

**BEFORE THE DIRECTOR
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues

Case No. 999341

Against:

OAH No. 2015010323

ORDER OF DECISION

**THE AMERICAN UNIVERSITY FOR SCIENCE
AND TECHNOLOGY; MOHAMED ABDUL
WAHAB, Ph.D., OWNER**

Approval to Operate an Institution Non-
Accredited Applicant,


Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above entitled matter.

The Decision shall become effective on JUL 29 2016.

DATED: June 23, 2016



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

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FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
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THE AMERICAN UNIVERSITY FOR
SCIENCE AND TECHNOLOGY;
MOHAMED ABDULWAHAB, Ph.D.
Owner,

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PROPOSED DECISION

Abraham M. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on March 16 and 17, and April 1, 2016, in Costa Mesa, California.

Marichelle S. Tahimic, Deputy Attorney General, represented complainant, Joanne Wenzel, Chief of the Bureau for Private Postsecondary Education, Department of Consumer Affairs, State of California.

Mohamed Abdulwahab, Ph.D. represented respondent, The American University for Science and Technology (The American University or respondent institution).

The matter was submitted on April 1, 2016.

SUMMARY

Respondent, The American University for Science and Technology, is a non-accredited private postsecondary institution that offers 46 different Bachelor's, Master's, and Doctor of Philosophy degrees in areas including engineering and psychology through long-distance, independent learning programs. Mohamed Abdulwahab, Ph.D. is the Chief Executive Officer. Dr. Abdulwahab began offering the programs in 2004. In 2010,

following the enactment of the Bureau for Private Postsecondary Education Act, respondent institution was permitted to continue offering programs to individuals in California provided respondent institution obtained approval under the Act. On August 2, 2010, respondent institution submitted an application for approval to the bureau. The bureau identified numerous deficiencies based on a report prepared by a committee organized by the bureau and denied respondent institution's application for approval to continue to operate.

Respondent failed to prove by a preponderance of the evidence that it meets the minimum operating standards required under California law and has the capacity to meet the required minimum operating standards. It is not in the public interest to approve The American University's application or permit it to continue operating in California. The bureau's denial of The American University's application for approval to operate in California is affirmed.

PROTECTIVE ORDER SEALING DOCUMENTS

Exhibit 10, AGO 1621 to 1634 and AGO 1963 to 2427, and Exhibit 12, AGO 102 to 116, contain personal information and were admitted into evidence. It was not practical to delete the confidential information from these exhibits. To protect privacy and confidential personal information from inappropriate disclosure, a written Protective Order Sealing Confidential Records was issued and provided to the parties on the record. The order governs the release of documents to the public. A reviewing court, parties to this matter, their attorneys, and a government agency decision maker or designee under Government Code section 11517 may review the documents subject to this order, provided that such documents are protected from release to the public.

FACTUAL FINDINGS

Background and Jurisdictional Matters

1. On August 2, 2010, Mohamed Abdulwahab, Ph.D. submitted an "Application for Approval to Operate for an Institution Non Accredited" to the Bureau for Private Postsecondary Education. The application sought approval to operate The American University for Science and Technology as a private, non-accredited institution offering Bachelor's, Master's, and Doctor of Philosophy degrees in 46 areas. Dr. Abdulwahab signed the application and certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application.

2. The bureau denied the application in a document dated October 25, 2013, captioned "Notice of Denial of Application for Approval to Operate." The bureau attached to its denial notice, a document captioned "Institution Closure Procedures" that advised respondent institution concerning the steps respondent institution needed to take under

Education Code sections 94926 to 94927.5 and California Code of Regulations, title 5, section 76240 to protect its students when it closed its institution.

The bureau based its denial on a detailed 42 page report dated August 29, 2013, prepared by a visiting committee the bureau organized to assess whether The American University met the minimum operating standards under Education Code section 94887. On April 3, 2013, this Visiting Committee conducted a comprehensive, qualitative onsite inspection of the institution in order to evaluate the institution's efforts to implement its mission and objectives and determine whether the institution complied with the applicable requirements of the Private Postsecondary Education Act of 2009 ("the Act").

The bureau advised Dr. Abdulwahab of its scheduled April 3 and 4, 2013, inspection in a letter dated March 1, 2013. The bureau provided an informational handbook to help respondent institution prepare for the visit.

The "Visiting Committee" consisted of ten members including seven bureau staff members and three expert consultants, and was chaired by Drew Saeteune, Bureau Education Specialist. The Committee members were Joanne Wenzel, then Deputy Bureau Chief; Leeza Rifredi, Bureau Licensing Manager, Alicia Colby, Senior Education Specialist, Drew Saeteune, Education Specialist; Gina Brougham, Education Specialist; Reginald Mitchell, Jr.; Education Specialist; William Cohen, Ph.D., Expert Consultant; Many Endriga, Expert Consultant; and Betty Sundberg, Ph.D., Expert Consultant.

Dr. Sundberg obtained a Doctor of Education degree from the University of San Francisco in 1984; Dr. Endriga obtained a Doctor of Philosophy degree in Child Clinical Psychology from the University of Washington in 1995; and Dr. Cohen obtained a Doctor of Philosophy degree in Executive Management from Claremont Graduate University, a Master of Business Administration degree from the University of Chicago, and a Bachelor of Science degree in Engineering from the United States Military Academy at West Point.

During its April 3 site visit, the Visiting Committee reviewed records and interviewed Dr. Abdulwahab, the Chief Executive Officer, Guy Langvardt, the Chief Academic Officer, and Michael J. Parmer, the Chief Operating Officer. In its report, the Committee identified numerous serious deficiencies and found that respondent institution did not have the ability to maintain and meet the minimum operating standards and implement its overall academic mission.

Respondents provided a detailed written response to the Visiting Committee's report dated September 14, 2013.

On November 14, 2014, complainant filed the statement of issues against respondent to affirm the bureau's denial of the application. Respondent filed a notice of defense.

Statutory Background

3. Until July 1, 2007, regulation of private postsecondary educational institutions was carried out by the Bureau for Private Postsecondary and Vocational Education, within the Department of Consumer Affairs. On June 30, 2007, the Legislature allowed the bureau to sunset. From July 1, 2007, through December 31, 2009, there was no regulatory oversight in California over unaccredited private postsecondary institutions operating in the state.

On October 11, 2009, the Bureau for Private Postsecondary Education Act of 2009 was signed into law. The Act established the Bureau for Private Postsecondary Education and became operative on January 1, 2010. In enacting the Act, the legislature found and declared the following:

Private postsecondary schools can complement the public education system and help develop a trained workforce to meet the demands of California businesses and the economy; however, concerns about the value of degrees and diplomas issued by private postsecondary schools, and the lack of protections for private postsecondary school students and consumers of those schools' services, have highlighted the need for strong state-level oversight of private postsecondary schools.

(Ed. Code, § 94801, subd. (b).)

4. Under Education Code section 94886, no person shall open, conduct, or do business as a private postsecondary educational institution without obtaining the bureau's approval to operate the institution. "An approval to operate shall be granted only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified . . . that the applicant has the capacity to satisfy the minimum operating standards." If the application does not satisfy those standards, "[t]he bureau shall deny an application for an approval." (Ed. Code, § 94887.)¹

5. Private postsecondary institutions that started operating in California after July 1, 2007, and before January 1, 2010, were given an opportunity to continue to operate as private postsecondary non-accredited institutions if they applied for approval by August 2, 2010. Respondent institution applied by this deadline and, accordingly, was allowed to operate while the bureau evaluated its application.

The American University for Science and Technology

6. On July 15, 2004, The American University became incorporated in California under the name "The American International University" as a private postsecondary

¹ All section references are to the Education Code and all regulation references are to Title 5 of the California Code of Regulations.

institution offering degree programs in multiple areas as a distance-only program. On January 28, 2010, The American International University filed a certificate of amendment to its articles of incorporation changing its name to "The American University for Science and Technology." On November 4, 2004, the California State Franchise Tax Board designated The American University as a tax exempt institution, and in February 2005, the Internal Revenue Service designated The American University as exempt from federal taxes under section 501(c)(3) of the Internal Revenue Code.

In its mission statement The American University states that it "uses distance education methodologies to provide domestic and international adult students with opportunities to earn bachelor's, Master's and doctoral degrees in recognized academic programs, and to acquire competencies and apply the knowledge and skills needed to participate and function effectively in modern society." Its distance education is facilitated through "internet based real time conferencing technology, Electronic Communication, Email, Local mentoring and concurrent assignments review and report. Credit is granted based on academic assessment of student performance throughout the program including assessments' [sic] evaluation, assessment of written exam, and/or student submitted comprehensive report on the subject."

7. The American University provided its distance-only educational programs through partnerships with independent educational institutions in Egypt, Nigeria, Lebanon, and the United Arab Emirates. Under agreements with these institutions, the foreign institutions conduct all trainings and examinations of students; grade the examinations and report the students' scores to The American University; and The American University awards the appropriate degree, diploma or certificate to the students who complete all academic requirements and financial commitments.

8. According to a "Performance Fact Sheet" respondent institution submitted in connection with its application to operate, respondent institution offers 46 degrees in subject areas including Business Administration; Architectural Engineering; Civil and Electrical Engineering; Computer Science; Education; Medical Informatics; and Nutritional Science.

9. The American University operates out of a business suite in Tarzana, California. The business suite contains a conference room, a small office with a computer, a projection screen, and miscellaneous office equipment. The university has access to other rooms in the building where it operates. The office does not contain a library, and The American University does not maintain its own a digital library.

Charges in the Statement of Issues

10. The Statement of Issues includes thirteen causes for denial. They are summarized as follows:

- First cause for denial – Respondent institution lacked the proper documentation to support the experience and qualifications of

respondent's chief academic officer (CAO) and Chief Operating Officer (COO) as required under section 94887, and regulations 71100, 71700, 71720, subdivision (a)(4)(A)(9), and 71730, subdivisions (e) and (f);

- Second cause for denial – Respondent institution failed to have a curriculum for its educational programs as required under sections 94887 and 94900.5 and regulations 71100, 71700 and 71710;
- Third cause for denial – Respondent institution failed to meet the minimum operating standards to conduct distance learning under section 94887 and regulations 71100, 71700 and 71715, subdivision (d);
- Fourth cause for denial – Respondent institution failed to maintain the required current assets to liabilities ratio under section 94887 and regulations 71100 and 71745;
- Fifth cause for denial – Respondent institution had insufficient documentation to show that respondent contracted with duly-qualified faculty to deliver its educational programs by distance learning or direct instruction under sections 94887 and 94900.5, subdivision (b), and regulations 71100, 71700 and 71720, subdivision (a)(4)(A)(9);
- Sixth cause for denial – Respondent institution did not have available for bureau inspection personnel files for its officers and faculty as required under section 94887 and regulations 71100, 71700 and 71930;
- Seventh cause for denial – Respondent institution was unable to show that it had equipment and facilities to deliver its educational programs as required under section 94887 and regulations 71100 and 71735;
- Eighth cause for denial – Respondent institution did not have adequate self-monitoring procedures to ensure regulatory and statutory compliance as required under section 94887 and regulations 71100 and 71760;
- Ninth cause for denial – Respondent institution did not maintain student records to allow for an assessment of students' qualifications for admissions or for granting transfer credits as required under section 94887, and regulations 71100, 71700 and 71770 or that were consistent with respondent's own requirement that transcripts be translated into English;

- Tenth cause for denial – Respondent institution’s catalog did not describe each course offered and failed to update accreditation and program disclosure requirements that became effective on January 1, 2013, as required under sections 94887 and 94909 and regulations 71100, 71700 and 71810;
- Eleventh cause for denial – Respondent institution was unable to document that it could meet the minimum educational requirements to award an undergraduate degree as required under section 94887 and regulations 71100, 71700 and 71850, subdivision (a);
- Twelfth cause for denial – Respondent institution was unable to document that it could meet the minimum educational requirements to award a graduate degree as required under section 94887 and regulations 71100, 71700, 71865, subdivision (a) and (c), and 71720; and
- Thirteenth cause for denial – Respondent institution failed to maintain student records and faculty personnel records that contained information required under sections 94887, 94900.5, subdivision (b), and regulations 71100, 71700 , 71720, subdivision (a)(4)(A)(9), and 71930, subdivision (a).

