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3 **DEPARTMENT OF CONSUMER AFFAIRS**  
4 **STATE OF CALIFORNIA**  
5

6 In the Matter of the Application for  
7 Significant Change in Method of Instructional  
8 Delivery:

Case No. 1003601

**DECISION**

9 Virscend University  
10 School Code No. 24813837  
11 16490 Bake Parkway, Suite 100

12 Robert Chi, General Partner  
13 4530 East Cerro Vista Drive  
14 Anaheim, CA 92807

Applicant.



15 **INTRODUCTION**

16 On May 18, 2018, the Bureau for Private Postsecondary Education (the Bureau) denied  
17 Virscend University's (the University) application to make a substantive change to its approval  
18 to operate by way of a significant change in the method of its instructional delivery.

19 The University requested an informal hearing before the Director of the Department of  
20 Consumer Affairs and the matter was heard on December 12, 2018, before the Director's  
21 designee, Deputy Director Ryan Marcroft. The University's President Robert Chi appeared on  
22 behalf of the University. Deputy Attorney General Malissa Siemantel and Education  
23 Administrator Robert Bayles appeared on behalf of the Bureau. At the conclusion of the hearing,  
24 the matter was submitted for a final decision.

25 After considering the evidence and argument submitted by the University and the Bureau,  
26 the Bureau's decision is AFFIRMED.  
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1 **FACTUAL AND PROCEDURAL BACKGROUND**

2 **I. VIRSCEND UNIVERSITY’S APPLICATION TO MAKE A SUBSTANTIVE CHANGE**

3 In 2016, the Bureau approved the University to offer two degree-granting programs: a  
4 Bachelor of Science in Business Administration totaling 60 units and a Master of Business  
5 Administration totaling 36 units.

6 On March 14, 2017, the University submitted an incomplete Application for Significant  
7 Change in Method of Instructional Delivery to the Bureau. The University submitted a revised  
8 application on May 21, 2017. The University proposed to offer distance education via “E-  
9 learning technologies,” including online versions of its current courses, “hybrid courses,” and  
10 “flip courses.” The University explained that the online courses would cover the same content as  
11 the current course curriculum. The University also stated that it would select and integrate  
12 online course content to create its own courses. The University stated that most current faculty  
13 have years of online teaching experience, and that there would be no significant changes to  
14 faculty.

15 On June 8, 2017, the Bureau informed the University that it needed additional information to  
16 evaluate the application. The Bureau requested access to the University’s online learning  
17 platform to review the proposed program. The Bureau requested a detailed syllabus for each of  
18 the distance education courses that the University proposed to offer, and a description of how the  
19 curriculum will be changed to account for training via distance education. The Bureau asked for  
20 a description of how each student would be assessed prior to admission to determine whether  
21 each has the skills and competencies to succeed in a distance education program. The Bureau  
22 also requested a copy of the University’s catalog, updated with a disclosure of the number of  
23 days that will elapse between the institution’s receipt of lessons, projects, or dissertations, and  
24 the institution’s response.

25 The University responded on August 22, 2017, with additional information. The University  
26 explained that it planned to only provide distance education for three Master courses, and it  
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1 provided syllabi for three of the Master classes, MBA 500—Management Information Systems,  
2 503—Financial Management, and 504—Financial Accounting. The University also explained  
3 that its curriculum would be changed to offer distance learning courses via live video,  
4 PowerPoint presentation and live chat. Electronic textbooks would be available, lectures would  
5 be recorded and available online, and instructors would be trained to communicate with students  
6 via live chat and text messaging. With respect to the Bureau’s request for information about  
7 student assessments, the University stated that “all prerequisite[s] will be checked” and “[a]n  
8 orientation and assessment will be given to make sure students are ready for the class.” The  
9 University also provided a catalog with the requested disclosure.  
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11 On March 15, 2018, the University notified the Bureau that information regarding four  
12 Master courses were available via its distance education program, MBA 500—Management  
13 Information Systems, 501—Decision Technologies and Statistics, 502—Management Strategies,  
14 and 505—Marketing Management.

## 15 **II. THE BUREAU’S DECISION AND UNIVERSITY’S APPEAL**

16 On May 18, 2018, the Bureau denied the University’s application to make a substantive  
17 change, because the application was incomplete and did not demonstrate that the school could  
18 satisfy minimum operating standards. The Bureau cited four reasons for its decision:

- 19 • The application did not demonstrate that the proposed course materials and programs  
20 were current, logically organized, and contained subject areas necessary for students to  
21 achieve the programs’ educational objectives. The University provided course materials  
22 for only four of the Master program courses and no materials for the Bachelor program.
- 23 • The University did not provide course syllabi or outlines for courses in the approved  
24 programs. The University provided syllabi for five of its Master courses—MBA 500,  
25 501, 502, 503, and 504—but not for MBA 520, 601, 612, 621, 631, or 632. There were  
26 also no course syllabi for its Bachelor program.  
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- 2 • The University did not adequately identify how it would assess students to determine
  - 3 whether they have the skills and competencies to succeed in the program, or whether it
  - 4 would assess students prior to their admission.
  - 5 • The school catalog was deficient because it did not define the period covered by the
  - 6 catalog, did not include certain Student Tuition Recovery Fund (STRF) disclosures, and
  - 7 did not describe course instruction and the requirements to complete the program.

