

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

In the Matter of the Statement of Issues
Against:

**INSTITUTE FOR ADVANCED STUDY
OF HUMAN SEXUALITY**

Respondent.

Case No. 1001990

OAH No. 2017010815

DECISION

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

This Decision shall become effective _____ OCT 27 2017 _____.

DATED: September 24, 2017



RYAN MARCROFT
Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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

In the Matter of the Statement of Issues
Against:

INSTITUTE FOR ADVANCED STUDY OF
HUMAN SEXUALITY,
Applicant for Renewal of Approval to
Operate a Non-Accredited Institution

Application No. 27920
Institution No. 3800061

Respondent.

Case No. 1001990

OAH No. 2017010815

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on June 5, 2017, in Oakland, California.

Jonathan D. Cooper, Deputy Attorney General, represented complainant Joanne Wenzel, Chief of the Bureau for Private Postsecondary Education.

Saman Nasser, Attorney at Law, represented respondent Institute for Advanced Study of Human Sexuality. The Chief Executive Officer of the Institute, Robert T. McIlvanna, M.Div., Ph.D., attended the hearing for the Institute.

The matter was submitted for decision on June 5, 2017.

FACTUAL FINDINGS

1. The Institute for Advanced Study of Human Sexuality (Institute) is an independent academic institution dedicated to the study of human sexual behavior and experience. Since the mid-1970's, the Institute has prepared students to perform scientific, historical, and sociological research regarding human sexuality; to educate people regarding sexual health, safety, and pleasure; and to integrate treatment for sexual concerns into other physical and mental health treatment. The Institute's graduates and faculty have produced a well-respected body of research and scholarship.

2. The State of California first approved the Institute to award graduate degrees in 1977. Over the ensuing years, the Institute added degree and certificate programs. The former Bureau for Private Postsecondary and Vocational Education reapproved the Institute to award doctorates, master's degrees, and certificates effective June 30, 2007. In particular, this approval authorized the Institute to award a Doctor of Education in Human Sexuality (Ed.D.), a Doctor of Human Sexuality (D.H.S.), and a Doctor of Philosophy in Human Sexuality (Ph.D.); a Master of Human Sexuality (M.H.S.) and a Master of Public Health in Human Sexuality (M.P.H.); and non-degree certificates in sex education, clinical sexology, erotology, sexological bodywork, and sexually transmitted disease prevention.

3. The Bureau for Private Postsecondary Education (Bureau) came into existence on January 1, 2010. The statutes creating the Bureau extended the Institute's approval through December 31, 2014. The Bureau has designated the Institute as Institution No. 380061.

4. In late 2014, the Institute applied to the Bureau to renew its approval to operate and offer educational programs. After Bureau representatives corresponded with Institute representatives and received supplemental information about the Institute's programs and administration, the Bureau denied renewal to the Institute. The Institute requested a hearing.

5. On December 19, 2016, acting in her official capacity as Chief of the Bureau, complainant Joanne Wenzel filed the statement of issues in this matter. The statement of issues alleges numerous grounds for denying renewal to the Institute, all relating to the Institute's failure to demonstrate that it satisfies and will continue to satisfy statutory and regulatory standards that apply to private postsecondary educational institutions. On this basis, complainant seeks an order denying renewal to the Institute of its approval to operate and offer educational programs.

Documentation in Support of Renewal Application

6. Robert T. McIlvenna, M.Div., Ph.D., is the President of the Institute's Board of Directors and serves as well as the Institute's Chief Administrative Officer and Chief Academic Officer. Dr. McIlvenna was primarily responsible for preparing the Institute's initial application for renewal.

7. The application included supporting documentation relating to the Institute's organization and management, governing board, mission and objectives, student agreements, financial aid policies, advertising, financial position, faculty, facilities, libraries and other learning resources, proposed 2014-15 course catalog, graduation documents, recordkeeping practices, and self-monitoring procedures. The application also stated that the Institute's mission, educational program and course offerings, facilities and equipment, and faculty had not changed substantially since the Institute's last approval in 2007. The application stated that the Institute had an Internet website.

8. After the Bureau received the renewal application, Private Postsecondary Education Specialist Unity Taylor took responsibility for evaluating it. Dr. McIlvenna asked Taylor to communicate with Dean of Students Lanae St. John regarding additional documentation to support the application. Taylor and St. John spoke several times by telephone and exchanged correspondence, and St. John submitted additional documents in response to Taylor's requests.

