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

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

Case No. 1003163

13 **CALWEST UNIVERSITY**

STATEMENT OF ISSUES

14 **Approval to Operate a Non-Accredited**
15 **Institution Applicant**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about December 23, 2014, the Bureau for Private Postsecondary Education
23 received an Application for Approval to Operate a Non-Accredited Institution from Calwest
24 University (Respondent), with Janek Ratnatunga designated as President, Chief Executive Officer
25 ("CEO") and 95% owner. In her capacity as CEO, Janek Ratnatunga certified under the penalty
26 of perjury to the truthfulness of all statements, answers, and representation in the application.
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1 **PERTINENT STATUTES AND REGULATIONS¹**

2 9. California Education Code section 94886 provides:

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

7 10. California Education Code section 94887 provides:

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

13 11. California Education Code section 94812 states:

14 “‘Academic year’ means a period, including a minimum of 30 weeks of instructional time,
15 in which a full-time student attending an institution that measures educational program length in
16 credit hours completes 24 semester or trimester hours or 36 quarter hours, or an institution that
17 measures educational program length in clock hours completes at least 900 clock hours.”

18 12. California Education Code section 94846 states:

19 “‘Instruction’ means an institution's specific, formal arrangements in which its faculty
20 present a part of the curriculum.”

21 13. California Education Code section 94885, subdivision (a), provides in pertinent part:

22 “The bureau shall adopt by regulation minimum operating standards for an institution that
23 shall reasonably ensure that all of the following occur:

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

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27 ¹ California Private Postsecondary Education Act of 2009, Ed. Code § 94880, et. seq. was
28 recently amended, effective January 1, 2017. (See Senate Bill No. 1192).

1 14. California Education Code section 94902, subdivision (a), provides:

2 "A student shall enroll solely by means of executing an enrollment agreement. The
3 enrollment agreement shall be signed by the student and by an authorized employee of the
4 institution."

5 15. California Education Code section 94909 provides in pertinent part:

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

9 ...

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

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

18

19 16. California Education Code section 94911 states, in pertinent part, that an enrollment
20 agreement shall contain:

21 "(d) A clear and conspicuous statement that the enrollment agreement is legally binding
22 when signed by the student and accepted by the institution.

23 "(e) (1) A disclosure with a clear and conspicuous caption, STUDENT S RIGHT TO
24 CANCEL, under which it is explained that the student has the right to cancel the enrollment
25 agreement and obtain a refund of charges paid through attendance at the first class session, or the
26 seventh day after enrollment, whichever is later.

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1 “(2) The disclosure shall contain the institution s refund policy and a statement that, if
2 the student has received federal student financial aid funds, the student is entitled to a refund of
3 moneys not paid from federal student financial aid program funds.

4 “(3) The text shall also include a description of the procedures that a student is
5 required to follow to cancel the enrollment agreement or withdraw from the institution and obtain
6 a refund.

7 ...

8 “(i) (1) The following statement: Prior to signing this enrollment agreement, you must be
9 given a catalog or brochure and a School Performance Fact Sheet, which you are encouraged to
10 review prior to signing this agreement. These documents contain important policies and
11 performance data for this institution. This institution is required to have you sign and date the
12 information included in the School Performance Fact Sheet relating to completion rates,
13 placement rates, license examination passage rates, salaries or wages, and the most recent three-
14 year cohort default rate, if applicable, prior to signing this agreement.

15 “(2) Immediately following the statement required by paragraph (1), a line for the
16 student to initial, including the following statement: I certify that I have received the catalog,
17 School Performance Fact Sheet, and information regarding completion rates, placement rates,
18 license examination passage rates, salary or wage information, and the most recent three-year
19 cohort default rate, if applicable, included in the School Performance Fact sheet, and have signed,
20 initialed, and dated the information provided in the School Performance Fact Sheet.

21 17. California Code of Regulations, title 5, section 71700, states:

22 “The Bureau may request that an institution document compliance with the standards set
23 forth in the Act and this Division to obtain and maintain an approval to operate.”

