

1 ROB BONTA  
Attorney General of California  
2 SHAWN P. COOK  
Supervising Deputy Attorney General  
3 SHERONDA L. EDWARDS  
Deputy Attorney General  
4 State Bar No. 225404  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6296  
6 Facsimile: (916) 731-2126  
E-mail: [Sheronda.Edwards@doj.ca.gov](mailto:Sheronda.Edwards@doj.ca.gov)  
7 *Attorneys for Complainant*

8  
9 **BEFORE THE**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**  
12 **STATE OF CALIFORNIA**

13  
14 In the Matter of the Statement of Issues  
Against:

15 **NEW CREATION COLLEGE**

16 Application for Renewal of Approval to  
17 Operate a Non-Accredited Institution

18 Institution Code No. 63859779

19 Respondent.

Case No. BPPE24-0159

**STATEMENT OF ISSUES**

20  
21  
22 **PARTIES**

23 1. Deborah Cochrane (Complainant) brings this Statement of Issues solely in her  
24 official capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau),  
25 Department of Consumer Affairs.

26 2. On or about October 2, 2020, the Bureau received an Application for Approval to  
27 Operate an Institution Non-Accredited from New Creation College (Respondent or Institution),  
28 owned by New Creation Behavioral Health Foundation. The application shows four signatures

1 between September 28-29, 2020, under penalty of perjury for Glenn Swanson, Carol Swanson,  
2 Samuel Phillips, David Boras, John J. Mcinally, and Dan Hazelton to the truthfulness of all  
3 statements, answers, and representations in the application. The Bureau denied the application on  
4 January 2, 2024.

5 **JURISDICTION**

6 3. This Statement of Issues is brought before the Director of the Department of  
7 Consumer Affairs (Director) for the Bureau, under the authority of the following laws. All section  
8 references are to the Business and Professions Code (Code) unless otherwise indicated.

9 4. Code section 94886 states that:

10 Except as exempted in Article 4 (commencing with Section 94874) or in compliance with  
11 the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,  
12 conduct, or do business as a Private Postsecondary Educational Institution in this State without  
13 obtaining an approval to operate under this chapter.

14 5. Code section 94887 states that:

15 An approval to operate shall be granted only after an applicant has  
16 presented sufficient evidence to the Bureau, and the Bureau has independently  
17 verified the information provided by the applicant through site visits or other  
18 methods deemed appropriate by the Bureau, that the applicant has the capacity to  
19 satisfy the minimum operating standards. The Bureau shall deny an application for  
20 an approval to operate if the application does not satisfy those standards. The  
21 Bureau may deny an application for an approval to operate institutions that would  
22 be owned by, have persons in control of, or employ institution managers that had  
23 knowledge of, should have known, or knowingly participated in any conduct that  
24 was the cause for revocation or unmitigated discipline at another institution.

21 **STATUTORY PROVISIONS**

22 6. Section 94891 of the Education Code states in pertinent part:

23 . . .

24 (b) To be granted a renewal of an approval to operate, the institution shall  
25 demonstrate its continued capacity to meet the minimum operating standards.

26 . . .

27 7. Section 94899.5 of the Education Code states:

28 (a) Institutions that offer short-term programs designed to be completed in

1 one term or four months, whichever is less, may require payment of all tuition and  
2 fees on the first day of instruction.

3 (b) For those programs designed to be four months or longer, an institution  
4 shall not require more than one term or four months of advance payment of tuition  
5 at a time. When 50 percent of the program has been offered, the institution may  
6 require full payment.

7 ...

8 (e) At the student's option, an institution may accept payment in full for  
9 tuition and fees, including any funds received through institutional loans, after the  
10 student has been accepted and enrolled and the date of the first class session is  
11 disclosed on the enrollment agreement.

