

Ministry of Training,
Colleges and Universities

Office of the Superintendent

Private Career Colleges Branch
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Toronto ON M7A 1L2

Ministère de la Formation
et des Collèges et Universités

Bureau du Surintendant

Direction des collèges
privés d'enseignement professionnel
9^e étage, édifice Mowat
900, rue Bay
Toronto ON M7A 1L2



2nd RESTRAINING ORDER

December 8, 2010

Sun Young Yoon, Director
Daniel Education Centre Corporation
operating as
Upper Madison College
And
Upper Madison College of Advanced
Language Learning and Skill Development

4950 Yonge Street
Suite C-88
Toronto, ON
M2N 6K1

Dear Sun Young Yoon:

This is a Restraining Order issued under s. 46(1) of the *Private Career Colleges Act, 2005* ("Act"). As the Superintendent of Private Career Colleges, I believe that Daniel Education Centre Corporation operating as Upper Madison College and Upper Madison College of Advanced Language Learning and Skill Development ("School") has contravened the Act and/or regulations, and I order the School to stop contravening the following provisions of the Act and/or regulations:

- Advertising an unregistered private career college and advertising unapproved vocational programs, contrary to subsections 11(1) and (2) of the Act, respectively;
- Operating as an unregistered private career college, contrary to section 7 of that Act;
- Offering vocational programs that are not approved by the Superintendent of Private Career Colleges, contrary to section 8 of the Act; and

- Charging fees for an unapproved vocational program contrary to section 9 of the Act.

Detailed reasons in support of my decision to issue this order are found in Schedule "A", attached. Failure to comply with this order may result in any or all of the following, further enforcement actions:

- Application for an order from the Superior Court of Justice;
- The issuance of further Administrative Monetary Penalties; and/or
- Prosecution for offences under the Act. Upon conviction by a court,
 - A corporation is subject to a fine of up to \$250,000;
 - An individual is subject to a fine of up to \$100,000, a prison term of up to one year, or both; and
 - An officer or director of a corporation who concurs in the commission of the offence, is subject to a fine of up to \$25,000, a prison term of up to one year, or both.

You must provide written confirmation signed by a person with authority to bind the School, together with all available supporting evidence, that the steps outlined below have been taken. This written confirmation must be delivered by **December 14, 2010** by registered mail or courier to my attention and confirm that you:

- Have stopped advertising an unregistered private career college and unapproved vocational programs that require approval;
- Have stopped *offering* unapproved vocational programs for a fee that require approval;
- Have stopped enrolling students into unapproved vocational programs that require approval;
- Have provided the ministry with a list including the names and addresses of all current and former students;
- Have provided refunds to students who were enrolled in unapproved vocational programs that require approval;
- Are not holding, directly or indirectly, any monies owing to current, former, or prospective students of unapproved vocational programs that require approval;
- Are holding student files to be available for the Superintendent's staff to review; and
- Will not reopen as a Private Career College until such time, if any, as it has been registered.

As noted above, the applicable legislation is the *Private Career Colleges Act, 2005* and the regulations made thereunder. The legislation and regulations are available at www.e-laws.gov.on.ca. If you are unable to access any relevant

information on e-laws, you may contact our offices at (416) 314-0500 to request that a copy of the legislation and regulations be sent to you.

Pursuant to sections 49(2) and 49(6) of the Act, this order is published on the Ministry of Training, Colleges and Universities' website.

Kindly govern yourself accordingly,

ORIGINAL SIGNED BY

Noah Morris
Superintendent of Private Career Colleges

Schedule “A”

Detailed Reasons and Findings

The Superintendent has issued this order based on the following findings and supporting facts and evidence:

Contravention of section 11 of the Act – Restrictions on Advertising and Soliciting

On September 16, 2010 a Designate of the Superintendent (Designate) received an e-mail sent by the Marketing Manager of Upper Madison College (Upper Madison) in which she provided information about the school’s English for Teaching English to Speakers of Other Languages (TESOL) program. The following information was attached.

