

1 XAVIER BECERRA
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
E-mail: Char.Sachson@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 1000650

13 **SILICON VALLEY UNIVERSITY**
2010 Fortune Drive
14 San Jose, CA 95131

ACCUSATION

15 **Accredited Institution Approval to Operate**
No. 4306571

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about March 12, 1999, the Bureau for Private Postsecondary Education granted
24 an Accredited Institution Approval to Operate Silicon Valley University (Respondent). The
25 Accredited Institution Approval to Operate was in full force and effect at all times relevant to the
26 charges brought herein and will expire on December 31, 2017, unless renewed. Pursuant to
27 Respondent's Accredited Institution Approval to Operate, Respondent is permitted to teach the
28 following programs:

1 Bachelor of Business Administration and Management

2 Bachelor of Computer Engineering

3 Bachelor of Computer Science

4 Doctor of Computer Engineering

5 Master of Business Administration

6 Master of Computer Engineering

7 Master of Computer Science

8 English as a Second Language

9 JURISDICTION

10 3. This Accusation is brought before the Director of the Department of Consumer
11 Affairs (Director) for the Bureau for Private Postsecondary Education, under the authority of the
12 following laws. All section references are to the Education Code unless otherwise indicated.

13 4. **Section 118, subdivision (b), of the Business and Professions Code** provides that
14 the expiration of a license shall not deprive the Director of jurisdiction to proceed with a
15 disciplinary action during the period within which the license may be renewed, restored, reissued
16 or reinstated.

17 5. **Section 94900** of the Code states:

18 "(a) An institution shall maintain records of the name, address, e-mail address, and
19 telephone number of each student who is enrolled in an educational program in that institution.

20 "(b) An institution shall maintain, for each student granted a degree or certificate by that
21 institution, permanent records of all of the following:

22 "(1) The degree or certificate granted and the date on which that degree or certificate was
23 granted.

24 "(2) The courses and units on which the certificate or degree was based.

25 "(3) The grades earned by the student in each of those courses."

26 6. **Section 94900.5** states, in part:

27 "An institution shall maintain, for a period of not less than five years, at its principal place
28 of business in this state, complete and accurate records of all of the following information:

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“(b) The names and addresses of the members of the institution's faculty and records of the educational qualifications of each member of the faculty.

“(c) Any other records required to be maintained by this chapter, including, but not limited to, records maintained pursuant to Article 16 (commencing with Section 94928).”

7. Section 94901 states:

“(a) An institution's recruiters shall be employees.

“(b)(1) An institution shall issue identification to each recruiter identifying the recruiter and the institution.

“(2) The recruiter shall have the issued identification with him or her while recruiting.”

8. Section 94902 states, in part:

“(a) A student shall enroll solely by means of executing an enrollment agreement. The enrollment agreement shall be signed by the student and by an authorized employee of the institution.

“(b) An enrollment agreement is not enforceable unless all of the following requirements are met:

“(1) The student has received the institution's catalog and School Performance Fact Sheet prior to signing the enrollment agreement.

...

“(3) Prior to the execution of the enrollment agreement, the student and the institution have signed and dated the information required to be disclosed in the Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of Section 94910. Each of these items in the Student Performance Fact Sheet shall include a line for the student to initial and shall be initialed and dated by the student.

“(c) A student shall receive a copy of the signed enrollment agreement, in writing or electronically, regardless of whether total charges are paid by the student.”

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2 RELEVANT REGULATIONS

3 9. **California Code of Regulations, title 5, section 71710** states:

4 In order to meet its mission and objectives, the educational program defined in section
5 94837 of the Code shall be comprised of a curriculum that includes:

6 “(a) those subject areas that are necessary for a student to achieve the educational objectives
7 of the educational program in which the student is enrolled;

8 “(b) subject areas and courses or modules that are presented in a logically organized manner
9 or sequence to students;

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

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

14 “(2) a statement of educational objectives;

15 “(3) length of the educational program;

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

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

18 “(6) sequential and detailed outline of subject matter to be addressed or a list of skills to be
19 learned and how those skills are to be measured;

20 “(7) instructional mode or methods.

21 “(d) if degree granting, require research of an appropriate degree that utilizes a library and
22 other learning resources;

23 “(e) specific learning outcomes tied to the sequence of the presentation of the material to
24 measure the students' learning of the material; and

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

26 10. **California Code of Regulations, title 5, section 71715** states, in part:

27 “(a) Instruction shall be the central focus of the resources and services of the institution.
28

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

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

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

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

14 “(c) If credit for prior experiential learning is to be granted, the policy for granting such
15 credit shall be included in the institution's catalog.