24 18. California Code of Regulations, title 5, section 70000, subdivision (z), states:

25 “‘Semester unit’ means either of the following:

26 “(1) At least fifteen (15) hours of college or university level instruction during a semester
27 plus a reasonable period of time outside of instruction which an institution requires a student to

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1 devote to preparation for planned learning experiences, such as preparation for instruction,
2 study of course material, or completion of educational projects; or

3 “(2) Planned learning experiences equivalent to the learning and preparation described in
4 paragraph (1) as determined by duly qualified faculty responsible for evaluating learning
5 outcomes for the award of unit credits.”

6 19. California Code of Regulations, title 5, section 71710 provides, in pertinent part:

7 “In order to meet its mission and objectives, the educational program defined in section
8 94837 of the Code shall be comprised of a curriculum that includes:

9 “(a) Those subject areas that are necessary for a student to achieve the educational
10 objectives of the educational program in which the student is enrolled;

11 ...

12 “(c) Course or module materials that are designed or organized by duly qualified faculty.
13 For each course or module, each student shall be provided with a syllabus or course outline that
14 contains:

15 (1) A short, descriptive title of the educational program;

16 (2) A statement of educational objectives;

17 (3) Length of the educational program;

18 (4) Sequence and frequency of lessons or class sessions;

19 (5) Complete citations of textbooks and other required written materials;

20 (6) Sequential and detailed outline of subject matter to be addressed or a list of skills
21 to be learned and how those skills are to be measured;

22 (7) Instructional mode or methods.

23 “(d) If degree granting, require research of an appropriate degree that utilizes a library and
24 other learning resources;

25 “(e) Specific learning outcomes tied to the sequence of the presentation of the material to
26 measure the students' learning of the material; and

27 “(f) Evaluation by duly qualified faculty of those learning outcomes.

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1 20. California Code of Regulations, title 5, section 71715 provides, in pertinent part:

2 “(a) Instruction shall be the central focus of the resources and services of the institution.

3 “(b) The institution shall document that the instruction offered leads to the achievement of
4 the learning objectives of each course.

5 ...

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

12 ...

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

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

18 “(4) Provide for meaningful interaction with faculty who are qualified to teach using
19 distance education methods;

20 “(5) Maintain clear standards for satisfactory academic progress;

21 “(6) Timely complete student evaluations of learning outcomes by duly qualified
22 faculty, which are appropriate for use with the distance education methods used, and
23 evaluated by duly qualified faculty.

24 “(7) Employ a sufficient number of faculty to assure that (A) the institution's
25 response to, or evaluation of, each student lesson is returned to the student within 10 days
26 after the lesson is received by the institution; and (B) the institution's response to, or
27 evaluation of, each student project or dissertation is returned to the student within the time
28 disclosed in the catalog;

1 21. California Code of Regulations, title 5, section 71716, subdivision (b), provides:

2 “The student shall have the right to cancel the agreement and receive a full refund pursuant
3 to section 71750 before the first lesson and materials are received. Cancellation is effective on the
4 date written notice of cancellation is sent. The institution shall make the refund pursuant to
5 section 71750. If the institution sent the first lesson and materials before an effective cancellation
6 notice was received, the institution shall make a refund within 45 days after the student's return of
7 the materials.”

8 22. California Code of Regulations, title 5, section 71720 provides, in pertinent part:

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

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

15 ...

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

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

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

27 2. A credential generally recognized in the field of instruction.

28 ...

1 “(5) The institution's faculty as a whole shall possess a diverse educational background
2 which shall be demonstrated in part by earned degrees from a variety of colleges and universities
3 or by credentials generally recognized in the field of instruction;

4 “(6) When contracting for educational services, the institution shall maintain control of, and
5 responsibility for, all academic matters, and shall assure that the instruction and faculty satisfy the
6 standards established by the Act and this chapter;

7

8 23. California Code of Regulations, title 5, section 71740 provides, in pertinent part:

9 ...

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

14 ...

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

17 ...

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

22

23 24. California Code of Regulations, title 5, section 71770 provides, in pertinent part:

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

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

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

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

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

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

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

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

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

5

6 25. California Code of Regulations, title 5, section 71810 provides, in pertinent part:

7 “(a) Each institution shall provide a catalog pursuant to section 94909 of the Code, which
8 shall be updated annually. Annual updates may be made by the use of supplements or inserts
9 accompanying the catalog. If changes in educational programs, educational services, procedures,
10 or policies required to be included in the catalog by statute or regulation are implemented before
11 the issuance of the annually updated catalog, those changes shall be reflected at the time they are
12 made in supplements or inserts accompanying the catalog.

