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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. 1001848

12 **WILCOX UNIVERSITY OF AMERICA**

STATEMENT OF ISSUES

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14 **Application for Approval to Operate an**
Institution Non-Accredited Applicant

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16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

24 2. On or about August 28, 2013, the Bureau for Private Postsecondary Education
25 received an Application for Approval to Operate an Institution Non-Accredited, Application
26 Number 26620, from Willcox University of America ("Respondent").

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BACKGROUND AND HISTORY OF THE APPLICATION

3. On or about August 19, 2013, Peter Do certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application.

4. On or about September 10, 2013, the Bureau sent a letter to Respondent confirming receipt of the Application and indicating that an initial review of the Application found the Application to be incomplete.

5. On or about August 29, 2014, the Bureau received Respondent’s Amended Application.

6. On or about January 9, 2015 the Bureau received Respondent’s second Amended Application.

7. On or about August 14, 2015, the Bureau sent a deficiency letter to Respondent.

8. On or about September 28, 2015, the Bureau received a response to the deficiency letter.

9. On or about April 22, 2016, the Bureau sent a Notice of Denial letter to Respondent.

10. On or about June 13, 2016, the Bureau received Respondent’s request for an administrative hearing.

JURISDICTION

11. This Statement of Issues is brought before the Director of the Department of Consumer Affairs (“Director”) for the Bureau for Private Postsecondary Education, under the authority of the following laws. All section references are to the Education Code unless otherwise indicated.

STATUTES¹

12. Code section 94887 states: “An approval to operate shall be granted only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified the information provided by the applicant through site visits or other methods deemed

¹ The California Private Postsecondary Education Act of 2009 was recently amended, effective January 1, 2015. See, Senate Bill No. 1247. This Statement of Issues is based on the post-amendment version of the Act.

1 appropriate by the bureau, that the applicant has the capacity to satisfy the minimum operating
2 standards. The bureau shall deny an application for an approval to operate if the application does
3 not satisfy those standards.”

4 13. Code section 94909, subdivisions (a)(4), (a)(8)(A), (a)(8)(B) and (a)(9), state:

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

7 (4) The address or addresses where class sessions will be held.

8 (8) A detailed description of institutional policies in the following areas:

9 (A) Admissions policies, including the institution's policies regarding the acceptance
10 of credits earned at other institutions or through challenge examinations and
achievement tests, admissions requirements for ability-to-benefit students, and a list
11 describing any transfer or articulation agreements between the institution and any
other college or university that provides for the transfer of credits earned in the
12 program of instruction. If the institution has not entered into an articulation or transfer
agreement with any other college or university, the institution shall disclose that fact.

13 (B) Cancellation, withdrawal, and refund policies, including an explanation that the
14 student has the right to cancel the enrollment agreement and obtain a refund of
charges paid through attendance at the first class session, or the seventh day after
15 enrollment, whichever is later. The text shall also include a description of the
procedures that a student is required to follow to cancel the enrollment agreement or
16 withdraw from the institution and obtain a refund consistent with the requirements of
Article 13 (commencing with Section 94919).

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

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20 REGULATIONS

21 14. California Code of Regulations, Title 5, section 71700, states: “The Bureau may
22 request that an institution document compliance with the standards set forth in the Act and this
23 Division to obtain and maintain an approval to operate.”

24 15. California Code of Regulations, Title 5, section 71710, states:

25 In order to meet its mission and objectives, the educational program defined in
26 section 94837 of the Code shall be comprised of a curriculum that includes:

27 (a) those subject areas that are necessary for a student to achieve the
educational objectives of the educational program in which the student is enrolled;

28 (b) subject areas and courses or modules that are presented in a logically

1 organized manner or sequence to students;

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

5 (1) a short, descriptive title of the educational program;

6 (2) a statement of educational objectives;

7 (3) length of the educational program;

8 (4) sequence and frequency of lessons or class sessions;

9 (5) complete citations of textbooks and other required written materials;

10 (6) sequential and detailed outline of subject matter to be addressed or a
11 list of skills to be learned and how those skills are to be measured;

12 (7) instructional mode or methods.

