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7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
STATE OF CALIFORNIA

10
11 In the Matter of the Statement of Issues
Against:

Case No. 1001629

12
13 **INTERCULTURAL INSTITUTE OF**
CALIFORNIA, a Non-Profit Corporation
14 **Korean Center, Inc., Parent nonprofit**
1362 POST STREET
SAN FRANCISCO CA 94109

STATEMENT OF ISSUES

15 **School Code No. 3801931**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official
21 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
22 Consumer Affairs.

23 2. On or about June 24, 2004 the former Bureau for Private Postsecondary and
24 Vocational Education¹ issued a full approval to operate to the Intercultural Institute Of
25 California, a Non-Profit Corporation, (School Code No. 3801931):

26
27 ¹ The former Bureau for Private Postsecondary and Vocational Education sunsetted on
28 July 1, 2007. On October 11, 2009, the Private Postsecondary Education Act of 2009 (AB 48)
was signed into law. The Act, which became operative on January 1, 2010, established the

(continued...)

1 3. The approval to operate expired on May 20, 2011 and has not been renewed.

2 4. On or about May 16, 2011, the Bureau for Private Postsecondary Education received
3 a renewal application for its approval to operate from the Intercultural Institute of California. The
4 members of the Intercultural Institute of California's Board of Directors each certified under
5 penalty of perjury to the truthfulness of all statements, answers, and representations in the
6 application. The Bureau denied the application on September 15, 2015. The Intercultural
7 Institute of California appealed that denial and a Statement of Issues is pending against
8 Respondent.

9 5. On or about September 21, 2015, Bureau for Private Postsecondary Education
10 received an Application for Approval to Operate an Accredited Institution from the Intercultural
11 Institute of California. Korean Center Inc. was listed as the "parent nonprofit." The application
12 referenced school code 3801931 on the application. School Code 3801931 belongs to the
13 Intercultural Institute of California which is owned by Intercultural Institute of California, a non-
14 profit corporation. The Intercultural Institute of California and Korea Center Inc., shall
15 collectively be referred to as "Respondent." The Bureau denied the application on February 22,
16 2015.

17 **JURISDICTION**

18 6. This Statement of Issues is brought before the Director of the Department of
19 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
20 authority of the following laws.

21 7. Section 118, subdivision (b) of the Business and Professions Code provides that the
22 suspension, expiration, surrender, or cancellation of a license shall not deprive the Director of
23 jurisdiction to proceed with a disciplinary action during the period within which the license may
24 be renewed, restored, reissued, or reinstated.

25 ///

26 ///

27 _____
28 (...continued)
Bureau for Private Postsecondary Education.

1 **STATUTORY PROVISIONS**

2 8. California Education Code Section 94885 states:

3 “(a) The bureau shall adopt by regulation minimum operating standards for an institution
4 that shall reasonably ensure that all of the following occur:

5 ...

6 “(6) The institution is financially sound and capable of fulfilling its commitments to
7 students.

8 ...”

9 9. California Education Code Section 94887 states:

10 “An approval to operate shall be granted only after an applicant has presented sufficient
11 evidence to the bureau, and the bureau has independently verified the information provided by the
12 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
13 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
14 for an approval to operate if the application does not satisfy those standards.”

15 **REGULATORY PROVISIONS**

16 10. California Code of Regulations Title 5, section 74115 states:

17 “(a) This section applies to every set of financial statements required to be prepared or filed
18 by the Act or by this chapter.

19 “(b) A set of financial statements shall contain, at a minimum, a balance sheet, an income
20 statement, and a cash flow statement, and the preparation of financial statements, shall comply
21 with all of the following:

22 “(1) Audited and reviewed financial statements shall be conducted and prepared in
23 accordance with the generally accepted accounting principles established by the American
24 Institute of Certified Public Accountants by an independent certified public accountant who is not
25 an employee, officer, or corporate director or member of the governing board of the institution.