First Cause for Denial

COMPLAINANT’S CONTENTIONS AND APPLICABLE REGULATIONS

11. Complainant contended that respondent institution did not have available for the Visiting Committee the transcripts, copies of degrees, and contracts with the institution to support the qualifications of the University’s Chief Academic Officer, Dr. Guy Langvardt, and Chief Operating Officer, Dr. Michael J. Palmer, as required under regulation 71720.

An institution offering an educational program that leads to a degree shall employ duly qualified faculty sufficient in number to provide the instruction, student advisement, and learning outcomes evaluation necessary for the institution to document its achievement of its stated mission and objectives, and for students to achieve the specific learning objectives of each course offered. (Cal. Code Regs., tit. 5, § 71720, subd. (a)(1).) The institution must employ administrative personnel who have the expertise to ensure the achievement of the institution’s mission and objectives and the operation of the education programs. (Cal. Code Regs., tit. 5, § 71730, subd. (f).) Each institution shall have a chief executive officer, a chief operating officer, and a chief academic officer. (Cal. Code Regs., tit. 5, § 71730, subd. (a)(1).) One person may serve more than one administrative function. (Cal. Code Regs., tit. 5, § 71730, subd. (a).) The chief academic officer must possess a degree or equivalent acceptable experience at least equal to the highest qualification required of the institution’s

faculty. (Cal. Code Regs., tit. 5, § 71730, subd. (e).) The institution is required to maintain records documenting that each faculty member is duly qualified to perform the duties to which the faculty member is assigned. (Cal. Code Regs., tit. 5, § 71720, subd. (a)(9).)

THE VISITING COMMITTEE'S REPORT, FINDINGS AND EVIDENCE

12. The Visiting Committee concluded in its August 28, 2013, report that respondent institution did not seem to have "enough knowledge" in terms of faculty and administration to deliver the educational programs stated in its mission and objectives. The Committee noted that about a month before the Visiting Committee conducted its inspection, respondent Dr. Abdulwahab was the CEO, CAO and COO of the institution. Dr. Langvardt was hired about five days before the committee visited the institution; Dr. Palmer had been with the institution for about a month. Dr. Langvardt told the committee that he was not sure how much time he would be able to dedicate to the institution. He told the committee that he did not have the time to review the distance education modality or the institution's curriculum development.

RESPONDENT INSTITUTION'S RESPONSE

13. Dr. Abdulwahab did not dispute that copies of Dr. Langvardt's and Dr. Palmer's transcripts, degrees, or contracts were not provided to the Visiting Committee. Drew Saeteune, the chairperson of the Visiting Committee, testified that during the site visit the committee requested additional documents to support the qualifications of Drs. Langvardt and Palmer. At the hearing, Dr. Abdulwahab submitted a copy of references for Dr. Palmer.

14. Dr. Abdulwahab asserted that the committee never asked him for any documents other than Dr. Langvardt's and Dr. Palmer's curricula vitae; and due to respondent institution's limited size and activities, Dr. Abdulwahab, the CEO, had undertaken to perform the tasks of both CAO and COO. Dr. Abdulwahab testified that respondent institution severed its relationships with Drs. Langvardt and Palmer after the committee submitted its report to respondent institution in August 2013.

EVALUATION REGARDING FIRST CAUSE FOR DENIAL

15. Respondent institution's failure to have documentation to support the experience and qualifications of its CAO and COO did not constitute a violation of regulations 71100, 71700, 71720, subdivision (a)(4)(A)(9), and 71730, subdivisions (e) and (f), as alleged in the First Cause for Denial. Regulation 71720, which requires institutions to maintain records "documenting that each faculty member is duly qualified to perform the duties to which the faculty member is assigned," only applies to an institution's faculty, as opposed to an institution's "administration." Regulation 71730, which applies to an institution's administration, requires each institution to have a CEO, COO and CAO, but it does not require that an institution maintain records similar to the records it is required to maintain for "faculty."

Second Cause for Denial

COMPLAINANT'S CONTENTIONS AND APPLICABLE REGULATION

16. Complainant contended that respondent institution did not have curriculum developed for any of its numerous educational programs as required under regulation 71710.

17. An institution's education program must contain a curriculum. (Cal. Code Regs., tit. 5, § 71710.) A curriculum is an "organized set of courses or modules of instruction that are prerequisites to the award of a degree or diploma." (Ed. Code, § 94828.) As Mr. Saeteune described it, a curriculum is a course map that is designed to build on a student's foundational knowledge. As part of any curriculum, syllabi or course outlines detail the daily topics and learning objectives to be discussed in individual courses with learning outcomes. Under regulation 71710, curriculum must include the following:

- (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;
- (b) subject areas and courses or modules that are presented in a logically organized manner or sequence to students;
- (c) course or module materials that are designed or organized by duly qualified faculty. For each course or module, each student shall be provided with a syllabus or course outline that contains:
 - (1) a short, descriptive title of the educational program;
 - (2) a statement of educational objectives;
 - (3) length of the educational program;
 - (3) sequence and frequency of lessons or class sessions;
 - (4) complete citations of textbooks and other required written materials;
 - (5) sequential and detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured;
 - (6) instructional mode or methods. . . .

THE VISITING COMMITTEE'S REPORT, FINDINGS AND EVIDENCE

18. As noted, respondent institution offers 46 different degrees, including Bachelor's, Master's and Doctoral degrees in Business Administration; Psychology; Engineering; Architectural Engineering-Construction Management; Civil Engineering; Computer Engineering; Computer Science; Electrical Engineering; Mechanical Engineering; Education; Medical Information; and Nutritional Science. Respondent institution has a course catalog that contains the courses of study for each of the degree programs offered. Respondent institution also has an online version of the catalog.

19. Approximately one month before the Visiting Committee conducted its site visit, the Committee, by a March 1, 2013, letter, asked respondent institution for the course curricula and syllabi for all of its educational programs and the curriculum vitae and resumes of the persons who created these curricula. During the site visit, Dr. Abdulwahab did not provide any course curricula and syllabi. He and CAO Dr. Langvardt told the Visiting Committee that "course outlines and/or syllabi were not developed and did not exist." They explained that a textbook, identified by its ISBN² number, was identified for each course, and that at respondent institution, a textbook table of contents serves in place of the more traditional course outline/syllabus. Dr. Abdulwahab added that respondent institution derived its course curricula directly from textbooks.

20. The Committee found that this lack of curricula and syllabi made it "impossible" to assess whether the institution can meet its stated educational objectives in its educational program areas. The list of courses, as found in respondent institution's catalog, did not identify prerequisites, describe courses of study, or provide a logical course map to advise students of the courses they needed to take to build on their foundational knowledge to obtain the applicable degree.

As an example of the course list Dr. Abdulwahab referenced, the Master's degree program in Health Psychology and Behavioral Medicine had a "Subjects' List." This list contained the categories "General Subjects"; "Fundamental Subjects"; "Specialty Subjects"; and "Elective List." Under "General Subjects" it stated: "Information Strategies is required to be the first taken subject at AUSTC or transferred from other facility. Up to 5 subjects may be selected if listed." Under the Subjects' List category, "Information Research Strategies" is identified by the textbook's ISBN number and the publication date and author. No further description of the course was offered.

21. The "Subjects' Lists" in other areas reviewed in the catalog also did not contain course curricula and syllabi but instead provided a list of courses identified by textbooks and their ISBN numbers.

² International Standard Book Number

RESPONDENT INSTITUTION'S RESPONSE

22. In his September 14, 2013, response to the committee's findings, Dr. Abdulwahab did not dispute the committee's findings that respondent institution lacked curricula that complied with regulation 71710. He wrote, "We may admit that the institution has a minor deficiency which is not presenting course syllabi in a presentable format. . . ." He then repeated what he and Dr. Langvardt told the Committee:

The institution adapted its applied fact that every subject's syllabus is demonstrated in the contents of a selected academic textbook that is specifically identified by title, author and ISBN #. This approach is applied at many regionally accredited universities. . . .

23. However, in the written argument he submitted at the hearing, Dr. Abdulwahab attempted to argue that respondent institution did have a curriculum that complied with regulation 71710. In this regard, he made a number of arguments and claims concerning the institution's curricula and syllabi. He claimed that respondent institution has adapted a new curriculum format that is in full compliance with the regulations after it removed the "confusing textbooks' details." The materials describing respondent institution's programs under this new format, however, still failed to comply with regulation 71710.

As an example, respondent institution's website contains a document for the Master's degree in architectural engineering consisting of a list of courses categorized by "General Studies Subjects", "Fundamental Subjects", "Core Subjects", and "Concentration/Specialty Focus Subjects". That list did not identify specific prerequisite courses and sequences of study that would allow a student to know what courses he or she is supposed to take, and in what sequence, to meet the program's objectives and obtain the degree. Furthermore, no syllabi or outline of study was offered for the program. Similarly, the institution's 2014-2015 course catalog for the Ph.D. in Business Administration did not identify specific prerequisite courses and sequences of study. Nor did the institution provide a syllabi or outline of study for that program.

24. Despite his previous statement admitting that respondent institution did not have course syllabi, Dr. Abdulwahab claimed that respondent institution created syllabi through a specific process. His testimony here was unclear and not credible. He testified that the "syllabus is a living document from the professor's point of view." Dr. Abdulwahab then explained:

What is a syllabus is the program that a professor needs to go through the program; a very controlled process; submitted to the chairman of the department; have to submit that to the university at the main campus to make the decision whether the

syllabus is good or not; need that to be broken down into the actual record. . .