English for TESOL Open Class

**TESOL Ontario Membership Application Waived!
Certificate from Canada College (TESL Canada Affiliated)**

Open Class: August 22, 2010 (Wednesday)

1:30 – 2:30 Open Class

2:30 – 3:30 Level Test

Next term Starting date : October 04 , 2010.

Program

Description for English for TESOL at UMC

✓Time: 1:30 – 5:30 (4hrs/day)

✓Pre-requisite: Advanced level (Admission Test) OR TOEFL 80 and over

✓Duration: 8 weeks

Courses

ENTLBL01	EMA(English Methodologies for Adult)1	40 hrs
ENTLPR01	EMA(English Methodologies for Adult)2/EMC(English Methodologies for Child)	40 hrs
ENTMTL01	Practicum in Class (Peer Teaching)	40 hrs
ENTOBP01	Practicum in Class(Peer Teaching) for EMC / Observation	40 hrs



English for TESOL



**TESOL Ontario
Membership
Application waived!**



Prices

ENTLBL01	EMA(English Methodologies for Adult)1	40 hrs	\$400.00
ENTLPR01	EMA(English Methodologies for Adult)2 EMC (English Methodologies for Child)	40 hrs	\$400.00
ENTMTL01	Practicum in Class (Peer Teaching)	40 hrs	\$400.00
ENTOBP01	Practicum in Class(Peer Teaching) for EMC / Observation	40 hrs	\$400.00
Optional	Practicum	10hrs	\$400.00
Optional - Certificate	Canada College Certificate	-	\$400.00
Membership	Ontario TESOL Membership	-	Free (Promotion)
	Application Fee		\$100

COURSE: \$2,100 (8 weeks program)

-Diploma for English Methodologies for Adult

-Diploma for English Methodologies for Child



**UPPER MADISON
COLLEGE**

On December 1, 2010 the Designate spoke with a representative of the school from which the advertisement states a student would be able to receive a certificate. The Designate was advised that the agreement ended on May 31, 2010, and that none of the students who received their certificate through this arrangement would have been eligible to receive TESL Canada certification.

On November 24, 2010, a Designate received an e-mail from a member of the public advising that Upper Madison was offering a Teaching English to Speakers of Other Languages (TESOL) program but had titled it Advanced Career English Level 3 (ACE 3).

On November 24, 2010, a Designate attended Upper Madison's campus at 4950 Yonge Street, Toronto, to conduct a field visit. The Designate spoke with the school's director about the relationship between ACE 3 and TESOL. The director stated that ACE 3 replaced the TESOL program that was offered prior to the February 8, 2010 Restraining Order.

The Designate proceeded to interview the instructor who delivers the ACE 3 program at Upper Madison and asked the same question. The instructor advised that the principal difference is that graduates of Upper Madison's ACE 3 program will not be eligible to receive any official certificate in the field of teaching ESL (e.g. TESL Canada or TESL Ontario certificates), but that the content of the courses the skills they are intended to develop are extremely similar. While the instructor stated that to the best of her knowledge none of her students intended to seek employment teaching ESL, the ACE 3 course would prepare its graduates to teach English as a Second Language (ESL) in regions of the world that do not require certification.

During the November 24, 2010 field visit, the Designate reviewed several e-mails which had been sent and received by staff members of Upper Madison staff members in which they discuss delivery and promotion of their TESOL/ACE 3 program, as well as the use of recruitment agents. In particular, on August 24, 2010, Upper Madison's marketing manager sent an e-mail to her coworkers that contained the following statement:

*Hi. I think we should bring more EAP, TESOL, ACE level 1 new student in Sep.
The number of ACE level 2 and BE student is okay so far.
The starting date of TESOL will be Oct 04th. I have two TESOL trial students this week.
Pls., try to sell TESOL program to agency as much as possible during next month
Every course start on Sep 07th except TESOL and ESL.*

Following the field visit, on November 25, 2010, a Designate reviewed the website belonging to Upper Madison, www.umcollege.ca, and found it to be promoting an ACE 3 program that is 8 weeks in duration, 20 hours per week (160 hours total), and costs \$2,600. This website also contains a page titled "contact us" which provides an address, phone number, fax number, and six e-mail addresses that can be used to contact Upper Madison.

UM College - Mozilla Firefox
 http://www.umcollege.ca/admission/feeschedule.asp

Elective Course 4 | 14:50 - 18:30 | 25 hrs/wk | Period E + F + G

[PROFESSIONAL PROGRAM]

Program	Time	Duration	Hrs/wk	Tuition	Level
Business English	9:00 - 14:40	4 - 12 weeks	25 hrs/wk	4 wks: \$1400	High Intermediate
Cambridge FCE	9:00 - 14:40			8 wks: \$2800 12 wks: \$4100	
TOEFL	9:00 - 14:40	8 weeks +	25 hrs/wk	INTENSIVE	High Intermediate
ACE 1	9:00 - 14:40	8 weeks	25 hrs/wk	\$2700	High Intermediate
ACE 2	9:00 - 14:40	8 weeks	25 hrs/wk	\$2900	Advance
ACE 3 / TKT	9:00 - 12:40 13:30 - 17:10	8 weeks	20 hrs/wk	\$2600	High Intermediate
EAP (College Pathway)	9:00 - 15:50	12 weeks	30hrs/wk	\$4600	Advance Plus +
IEP(Intensive English Program)	16 wks / 1 semester			\$5700	Advance Plus +
Internship	Paid			\$970	Intermediate
Co-op	Non - Paid			\$570	

Done | November 25, 2010 | 3:24 PM

Upper Madison is, therefore, promoting its ACE3/TESOL course through online advertising, the use of agents, open houses and trial lessons, and by e-mailing electronic pamphlets to people who contact the school. Internal e-mails found by the Designate demonstrate that Upper Madison employees have recently put forward a directed effort to increase the enrolment in ACE3/TESOL.

The TESOL/ACE 3 program corresponds to National Occupational Classification (NOC) code 4131 – College and Other Vocational Instructors. Based on the evidence gathered the TESOL/ACE 3 program offered by Upper Madison fits the definition of a vocational program requiring the approval of the Superintendent according to the Act. Since this program is not approved, advertising of same is prohibited in accordance with Section 11 of the Act.

Contravention of section 7 of the PCCA, 2005 - Prohibition against operating a private career college and
Contravention of section 8 of the PCCA, 2005 - Prohibition against providing vocational programs

On November 24, 2010, a Designate received an e-mail from a member of the public advising that Upper Madison was offering a TESOL program but had titled it ACE 3.

On November 24, 2010, a Designate attended Upper Madison's campus at 4950 Yonge Street, Toronto, to conduct a field visit. The Designate spoke with the school's director about the relationship between ACE 3 and TESOL. The director stated that ACE 3 replaced the TESOL program that was offered prior to the February 8, 2010 Restraining Order.

The Designate proceeded to interview the instructor who delivers the ACE 3 program at Upper Madison and asked the same question. The instructor advised that the principal difference is that graduates of Upper Madison's ACE 3 program will not be eligible to receive any official certificate in the field of teaching ESL (e.g. TESL Canada or TESL Ontario certificates), but that the content of the courses the skills they are intended to develop are extremely similar. While the instructor stated that to the best of her knowledge none of her students intended to seek employment teaching ESL, the ACE 3 course would prepare its graduates to teach English as a Second Language (ESL) in regions of the world that do not require certification. The instructor also confirmed that three students are currently enrolled in the program, and as per the Designate's request, faxed confirmation of same on November 26, 2010.