12 8. Section 94909 of the Education Code states:

13 (a) Except as provided in subdivision (d), before enrollment, an institution  
14 shall provide a prospective student, either in writing or electronically, with a school catalog  
15 containing, at a minimum, all of the following:

16 (3) The following statements:

17 (A) "Any questions a student may have regarding this catalog that have not  
18 been satisfactorily answered by the institution may be directed to the Bureau for Private  
19 Postsecondary Education at (address), Sacramento, CA (ZIP Code), (internet website address),  
20 (telephone and fax numbers)."

21 ...

22 (9) The schedule of total charges for a period of attendance and an estimated  
23 schedule of total charges for the entire educational program.

24 ...

25 (11) A statement specifying that, if a student obtains a loan to pay for an  
26 educational program, the student will have the responsibility to repay the full amount of the loan  
27 plus interest, less the amount of any refund, and that, if the student has received federal student  
28 financial aid funds, the student is entitled to a refund of the money's not paid from federal student  
financial aid program funds.

...

(15) The following statement:

1 NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS  
2 EARNED AT OUR INSTITUTION

3 The transferability of credits you earn at (name of institution) is at the complete discretion  
4 of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or  
5 certificate) you earn in (name of educational program) is also at the complete discretion of the  
6 institution to which you may seek to transfer. If the (credits or degree, diploma, or certificate) that  
7 you earn at this institution are not accepted at the institution to which you seek to transfer, you  
8 may be required to repeat some or all of your coursework at that institution. For this reason you  
9 should make certain that your attendance at this institution will meet your educational goals. This  
10 may include contacting an institution to which you may seek to transfer after attending (name of  
11 institution) to determine if your (credits or degree, diploma, or certificate) will transfer.

12 9. Section 94911 of the Education Code states in pertinent part:

13 An enrollment agreement shall include, at a minimum, all of the following:

14 . . .

15 (b) A schedule of total charges, including a list of any charges that are  
16 nonrefundable and the student's obligations to the Student Tuition Recovery Fund,  
clearly identified as nonrefundable charges.

17 (c) In underlined capital letters on the same page of the enrollment  
18 agreement in which the student's signature is required, the total charges for the  
19 current period of attendance, the estimated total charges for the entire educational  
program, and the total charges the student is obligated to pay upon enrollment.

20 . . .

21 (h) The transferability disclosure that is required to be included in the  
22 school catalog, as specified in paragraph (15) of subdivision (a) of Section 94909.

23 10. Section 94913 of the Education Code states in pertinent part:

24 (a) An institution that maintains an internet website shall provide on that  
25 internet website all of the following:

26 . . .

27 (4) A link to the Bureau's internet website.

28 (5) The Institution's most recent annual report submitted to the Bureau.

1 11. Section 94934 of the Education Code states in pertinent part:

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

- 6 (1) The total number of students enrolled by level of degree or for a diploma.
- 7 (2) The number of degrees, by level, and diplomas awarded.
- 8 (3) The degree levels and diplomas offered.
- 9 (4) The School Performance Fact Sheet, as required pursuant to Section 94910.
- 10 (5) The school catalog, as required pursuant to Section 94909.
- 11 (6) The total charges for each educational program by period of attendance.
- 12 (7) A statement indicating whether the institution is, or is not, current in  
13 remitting Student Tuition Recovery Fund assessments.
- 14 (8) A statement indicating whether an accrediting agency has taken any final  
15 disciplinary action against the institution.
- 16 (9) Additional information deemed by the bureau to be reasonably required to  
17 ascertain compliance with this chapter.

18 ...

#### 19 **REGULATORY PROVISIONS**

20 12. Title 5, Section 71400.5 of the California Code of Regulations states, in pertinent  
21 part:

22 ...

23 (b) “In addition to denying an application pursuant to section 94887 of the  
24 Code, the Bureau may deny any application based on any act that constitutes grounds for the  
25 denial of a license under Section 480 of the Business and Professions Code, incorporated herein  
26 by reference.”

27 13. Title 5, Section 71475 of the California Code of Regulations states, in pertinent  
28 part:

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...

(e) The institution shall submit at the time it applies for renewal current financial statements that meet the requirements of section 74115 as follows: (1) for an institution with annual gross revenues of \$500,000 and over, statements shall be audited; (2) for an institution with annual gross revenues less than \$500,000, statements shall be reviewed.