Basic Information About the Institute's Educational Activities

9. Taken together, and as modified in response to Taylor's inquiries, the Institute's renewal application and supporting documents show that the Institute proposes to continue offering four of the five certificates it offered between 2007 and 2014 (sex education,¹ clinical sexology, erotology, and sexological bodywork). The Institute also proposes to continue offering three professional degrees (M.H.S., M.P.H., and D.H.S.) and two academic degrees (Ed.D. and Ph.D.).

10. The Institute considers all of its programs to be graduate programs, rather than undergraduate programs, and advertises them as such.

11. The Institute provides only specialized instruction in fields relating to the overall study of human sexual behavior and experience. It neither provides general education nor requires any general education in the course of its degree and certificate programs.

12. The Institute's renewal application declines to project the number of students the Institute might serve in each of its programs during the three years following the application's submission. Instead, the application states only that the Institute's student population is "difficult to estimate." Dr. McIlvenna testified that about 20 students presently are enrolled in the Institute.

13. The Institute revised its proposed 2014-15 catalog in consultation with Taylor. As revised, the catalog states, "The Institute for Advanced Study of Human Sexuality is a private institution and is approved to operate by the Bureau of Private Postsecondary Education. Approval means the Institute has met minimum compliance standards set forth by the State of California."

14. No evidence demonstrated whether or not the Institute had an active website at the time of the hearing, or if so what information the Institute made available on that website.

15. At the time of the hearing, the Institute and its degree and certificate programs were not accredited by any accrediting agency recognized by the United States Department

¹ Although the Institute's literature calls this certificate the "Associate in Sex Education," the certificate is not an undergraduate degree.

of Education. The evidence did not establish that the Institute ever has held such accreditation.

Admissions Standards

16. The Institute's documentation states consistently that "requirements for admission into any of the Institute's programs include a baccalaureate degree or equivalent and good skills in speaking, writing and understanding the English language." The Institute requires that prospective students submit specific documents to apply for admission. These documents include a "resume including education and work in the field of human sexuality," a "letter of intent and interest," "graduate and undergraduate transcripts," and "two letters of recommendation."

17. None of the documents the Institute submitted to the Bureau explain what the Institute considers as "equivalent" to a baccalaureate degree. The documents state, however, that students "seeking entrance based on equivalency must detail such experience in their application[s] and will be considered for admission to the Master's or certificate programs only."

18. Dr. McIlvenna testified that the Institute admits registered nurses or licensed vocational nurses who lack bachelor's degrees. The Institute's literature does not mention any kind of professional licensure as a substitute for a baccalaureate degree. Dr. McIlvenna also noted that the Institute admits students with educational credentials from other countries who demonstrate health care experience, without requiring those students also to demonstrate that they hold degrees substantially equivalent to American baccalaureate degrees.

19. For the sexological bodywork certificate, the Institute requires students to "possess more than a beginner's competence in massage," and to "interview with the instructor." The catalog states no additional admissions criteria for this certificate.

20. The Institute's application and supporting documents identify no additional admissions criteria beyond those described above in Findings 16, 17, and 18 for the sex education, clinical sexology, and erotology certificates.

21. For the programs leading either to the M.H.S. degree or to the M.P.H. degree, the catalog states that the Institute's "Admissions Committee" will accept only students who show that they are "capable of work on the graduate level." No evidence established the composition of the Institute's Admissions Committee or its standards for determining prospective students' capacity for graduate-level work.

22. To be admitted to the program leading to the D.H.S. degree, a student must demonstrate to the Admissions Committee that he or she is "capable of doctoral-level professional work in human sexuality," and that he or she has a "background in therapy or counseling, or an allied sexological, erotological or health field." No evidence established the Institute's standards for evaluating whether applicants meet these criteria.

23. To be admitted to the program leading to the Ed.D. degree, a student must have completed one of the Institute's professional degrees or three of the Institute's certificate programs. In addition, the student must demonstrate to the Admissions Committee that he or she is "capable of mature scholarship and creativity." Aside from the prior educational requirements, no evidence established the Institute's standards for determining prospective students' capacity for such scholarship.

