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

In the Matter of the First Amended Statement of Issues Against:
CALIFORNIA PREMIER UNIVERSITY;
SEEJOON KAHNG, 51% Owner
HYELAN KAHNG, 49% Owner
Approval to Operate an Institution Non Accredited Applicant
Respondent.

Complainant alleges:

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

2. On or about December 4, 2012, the Bureau for Private Postsecondary Education
received an application for an Approval to Operate for an Institution Non Accredited (Application
No. 25587) from California Premier University; Seejoon Kahng, 50% owner, and Chang Hwan
Kim, 50% owner. On or about November 30, 2012, Seejoon Kahng and Chang Hwan Kim
certified under penalty of perjury to the truthfulness of all statements, answers, and
representations in the application. On August 8, 2013, the Bureau for Private Postsecondary Education received a revised application for an Approval to Operate for an Institution Non-Accredited (Application No. 25587) from California Premier University: Seojoon Kahng, 51% owner, and Hyelan Kahng, 49% owner, (Respondent). The Bureau denied the application on May 2, 2014.

JURISDICTION

3. Education Code section 94891\(^1\) states:

"(a) The bureau shall, by January 1, 2011, adopt by regulation the process and procedures whereby an institution may obtain a renewal of an approval to operate.

(b) To be granted a renewal of an approval to operate, the institution shall demonstrate its continued capacity to meet the minimum operating standards."

STATUTORY PROVISIONS

4. Business and Professions Code section 477 as used in this division provides in pertinent part:

(a) "Board" includes "bureau" . . .

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

5. Education Code section 94885 states:

"The bureau shall, by January 1, 2011, adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur:

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

(b) The institution maintains specific written standards for student admissions for each educational program and those standards are related to the particular educational program.

(c) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program's goals.

(d) The institution maintains a withdrawal policy and provides refunds.

\(^1\) California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.
(e) The directors, administrators, and faculty are properly qualified.

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

(g) That, upon satisfactory completion of an educational program, the institution gives students a document signifying the degree or diploma awarded.

(h) Adequate records and standard transcripts are maintained and are available to students.

(i) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws.”

6. Education Code section 94886 states:

“Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with 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.”

7. Education Code section 94887:

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

8. Education Code section 94909 states:

“(a) 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:

(1) The name, address, telephone number, and, if applicable, Internet Web site address of the institution.

(2) Except as specified in Article 2 (commencing with Section 94802), a statement that the institution is a private institution and that it is approved to operate by the bureau.

(3) The following statements:
(A) 'Any questions a student may have regarding this catalog that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers).'

(B) 'As a prospective student, you are encouraged to review this catalog prior to signing an enrollment agreement. You are also encouraged to review the School Performance Fact Sheet, which must be provided to you prior to signing an enrollment agreement.'

(C) 'A student or any member of the public may file a complaint about this institution with the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by completing a complaint form, which can be obtained on the bureau's Internet Web site (Internet Web site address).

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

(5) A description of the programs offered and 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.

(6) If the educational program is designed to lead to positions in a profession, occupation, trade, or career field requiring licensure in this state, a notice to that effect and a list of the requirements for eligibility for licensure.

(7) Information regarding the faculty and their qualifications.

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

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

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

(C) Probation and dismissal policies.

(D) Attendance policies.

(E) Leave-of-absence policies.

...”

REGULATORY PROVISIONS

9. California Code of Regulations, title 5, division 7.5, section 71100 states:

“(a) An applicant seeking approval to operate pursuant to Section 94886 of the Code, other than Approval to Operate by Accreditation pursuant to Section 94890(a)(1) of the Code, shall complete the "Application for Approval to 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.

(b) An applicant shall submit the completed form, the information or 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.

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

10. California Code of Regulations, title 5, division 7.5, section 71270 states:

"The Form Application 94886 shall include a description of library holdings, services, and other learning resources, including policies and procedures for supplying them to students who do not receive classroom instruction. The description need not consist of a list of each holding. The
description shall include an explanation of how the library and other learning resources are sufficient to support the instructional needs of students and, if no facilities exist at the institution, how and when students may obtain access to a library and other learning resources as required by the curriculum.”

