

December 19, 2024

Submitted at <https://www.dir.ca.gov> with \$75 filing fee

PAGA Administrator
California Labor and Workforce Development Agency
PAGAFilings@dir.ca.gov

Re: Southwest College of Medical-Dental Assistants & Practical Nurses d/b/a
“Success Education Colleges” (the “Employer”)

NOTICE OF LABOR CODE VIOLATIONS UNDER LABOR CODE § 2699.3

To: PAGA Administrator, California Labor and Workforce Development Agency, and
the Employer

From: Gina Marie Aguirre (the “Employee”), who was subjected to the wage and hour
practices set forth below

The Employee, by way of the above-named counsel, submits this Notice, under and in
compliance with the requirements of California Labor Code § 2699.3(a)/(c), and alleges the facts
and theories to support the alleged violations as follows:

During the applicable time period the Employee and all other similarly situated aggrieved
employees as non-exempt employees and utilized consistent policies and procedures regarding
the Employee and all such other aggrieved employees, as follows:

First, the Employee and other aggrieved employees spent time under the Employer’s
control but were not paid therefor. For example, the Employer required the Employee and other
aggrieved employees to undergo Covid screenings and tests while off the clock, engage in work-
related tasks at the beginning of their shifts before clocking in, and/or use their personal mobile
devices for work-related tasks, including before and/or after their shifts. In these circumstances,
the Employer failed to pay all straight time, minimum, and/or overtime wages due for the time
the Employee and other aggrieved employees were subject to the Employer’s control. As such,
the Employer violated Labor Code §§ 510, 1194, 1197, and/or 1198 and the applicable Industrial
Wage Order, and owes penalties under Labor Code §§ 2699(f), 1197.1, and/or 558.

Second, the Employer failed to timely provide all legally compliant meal breaks
(including second meal breaks) to the Employee and other aggrieved employees, because the
Employer failed to relinquish all control and/or because meal breaks were missed, interrupted,
short and/or late. The Employee and other aggrieved employees routinely worked over five hours
but did not always get lawful full thirty-minute uninterrupted meal breaks within the first five
hours of their shifts. Further, they sometimes worked over ten and/or twelve hours but were not
timely provided a legally compliant second meal break. The Employer did not always pay a meal
period penalty for these violations. As such, the Employer violated Labor Code §§ 226.7, 512
and 516 and the applicable Industrial Wage Order ¶ 11 and owes penalties under Labor Code §§
2699(f) and/or 558.

Third, the Employer failed to always authorize and permit paid rest breaks to the
Employee and other aggrieved employees. The Employee and other aggrieved employees did not
always get full ten-minute uninterrupted rest breaks within the first four hours of their shift or



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major fraction thereof and each subsequent four hours worked thereafter or major fraction thereof. Additionally, the Employer did not relinquish all control of the Employee and other aggrieved employees during rest breaks because the Employer has a policy that states in pertinent part “You are required to remain on the work premises during your rest break(s). You are expected to return to work promptly at the end of any rest break.” As such, the Employee and other aggrieved employees were not always authorized and permitted legally compliant rest breaks. The Employer did not always pay a rest period penalty for these violations. As such, the Employer violated Labor Code §§ 226.7 and 516, and the applicable Industrial Wage Order ¶ 12(A)/(B) and owes rest period wages and penalties under Labor Code §§ 2699(f) and/or 558.

Fourth, the Employee and other aggrieved employees incurred expenses while performing reasonable and necessary work-related duties, including but not limited to the use of their personal mobile devices, personal vehicles (including but not limited to mileage), personal computers, internet access expenses for work-related activities, and/or other necessary work expenses. The Employer failed to reimburse for these work-related expenses. As such, the Employer violated Labor Code § 2802 by failing to reimburse the Employee and other aggrieved employees for all business expenses reasonably incurred in the course of their required work duties and owes penalties under Labor Code § 2699(f).

Fifth, regarding wage statements, under Labor Code § 226 and the applicable Industrial Wage Order, the Employer is required to include certain information on a paystub. Here, because of the Employer failed to pay all wages as set forth above, Employer issued wage statements that inaccurately reflected hours worked and/or wages earned by the Employee and other aggrieved employees, and the Employer has derivatively violated Labor Code § 226 and owes penalties under Labor Code §§ 2699(f) and/or 226.3.

Sixth, and finally, regarding waiting time penalties, because the Employer failed to pay all wages as set forth above, formerly-employed aggrieved employees are entitled to thirty days of wages at their regular rate of pay for the Employer’s failure to pay all wages due upon separation of employment. The Employer’s failure to timely pay final wages to formerly-employed aggrieved employees was willful in that the Employer adopted policies and/or practices that were incompatible with the Labor Code. Because the Employer failed to pay all wages as set forth above, the Employer derivatively violated Labor Code §§ 201-202 and owes penalties under Labor Code §§ 2699(f) and/or 201-203.

Under Labor Code § 2699.3(a)(2)(A), please advise within 65 calendar days of the postmark date of this notice whether the LWDA intends to investigate these alleged violations.

Further, under Labor Code § 2699.3(c)(2)(A), the Employer may cure the alleged violations within 33 calendar days of the postmark date of this notice and within that period, give notice by certified mail if the alleged violation is cured, including a description of actions taken.

In addition, this letter clearly sets forth the Employee’s grievances and proposed remedies, under the Labor Code, PAGA, and otherwise, as set forth above. The Employee would like to engage in reasonable efforts to settle this dispute before filing a civil action against the Employer. The Employee gives the Employer the opportunity, prior to the expiration of the deadline for the LWDA to investigate, to meet the Employee’s demands and settle this dispute.



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We understand that if we do not receive a response within 65 calendar days of the postmark and filing date of this notice that the LWDA intends to investigate these allegations and/or a notice from the Employer that the alleged violations are cured, and/or if the alleged violations are not cured, then the Employee may immediately thereafter commence a civil action against the Employer under Labor Code § 2699.

Thank you for your consideration.

Regards,

Emil Davtyan
Gregg Lander
Vanessa M. Ruggles

cc: (via Certified Mail)
Southwest College of Medical-Dental Assistants & Practical Nurses
d/b/a “Success Education Colleges”
Attn: Jason Li – Chief Financial Officer
2121 W. Garvey Ave N
West Covina, CA 91790