24. To be admitted to the program leading to the Ph.D. degree, a student must have completed one of the Institute's professional degrees or three of the Institute's certificate programs. In addition, the student must demonstrate to the Admissions Committee that he or she is "capable of originality of thought and excellence of scholarship." Aside from the prior educational requirements, no evidence established the Institute's standards for determining prospective students' capacity for such scholarship.

25. Dr. McIlvenna interviews all prospective certificate and degree students, and the Institute admits students only upon his approval.

Curriculum and Program Requirements

26. The Institute provided a variety of course descriptions in several versions of its catalog. The Institute also provided outlines for some courses. These descriptions and outlines failed, for any course, to provide clear statements of the courses' educational objectives; to describe the sequence and frequency of lessons; or to explain how students would demonstrate mastery of course objectives, as opposed to demonstrating simply that they had attended a course.

27. The Institute's catalogs state the number of instructional "units" each course comprises. No document states clearly or consistently, however, how many instructional hours compose a "unit." Some statements equate 2,000 hours to 24 units (83 hours per unit); others equate 500 hours to 12 units (42 hours per unit); and several courses appear to offer one unit for two full days of instruction, or approximately 16 hours per unit.

ASSOCIATE IN SEX EDUCATION CERTIFICATE

28. The Institute's sex education certificate program consists of reading materials and videos on DVD. The program description implies that the student will need a DVD player, but does not state that students will need any other tools or equipment to complete the certificate program.

29. The catalog states that the student will spend 150 hours learning from these documents and videos. The printed course materials include "self-tests," writing assignments, and evaluations that the student must complete and submit to the Institute to receive the certificate.

30. This certificate program consists entirely of self-paced, remote learning and involves no in-person interaction with faculty members or other students. Aside from reading the literature and viewing the videos, the evidence did not establish any learning objectives for students in this program, and did not establish how the Institute measures students' progress toward such objectives.

31. The evidence did not establish which faculty members, if any, are responsible for preparing, updating, or presenting course materials; for providing course materials to students; or for evaluating students' work in this program.

CLINICAL SEXOLOGY CERTIFICATE

32. The Institute's clinical sexology certificate program builds on the sex education certificate. To receive this certificate, students must complete 150 additional study hours beyond the requirements for the sex education certificate.

33. Some of these further study hours use reading materials and videos on DVD that the Institute provides. The program description implies that the student will need a DVD player, but does not state that students will need any other tools or equipment to complete this portion of the certificate program.

34. Aside from reading the literature and viewing the videos, the evidence did not establish any learning objectives for students in this program, and did not establish how the Institute measures students' progress toward such objectives. This component of the clinical sexology certificate program is self-directed, involving no in-person interaction with faculty members or other students.

35. The evidence did not establish which faculty members, if any, are responsible for preparing, updating, or presenting these course materials; for providing these course materials to students; or for evaluating students' work in this component of the clinical sexology program.

36. Clinical sexology students also must complete an approximately one-week course in person at the Institute. The Institute specifies two courses that qualify for credit toward the clinical sexology certificate; the student must choose one.

37. One of the possible in-person courses is a lecture series the Institute calls the "Wardell B. Pomeroy Lecture Series." Documentation the Institute submitted with its renewal application states that this series "consists of 30 hours of general lectures covering the core areas in the field of human sexuality." No evidence established who gives these lectures; what topics the lectures cover; or how the Institute confirms that students have learned what the Institute expects them to learn by attending the lectures. No evidence suggested that this lecture series requires students to obtain or use unusual tools or equipment.

38. The other in-person course a student may take for credit toward a clinical sexology certificate is the Institute's eight-day "Sexual Attitude Restructuring" (SAR) course. The Institute provided several example course schedules for SAR courses that had occurred during the years immediately preceding the hearing. One full day of the SAR course consists of attending the San Francisco Pride Parade, a public social event that has occurred in San Francisco on the last Sunday in June for more than 40 years and that typically attracts more than one million people. The course agenda states no educational objective for this experience other than attendance. Similarly, for the other days of the SAR course, the schedules state no specific learning objectives; rather, they list a series of brief topics (e.g., "bisexuality" and "sex and disability"). No evidence suggested that the SAR course requires students to obtain or use unusual tools or equipment.

