ROB BONTA
Attorney General of California
JOSHUA A. ROOM
Supervising Deputy Attorney General
CARTER OTT
Deputy Attorney General
State Bar No. 221660
 455 Golden Gate Avenue, Suite 11000
 San Francisco, CA 94102-7004
 Telephone: (415) 510-3485
 Facsimile: (415) 703-5480
 E-mail: Carter.Ott@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case Number BPPE22-673
AMERICAN INNOVATION UNIVERSITY, formerly SILICON VALLEY UNIVERSITY 2010 Fortune Drive San Jose, CA 95131	**ACCUSATION**
Approval to Operate Institution Non-Accredited Number 42693428	
Respondent.	

PARTIES

1.   Deborah Cochrane (Complainant) brings this Accusation solely in her official

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

Consumer Affairs.

2.   On or about May 24, 2021, the Bureau for Private Postsecondary Education (Bureau)

issued Approval to Operate an Institution Non-Accredited Institution Code Number 42693428 to

Silicon Valley University, a California corporation. On or about May 7, 2024, the Bureau

approved Silicon Valley University's request to change its name to American Innovation

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University (Respondent). Respondent's Approval to Operate was in full force and effect at all times relevant to the charges brought herein, and will expire on May 24, 2026, unless renewed.

JURISDICTION

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

4. Section 94875 states, in part:

". . . . The bureau shall regulate private postsecondary educational institutions through the powers granted, and duties imposed, by this chapter. . . ."

5. Section 94876 states, in part:

"(a) The powers and duties set forth in this chapter are vested in the Director of Consumer Affairs, who may delegate them to a bureau chief, subject to the provisions of this section. The bureau chief shall work in collaboration with the director. The director is responsible for the implementation of this chapter and he or she shall ensure that the protection of the public is the bureau's highest priority.

. . .

"(c) Each power granted to, or duty imposed upon, the bureau under this chapter shall be exercised and performed in the name of the bureau, subject to any conditions and limitations the director may prescribe. The bureau chief may delegate any powers or duties to a designee.

. . . ."

6. Section 94885, subdivision (a) states, in part:

"(a) The bureau shall adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur:

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

. . .

"(3) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program's goals.

. . .

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"(5) The directors, administrators, and faculty are properly qualified.

. . .

"(8) Adequate records and standard transcripts are maintained and are available to students.

"(9) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws."

7.   Section 94886 states:

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

8.   Section 94932 states:

"The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to monitor compliance. When the bureau has reason to believe that an institution may be out of compliance, it shall conduct an investigation of the institution. If the bureau determines, after completing a compliance inspection or investigation, that an institution has violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this article."

STATUTORY AND REGULATORY PROVISIONS

9.   Section 94834 states:

"'Distance education' means transmission of instruction to students at a location separate from the institution."

10.   Section 94893 states:

"If an institution intends to make a substantive change to its approval to operate, the institution shall receive prior authorization from the bureau. Except as provided in subdivision (a) of Section 94896, if the institution makes the substantive change without prior bureau authorization, the institution's approval to operate may be suspended or revoked."

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1   11.   Section 94894, subdivision (f) states:

2   "The following changes to an approval to operate are considered substantive changes and

3   require prior authorization:

4   . . .

5   "(f) A change of name."

6   12.   Section 94897, subdivisions (j)(2) and (q) state:

7   "An institution shall not do any of the following:

8   . . .

9   "(j) In any manner make an untrue or misleading change in, or untrue or misleading

10   statement related to, a test score, grade or record of grades, attendance record, record indicating

11   student completion, placement, employment, salaries, or financial information, including any of

12   the following:

13   . . .

14   "(2) Information or records relating to the student's eligibility for student financial aid at the

15   institution.

16   . . .

17   "(q) In any manner commit fraud against, or make a material untrue or misleading

18   statement to, a student or prospective student under the institution's authority or the pretense or

19   appearance of the institution's authority."

20   13.   Section 94913, subdivisions (a)(3) and (a)(4) state:

21   "(a) An institution that maintains an internet website shall provide on that internet website

22   all of the following:

23   . . .

24   "(3) Student brochures offered by the institution.

25   "(4) A link to the bureau's internet website."

26   14.   Section 94937, subdivision (a)(2) states:

27   "(a) As a consequence of an investigation, which may incorporate any materials obtained or

28   produced in connection with a compliance inspection, and upon a finding that an institution has

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committed a violation, the bureau may place an institution on probation or may suspend or revoke an institution's approval to operate for:

. . .