11. California Code of Regulations, title 5, division 7.5, section 71340, subdivision (a), states:

“The institution shall include in the Form Application 94886 any material facts, which have not otherwise been disclosed in the Form Application 94886 that without inclusion would cause the information in the Form Application 94866 to be false, misleading or incomplete or that might reasonably affect the Bureau's decision to grant an approval to operate. In this context, a fact would be ‘material’ if it would alter the Bureau's determination concerning the institution's ability to comply with any applicable provisions of the Act.”

12. California Code of Regulations, title 5, division 7.5, section 71705 states:

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

13. California Code of Regulations, title 5, division 7.5, section 71710, states, in pertinent part:

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

(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;

... 

(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:

...
(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;

(7) instructional mode or methods.

... 

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

14. California Code of Regulations, title 5, division 7.5, section 71720 states, in pertinent part:

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

(1) 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;

... 

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

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

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

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

...
(9) The institution shall maintain records documenting that each faculty member is duly qualified and was 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.

...”

15. California Code of Regulations, title 5, division 7.5, section 71740 states:

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

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

(c) An institution shall describe onsite library and other learning resources, if any, that enable students to pursue inquiries, searches for information and documentation, and assignments connected with their study programs.

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

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

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

(3) Assure that students have access to the library collections and resources of another institution, organization, or library.

(4) Document compliance with paragraphs (1), (2), and (3).”

16. California Code of Regulations, title 5, division 7.5, section 71770, subdivision (b), provides in pertinent part:
"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.

(1) Except as limited by subdivision (c) of this section, a maximum of 75 percent of the units or credit that may be applied toward the award of a bachelor's degree may be derived from a combination of any or both of the following:

(A) Units earned at institutions approved by the Bureau, public or private institutions of higher learning accredited by an accrediting association recognized by the U. S. Department of Education, or any institution of higher learning, including foreign institutions, if the institution offering the undergraduate program documents that the institution of higher learning at which the units were earned offers degree programs equivalent to degree programs approved by the Bureau or accredited by an accrediting association recognized by the U.S. Department of Education;

(B) Challenge examinations and standardized tests such as the College Level Placement Tests (CLEP) for specific academic disciplines.

(2) No more than 20% of graduate semester units or the equivalent in other units awarded by another institution may be transferred for credit toward a Master's degree. An institution may accept transfer credits only from the institutions of higher learning described in subsection (1)(A).

(3) No more than 30 graduate semester credits or its equivalent awarded by another institution may be credited toward a doctoral degree. This subdivision does not apply to graduate programs that lead to a profession or an occupation requiring state licensure where the licensing agency has a regulation permitting a different standard."

17. California Code of Regulations, title 5, division 7.5, section 71810 states:

"..."

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

... 

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

..."
(4) Language proficiency information, including:

(A) the level of English language proficiency required of students and the kind of
documentation of proficiency, such as the Test of English as a Foreign Language (TOEFL), that
will be accepted; and

(B) whether English language services, including instruction such as ESL, are provided
and, if so, the nature of the service and its cost;

(5) Whether any instruction will occur in a language other than English and, if so, the
level of proficiency required and the kind of documentation of proficiency, such as the United
States Foreign Service Language Rating System, that will be accepted;

(6) The institution's policies and practices regarding any form of financial aid, including
all consumer information which the institution is required to disclose to the student under any
state or federal financial aid program;

(7) The institution's policies and procedures for the award of credit for prior experiential
learning, including assessment policies and procedures, provisions for appeal, and all charges that
a student may be required to pay;

... Policies on student rights, including the procedure for addressing student grievances;

and

(15) Policies on the retention of student records.”

18. California Code of Regulations, title 5, division 7.5, section 71850 provides, in
pertinent part:

“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.

19. California Code of Regulations, title 5, division 7.5, section 71865, subdivision (a) provides, in pertinent part:

"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."