39. The Institute's catalog does not identify the faculty members responsible for the SAR course, but the example course schedules show that Dr. Gerald Zientara recently has been responsible for planning and delivering this course. Dr. Zientara holds an Ed.D. and a Ph.D. from the Institute and serves as the Institute's librarian.

40. No evidence established how Dr. Zientara or any other Institute faculty member evaluates students' success or failure in the SAR course. Because the evidence did not establish the SAR course's educational objectives or measurement criteria, it also did not establish Dr. Zientara's qualifications for delivering the course or measuring the students' progress toward those objectives.

EROTOLOGY CERTIFICATE

41. The Institute's erotology program requires 500 "contact hours," composing a "survey course of the history of our erotic heritage of the 20th Century. The course materials include printed materials such as pornographic books and drawings; audio recordings of poetry and songs; and video recordings. The program description implies that the student will need a DVD player, but does not state that students will need any other tools or equipment to complete this certificate program.

42. To receive the erotology certificate, students must read the stories, listen to the poetry and music, and watch the videos. The program description specifies no other learning outcomes that the Institute expects from erotology students.

43. As an optional course component, students may undertake a "one-week cross-cultural experience in another country." The erotology program description states no requirements for a qualifying "cross-cultural experience." It likewise states no specific learning outcomes from such an experience that a student would need to demonstrate to qualify the experience for credit in the erotology certificate program.

44. None of the documentation supporting the Institute's application identifies faculty responsible for preparing, updating, or presenting the erotology program or for

evaluating erotology students' work. The program description identifies only self-paced, remote learning involving no in-person interaction with faculty members or other students.

SEXOLOGICAL BODYWORK CERTIFICATE

45. The bodywork program calls for students to "participate in six weeks of online home study before attending 100 classroom hours in a two-week intensive format." The home study includes streamed sex education videos and "somatic assignments," and permits online discussions among students and instructors. The program description states that the student must have a broadband Internet connection.

46. The evidence did not establish which faculty members, if any, are responsible for preparing, updating, or presenting these online course materials; for providing these course materials to students; or for evaluating students' work in this component of the bodywork program.

47. The in-person component of the course involves study of breath, sexual coaching, erotic massage, anatomy, and business practices including legal and ethical issues. The program description identifies general topics students will cover during the in-person course but does not state any specific learning outcomes the Institute expects students to take away from the course.

48. Dr. Liam Snowden is the Institute faculty member responsible for teaching the sexological bodywork certificate program and for evaluating students' performance. Dr. Snowden holds graduate degrees (M.P.H. and D.H.S.) only from the Institute. The evidence demonstrated that Dr. Snowden has training and experience regarding the subject matter of the sexological bodywork certificate program, but did not demonstrate his training or experience in evaluating student learning outcomes.

MASTER OF HUMAN SEXUALITY DEGREE

49. The M.H.S. degree requires the lecture series described above in Finding 37, as well as other courses providing a total of four full-time trimesters of study. Some of the courses involve lectures and class meetings; others allow for self-directed study using recorded video.

50. In addition to passing the required number of course units, students seeking the M.H.S. degree must pass a written comprehensive examination and must complete a thesis or other research project. The evidence did not establish which faculty members, if any, are responsible for preparing, updating, or administering the examination or for supervising and evaluating thesis projects.

MASTER OF PUBLIC HEALTH IN HUMAN SEXUALITY DEGREE

51. The Institute reported to the Bureau that the Institute's M.P.H. program requires "2,000 contact hours of study." Students must complete these 2,000 hours over two trimesters of coursework plus an additional trimester for a "Master's project or cross-cultural study."

52. M.P.H. students must complete the requirements for the sex education and clinical sexology certificates; as stated above in Findings 29 and 32, these certificates require 150 hours each of study. Some documents supporting the Institute's application also state that M.P.H. students must complete the erotology certificate (500 hours); other documents omit this requirement. M.P.H. students also must complete "courses in Public Administration and Epidemiology." The Institute's catalog describes no course in public administration; the only epidemiology course it describes is stated as being a two-unit course that is "ON DVD."

53. The evidence identified no faculty members who would teach any courses required for M.P.H. students, or who would advise such students on independent thesis or "cross-cultural" projects.

