

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 2. On or about, May 23, 2007, the former Bureau for Private Postsecondary and
2 Vocational Education¹ issued Full Approval to Operate Institution Code Number 14960906 to
3 American Sports University, Harry Hwang 50% Owner, Jane Hwang 50% Owner. Said Full
4 Approval to Operate expired on June 30, 2014.

5 3. On July 30, 2014, the Bureau received an Application for Renewal of Approval to
6 Operate an Institution Non-Accredited from American Sports University, Jane Hwang, 50%
7 owner, and Harry Hwang, 50% Owner. On August 11, 2014, the Bureau advised Respondent that
8 the application was incomplete. On or about September 12, 2014, the Bureau received another
9 Application for Renewal of Approval to Operate an Institution Non-Accredited from American
10 Sports University. The application listed Jane Hwang as 100 % owner, and Harry Hwang as
11 Chief Executive Officer. The application was dated July 29, 2014 and Jane Hwang and Harry
12 Hwang certified under penalty of perjury to the truthfulness of all statements, answers, and
13 representations in the application. The Bureau denied the September 12, 2014 application on
14 February 9, 2015. Respondent appealed the denial on April 1, 2015.

15 **JURISDICTION**

16 4. This Statement of Issues is brought before the Director of the Department of
17 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
18 authority of the following laws. All section references are to the Education Code² unless
19 otherwise indicated.

20 5. Section 94891 states³:

21 “(a) The bureau shall adopt by regulation the process and procedures
22 whereby an institution may obtain a renewal of an approval to operate.

23 (b) To be granted a renewal of an approval to operate, the institution shall
24 demonstrate its continued capacity to meet the minimum operating standards.

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26 ¹ The former BPPVE sunsetted on July 1, 2007. On October 11, 2009, the Bureau for
Private Postsecondary Education Act of 2009 (“Act”) (AB 48) was signed into law. The Act,
became operative on January 1, 2010, and established the Bureau for Private Postsecondary
Education (“Bureau”).

27 ² California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

28 ³ Effective January 1, 2015.

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

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

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

14 STATUTORY PROVISIONS

15 6. Section 94886 states:

16 "Except as exempted in Article 4 (commencing with Section 94874) or in
17 compliance with the transition provisions in Article 2 (commencing with Section
18 94802), a person shall not open, conduct, or do business as a private postsecondary
19 educational institution in this state without obtaining an approval to operate under
20 this chapter."

21 7. Section 94887 states:

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

28 8. Section 94894 states:

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

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

(b) A change in ownership.

(c) A change in control.

(d) A change in business organization form.

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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: LB⁴, 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/M⁵" 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 ⁴ Initials are being used to protect the individual's identity. Individuals will be identified
during the course of discovery.

27 ⁵ 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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