8 On June 29, 2018, the University timely appealed the Bureau’s decision.

9 **III. THE INFORMAL HEARING**

10 A hearing in the matter was held on December 12, 2018. The Bureau appeared at the hearing  
11 and offered testimony in support of the Bureau’s decision. The University’s President also  
12 appeared and offered testimony in the matter.

13 Scope of Proposed Program

14 The University asserted that it corrected the deficiencies the Bureau identified in its May 18,  
15 2018, letter. The University noted that it did not intend to provide its Bachelor program via  
16 distance education, and only intended to provide the Master degree program online. The  
17 University also noted that it offered a 10-class Master program, and that it completed course  
18 syllabi for MBA 500, 501, 502, 503, 504, 505, 520, 601, 621, and 650.

19 The Bureau disputed that the University corrected all the identified deficiencies. The Bureau  
20 noted that the University frequently changed the courses that it planned to offer via distance  
21 learning and, consequently, the Bureau could not determine the final scope of the program that  
22 the University intended to offer. For instance, the University’s original application was unclear  
23 in that the University appeared to apply to offer both the Bachelor and Master program via  
24 distance education. Even the course offerings for the Master program changed over time, from  
25 three classes, to four classes, to 10 classes. Indeed, the Bureau noted that the University applied  
26 to remove several courses from its Master program the day before the hearing—MBA 520, 601,  
27 612, 621, 631, and 632. Nonetheless, the Bureau agreed that the University did not need to  
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1 provide materials for its Bachelor’s program, since it did not intend to offer the program via  
2 distance education.

### 3 Course Syllabi

4 The University testified that it intended to offer a 10-class Master program via distance  
5 education, and that it completed course syllabi for MBA 500, 501, 502, 503, 504, 505, 520, 601,  
6 621, and 650. The Bureau acknowledged that it received the course information needed for five  
7 Master classes—MBA 500, 501, 502, 503, and 504. It did not, however, receive syllabi for the  
8 remaining courses—MBA 505, 520, 601, 621, and 650.

### 9 Student Assessment

10 With respect to assessing students, the University noted that prior to admission, students  
11 would participate in a one-on-one interview to ensure they have the necessary equipment and  
12 Internet connection to successfully complete the program requirements, and that the students  
13 could communicate in English. Students would also be required to demonstrate familiarity with  
14 distance learning tools like “Zoom” video conferencing, YouTube, and “Moodle.” They would  
15 also receive an online orientation to introduce them to special software used in any courses.  
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17 The Bureau testified that the University provided insufficient detail regarding the proposed  
18 assessment. The Bureau requested additional detail regarding the questions that would be asked  
19 at the one-on-one interview and what was needed to demonstrate familiarity with Zoom,  
20 YouTube, and Moodle. The Bureau acknowledged, however, that it had no specific guidance  
21 around what level of detail would ultimately resolve the deficiency.

### 22 Catalog

23 The University testified that it did not provide the Bureau with its latest version of the  
24 catalog, but it offered to provide the Bureau with a revised catalog that contained the information  
25 that the Bureau identified as missing. In all events, the Bureau did not have a copy of the revised  
26 catalog and, consequently, could not verify whether the deficiencies were corrected. The Bureau  
27 noted that it needed to verify that the information provided in the catalog was consistent with  
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1 other information the University provided about the Master program. For instance, the  
2 University stated that there were no final tests or examinations in its Master program, but the  
3 syllabi it provided for MBA 500, 503, and 504 each included information about final class  
4 examinations. The University also stated that the “requirement to complete the MBA program is  
5 30 semester units (10 courses),” but the University was approved to offer a 36-unit Master  
6 program.  
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## 8 **LEGAL STANDARDS**

### 9 **I. SUBSTANTIVE CHANGES TO APPROVAL TO OPERATE**

10 An institution may not make a substantive change to its approval to operate without the  
11 Bureau’s prior approval. (Ed. Code, §§ 94893 & 94894.) A significant change in the method of  
12 instructional delivery, including any change that alters the way students interact with faculty, is a  
13 substantive change that requires approval. (Ed. Code, § 94894, subd. (g); Cal. Code Regs., tit. 5,  
14 § 71600, subd. (a).)

15 The Bureau may deny an application to make a substantive change if the application is  
16 incomplete or the institution does not establish that the proposed change will meet required  
17 institutional operating standards. (Cal. Code Regs., tit. 5, § 71655, subs. (b) & (d).) An  
18 applicant for which the Bureau denied approval may reapply or request an informal hearing  
19 before the Director. (*Id.* at subd. (e).)

### 20 **II. MINIMUM INSTITUTIONAL OPERATING STANDARDS**

21 Among the State’s minimum institutional operating standards, an approved program must  
22 be comprised of the subject areas necessary for students to achieve the educational objectives of  
23 the program, and the subject areas and courses must be presented in a logically organized manner  
24 or sequence. (Cal. Code Regs., tit. 5, § 71710, subs. (a) & (b).) Each course must also have a  
25 syllabus or course outline. (*Id.* at subd. (c).)