DOCTOR OF HUMAN SEXUALITY DEGREE

54. The D.H.S. degree requires the lecture series described above in Finding 37, the SAR course described above in Finding 38, and other courses providing a total of five full-time trimesters of study. Some of the courses involve lectures and class meetings; others allow for self-directed study using recorded video. D.H.S. students also make use of clinical teaching facilities available at the Institute.

55. In addition to passing the required number of course units, students seeking the D.H.S. degree must pass a written comprehensive examination and must complete a research project. The evidence did not establish which faculty members, if any, are responsible for preparing, updating, or administering the examination or for supervising and evaluating research projects.

DOCTOR OF EDUCATION IN HUMAN SEXUALITY DEGREE

56. The Ed.D. degree requires the lecture series described above in Finding 37, the SAR course described above in Finding 38, and other courses providing a total of five full-time trimesters of study. Some of the courses involve lectures and class meetings; others allow for self-directed study using recorded video.

57. In addition to passing the required number of course units, students seeking the Ed.D. degree must complete a basic research project; must pass a written comprehensive examination and an oral examination regarding the basic research project; and must complete a doctoral-level research project "which is a significant contribution to the field of sexology."

The evidence did not establish which faculty members, if any, are responsible for preparing, updating, or administering the examination or for supervising and evaluating research projects.

DOCTOR OF PHILOSOPHY IN HUMAN SEXUALITY DEGREE

58. The Ph.D. degree requires courses providing a total of five full-time trimesters of study. Some of the courses involve lectures and class meetings; others allow for self-directed study using recorded video.

59. In addition to passing the required number of course units, students seeking the Ph.D. degree must complete a basic research project; must pass a written comprehensive examination and an oral examination regarding the basic research project; and must complete a doctoral-level research or analysis project leading to a dissertation that describes "original and independent investigation of a subject in the field of sexology." The evidence did not establish which faculty members, if any, are responsible for preparing, updating, or administering the examination or for supervising and evaluating research projects.

Faculty

60. The application Dr. McIlvenna submitted in late 2014 included a list of more than 100 regular and adjunct faculty members. The Institute's 2014-15 catalog includes a similar list. Upon further inquiry by Taylor, however, St. John stated that the Institute "only has one Full-Time faculty member who teaches as well (Dr. Jerry Zientara)." St. John identified four other faculty members, who "are technically Part-Time and teach only a few days per year."

61. St. John also explained that the Institute has "no contracts for any of our faculty. . . . At the beginning of each trimester, our faculty members are asked if they will be teaching the course or courses for which they are responsible. Dates are set at that point and then the schedule is sent out to the student body."

62. St. John provided information to the Bureau showing that each of the five faculty members she had identified holds a doctoral degree from the Institute. The documents St. John provided do not show that any of these faculty members holds a post-baccalaureate degree from any other institution.

63. No documentation submitted by the Institute stated, for each faculty member, which courses she or he has taught within the past several years, or which courses the Institute intends that faculty member to teach in the future. The Institute provided no information describing any current faculty member's teaching experience; no information regarding any faculty member's service on a thesis or dissertation committee; and no evaluations of or by any faculty members.

64. Dr. McIlvenna testified that the Institute's doctoral students often work with academic advisors from other schools, who serve the Institute's students as a professional courtesy.

65. The renewal application and supporting documentation the Institute submitted initially did not include an academic freedom policy. St. John provided one in her follow-up communications with Taylor, however.

LEGAL CONCLUSIONS

1. The Bureau may grant approval for a private postsecondary school to operate only if the school demonstrates that it will follow minimum statutory and regulatory operating standards. (Educ. Code, § 94887.) Likewise, the Bureau may renew a school's approval to operate only if the school demonstrates "its continued capacity to meet the minimum operating standards." (*Id.*, § 94891, subd. (b); Cal. Code Regs., tit. 5, § 71700.) As the applicant, the Institute has the burden in this proceeding of proving by a preponderance of the evidence that it meets and can continue to meet these standards, and in particular of addressing the issues identified by complainant in the statement of issues.

2. The Institute argued that its prior approval should allow the Institute to operate as long as the Institute continues to meet the standards that applied to its prior approval. The Education Code and the regulations adopted by the Bureau do not support this argument. Instead, these statutes and regulations entitle a Bureau-approved institution to operate for a specified period of time, during which the institution must maintain compliance with the standards under which the institution received its approval.² To renew its approval to operate, however, the Institute must demonstrate its ability to comply going forward with the statutes and regulations in effect at the time of renewal.

