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

11
12 In the Matter of the Statement of Issues
Against:
13 **INSTITUTE OF BUDDHIST STUDIES**
14 **Application for Renewal of Approval to**
15 **Operate an Institution Non-Accredited**
16 **Institute Code: 0101141**
17 Respondent.

Case No. 1002147

STATEMENT OF ISSUES

18
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 March 29, 2012, the Bureau for Private Postsecondary Education
25 (“Bureau”) received an Application for Renewal of Approval to Operate an Institution Non-
26 Accredited (application number 24628) from the Institute of Buddhist Studies (“Respondent”).
27 On or about April 26, 2012, the Bureau issued a deficiency letter to Respondent describing
28 deficiencies in its application.

1 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
2 has the capacity to satisfy the minimum operating standards. The bureau shall deny an
3 application for an approval to operate if the application does not satisfy those standards.”

4 STATUTORY & REGULATORY PROVISIONS

5 9. **Section 94897, subdivision (p)** provides:

6 “An institution shall not do any of the following:

7 . . .

8 “(p) Offer an associate, baccalaureate, master’s, or doctoral degree without disclosing to
9 prospective students prior to enrollment whether the institution or the degree program is
10 unaccredited and any known limitation of the degree, including, but not limited to, all of the
11 following:

12 “(1) Whether a graduate of the degree program will be eligible to sit for the applicable
13 licensure exam in California and other states.

14 “(2) A statement that reads: ‘A degree program that is unaccredited or a degree from an
15 unaccredited institution is not recognized for some employment positions, including, but not
16 limited to, positions with the State of California.’

17 “(3) That a student enrolled in an unaccredited institution is not eligible for federal financial
18 aid programs.”

19 10. **Section 94900, subdivision (b)** provides:

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.”

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1 11. **Section 94909, subdivisions (a)(8)(B) and (a)(16)** provide:

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

5 ...

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

7 “(B) Cancellation, withdrawal, and refund policies, including an explanation that the
8 student has the right to cancel the enrollment agreement and obtain a refund of charges paid
9 through attendance at the first class session, or the seventh day after enrollment, whichever is
10 later. The text shall also include a description of the procedures that a student is required to
11 follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund
12 consistent with the requirements of Article 13 (commencing with Section 94919).

13 ...

14 “(16) A statement specifying whether the institution, or any of its degree programs, are
15 accredited by an accrediting agency recognized by the United States Department of Education. If
16 the institution is unaccredited and offers an associate, baccalaureate, master's, or doctoral degree,
17 or is accredited and offers an unaccredited program for an associate, baccalaureate, master's, or
18 doctoral degree, the statement shall disclose the known limitations of the degree program,
19 including, but not limited to, all of the following:

20 “(A) Whether a graduate of the degree program will be eligible to sit for the applicable
21 licensure exam in California and other states or become certified or registered as required for the
22 applicable profession, occupation, trade, or career field in California.

23 “(B) A degree program that is unaccredited or a degree from an unaccredited institution is
24 not recognized for some employment positions, including, but not limited to, positions with the
25 State of California.

26 “(C) That a student enrolled in an unaccredited institution is not eligible for federal
27 financial aid programs.”

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1 12. **Section 94913** provides:

2 “(a) An institution that maintains an Internet Web site shall provide on that Internet Web
3 site all of the following:

4 “(1) The school catalog.

5 “(2) A School Performance Fact Sheet for each educational program offered by the
6 institution.

7 “(3) Student brochures offered by the institution.

8 “(4) A link to the bureau's Internet Web site.

9 “(5) The institution's most recent annual report submitted to the bureau.

10 “(b) An institution shall include information concerning where students may access the
11 bureau's Internet Web site anywhere the institution identifies itself as being approved by the
12 bureau.”

13 13. **Code of Regulations, title 5, section 71475, subdivision (u)(3)** provides:

14 “(u) For each educational program that the institution offers or proposes to offer, the
15 application shall contain a statement that the educational program meets the requirements of
16 section 71710, as well as the following unless there have been no substantive changes since the
17 last submission. If there have been no substantive changes made the institution may so state and is
18 not required to provide documentation:

19 ...

20 “(3) A description of the number and qualifications of the faculty needed to teach the
21 educational program.”