"(2) A material violation or repeated violations of this chapter or regulations adopted pursuant to this chapter that have resulted, or may result, in harm to students. For purposes of this paragraph, "material violation" includes, but is not limited to, misrepresentation, fraud in the inducement of a contract, and false or misleading claims or advertising, upon which a student reasonably relied in executing an enrollment agreement and that resulted, or may result, in harm to the student."

15.   California Code of Regulations, title 5, section 71630 states, in part:

"(a) An institution seeking to change its name shall complete the 'Change of Name' form (NAME rev. 2/10) to obtain prior authorization. The form shall be submitted to the Bureau along with the appropriate fee as provided in Section 94930.5(c) of the Code. For an institution approved under section 94885 of the code it shall be signed and dated by the signatory(ies) required by section 71380, for an institution approved under section 94890 of the code it shall be signed and dated by the signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

"'I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

"'(Date)

"'(Signature)'

"(b) The application shall include:

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

"(2) The proposed new name;

"(3) A detailed explanation of the reasons for the proposed change in name;

"(4) Copies of advertising and other statements to be disseminated to the public in any manner by the institution or its representatives that announce or use the proposed name;

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"(5) The name, address, email address, and telephone and fax numbers of the institution's contact person for the purpose of this application; and

"(6) Any additional information required by the Bureau pursuant to section 71340.

. . . ."

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

"(a) 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:

. . .

"(3) 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:

. . .

"(C) Length of the educational program;

"(D) Sequence and frequency of lessons or class sessions;

. . .

"(4) If degree granting, require research of an appropriate degree that utilizes a library and other learning resources;

"(5) Specific learning outcomes tied to the sequence of the presentation of the material to measure the students' learning of the material; and

"(6) Evaluation by duly qualified faculty of those learning outcomes."

17.   California Code of Regulations, title 5, section 71715 states, in part:

. . .

"(c) Direct instruction requires the physical presence of one or more students and one or more faculty members at the same location. Direct instruction includes instruction presented in a classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or other physical learning settings consistent with the mission, purposes, and objectives of the institution.

"(d) Distance education as defined in section 94834 of the Code, does not require the physical presence of students and faculty at the same location but provides for interaction

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between students and faculty by such means as telecommunication, correspondence, electronic and computer augmented educational services, postal service, and facsimile transmission. In addition to the other requirements of this chapter and the Act, an institution offering distance education shall:

. . .

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

. . .

"(5) maintain clear standards for satisfactory academic progress;

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

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

"(8) shall maintain a record of the dates on which lessons, projects, and dissertations were received and responses were returned to each student."

18.   California Code of Regulations, title 5, section 71740, subdivision (d)(2) states:

"(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:

. . .

"(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."

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19. California Code of Regulations, title 5, section 74117 states:

"In addition to the requirement in Section 94913(b) of the Code, an institution that maintains a website shall provide on the homepage of that website clear and conspicuous links to all the items required in Section 94913(a) of the Code."

COST RECOVERY

20. Section 94937, subdivision (a) states that the "bureau may seek reimbursement pursuant to Section 125.3 of the Business and Professions Code."

21. Business and Professions Code section 125.3 provides, in part, that the Bureau may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

PART I – RESPONDENT'S WEBSITE

22. Respondent maintains a website for its school, located at www.svuca.org. Respondent's website, in part, reads "Full Financial Aid Available." But Respondent is not accredited and therefore financial aid is not available to cover student tuition.

23. In addition, a review of Respondent's website showed that it does not contain student brochures provided by Respondent as well as a link to the Bureau's website.

FIRST CAUSE FOR DISCIPLINE

(Prohibited Business Practice – Untrue or Misleading Statement)

24. Respondent subjected its Approval to Operate to discipline for making untrue or misleading statements. (Educ. Code §§ 94937, subd. (a)(2) and 94897, subds. (j)(2) and (q)).) As stated in paragraph 22, above:

a. Respondent made an untrue or misleading statement related to financial information, including information or records relating to the student's eligibility for student financial aid at the institution, in violation of Section 94897, subdivision (j)(2).

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b.   Respondent made a material untrue or misleading statement to a student or prospective student under the institution's authority or the pretense or appearance of the institution's authority, in violation Section 94897, subdivision (q).

SECOND CAUSE FOR DISCIPLINE

(Website Requirements)

25.   Respondent subjected its Approval to Operate to discipline in that Respondent's institution website fails to contain clear and conspicuous links to all the items required by Section 94913(a). (Educ. Code §§ 94937, subd. (a)(2) and 94913, subds. (a)(3) and (a)(4); and Cal. Code Regs., title 5, section 74117.) In particular, as stated in paragraphs 22 and 23, above, Respondent's website fails to provide the following:

a.   Student brochures offered by the institution, as required by Section 94913, subdivision (a)(3); and

b.   A link to the Bureau's Internet website, as required by Section 94913, subdivision (a)(4).

PART II – INSTRUCTION AND PROGRAMS

26.   In issuing Respondent's Approval to Operate, the Bureau granted Respondent provisional approval to offer, provide instruction in, and award a Masters of Science Degree in Computer Science via either direct instruction or hybrid instruction. Direct instruction "requires the physical presence of one or more students and one or more faculty members at the same location. Direct instruction includes instruction presented in a classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or other physical learning settings consistent with the mission, purposes, and objectives of the institution." (Cal. Code Reg., title 5, § 71715, subd. (c).)

27.   Hybrid instruction means a mix of direct instruction and distance education. Distance education "means transmission of instruction to students at a location separate from the institution" "by such means as telecommunication, correspondence, electronic and computer augmented educational services, postal service, and facsimile transmission." (Educ. Code §94834; and Cal. Code Reg., title 5, § 71715, subd. (d).)

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28.   Schools offering distance education use various online systems (referred to as "Learning Management Systems" or "LMS") to create, distribute, and manage the delivery of educational content. Schools offering distance education also may choose to offer a livestream of their instruction via a real-time video streaming software program (or "Livestream") such as Zoom. The Bureau previously approved Respondent's use of an LMS called "Moodle"[1] and a Livestream program called "Big Blue Button"[2] to provide distance education.

29.   In or about July 2023, Bureau staff conducted an evaluation of Respondent's distance education methods, and found the following issues of concern:

a.   No instructional materials were found in the LMS. The textbook is identified, and the syllabus is posted; however, there are no accessible project prompts, exams, or other formal assessments. There is no observable evidence that "LMS is used for [. . .] required completion of course assignments and projects," as Respondent indicated when it obtained its Approval to Operate.

b.   It is not clear what a student is required to do because there do not appear to be any recent posts showing assignments or clarifications. Also, on or about July 27, 2023, via Respondent's Livestream, Bureau staff observed a professor asking a student repeatedly what work the student had done in a way that seemed to imply neither the professor nor the student were clear about what should have been completed during the previous week.

c.   Neither assessments nor a mechanism for formal assessment was observed; there were no assignments identified or deadlines noted in the LMS.

d.   The gradebook shows only these categories: Projects (a single-graded event), a Midterm, and a Final, totaling 100%. No actual required assessments, assignments, or deadlines were noted in the LMS.

e.   Outside of a brief disclosure in the syllabus that "[a]ll students are encouraged to use library-collected reference books," there is no evidence of a research requirement being articulated or enforced.

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[1] https://docs.moodle.org/404/en/About_Moodle

[2] https://bigbluebutton.host/rtmp-live-streaming/

1   f.   Via Respondent's Livestream, the Bureau staff observed a professor (AT)

2 providing instruction by narrating his work on SQL database coding and entries and occasionally

3 interacting with the one student in attendance. AT reviewed the student's work aloud and

4 explained why it was not "perfect." AT had an extremely casual, improvised presentation style

5 with no set structure or evident lecture outline. The portion of the class session observed was

6 more like a lab session than a lecture.

7   g.   The length of recorded sessions shows class is only meeting weekly for one to

8 two hours on average. That is not sufficient class time for the units conferred as the classes are

9 not meeting between 6:00 to 9:00 p.m. as scheduled, and three hours of lecture per week for 15

10 weeks is required for a three-unit course.

THIRD CAUSE FOR DISCIPLINE

(Distance Education Instruction)

13   30.   Respondent subjected its Approval to Operate to discipline for failing to offer

14 distance education instruction in compliance with California Code of Regulations, title 5, section

15 71715. (Educ. Code § 94937, subd. (a)(2); and Cal. Code Regs., title 5, § 71715, subds. (d)(3),

16 (d)(5), (d)(6), (d)(7), and (d)(8).) In particular:

17   a.   As stated in paragraph 29, subparagraphs (a) and (f), above, Respondent fails to

18 ensure that the materials and programs are current, well organized, designed by faculty competent

19 in distance education techniques as required by California Code of Regulations, title 5, section

20 71715, subdivision (d)(3).

21   b.   As stated in paragraph 29, subparagraph (b), above, Respondent fails to

22 maintain clear standards for satisfactory academic progress as required by California Code of

23 Regulations, title 5, section 71715, subdivision (d)(5).

24   c.   As stated in paragraph 29, subparagraph (c), above, Respondent fails to timely

25 complete student evaluations of learning outcomes by duly qualified faculty, which are

26 appropriate for use with the distance education methods used, and evaluated by duly qualified

27 faculty as required by California Code of Regulations, title 5, section 71715, subdivision (d)(6).

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d.   As stated in paragraph 29, subparagraph (d), above, Respondent fails to employ a sufficient number of faculty to ensure that (a) the institution's response to, or evaluation of, each student lesson is returned to the student within 10 days after the lesson is received by the institution; and (b) the institution's response to, or evaluation of, each student project or dissertation is returned to the student within the time disclosed in the catalog as required by California Code of Regulations, title 5, section 71715, subdivision (d)(7).

e.   As stated in paragraph 29, subparagraph (d), above, Respondent fails to maintain records of the dates on which lessons, projects, and dissertations were received and responses were returned to each student as required by California Code of Regulations, title 5, section 71715, subdivision (d)(8).

FOURTH CAUSE FOR DISCIPLINE

(Inadequate Curriculum)

31.   Respondent subjected its Approval to Operate to discipline in that Respondent's curriculum fails to comply with the requirements of California Code of Regulations, title 5, section 71710, subdivision (a). (Educ. Code § 94937, subd. (a)(2) and; Cal. Code Regs., title 5, § 71710, subds. (a)(3)(C), (a)(4), (a)(5), and (a)(6).) In particular:

a.   As stated in paragraph 29, subparagraph (a), above, Respondent's curriculum fails to include specific learning outcomes tied to the sequence of the presentation of the material to measure the students' learning of the material as required by California Code of Regulations, title 5, section 71710, subdivision (a)(5).

b.   As stated in paragraph 29, subparagraph (a), above, Respondent's curriculum fails to include evaluation by duly qualified faculty of learning outcomes as required by California Code of Regulations, title 5, section 71710, subdivision (a)(6).

c.   As stated in paragraph 29, subparagraph (e), above, although Respondent's curriculum is degree-granting, the curriculum fails to require research of an appropriate degree that utilizes a library and other learning resources as required by California Code of Regulations, title 5, section 71710, subdivision (a)(4).

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d.   As stated in paragraph 29, subparagraph (g), above, Respondent's syllabus posted in its LMS misrepresents the sequence and frequency of lessons or class sessions, and therefore the length of the educational programs in violation of California Code of Regulations, title 5, section 71710, subdivisions (a)(3)(C) and (a)(3)(D).

PART III – RESPONDENT'S LIBRARY AND OTHER LEARNING RESOURCES

32.   Because Respondent offers degree-granting programs, it is required to provide a library and other learning resources pursuant to California Code of Regulations, title 5, section 71740. While Respondent relies primarily on online library and other learning resources, it does not have a librarian or information specialist to assist with those resources.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Employee Librarian)

33.   Respondent subjected its Approval to Operate to discipline for failing to 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. (Educ. Code § 94937, subd. (a)(2) and; and Cal. Code Regs., title 5, § 71740, subd. (d)(2).) The circumstances are set forth in paragraph 32, above.

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 Approval to Operate Institution Non-Accredited Number 42693428, issued to Respondent American Innovation University;

2.   Ordering Respondent American Innovation University to pay the Bureau for Private Postsecondary Education for the reasonable costs of the investigation and enforcement of this

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1   case, pursuant to Section 94937, subdivision (c) and Business and Professions Code Section

2   125.3; and

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

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5   DATED: 6/26/2024   "Original Signature on File"
                                    DEBORAH COCHRANE
6   Chief
                                    Bureau for Private Postsecondary
7   Education
                                    Department of Consumer Affairs
8   State of California
                                    Complainant
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