26 Institutions offering distance education must ensure that the “materials and programs are  
27 current, well organized, designed by faculty competent in distance education techniques and  
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1 delivered using readily available, reliable technology . . . .” (Cal. Code Regs., tit. 5, § 71715,  
2 subd. (d)(3).) Such institutions must also assess each student, prior to admission, in order to  
3 determine whether each student has the skills and competencies to succeed in the distance  
4 education environment. (*Id.* at subd. (d)(2).)

5 Institutions must provide students with a school catalog that describes the programs  
6 offered and the instruction provided in each of the courses offered, the requirements for  
7 completing each program, including courses, tests or examinations, required internships or  
8 externships, and the total number of credit hours, clock hours, or other increments needed for  
9 completion. (Ed. Code, § 94909, subd. (a)(5).) The catalog must also include specific beginning  
10 and ending dates defining the period covered by the catalog and disclosures regarding the  
11 Student Tuition Recovery Fund. (Cal. Code Regs., tit. 5, §§ 71810, subd. (b)(1), 76215, subds.  
12 (a) & (b).)

#### 14 **DISCUSSION**

15 There are grounds to deny the University’s application for a substantive change. The  
16 application is incomplete and does not demonstrate that the University will meet minimum  
17 institutional operating standards. (Cal. Code. Regs., tit. 5, § 71655, subds. (b) & (d).)

18 The scope of the University’s proposed distance program is uncertain and, consequently, the  
19 University did not establish that it satisfies minimum standards. The University was approved to  
20 offer a Bachelor of Science in Business Administration totaling 60 units and a Master of  
21 Business Administration totaling 36 units. The University’s original application proposed to  
22 offer online versions of its current courses covering the same content as its course curriculum. In  
23 the University’s August 22, 2017, submission to the Bureau, however, it proposed to offer  
24 distance education for only three Master courses, and it provided syllabi for the three courses.  
25 On March 15, 2018, the University notified the Bureau that information regarding four Master  
26 courses was available via its distance education program, and at the informal hearing, the  
27 University stated that it intended to offer a Master program consisting of 10 courses. The  
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1 Bureau, however, only received course materials for five courses. The Bureau also testified that  
2 the day before the hearing, the University applied to remove several courses from its proposed  
3 program. Since the proposed program was uncertain and in flux, the University did not establish  
4 that it included the subject areas necessary for students to complete the Master program, or that  
5 the materials and courses were current and organized. (Cal. Code Regs., tit. 5, §§ 71710, subds.  
6 (a) & (b), 71715, subd. (d)(3).) Accordingly, the University's application was properly denied.  
7 (Cal. Code Regs., tit. 5, § 71655, subds. (b) & (d).)  
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9 The University testified that it completed course syllabi for the 10 Master courses that it  
10 planned to offer via distance education. It did not, however, supply the Bureau with course  
11 syllabi for five of the courses. Accordingly, the University did not establish that its application  
12 was complete, or that it could satisfy minimum standards requiring that course materials be  
13 designed and organized by qualified faculty, and that syllabi be available for students in each  
14 course. (Cal. Code Regs., tit. 5, § 71710, subd. (c).) Thus, the Bureau properly denied the  
15 University's application. (Cal. Code Regs., tit. 5, § 71655, subds. (b) & (d).)  
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17 The University must also establish that it will assess each student, prior to admission, in  
18 order to determine whether they have the skills and competencies to succeed in a distance  
19 education environment. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(2).) At the informal hearing,  
20 the University noted that it would assess students prior to admission via an interview to ensure  
21 they have the equipment and Internet connection necessary to participate via distance education,  
22 could communicate in English, and could demonstrate familiarity with software programs.  
23 Students would also receive an orientation to introduce them to course software.

24 The Bureau determined that the University's proposed assessment was deficient, but it did  
25 not specify how the assessment failed to meet minimum standards. Accordingly, the  
26 University's application was not subject to denial based on the proposed assessment.

27 With respect to the catalog, the University testified that it revised its catalog to include  
28 information that the Bureau identified as missing, but the University did not provide the catalog



1 to the Bureau. Accordingly, the University did not establish that its application was complete, or  
2 that it could satisfy minimum standards requiring that the catalog include specific beginning and  
3 ending dates, a description of the University's programs and courses and their requirements, and  
4 STRF disclosures. (Ed. Code, § 94909, subd. (a)(5); Cal. Code Regs., tit. 5, §§ 71810, subd.  
5 (b)(1), 76215, subds. (a) & (b).) The Bureau properly denied the University's application. (Cal.  
6 Code Regs., tit. 5, § 71655, subds. (b) & (d).)  
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8 **DECISION**

9 For the foregoing reasons, the Bureau's decision denying the University's application for a  
10 substantive change is AFFIRMED.  
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12 DATED \_\_\_\_\_

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14 RYAN MARCROFT  
15 Deputy Director, Legal Affairs  
16 Department of Consumer Affairs  
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