

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 LISA A. MILLER
Deputy Attorney General
4 State Bar No. 281374
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6275
6 Facsimile: (213) 897-2804
E-mail: Lisa.Miller@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues
12 Against:
13 **ADVANCED COMPUTING INSTITUTE,**
14
15 **Approval to Operate an Accredited**
Institution Applicant
16 Respondent.

Case No. 1002828

OAH Case No.

STATEMENT OF ISSUES

17
18 Complainant alleges:

19 **PARTIES**

20 1. Dr. Michael Marion, Jr. ("Complainant") brings this Statement of Issues solely in his
21 official capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
22 Consumer Affairs.

23 2. On or about September 21, 2016, the Bureau for Private Postsecondary Education
24 ("Bureau") received an application for an Approval to Operate an Accredited Institution from
25 Advanced Computing Institute ("Respondent"). On or about August 8, 2016, Daniel Mainea
26 certified under penalty of perjury to the truthfulness of all statements, answers, and representations
27 in the application. The Bureau denied the application on May 25, 2017.
28

1 **JURISDICTION**

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

5 4. Section 94886 states:

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

10 5. Section 94887 states:

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

16 **STATUTORY PROVISIONS¹**

17 6. Section 94885 states, in relevant part:

18 ...

19 "(b) Except as provided in Section 94885.1, an institution offering a degree must satisfy one
20 of the following requirements:

21 (1) Accreditation by an accrediting agency recognized by the United States Department of
22 Education, with the scope of that accreditation covering the offering of at least one degree
23 program by the institution."

24 ...

25 ///

26 _____
27 ¹ On October 11, 2009, the California Private Postsecondary Education Act of 2009 was
28 signed into law. (Educ. Code, §§ 94800, et seq.) The Act was recently amended, effective
January 1, 2015. (See: Senate Bill No. 1247.) This Statement of Issues is based on the post-
amendment version of the Act.

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7. Section 94934 of the Education Code states:

"(a) As part of the compliance program, an institution shall submit an annual report to the bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year, or another date designated by the bureau, and it shall include the following information for educational programs offered in the reporting period:

"(1) The total number of students enrolled by level of degree or for a diploma.

"(2) The number of degrees, by level, and diplomas awarded.

"(3) The degree levels and diplomas offered.

"(4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

"(5) The school catalog, as required pursuant to Section 94909.

"(6) The total charges for each educational program by period of attendance.

"(7) A statement indicating whether the institution is, or is not, current in remitting Student Tuition Recovery Fund assessments.

"(8) A statement indicating whether an accrediting agency has taken any final disciplinary action against the institution.

"(9) Additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter.

"(b) The bureau, by January 1, 2011, shall prescribe the annual report's format and method of delivery."

REGULATORY PROVISIONS

8. California Code of Regulations, title 5, section 71700 states that, "The Bureau may request that an institution document compliance with the standards set forth in the Act and this Division to obtain and maintain an approval to operate."

9. California Code of Regulations, title 5, section 74110 states, in relevant part:

...

"(d) The annual report shall be electronically filed by submitting the information required by section 94934 of the Code and this section via the online form provided on the Bureau's website,

1 electronically attaching, as directed, the School Performance Fact Sheet, the enrollment agreement,
2 and the school catalog.”

3 ...

4 10. California Code of Regulations, title 5, section 71390 states, in relevant part:

5 ...

6 “(b) An applicant shall submit to the Bureau the form required by subdivision (a) of this
7 section, a certified copy of its current verification of accreditation granted by its accrediting agency,
8 and the appropriate application fee, as provided in Section 94930.5(a)(3) of the Code.

9 ...

10 FACTUAL BACKGROUND

11 11. On or about September 21, 2016, the Bureau received an “Application for Approval
12 to Operate an Accredited Institution” (application number 29585) from the Respondent.

13 12. On or about September 27, 2016, the Bureau issued a deficiency letter to
14 Respondent. The letter stated that the certification from Respondent’s accreditor, the Counsel on
15 Occupational Education (“COE”), was missing required information and requested that Respondent
16 submit a copy of the current approval letter from COE. Additionally, the letter stated that
17 Respondent was delinquent on his 2015 Annual Fee and 1st Quarter 2014 Student Tuition Recovery
18 Fund (“STRF”) fee.