13 (d) if degree granting, require research of an appropriate degree that
14 utilizes a library and other learning resources;

15 (e) specific learning outcomes tied to the sequence of the presentation of
16 the material to measure the students' learning of the material; and

17 (f) evaluation by duly qualified faculty of those learning outcomes.

18 16. California Code of Regulations, Title 5, section 71720, subdivisions (a)(1) and (a)(4),
19 state:

20 (a) An Educational Program Leading to a Degree.

21 (1) An institution offering an educational program that leads to a degree
22 shall employ duly qualified faculty sufficient in number to provide the instruction,
23 student advisement, and learning outcomes evaluation necessary for the institution to
24 document its achievement of its stated mission and objectives, and for students to
25 achieve the specific learning objectives of each course offered;

26 (4) The faculty shall have sufficient expertise to support the institution's
27 awarding of a degree identifying a specialty or major field of emphasis, demonstrated
28 by, at a minimum:

(A) That the person possesses one of the following:

1. a degree from: an institution approved by the Bureau or previously
approved by a predecessor agency of the Bureau; or an accredited institution in the
United States or Canada; or other state approved institution that documents that the
institution at which the faculty member earned his or her degree is equivalent to an
institution that is approved by the Bureau; or an institution outside the United States
or Canada and in addition provides a comprehensive evaluation of the degree
performed by a foreign credential evaluation service that is a member of the National
Association of Credential Evaluation Services (NACES).

2. a credential generally recognized in the field of instruction.

(B) The degree, professional license, or credential possessed by the person shall be at least equivalent to the level of instruction being taught or evaluated;

17. California Code of Regulations, Title 5, section 71715, subdivision (d)(4), states:

(d) Distance education as defined in section 94834 of the Code, does not require the physical presence of students and faculty at the same location but provides for interaction between students and faculty by such means as telecommunication, correspondence, electronic and computer augmented educational services, postal service, and facsimile transmission. In addition to the other requirements of this chapter and the Act, an institution offering distance education shall:

(4) provide for meaningful interaction with faculty who are qualified to teach using distance education methods....

18. California Code of Regulations, Title 5, section 71810, subdivision (b)(9), states:

(b) The catalog shall contain the information prescribed by Section 94909 of the Code and all of the following:

(9) A description of the facilities and of the types of equipment and materials that will be used for instruction;

19. California Code of Regulations, Title 5, section 71770, subdivision (a)(1), states:

(a) The institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program. In addition to any specific standards for an educational program, the admissions standards must specify as applicable that:

(1) Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant examination as required by section 94904 of the Code.

20. California Code of Regulations, Title 5, section 74115, subdivision (b), states:

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

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

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

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

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

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

7
8 21. California Code of Regulations, Title 5, section 71745, subdivision (a)(6), states:

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

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

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18 22. California Code of Regulations, Title 5, section 71735, subdivisions (a) and (b), state:

19 (a) An institution shall have sufficient facilities and necessary equipment
20 to support the achievement of the educational objectives of all of the courses and
21 educational programs in which students are enrolled. If an institution represents that
the educational service will fit or prepare a student for employment in a particular
22 occupation or as described in particular job titles, either of the following conditions
shall be met:

23 (1) The equipment used for instruction or provided to the student shall be
24 comparable in model type or features to equipment generally used in those
occupations or job titles at the time the instruction is offered.

25 (2) The institution shall establish that the equipment used for instruction
26 or provided to a student is not obsolete and is sufficient for instructional purposes to
reasonably assure that a student acquires the necessary level of education, training,
27 skill, and experience to obtain employment in the field of training and to perform the
tasks associated with the occupation or job title to which the educational program was
28 represented to lead.