...

(r) The institution shall identify and describe, in the application, the educational program it offers, or proposes to offer. If the educational program is a degree program, the institution shall identify the full title, which it will place on each degree awarded. If there have been no substantive changes since the last submission, the institution may so state and is not required to submit documentation.

...

(t) In addition, the institution shall list in the application, the following for each educational program offered unless there have been no substantive changes since the last submission. If there have been no substantive changes made the institution may so state and is not required to provide documentation.

(1) The admissions requirements, including minimum levels of prior education, preparation, or training;

...

(4) The title of the educational programs and other components of instruction offered, including a description of the level of the courses (e.g., below college level, undergraduate level, graduate level);

...

(6) The graduation requirements.

(7) Whether the educational program is designed to fit or prepare students for employment in any occupation. If so, the application shall identify each occupation and job title to which the institution represents the educational program will lead.

(u) For each educational program that the institution offers or proposes to offer, the application shall contain a statement that the educational program meets the requirements of section 71710, as well as the following unless there have been no substantive changes since the last submission. If there have been no substantive changes made the institution may so state and is not required to provide documentation:

...

(3) A description of the number and qualifications of the faculty needed to teach the educational program.

...

1           14.     Title 5, Section 71700 of the California Code of Regulations states, in pertinent  
2 part:

3           The Bureau may request that an institution document compliance with the standards set  
4 forth in the Act and this Division to obtain and maintain an approval to operate.

5           15.     Title 5, Section 71710 of the California Code of Regulations states, in pertinent  
6 part:

7                   (a)     In order to meet its mission and objectives, the educational program  
8 defined in Section 94837 of the Code shall be comprised of a curriculum that includes:

9                             ...

10                   (3)     Course or module materials that are designed or organized by duly  
11 qualified faculty. For each course or module, each student shall be provided with a syllabus or  
12 course outline that contains:

13                             (A)     A short, descriptive title of the educational program;

14                             (B)     A statement of educational objectives;

15                             (C)     Length of the educational program;

16                             (D)     Sequence and frequency of lessons or class sessions;

17                             (E)     Complete citations of textbooks and other required written materials;

18                             (F)     Sequential and detailed outline of subject matter to be addressed or a list of  
19 skills to be learned and how those skills are to be measured;

20                             (G)     Instructional mode or methods.

21           16.     Title 5, Section 71720 of the California Code of Regulations states, in pertinent  
22 part:

23                             ...

24                   (b)     Instructors in an Educational Program Not Leading to a Degree.

25                             (1)     An institution shall employ instructors who possess the academic,  
26 experiential and professional qualifications to teach, including a minimum of three years of  
27 experience, education and training in current practices of the subject area they are teaching. If an  
28 instructor does not possess the required three years of experience, education and training in the

1 subject area they are teaching, the institution shall document the qualifications the instructor  
2 possesses that are equivalent to the minimum qualifications.

3 ...

4 17. Title 5, Section 71800 of the California Code of Regulations states, in pertinent  
5 part:

6 ...

7 (b) Period covered by the enrollment agreement.

8 ...

9 (e) Itemization of all institutional charges and fees including, as applicable:

10 (1) Tuition;

11 (2) Registration fee (non-refundable);

12 (3) Equipment;

13 (4) Lab supplies or kits;

14 (5) Textbooks, or other learning media;

15 (6) Uniforms or other special protective clothing;

16 (7) In-resident housing;

17 (8) Tutoring;

18 (9) Assessment fees for transfer of credits;

19 (10) Fees to transfer credits;

20 (11) Student tuition recovery fund fee (non-refundable);

21 (12) Any other institutional charge or fee.

22 18. Title 5, section 71485 of the California Code of Regulations states:

23 Failure of an institution to have made current payments of the assessments to the Student  
24 Tuition Recovery Fund as required by chapter 7 of this Division, and annual fees as required by  
25 chapter 5 of this Division shall render the institution ineligible for renewal.