3. The Institute's renewal application must describe the "types and amount of general education required" in its programs. (Cal. Code Regs., tit. 5, § 71745, subd. (t)(3).) The Institute's application meets this standard, as stated in Finding 11.

4. For each program, the Institute's renewal application must describe the "mode of instruction." (Cal. Code Regs., tit. 5, § 71745, subd. (t)(5).) The matters stated in Findings 28, 33, 36, 41, 43, 45, 49, 52, 54, 56, and 58 establish that the application gave such a description with respect to the Institute's four certificate programs and five degree programs.

5. The Institute's renewal application must state each program's graduation requirements. (Cal. Code Regs., tit. 5, § 71745, subd. (t)(6).) The matters stated in Findings 29, 32, 36, 42, 45, 50, 55, 57, and 59 establish that the application stated graduation

² None of complainant's allegations in this matter concern acts or omissions by the Institute before 2015.

requirements for the Institute's four certificate programs, its three doctoral degrees, and the M.H.S. degree. The matters stated in Findings 51 through 53 do not establish clear graduation requirements for the M.P.H. program.

6. The renewal application must describe the "equipment to be used during the educational program." (Cal. Code Regs., tit. 5, § 71745, subd. (u)(2).) As stated in Findings 28, 33, 36, 41, 43, 45, 49, 52, 54, 56, and 58, the Institute's application described educational programs presented on DVD, online, and through in-person lectures; as stated in Findings 28, 33, 37, 38, 41, 49, 52, 54, 56, and 58, none of the Institute's course descriptions stated or reasonably implied any need for other special tools or equipment. This information satisfied this application requirement.

7. For each of the Institute's education programs, the application must describe the "number and qualifications of the faculty needed to teach the educational program." (Cal. Code Regs., tit. 5, § 71745, subd. (u)(3).) The matters stated in Findings 12, 31, 35, 37, 44, 46, 50, 53, 55, 57, 59, 60, 61, and 63 establish that the Institute has neither ascertained nor described the number and qualifications of faculty necessary for the Institute's program offerings.

8. The Bureau requires a renewing institution to project "the number of students that the institution plans to enroll in the educational program during each of the three years following the date the application was submitted." (Cal. Code Regs., tit. 5, § 71745, subd. (u)(4).) As stated in Finding 12, the Institute did not do so.

9. The Institute's renewal application materials must describe "the learning, skills, and other competencies to be acquired by students who complete the educational program. (Cal. Code Regs., tit. 5, § 71745, subd. (u)(5).) As stated in Findings 26, 30, 34, 37, 38, 42, 43, 45, 47, and 52, the Institute has failed to provide such descriptions for many of its programs.

10. A private postsecondary institution must have "specific written standards for student admissions for each educational program." (Cal. Code Regs., tit. 5, § 71770, subd. (a).) In addition, such a school must require that students admitted into any post-baccalaureate program have "a bachelor's degree or its equivalent." (*Id.*, subd. (a)(2).) As stated in Finding 16, the Institute requires a bachelor's degree or its equivalent for all admissions. Nevertheless, the matters stated in Findings 17 through 25 do not establish overall that the Institute has specific written admissions standards for each of its programs.

11. For each individual course a private postsecondary institution offers, the institution must make a syllabus or course outline available to students. (Cal. Code Regs., tit. 5, § 71710, subd. (c).) The syllabus must state the course's educational objectives; must state the class sequence and frequency; and must state either a "detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured." (*Id.*, subs. (c)(2), (c)(4), (c)(6).) The matters stated in Findings 26, 29, 33, 37,

38, 41, 45, and 47 establish that the Institute did not provide such outlines or syllabi for many of its courses.

12. Each of the Institute's educational programs must include "specific learning outcomes tied to the sequence of the presentation of the material to measure the students' learning of the material." (Cal. Code Regs., tit. 5, § 71710, subd. (e).) As described in Findings 26, 30, 34, 37, 38, 42, 43, 45, and 47 many of the Institute's courses and programs lack such clear outcomes.

