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

In the Matter of the Statement of Issues Against: **AMERICAN SCIENCE UNIVERSITY;** **KATHERINE KIM, applicant;** **PETER WADA and MINORU INENO,** **owners** **Approval to Operate an Institution Non-Accredited Applicant** Respondent.	Case No. 999519 **STATEMENT OF ISSUES**

19   Complainant alleges:

20   **PARTIES**

21   1.   Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official

22 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of

23 Consumer Affairs.

24   2.   On or about December 14, 2011, the Bureau received an Application for Approval to

25 Operate an Institution Non-Accredited (application number 24223) from Katherine Kim on behalf

26 of American Science University (Respondent). On March 21 and April 27, 2012, the Bureau sent

27 Respondent letters outlining the deficiencies in its application. On May 14 and July 15, 2012, the

28 Bureau received a letter and email, respectively, responding to the Bureau's deficiency letters.

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1   3.   On September 16, 2013, the Bureau issued an additional deficiency letter. On

2   November 12, 2013, the Bureau received a response to its deficiency letter. On January 10, 2014,

3   the Bureau sent Respondent a Notice of Denial of Application for Approval to Operate. On

4   March 6, 2014, Peter Wada, on behalf of Respondent, sent the Bureau a letter requesting an

5   administrative hearing.

JURISDICTION

7   4.   This Statement of Issues is brought before the Director of the Department of

8   Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the

9   authority of the following laws. All section references are to the California Education Code

10   unless otherwise indicated.

STATUTORY PROVISIONS

12   5.   Section 94886 of the Code states:

13   "Except as exempted in Article 4 (commencing with Section 94874) or in compliance with

14   the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,

15   conduct, or do business as a private postsecondary educational institution in this state without

16   obtaining an approval to operate under this chapter."

17   6.   Section 94887 of the Code states:

18   "An approval to operate shall be granted only after an applicant has presented sufficient

19   evidence to the bureau, and the bureau has independently verified the information provided by the

20   applicant through site visits or other methods deemed appropriate by the bureau, that the

21   applicant has the capacity to satisfy the minimum operating standards. The bureau shall deny an

22   application for an approval to operate if the application does not satisfy those standards."

23   7.   Section 94899 of the Code states:

24   "If an institution offers an educational program in a profession, occupation, trade, or career

25   field that requires licensure in this state, the institution shall have an educational program

26   approval from the appropriate state licensing agency to conduct that educational program in order

27   that a student who completes the educational program, except as provided in Section 94905, is

28   eligible to sit for any required licensure examination."

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8.   Section 94909 of the Code states:

"(a) Prior to enrollment, an institution shall provide a prospective student, either in writing or electronically, with a school catalog containing, at a minimum, all of the following:

. . .

"(5) A description of the programs offered and a description of the instruction provided in each of the courses offered by the institution, the requirements for completion of each program, including required courses, any final tests or examinations, any required internships or externships, and the total number of credit hours, clock hours, or other increments required for completion.

. . .

"(7) Information regarding the faculty and their qualifications.

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

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

. . .

"(14) A description of the student's rights and responsibilities with respect to the Student Tuition Recovery Fund. This statement shall specify that it is a state requirement that a student who pays his or her tuition is required to pay a state-imposed assessment for the Student Tuition Recovery Fund. This statement shall also describe the purpose and operation of the Student Tuition Recovery Fund and the requirements for filing a claim against the Student Tuition Recovery Fund.

. . . ."

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9.   Section 94911 of the Code states in relevant part:

"An enrollment agreement shall include, at a minimum, all of the following:

"(a) The name of the institution and the name of the educational program, including the total number of credit hours, clock hours, or other increment required to complete the educational program.

. . . .

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

. . . ."

<div align="center">REGULATORY PROVISIONS</div>

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

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

11.   California Code of Regulations, title 5, section 71310 states:

"(a) The Form Application 94886 shall contain a description of how records required by Article 9 of the Act or this chapter are or will be organized and maintained, the types of documents contained in student files, how the records are stored, and whether academic and financial records are maintained in separate files. The description shall include a statement of the institution's procedures for security and safekeeping of records.

"(b) The description shall include the name, physical address, email address, and telephone number of the custodian of records, and the physical addresses and telephone numbers of the offices or buildings where the records will be maintained."

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

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

13. California Code of Regulations, title 5, section 71710 states in relevant part:

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

. . .

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

. . .

"(5) complete citations of textbooks and other required written materials; [and]

. . .