22 14. **Code of Regulations, title 5, section 71600** provides:

23 “(a) An institution seeking to make a significant change in its method of instructional
24 delivery shall complete the ‘Significant Change in Method of Instructional Delivery’ form (INS
25 rev. 2/10) to obtain prior authorization. For the purposes of this section a ‘significant change in
26 instructional delivery’ is any change that alters the way students interact with faculty or access
27 significant equipment. The form shall be submitted to the Bureau along with the appropriate fee
28 as provided in Section 94930.5(c) of the Code. For an institution approved under section 94885 of

1 the Code, it shall be signed and dated by the signatory(ies) required by section 71380, and for an
2 institution approved under section 94890 of the Code, it shall be signed and dated by the
3 signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto
4 shall be declared to be true under penalty of perjury, in the following form:

5 “I declare under penalty of perjury under the laws of the State of California that the
6 foregoing and all attachments are true and correct.

7 _____
8 (Date)

_____’
(Signature)

9 “(b) The application shall establish that the institution, if making a significant change in its
10 method of instructional delivery, can meet the minimum operating standards contained in Chapter
11 3, and shall include:

12 “(1) The name, school code, address, and telephone and fax numbers of the institution;

13 “(2) A description of the proposed new method of instructional delivery, and how the
14 curriculum will be changed or adapted to meet the change in delivery method;

15 “(3) A detailed explanation of the reasons for the proposed change;

16 “(4) A description of how the change affects students, administration, and the institution's
17 financial resources;

18 “(5) If the proposed change will result in any significant changes in existing faculty,
19 facilities, library or learning resources, the institution shall provide the applicable information
20 required by Section 71250 through 71270, inclusive;

21 “(6) A description of how the institution will phase in the new method of instructional
22 delivery;

23 “(7) The name, address, email address, and telephone and fax numbers of the institution's
24 contact person for the purpose of this application; and

25 “(8) Any additional information required by the Bureau pursuant to section 71340.

26 “(c) An institution that has been granted an approval to operate by means of accreditation
27 shall notify the Bureau of the substantive change within 30 days of that change on the Change of
28 Instruction form by providing the information required in section (b)(1) and (b)(7), and shall

1 attach certification from the institution's accreditation agency demonstrating that the substantive
2 change was made in accordance with the institution's accreditation standards, and complies with
3 the Act and this Division.”

4 15. **Code of Regulations, title 5, section 71720, subdivision (a)** provides:

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

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

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

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

19 “(A) The educational level and number of students;

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

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

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

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

28

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

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

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

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

13 “2. a credential generally recognized in the field of instruction.

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

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

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

23 “(7) The institution shall not employ or continue to employ any faculty who were
24 adjudicated in a judicial or administrative proceeding as having violated any provision of the Act
25 or this chapter or as having committed any act that would constitute grounds for the denial of a
26 license under Section 480 of the Business and Professions Code;

27 “(8) Each institution shall have a written Academic Freedom Policy which describes the
28 latitude the institution allows faculty in the classroom so faculty will not inadvertently violate the

1 principles of academic freedom. These policies shall be made available to any person upon
2 request. The institution shall not take adverse action based on a staff member's exercise of
3 academic freedom consistent with the institution's policy; and

4 “(9) The institution shall maintain records documenting that each faculty member is duly
5 qualified and was qualified to perform the duties to which the faculty member was assigned,
6 including providing instruction, evaluating learning outcomes, evaluating graduate dissertations,
7 theses, and student projects, and participating on doctoral committees.”

8 16. **Code of Regulations, title 5, section 71810, subdivision (b)** provides, in part:

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

11 . . .

12 “(3) If the institution admits students from other countries, whether visa services are
13 provided or whether the institution will vouch for student status, and any associated charges;

14 . . .

15 “(5) Whether any instruction will occur in a language other than English and, if so, the level
16 of proficiency required and the kind of documentation of proficiency, such as the United States
17 Foreign Service Language Rating System, that will be accepted;

18 . . .

19 “(13) Housing information including all of the following:

20 . . .

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

23 . . .”

24 **FIRST CAUSE FOR DENIAL OF APPLICATION**

(Description of Educational Programs)

(Cal. Code Regs., title 5, §§ 71475, subd. (u)(3) and 71720, subd. (a))

25 17. Respondent's application is subject to denial because Respondent has failed to
26 provide the description of the number and qualifications of the faculty needed to teach its
27 educational programs. (Cal. Code Regs., title 5, §§ 71475, subd. (u)(3) and 71720, subd. (a)). In
28

1 particular, Respondent fails to state the number of faculty members that will be needed to teach
2 each educational program or the required qualifications of faculty members specific to each
3 program.

4
5 SECOND CAUSE FOR DENIAL OF APPLICATION

(Catalog)

6 (Educ. Code §§ 94897, subd. (p)(2), 94900, subd. (b) and 94909, subds. (a)(8)(B) and (a)(16)(B);
7 and Cal. Code Regs., title 5, §§ 71600 and 71810, subds. (b)(3), (b)(5), and (b)(13)(B))

8 18. Respondent's application is subject to denial because it contains and omits statements
9 required by the law. (Educ. Code §§ 94900, subd. (b), and 94909, subds. (a)(8)(B) and (a)(16)(B);
10 and Cal. Code Regs., title 5, §§ 71600 and 71810, subds. (b)(3), (b)(5), and (b)(13)(B)).

11 a. Respondent's catalog states that the institution offers online courses. This is a
12 change in the method by which Respondent offers courses that has not been approved by the
13 Bureau pursuant to Code of Regulations, title 5, section 71600. (Cal. Code Regs., title 5, §
14 71600).

15 b. Respondent's catalog incorrectly refers to itself as a contract that may be
16 cancelled by written notice. (Educ. Code §§ 94909, subds. (a)(8)(B) and (a)(16)(B)).

17 c. Respondent's catalog is ambiguous about whether foreign students are admitted
18 to the institution. If Respondent admits foreign students, the catalog fails to state whether visa
19 services are provided or whether the institution will vouch for student status and any associated
20 charges. (Cal. Code Regs., title 5, § 71810, subd. (b)(3)).

21 d. Respondent's catalog fails to state whether any instruction will occur in a
22 language other than English and, if so, the level of proficiency required and the kind of
23 documentation of proficiency, such as the United States Foreign Service Language Rating
24 System, that will be accepted. (Cal. Code Regs., title 5, § 71810, subd. (b)(5)).

25 e. Respondent's catalog fails to state housing information, including the
26 availability of housing located reasonably near the institution's facilities and an estimation of the
27 approximate cost or range of cost of the housing. (Cal. Code Regs., title 5, § 71810, subd.
28 (b)(13)(B)).

1 f. Respondent's catalog states a policy for retention of student records that is not
2 compliant with the law, which requires permanent retention of such records. (Cal. Educ. Code §§
3 94897, subd. (p)(2) and 94900, subd. (b)).

4 THIRD CAUSE FOR DENIAL OF APPLICATION

(Institution Website)
5 (Educ. Code § 94913, subd. (a)(2))

6 19. Respondent's application is subject to denial because Respondent's internet website
7 fails to include a School Performance Fact Sheet for each educational program it offers. (Educ.
8 Code § 94913, subd. (a)(2)).

9 FOURTH CAUSE FOR DENIAL OF APPLICATION

(Qualified Faculty)
10 (Cal. Code Regs., title 5, §§ 71720, subds. (a)(1) and (a)(4))

11 20. Respondent's application is subject to denial because Respondent has failed to
12 demonstrate that it employs duly qualified faculty and that its faculty has sufficient expertise
13 to support the institution's awarding of a degree. (Cal. Code Regs., title 5, §§ 71720, subds.
14 (a)(1) and (a)(4)). In particular:

15 a. Respondent has not provided the transcripts for all of the members of its
16 faculty.

17 b. Transcripts Respondent provided, including unevaluated degrees from
18 institutions outside of the United State or Canada, do not comply with Code of Regulations, title
19 5, section 71720, subdivision (a)(4)(1).

20 c. By failing to provide transcripts of its faculty, Respondent has failed to
21 demonstrate that it employs duly qualified faculty (Cal. Code Regs., title 5, §§ 71720, subd.
22 (a)(1)); Respondent's faculty has sufficient expertise to support the institutions' awarding of a
23 degree identifying a specialty or major field of emphasis (Cal. Code Regs., title 5, §§ 71720,
24 subd. (a)(4); and each member of Respondent's faculty possesses a degree that meets the
25 requirements of Code of Regulations, title 5, section 71720, subdivision (a)(4)(A).

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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. Denying the Application for Renewal of Approval to Operate an Institution Non-Accredited of the Institute of Buddhist Studies; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 7/13/17



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

SF2016202237