

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 MARICHELE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3154
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

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

Case No. 1000378

13
14 **UNIVERSITY OF SCIENCE AND**
TECHNOLOGY; BALAJI NETTIMI,
15 **OWNER**

FIRST AMENDED
STATEMENT OF ISSUES

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about January 6, 2012, the Bureau for Private Postsecondary Education
24 received an Application for an Approval to Operate a Non-Accredited Institution (Application
25 Number 24280) from California Mind Institute, Balaji Nettimi, Owner (Respondent). On or
26 about November 20, 2011, Balaji Nettimi certified under penalty of perjury to the truthfulness of
27 all statements, answers, and representations in the application. The Bureau denied the application
28 on January 30, 2015.

1 **JURISDICTION**

2 3. This First Amended Statement of Issues is brought before the Director of the
3 Department Consumer Affairs (Director) for the Bureau for Private Postsecondary Education,
4 under the authority of the following laws.¹ All section references are to the Education Code
5 unless otherwise indicated.

6 4. Education Code (hereinafter "Code") Section 94886 states:

7 Except as exempted in Article 4 (commencing with section 94874) or in
8 compliance with the transition provisions in Article 2 (commencing with
9 Section 94802), a person shall not open, conduct, or do business as a private
postsecondary educational institution in this state without obtaining an approval
to operate under this chapter.

10 5. Code Section 94887 states:

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

15 **STATUTORY AND REGULATORY PROVISIONS**

16 6. Title 5, CCR, section 71100 states:

17 (a) An applicant seeking approval to operate pursuant to Section 94886 of the
18 Code, other than Approval to Operate by Accreditation pursuant to Section
19 94890(a)(1) of the Code, shall complete the "Application for Approval to
20 Operate for an Institution Not Accredited," Form Application 94886 (rev. 2/10).
An applicant seeking approval to operate by accreditation pursuant to Section
94890(a)(1) of the Code shall comply with section 71390.

21 (b) An applicant shall submit the completed form, the information or
22 documentation required by this Article, the appropriate application fee as
provided in Section 94930.5(a)(1) of the Code, and any appropriate annual fee
as required by Article 1 of Chapter 5 of this Division, to the Bureau.

23 (c) An application that fails to contain all of the information required by this
24 article shall render it incomplete.

25 ¹ On October 11, 2009, the Bureau for Private Postsecondary Education Act of 2009 (SB
26 48 and hereinafter, "the Act") was signed into law. The Act, which became operative on January
27 1, 2010, established the Bureau for Private Postsecondary Education (hereinafter "Bureau"). The
28 California Private Postsecondary Education Act of 2009 was recently amended, effective January
1, 2015. See Senate Bill No. 1247. This Statement of Issues is based on amended version of the
Act.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. Code section 94885 states in part:

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

(1) The content of each educational program can achieve its stated objective.

...

8. Code section 94909 states:

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

9. Title 5, California Code of Regulations ("CCR"), section 70000 states in part:

...

(r) "Objectives" are the goals and methods by which the institution fulfills its mission and transforms it into measurable student learning outcomes for each educational program. ...

10. Title 5, CCR, section 71260 states in part:

(a) For each program offered, the Form Application 94886 shall contain a description of the facilities and the equipment which is available for use by students at the main, branch, and satellite locations of the institution.

(b) For facilities that are leased or rented, the Form Application 94886 shall contain the name and address of the lessor or landlord, together with a copy of any use, lease, or rental agreements for the facilities.

(c) The description of the physical facilities shall include building diagrams or campus maps to assist the Bureau in locating these facilities. The diagrams or maps shall identify the location of classrooms, laboratories, workshops, and libraries.

...

(f) The Form Application 94886 shall contain a list of all permits, certifications, or other evidence of inspections or authorizations to operate required by the jurisdictions within which the institution operates that the institution has obtained, and/or an explanation as to why those permits, certifications, or inspections have not yet been obtained.

11. Title 5, CCR, section 71290 states, "The Form Application 94886 shall include a copy of the institution's catalog, in published or proposed-to-be-published form. The catalog shall meet the requirements of the Act and of section 71810."

1 12. Title 5, CCR, section 71320 states, "The Form Application 94886 shall contain a
2 description of the procedures used by the institution to assure that it is maintained and operated in
3 compliance with the Act and this Division."

4 13. Title 5, CCR, section 71655 states in part:

5 ...

6 (c) The inclusion of false or misleading information, or the intentional or
7 negligent omission of pertinent information, on any application may result in a
8 denial of the application or a delay in processing, and may be grounds for
9 action pursuant to Article 18 of the Act.

10 ...

