereby issued to Herguan University, Inc., Owner of Herguan University located at 595 Lawrence Expressway, Sunnyvale, California 94085 pursuant to Business and Professions Code section 125.9; California Education Code (CEC) sections 94936 and 94932; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violations described below.

### BACKGROUND

On January 17, 2017, the Bureau for Private Postsecondary Education (Bureau) received an Enforcement Referral from the Bureau's Compliance Unit (Compliance). The Enforcement Referral was issued due to potential material violations found during an unannounced Compliance Inspection conducted by the Bureau at Herguan University (Herguan) on October 28, 2016 at 595 Lawrence Expressway, Sunnyvale, California 94085. The Enforcement Referral alleges potential material violations of CEC § 94902 (b)(3) General Enrollment Agreement Requirements, CEC § 94912 Signature, Initials Required, CEC § 94897 (j)(3) Prohibited Business Practices and 5, CCR § 71920(b)(3) Student Records. During the course of the Bureau's investigation of the Enforcement Referral items, Herguan worked with the Bureau's Enforcement Unit to remedy the potential material violations of CEC § 94902 (b)(3), CEC § 94912, and CEC § 94897 (j)(3); however, a violation of 5, CCR § 71920 (b)(3) was confirmed. While investigating the Enforcement Referral items, the Bureau also discovered the following violations: CEC § 94900.5 Required Institutional Records, CEC § 94934 (a)(4) Annual Report, 5, CCR § 74112 (e)(1) Uniform Data – Annual Report, Performance Fact Sheet, 5, CCR § 74112 (e)(2) Uniform Data – Annual Report, Performance Fact Sheet, and 5, CCR § 74112 (m) Uniform Data – Annual Report, Performance Fact Sheet.

VIOLATION

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the code section(s) of law you are charged with violating.
1.	<p><b><u>Violation:</u></b> 5, CCR § 71920 (b)(3) - Student Records <i>"(b) In addition to the requirements of section 94900, the file shall contain all of the following pertinent student records: (3) Copies of all documents signed by the student, including contracts, instruments of indebtedness, and documents relating to financial aid;"</i></p> <p>On October 28, 2016, an unannounced Compliance Inspection was conducted at Herguan. Bureau Compliance Inspector collected U.S. Immigration and Customs Enforcement (ICE) Form I-20 and Certificate of Eligibility for Nonimmigrant Student Status Forms I-20 A-B (Form I-20 A-B) from student files during the inspection and exhibited them in the Enforcement Referral.</p> <p>The following documentation was missing from the corresponding student files:</p> <ol style="list-style-type: none"><li>1. Student W.F.: ICE Form I-20 dated February 13, 2016 was not signed by student.</li><li>2. Student S.R.: Form 1-20 A-B dated January 5, 2015 was not signed by student; Form 1-20 A-B dated May 5, 2015 was not signed by student; ICE Form I-20 dated August 13, 2015 was not signed by student; ICE Form I-20 dated January 5, 2016 was not signed by student; ICE Form I-20 dated June 3, 2016 was not signed by student; ICE Form I-20 dated September 9, 2016 was not signed by student.</li><li>3. Student H. N.: ICE Form I-20 dated February 2, 2016 was not signed by student.</li><li>4. Student F.W.: ICE Form I-20 dated September 7, 2016 was not signed by student.</li><li>5. Student P. R.: Form I-20 A-B dated July 11, 2016 was not signed by student.</li><li>6. Student Z. A. T.: ICE Form I-20 dated August 16, 2016 was not signed by student.</li></ol> <p>On February 13, 2017, the Bureau received an email from D.S., Vice President of Academic and Student Affairs for Herguan, in response to the missing signed forms. D.S. stated that F1 students would not be allowed to begin classes without the basic Student and Exchange Visitor Program (SEVP) and United States Citizenship and Immigration Services (USCIS) information in place and that students are not allowed to be in the United States without this documentation in place; therefore, she believes the placement of the signed forms in the student file may have been overlooked, however the students were properly enrolled.</p> <p><b><u>Order of Abatement:</u></b> The Bureau orders that the institution submit a written policy to the Bureau that ensures that students and the institution sign required documentation and that those signed documents are maintained in the student files in compliance with 5, CCR § 71920 (b)(3) in the future.</p> <p><b><u>Assessment of Fine</u></b> The fine for this violation is <u>\$501.00</u></p>

2. **Violation:**

CEC § 94900.5 (a) - Required Institutional Records

*"An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information:*

*(a) The educational programs offered by the institution and the curriculum for each."*

5, CCR § 74112 (e)(1) – Annual Report

*"(e) Reporting periods:*

*(1) An Annual Report shall include data for all educational programs as defined in section 94837 of the Code for the previous one calendar year."*

5, CCR § 74112 (e)(2) - Uniform Data - Annual Report, Performance Fact Sheet

*"(e) Reporting periods:*

*(2) A Performance Fact Sheet shall be current and available not later than December 1st, and shall report data for the previous two calendar years based upon the "number of students who began the program," as defined in subdivision (d)(1) of this section and were scheduled to graduate in the reported year(s)."*

CEC § 94934 (a)(4) – Annual Report

*"(a) As part of the compliance program, an institution shall submit an annual report to the bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year, or another date designated by the bureau, and it shall include the following information for educational programs offered in the reporting period:*

*(4) The Student Performance Fact Sheet, as required pursuant to Section 94910."*

5, CCR § 74112 (m) - Uniform Data - Annual Report, Performance Fact Sheet

*(m) Documentation supporting all data reported shall be maintained electronically by the institution for at least five years from the last time the data was included in either an Annual Report or a Performance Fact Sheet and shall be provided to the Bureau upon request..."*

On August 27, 2015, Herguan incorrectly submitted a 2012/2013 School Performance Fact Sheet with its 2014 Annual Report, rather than the 2013/2014 School Performance Fact Sheet as required with the 2014 Annual Report.

On November 20, 2015, the Bureau mailed a letter to Herguan requesting a 2013/2014 School Performance Fact Sheet within 30 days of receipt of the letter. To date, the Bureau has not received the requested documentation.

On July 14, 2016, the Bureau implemented new regulations under Title 5 Division 7.5 California Code of Regulations which affected the requirements of a School Performance Fact Sheet under 5, CCR § 74112. A letter was mailed out to all institutions in October 2016, along with the 3rd Quarter Student Tuition Recovery Fund Reporting forms, notifying institutions of the change in the Regulations and providing information on where institutions can find an updated School Performance Fact Sheet template.

On November 28, 2016, Herguan submitted an incorrect 2014/2015 School Performance Fact Sheet that did not comply with the newly implemented regulations under 5, CCR § 74112 (i.e. template and information).

On March 10, 2017, the Bureau mailed a letter to Herguan requesting a compliant 2014/2015 School Performance Fact Sheet by March 31, 2017.

On March 23rd, 27th, and 29th, 2017, Herguan submitted revisions of their 2014/2015 School Performance Fact Sheet that were still not in compliance with the Bureau's newly implemented regulations under 5, CCR § 74112. The Bureau did not receive a compliant 2014/2015 School Performance Fact Sheet by March 31, 2017, as requested by the Bureau in the March 10, 2017 deficiency letter mailed to Herguan. Rather, on April 4th and 10th, 2017, Herguan submitted additional revisions of their 2014/2015 School Performance Fact sheet to the Bureau which were not compliant. The Bureau did not receive a compliant 2014/2015 School Performance Fact Sheet until April 25, 2017.

**Order of Abatement:**

The Bureau orders that the institution submit a 2013/2014 School Performance Fact Sheet and backup documentation as requested. Additionally, the Bureau orders that the institution submit a written policy of how it will maintain compliance with requests for School Performance Fact Sheet's and Annual Report requirements in the future.

**Assessment of Fine**

The fine for this violation is \$5000.00

3. **Violation:**

CEC § 94900.5 (a) - Required Institutional Records

*"An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information:*

*(a) The educational programs offered by the institution and the curriculum for each.*

5, CCR § 71930 (e) - Maintenance of Records

*"(e) All records that the institution is required to maintain by the Act or this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations."*

On August 27, 2015, Herguan submitted a 2012/2013 School Performance Fact Sheet with its 2014 Annual Report, rather than the 2013/2014 School Performance Fact Sheet as required with the 2014 Annual Report.

On November 20, 2015, the Bureau mailed a letter to Herguan requesting a 2013/2014 School Performance Fact Sheet within 30 days of receipt of the letter. To date, the Bureau has not received the requested documentation.

**Order of Abatement:**

The Bureau orders that the institution submit a 2013/2014 School Performance Fact Sheet as requested. Additionally, the Bureau orders that the institution submit a written policy of how the institution will ensure the maintenance of required institutional records and make files immediately available upon request to the Bureau pursuant to CEC § 94900.5 (a) and 5, CCR § 71930 (e).

**Assessment of Fine**

The fine for this violation is \$5000.00

**TOTAL ADMINISTRATIVE FINE DUE: \$10,501.00**

### 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 **\$10,501.00** 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(s) 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 November 9, 2017, 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 10, 2017**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **November 9, 2017**. 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:**


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

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 Gurinder Sandhu, Discipline Analyst, at 916-431-6940 or [Gurinder.Sandhu@dca.ca.gov](mailto:Gurinder.Sandhu@dca.ca.gov).

  
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**Yvette Johnson**  
**Enforcement Chief**

  
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**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