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

14. California Code of Regulations, title 5, section 71720 states in relevant part:

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

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

"(2) Each institution shall develop and implement written policies and procedures providing for the participation by duly qualified faculty in the conducting of research, development of curricula, academic planning, enforcement of standards of academic quality, pursuit of academic matters related to the institution's mission and objectives, establishment of criteria for contracting with new faculty, and evaluation of faculty credentials;

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"(3) In determining the number of faculty sufficient to satisfy subdivision (a)(1) of this section and to implement the policies established pursuant to subdivision (a)(2) of this section, the institution shall base its faculty requirements on all of the following factors:

"(A) The educational level and number of students;

"(B) The number of hours needed for direct interaction between students and faculty per course, quarter, semester, or other term;

"(C) The number of hours needed to be spent on evaluating written materials prepared by students, such as distance education, papers, and examinations, per course, quarter, semester, or other term;

"(D) The number of group meetings per course, quarter, semester, or other term;

"(E) The faculty duties established by the institution as required under subdivision (a)(2) of this section; and

"(F) The number of hours per week or units per term considered full-time for faculty in the institution.

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

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

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

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

"(B) The degree, professional license, or credential possessed by the person shall be at least equivalent to the level of instruction being taught or evaluated;"

. . . ."

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1   15.   California Code of Regulations, title 5, section 71735 states:

2   "(a) An institution shall have sufficient facilities and necessary equipment to support the

3   achievement of the educational objectives of all of the courses and educational programs in which

4   students are enrolled. If an institution represents that the educational service will fit or prepare a

5   student for employment in a particular occupation or as described in particular job titles, either of

6   the following conditions shall be met:

7   "(1) The equipment used for instruction or provided to the student shall be comparable in

8   model type or features to equipment generally used in those occupations or job titles at the time

9   the instruction is offered.

10   "(2) The institution shall establish that the equipment used for instruction or provided to a

11   student is not obsolete and is sufficient for instructional purposes to reasonably assure that a

12   student acquires the necessary level of education, training, skill, and experience to obtain

13   employment in the field of training and to perform the tasks associated with the occupation or job

14   title to which the educational program was represented to lead.

15   "(b) An institution's facilities, including heating and cooling, ventilation, lighting,

16   classrooms, laboratories, and campus environs, shall be well-maintained. The institution shall

17   maintain all valid permits required by any public agencies relating to the health and safety of the

18   institution's facilities and equipment on file, and such permits shall be available to the Bureau

19   upon request."

20   16.   California Code of Regulations, title 5, section 71740 states in relevant part:

21   "(a) A degree granting institution shall make available for student use a library and other

22   learning resources.

23   "(b) An institution shall provide or make provisions for the library and other learning

24   resources needed to support each educational program it offers, including resources such as

25   reference works, periodicals, monographs, and media and equipment specific to the educational

26   programs offered.

27   . . .

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

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

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

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

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

17.   California Code of Regulations, title 5, section 71770 states in relevant part:

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

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

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

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

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

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

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

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

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

18.   California Code of Regulations, title 5, section 71800 states in relevant part:

"In addition to the requirements of section 94911 of the Code, an institution shall provide to each student an enrollment agreement that contains at the least the following information:

. . .

"(b) Period covered by the enrollment agreement.

. . . ."

19.   California Code of Regulations, title 5, section 71810 states in relevant part:

. . .

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

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

. . .

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

. . .

"(13) Housing information including all of the following:

. . .

"(B) The availability of housing located reasonably near the institution's facilities and an estimation of the approximate cost or range of cost of the housing; and

. . . ."

20.   California Code of Regulations, title 5, section 76120 states in relevant part:

"(a) Each qualifying institution shall collect an assessment of fifty cents ($.50) per one thousand dollars ($1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident or is enrolled in a residency program. For institutional charges of one thousand dollars ($1,000) or less, the assessment is fifty cents ($.50).

. . . ."

21.   California Code of Regulations, title 5, section 76215 states:

"(a) A qualifying institution shall include the following statement on both its enrollment agreement for an educational program and its current schedule of student charges:

"'You must pay the state-imposed assessment for the Student Tuition Recovery Fund (STRF) if all of the following applies to you:

'1. You are a student in an educational program, who is a California resident, or are enrolled in a residency program, and prepay all or part of your tuition either by cash, guaranteed student loans, or personal loans, and

'2. Your total charges are not paid by any third-party payer such as an employer, government program or other payer unless you have a separate agreement to repay the third party.

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'You are not eligible for protection from the STRF and you are not required to pay the STRF assessment, if either of the following applies:

'1. You are not a California resident, or are not enrolled in a residency program, or

'2. Your total charges are paid by a third party, such as an employer, government program or other payer, and you have no separate agreement to repay the third party.'

"(b) In addition to the statement described under subdivision (a) of this section, a qualifying institution shall include the following statement on its current schedule of student charges:

'The State of California created the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic losses suffered by students in educational programs who are California residents, or are enrolled in a residency programs attending certain schools regulated by the Bureau for Private Postsecondary and Vocational Education.

'You may be eligible for STRF if you are a California resident or are enrolled in a residency program, prepaid tuition, paid the STRF assessment, and suffered an economic loss as a result of any of the following:

'1. The school closed before the course of instruction was completed.

'2. The school's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purpose, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the school.

'3. The school's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the school prior to closure in excess of tuition and other costs.

'4. There was a material failure to comply with the Act or this Division within 30 days before the school closed or, if the material failure began earlier than 30 days prior to closure, the period determined by the Bureau.

'5. An inability after diligent efforts to prosecute, prove, and collect on a judgment against the institution for a violation of the Act.'

"However, no claim can be paid to any student without a social security number or a taxpayer identification number."

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CAUSES FOR DENIAL OF APPLICATION

FIRST CAUSE FOR DENIAL OF APPLICATION
(Noncompliance with Minimum Operating Standards; Complete Application)
(Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700; 71310, subd. (b); and 71770, subd. (a))

22. Respondent's application is subject to denial because it failed to submit a complete application. Respondent's application is incomplete on the following grounds:

    a.   Respondent's application fails to adequately identify its custodian of records. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71310, subd. (b)). In particular, in section 22 of its application, Respondent lists Hiro Hamada as the custodian of records. But in its description of records, Respondent lists Katherine Kim as the custodian of records. Respondent also failed to identify the custodian of records in response to the Bureau's September 16, 2013 deficiency letter.

    b.   Respondent's application does not offer an admission policy and procedure for its English as a Second Language (ESL) program. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71770, subd. (a)). Respondent also failed to provide this policy and procedure in response to the Bureau's September 16, 2013 deficiency letter.

SECOND CAUSE FOR DENIAL OF APPLICATION
(Noncompliance with Minimum Operating Standards; Student Agreement)
(Educ. Code §§ 94886, 94887, and 94911, subds. (a) and (d); Cal. Code Regs., title 5, § 71700; 76120, subd. (a); 76215, subds. (a) and (b); and 71800, subd. (b))

23. Respondent's application is subject to denial based on Respondent's failure to demonstrate that it is able to offer a student enrollment agreement that complies with California law. This conclusion is appropriately drawn from the following deficiencies in Respondent's proposed enrollment agreement:

    a.   Respondent's proposed enrollment agreement fails to state the total number of credit hours, clock hours, or other increment required to complete the education program. (Educ. Code §§ 94886, 94887, and 94911, subd. (a); Cal. Code Regs., title 5, § 71700).

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b.   Respondent's proposed enrollment agreement fails to state the period covered by the enrollment agreement. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71800, subd. (b)).

c.   Respondent's proposed enrollment agreement fails to include the correct assessment fee for the Student Tuition Recovery Fund (STRF), as a nonrefundable charge, in the schedule of total charges. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 76120, subd. (a)). In particular, Respondent's proposed enrollment agreement states that the non-refundable STRF fee is $2.50 for every $1,000, rounded to the nearest $1,000. On January 2013, the Bureau informed all private postsecondary institutions that the STRF assessment fee was reduced to 0.50 cents for every $1,000.

d.   Respondent's proposed enrollment agreement does not contain the complete language related to the STRF, as required by California Code of Regulations, title 5, section 76215, subdivisions (a) and (b). (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 76215, subds. (a) and (b)).

e.   Respondent's proposed enrollment agreement does not contain a clear and conspicuous statement that the enrollment agreement is legally binding when signed by the student and accepted by the institution. (Educ. Code §§ 94886, 94887, and 94911, subd. (d); Cal. Code Regs., title 5, § 71700)

THIRD CAUSE FOR DENIAL OF APPLICATION
(Noncompliance with Minimum Operating Standards; Instruction and Degrees Offered)
(Educ. Code §§ 94886, 94887, and 94899; Cal. Code Regs., title 5, §§ 71700 and 71710, subd. (c) and (f))

24.   Respondent's application is subject to denial based on Respondent's failure to demonstrate that it has the ability to offer instruction and degrees in compliance with California law. This conclusion is appropriately drawn from the following deficiencies in Respondent's application:

a.   Respondent failed to offer sufficient information from which the Bureau could determine whether the course syllabi meet the minimum requirements of the educational programs. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71710, subd.

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(c)(5) and (f)). In particular, Respondent submitted the following course syllabi for review: VN112 Nursing Pharmacology, VCN137 Mental Health Nursing, VCN131 Gerontology for Nurses, PP454 Principles of Physics, OM472 Introduction to Herbology, OM555 Introduction to Herbology, ACU501 Acupuncture Principle, ACU506 Acupuncture Microsystems, HRB555 Herbology IV, ESL 43 Beginning Writing II, ESL 57 Intermediate Oral Communication II, ESL 62 Advance Reading and Composition III, and TFL 70 Listening Practice 8 in English. All of the course syllabi were deficient in that they did not contain complete citations of textbooks and other required written materials and did not appear to be evaluated by duly qualified faculty of those learned outcome.

b.   Respondent failed to offer sufficient information from which the Bureau could determine whether the curriculum was developed by duly qualified faculty. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71710, subd. (c)). In particular, Respondent failed to identify the individual(s) responsible for developing the curriculum for each of the educational programs.

c.   Respondent failed to submit educational program approval from the appropriate state licensing agency for the Master in Traditional Chinese Medicine, Licensed Vocational Nurse, and Certified Nurse Assistant. (Educ. Code §§ 94886, 94887, and 94899; Cal. Code Regs., title 5, § 71700).

<u>FOURTH CAUSE FOR DENIAL OF APPLICATION</u>
(Noncompliance with Minimum Operating Standards; Faculty)
(Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71720, subd. (a))

25.   Respondent's application is subject to denial based on Respondent's failure to demonstrate that it is able to offer faculty in compliance with California law. This conclusion is appropriately drawn from the following deficiencies in Respondent's application:

a.   The Bureau is unable to determine from Respondent's application if the faculty listed in Respondent's proposed catalog are actually employed by the institution. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71720, subd. (a)). In particular, Respondent submitted four (4) employment contracts out of the twelve (12) faculty listed for the proposed programs. Respondent failed to provide copies of employment contracts for the

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following listed faculty members: Hugh Morison, Ajmal Mohammed, Mai Layyous, Hong Lee, Jong Choi, Jung E. Kim, Yang Lu, and Paul Meyer Floyd.

b. The Bureau is unable to determine from Respondent's application whether the faculty Respondent may employ meet the minimum qualification for "duly qualified faculty." (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71720, subd. (a)(4)(A)(1)(2) and (B)). In particular, Bureau cannot establish whether Respondent's proposed faculty constitutes "duly qualified faculty" because Respondent failed to provide transcripts for the following faculty members listed in the application and catalog: Hugh Morison, Ajmal Mohammed, Mai Layyous, Hong Lee, Jong Choi, Jung E. Kim, Yang Lu, and Paul Meyer Floyd.

c. Respondent failed to submit a list of faculty assignments which include their teaching status as part-time or full-time. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71720(a)(3)(A) through (F)).

d. Respondent failed to submit a list of faculty members for the following educational programs: ESL, TOEFL, Licensed Vocational Nurse, and Certified Nurse Assistant. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71720, subd. (a)(1)).

e. The Bureau is unable to determine from Respondent's application if Respondent has a written policy and procedure for the participation of faculty conducting research, development of curricula, academic planning, enforcement of standards of academic quality, pursuit of academic matters related to Respondent's mission and objectives, establishment of criteria for contracting with new faculty, and evaluation of faculty credentials. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71720, subd. (a)(2)).

FIFTH CAUSE FOR DENIAL OF APPLICATION
(Noncompliance with Minimum Operating Standards; Catalog)
(Educ. Code §§ 94886; 94887; and 94909, subds. (a)(5), (a)(7), (a)(8)(A), and (a)(14); Cal. Code Regs., title 5, §§ 71700; 71770, subd. (b); 71810, subds. (b)(1), (b)(10), and (b)(13)(B); 76120, subd. (a); and 76215, subds. (a) and (b)

26. Respondent's application is subject to denial based on Respondent's failure to demonstrate that it is able to offer an institution catalog that complies with California law. This conclusion is appropriately drawn from the following deficiencies:

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1   a.   Respondent's proposed institution catalog does not contain specific beginning

2 and ending dates defining the time period covered by the catalog. (Educ. Code §§ 94886 and

3 94887; Cal. Code Regs., title 5, §§ 71700 and 71810, subd. (b)(1)).

4   b.   Respondent's proposed institution catalog does not contain a description of

5 library and other learning resources and the procedures for student access to those resources.

6 (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71810, subd. (b)(10)).

7   c.   Respondent's proposed institution catalog does not specify the maximum credit

8 Respondent will transfer from another institution for each educational program. (Educ. Code §§

9 94886, 94887, and 94909, subd. (a)(8)(A); Cal. Code Regs., title 5, §§ 71700 and 71770, subd.

10 (b)). In particular, Respondent's proposed catalog (page 34) indicates that Respondent may

11 accept a maximum of 30% of the prerequisite credits for transfer. But the catalog is not clear

12 with regard to which educational program this transfer policy applies.

13   d.   Respondent's proposed institution catalog does not state course descriptions for

14 each of the courses in the ESL program. (Educ. Code §§ 94886, 94887, and 94909, subd. (a)(5);

15 Cal. Code Regs., title 5, § 71700). In particular, Respondent's catalog provides duplicate course

16 descriptions for the following ESL classes: ESL 42 Beginning Writing I, ESL 43 Beginning

17 Writing II, ESL 46 Beginning Oral Communication I, ESL 47 Beginning Oral Communication II,

18 ESL 54 Intermediate Reading I, ESL 55 Intermediate Reading II, ESL 56 Intermediate Oral

19 Communication I and ESL 56 Intermediate Oral Communication II, ESL 63 Advanced Oral

20 Communication I, and ESL 64 Intermediate Oral Communication II.

21   e.   Respondent's proposed institution catalog does not contain the complete

22 specific, required language regarding the STRF. (Educ. Code §§ 94886, 94887, and 94909, subd.

23 (a)(14); Cal. Code Regs., title 5, §§ 71700 and 76215, subds. (a) and (b)). In particular, the

24 relevant language in Respondent's proposed catalog is not the verbatim required language and

25 contains missing sentences.

26   f.   Respondent's proposed institution catalog does not contain complete

27 information regarding the faculty and their qualifications. (Educ. Code §§ 94886, 94887, and

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94909, subd. (a)(7); Cal. Code Regs., title 5, § 71700). In particular, eight (8) faculty members identified in the application documents are not listed in the catalog.

g. Respondent's proposed institution catalog does not provide updated and current information regarding the amount of the STRF assessment fee. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 76120, subd. (a)). In particular, the catalog states that the non-refundable STRF fee is $2.50 for every $1,000, rounded to the nearest $1,000. In January 2013, the Bureau informed all private postsecondary institutions that the STRF assessment fee was reduced to 0.50 cents for every $1,000.

h. Respondent's proposed institution catalog does not contain information regarding the availability of housing located reasonably near Respondent's facilities and an estimation of the approximate cost or range of cost of the housing. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71810, subd. (b)(13)(B)).

SIXTH CAUSE FOR DENIAL OF APPLICATION
(Noncompliance with Minimum Operating Standards; Library)
(Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71270, 71700, and
71740, subds. (a), (b), and (d)(1) through (4))

27. Respondent's application is subject to denial based on Respondent's failure to demonstrate that it has the ability to offer a library in compliance with California law. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71270, 71700, and 71740, subds. (a), (b), and (d)(1) through (4)). In particular, Respondent has stated that, if further resources are needed, students are advised to access local public libraries. Respondent has failed to provide a copy of the library services memorandum or contract. Furthermore, Respondent failed to provide evidence that it has contracted with a professional librarian or an information specialist experienced in the electronic retrieval of information.

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SEVENTH CAUSE FOR DENIAL OF APPLICATION
(Noncompliance with Minimum Operating Standards; Facilities)
(Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and
71735, subds. (a) and (b))

28.   Respondent's application is subject to denial based on Respondent's failure to demonstrate that it has the capacity to offer sufficient facilities and necessary equipment in compliance with California law. (Educ. Code §§ 94886 and 94887; Cal. Code Regs., title 5, §§ 71700 and 71735, subds. (a) and (b)). In particular, Respondent's application does not provide a copy of the facility lease agreement and business license. Respondent also failed to provide these documents in response to the Bureau's September 16, 2013 deficiency letter.

PRAYER

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

1.   Denying Respondent's application for an Approval to Operate an Institution Non-Accredited; and

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

DATED: _8/22/14_   _____

JOANNE WENZEL
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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