26 19. Title 5, Section 71745 of the California Code of Regulations states, in pertinent  
27 part:

28 ///



1 (a) The institution shall document that it has at all times sufficient  
assets and financial resources to do all of the following:

2 (1) Provide all of the educational programs that the institution  
3 represented it would provide.

4 (2) Ensure that all students admitted to its educational programs  
5 have a reasonable opportunity to complete the programs and obtain their  
6 degrees or diplomas.

7 (3) Maintain the minimum standards required by the Act and  
8 this chapter.

9 (4) Pay timely refunds as required by Article 13 of the Act.

10 (5) Pay all operating expenses due within 30 days.

11 (6) Maintain a ratio of current assets to current liabilities of 1.25  
12 to 1.00 or greater at the end of the most recent fiscal year when using  
13 generally accepted accounting principles, or for an institution participating  
14 in Title IV of the federal Higher Education Act of 1965, meet the  
15 composite score requirements of the U.S. Department of Education. For the  
16 purposes of this section, current assets does not include: intangible assets,  
17 including goodwill, going concern value, organization expense, startup  
18 costs, long-term prepayment of deferred charges, and non-returnable  
19 deposits, or state or federal grant or loan funds that are not the property of  
20 the institution but are held for future disbursement for the benefit of  
21 students. Unearned tuition shall be accounted for in accordance with  
22 general accepted accounting principles.

23 (b) At an institution's request, the Bureau may consider the financial  
24 resources of a parent company if the parent company, as defined by section 94853  
25 of the Code, meets and maintains all of the following provisions:

26 (1) Consents in writing to be sued in California;

27 (2) Consents in writing to be subject to the jurisdiction of the  
28 Bureau with respect to the institution's regulation under the Act and this  
Chapter;

(3) Designates and maintains an agent for service of process,  
consistent with section 74190;

(4) Agrees in writing to pay any refund, claim, penalty, or  
judgment that the institution is obligated to pay; and

(5) Files financial reports, maintains financial records, and  
consents in writing to permit the inspection and copying of financial  
records to the same extent as is required of the institution.

(c) An institution shall provide to the Bureau its most current financial  
statements upon request.

20. Title 5, Section 74110 of the California Code of Regulations states in pertinent  
part:

1 (a) The annual report required by Section 94934 of the Code shall  
2 include the information required by this section, subsections (f) through (j) of  
3 section 74112, and sections 94929.5 and 94934 of the Code for all educational  
4 programs offered in the prior calendar year, and all of the following for the prior  
5 calendar year:

6 (1) Information regarding institutional branch campuses,  
7 including addresses and programs offered at each campus, if applicable;

8 (2) Information regarding satellite locations, including  
9 addresses and with which campus(es) the satellite location is affiliated, if  
10 applicable;

11 (3) Name of institutional accreditors for each branch and  
12 satellite campus, and for each such campus at which any programs have  
13 programmatic accreditation, the names of the programmatic accreditor for each  
14 such program, and effective dates for each programmatic accreditation, if  
15 applicable;

16 (4) Information regarding participation in state and federal  
17 student loan and grant programs, including the total amount of funding received  
18 from each source for those students enrolled in an approved California school  
19 regardless of their state of residency;

20 (5) Information regarding participation in other public funding  
21 programs, including the amount of funding received from each public funding  
22 source; for purposes of this section, public funding is any financial aid paid on  
23 behalf of students or directly to an institution from any public source, such as the  
24 Workforce Investment Act, any veterans' financial aid programs pursuant to  
25 Section 21.4253 of Title 38 of the Code of Federal Regulations or any other  
26 financial aid program that is intended to help students pay education-related  
27 expenses, including tuition, fees, room and board, and supplies for education;

28 (6) The total percentage of institutional income that comes from  
any public funding sources; and

(7) A blank copy of the institution's enrollment agreement and  
the catalog for the reporting year.