At the same time Dr. Abdulwahab acknowledged that respondent institution did not have full or part time faculty, but instead it utilized a pool of “volunteer faculty mentors.”³ Dr. Abdulwahab did not present evidence that these mentors were actually available to students, and the record indicated they were not. Aside from Dr. Abdulwahab, who served as chairman of the computer science department, there were no chairpersons of any of the institution’s departments. Thus, his assertion that syllabi were created through “a very controlled process” developed by “professors” was not credible.

25. Dr. Abdulwahab also suggested at the hearing that individual student “study plans” served as syllabi for courses of study. These study plans were found in individual student records. These study plans did not contain course objectives or learning objectives. They did not describe how the student interacted with institution faculty; did not identify individual faculty the student was to interact with; and did not detail the sequence and frequency of courses or lessons.⁴ As a result, these study plans did not meet the definition of syllabi under regulation 71710.

26. Dr. Abdulwahab further argued that the bureau violated respondent institution’s First Amendment rights by requiring it to have syllabi under regulation 71710. This argument is without merit. Under regulation 71710, the bureau has not sought to regulate the content of class instruction, but rather, require that syllabi describe courses by objectives, the length and frequency of instruction, textbooks used, and sequence of subject matter or skills obtained. (See *Dibona v. Matthews* (1990) 220 Cal.App.3d 1329, 1347 for discussion of impermissible control of class content by a public entity.)

EVALUATION REGARDING SECOND CAUSE FOR DENIAL

27. Respondent institution did not have a curriculum developed for each of its areas of study as required under regulation 71710. Materials describing respondent

³ The 2011-2012 and 2014-2015 course catalogs respondent submitted identified the “current” pool of faculty. Respondent did not identify any of these persons as faculty, or “faculty mentors,” who were available to students. Respondent did not provide their curricula vitae or resumes or contracts to substantiate that these volunteer faculty mentors were mentoring students. These individuals were also not identified in any of the student records reviewed.

⁴ One study plan, which was representative of other study plans reviewed, for student 478, who was studying for a Bachelor of Science degree in Business Administration, contained a list of approximately 33 courses arranged in sequence according to a code classification from “ACT 4013” to “SS 1007.” The plan developed for this student did not contain course objectives; learning objectives; sequence and frequency of lessons or class sessions; the names of faculty; or instructional modes or methods.

institution's programs and courses did not contain "those subject areas that are necessary for a student to achieve the educational objectives of the educational program in which the student is enrolled"; "subject areas and courses or modules that are presented in a logically organized manner or sequence to students"; and respondent institution did not have syllabi or course outlines for each course that met the requirements under regulation 71710, subdivision (c).

Third Cause of Denial

COMPLAINANT'S CONTENTIONS AND APPLICABLE REGULATION

28. Complainant contended that respondent institution did not meet the minimum operating standards for distance education under regulation 71715, subdivision (d). Complainant specifically claimed that student records did not contain a record of student work, final projects, theses, or dissertations. Student files also did not contain pre-admission assessments to determine whether each student had the skills and competencies to succeed in a distance education environment, and respondent had not contracted with sufficient, duly qualified, faculty to create the courses, instruct the students and/or evaluate student work. Regulation 71715, subdivision (d), reads as follows:

(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:

(1) ensure that the educational program offered through distance education is appropriate for delivery through distance education methods;

(2) assess each student, prior to admission, in order to determine whether each student has the skills and competencies to succeed in a distance education environment;

(3) ensure that the materials and programs are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology;

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

- (5) maintain clear standards for satisfactory academic progress;
- (6) timely complete student evaluations of learning outcomes by duly qualified faculty, which are appropriate for use with the distance education methods used, and evaluated by duly qualified faculty.
- (7) employ a sufficient number of faculty to assure that (A) the institution's response to, or evaluation of, each student lesson is returned to the student within 10 days after the lesson is received by the institution; and (B) the institution's response to, or evaluation of, each student project or dissertation is returned to the student within the time disclosed in the catalog; and
- (8) shall maintain a record of the dates on which lessons, projects, and dissertations were received and responses were returned to each student.

THE VISITING COMMITTEE'S REPORT, FINDINGS AND EVIDENCE

29. The Visiting Committee found that respondent institution did not meet the requirements under regulation 71715, subdivision (d), based on its random review of student records obtained during the site visit. It found that the respondent institution was unable to provide curriculum for review and, based on its review of student records for compliance with regulation 71715, subdivision (d), the student records were "insufficient for review."

STUDENT RECORDS OBTAINED BY THE VISITING COMMITTEE

30. The student records obtained by the Visiting Committee during the site visit and introduced into evidence did not contain copies of dissertations; theses; student work logs; or logs documenting when tests were taken and/or communications between students and faculty. There were no logs tracking when work was returned, when faculty graded the work, and no copies of faculty contracts. The student records reviewed contained lists of courses with handwritten grades; study plans containing lists of text books, as noted above; communications regarding admissions; and enrollment agreements regarding payment of tuition and fees. One student record contained a copy of graded tests taken by the student.

These records also did not contain assessments of the students' abilities to succeed in a distance learning environment. At the hearing Mr. Saeteune commented that there was no web-based platform to assist faculty in delivering educational programs for distance learning. With three exceptions, all the students were enrolled at respondent institution after January 1, 2010, the date the Private Postsecondary Education Act of 2009 went into effect. The

records are summarized by the student's degree program, and enrollment and graduation dates with degree as follows⁵:

- Student No. 366 obtained a Master of Science degree on February 9, 2011; enrolled on November 14, 2009;
- Student No. 491 enrolled for a Bachelor of Science degree in Accounting on March 6, 2013;
- Student No. 539 obtained a Doctor of Philosophy degree in International Business on April 15, 2010; enrolled on October 21, 2009;
- Student No. 375 obtained a Doctor of Philosophy degree in Sociology on September 7, 2011; enrolled on October 12, 2009;
- Student No. 372 enrolled on December 9, 2009, for a Master in Business Administration in Program Management;
- Student No. 370 obtained a Master of Business Administration degree in Marketing on February 17, 2011; enrolled on February 7, 2011, for Bachelor of Business Administration in Marketing;
- Student No. 379 obtained a Doctor of Philosophy degree in Business Administration on March 9, 2010; enrolled January 30, 2009;
- Student No. 351 obtained a Master of Business Administration in Marketing on November 26, 2010; enrolled September 18, 2009;
- Student No. 360 obtained a Doctor of Philosophy degree in Marketing on January 11, 2010; enrolled on November 11, 2009;
- Student No. 383 enrolled on February 22, 2010, for a Bachelor of Arts in Educational Psychology;
- Student No. 481 enrolled on December 18, 2012 for a Doctor of Philosophy in Accounting and Finance;
- Student No. 352 obtained a Bachelor of Business Administration on July 14, 2010; enrolled on October 3, 2009;

⁵ Students are identified by the last three digits of their student identification numbers as classified by respondent institution.

- Student No. 372 obtained a Master of Business Administration in Project Management on January 25, 2011; “Petition for Graduation” submitted on December 22, 2010;
- Student No. 478 enrolled on November 26, 2012 for a Bachelor of Science in Business Administration, Accounting;
- Student No. 453 enrolled on December 20, 2012 for the Doctor of Philosophy program in Education, Technology Department;
- The records for student No. 490 were not legible;
- Student 454 obtained an American High School Diploma on July 25, 2012; enrolled on unspecified date in 2012 for a Bachelor of Science in Business and Technology Management;
- Student 423 enrolled in the Masters of Business Administration in Engineering and Technology Management program on May 20, 2011;
- Student 442 obtained a Bachelor of Science degree in Business Administration, Human Resources Management; on February 11, 2013; enrolled on June 1, 2012;
- Student No. 262 enrolled in the Ph.D. program in Clinical Psychology on March 26, 2010; the student signed an enrollment agreement for a Master of Science degree in Clinical Psychology under Student No. 262 and a Study Plan for the Ph.D. program in Clinical Psychology was prepared on March 26, 2010 under Student. No. 393; the student obtained a Master of Science degree in Clinical Psychology under Student No. 262 and a Doctor of Philosophy degree in Clinical Psychology under Student No. 393 on July 6, 2012;
- Student No. 117 obtained a Doctor of Philosophy degree in Risk Management and Insurance Sciences on March 14, 2007;
- Student No. 157 obtained Doctor of Philosophy degree in Psychology and Behavioral Sciences Educational Psychology on July 12, 2012; enrolled on March 28, 2007;
- Student No. 380 obtained a Doctor of Philosophy degree in Political Science on June 16, 2011; a Master of Arts degree in Political Science on February 1, 2010 (under Student No. 291); and a Bachelor of Arts degree from The American International University on June 24, 2008 (under Student No. 082);

- Student No. 361 obtained Doctor of Philosophy degree in Education Leadership on July 6, 2012; enrolled on December 1, 2009 for a Doctor of Philosophy Degree in Education Administration and Leadership;
- Student No. 494 enrolled for a Master's Degree in Educational Technology Management for the period from May 1, 2013 to May 31, 2015;
- Student No. 084 (also referenced as Student No. 357) obtained a Doctor of Philosophy degree in Education, Curriculum and Instruction on January 29, 2013; enrolled in program on March 12, 2009.

31. When questioned by the Committee concerning the location of student work or logs in the student records, Dr. Abdulwahab told the Committee that the affiliated schools have these materials. These affiliated schools are Falcon Training and Development Center in the United Arab Emirates; International College of Management and Technology in Nigeria; Dimound Academy in Egypt; and Cultural International Center for Education and Services in Lebanon.

RESPONDENT INSTITUTION'S RESPONSE

32. In his September 14, 2013, response to the Committee's report, Dr. Abdulwahab stated that "student logs have never been at our affiliate schools because our database and software is central and only located at our main office" and that respondent institution designed and implemented "a sophisticated software and digital archive that documents all students' activities." He added, in the document he prepared for the hearing, that the student records are "digitized from the very beginning and a hard copy of the study plan has to be in every student's file while the academic transcript can only be in student's file after graduation."

Despite his emphasis on the digital nature of student records, Dr. Abdulwahab did not present evidence that student work logs and copies of dissertations and theses were preserved in a digital format. He also did not present evidence regarding how students communicated with faculty mentors concerning assignments, instructions, and testing. In fact, no evidence was offered that respondent institution utilized a web-based platform to deliver its educational program. Moreover, Dr. Abdulwahab admitted, in his closing statements at the hearing, that respondent institution did not keep copies of Ph.D. dissertations and, accordingly, respondent institution did not dispute that it failed to meet minimum operating under regulation 71715, subdivision (d)(8) ("[I]nstitution shall. . . maintain a record of the dates on which lessons, projects, and dissertations were received and responses were returned to each student.")

33. In the written argument Dr. Abdulwahab submitted at the hearing, he directly challenged the Visiting Committee's evaluation of student records. He stated the Visiting Committee "consumed there [sic] time only looking through students' files that most of them

were for students enrollment before becoming under the jurisdiction of BPPE and before regulations' setting," referring to the period before the bureau was established. In fact, as noted, based on the students' records reviewed, with three exceptions, students were enrolled at the respondent institution after January 1, 2010, the date the Bureau for Private Postsecondary Education Act went into effect.