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

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

17 26. California Code of Regulations, title 5, section 71865 provides, in pertinent part:

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

22 “(b) A professional Doctoral degree may only be awarded to a student who has completed
23 a prescribed level of study normally requiring a minimum of three academic years of full-time
24 graduate study or the equivalent in part-time study; or, if the program leads to a profession or
25 occupation requiring state licensure, which satisfies the requirements of the state agency. The
26 degree shall include the name of the field in which it is offered (e.g., Juris Doctor or Doctor of
27 Music).

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1 prompts for the proposed admission essays were not drafted in a manner that would permit
2 Respondent to adequately assess whether the prospective student had the skills and competencies
3 necessary to succeed in a distance education environment;

4 (b) Respondent failed to comply with California Code of Regulations, title 5, section
5 71715, subdivision (d)(2), in that Respondent would not assess each student prior to admission in
6 order to determine whether each student possessed the skills and competencies to succeed in a
7 distance education environment;

8 (c) Respondent failed to comply with Education Code section 94885, subdivision (a)(1)
9 or California Code of Regulations, title 5, section 71715, subdivision (b), in that Respondent
10 failed to document that the instruction offered in fourteen (14) of its sixteen (16) MBA program
11 courses would lead to the achievement of the learning objectives of those courses;

12 (d) Respondent failed to document that its MBA program would satisfy the instructional
13 time requirements established for Master's degree programs in California Code of Regulations,
14 title 5, section 71865, subdivision (a);

15 (e) The course syllabi for Respondent's MBA program failed to specify any research
16 requirements in compliance with California Code of Regulations, title 5, section 71710,
17 subdivision (d);

18 (f) Respondent failed to comply with Education Code section 94885, subdivision (a)(1),
19 or California Code of Regulations, title 5, section 71715, subdivision (b), in that Respondent
20 failed to document that the instruction offered in eight (8) of its DBA program courses would lead
21 to the achievement of the learning objectives of those courses;

22 (g) Respondent failed to document that its DBA program would satisfy the instructional
23 time requirements established for Doctoral degree programs in California Code of Regulations,
24 title 5, section 71865, subdivision (b);

25 (h) Respondent failed to document that course DBA 801 (Research Methods) in its DBA
26 program would lead to the achievement of the learning objectives of the courses in compliance
27 with California Code of Regulations, title 5, section 71710, subdivisions (e) and (f), or section
28 71715, subdivisions (b) and (d)(6);

1 (i) The course syllabi and supporting documentation submitted by Respondent failed to
2 satisfy California Code of Regulations, title 5, section 71710, subdivision (e), which requires the
3 inclusion of specific learning outcomes tied to the sequence of the presentation of the material to
4 measure the students' learning of the materials;

5 (j) The course syllabi and supporting documentation submitted by Respondent failed to
6 document compliance with California Code of Regulations, title 5, section 71710, subdivision (f),
7 which requires evaluation by duly qualified faculty of the specific learning outcomes to be gained
8 through the coursework;

9 (k) Respondent failed to specify clear standards for satisfactory academic progress by
10 students in compliance with California Code of Regulations, title 5, section 71715, subdivision
11 (d)(5);

12 (l) Respondent failed to document that instruction would be the central focus of its
13 resources and services in compliance with California Code of Regulations, title 5, section 71715,
14 subdivision (a);

15 **THIRD CAUSE FOR DENIAL OF APPLICATION**

16 **(Failure to Meet Minimum Operating Standards – Educational Program)**

17 29. Respondent's application is subject to denial under Education Code section 94887 and
18 California Code of Regulations, title 5, section 71700, for failure to meet operating standards with
19 regard to its educational program as follows:

20 (a) Respondent failed to document that that it would provide for meaningful interaction
21 with faculty who are qualified to teach using distance education methods in compliance
22 California Code of Regulations, title 5, section 71715, subdivision (d)(4).

23 (b) Respondent failed to document that that it would provide timely, complete student
24 evaluations of learning outcomes by duly qualified faculty in compliance California Code of
25 Regulations, title 5, section 71715, subdivision (d)(6).