(b) In addition to the information required by section 94934 of the  
Code and this section provided under penalty of perjury, the institution shall have  
annual financial statements prepared for the institution's prior fiscal year and  
signed under penalty of perjury, and shall submit a hard copy under separate cover  
of such statements in conjunction with its annual report. The form, content and  
mode of preparation of financial statements shall comply with Section 74115 of  
this Division. The Bureau may request that the institution immediately make  
available for inspection to a representative of the Bureau, these financial  
statements at the offices of the institution.

(c) As part of its annual report to the Bureau, every institution shall  
provide graduate identification data for each student who graduated from the  
institution's educational program(s), which shall include:

///

///

1 (1) The graduate's name and federal taxpayer identification  
2 number, which is either the graduate's Social Security Number (SSN) or  
3 Individual Taxpayer Identification Number (ITIN). If the graduate does not have  
4 an SSN or ITIN, the graduate's information shall be reported as "not available";

5 (2) The date of graduation;

6 (3) The following information regarding the educational  
7 program in which the graduate was enrolled:

8 (A) The federal Bureau of Labor Statistic's Standard Occupation  
9 Classification (SOC) codes for which the institution has identified that the program  
10 prepares its graduates when required for the reporting of job placement rates under  
11 subdivision (i)(3) of section 74112 of this Division;

12 (B) Educational program's name;

13 (C) Program length, as measured in clock hours or credit hours;  
14 and

15 (D) Type or title of degree, diploma or certificate awarded.

16 (4) The amount of federal student loan debt for the graduate, if  
17 any, as reported by the institution under subdivision (g) of section 74112 of this  
18 Division.

19 (d) Specific Timeframes for Reporting Graduate Identification Data:

20 (1) The written notice required by Section 94892.6(b)(5) of the  
21 Code shall inform the institution that the Director has certified that the Bureau's  
22 information technology system has been updated and is capable of processing the  
23 data required by that Section and that the institution has 120 days from receipt of  
24 the notice to comply with this section.

25 (2) The first annual report submitted by an institution that  
26 contains the graduate identification data required to be reported in subsection  
27 (c) shall include information collected on all students who graduated from  
28 January 1, 2020 through the end of the prior calendar year. Subsequent annual  
reports containing graduate identification data filed by an institution shall include  
information about students who graduated in the prior calendar year only.

...

21. Title 5, Section 74115 of the California Code of Regulations states, in pertinent  
part:

...

(d) "Current" with respect to financial statements means completed no  
sooner than 120 days prior to the time it is submitted to the Bureau, and covering  
no less than the most recent complete fiscal year. If more than 8 months will have  
elapsed between the close of the most recent complete fiscal year and the time it is  
submitted, the fiscal statements shall also cover no less than five months of that  
current fiscal year.

1           22.     Title 5, Section 74117 of the California Code of Regulations states, in pertinent  
2 part:

3           In addition to the requirement in Section 94913(b) of the Code, an institution that  
4 maintains a website shall provide on the homepage of that website clear and conspicuous links to  
5 all the items required in Section 94913(a) of the Code.

6           23.     Title 5, Section 76215 of the California Code of Regulations states:

7           (a)     A qualifying institution shall include the following statement on both its  
8 enrollment agreement and school catalog:

9           “The State of California established the Student Tuition Recovery Fund (STRF) to relieve  
10 or mitigate economic loss suffered by a student in an educational program at a qualifying  
11 institution, who is or was a California resident while enrolled, or was enrolled in a residency  
12 program, if the student enrolled in the institution, prepaid tuition, and suffered an economic loss.  
13 Unless relieved of the obligation to do so, you must pay the state-imposed assessment for the  
14 STRF, or it must be paid on your behalf, if you are a student in an educational program, who is a  
15 California resident, or are enrolled in a residency program, and prepay all or part of your tuition.

16           You are not eligible for protection from the STRF and you are not required to pay the  
17 STRF assessment, if you are not a California resident, or are not enrolled in a residency  
18 program.”