11 14. Title 5, CCR, section 71705 states:

12 An institution shall have a written statement of its mission and the objectives
13 for each educational program. The mission and the objectives shall indicate the
14 kind of education offered, for whom the instruction is intended and the
15 expected outcomes for graduates.

16 15. Title 5, CCR, section 71710 states:

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

19 ...

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

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

24 (2) a statement of educational objectives;

25 (3) length of the educational program;

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

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

28 (6) 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; ...

///

///

///

1 16. Title 5, CCR, section 71715 states in part:

2 ...

3 (d) Distance education as defined in section 94834 of the Code, does not
4 require the physical presence of students and faculty at the same location but
5 provides for interaction between students and faculty by such means as
6 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:

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

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

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

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

14 (5) maintain clear standards for satisfactory academic progress;

15 (6) timely complete student evaluations of learning outcomes by duly
16 qualified faculty, which are appropriate for use with the distance education
methods used, and evaluated by duly qualified faculty.

17 (7) employ a sufficient number of faculty to assure that (A) the
18 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
19 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

20 (8) shall maintain a record of the dates on which lessons, projects, and
21 dissertations were received and responses were returned to each student.

22 17. Title 5, CCR, section 71720 states in part:

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

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

28 ...

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

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

5 1. a degree from: an institution approved by the Bureau or previously
6 approved by a predecessor agency of the Bureau; or an accredited institution in
7 the United States or Canada; or other state approved institution that documents
8 that the institution at which the faculty member earned his or her degree is
9 equivalent to an institution that is approved by the Bureau; or an institution
10 outside the United States or Canada and in addition provides a comprehensive
11 evaluation of the degree performed by a foreign credential evaluation service

12 that is a member of the National Association of Credential Evaluation Services
13 (NACES).

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

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

18 ...

19 18. Title 5, CCR, section 71735 states:

20 (a) An institution shall have sufficient facilities and necessary equipment to
21 support the achievement of the educational objectives of all of the courses and
22 educational programs in which students are enrolled. If an institution represents
23 that the educational service will fit or prepare a student for employment in a

24 particular occupation or as described in particular job titles, either of the
25 following conditions shall be met:

26 (1) The equipment used for instruction or provided to the student shall
27 be comparable in model type or features to equipment generally used in those
28 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.

///

///

1 19. Title 5, CCR, section 71740 states in part:

2 (a) A degree granting institution shall make available for student use a library
3 and other learning resources.

4 (b) An institution shall provide or make provisions for the library and other
5 learning resources needed to support each educational program it offers,
6 including resources such as reference works, periodicals, monographs, and
7 media and equipment specific to the educational programs offered.

8 ...

9 (d) An institution that depends for library and other learning resources primarily
10 on other institutions' collections and resources not in its possession shall do all
11 of the following:

12 (1) Describe those library and other learning resources, in the application
13 and catalog.

14 (2) Provide students and faculty with access to the regular services of a
15 professional librarian or information specialist experienced in the electronic
16 retrieval of information, who shall provide support for faculty in curriculum
17 matters and actively serve as a resource guide for both graduate and
18 undergraduate students. ...

19 20. Title 5, CCR, section 71810 states in part:

20 (a) Each institution shall provide a catalog pursuant to section 94909 of the
21 Code, which shall be updated annually. Annual updates may be made by the
22 use of supplements or inserts accompanying the catalog. If changes in
23 educational programs, educational services, procedures, or policies required to
24 be included in the catalog by statute or regulation are implemented before the
25 issuance of the annually updated catalog, those changes shall be reflected at the
26 time they are made in supplements or inserts accompanying the catalog.

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

(1) The specific beginning and ending dates defining the time period
covered by the catalog;

(2) A statement of the institution's missions and purposes and the
objectives underlying each of its educational programs;

...

21. Title 5, CCR, section 71865 states in part:

(a) A Master's degree may only be awarded to a student who demonstrates at
least the achievement of learning in a designated major field that is equivalent
in depth to that normally acquired in a minimum of 30 semester credits or its
equivalent or one year of study beyond the Bachelor's degree. ...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

22. With regard to licensed Marriage and Family Therapists, Business and Professions

Code, section 4980.36 states in part:

...

(b) To qualify for a license or registration, applicants shall possess a doctoral or master's degree meeting the requirements of this section in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary Education, or accredited by either the Commission on Accreditation for Marriage and Family Therapy Education, or a regional accrediting agency that is recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval.

...

(d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:

...

(2) Instruction in all of the following:

...

(F) The effects of socioeconomic status on treatment and available resources.

...