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2 (b) An institution's facilities, including heating and cooling, ventilation,
3 lighting, classrooms, laboratories, and campus environs, shall be well-maintained.
4 The institution shall maintain all valid permits required by any public agencies
5 relating to the health and safety of the institution's facilities and equipment on file,
6 and such permits shall be available to the Bureau upon request.

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FIRST CAUSE FOR DENIAL OF APPLICATION

(Failure to Meet Minimum Operating Standards – Description of Educational Program)

23. Respondent's application is subject to denial under section 94887 in conjunction with California Code of Regulations, Title 5, section 71710, in that Respondent has failed to provide sufficient evidence that its curriculum satisfies the minimum operating standards. The circumstances are as follows:

a. On or about August 14, 2015, the Bureau sent a deficiency letter to Respondent and requested a syllabus for all courses proposed by Respondent. Respondent failed to provide a syllabus for the following thirty-three (33) courses:

1. AMC701 Ethics of Touch and Active Listening
2. AMC702 Ethics of Therapeutic Relationship
3. AMC703 Ethics of Practice Management
4. BI101 General Biology
5. EN200 Composition
6. EN210 Communication Arts
7. EN220 Research Methods and Bibliography
8. EN250 World Literature or Foreign Language
9. EN350 Technical Writing
10. EN230 Oral Communications
11. EN260 American Lit
12. EN280 Asian Literature
13. ES101 Earth Sciences

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- 14. HS100 Introduction to Art History
- 15. HS200 Western Civilization
- 16. HS220 Non-Western Civilization
- 17. HS130A United States History
- 18. MA101A College Algebra and Trigonometry
- 19. MA201 Computer Math for Business Majors
- 20. MA202B Calculus for Business Majors
- 21. MA231 Calculus 1
- 22. MA232 Calculus 2
- 23. MA303 Symbolic Logic
- 24. MA311 Calculus 3
- 25. PH130A Physics-Mechanics, Fluids, Heat & Sound
- 26. PL130 Introduction to Philosophy
- 27. PL200 World Cultures or Foreign Language
- 28. PL230 Comparative Systems of Thought
- 29. PS135 U.S. Government
- 30. PY210 Introduction to Psychology
- 31. PY330 Personal Dynamics and Leadership
- 32. SS130 Introduction to the Social Sciences
- 33. SS140 Introduction to Sociology

b. In Respondent’s Catalog received by the Bureau on or about September 28, 2015, item 20 on page 47, lists a program entitled, “Continuation Education Program.” This program is not included in Respondent’s list of programs submitted to the Bureau, nor was there a syllabus forwarded to the Bureau.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Failure to Meet Minimum Operating Standards - Faculty)

24. Respondent’s application is subject to denial under section 94887 in conjunction with California Code of Regulations, Title 5, section 71720, subdivisions (a)(1) and (a)(4), and

1 California Code of Regulations, Title 5, section 71715, subdivision (d)(4), in that Respondent
2 failed to demonstrate that: a) the faculty members are duly qualified; b) the faculty are duly
3 qualified to teach using distance education methods; and c) Respondent has contracted with duly
4 qualified faculty. The circumstances are as follows:

5 a. On or about August 14, 2015, the Bureau sent a deficiency letter to Respondent
6 and requested therein the qualifications, licenses, and academic transcripts for each faculty
7 member. Respondent failed to provide academic transcripts for the following degree program
8 instructors, in violation of California Code of Regulations, Title 5, section 71720, subdivision
9 (a)(4):

10 1. S.C.

11 2. A.P.

12 b. On or about August 14, 2015, the Bureau sent a deficiency letter to Respondent
13 and requested therein the qualifications of faculty members who deliver instruction by distance
14 education. Respondent failed to provide information demonstrating the following degree
15 program instructors are qualified to teach using distance education methods, in violation of
16 California Code of Regulations, Title 5, section 71715, subdivision (d)(4), and section 71720,
17 subdivision (a)(4), for the following degree program instructors:

18 1. M.L.

19 2. R.E.

20 3. S.C.

21 4. A.P.