19           (b)     In addition to the statement required under subdivision (a) of this section, a  
20 qualifying institution shall include the following statement in its school catalog:

21           “It is important that you keep copies of your enrollment agreement, financial aid  
22 documents, receipts, or any other information that documents the amount paid to the school.  
23 Questions regarding the STRF may be directed to the Bureau for Private Postsecondary  
24 Education, 1747 North Market Blvd., Suite 225, Sacramento, California, 95834, (916) 574-8900  
25 or (888) 370-7589.

26           To be eligible for STRF, you must be a California resident or enrolled in a residency  
27 program, prepaid tuition, paid or deemed to have paid the STRF assessment, and suffered an  
28 economic loss as a result of any of the following:

1           1.       The institution, a location of the institution, or an educational program offered by  
2 the institution was closed or discontinued, and you did not choose to participate in a teach-out  
3 plan approved by the Bureau or did not complete a chosen teach-out plan approved by the  
4 Bureau.

5           2.       You were enrolled at an institution or a location of the institution within the 120  
6 day period before the closure of the institution or location of the institution, or were enrolled in an  
7 educational program within the 120 day period before the program was discontinued.

8           3.       You were enrolled at an institution or a location of the institution more than 120  
9 days before the closure of the institution or location of the institution, in an educational program  
10 offered by the institution as to which the Bureau determined there was a significant decline in the  
11 quality or value of the program more than 120 days before closure.

12           4.       The institution has been ordered to pay a refund by the Bureau but has not.

13           5.       The institution has failed to pay or reimburse loan proceeds under a federal student  
14 loan program as required by law, or has failed to pay or reimburse proceeds received by the  
15 institution in excess of tuition and other costs.

16           6.       You have been awarded restitution, a refund, or other monetary award by an  
17 arbitrator or court, based on a violation of this chapter by an institution or representative of an  
18 institution, but have been unable to collect the award from the institution.

19           7.       You sought legal counsel that resulted in the cancellation of one or more of your  
20 student loans and have an invoice for services rendered and evidence of the cancellation of the  
21 student loan or loans.

22           To qualify for STRF reimbursement, the application must be received within four  
23 (4) years from the date of the action or event that made the student eligible for recovery from  
24 STRF.

25           A student whose loan is revived by a loan holder or debt collector after a period of  
26 noncollection may, at any time, file a written application for recovery from STRF for the debt that  
27 would have otherwise been eligible for recovery. If it has been more than four (4) years since the  
28 action or event that made the student eligible, the student must have filed a written application for

1 recovery within the original four (4) year period, unless the period has been extended by another  
2 act of law.

3 However, no claim can be paid to any student without a social security number or a  
4 taxpayer identification number.”

### 5 **FACTUAL BACKGROUND**

6 24. On October 2, 2020, the Bureau received Respondent’s Application for Approval  
7 to Operate an Institution Non-Accredited. Between October 14, 2020, and January 29, 2021, the  
8 Bureau and Respondent communicated regarding the application type submitted and the deadline  
9 to file the proper form.

10 25. On February 9, 2021, the Respondent emailed the Bureau a copy of the Renewal  
11 of an Approval to Operate an Institution Non-Accredited Application. Four days later, the Bureau  
12 received a hard copy in the mail.

13 26. On April 6, 2021, the Bureau sent Respondent the first Licensing deficiency letter.  
14 On September 30, 2021, the Bureau received Respondent’s response to the first deficiency letter.

15 27. On November 17, 2021, the Bureau sent Respondent the second Licensing  
16 deficiency letter. On March 23, 2022, the Bureau emailed Respondent for a status update and  
17 granted an additional 30 days to submit its response.

18 28. On April 13, 2022, the Bureau sent Respondent the third Licensing deficiency  
19 letter. On May 16, 2022, the Bureau received Respondent’s response to the third letter.

20 29. On June 13, 2023, the Bureau’s Quality of Education Unit (QUE) sent its first  
21 deficiency letter to Respondent. On August 7, 2023, QUE received Respondent’s response to the  
22 first deficiency letter.

23 30. On August 17, 2023, QUE sent its second deficiency letter to Respondent. On  
24 September 19, 2023, QUE received Respondent’s response to the second deficiency letter.