Further, during the field visit, the Designate reviewed a selection of Upper Madison's student files. The Designate identified four files containing documents confirming that Upper Madison continued to offer and enrol students in its TESOL/ACE 3 program after the February 8, 2010 Restraining Order. Among these documents are:

File for [REDACTED]

- A September 9, 2009 invoice in which the student was charged \$2,600 for an 8 week English for TESOL course (25 hours per week).
- A February 25, 2010 Letter of Enrolment showing that the student is enrolled in an ESL and TESOL program, with a start date of January 11, 2010 and a completion date of February 11, 2011.
- A June 7, 2010 "Counseling Report" containing the following handwritten statement "He is supposed to take TESOL after B/E".
- A November 8, 2010 "Counseling Report" showing that the student altered their long term schedule at Upper Madison to include ACE 3, an 8 week program that costs \$2,600, beginning on November 1, 2010. This document also shows that the student has paid their fees in full.

File for [REDACTED]

- A February 8, 2010 invoice showing that the student was charged \$2,600 for an 8 week TESOL course (25hrs/week).

- A “Counseling Report” dated July 27, 2010 showing that the student is enrolled in a \$2,600, 8 week TESOL program. The document shows that the student has paid their fees in full.

File for [REDACTED]

- An invoice dated October 27, 2010 showing that the student was charged \$2,000 for an 8 week ACE 3 (English for TESOL) program.

File for [REDACTED]

- An internal note dated October 26, 2010 stating that a student will take an English for TESOL course beginning on November 1, 2010.

Documentary evidence as well as statements made by Upper Madison’s director and an instructor on November 24, 2010 indicate that there is no substantial difference between the school’s TESOL and ACE 3 programs with respect to content, cost or duration. Three students are currently taking the class.

By offering or providing a TESOL/ACE 3 program, Upper Madison has operated as an unregistered private career college, and provided unapproved vocational programs in contravention of sections 7 and 8 of the Act.

Contravention of section 9 of the PCCA, 2005 – Charging Fees for Unregistered Private Career College and Unapproved Programs

On November 24, 2010, a Designate attended Upper Madison’s campus at 4950 Yonge Street, Toronto, to conduct a field visit. The Designate reviewed a selection of Upper Madison’s student files and found documents proving that three students had either been charged or had paid in full the fees owing for enrolment in Upper Madison’s TESOL program. Among these documents were:

File for [REDACTED]

- A September 9, 2009 invoice in which the student was charged \$2,600 for an 8 week English for TESOL course (25 hours per week).
- A November 8, 2010 “Counseling Report” showing that the student altered their long term schedule at Upper Madison to include ACE 3, an 8 week program that costs \$2,600, beginning on November 1, 2010. This document also shows that the student has paid their fees in full.

File for [REDACTED]

- A February 8, 2010 invoice showing that the student was charged \$2,600 for an 8 week TESOL course (25hrs/week).
- A “Counseling Report” dated July 27, 2010 showing that the student is enrolled in a \$2,600, 8 week TESOL program. The document shows that the student has paid their fees in full.

File for [REDACTED]

- An invoice dated October 27, 2010 showing that the student was charged \$2,000 for an 8 week ACE 3 (English for TESOL) program.

Therefore, Upper Madison has charged fees for an unapproved vocational program in contravention of section 9 of the Act.

Background

In September of 2009, Upper Madison was found contravening the Act and its regulations and was instructed to come into compliance. As the institution came into compliance on October 6 of 2009, the Superintendent elected not to pursue further enforcement action at that time.

On February 8, 2010, Upper Madison was issued a Restraining Order as the school resumed contravening the Act.

On February 12, 2010 Upper Madison sent a letter to a Designate confirming their compliance with the February 8, 2010 Restraining Order.

On April 27, 2010, Ministry staff sent a letter to Upper Madison in response to a pre-screening application submitted by the school. The letter advised that Upper Madison requires the Superintendent's approval to offer their Interpretation and Translation program and Teaching English as a Second Language programs.

Legal and Operating Entities

On December 1, 2010 a Designate conducted an ONBIS search and found that Upper Madison College is a business name for Daniel Education Centre Corporation which was incorporated on October 3, 2005. Sun Young Yoon is currently listed as a Director.