22 c. On or about August 14, 2015, the Bureau sent a deficiency letter to Respondent
23 and requested therein a list of all faculty teaching assignments. Respondent failed to provide
24 faculty information, in violation of California Code of Regulations, Title 5, section 71720,
25 subdivision (a)(1) and (4), for the following courses:

26 1. AMC701 Ethics of Touch and Active Listening

27 2. AMC702 Ethics of Therapeutic Relationship

28 3. AMC703 Ethics of Practice Management

- 1 4. BI101 General Biology
- 2 5. EN200 Composition
- 3 6. EN210 Communication Arts
- 4 7. EN220 Research Methods and Bibliography
- 5 8. EN250 World Literature or Foreign Language
- 6 9. EN350 Technical Writing
- 7 10. EN230 Oral Communications
- 8 11. EN260 American Lit
- 9 12. EN280 Asian Literature
- 10 13. ES101 Earth Sciences
- 11 14. HS100 Introduction to Art History
- 12 15. HS200 Western Civilization
- 13 16. HS220 Non-Western Civilization
- 14 17. HS130A United States History
- 15 18. MA101A College Algebra and Trigonometry
- 16 19. MA201 Computer Math for Business Majors
- 17 20. MA202B Calculus for Business Majors
- 18 21. MA231 Calculus 1
- 19 22. MA232 Calculus 2
- 20 23. MA303 Symbolic Logic
- 21 24. MA311 Calculus 3
- 22 25. PH130A Physics-Mechanics, Fluids, Heat & Sound
- 23 26. PL130 Introduction to Philosophy
- 24 27. PL200 World Cultures or Foreign Language
- 25 28. PL230 Comparative Systems of Thought
- 26 29. PS135 U.S. Government
- 27 30. PY210 Introduction to Psychology
- 28 31. PY330 Personal Dynamics and Leadership

1 32. SS130 Introduction to the Social Sciences

2 33. SS140 Introduction to Sociology

3 **THIRD CAUSE FOR DENIAL OF APPLICATION**

4 **(Failure to Meet Minimum Requirements - Catalog)**

5 25. Respondent's application is subject to denial under section 94887 in conjunction with
6 California Code of Regulations, Title 5, section 71810, subdivision (b)(9), Code section 94909,
7 subdivisions (a)(4), (a)(8)(A), (a)(8)(B) and (a)(9), and California Code of Regulations, Title 5,
8 section 71770, subdivision (a)(1), in that Respondent failed to provide a catalog that contains: a)
9 all of the required school facilities and equipment information; b) the required minimum student
10 admissions standards; c) the schedule of total charges for the Cosmetology Program; d) the
11 minimum requirements for cancellation policy; and e) the address and location(s) where classes
12 are to be held. The circumstances are as follows:

13 a. On or about September 28, 2015, the Bureau received a Catalog from
14 Respondent in which Respondent failed to provide a description of the facilities and of the types
15 of equipment and materials used for instruction in the Cosmetology, Esthetics and Nail Care
16 Programs, in violation of California Code of Regulations, Title 5, section 71810, subdivision
17 (b)(9) for not meeting the minimum requirements for a catalog.

18 b. Respondent failed to provide admission policies for the Cosmetology, Esthetics
19 and Nail Care Programs that require each student admitted into the programs to possess a high
20 school diploma or its equivalent, or otherwise successfully take and pass the relevant
21 examination. Respondent violated Code section 94909, subdivision (a)(8)(A) for failing to meet
22 the minimum requirements for a catalog and California Code of Regulations, Title 5, section
23 71770, subdivision (a)(1), for failing to establish student admissions standards that meet the
24 minimum requirements.

25 c. Respondent failed to provide the complete schedule of total charges. The
26 syllabi for the cosmetology courses require the purchase of a "Cosmetology Kit." The schedule
27 of total charges on page 18 of the Catalog does not include the cost of the required kit.

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1 Respondent violated section 94909, subdivision (a)(9), for failing to meet the minimum
2 requirements for a catalog.