25 31. On January 2, 2024, the Bureau mailed a Notice of Denial letter for Respondent’s  
26 Application for Renewal of Approval to Operate an Institution Non-Accredited.

27 32. On February 21, 2024, the Bureau received Respondent’s Notice of Appeal and  
28 Request for an Administrative Hearing.

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Failed to Meet Minimum Operating Standards - Enrollment Agreements)**

3 33. Respondent's application for renewal is subject to denial under California  
4 Education Code sections 94891 subdivision (b), in conjunction with California Code of  
5 Regulations, title 5, section 71700, for failing to meet the legally required minimum operating  
6 standards. The deficiencies are as follows:

7 a. The enrollment agreement does not include the period of time covered. (5 CCR §  
8 71800(b)).

9 b. The enrollment agreement does not include an itemization of all institutional  
10 charges and fees. (5 CCR § 71800(e)).

11 c. The enrollment agreement does not include a schedule of total charges. It fails to  
12 provide a list of clearly identified nonrefundable charges including the student's obligation to the  
13 Student Tuition Recovery Fund. (CEC § 94911 (b)).

14 d. The enrollment agreement does not include in underlined capital letters on the  
15 same page as the student's signature, the total charges for the current period of attendance, the  
16 estimated total charges for the entire educational program, and the total charges the student is  
17 obligated to pay upon enrollment. (CEC § 94911 (c)).

18 e. The enrollment agreement does not include the transferability disclosure, which is  
19 also required to be included in the school catalog. (CEC §§ 94911 (h) and 94909(a)(15)).

20 **SECOND CAUSE FOR DENIAL OF APPLICATION**

21 **(Failed to Meet Minimum Operating Standards - Instruction and Degrees Offered)**

22 34. Respondent's application for renewal is subject to denial under California  
23 Education Code sections 94891 subdivision (b), in conjunction with California Code of  
24 Regulations, title 5, section 71700 for failing to meet the legally required minimum operating  
25 standards. The deficiencies are as follows:

26 a. The application documents list as programs: Chemical Dependency Counseling  
27 and Substance Use Disorder Counseling. However, the application fails to include a program  
28 description for either program. (5 CCR § 71475(r)).





1 that is required of each program that individuals are hired.” (5 CCR §§ 71720(b)(1) and  
2 71475(u)(3)).

3 b. The Institution did not provide all syllabi. The syllabi was provided for only five  
4 of the eight modules. Moreover, of those five modules, two had different code identifiers. (AD  
5 103 versus SUD 103 and AD 106 versus SUD 106). (5 CCR §§71710(a)(3), 71475(u) and  
6 71700).

#### 7 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

##### 8 **(Failed to Meet Minimum Operating Standards- Financial Resources and Statements**

9 36. Respondent’s application for renewal is subject to denial under California  
10 Education Code sections 94891 subdivision (b), in conjunction with California Code of  
11 Regulations, title 5, section 71700 for failing to meet the legally required minimum operating  
12 standards. The deficiencies are as follows:

13 a. The financial statements provided by the Institution were not “current” in that the  
14 statements were prepared more than 120 days prior to being submitted to the Bureau.  
15 Additionally, since the represented annual gross revenue exceeds \$500,000, the financial  
16 statements must be audited before submission to the Bureau. (5 CCR § 71475(e))

17 b. The financial statements that were submitted to the Bureau on September 19, 2023  
18 are for the fiscal year-ending December 31, 2021 and are dated September 7, 2022. This is not  
19 “current” in that (1) they were prepared more than 120 days prior to being submitted to the  
20 Bureau (2) they cover the most recent complete fiscal year and (3) since more than 8 months had  
21 elapsed between the close of the most recent complete fiscal year and the time it is submitted to  
22 the Bureau, the financial statements failed to include at least five months of the current fiscal  
23 year. (5 CCR § 74115(d))

#### 24 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

##### 25 **(Failed to Meet Minimum Operating Standards- Catalog)**

26 37. Respondent’s application for renewal is subject to denial under California  
27 Education Code sections 94891 subdivision (b), in conjunction with the California Code of

28 ///

1 38. Regulations, title 5, section 71700, for failing to meet the legally required  
2 minimum operating standards. The deficiencies are as follows:

3 a. The catalog does not include the correct Bureau address. (CEC § 94909(a)(3)(A)).