26 (c) Respondent failed to comply with California Code of Regulations, title 5, section
27 71715, subdivision (d)(7), by documenting that that it would employ a sufficient number of
28

1 qualified faculty in its DBA program to ensure that student research proposals and thesis chapters
2 would be responded to within the time disclosed in Respondent's program catalog;

3 (d) With regard to the "Tubelcasses" course credits offered by Respondent for its MBA
4 and DBA programs, Respondent failed to comply with: California Code of Regulations, title 5,
5 section 71710, subdivision (a), (e), and (f), related to educational program curriculum
6 requirements; or California Code of Regulations, title 5, section 71715, subdivisions (a), (b),
7 (d)(4) and (d)(5), related to course instruction requirements;

8 (e) With regard to the "Massive Open Online Course" (i.e., "MOOC") course credits
9 offered by Respondent for its MBA and DBA programs, Respondent failed to comply with:
10 California Code of Regulations, title 5, section 71715, subdivision (b), related to course
11 instruction requirements; California Code of Regulations, title 5, section 71720, subdivision
12 (a)(6), related to faculty requirements; or California Code of Regulations, title 5, section 71770,
13 subdivision (b)(1)(A) and (b)(2), related to the acceptance of transfer credits;

14 (f) With regard to the "Challenge Exam" course credits offered by Respondent for its
15 MBA and DBA programs, Respondent failed to comply with: California Code of Regulations,
16 title 5, section 71770, subdivision (b)(1)(B), related to the acceptance of transfer credits;

17 (g) With regard to the course credits offered by Respondent for its MBA and DBA
18 programs through the process of "Applying for Prior Learning Credit," Respondent failed to
19 comply with: California Code of Regulations, title 5, section 71770, subdivisions (b)(1)(A),
20 (b)(2) and (b)(3), related to the acceptance of transfer credits.

21 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

22 **(Failure to Meet Minimum Operating Standards – Faculty Requirements)**

23 30. Respondent's application is subject to denial under Education Code section 94887 and
24 California Code of Regulations, title 5, section 71700, for failure to meet operating standards with
25 regard to its proposed faculty as follows:

26 (a) Respondent failed to comply with California Code of Regulations, title 5, section
27 71720, subdivision (a), by documenting that it had employed duly qualified faculty for its MBA
28 and DBA programs, sufficient in number to provide the instruction, student advisement and

1 learning outcomes evaluation necessary for the institution to achieve its stated mission and
2 objectives, or for students to achieve the specific learning objectives for the courses offered;

3 (b) Respondent failed to comply with California Code of Regulations, title 5, section
4 71720, subdivisions (a)(1), (a)(4)(A) and (a)(5), in that it did not submit curriculum vitae or
5 academic transcripts for ten (10) of eleven (11) proposed faculty members;

6 (c) Respondent failed to comply with California Code of Regulations, title 5, section
7 71710, subdivision (c), or Code of Regulations, title 5, section 71715, subdivision (d)(3) and
8 (d)(4) in that it did not provide documentation to establish that the proposed faculty are duly
9 qualified to design and develop curriculum, including syllabi, or that the proposed faculty is duly
10 qualified to engage in distance education teaching.

11 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

12 **(Failure to Meet Minimum Operating Standards – Library Resources)**

13 31. Respondent's application is subject to denial under Education Code section 94887 and
14 California Code of Regulations, title 5, section 71700, for failure to meet operating standards with
15 regard to its proposed library services in that Respondent failed to document that its chosen
16 library resource, TopiaU Library Services, satisfies the requirements of California Code of
17 Regulations, title 5, section 71740, subdivisions (b) or (d)(2).

18 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

19 **(Failure to Meet Minimum Operating Standards – Catalog)**

20 32. Respondent's application is subject to denial under Education Code section 94887 and
21 California Code of Regulations, title 5, section 71700, for failure to meet operating standards in
22 that the Transfer Credit Policy set forth in Respondent's proposed catalog does not comply with
23 the requirements of Education Code section 94909, subdivision (a)(8)(A), or California Code of
24 Regulations, title 5, section 71770, subdivisions (b)(1)(A) or (b)(2).

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PRAYER

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

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

DATED: 9/18/18



DR. MICHAEL MARION, JR.
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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