34. In his hearing testimony, Dr. Abdulwahab emphasized that respondent institution utilizes a mentor based non-traditional format for distance education. Respondent institution did not employ faculty, either full or part-time, but utilized a pool of faculty "volunteers" to provide instruction to students. The pool list included faculty classified as either "teacher," "professor" or "mentor." But a review of student records obtained by the Committee did not reveal communications between faculty and students concerning instruction and test taking.⁶ When asked about this at the hearing, Dr. Abdulwahab pointed to one graded test, for Student No. 442, in the records. However, he acknowledged that he graded the exam.

EVALUATION REGARDING THIRD CAUSE FOR DENIAL

35. Respondent institution failed to meet the minimum requirements detailed under regulation 71715, subdivision (d). Despite respondent institution's claim that digitized student records show that the respondent institution meets these requirements, respondents did not present evidence in this regard, and a review of student records showed that respondent institution failed to meet the requirements regulation 71715, subdivision (d). Fundamentally, respondent institution did not explain how it delivered its various degree programs to distance learning students.

Accordingly, respondent institution failed to "ensure that the educational program offered through distance education is appropriate for delivery through distance education methods"; "assess each student, prior to admission, in order to determine whether each student has the skills and competencies to succeed in a distance education environment"; "ensure that the materials and programs are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology"; "provide for meaningful interaction with faculty who are qualified to teach using distance education methods"; "maintain clear standards for satisfactory academic progress"; "timely complete student evaluations of learning outcomes by duly qualified faculty, which are appropriate for use with the distance education methods used, and evaluated by duly qualified faculty"; "employ a sufficient number of faculty to assure that (A) the institution's response to, or evaluation of, each student lesson is returned to the student within 10 days after the lesson is received by the institution; and (B) the institution's response to, or evaluation of, each student project or dissertation is returned to the student

⁶ It is noted that in its 2011 to 2012 and 2014-2015 catalogs respondent institution stated that "(e)ach enrolled student is assigned a faculty mentor for each course at [respondent institution]." Despite this statement, none of the student records reviewed identified any faculty mentor assigned to any student for any course.

within the time disclosed in the catalog”; and “maintain a record of the dates on which lessons, projects, and dissertations were received and responses were returned to each student.” (Cal. Code Regs., tit. 5, § 71715, subs. (d)(1) to (8).)

Fourth Cause for Denial

COMPLAINANT’S CONTENTIONS AND APPLICABLE REGULATION

36. Complainant contended that respondent institution failed to meet minimum operating standards because it did not document that it had sufficient assets and financial resources to maintain a ratio of current assets to liabilities of 1.25 to 1.00 in violation of regulation 71745, subdivision (a)(6). Regulation 71745, subdivision (a)(6), requires institutions to maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal year, using generally accepted accounting principles.

THE VISITING COMMITTEE’S FINDINGS AND EVIDENCE

37. Respondent institution provided the Visiting Committee a “Balance Sheet,” as of December 31, 2012. This balance sheet was not audited by an accountant or certified public accountant. The assets to liabilities ratio derived from this document showed a current assets to liabilities ratio of 1.09 to 1.00.

RESPONDENT INSTITUTION’S RESPONSE

38. In both its response to the Committee and in its written submission at the hearing, respondent institution claimed that it maintains a current asset to liabilities ratio of 1.29 to 1.00, which exceeds the standard under regulation 71745, subdivision (a)(6). But, respondent’s institution relied on the report of Tina Chang, Certified Public Accountant, dated July 15, 2010, for this assessment.

EVALUATION REGARDING FOURTH CAUSE FOR DENIAL

39. Respondent institution failed to meet the minimum operating standard under regulation 71745, subdivision (a)(6). Respondent failed to present a financial report from a certified public account for the most recent fiscal year that showed that its current assets to current liabilities ratio was 1.25 to 1.00 or greater.

Fifth Cause for Denial

COMPLAINANT’S CONTENTIONS AND APPLICABLE REGULATION

40. Complainant contended that respondent institution failed to meet minimum operating instructions under regulation 71720, subdivision (a)(4)(A)(9). Regulation 71720, (a)(4)(A)(9), requires that the institution maintain records documenting that each faculty member is duly qualified to perform the duties to which the faculty member was assigned,

including providing instruction; evaluating learning outcomes, graduate dissertations, theses, and student projects; and participating on doctoral committees. Regulation 71930 requires an institution make required records available to the bureau for inspection and copying during normal business hours.

THE VISITING COMMITTEE'S REPORT, FINDINGS AND EVIDENCE

41. Respondent institution provided the Visiting Committee with faculty personnel files consisting of fifteen resumes or curricula vitae, or responses to online ads for faculty. One identified faculty member taught a course in cinema at a university; one was a part time instructor in business administration and lecturer at two different colleges; one was a producer for a college theater department; one taught English at a university; and one taught business at a college as a professor and adjunct instructor. The remaining faculty did not have college teaching experience or taught below the college level. Three faculty members had doctoral degrees; one had a doctoral degree from respondent institution; another had a doctoral degree in psychology; and the third person had a doctoral degree in creative writing. The records did not include contracts with instructors, copies of degrees, course assignments, transcripts, or transcript evaluations from an entity such as the National Association of Credential Evaluation.

42. Respondent institution supplied the Committee with its faculty hiring policy. Its policy was based on language it obtained from the faculty hiring policy of the South Orange County Community College District. In pertinent part, the policy provided that any advertised faculty position will meet minimum qualifications for the position identified by the "Minimum Qualifications for Faculty and Administrators" adopted by respondent institution's Board of Governors. The position will be advertised by academic discipline; department; tenure status; position type; and faculty type and references will be checked. The faculty records submitted to the Committee did not meet any of these criteria.

JOB DESCRIPTIONS FOR FACULTY AND FACULTY MENTORS

43. In addition, respondent institution submitted job descriptions for both the faculty and faculty mentor positions as part of its application for approval to operate. According to the job descriptions for these positions, for a faculty position, a Master's degree was required for undergraduate degrees; a Doctorate or terminal degree was required for graduate programs. The position also required "[d]ocumented expertise in academic subject area and expertise in interpersonal and oral presentation/written communication skills, as demonstrated by data sheet, diplomas, certifications, CVs/Resumes, and phone interview"; "a firm commitment to the teaching-learning process in four year postsecondary education"; "[c]omputer skills and a willingness to apply technology and innovative approaches to the teaching area"; and "[s]uccessful four-year college teaching."

The faculty mentor position required "[d]ocumented expertise in academic subject area and expertise in interpersonal and oral presentation/written communication skills, as demonstrated by data sheet, diplomas, transcripts, certifications, CVs/Resumes, and phone

interview.” In addition, the position required a “[m]inimum of 2 years of industry experience; prior post-secondary teaching experience preferred; a “Master’s degree required for undergraduate programs; Doctorate or terminal degree required for graduate programs.”

RESPONDENT INSTITUTION’S RESPONSE

In his written response to the Committee, Dr. Abdulwahab admitted respondent institution “didn’t perfectly apply the competent (faculty hiring) policy that it adopted.” He disputed that respondent institution relied on affiliate foreign schools for the hiring of faculty. In written argument at the hearing, Dr. Abdulwahab explained that the files the Committee reviewed were from the “university’s master file of faculty pool which is a collection of applications from those who are interested in serving the Public Charity University as volunteers.” From this pool, “the university invites needed candidates to provide their documents for credentialing before being assigned volunteer faculty jobs.” Respondent institution asked that complainant drop this issue for “inapplicability.”

EVALUATION REGARDING FIFTH CAUSE FOR DISCIPLINE

44. Respondent institution failed to meet the minimum operating requirement under regulation 71720, subdivision (a)(4)(A)(9). Respondent institution failed to “maintain records documenting that each faculty member is duly qualified to perform the duties to which the faculty member was assigned, including providing instruction, evaluating learning outcomes, evaluating graduate dissertations, theses, and student projects, and participating on doctoral committees.” The faculty records that respondent institution provided the Committee did not indicate that any faculty were available to teach specific courses as either faculty or faculty mentors; were available to teach courses in specific areas; or that any faculty member actually provided instruction, learning outcomes, or evaluated graduate dissertations, theses, and student projects.

Moreover, the faculty records did not show that faculty met respondent institution’s minimum qualifications to work at respondent institution as faculty or faculty mentors. No evidence was offered to show that respondent institution obtained “data sheet(s), diplomas, transcripts, certifications,” and conducted phone interviews, or assessed faculty applicants for “[c]omputer skills and a willingness to apply technology and innovative approaches to the teaching area.”

Sixth Cause for Denial

COMPLAINANT’S CONTENTIONS AND APPLICABLE REGULATION

45. Complainant contented that respondent institution failed to have personnel files available for the Visiting Committee’s review as required by regulation 71930. Regulation 71930, subdivision (e), mandates that the institution make available for inspection all records it is required to maintain for bureau inspection and copying. Regulation 71720, subdivision (a)(4)(A)(9), requires the institution maintain records

documenting that each faculty member is qualified to teach the program he or she is assigned. Complainant's allegation under this cause was based on complainant's factual contentions in the first and fifth causes of denial. In his argument submitted at the hearing, Dr. Abdulwahab asserted that this cause of denial was unjustified because respondent institution provided the bureau and the Visiting Committee with its institutional documents, and respondent institution had no reason not to make these documents available to the bureau and to the Committee.

EVALUATION REGARDING SIXTH CAUSE FOR DENIAL

46. Respondent institution's failure to make personnel files of its faculty and officers available for bureau inspection did not violate regulation 71930. As discussed in the evaluation section of the First Cause for Denial, regulation 71720 requires that the institution maintain records of "faculty," not the institution's officers, in order to document that each faculty member is qualified to teach the program he or she is assigned. Also, to the extent the institution had documents concerning the qualifications of its faculty, as discussed under the evaluation regarding the Fifth Cause for Denial, respondent institution appeared to have made available for bureau inspection its documents concerning volunteer faculty. While these faculty records failed to show that respondent institution had faculty qualified to teach courses they may have been assigned, this deficiency does not mean that respondent institution failed to produce the faculty records it had. Dr. Abdulwahab's assertion in his response to the Committee that the institution had no reason not to produce these materials was credible.

Seventh Cause for Denial

COMPLAINANT'S CONTENTIONS AND APPLICABLE REGULATION

47. Complainant contented that respondent institution was unable to document it had equipment and facilities to deliver its educational program to students as required under regulation 71735. Regulation 71735 provides as follows:

(a) An institution shall have sufficient facilities and necessary equipment to support the achievement of the educational objectives of all of the courses and 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 occupation or as described in particular job titles, either of the following conditions shall be met:

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

(2) The institution shall establish that the equipment used for instruction 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, 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 represented to lead.

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

THE VISITING COMMITTEE'S REPORT, FINDINGS AND EVIDENCE

48. The Visiting Committee noted that respondent institution operated out of a suite that contained a small office and conference room. There was no physical library at the location. Respondent institution indicated it planned to lease suites on the third floor of the building. During its visit, the Committee obtained plans for a conference/classroom on the second floor; offices on the third floor; and a lecture and conference open area on the fifth floor. Dr. Abdulwahab told the Committee, "[t]his institution is a project office." In his testimony, Mr. Saeteune added that in the small classroom there was a screen; a projector; a computer; a printer; and tables and chairs. He did not see labs or other types of equipment, and he saw no students or faculty at the location during the visit. Mr. Saeteune said that a degree granting institution must have a library. He also noted that a digital library available to students at respondent institution would satisfy the facility requirement for a library under regulation 71735.

The Committee found that respondent institution did not comply with the requirements under regulation 71735. It commented that respondent institution relied on affiliate schools to deliver educational programs to its students, and it did not seem to have authority over the affiliated schools or have any indication of the type of equipment these affiliated schools used to satisfy program requirements delivered by distance education. The Committee found that due to the absence of curricula to review for the Bachelor of Engineering, Master of Engineering, Doctor of Engineering, the Master of Science in Medical Informatics, the Master of Science in Nutritional Science, and Doctor of Nutritional Science programs, programs that require labs and equipment, it was unable to find that respondent institution met the requirements under regulation 71735.

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SUMMARY OF AGREEMENTS WITH PARTNER INSTITUTIONS

49. As the Visiting Committee noted, respondent institution relies heavily on partner or affiliate institutions to provide its distance education program to its students. No evidence was offered concerning the facilities of affiliate institutions or the equipment these affiliate schools used to satisfy their various educational programs.

50. Under agreements between respondent institution and these affiliate institutions, which the Committee obtained, respondent institution provided no instruction to students; partner institutions handled all academic matters. When students completed their courses, the partner institution forwarded the students' grades and respondent institution granted the degrees and certificates.

Respondent institution had partnership agreements with Falcon Training & Development Center (Falcon) in the United Arab Emirates; International College of Management and Technology (ICMT) in Nigeria; Dimound Academy (Dimound) in Egypt; and Cultural International Center for Education Services (CICES) in Lebanon. At the hearing, Dr. Abdulwahab stated that respondent institution cancelled its agreements with International College of Management and Technology and Dimound due to their unspecified "incompetence" and no longer accepted students from Falcon.

51. The partnership agreement, dated November 15, 2012, paragraphs 3.4 and 3.5, with Dimound provided as follows:

[3.4] Under this Agreement, the Partner Institution [Dimound] shall conduct all Training and Examinations; prepare all results and carry out all necessary activities identical to academic and/or professional operations of the University with the domain of the Partner Institution;

[3.5] The Partner Institution shall report every student's scores to the University [respondent institution] at the end of each subject's examination. The University shall translate scores into credit and letter grades, update student's academic records accordingly, and post student status to domain access controlled areas. The University shall award the Appropriate Degree and/or Diploma Certificate to every student who completes all the academic requirements and financial commitments. . . .

52. The partner institution collected tuition according to a schedule in the agreement and forwarded the appropriate sum to respondent institution.

53. The agreement contained no representation concerning the nature of Dimound's educational facilities, resources or equipment.

54. Under its December 27, 2009, agreement with CICES, CICES agreed to exclusively represent respondent institution (then known as The American International University) in the Middle East and Arab Gulf Areas through its Lebanon office and through a “number of satellite offices or agents through the countries within covered areas. . .”

55. The partnership agreement with CICES provided as follows:

(h) CICES shall manage and provide all academic, financial and administrative services in addition to examination monitoring and scoring if held in its main or satellite centers throughout its area of coverage. CICES shall send a detailed report to [respondent institution] for review, consideration, grading, and insertion to students’ academic database.

(i) It is agreed that student my study and set [sic] for exams in English, French or Arabic languages while academic reporting to (respondent institution) must be in English language only.

56. CICES agreed, in turn, to charge, collect and submit to respondent institution fees relating to tuition and certification of degrees.

57. The agreement contained no representation concerning the nature of CICES’s educational facilities, resources or equipment.

58. The partnership agreement, dated July 24, 2012, with ICMT provided as follows, in part:

[3.5] The Partner Institution shall report every student’s scores to [respondent institution] at the end of each subject’s examination. [Respondent institution] shall translate scores into credit, update student’s academic records accordingly, and post student status to domain access controlled area. [Respondent institution] shall award the Appropriate Degree and/or Diploma, Certificate to every student who completes all the academic requirements and financial commitments.

[¶] . . . [¶]

[5.17] The Partner Institution shall be responsible for teaching, training, research supervision, examination monitoring and scoring all approved courses offered as part of the residence programs, scores must be reported to the [respondent institution] for grading and posting to students’ records.

[¶] . . . [¶]

[14.3][Respondent institution] and the Partner Institution are each independent contractors. They are not and shall not be considered joint ventures. Neither shall they have the authority to bind or obligate the other except as expressly set forth herein.

...

59. Under the partnership agreement, ICMT agreed to pay a percentage of respondent institution's announced tuition scale and remit this sum to respondent institution.

60. The agreement contained no representations concerning the nature or adequacy of ICMT's facilities or resources.

61. The January 4, 2013, partnership agreement with Falcon provided, at paragraphs 3.5 and 3.6, as follows:

[3.5] The Partner Institution shall report students' scores to [respondent institution] at the end of the subject's examination. [Respondent institution] shall accordingly grant the related credit and award the Appropriate Degree and/or Diploma Certificate to every student who completes all the academic requirements and financial commitments.

[3.6] It is required that every student must submit a graduation petition to [respondent institution] through the Partner Institution after completion of all academic requirement and requirements. Graduation petition fee of \$100 must be paid at petition time. . . .

62. Under the partnership agreement, Falcon agreed to pay an amount based on the semester units for each program the student took, plus registration, authentication, and student I.D. and credit transfer fees for each student.

63. The agreement contained no representations concerning the nature, or adequacy of Falcon's facilities or resources.

RESPONDENT INSTITUTION'S RESPONSE

64. In his written response to the Committee's findings, Dr. Abdulwahab stated that respondent institution does not use the "direct instruction method" but plans on doing so in the future. He stressed that respondent institution seriously deals with affiliate schools and takes care to "assure students' ability to receive their program to the best possible level compared to what is provided to distance learning students at the regionally accredited universities." As an example, he noted that respondent institution cancelled its agreements with Falcon, ICMT and Dimound because these schools "could not fulfill their commitments and responsibilities or exceeded their delegation." In his written argument submitted at the

hearing, Dr. Abdulwahab stressed that respondent institution is a distance learning university, and it is not required to have a standalone building and a library. Dr. Abdulwahab added that a full digital library is available to students through its website. Nonetheless, Dr. Abdulwahab stated that the respondent institution has a dedicated office "suite" with adequate resources including a distance learning communication center, a classroom, and a conference room with a computer and projectors connected with a computer system. He represented that respondent institution cancelled its agreements with ICMT and Dimound due to their incompetence, but the institution's agreement with Falcon was cancelled because respondent institution cannot get any students from the United Arab Emirates until it is fully accredited in the Middle East, Turkey and Arab/Persian Gulf areas. He noted that "[m]ore affiliates are coming up."

EVALUATION REGARDING SEVENTH CAUSE FOR DENIAL

65. Respondent institution failed to show that it has sufficient facilities and necessary equipment to support the achievement of the educational objectives of all of the courses and educational programs in which students are enrolled. Respondent institution offers numerous undergraduate and graduate degree programs in a variety of areas including engineering, psychology and nutrition. Respondent institution relies on affiliate schools through distance education for the delivery of these programs. These affiliate schools are responsible for teaching, training, research, supervision, examination monitoring and scoring all approved courses offered. These schools then transmit student grades to respondent institution. Respondent institution then awards the appropriate degree or certificate. No evidence was offered showing that these schools had the resources or facilities to meet the educational programs of any of the degree programs respondent institution offers. In particular, there was no evidence that these schools had labs and equipment for programs in engineering and nutrition, programs that require such resources.

By cancelling its partnership agreements with ICMT and Dimound due to incompetency, respondent institution appeared to recognize the Visiting Committee's concern that these affiliate schools did not have sufficient facilities and necessary equipment to meet the objectives of the programs they offered. Despite the Visiting Committee's concern regarding respondent institution's reliance on affiliate schools to provide its educational programs, Dr. Abdulwahab represented in his written argument that respondent institution planned to continue to rely on other affiliate institutions in the future to deliver its programs.

Eighth Cause for Denial

COMPLAINANT'S CONTENTION AND APPLICABLE REGULATION

66. Complainant contented that respondent institution did not have adequate "Self-Monitoring Procedures" to ensure compliance with the Act, and respondent institution was not following the Self-Monitoring Procedures that were in place, in violation of regulation 71760. Each institution is required to develop and maintain adequate procedures used by the

institution to assure that it is maintained and operated in compliance with the Act. (Cal. Code Regs., tit. 5, § 71760.)

THE VISITING COMMITTEE'S REPORT, FINDINGS AND EVIDENCE

67. The Visiting Committee found that the Self-Monitoring Procedure (SMP) respondent institution provided the Committee was inadequate because respondent institution provided the Committee with a draft SMP labeled "Draft to ASC."

RESPONDENT INSTITUTION'S RESPONSE

68. In his written response to the Committee's findings, Dr. Abdulwahab admitted that the SMP provided to the Committee was "insufficient." At the same time, he said that he mistakenly submitted a draft to the Committee rather than the institution's actual adopted self-monitoring policy. He attached a 46-page document captioned "Self-Monitoring and Assessment Policy" to his response.⁷ Mr. Saeteune testified that this self-monitoring policy did not contain adequate self-monitoring mechanisms in important areas. For example, it did not contain a mechanism to review courses, curriculum, and learning resources. The self-monitoring mechanism also did not have a mechanism to ensure that the required faculty records were up to date. As discussed, respondent institution failed to meet minimum operating requirements in these areas. The "Self-Monitoring and Assessment Policy" respondent institution attached to its written response to the Committee, thus, did not contain adequate procedures in these areas.

EVALUATION REGARDING EIGHTH CAUSE FOR DENIAL

69. Respondent institution failed to show that it had adequate self-monitoring procedures to ensure that respondent institution complied with the Act in violation of regulation 71760.

Ninth Cause for Denial

70. Complainant contended that student records obtained from the site visit were inadequate to assess the students' qualifications for admission or the granting of transfer credits to the institution in violation of regulation 71770.

⁷ In the written argument he submitted at the hearing, Dr. Abdulwahab claimed that the Visiting Committee did not discuss with him the respondent institution's self-monitoring procedures. As a result, he asked that the bureau drop this issue "for unjustified determination and for absence of material evidence." It is noted that the Self-Monitoring Policy attached to his response to the Visiting Committee is substantially different than the Self-Monitoring Policy respondent institution submitted with its application. Thus, it was not clear which version of the Self-Monitoring Policy respondent institution employs.

71. Regulation 71770 provides as follows, in part:

(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.