16 “(1) An institution may grant credit to a student for prior experiential learning only if:

17 “(A) The prior learning is equivalent to a college or university level of learning;

18 “(B) The learning experience demonstrates a balance between theory and practice and;

19 “(C) The credit awarded for the prior learning experience directly relates to the student's
20 degree program and is applied in satisfaction of some of the degree requirements.

21 “(2) Each college or university level learning experience for which credit is sought shall be
22 documented by the student in writing.

23 “(3) Each college or university level learning experience shall be evaluated by faculty
24 qualified in that specific subject area who shall ascertain (1) to what college or university level
25 learning the student's prior experience is equivalent and (2) how many credits toward a degree
26 may be granted for that experience.

27 “(4) The faculty evaluating the prior learning shall prepare a written report indicating all of
28 the following:

1 “(A) The documents in the student's record on which the faculty member relied in
2 determining the nature of the student's prior experience;

3 “(B) The bases for determining that the prior experience (i) is equivalent to college or
4 university level learning and (ii) demonstrates a balance between theory and practice; and

5 “(C) The bases for determining (i) to what college or university level the experience is
6 equivalent and (ii) the proper number of credits to be awarded toward the degree for that
7 experience.

8 “(5)(A) The institution shall designate at least one administrator to be responsible for the
9 review of faculty determinations regarding the award of credit for prior experiential learning.

10 “(B) The administrator shall document the institution's periodic review of faculty
11 evaluations to assure that the faculty written evaluations and awards of credit comply with this
12 section and the institution's policies and are consistent.

13 “(6) The amount of credit awarded for prior experiential learning shall not be related to the
14 amount charged the student for the assessment process.

15 “(7)(A) Of the first 60 semester credits awarded a student in an undergraduate program, no
16 more than 15 semester credits may be awarded for prior experiential learning.

17 “(B) Of the second 60 semester units (i.e., credits 61 to 120) awarded a student in an
18 undergraduate program, no more than 15 semester credits may be awarded for prior experiential
19 learning.

20 “(C) Of the first 30 semester credits awarded a student in a graduate program, no more than
21 6 semester credits may be awarded for prior experiential learning.

22 “(D) Of the second 30 semester credits (i.e., credits 31 to 60) awarded a student in a
23 graduate program, no more than 3 semester credits may be awarded for prior experiential learning.

24 “(E) No credit for experiential learning may be awarded after a student has obtained 60
25 semester credits in a graduate program.”

26 12. **California Code of Regulations, title 5, section 71810** states, in part:

27 “(a) Each institution shall provide a catalog pursuant to section 94909 of the Code, which
28 shall be updated annually. Annual updates may be made by the use of supplements or inserts

1 accompanying the catalog. If changes in educational programs, educational services, procedures,
2 or policies required to be included in the catalog by statute or regulation are implemented before
3 the issuance of the annually updated catalog, those changes shall be reflected at the time they are
4 made in supplements or inserts accompanying the catalog.

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

7 ...

8 “(10) A description of library and other learning resources and the procedures for student
9 access to those resources;

10 ...”

11 13. **California Code of Regulations, title 5, section 71920** states, in part:

12 “(a) The institution shall maintain a file for each student who enrolls in the institution
13 whether or not the student completes the educational service.

14 “(b) In addition to the requirements of section 94900, the file shall contain all of the
15 following pertinent student records:

16 “(1) Written records and transcripts of any formal education or training, testing, or
17 experience that are relevant to the student's qualifications for admission to the institution or the
18 institution's award of credit or acceptance of transfer credits including the following:

19 “(A) Verification of high school completion or equivalency or other documentation
20 establishing the student's ability to do college level work, such as successful completion of an
21 ability-to-benefit test;

22 ...

23 “(3) Copies of all documents signed by the student, including contracts, instruments of
24 indebtedness, and documents relating to financial aid;

25 “(4) Records of the dates of enrollment and, if applicable, withdrawal from the institution,
26 leaves of absence, and graduation; and

27 “(5) In addition to the requirements of section 94900(b) of the Code, a transcript showing
28 all of the following:

- 1 a. Respondent failed to maintain accurate records related to information contained on
2 School Performance Fact Sheets (SPFS) supporting data and Student Tuition Recovery
3 Fund (STRF) Assessment reporting forms.
- 4 b. Respondent failed to maintain complete student files.
- 5 c. Respondent submitted inaccurate 2016 STRF Assessment Reporting forms, in that it
6 submitted forms indicating that 11,423 students had signed Enrollment Agreements in
7 2016, when in fact, only 766 students had signed Enrollment Agreements in 2016.

8 SECOND CAUSE FOR DISCIPLINE
9 (Requirements for Recruiters)
10 (Educ. Code section 94901(a))

11 20. Respondent has subjected its approval to operate to disciplinary action for hiring
12 recruiters who were not employed by Respondent. (Educ. Code § 94901(a)). In particular:

- 13 a. Respondent used recruiters who were employed by a company located in Taiwan and
14 not employed by Respondent.

15 THIRD CAUSE FOR DISCIPLINE
16 (General Enrollment Requirements)
17 (Educ. Code section 94902(a))

18 21. Respondent has subjected its approval to operate to disciplinary action for failing to
19 properly execute an Enrollment Agreement. (Educ. Code § 94902(a)). In particular:

- 20 a. Respondent enrolled student V.P.¹ without executing an enrollment agreement signed
21 by its authorized representative.

22 FOURTH CAUSE FOR DISCIPLINE
23 (Educational Program)
24 (Code of Regulations section 71710(b))

25 22. Respondent has subjected its approval to operate to disciplinary action for failing to
26 comprise a curriculum that includes subject areas and courses or modules that are presented in a
27 logically organized manner or sequence to students. (Code of Regulations section 71710(b)). In
28 particular:

¹ Student initials are used herein to protect student privacy. Student names will be provided pursuant to a discovery request.

- 1 a. Respondent's Program Objectives and Curriculum for its Masters in Science in
2 Computer Science (MSCS) Program listed 36 credit hours total. Of the 36 credit hours,
3 18 credits were for Science Graduate Core courses, and 18 were for elective courses.
4 None of the electives were listed for the Program Objectives and Curriculum, and
5 Respondent therefore did not demonstrate that the program and its subject areas and
6 courses were presented in a logically organized manner or sequence.

7 FIFTH CAUSE FOR DISCIPLINE
8 (Educational Program)
9 (Code of Regulations section 71710(c)(7))

10 23. Respondent has subjected its approval to operate to disciplinary action for failing to
11 provide each student with a syllabus or course outline that contains the course's instructional
12 mode or methods. (Code of Regulations section 71710(c)(7)). In particular:

- 13 a. The syllabi for Respondent's MSCS program did not include the program's
14 instructional mode or method.

15 SIXTH CAUSE FOR DISCIPLINE
16 (Educational Program)
17 (Code of Regulations section 71710(e) and (f))

18 24. Respondent has subjected its approval to operate to disciplinary action for failing to
19 comprise a curriculum that includes specific learning outcomes tied to the sequence of the
20 presentation of the material to measure the students' learning of the material, and evaluation by
21 duly qualified faculty of those learning outcomes. (Code of Regulations sections
22 71710(e) and (f)). In particular:

- 23 a. Respondent's "Program Objectives and Curriculum" lacked specific learning
24 outcomes tied to the sequence of the presentation of the material and how those learning
25 outcomes would be evaluated by duly qualified faculty.

26 SEVENTH CAUSE FOR DISCIPLINE
27 (Admission Standards)
28 (Code of Regulations section 71770(a))

29 25. Respondent has subjected its approval to operate to disciplinary action for failing to
30 establish and/or adhere to specific written standards for student admissions for each educational
31 program, and for admitting students who are obviously unqualified or who do not appear to have

1 a reasonable prospect of completing the program. (Code of Regulations section 71770(a)). In
2 particular:

- 3 a. Respondent had an admission requirement that all international students must
4 demonstrate that they are English proficient by taking either a Test of English as a
5 Foreign Language (TOEFL) or an English placement test. Respondent also had a policy
6 which permitted students who were not English proficient to enroll in English as a
7 Second Language (ESL) courses simultaneous to taking coursework related to a degree.
8 However, Respondent permitted students who were not English proficient to take
9 degree related coursework taught solely in English, without concurrently taking ESL
10 classes.

11 EIGHTH CAUSE FOR DISCIPLINE
12 (Admission Standards and Transferred Credits Policy)
(Code of Regulations section 71770(b)(2))

13 26. Respondent has subjected its approval to operate to disciplinary action for failing to
14 comprise a curriculum that limited transfer credits from other institutions to 20% of total degree
15 credits. (Code of Regulations section 71770(b)(2)). In particular:

- 16 a. Respondent permitted at least one student to apply nine transfer credits to his MSCS,
17 which required 36 credits. 20% of 36 credits would have been a maximum of 7.2
18 credits. Additionally, Respondent's 2017 Catalog listed the transfer credit policy as
19 permitting the transfer of nine credits for a 36 credit Master's Program, which is in
20 excess of 20%.