CAUSES FOR DENIAL OF APPLICATION

(Incomplete Application)

20. Respondent's application is subject to denial under Business and Professions Code sections 480, subdivision (a)(3)(A), Education Code section 94887 and California Code of Regulations, title 5, division 7.5, section 71700, subdivisions (a) – (c), in that on or about December 4, 2012, Respondent submitted an incomplete application to the Bureau. Each violation is a sole and separate cause for denial. The violations are as follows:

a. Instruction and Degrees Offered.

1. Respondent failed to provide specific written objectives or expected outcome for each of the five English as a Second Language (ESL) Levels, violating California Code of Regulations, title 5, division 7.5, section 71705;

2. Respondent failed to clearly state the requirements for students graduating from each of the 5 ESL level programs, violating California Code of Regulations, title 5, division 7.5, section 71710, subdivision (a);

3. Respondent failed to provide information such that the Bureau is able to determine the level of rigor offered for the Master of Music, including course descriptions and syllabi and an explanation as to why the Bachelor degree and the Master degree programs share the same learning outcomes, violating California Code of Regulations, title 5, division 7.5, section 71865, subdivision (a);
4. Respondent failed to provide a course description for the GNS 101 Life Science course, and failed to clearly indicate whether there is a required laboratory class associated, violating California Code of Regulations, title 5, division 7.5, section 71710, subdivision (a);

5. Respondent failed to offer 25 percent of credits in general education requirements for the Associate and Bachelor degrees, and included only 15 percent in general education, violating California Code of Regulations, title 5, division 7.5, section 71850, subdivision (a);

6. Respondent provided course syllabi which failed to include the instructional mode or methods, an evaluation by duly qualified faculty of learning outcomes, and 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, violating California Code of Regulations, title 5, division 7.5, section 71710, subdivisions (c)(6)(7) and (f).

b. Faculty

1. Respondent failed to provide a list of faculty course assignments for two courses and five programs, violating California Code of Regulations, title 5, division 7.5, section 71720, subdivisions (a)(1) and (a)(9);

2. Respondent failed to provide transcripts for faculty members and provide documentation evidencing that faculty was duly qualified and failed to verify and screen faculty qualifications before submitting their resumes and tentative employment contract to the Bureau, violating California Code of Regulations, title 5, division 7.5, section 71720, subdivisions (a)(4) (A) and (a) (9);

3. Respondent failed to provide evidence that instructors are qualified to perform the duties to which the faculty members are assigned for each of the programs, violating California Code of Regulations, title 5, division 7.5, section 71720, subdivision (a) (9);

c. Catalog

1. Respondent failed to develop a clearly written policy for acceptance of credits earned at other institutions, violating Education Code section 94909, subdivision (a)(3)(A), and California Code of Regulations, title 5, division 7.5, section 71770, subdivision (b);
2. Respondent failed to indicate the level of English language proficiency required of a student and the kind of documentation of proficiency that will be accepted, violating California Code of Regulations, title 5, division 7.5, section 71810, subdivision (b) (4);

3. Respondent failed to indicate whether any instruction will occur in a language other than English and, if so, the level of proficiency required and the kind of documentation that will be accepted to evidence proficiency, violating California Code of Regulations, title 5, division 7.5, section 71810, subdivision (b) (5);

4. Respondent failed to provide information regarding the faculty and their qualifications, violating Education Code section 94909, subdivision (a) (7);

5. Respondent failed to provide the policies and practices, including required disclosures regarding any form of financial aid, violating California Code of Regulations, title 5, division 7.5, section 71810, subdivision (b) (6);

d. Libraries and Other Learning Resources. Respondent failed to demonstrate that it has a library sufficient to support the programs that are proposed, failed to provide for learning resources, including reference works, failed to provide library service memorandum or contracts, failed to provide evidence of a contract with a professional librarian or information specialist experienced in the electronic retrieval of information, violating California Code of Regulations, title 5, division 7.5, sections 71270 and 71740, subdivisions (a), (b) and (d)(1)-(4).

PRAYER

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

1. Denying the application of California Premier University for an Approval to Operate an Institution Non Accredited;

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2. Taking such other and further action as deemed necessary and proper.

Dated: 12/10/14

Joanne Wenzel
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant