

1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS L. RINALDI  
Supervising Deputy Attorney General  
3 CRISTINA FELIX  
Deputy Attorney General  
4 State Bar No. 195663  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2455  
6 Facsimile: (213) 897-2804  
E-mail: Cristina.Felix@doj.ca.gov  
7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues  
12 Against:

Case No. 1000414

**STATEMENT OF ISSUES**

13 **AMERICAN SPORTS UNIVERSITY**  
14 **Jane Hwang, 50 % Owner**  
**Harry Hwang, 50 % Owner**

15 **Application for Renewal of Approval to**  
16 **Operate an Institution Non-Accredited**  
**Applicant**

17 **Institution Code 14960906**

18 Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official  
23 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of  
24 Consumer Affairs (the Bureau).

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1 (c) (1) An institution that is denied renewal of an approval to operate may  
file an appeal in accordance with the procedures established by the bureau pursuant to  
Section 94888.

2  
3 (2) An institution that has filed an appeal of a denial of a renewal  
application may continue to operate during the appeal process, but must disclose in a  
written statement, approved by the bureau, to all current and prospective students,  
4 that the institution's application for renewal of approval to operate was denied by the  
bureau because the bureau determined the application did not satisfy the requirements  
5 to operate in California, that the institution is appealing the bureau's decision, and  
that the loss of the appeal may result in the institution's closure.

6  
7 (3) If the bureau determines that the continued operation of the institution  
during the appeal process poses a significant risk of harm to students, the bureau shall  
8 make an emergency decision pursuant to its authority provided in Section 94938."

9 **STATUTORY PROVISIONS**

10 6. Section 94886 states:

11 "Except as exempted in Article 4 (commencing with Section 94874) or in  
12 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  
13 educational institution in this state without obtaining an approval to operate under  
this chapter."

14 7. Section 94887 states:

15 "An approval to operate shall be granted only after an applicant has  
16 presented sufficient evidence to the bureau, and the bureau has independently verified  
the information provided by the applicant through site visits or other methods deemed  
17 appropriate by the bureau, that the applicant has the capacity to satisfy the minimum  
operating standards. The bureau shall deny an application for an approval to operate  
18 if the application does not satisfy those standards."

19 8. Section 94894 states:

20 The following changes to an approval to operate are considered  
substantive changes and require prior authorization:

21 (a) A change in educational objectives, including an addition of a new  
22 diploma or a degree educational program unrelated to the approved educational  
programs offered by the institution.

23 (b) A change in ownership.

24 (c) A change in control.

25 (d) A change in business organization form.

26 ...

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1 9. Section 94909 states:

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

5 ...

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

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

15 10. Section 94913 states:

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

18 (1) The school catalog.

19 (2) A School Performance Fact Sheet for each educational program  
20 offered by the institution.

21 (3) Student brochures offered by the institution.

22 (4) A link to the bureau’s Internet Web site.

23 (5) The institution’s most recent annual report submitted to the bureau.

24 (b) An institution shall include information concerning where students  
25 may access the bureau’s Internet Web site anywhere the institution identifies itself as  
26 being approved by the bureau.”

27 **REGULATORY PROVISIONS**

28 11. 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.”

12. California Code of Regulations, title 5, section 71475 states:

“(a) Unless renewed, an approval to operate shall expire at 12 midnight  
on the last day of the institution’s term of approval to operate as granted pursuant to  
section 94802 or section 94889 of the Code.

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1 (b) An institution seeking to renew its Approval to Operate pursuant to  
2 section 94891 of the Code shall, prior to its expiration, complete and submit to the  
Bureau the 'Application for Renewal of Approval to Operate and Offer Educations  
Programs for Non-Accredited Institutions,' Form Application 94891 (rev. 2/10).

3 (c) The application for renewal of approval to operate and offer  
4 educational programs for non-accredited institutions shall include all of the  
following:

5 ...

6 (6) The form of business organization of the institution (e.g., sole  
7 proprietorship, general or limited partnership, for-profit corporation, nonprofit  
corporation, or Limited Liability Corporation). If the institution is incorporated, the  
8 institution shall also identify the state within which the institution is incorporated and  
the date of incorporation, and provide copies of the articles of incorporation and  
9 bylaws.

10 (7) The name, title, address, email address, telephone number, nature of  
interest and percentage of ownership of each person, as defined in section 94855 of  
11 the Code, who owns or controls 25% or more of the stock or an interest in the  
institution and, to the extent applicable, each general partner, officer, corporate  
12 director, member of the board of directors, and any other person who exercises  
substantial control over the institution's management or policies. For the purpose of  
13 this paragraph, a person exercises "substantial control over the institution's  
management or policies" if the person has the authority to cause the institution to  
14 expend money or incur debt in the amount of five thousand dollars (\$5,000) or more  
in any year.

15 ...

16 (i) The institution shall include in its application an organization chart  
17 that shows the governance and administrative structure of the institution and the  
relationship between faculty and administrative positions. If there have been no  
18 substantive changes since the last submission of an organizational chart, the  
institution may so state and is not required to submit documentation.

19 ...

20 (n) The institution shall describe in the application, in detail its mission  
and objectives. If there have been no substantive changes since the last submission,  
21 the institution may so state and is not required to submit documentation.

22 (x) The application shall include a statement that the institution has  
23 contracted with sufficient duly qualified faculty members who meet the qualifications  
of section 71720 unless there have been no substantive changes since the last  
24 submission. If there have been no substantive changes made the institution may so  
state and is not required to provide documentation."

25 13. California Code of Regulations, title 5, section 71640 states:

26 "(a) An institution seeking to change the business organization form,  
27 control, or ownership as defined in sections 94821, 94822, or 94823, respectively  
shall complete the "Change of Business Organization/Control/Ownership" form  
28 (OWN 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.

1 An application under this section shall be signed by all signatories to the initial  
2 application, or the last approved application under this section, as well as the persons  
3 required to sign an application pursuant to section 71380 for institutions approved  
4 under section 94885 of the code and section 71390 for institutions approved under  
5 section 94890 of the code. Each signature shall be dated, and each fact stated therein  
6 and each attachment thereto shall be declared to be true under penalty of perjury, in  
7 the following form:

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

10 \_\_\_\_\_  
11 (Date)

12 \_\_\_\_\_  
13 (Signature)

14 (b) An application for a change in ownership or control shall identify the  
15 name, title, address, e-mail address and telephone number of each new person  
16 required to be listed pursuant to section 71130 in an application, as well as the  
17 persons previously listed pursuant to section 71130 that will no longer have  
18 ownership or control. For each proposed person listed, the application shall include  
19 the information required pursuant to section 71130(b), (c), and (d).

20 (c) An application for a change in the form of business organization of  
21 the institution shall identify the approved organization as well as the proposed  
22 organization. If the proposed organization is incorporated, the application shall also  
23 identify the state within which the proposed organization is incorporated and the date  
24 of incorporation, along with copies of the articles of incorporation and bylaws. To the  
25 extent that a change in the form of business organization represents a change in  
26 ownership or control, the application shall include the information required by  
27 subdivision (b) of this section.

28 (d) In addition to the above required information, each application under  
this section shall include:

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

(2) The reason for the proposed change;

(3) The impact of the change on the financial resources of the institution,  
including the institution's ability to comply with section 71745;

(4) A description of the planned administrative relationship between the  
persons previously approved and the proposed owners or persons in control,  
including the nature and extent of the supervision by the chief academic officer, chief  
operating officer, chief executive officer, and administrators; and

(5) Any additional information required by the Bureau pursuant to section  
71340 of this Chapter; and

(6) The name, address, email address, telephone number and fax number  
of the contact person for this application.

(e) An institution that has been granted an approval to operate by means  
of accreditation shall notify the Bureau of the substantive change within 30 days of  
that change on the Change of Business Organization/Control/ Ownership form, by

1 completing section (d)(1) and (d)(6) and shall attach certification from the  
2 institution's accreditation agency demonstrating that the substantive change was made  
in accordance with the institution's accreditation standards, and complies with the Act  
and this Division.”

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

4 “In order to meet its mission and objectives, the educational program  
5 defined in section 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  
7 educational objectives 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 or sequence to students;

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

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

12 (2) a statement of educational objectives;

13 (3) length of the educational program;

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

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

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

17 (7) instructional mode or methods.

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

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

21 (f) evaluation by duly qualified faculty of those learning outcomes.”  
22

23 15. California Code of Regulations, title 5, section 71720 states:

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

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

28 ...

1 (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  
2 by, at a minimum:

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

4 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  
5 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  
6 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  
7 performed by a foreign credential evaluation service that is a member of the National  
Association of Credential Evaluation Services (NACES).

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

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

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

14 ...”

15 16. California Code of Regulations, title 5, section 71810 states:

16 “... ”

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

19 ...

20 (2) A statement of the institution's missions and purposes and the  
objectives underlying each of its educational programs;

21 ...

22 (6) The institution's policies and practices regarding any form of financial  
23 aid, including all consumer information which the institution is required to disclose to  
the student under any state or federal financial aid program;

24 ...”

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1 17. California Code of Regulations, title 5, section 71770 states:

2 “ . . .

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

5 (1) Except as limited by subdivision (c) of this section, a maximum of 75  
6 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:

7 (A) Units earned at institutions approved by the Bureau, public or private  
8 institutions of higher learning accredited by an accrediting association recognized by  
the U. S. Department of Education, or any institution of higher learning, including  
9 foreign institutions, if the institution offering the undergraduate program documents  
10 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;

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

13 **CAUSES FOR DENIAL OF APPLICATION**

14 **(Incomplete Application)**

15 18. Respondent's application is subject to denial under Education Code sections 94887  
16 and 94891, subdivision (b), and California Code of Regulations, title 5, section 71710, and  
17 71475, in that on or about September 12, 2014, Respondent submitted an incomplete application  
18 to the Bureau. Each violation is a sole and separate cause for denial. The violations are as  
19 follows:

20 a. Application for Ownership, Control or Business Organization: Respondent failed to  
21 submit an application for Change in Ownership, Control or Business Organization. Prior to  
22 obtaining an authorization from the Bureau, the institution changed the form of business  
23 organization from non-profit to for profit. Since the institution changed to for profit, the  
24 institution was required to provide copies of the articles of incorporation and bylaws.  
25 Respondent submitted “Certificate of Amendment of Articles of Incorporation” and that  
26 document does not meet this requirement. In addition, Respondent’s renewal application  
27 indicated that Jane Hwang was 100% owner. The Bureau’s records reflect ownership by Jane  
28 Hwang and Harry Hwang, each owning 50%. Respondent violated Section 94894 and California

1 Code of Regulations, title 5, sections 71640 and 71475(c)(6) and (7);

2 b. Compliance Organizational Chart: Respondent failed to submit an accurate and  
3 compliant organizational chart. The revised organizational chart submitted in response to the  
4 deficiency letter does not indicate the relationship of two main positions: faculty and Chief  
5 Executive Officer, in relation to the administrative positions in violation of California Code of  
6 Regulations, title 5, section 71745, subdivision (i);

7 c. Comprehensive and Accurate Mission and Objectives: Respondent failed to provide  
8 a comprehensive and accurate mission and objectives for the institution and each of the  
9 educational programs in violation of California Code of Regulations, title 5, section 71475,  
10 subdivision (n), as follows:

11 (1) The institution's mission indicates that the sole academic focus is on the discipline of  
12 Sports Education. The institution offers a degree in Bachelor of Science (BS) in Personal  
13 Security Management and certificate programs in Personal Security Management, Intensive  
14 English language programs (Beginner, Intermediate and Advanced) and TOEFL Instruction. On  
15 page 4 of the catalog, none of the institutional objectives address the fulfillment of the above  
16 degree and certificate programs;

17 (2) The institution failed to provide an accurate mission statement for the BS in Sports  
18 Management. On page 13 of the catalog, the mission for BS in Sports Management states:  
19 "American Sports University aims to prepare graduates with technology and principles of  
20 security management including global terrorism and emergency management;"