21 NINTH CAUSE FOR DISCIPLINE
22 (Catalog)
(Code of Regulations section 71810(b)(10))

23 27. Respondent has subjected its approval to operate to disciplinary action for having a
24 catalog that failed to describe a library and other learning resources, and the procedures for
25 students to access those resources. (Code of Regulations section 71810 (b)(10)). In particular:

- 26 a. Respondent's 2017 Catalog did not contain the procedures for students to follow in
27 order to access the library and other learning resources.

28 TENTH CAUSE FOR DISCIPLINE

(Student Records)
(Code of Regulations section 71920(b)(1)(A))

28. Respondent has subjected its approval to operate to disciplinary action for failing to maintain the following pertinent student records: written records and transcripts of any formal education or training, testing, or experience that are relevant to the student's qualifications for admission to the institution or the institution's award of credit or acceptance of transfer credits including verification of high school completion or equivalency or other documentation establishing the student's ability to do college level work, such as successful completion of an ability-to-benefit test. (Code of Regulations section 71710 (b)). In particular:

- a. At least one student file did not contain documentation that the student had met an English proficiency requirement such as TOEFL or International English Language Testing System (IELTS) score or English Placement Test.

ELEVENTH CAUSE FOR DISCIPLINE
(Required Institutional Records)
(Code of Regulations section 71920(b)(3) and Code section 94900.5(c))

29. Respondent has subjected its approval to operate to disciplinary action for failing to maintain, at its principle place of business, for at least five years, student files containing all documents signed by the student, including contracts, instruments of indebtedness, and documents related to financial aid. (Code of Regulations section 71920(b)(3) and Code section 94900.5(c)). In particular:

- a. Several student files maintained by Respondent did not contain Enrollment Agreements.

TWELFTH CAUSE FOR DISCIPLINE
(Student Records)
(Code of Regulations section 71920(b)(5)(e))

30. Respondent has subjected its approval to operate to disciplinary action for failing to maintain student transcripts containing Respondent's name, address, website address, or telephone number. (Code of Regulations section 71920 (b)(5)(e) and Code section 94900.5(c)). In particular:

- a. Several student files maintained by Respondent in 2016 did not contain Respondent's name, address, website address, or telephone number.

1 THIRTEENTH CAUSE FOR DISCIPLINE
2 (Agents for Service of Process; Changes)
(Code of Regulations section 74190)

3 31. Respondent has subjected its approval to operate to disciplinary action for failing to
4 notify the Bureau of its current agent for service of process. (Code of Regulations section 74190).

5 In particular:

- 6 a. Respondent's agent for service of process, J.S., left Respondent in January, 2017. As
7 of March 8, 2017, Respondent had not notified the Bureau of a new agent for service of
8 process, and J.S. was still listed in the Bureau's records as the agent for service of
9 process.

10 FOURTEENTH CAUSE FOR DISCIPLINE
11 (Amount of STRF Assessment)
(Code of Regulations section 76120(a))

12 32. Respondent has subjected its approval to operate to disciplinary action for failing in
13 its Enrollment Agreements to indicate that non-resident students of California are eligible for
14 protection under and recovery from the Student Tuition Recovery Fund (STRF) (Code of
15 Regulations section 76120(a)). In particular:

- 16 a. Between 2010 and 2017, Respondent's Enrollment Agreements incorrectly provided
17 that only U.S. Citizens and U.S. Permanent Residents were eligible for protection under
18 and recovery from the STRF.

19 FIFTEENTH CAUSE FOR DISCIPLINE
20 (Collection and Submission of Assessments)
(Code of Regulations section 76130(a))

21 33. Respondent has subjected its approval to operate to disciplinary action for failing to
22 collect STRF assessments from non-resident students between 2010 and 2017. (Code of
23 Regulations section 76130(a)) In particular:

- 24 a. Between 2010 and 2017, Respondent's Enrollment Agreements incorrectly provided
25 that only U.S. Citizens and U.S. Permanent Residents were eligible for protection under
26 and recovery from the STRF.

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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 the Department of Consumer Affairs issue a decision:

- 1. Revoking or suspending or otherwise imposing discipline upon Accredited Institution Approval to Operate No. 4306571;
- 2. Ordering Respondent to pay the Bureau the reasonable costs of the investigation and enforcement of this case; and
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 12/27/17



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