4 b. The Institution must use the verbatim language regarding the transferability  
5 disclosure. (CEC § 94909(a)(15)).

6 c. The Institution did not separately identify the schedule of total charges for a period  
7 of attendance and an estimated schedule of total charges for the entire educational program.  
8 (CEC § 94909(a)(9)).

9 d. The Institution improperly referenced the same amount for the schedule of charges  
10 for a period of attendance and total charges for the entire educational program. Where, as here,  
11 the programs are designed to be four months or longer, an institution shall not require more than  
12 one term or four months of advance payment of tuition at a time. (CEC § 94899.5(b)).

13 e. The catalog does not include the required Student Tuition Recovery Fund  
14 disclosures. (5 CCR § 76215).

15 f. The Institution did not provide a statement specifying that, if the student receives  
16 Federal student financial aid funds, the student is entitled to a refund of the money not paid from  
17 federal financial aid funds. (CEC § 94909(a)(11)).

### 18 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

#### 19 **(Failed to Meet Minimum Operating Standards- Website)**

20 39. Respondent's application for renewal is subject to denial under California  
21 Education Code sections 94891 subdivision (b), in conjunction with California Code of  
22 Regulations, title 5, section 71700 for failing to meet the legally required minimum operating  
23 standards. The deficiencies are as follows:

24 a. The Institution's website does not have a required hyperlink to the Bureau's  
25 website. (CEC §94913(a)(4) and 5 CCR § 74117).

26 b. The Institution's website improperly references a hyperlink to the Institution's  
27 2021 annual report, however it is instead to the Institution's catalog. (CEC §94913(a)(5) and 5  
28 CCR § 74117).

1 **DENIAL CONSIDERATIONS**

2 40. On or about December 24, 2019, the Bureau issued Citation: Assessment of Fine  
3 and Order of Abatement number 1920169 to Respondent for failure meeting minimum operating  
4 standards and submit the Institution’s 2017 Annual Report. The Citation required that the  
5 Institution comply with the Order of Abatement within 30 days and pay a fine in the amount of  
6 \$5,000. On or about March 16, 2020 the Citation was modified to allow the Institution additional  
7 time to comply and to reduce the fine to \$250. The Institution complied with the Modified  
8 Citation and was so notified on or about August 13, 2020.

9 41. On or about April 20, 2023, the Bureau issued Citation: Assessment of Fine and  
10 Order of Abatement Number 2223132 to Respondent for failure (1) to submit all components of  
11 the 2021 Annual Report which was due to the Bureau by December 1, 2022, (2) to submit all  
12 components of the 2020 Annual Report which was due to the Bureau by December 1, 2021, (3) to  
13 submit all components of the 2019 Annual Report which was due to the Bureau by December 1,  
14 2020, and (4) to pay its annual fee and 90-day late payment penalty fee for the 2016 calendar  
15 year. The Citation required that the Institution comply with the Order of Abatement within 30  
16 days and pay a fine in the amount of \$15,501.00. On or about July 17, 2023, the Citation was  
17 modified. The Institution complied with the Modified Citation, paid the fine of \$15,000, and was  
18 so notified on or about December 21, 2023.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
21 and that following the hearing, the Director of the Department of Consumer Affairs issue a  
22 decision:

23 1. Denying the Application of New Creation College, owned by New Creation  
24 Behavioral Health Foundation, for Renewal of Approval to Operate an Institution Non-  
25 Accredited in California; and,

26 2. Taking such other and further action as deemed necessary and proper.

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DATED: 8/16/2024

"Original Signature on File"

DEBORAH COCHRANE  
Chief  
Bureau for Private Postsecondary  
Education  
Department of Consumer Affairs  
State of California  
*Complainant*

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