(2) Each student admitted into a post-baccalaureate degree program shall possess a bachelor's degree or its equivalent. If a graduate program leads to a profession or an occupation requiring state licensure and the licensing agency does not require that a member of the profession or occupation possess a Bachelor's degree or its equivalent, this subdivision does not apply.

(b) The institution shall specify the maximum credit it will transfer from another institution for each educational program, and the basis upon which the transferred credit will be awarded.

...

THE VISITING COMMITTEE'S REPORT, FINDINGS AND EVIDENCE

72. The Visiting Committee reviewed randomly selected student records and found that these student records were inadequate to assess if students met admission requirements and/or to assess the granting of transferred credits. The Committee found that respondent institution did not have a clear process to evaluate student admissions or transferred credits to comply with regulation 71770.

In his testimony, Mr. Saeteune stressed that under regulation 71770 the institution must ensure that a prospective student has a high school diploma or equivalent and that the student possesses a bachelor's degree to enroll in a master's degree program. He commented that transcripts in foreign languages should be translated into English. Mr. Saeteune said that the student records did not contain translations of foreign language transcripts. Mr. Saeteune also noted that independent agencies commonly evaluate foreign transcripts, but no such agencies evaluated the student transcripts at issue in this proceeding.

THE STUDENT RECORDS THE VISITING COMMITTEE REVIEWED

73. The Committee cited nine student records to support its conclusions. The bureau's statement of issues also identified an additional student, Student No. 451. These student records are summarized as follows:

- Student No. 366 enrolled on November 14, 2009, and obtained a Master of Science degree in Nutrition and Food Sciences on February 9, 2011. There were two study plans in the student file. A study plan dated March 30, 2011, prepared by respondent institution identified the student's program as "Ph.D, Nutrition and Food Sciences". The Study Plan contained a section captioned "Past Education and Transferred Credit" that indicated that Student No. 366 obtained a Bachelor of Sciences degree in 1999 from a Jordanian university and a Master of Science from respondent institution on February 9, 2011. "Total Required Semester Units" were identified as 60. A study plan dated November 14, 2009, stated under the caption "Past Education and Transferred Credit" that "Total Required Semester Units" were 48. An academic transcript from respondent institution appeared to state that respondent institution recognized course credits from the university in Jordan, but this is not clear from a review of the document.

There were also various untranslated documents in a foreign language and passport information. There were no student work logs. A progress report from respondent institution identified eight courses with grades and a "[t]hesis." An enrollment agreement for this student contained another identification for this student with a number ending in 365.

- Student No. 491 enrolled on March 6, 2013, for a Bachelor of Science degree in Accounting. A study plan prepared by respondent institution under the caption "Past Education and Transferred Credit" stated that this student obtained a high school diploma in 2003 from a school in Lebanon and "successfully attended 5 semesters of traditional study" at Al-Mansar University in Lebanon and had 72 Semester Units from the Fall of 2003/2004 to the Fall of 2005/2006. In the student's study plan, respondent institution identified the 72 Semester Units under the caption "Past Education and Transferred Credit." There was no explanation in the student's file concerning the basis of respondent institution's decision to accept the 72 semester units of transferred credit. Total required semester units were identified as 48. There was no student work or achievement in the file. There was a transcript from Al-Mansar University in Lebanon in English for 72 semester units.

- Student No. 539 was awarded a Doctor of Philosophy degree from respondent institution in 2010. A study plan prepared by respondent institution stated under the section captioned "Past Education and Transferred Credit" that the student had a Bachelor of Architectural Engineering degree from Beirut Arabic University in 1986, a post graduate diploma in Arabic Architecture in 2001, and a "Master" in Architecture and Civil Design in 2005. His total required semester units were identified as 52. An academic transcript from respondent institution appeared to indicate that respondent institution accepted an unspecified number of transferred credits from the universities the student attended. No explanation was

provided concerning how respondent institution decided to accept any credits or how many credits respondent institution accepted. The Study Plan included "Ph.D. Dissertation Proposal"; Ph.D. Dissertation Oral Defense"; and "Ph.D. Dissertation." No further explanation was provided in the student record. No transcripts or copies of degrees or diplomas were in the file. No documentation concerning the dissertation was provided, and there were no copies of student work logs.

- Student No. 375 was awarded a Ph.D. in Sociology from respondent institution on September 7, 2011. The student enrolled on October 12, 2009. An academic transcript dated September 7, 2011, stated that the student has a Master of Arts in Labor Sociology from Lebanese University in 2009. A number of untranslated documents were in the student's file. A transcript of grades was provided, but a copy of the dissertation or evaluation by a dissertation committee was not provided. A study plan with information concerning the student's past education and transferred credits was not in the file. An enrollment agreement, however, between the student and respondent institution stated that "52 Semester Units to be Taken at AUSTC After Transfer Credit." No explanation was provided in the file concerning how respondent institution decided that this student required 52 semester units. An academic transcript from respondent institution indicated that respondent institution accepted an unspecified number of transferred credits from Lebanese University. No explanation was provided concerning how respondent institution decided to accept these credits or how many credits respondent institution accepted.

- Student No. 372 enrolled on December 9, 2009, for a Master of Business Administration in Program Management. A study plan prepared by respondent institution indicated that the student had a Bachelor of Engineering degree in 2001 in Electronic Engineering from Staffordshire University in the United Kingdom and had 8 semester units of post graduate training. Respondent institution appeared to identify the 8 semester units in post-graduate training as transferred credit. Total required semester units were identified as 42. There was no explanation in the file to indicate the basis of respondent institution's decision to accept the 8 semester units as transferred credit. There was also no explanation in the file concerning how respondent institution decided that this student required 42 semester units. An academic transcript from Staffordshire University was not part of the student's record and there was no documentation regarding student achievement from respondent institution.

- Student No. 370 was awarded a Master of Business Administration in Marketing in February 17, 2011, by respondent institution. The student enrolled on February 7, 2011, for a Bachelor of Business Administration in Marketing. The study plan dated February 7, 2011, prepared by respondent institution indicated that the student obtained his high school diploma from respondent institution's "HSD Program" in 2007. No transcript from respondent institution's high school program was provided. A progress report dated in February 2011 from respondent institution identified his grades for the "BBA" in Marketing. The February 7, 2011, study plan for the BBA in Marketing identified 120 total required

semester units. There was no explanation in the file concerning how respondent institution determined that the student was required to complete 120 total required semester units.

- Student No. 379 was awarded a Doctor of Philosophy Degree in Business Administration on March 9, 2010, by respondent institution. The student enrolled January 30, 2009. The study plan prepared by respondent institution indicated that the student graduated from high school in Lebanon in 1983; he obtained a Bachelor of Sciences degree in 1999 from American University of Beirut; an MBA from American University College of Science and Technology in Beirut in 2004 and a Post Master Degree Education with 8 Semester Units from an unspecified university. His total required semester units were identified as 44, but no explanation was found in the record concerning how respondent institution decided that the student required 44 semester units. Copies of the degrees for the Bachelor of Science program from The American University of Beirut and the MBA program from the American University College of Science and Technology were in the file. A student academic record in English dated August 17, 2009, listing the grades from seven courses was provided. The student's curriculum vitae was in the file, and a copy of his passport and a visa were also in the file. No documentation concerning review by a dissertation committee was in the file; there were no copies of student work or student work logs and no transcripts were found except for the document noted.

- Student No. 351 obtained a Master of Business Administration Marketing degree from respondent institution on November 26, 2010. The student enrolled on September 18, 2009. The study plan prepared by respondent institution indicated that the student graduated in 2003 with a Bachelor of Science degree in Pharmacy from Mechnikov Odessa University in Ukraine in 2003. The total required semester units were identified as 42. A document in a foreign language was not translated into English. There was no documentation of student work aside from the academic transcript prepared by respondent institution.

- Student No. 423 enrolled at respondent institution on May 20, 2011, for an MBA in Engineering and Technology Management. A study plan indicated that the student received a BS in Industrial Technology and Manufacturing Technology from San Jose State University in 1994. Total required semester units were 40. An enrollment agreement between respondent institution and the student indicated that 40 semester units were to be taken at respondent institution after credit transfer. No explanation was found in the student's file concerning the basis of respondent institution's decision to accept credits from another institution or how many transferred credits it accepted. Copies of the student's transcripts from San Jose State and Gavilan College were in the file. A copy of his degree from San Jose State was also in the file.

- Student 451 entered into an enrollment agreement with respondent institution on December 12, 2012, for a Ph.D. program in Education, Technology Management. Per this agreement, he was required to take 60 semester units at respondent institution. A study plan identified that this student obtained a Bachelor of English at Al Azhar University in

Gaza in 2005; a Master of English Literature from Manomaniam Sundranar University in the United Arab Emirates in 2009 and a Master of Business Administration from Manomaniam Sundranar University in 2011. It is not clear whether respondent institution approved transferred credits from these universities. Transcripts from these universities translated into English were in the student's records.

74. In addition to these student records cited by the Committee and the bureau, an additional student record was noted. Student No. 352 obtained a Bachelor of Business Administration degree on July 14, 2010. The student enrolled in the program on October 3, 2009. A study plan identified that this student obtained an Associate Degree in Office Management from UNRWA, Sibline Center, Lebanon in 1998 and had 60 Semester Units; the student obtained an Advanced Diploma in Management Information from Lampton College, Canada, in 2002 and had 50 Semester Units. The study plan noted "Several studies/training" and "Max Transferred Credit 88 units." Thus, it appears from this study plan that respondent institution accepted 88 Semester Units as transferred credit. No information was in the student's file concerning the basis of respondent institution's decision to accept these units as transferred credits.

CREDIT TRANSFER ACCEPTANCE POLICY IN 2011-2012 STUDENT CATALOG

75. In respondent institution's student catalog under the section captioned "Credit Transfer Acceptance," respondent institution described its basic credit transfer policy. The catalog noted that applicants to the respondent institution have "the right pursue [sic] credit transfer to respondent institution based on obtained degrees, postsecondary education or training." Respondent institution will consider possible credit transfer if the granting institution is "a state approved, accredited or an international facility that is equivalent to us [sic] recognized degree granting facilities." If the facility transferring from is acceptable, "an in-depth review must be performed to determine the value of obtained education and/or training measured in semester unit." Respondent institution allowed for a maximum credit transfer of 88 credit units to a bachelor's degree program and 8 semester maximum units to a master's or doctoral degree program.

In this same catalog respondent institution required applicants submitting foreign credentials in a foreign language to provide an English translation. Respondent institution further stated that foreign credentials are required to be evaluated by a recognized independent agency.

RESPONDENT INSTITUTION'S RESPONSE

76. In his written response to the Visiting Committee, Dr. Abdulwahab asserted that the Visiting Committee did not pay enough attention to the student records it reviewed. With respect to Student Nos. 361, 366 and 372, Dr. Abdulwahab stated that the student's information was digitally entered into respondent institution's database in English after being

properly translated.⁸ Dr. Abdulwahab, in addition, stated that unspecified “information” was in Student No. 372’s student file; that Student No. 370’s “[a]dmission information” was in the file; and unspecified information in English was in Student No. 379’s file. Dr. Abdulwahab provided no evidence that any of the information he said was in these students’ files was in fact in them, and it was not possible to credit his testimony in this regard.

Dr. Abdulwahab added that respondent institution did not include the English translations because persons at respondent institution knew French, Arabic, Spanish and Hebrew. In addition, Dr. Abdulwahab stated that the Visiting Committee included an individual who understood English and Persian.

In the written argument he submitted at the hearing, Dr. Abdulwahab claimed that because Students Nos. 351, 366, 372, 375, and 539 were enrolled before the Act went into effect, the bureau lacks jurisdiction to address any issues relating to their admission to respondent institution. This argument is not accepted. Students Nos. 351, 366, 375, 539 received degrees after the Act went into effect and it is reasonable to infer that Student No. 372 was enrolled in respondent institution after the Act went into effect. Dr. Abdulwahab added that Student No. 491 was not actually enrolled at respondent institution. He did not provide evidence to support this representation, and Student No. 491’s documents contradicted it.

77. In his testimony, Dr. Abdulwahab stated that the professor for the particular department decides whether to accept the credits.

EVALUATION REGARDING THE NINTH CAUSE FOR DENIAL

78. Respondent institution violated regulation 71770, subdivision (a). It failed to ensure that students had the qualifications and credentials to have a reasonable prospect of completing programs at respondent institution and had the requisite degrees or diplomas for admission. Despite its own admission standards that required it to have transcripts from foreign institutions evaluated by an independent agency and transcripts in foreign languages translated into English, respondent institution admitted students from foreign institutions and granted transferred credits from these institutions without any evaluation of these foreign programs and without translating the transcripts into English.

Respondent institution also violated subdivision (b) of regulation 71770. It did not have a standard concerning the basis of its acceptance of transferred credits. Student records confirmed that respondent institution did not have a basis to accept transferred credits.

⁸ Respondent institution introduced into evidence two pages from a computer screenshot for students 491 and 492. This computer screenshot contained financial information and a summary of the courses in the study plans. There was no reference in these two pages to translated documents, an evaluation of transferred credits, or the names of professors, instructors, or faculty.

In his testimony, Dr. Abdulwahab effectively admitted that the school did not have a procedure to evaluate transferred credits. When asked about the school procedure for granting transferred credits, he said professors from each department evaluated the proposed transferred credits. But, as discussed, respondent institution did not have professors and relied on volunteer mentors. Accordingly, Dr. Abdulwahab's claim that professors determined what credits to accept was not credible.

Tenth Cause for Denial

COMPLAINANT'S CONTENTION AND APPLICABLE STATUTE AND REGULATION

79. Complainant contended that respondent's catalog failed to describe each course respondent institution offered and failed to update program disclosure requirements that became effective January 1, 2013, in violation of section 94909, subdivision (16), and regulation 71810.

80. An institution must provide a course catalog that contains, at a minimum, a description of the programs offered; a description of the instruction provided in each of the courses offered by the institution; the requirements for completion of each program, including required courses, any final tests or examinations, any required internships or externships; and the total number of credit hours, clock hours, or other increments required for completion. (Ed. Code, § 94909, subdivision (5).)

Effective January 1, 2013, section 94909, subdivision (16), required an institution's catalog to contain the following:

A statement specifying whether the institution, or any of its degree programs, are accredited by an accrediting agency recognized by the United States Department of Education. If the institution is unaccredited and offers an associate, baccalaureate, master's, or doctoral degree, or is accredited and offers an unaccredited program for an associate, baccalaureate, master's, or doctoral degree, the statement shall disclose the known limitations of the degree program, including, but not limited to, all of the following:

(A) Whether a graduate of the degree program will be eligible to sit for the applicable licensure exam in California and other states

(B) A degree program that is unaccredited or a degree from an unaccredited institution is not recognized for some employment positions, including, but not limited to, positions with the State of California. . . .

81. Regulation 71810, in turn, requires institutions to contain language as detailed in Code section 94900. (Cal. Code Regs., tit. 5, § 71810.)

THE VISITING COMMITTEE'S REPORT, FINDINGS AND EVIDENCE

82. The Visiting Committee found that the catalog did not meet the requirements detailed in section 94909 and regulation 71810. In his testimony, Mr. Saeteune explained that the problem with the catalog was that the catalog contained only a listing of courses but did not contain course requirements or prerequisites.

As an example, he pointed to language from the 2012 to 2013 course catalog. To obtain an undergraduate degree in Business Administration the catalog stated, as "Business Administration Degree Requirements: (Total 120 Semester Units)," that a student must take 40 credits as "General Education Courses"; 20 credits as "Business Administration Core"; and 36 credits as Business Administration Concentration for a total of 120 credits. The courses were then categorized according to "Core Course Requirements": "Concentration Area Courses" with subsets of Accounting Concentration; Applied Computer Science Concentration"; "Management Concentration"; "Marketing Concentration"; Business Administration Elective Courses"; General Education Courses"; and "General Education Electives for BBA."

Each of these categories contained a list of courses. There were no descriptions of the instruction provided in each of the courses.

Mr. Saeteune also noted that the catalog did not contain the language required under section 94909, subdivision (16), which became effective on January 1, 2013. Under this section, a catalog must include the known limitations of the degree program at an unaccredited institution including limits on licensure, employment with the State of California, and an inability to obtain federal financial aid. The 2014-2015 catalog did not contain this language and respondent institution did not provide evidence that subsequent editions of the catalog contained this language.

RESPONDENT INSTITUTION'S RESPONSE

83. In his written response to the Committee's findings, Dr. Abdulwahab stated that the updated catalog listed all new requirements and was published on the respondent institution's website. He did not, however, include a copy of this in his response. The merit of this claim, thus, cannot be assessed.

In the written argument he submitted at the hearing, Dr. Abdulwahab referenced the 2010 catalog that was submitted with the respondent institution's application. He argued that respondent institution dramatically changed its catalog, separated subject course descriptions from the catalog, and submitted them as separate documents. He also stressed the nature of the institution's nontraditional study. To his written argument, Dr. Abdulwahab attached a list of subject courses. This list contained a list of textbooks and did not include a

description of the instruction provided in each of the courses. Dr. Abdulwahab also attached the institution's 2014-2015 course catalog. This catalog did not contain the language required under section 94909, subdivision (16).

EVALUATION REGARDING TENTH CAUSE FOR DENIAL

84. Respondent institution's catalog failed to describe the instruction provided in each of the courses in violation of section 94909, subdivision (5), and failed to include a required statement as detailed in section 94909, subdivision (16), in violation of this section.

Eleventh Cause for Denial

COMPLAINANT'S CONTENTION AND APPLICABLE REGULATION

85. Complainant contended that respondent institution failed to document that it could meet the minimum educational requirements to award an undergraduate degree in violation of regulation 71850, subdivision (a).

86. Regulation 71850, subdivision (a), reads as follows;

Graduation requirements for an undergraduate degree program shall meet minimum credit requirements and shall include provisions for general education appropriate to the level and type of degree. The institution shall specify the distribution of general education credit requirements by subject area for each undergraduate degree program.

(a) A Bachelor's degree may be awarded to a student whom the institution can document has achieved sequential learning equivalent in general education and equivalent in depth of achievement in a designated major field to that acquired in four years of study beyond high school, as measured by a minimum of 120 semester credits or its equivalent. At least 25 percent of the credit requirements for a Bachelor's degree shall be in general education. . . .

VISITING COMMITTEE'S REPORT, FINDINGS AND EVIDENCE

87. The Visiting Committee concluded that respondent institution was unable to show that, for purposes of obtaining a Bachelor's degree, students "achieved sequential learning equivalent in general education and equivalent in depth of achievement in a designated major field to that acquired in four years of study beyond high school. . ." The Committee reached this conclusion because respondent institution did not have curricula and syllabi, as discussed earlier, and student transcripts were not available to verify completion of such courses to determine the awarding of an undergraduate degree. In his testimony, Mr.

Saeteune emphasized that without syllabi it was difficult to find that students met the requirements detailed under regulation 71715, subdivision (b). This regulation states that “[t]he institution shall document that the instruction offered leads to the achievement of the learning objectives of each course.” (Cal. Code Regs., tit. 5, § 71715, subd. (b).)

RESPONDENT INSTITUTION’S RESPONSE

88. In his written response to the Committee’s findings, Dr. Abdulwahab stated that each enrolled student had a very well designed and formatted study plan and transcripts were only printed and filed in students’ records after graduation. He claimed that the Committee did not review the students’ records thoroughly because the study plans were in the student records. As discussed earlier, the study plans did not serve as substitutes for course curricula and syllabi because they did not meet the requirements under regulation 71770 for course curriculum and syllabi.

In the written argument he submitted at the hearing, Dr. Abdulwahab emphasized that study plans in each student’s file served as curricula and syllabi.

EVALUATION REGARDING ELEVENTH CAUSE FOR DENIAL

89. Respondent institution failed to document that it awarded Bachelor’s degrees to students who achieved sequential learning in violation of regulation 71850, subdivision (b).

Sequential learning is a logical course map for the courses students need to take to build on their foundational knowledge to obtain any degree in any specific program. (Cal. Code Regs., tit. 5, § 71710, subd. (c).) Curricula and syllabi serve as this course map. Respondent institution, as discussed earlier, did not have curricula and syllabi, as required under regulation 71710, that identified sequential learning. Contrary to respondent institution’s claim, the subject lists and study plans that respondent institution identified were not syllabi by the definition under regulation 71710, subdivision (c).

Twelfth Cause for Denial

COMPLAINANT’S CONTENTIONS AND APPLICABLE REGULATION

90. Complainant contended that respondent was unable to document that it met the minimum requirements to award a graduate degree as required under regulations 71865, subdivisions (a) and (c), and 71720.

91. Regulation 71865, subdivision (c), requires that a Doctor of Philosophy program meet the following requirements:

(2)(A) Each Doctor of Philosophy program shall include a minimum of two formal evaluations of the student by a doctoral

committee. The doctoral committee shall be composed of at least three members of the institution's own faculty who meet the qualifications in subdivision (c)(3).

(B) The first evaluation shall consider the student's qualifications, including the student's knowledge, skills, and conceptual framework, for undertaking rigorous inquiry into the student's designated field.

(C) The second evaluation shall consider the design procedures and products of a formal original inquiry proposed and completed by the student.

(3) The faculty members who serve on each student's doctoral examining committee shall meet the following qualifications:

(A) Each member shall have earned a Doctoral degree from: An institution that is 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).

(B) The chair and the majority of the committee shall have earned degrees related to the student's field of investigation.

(C) A minimum of 50% of the faculty on the committee shall have degrees conferred by an institution accredited by an accrediting association recognized by the United States Department of Education or the American Bar Association, unless the accreditation does not exist.

(D) All of the faculty shall have three or more years of field or research experience related to their degrees obtained after they obtained their degrees.

(E) All of the faculty shall have been active in their field of scholarship or profession during the five year period preceding their participation on the committee.