13. The Institute also must ensure that each of its programs includes "evaluation by duly qualified faculty" of students' mastery of the intended program skills or knowledge. (Cal. Code Regs., tit. 5, § 71710, subd. (f).) As described in Findings 26, 31, 35, 37, 40, 44, 48, 50, 53, 55, 57, 59, and 63 the Institute has failed to demonstrate that its students will receive such evaluation.

14. Private postsecondary institutions may offer distance education, consisting of instruction that "does not require the physical presence of students and faculty at the same location but provides for interaction between students and faculty by such means as telecommunication, correspondence, electronic and computer augmented educational services, postal service, and facsimile transmission." (Cal. Code Regs., tit. 5, § 71715, subd. (d).) As stated in Findings 28, 33, 41, 45, and 52, the Institute offers a variety of its courses and certificate programs using distance education.

15. Institutions using distance education must assess students before admission to ensure that the students can profit from distance education; must ensure that distance learning materials are up to date and have been prepared by faculty competent to design such materials; must "provide for meaningful interaction with faculty who are qualified to teach using distance education methods"; and must "maintain clear standards for academic progress." The matters stated in Findings 16 through 25, 30, 34, 44, and 45 do not establish that the Institute's distance education programs meet these standards.

16. For degree-granting programs, a private postsecondary institution must have faculty who possess, collectively, "a diverse educational background which shall be demonstrated in part by earned degrees from a variety of colleges and universities." (Cal. Code Regs., tit. 5, § 71720, subd. (a)(5).) The matters stated in Finding 60, 61, and 62 do not show that the Institute has such a diverse faculty.

17. A degree-granting private postsecondary institution must have a policy that describes "the latitude the institution allows faculty in the classroom so faculty will not inadvertently violate the principles of academic freedom." (Cal. Code Regs., tit. 5, § 71720, subd. (a)(8).) As stated in Finding 65, the Institute has such a policy.

18. The Institute also must "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.” (Cal. Code Regs., tit. 5, § 71720, subd. (a)(9).) As stated in Finding 64, the evidence did not establish that the Institute has any such records.

19. “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.” (Cal. Code Regs., tit. 5, § 71865, subd. (a).) As stated in Findings 51 through 53, the evidence did not demonstrate that the Institute’s criteria for awarding the M.P.H. degree meet this standard.

20. A Ph.D. program must include “a minimum of two formal evaluations of the student by a doctoral committee. The doctoral committee shall be composed of at least three members of the institution's own faculty.” (Cal. Code Regs., tit. 5, § 71865, subd. (c)(2)(A).) The matters stated in Findings 60 and 61 do not show that the Institute meets this standard.

21. Furthermore, at least half of the faculty on a student’s Ph.D. committee “shall have degrees conferred by an institution accredited by an accrediting association recognized by the United States Department of Education or the American Bar Association.” (Cal. Code Regs., tit. 5, § 71865, subds. (c)(2)(A), (c)(3)(C).) The matters stated in Finding 62 show that the Institute cannot meet this standard.

22. The Bureau cannot renew an institution’s approval to operate without a complete application. (Cal. Code Regs., tit. 5, § 71745, subd. (kk).) The matters stated in Legal Conclusions 7, 8, and 9 show that the Institute’s application is not complete.

23. If the Bureau approves the Institute’s renewal application, the Institute’s catalog must state “that the institution is a private institution and that it is approved to operate by the bureau.” (Educ. Code, § 94909, subd. (a)(2).) As stated in Finding 13, the Institute’s proposed catalog includes this information.

24. A private postsecondary institution that maintains an Internet website must include particular information on the site. (Educ. Code, § 94913, subd. (a).) The matters stated in Findings 7 and 14 show that the Institute has had a website, but did not establish whether the website currently operates or if so includes the information this statute requires.

25. Despite the Institute’s historic contributions to the academic study of human sexuality, the Institute did not demonstrate that it will continue, going forward, to offer graduate-level education meeting California’s statutory and regulatory standards. Under these circumstances, the public interest supports the Bureau’s decision to deny renewal of the Institute’s approval to operate and offer educational programs.

ORDER

The application by the Institute for Advanced Study of Human Sexuality for renewal of its approval to operate and offer educational programs as Institution No. 380061 is denied.

DATED: June 26, 2017

DocuSigned by:
Juliet E. Cox
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JULIET E. COX
Administrative Law Judge
Office of Administrative Hearings