26 “(2) Financial statements prepared on an annual basis as required by section 74110(b) shall
27 be prepared in accordance with the generally accepted accounting principles established by the
28 American Institute of Certified Public Accountants. Nonprofit institutions shall provide annual

1 financial statements as required under generally accepted accounting principles for nonprofit
2 organizations.

3 “(3) The financial statements shall establish that the institution meets the requirements for
4 financial resources required by Section 71745.

5 “(4) If an audit performed to determine compliance with any federal or state student
6 financial aid program reveals any failure to comply with the requirements of the program and the
7 noncompliance creates any liability or potential liability for the institution, the financial
8 statements shall reflect the liability or potential liability.

9 “(5) Any audits shall demonstrate that the accountant obtained an understanding of the
10 institution's internal financial control structure, assessed any risks, and has reported any material
11 deficiencies in the internal controls.

12 ...

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

18
19 11. California Code of Regulations Title 5, section 71745 states:

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

22 ...

23 “(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the
24 end of the most recent fiscal year when using generally accepted accounting principles, or for an
25 institution participating in Title IV of the federal Higher Education Act of 1965, meet the
26 composite score requirements of the U.S. Department of Education. For the purposes of this
27 section, current assets does not include: intangible assets, including goodwill, going concern
28 value, organization expense, startup costs, long-term prepayment of deferred charges, and non-

1 returnable deposits, or state or federal grant or loan funds that are not the property of the
2 institution but are held for future disbursement for the benefit of students. Unearned tuition shall
3 be accounted for in accordance with general accepted accounting principles.

4 . . .”

5 **FIRST CAUSE FOR DENIAL OF APPLICATION**

6 (Financial Resources and Statements)

7 12. Respondent's application is subject to denial under California Education Code Section
8 94887 in conjunction with California Education Code Section 94885, subsection (a)(6), and
9 California Code of Regulations, Title 5, section 74115, subsections (b)and (d); and California
10 Code of Regulations, Title 5, section 71745, subsection (a)(6), in that the financial statements
11 submitted by Respondent did not meet the requirements of the regulations as follows:

12 a. Respondent submitted financial statements for 2010 with its May 16, 2011 renewal
13 application. The financial statements that were submitted were not reviewed or audited as
14 required.

15 b. Respondent also submitted reviewed financial statements for the year ended June 30,
16 2011 on July 30, 2012. The submitted financial statements were reviewed and not audited. The
17 submitted financial statements show a gross annual revenue of greater than \$500,000, which
18 requires the submission of audited financial statements. The submitted financial statements were
19 not "current". "Current" with respect to financial statements means completed no sooner than 120
20 days prior to the time it is submitted to the Bureau, and covering no less than the most recent
21 complete fiscal year. Also, if more than 8 months will have elapsed between the close of the
22 most recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover
23 no less than five months of that current fiscal year. The financial statements submitted did not
24 cover the most recent complete fiscal year at the time of submission, which would have been the
25 year ended June 30, 2012.

26 c. Respondent submitted reviewed financial statements for the year ended June 30,
27 2014, on December 3, 2014. The submitted financial statements were reviewed and not audited.
28 The submitted financial statements show a gross annual revenue of greater than \$500,000, which

1 requires the submission of audited financial statements. The submitted financial statements do
2 not show a compliant ratio of current assets to current liabilities of 1.25 to 1.00 or greater. The
3 financial statements list a ratio of current assets to current liabilities of 0.55 to 1.00 and do not
4 meet the required ratio of 1.25 to 1.00.

5 **PRAYER**

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

- 9 1. Denying the Application for Application for Approval to Operate an Accredited
10 Institution submitted by the Intercultural Institute of California
11 2. Taking such other and further action as deemed necessary and proper.

12
13 DATED: 10/7/16



14 JOANNE WENZEL
15 Chief
16 Bureau for Private Postsecondary Education
17 Department of Consumer Affairs
18 State of California
19 *Complainant*

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