(e) The degree described in subdivision (b) shall, in addition to meeting the requirements of subdivision (d), include instruction in case management, systems of care for the severely mentally ill, public and private services and supports available for the severely mentally ill, community resources for persons with mental illness and for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. This instruction may be provided either in credit level coursework or through extension programs offered by the degree-granting institution. ...

FACTS

23. On January 6, 2012, the Bureau received an Application for Approval to Operate a Non-accredited Institution (Application # 24280) from Balaji Nettimi, owner of California Mind Institute (Respondent).

///

1 24. On March 23, 2012, , the Bureau sent Respondent a letter advising of numerous
2 deficiencies in the application, including deficiencies in the form of the business organization,
3 facilities and equipment, instruction and degrees offered, and in the exemplars of enrollment
4 agreements and school catalog submitted with the application.

5 25. On April 19, 2012, the Bureau received Respondent's response to the deficiency
6 letter, which consisted of exemplars of enrollment agreements, the school catalog, a description
7 of the educational programs, and a description of the facilities and resources, among other things.

8 26. On April 26, 2012, the Bureau sent Respondent a second letter advising of
9 deficiencies in the application, including deficiencies in the agent for service of process, financial
10 resources and in the exemplars of enrollment agreements and school catalog.

11 27. On July 25, 2012, the Bureau received Respondent's response to the second
12 deficiency letter, which consisted of a revised Application for Approval to Operate identifying the
13 institution as "University of Science and Technology" instead of "California Mind Institute."
14 Respondent submitted additional documents including course syllabi, exemplars of enrollment
15 agreements, the school catalog, a description of the educational programs, and a description of the
16 facilities and resources, among other things.

17 28. On February 21, 2013, the Bureau sent Respondent a third letter advising of
18 deficiencies in the application, including deficiencies in the agent for service of process, financial
19 resources, description of the educational programs, facilities and other learning resources and the
20 exemplars of enrollment agreements and school catalog.

21 29. On March 4, 2013, the Bureau received Respondent's response to the third
22 deficiency letter, which consisted of additional information regarding the educational programs
23 and degrees offered, faculty CVs, syllabi, financial documents and an exemplar catalog.

24 30. On January 30, 2014, the Bureau sent Respondent a fourth letter advising of
25 deficiencies in the application, including deficiencies in the description of the facilities,
26 description of the educational programs, library resources and the exemplars of enrollment
27 agreements and school catalog.

28 ///

1 31. On September 4, 2014, the Bureau received Respondent's response to the fourth
2 deficiency letter, which included additional information regarding the facilities and an exemplar
3 catalog. However, deficiencies remained in the application.

4 32. On January 30, 2015, the Bureau sent Respondent a Notice of Denial of the
5 application for an approval to operate because deficiencies in the application and the documents
6 submitted with the application rendered the application incomplete.

7 33. On March 19, 2015, the Bureau received additional documents from Respondent.
8 However, deficiencies remained in the application documents.

9 34. On July 6, 2016, the Bureau received additional documents from Respondent.
10 However, deficiencies remained in the application documents.

11 **FIRST CAUSE FOR DENIAL**

12 **(Lack of Information Regarding Instruction and Degrees Offered)**

13 35. Respondents' application is subject to denial under title 5, CCR, sections 71100 and
14 71710(c) in that information regarding instruction and degrees offered were deficient as follows:

15 a. The application and supporting documents do not support the level of rigor required
16 for the Master of Science in Counseling and Marriage and Family Therapy program pursuant to
17 title 5 CCR, section 71865(a). The learning outcomes outlined in the course syllabi for the
18 program focus on identifying, understanding, acquiring knowledge, and determining issues and
19 topics. The objectives do not indicate the program's achievement of learning is equivalent in
20 depth to that normally acquired in studies beyond a bachelor's degree.

21 c. The course syllabi for the following courses failed to set forth complete citations of
22 textbooks and other required written materials in that ISBN numbers were not provided for the
23 required texts for each course and the sequence and frequency of lessons or class sessions were
24 not clear, as required by title 5, CCR, section 71710(c)(3), (4) and (5): AOD 102, Law and Ethics
25 for Alcohol and Drug Counselors; AOD 105, Counseling Theories in Alcohol and Drug
26 Counseling; LPCC 605, Psychological Assessments for Counselors; MFT 603 Human Sexuality
27 for Marriage and Family Therapists; and, MFT 600 Advanced Life-Span Development for
28 Marriage and Family Therapists.

1 **SECOND CAUSE FOR DENIAL**

2 **(Deficiencies Regarding Facility)**

3 36. Respondents' application is subject to denial under title 5, CCR, sections 71100, and
4 71735, subdivisions (a) and (b), in that in documents received from Respondent on July 6, 2016,
5 Respondent stated the institution will no longer offer "face to face courses," and that he was
6 "currently only seeking online approval." However, no other information was included. As such,
7 Respondent failed to demonstrate that the institution had facilities to support the achievement of
8 the educational objectives of the courses and educational programs in which students will be
9 enrolled.