19 13. On or about April 4, 2017, the Bureau contacted Respondent via email in order to
20 follow up regarding Respondent’s deficiencies. In the email, the Bureau requested that Respondent
21 submit all missing documents by April 21, 2017, or the Bureau would have to move forward with
22 a denial of Respondent’s application.

23 14. On or about May 25, 2017, the Bureau sent Respondent a “Notice of Denial” letter.
24 The letter listed the bases for the denial which included failure to provide a current letter of
25 accreditation from COE, and failure to submit the following: STRF Reporting Forms for 1st Quarter
26 2014, 1st through 4th Quarter 2015, and 1st through 4th Quarter 2016, an Annual Fee payment for
27 2016, Annual Reports for 2013 and 2015.

28

1 15. On or about July 24, 2017, Respondent submitted a request for an appeal along with
2 a mitigation package for review. Respondent submitted the required fees, the STRF reporting
3 forms, and School Performance Fact Sheets.

4 16. On or about July 24, 2017, Respondent submitted a letter of certification of member
5 status with its accreditor, COE. However, the letter did not include a list of currently approved
6 programs. Since Respondent is seeking approval by means of accreditation, Respondent's
7 accreditation letter must list Respondent's approved programs. The letter from COE regarding
8 Respondent states, "A list of programs approved by the Council can be found at your institution's
9 listing on MyCouncil at www.council.org." However, this information is password-protected and
10 therefore not available to the Bureau.

11 17. On or about October 18, 2017, the Bureau received notice from the United States
12 Department of Education ("Department of Education") regarding Respondent's loss of
13 accreditation from COE. On or about October 12, 2017, the Department of Education sent
14 correspondence to Respondent regarding Respondent's transfer from the Advanced method of
15 payment to the Heightened Cash Monitoring 2 method of payment. This correspondence indicated
16 that the Department of Education changed Respondent's method of payment due to the fact that
17 Respondent lost its accreditation from COE on September 18, 2017. The respondent was informed
18 by the Department of Education that they could continue to obligate funds under the federal student
19 financial assistance programs.

20 **FIRST CAUSE FOR DENIAL OF APPLICATION**

21 **(Failure to Submit Letter of Accreditation)**

22 18. Respondent's application is subject to denial under California Code of Regulations,
23 title 5, section 71390, subdivision (b), in that Respondent failed to provide a letter of accreditation
24 which included a list of currently approved programs, as requested by the Bureau. Furthermore, on
25 or about October 12, 2017, the United States Department of Education sent correspondence to
26 Respondent regarding Respondent's transfer from the Advanced method of payment to the
27 Heightened Cash Monitoring 2 method of payment. This correspondence indicated that the
28

1 Department of Education changed Respondent's method of payment due to the fact that Respondent
2 lost its accreditation from COE on September 18, 2017.

3 19. Complainant incorporates by reference herein Paragraphs 11-17, above.

4 **SECOND CAUSE FOR DENIAL OF APPLICATION**

5 **(Failure to Submit Complete 2013 and 2015 Annual Reports)**

6 20. Respondent's application is subject to denial under Section 94934, in conjunction
7 with California Code of Regulations, title 5, section 74110, subdivision (d), in that Respondent
8 failed to submit complete 2013 and 2015 Annual Reports, as requested by the Bureau. On or about
9 August 1, 2017, Respondent submitted School Performance Fact Sheets for the 2013 and 2015
10 Annual Reports. However, the Enrollment Agreement component to the Annual Reports was not
11 submitted.

12 21. Complainant incorporates by reference herein Paragraphs 11-17, above.

13 **PRAYER**

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

- 17 1. Denying the application of Advanced Computing Institute, Daniel Mainea for a
- 18 Approval to Operate an Accredited Institution;
- 19 2. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 11/30/17



22 DR. MICHAEL MARION, JR.
23 Chief
24 Bureau for Private Postsecondary Education
25 Department of Consumer Affairs
26 State of California
27 Complainant

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