21 (3) The institution failed to list program objectives and a list of courses fulfilling the  
22 stated mission for the BS in Sports Training and Fitness. On page 15 of the catalog, the mission  
23 for the BS in Sports Training and Fitness is "to prepare graduates with technology and principles  
24 of sports training and fitness." None of the stated objectives and/or sequences of courses address  
25 the technology aspect of the mission;

26 d. Instruction and Degrees Offered: The mission and objectives for the BS in Personal  
27 Security Management degree on page 10 of the catalog are not associated with the field of Sports  
28 or Sports Management. The Bureau is unable to determine whether 36 units of core sports related

1 courses and 16 units of sports activity course are appropriate for the BS in Personal Security  
2 Management. This is a violation of California Code of Regulations, title 5, sections 71710 and  
3 71475, subdivision (n).

4 e. Faculty:

5 (1) Respondent failed to provide evidence that the following ten instructors are  
6 qualified to teach their assigned courses: LB<sup>4</sup>, PCR, RF, JSK, BGIM, TWM, LB, DH, DBS, and  
7 TAB. This is a violation of California Code of Regulations, title 5, section 71720, subdivisions  
8 (a) (1), (4) and (9);

9 (2) In the "Instructors' Teaching Assignments" list Respondent listed "E/M<sup>5</sup>" as faulty  
10 that teach several physical education courses. Respondent failed to submit verification of  
11 qualifications for the following faculty member(s): "E/M:" This is a violation of California Code  
12 of Regulations, title 5, sections 71720, subdivisions (a) (1) and (4), and 71475, subdivision (x).

13 f. Catalog:

14 (1) The institution catalog failed to contain an accurate statement of the institution's  
15 missions and purposes and the objectives underlying each of the institutional programs in its  
16 catalog. The mission and objective statements on page 4 of the catalog do not address the degree  
17 in BS in Personal Security Management, certificate programs in Personal Security Management,  
18 Intensive English language programs (Beginner, Intermediate and Advanced) and TOEFL  
19 Instruction. This is a violation of California Code of Regulations, title 5, sections 71810,  
20 subdivision (b)(2);

21 (2) The institution's website provides the name of five sister schools "with whom the  
22 university exchanges faculty and students and cooperates in education and projects." The catalog  
23 does not indicate whether the institution has entered into an articulation or transfer agreement  
24 with any other college or university. If the institution has not entered into an articulation or

25 \_\_\_\_\_  
26 <sup>4</sup> Initials are being used to protect the individual's identity. Individuals will be identified  
during the course of discovery.

27 <sup>5</sup> Initials could not be used as Respondent did not provide the full name of these faculty  
28 member(s). In addition, Respondent listed what appears to be two last names. Complainant was  
not able to determine if one or two individuals would be teaching this subject.

1 transfer agreement with any other college or university, the institution shall disclose that fact.

2 This is a violation of Section 94909, subdivision (a)(8)(A);

3 (3) The admission policy on page 42 of the catalog for allowing students to earn credits  
4 by passing an oral examination is not in compliance with California Code of Regulations, title 5,  
5 sections 71770, subdivision (b). Transfer credits from another institution, written standardized  
6 tests, and challenge examinations could be the basis for awarding bachelor level credits. This is a  
7 violation of Section 94909(a)(8)(A) and California Code of Regulations, title 5, sections 71770,  
8 subdivision (b)(1)(A-B);

9 (4) Respondent's catalog does not contain the institution's policies and practices, including  
10 required disclosures regarding any form of financial aid in violation of California Code of  
11 Regulations, title 5, section 71810, subdivision (b)(6).

12 g. Website: An institution that maintains an Internet website must provide the following  
13 in its site: a School Performance Fact Sheet for each educational program offered by the  
14 institution, student brochures offered by the institution, the most recent annual report submitted to  
15 the Bureau, a link to the Bureau's Internet Website, including anywhere the institution identifies  
16 itself as being approved by the Bureau. Respondent's website failed to provide these items in  
17 violation of Section 94913.

18 **PRAYER**

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

22 1. Denying the application of American Sports University, Jane Hwang 50% Owner,  
23 Harry Hwang, 50% Owner, for a Renewal of Approval to Operate and Offer Educational  
24 Programs for Non-Accredited Institution;

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

DATED: 8/19/15



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

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