(4) The formal evaluation procedures shall provide the committee as a whole with the opportunity to jointly examine the candidate.

(5) If the candidate is not physically present and the evaluation must take place by telephone or other means of electronic communication, one of the following shall apply:

(A) One faculty member on the student's doctoral committee from the main location (i.e., the state in which the program is licensed or otherwise officially approved) must be present at the location where the doctoral student is examined.

(B) A proctor, selected and approved by the doctoral committee, shall sit as an observer with the student at the distant location and verify, under penalty of perjury under the laws of the State of California, the identity of the student and the facts that the student received no prompting by anyone and did not have access to unallowed materials during the evaluation process.

(6) If a project includes more than one student, the individual student's role and contributions shall be clearly identified and documented.

(7) The institution shall maintain a written record of the evaluations. This record shall include the names and signatures of all committee members who participated in the evaluations.

THE VISITING COMMITTEE'S REPORT, FINDINGS AND EVIDENCE

92. The Committee found, based on its review of student records, that respondent institution was not able to document that it had faculty members available to serve on doctoral review committees as required under regulation 71865. As referenced earlier, respondent institution awarded Doctor of Philosophy degrees in various areas to ten students. These student records did not document that any faculty, let alone qualified faculty, served on any doctoral committees. None of the records contained dissertations or documentation of graduate work or documentation that a faculty committee evaluated the students.

RESPONDENT INSTITUTION'S RESPONSE

93. In his closing statement, Dr. Abdulwahab admitted that respondent institution did not meet the requirements of regulation 71865, subdivision (c). He explained that the affiliate institutions have the doctoral degree files.

EVALUATION REGARDING TWELFTH CAUSE FOR DENIAL

94. Respondent institution failed to have qualified faculty to evaluate doctoral students as required under regulations 71720 and 71865, subdivision (c). As found under the Fifth Cause for Denial, the evidence showed that no faculty at respondent institution evaluated student doctoral dissertations and theses.

Thirteenth Cause for Denial

COMPLAINANT'S CONTENTION AND APPLICABLE REGULATIONS

95. Complainant contended that respondent institution's application is subject to denial under regulations 71920, subdivision (a)(4)(A)(9), and 71930 and section 94900.5, subdivision (b), because student and faculty records were missing required information.

96. For any educational program leading to a degree the institution must maintain records documenting that each faculty member is duly qualified and was qualified to perform the duties which the faculty member was assigned, including providing instruction, evaluating learning outcomes, evaluating graduate dissertations, theses, and student projects, and participating on doctoral committees. (Ed. Code, § 94909, subd. (b)(5), Cal. Code Regs., tit. 5, § 71920, subd. (a)(4)(A)(9).) An institution is also required to maintain student records including, among other materials, "dissertations, theses, and other student projects submitted by graduate students." (Cal. Code Regs., tit. 5, § 71920, subd. (b)(7).)

THE VISITING COMMITTEE'S REPORT, FINDINGS, AND EVIDENCE

97. The Visiting Committee noted that it was unable to find student and faculty records that complied with the applicable regulations and Code sections.

RESPONDENT INSTITUTION'S RESPONSE

98. In his written response to the Committee, Dr. Abdulwahab stated that the institution had a very well designed filing and record retention policy through a sophisticated paperless computerized system. In this system, digitized student records were kept. He did not, however, present evidence of this system or digitized student records. He did admit, however, that personnel files were not complete because all of respondent institution's academic and administrative staff were volunteers who donated their time to the respondent institution.

In his written arguments submitted at the hearing, Dr. Abdulwahab argued that this cause for denial should be dropped because the issue was vague and there was an absence of evidence to support it.

EVALUATION REGARDING THIRTEENTH CAUSE FOR DENIAL

99. Respondent institution failed to document that it had faculty who were qualified to evaluate student doctoral dissertations, and the institution failed to maintain student dissertations and graduate records in violation of section 94900.5, subdivision (b), and regulations 71720, subdivision (a)(4)(A)(9), and 71920, subdivision (b)(7).

The Parties' Arguments

100. Complainant asked that the bureau's denial of respondent institution's authority to operate be affirmed because respondent institution was unable to show that it met the minimum standards to operate as an unaccredited post-secondary institution and had the capacity to do so. As a matter of consumer protection, complainant expressed concerns regarding respondent institution's distance learning programs. Respondent does not have a faculty and it conferred degrees based on the courses students took at partner institutions. Respondent institution had no control over these affiliate schools, and these schools operated like independent contractors. Respondent institution, complainant noted, cancelled three of its agreements with these schools due to their incompetence. Complainant noted further that respondent institution was unable to explain how its mentor based instruction worked.

Respondent institution argued that it believed it met the minimum operating standards. As a non-traditional school with limited resources, it claimed it cannot be evaluated based on traditional study methods. With regard to syllabi, respondent institution claimed that course instructors maintained the syllabi and, that in fact, respondent institution had course curricula. Respondent institution disagreed that it only issued degrees based on its affiliates. Respondent institution argued that it provided an environment that allowed students to learn.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. In a proceeding involving the issuance of a license, the burden of proof is on the applicant to show that the applicant is qualified to hold the license. In order to prevail, respondent must demonstrate by a preponderance of the evidence that they are qualified for approval to operate a private, non-accredited, postsecondary educational institution. (Evid. Code, §§ 115, 500.)

2. A preponderance of the evidence establishes that the existence of a factual matter is more likely than not. As one court explained:

“Preponderance of the evidence” means evidence that has more convincing force than that opposed to it. If the evidence is so evenly balanced that you are unable to say that the evidence on

either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it. (*People v. Mabini* (2000) 92 Cal.App.4th 654, 663.)

Applicable Statutes and Regulations

3. Under Education Code section 94886, no person shall open, conduct, or do business as a private postsecondary educational institution without obtaining the bureau's approval to operate the institution.

4. "An approval to operate shall be granted only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified . . . that the applicant has the capacity to satisfy the minimum operating standards." If the application does not satisfy those standards, "[t]he bureau shall deny an application for an approval. (Ed. Code § 94887.)

5. Code sections 94900 to 94900.7 detail the records institutions are required to maintain; Code section 94909 details the information and advisements an institution must include in its school catalog.

6. The regulations related to applying for approval to operate a private postsecondary institution are found in California Code of Regulations, title 5, Division 7.5. Regulations 71715, subdivision (a), provides that "[i]nstruction shall be the central focus of the resources and services of the institution." Regulations 71700 to 71760 detail the minimum operating standards for institutions to operate; sections 71770 to 71865 identify admissions and academic achievement standards; regulations 71920 and 71930 concern records, including student records, that an institution is required to maintain.

Applicable Statutes and Regulation Regarding Procedures for the Closure of Institution

7. Code sections 94926 to 94927.5 require institutions that plan to close to take certain steps to protect students. These steps include providing students with 30 days' notice of the institution's closure, refunding student tuition, and providing the bureau with pertinent student records, including transcripts. Regulation 76420 requires that an institution provide the bureau with a list of its students who were enrolled at any time during the 60 days prior to closure; a plan for "teach outs" for students; and a plan for the disposition of student records.

Cause Exists to Deny the Application

8. Cause exists to deny the application on the grounds that respondent institution failed to meet the minimum requirements to operate an institution as alleged in the Second, Third, Fourth; Fifth; Seventh; Eighth; Ninth; Tenth; Eleventh, Twelfth; and Thirteenth Causes for Denial.

Not All Causes for Denial Were Sustained

9. Cause did not exist to deny the application based on the First and Sixth Causes for Denial.

Evaluation and Disposition

10. Respondent had the burden of demonstrating that it was currently capable of meeting the minimum standards to operate a private postsecondary institution in California. Overwhelming evidence showed that respondent institution failed to meet minimum operating standards in numerous areas and lacked the capacity to meet these standards.

Respondent institution offers distance learning in 46 different Bachelor's, Master's and Doctoral degree programs including degrees in engineering, psychology and nutrition. It seeks to offer these programs without faculty and with limited facilities and resources. Through agreements it has with foreign institutions, these foreign institutions provide the course instruction and grades to these students and then transmit these grades to respondent institution. After the grades have been sent to respondent institution, respondent institution awards the appropriate degree. Respondent institution has no control of the instruction the foreign institutions provide students.

Despite its arrangements with affiliated institutions, respondent was obligated to meet specific minimum requirements in order to continue to operate as an institution. Respondent institution failed to meet minimum operating standards in a number of critical operational and educational areas. Most seriously, respondent institution lacked curricula and syllabi for any of its programs. Due to the absence of curricula and syllabi, respondent was unable to document that it met minimum requirements to award undergraduate and graduate degrees because it was unable to show that students have achieved sequential learning. Respondent institution failed to show that its undergraduate and graduate students had the required degrees or diplomas; it did not determine whether the students it admitted were capable of succeeding in a distance learning environment; it transferred credits from institutions without evaluating the credits or providing a documented basis for accepting the credits; it lacked the required assets to liabilities ratio; and it failed to show that it had qualified faculty to evaluate students for doctoral degrees or that students performed the required work to obtain doctoral degrees. Respondent institution also lacked appropriate self-monitoring procedures and its catalog lacked important required information for prospective students.

Fundamentally, respondent institution failed to show that it has the capacity to meet minimum operating standards to operate as an institution. Dr. Abdulwahab, the institution's CEO, did not indicate that the institution is willing to, or can, meet minimum operating standards. Despite overwhelming evidence to the contrary, Dr. Abdulwahab insisted that respondent institution had curricula and syllabi for its programs. He claimed that respondent institution could meet its educational mission by utilizing volunteer faculty mentors to help students despite no evidence that these individuals were actually available to help students. In addition, Dr. Abdulwahab argued that the institution's non-traditional model of education,

charitable mission, and limited means should excuse respondent institution from meeting minimum operating requirements and complying with the Act.

Considering that respondent institution failed to meet minimum operating requirements in numerous critical operational and educational areas, and further considering respondent had the burden to show it was capable of meeting these requirements, which it did not, it is not in the public interest to approve respondent's application to operate in California. The application is denied and respondent institution shall cease its operations. Prior to closing, to ensure that the rights and interests of its students are protected, respondent institution shall comply with the institution closure procedures detailed in Code sections 94926 to 94929.5 and regulation 76240. Towards this end, respondent institution will have 60 days to close after the effective date of this decision.

ORDER

The application filed by The American University for Science and Technology to operate as a private postsecondary institution in California is denied.

Within 60 days of service of this Decision and Order, The American University for Science and Technology shall cease operating as a private postsecondary institution in California. Prior to closing, The American University for Science and Technology will comply with applicable institution closure procedures detailed under Education Code sections 94926 to 94927.5 and California Code of Regulations, title 5, section 76240, as directed by the bureau. The American University for Science and Technology may not resume operation in California unless and until it is approved to do so by the Bureau for Private Postsecondary Education.

DATED: April 29, 2016

DocuSigned by:
Abraham Levy
CB4194237D2243C...

ABRAHAM M. LEVY
Administrative Law Judge
Office of Administrative Hearings