10 **THIRD CAUSE FOR DENIAL**

11 **(Lack of Required Language in School Catalog)**

12 37. Respondents' application is subject to denial under title 5, CCR, sections 71100 and
13 71810 and Code section 94885 in that the school's catalog submitted with Respondents'
14 application failed to comply with the Bureau's statues and regulations as follows:

15 a. The specified program mission and objectives submitted by Respondent for the
16 institution's educational programs states that the institution's objectives are met by offering
17 programs that are approved or meet the requirements of California Association of Alcohol and
18 Drug Abuse Counselors (CAADAC), or the California Board of Behavioral Sciences. However,
19 the documentation submitted by Respondent on July 6, 2016, fails to demonstrate that the
20 institution's proposed programs are approved or meet the requirements CAADAC or the
21 California Board of Behavioral Sciences, as required by Code section 94885(a)(1) and title 5,
22 CCR, 71810(b)(2).

23 b. The program description for the Alcohol and Drug Counselor Training Program states
24 that the proposed training program is approved by (CAADAC) and the California Foundation for
25 Advancement of Addiction Professionals (CFAAP). It further states that students would learn the
26 skills necessary to become CAADAC-certified. However, the institution was not named among
27 CAADAC's list of approved schools. The approval statements made by the institution in the
28 catalog are incorrect, in violation of title 5, CCR section 71655(c).

1 **FOURTH CAUSE FOR DENIAL**

2 **(Failure to Provide Library Services)**

3 38. Respondents' application is subject to denial under title 5, CCR, sections 71100 and
4 71740 in that the institution failed to demonstrate that it had a library available for student use.
5 The documentation submitted by Respondent on July 6, 2016, stated referenced www.LIRN.net
6 as the provider of library services and stated that "will have a trial version for library services
7 from company on demonstrating day for BPPE." No service contract was provided and no
8 demonstration date has been scheduled.

9 **FIFTH CAUSE FOR DENIAL**

10 **(Failure to Demonstrate Distance Education Instruction**

11 **Meets Minimum Operating Standards)**

12 39. Respondents' application is subject to denial under title 5, CCR, sections 71100 and
13 71715(d)(2)-(8), in that Respondent failed to demonstrate that its distance education instruction
14 meets the minimum operating standards for distance education in that in documents received from
15 Respondent on July 6, 2016, Respondent stated the institution will no longer offer "face to face
16 courses," and that he was "currently only seeking online approval." However, no other
17 information was included. Respondent failed to demonstrate that the admissions assessment,
18 learning management system, curricula and faculty are sufficient to meet degree and/or licensure
19 requirements.

20 40. Respondent failed to demonstrate that the educational programs for a Master of
21 Science in Marriage & Family Therapy and the Master of Science in Counseling are appropriate
22 for delivery through distance education methods as required by title 5, CCR, section 71715(d)(1),
23 in that the degree program requirements for Licensed Marriage and Family Therapists include
24 practicum that involves direct client contact hours. Respondent failed to demonstrate how the
25 institution's programs, which will be delivered via an online platform, will meet this requirement.

26 ///

27 ///

28 ///

1 **SIXTH CAUSE FOR DENIAL**

2 **(Failure to Demonstrate Faculty Qualifications)**

3 41. Respondents' application is subject to denial under title 5, CCR, sections 71100 and
4 71720(a)(1) and (4) in that Respondent failed to demonstrate that the institution employs duly
5 qualified faculty with sufficient expertise to support the institution's awarding of a degree in that
6 Respondent failed to provide the LCSW and Psychologist license numbers for R.F. and C.H.

7 **SEVENTH CAUSE FOR DENIAL**

8 **(Failure to Describe Self-Monitoring Procedures)**


9 42. Respondents' application is subject to denial under title 5, CCR, sections 71100 and
10 71320 in that Respondent failed to describe how the institution will assure it is operated and
11 maintained in compliance with the Act and its regulations.

12 **PRAYER**

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

- 16 1. Denying the application of Balaji Nettiimi for an approval to operate University of
17 Science and Technology, a non-accredited institution; and,
18 2. Taking such other and further action as deemed necessary and proper.

19
20 DATED: 8/10/16


21 JOANNE WENZEL
22 Chief
23 Bureau for Private Postsecondary Education
24 Department of Consumer Affairs
25 State of California
26 Complainant

27
28
SD2015700887/81414595.doc