3 d. Respondent failed to provide a cancellation policy in the Catalog that includes
4 an explanation that the student has the right to cancel the enrollment agreement and obtain a
5 refund of charges paid through attendance at the first class session, or the seventh day after
6 enrollment, whichever is later. Pages 18 and 21 of the Catalog state: "You may cancel your
7 contract with the Institute and receive a full refund, without any penalty or obligation, within (5)
8 business days after the first day of instruction." Respondent violated Code section 94909,
9 subdivision (a)(8)(B), for not meeting the minimum requirements for a catalog.

10 e. The Catalog states on page 23: "The Institute is located at 1930 Wilshire Blvd
11 Suite 700 Los Angeles, CA 90057 where class sessions will be held." However, in the response
12 to the deficiency letter the Bureau received from Respondent on or about September 28, 2015,
13 Respondent stated that the school has partnered with an external organization to teach students
14 off-campus. Respondent failed to disclose the location of the partner organization where classes
15 will be held. Respondent is in violation of Code section 94909, subdivision (a)(4), for not
16 meeting the minimum requirements for a catalog.

17 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

18 **(Failure to Meet Minimum Operating Standards - Financial Resources and Statements)**

19 26. Respondent's application is subject to denial under section 94887 in conjunction with
20 California Code of Regulations, Title 5, section 74115, subdivision (b) and section 71745,
21 subdivision (a)(6), in that Respondent failed to provide sufficient documentation indicating
22 Respondent is financially sound. The circumstances are as follows:

23 a. In the Application the Bureau received on or about August 28, 2013,
24 Respondent provided a copy of financial statements dated August 9, 2013. The financial
25 statements did not contain an Income Statement and a Cash Flow Statement. Respondent violated
26 California Code of Regulations, Title 5, section 74115, subdivision (b), for not meeting minimum
27 operating standards.

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1 b. In addition, Respondent provided a copy of a balance sheet dated August 9,
2 2013, showing a ratio of current assets to current liabilities of 1.00. This ratio is less than the
3 required ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the end of the
4 most recent fiscal year. Respondent violated California Code of Regulations, Title 5, section
5 71745, subdivision (a)(6), for not meeting minimum operating standards.

6 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

7 **(Failure to Meet Minimum Operating Standards - Facility)**

8 27. Respondent's application is subject to denial under section 94887 in conjunction with
9 California Code of Regulations, Title 5, section 71735, subdivisions (a) and (b), in that
10 Respondent failed to provide sufficient evidence that: a) the facilities, instructional equipment and
11 materials are sufficient to enable students to achieve the educational objectives; and b) the
12 institution is maintained and operated in compliance with all applicable ordinances and laws. The
13 circumstances are as follows:

14 a. On or about August 14, 2015, the Bureau sent a deficiency letter to Respondent
15 and received Respondent's response on or about September 28, 2015. In the response,
16 Respondent stated the school has partnered with an external organization to teach students off-
17 campus. Respondent failed to provide a description of the partner organization's equipment
18 available for use by the students or indicate whether the equipment is owned, leased, rented, or
19 loaned by another. In addition, Respondent failed to provide building diagrams or maps
20 identifying the location of the classrooms, workshops and libraries, for the partner organization.
21 Respondent violated California Code of Regulations, Title 5, section 71735, subdivision (a), for
22 not meeting the minimum operating standards.

23 b. In addition, in Respondent's response to the deficiency letter, Respondent failed
24 to provide copies of permits and rental or lease agreements in connection with Respondent's
25 partnership(s) with external organizations to teach students off-campus. Further, Respondent
26 failed to provide a copy of the partnership agreement between Respondent and the partner
27 organization. Respondent violated California Code of Regulations, Title 5, section 71735,
28 subdivision (b), for not meeting the minimum operating standards.


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PRAYER

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

1. Denying the application of Willcox University of America for an Application for Approval to Operate an Institution Non-Accredited;
2. Taking such other and further action as deemed necessary and proper.

DATED: 2/7/17



JOANNE WENZEL
Bureau Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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