

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

In the Matter of the Statement of Issues

Case No. 1000398

Against:

OAH No. 2015100361

ORDER OF DECISION

CALIFORNIA INSTITUTE OF ENGINEERING

Approval to Operate a Non-Accredited
Institution Applicant,


Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above entitled matter.

The Decision shall become effective DEC 29 2016

DATED: November 29, 2016



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

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

In the Matter of the Statement of Issues
Against:

CALIFORNIA INSTITUTE OF
ENGINEERING; PAUL HOA TRAN,
Owner,

License Applicant/Respondent.

Case No. 1000398

OAH No. 2015100361

PROPOSED DECISION

Adam L. Berg, Administrative Law Judge, Office Administrative Hearings, State of California, heard this matter on July 20 and 21, 2016, in San Diego, California.

Marichelle S. Tahimic, Deputy Attorney General, Department of Justice, represented complainant, Joanne Wenzel, Chief of the Bureau for Private Postsecondary Education, Department of Consumer Affairs, State of California.

Van Tran, Attorney at Law, represented respondent, California Institute of Engineering (CIE), and owner, Paul Hoa Tran, who was present during the proceedings.

The matter was submitted for decision on July 21, 2016.

SUMMARY

Respondent, the California Institute of Engineering, seeks to operate as a non-accredited private postsecondary institution. Respondent intends to offer Bachelor of Science degrees in civil engineering and environmental engineering through a distance education platform. Respondents failed to prove by a preponderance of the evidence that the institution has the capacity to meet the required minimum operating standards required under the law and regulations. Additionally, respondent failed to establish that it satisfied several regulatory requirements in its application material. It is not in the public interest to approve respondent's application to operate at this time. The bureau's denial of respondent's application for approval to operate is affirmed.

FACTUAL FINDINGS

Background

1. The bureau operates pursuant to the California Private Postsecondary Education Act of 2009 (Act) (Ed. Code, § 94800, et seq.). The bureau has promulgated regulations (Cal. Code Regs., tit. 5, § 71100, et seq.)¹ that are complex and detailed. As a result, the application itself is complex and detailed. It contains 24 sections, some of which require the applicant to attach exemplars, including the catalog and the enrollment agreement. In reviewing applications, the bureau's analysts ensure that all statutory and regulatory requirements are met.

2. On February 3, 2012, the bureau received an Application for Approval to Operate for an Institution Not Accredited (application) from respondent, California Institute of Engineering (CIE). Paul Hoa Tran, is CIE's sole owner. The application showed that CIE sought to offer Bachelor of Science degrees in civil engineering and environmental engineering.

3. Initially, respondent's application was reviewed by licensing analyst Revonna Roper. On her initial review, Ms. Roper found that the application was deficient in numerous areas, including information relating to the institution's ownership and control; the catalog; facilities and equipment; the exemplar enrollment agreement; and financial resources. On March 27, 2012, she sent respondent a letter identifying the areas of deficiency and requesting additional information. On October 1, 2012, respondent provided a detailed response to the deficiency letter, including numerous attachments.

On October 4, 2012, Ms. Roper sent respondent a second letter advising of deficiencies in the application and supporting documentation relating to the catalog and enrollment agreement. On November 8, 2012, respondent sent a letter and attachments in response to the bureau's deficiency letter.

On March 19, 2013, the bureau sent respondent a third letter advising of deficiencies in the application and supporting documentation relating to ownership information, instruction and degrees offered, the catalog, and self-monitoring procedures. On April 19, 2013, respondent responded to the bureau's letter, providing information relating to the identified deficiencies. On July 1, 2013, respondent submitted an enrollment agreement and catalog to the bureau.

4. Respondent's application was assigned to Drew Saeteune, bureau senior education specialist. On July 26, 2013, Mr. Saeteune sent respondent a fourth deficiency letter relating to instruction and degrees offered, the description of the educational program,

¹ All further code references are to the Education Code and all regulation references are to California Code of Regulations, title 5.

the faculty, the facilities and equipment, and catalog. On August 29, 2013, respondent sent the bureau a response with supporting documentation.

On February 5, 2014, the bureau sent respondent a fifth deficiency letter relating to the institution's educational program; qualifications of faculty; the catalog; library and other learning resources; self-monitoring procedures; and the distance education platform, among other things. Respondent responded on March 10, 2014.

5. On February 6, 2015, the bureau sent respondent a Notice of Denial of the application because of deficiencies in the application and supporting documentation and failure to demonstrate respondent's capacity to satisfy the minimum operating standards. The bureau cited deficiencies in seven sections of the application. Respondent appealed the denial.

6. On August 31, 2015, complainant signed the Statement of Issues alleging seven causes to deny respondent's application based on the following: failure to demonstrate capacity to meet minimum operating standards for the educational program and instruction; deficiencies in faculty, library resources, and self-monitoring procedures; failure to provide required language in the course catalog; and failure to establish minimum educational requirements to award undergraduate degrees.

Testimony of Bureau Senior Education Specialist Drew Saeteune

7. Drew Saeteune has worked for the bureau for approximately six years. In his position of senior education specialist, he evaluates institutions' educational programs, instruction, and faculty qualifications. When an institution is offering online learning, he evaluates the program to determine its suitability for distance education. He has reviewed approximately 50 applications for the bureau for institutions offering a variety of degree programs.

At hearing, Mr. Saeteune addressed each deficiency alleged in the Statement of Issues, as set forth below. Mr. Saeteune admitted that some of the deficiencies are correctable and have already been addressed by respondent. For example, some required language in the catalog has been fixed. However, Mr. Saeteune believed that the institution is not yet ready to operate and provide bachelor's-level distance education. Mr. Saeteune's testimony was clear, concise, knowledgeable, and credible.

Testimony of Respondent's Owner, Dr. Paul Tran

8. Paul Tran is respondent's owner. He holds a master's degree in sanitary engineering and water resources, a master's in structural engineering, and a Ph.D. from the University of California Los Angeles (UCLA) in water resources system engineering. He has been a California licensed civil engineer since 1980 and licensed mechanical engineer since 1982. He is a diplomat of the American Academy of Environmental Engineering. He taught graduate courses in sanitary engineering at UCLA from 1980 to 1982 and taught a

course at Humboldt State University in 1981. He taught a graduate course in hydraulics and hydrology at San Diego State University (SDSU) in 1987. In 1996 he opened his engineering consulting business, Tran Engineering Consulting.

Dr. Tran testified about his reasons for starting CIE. He has employed many people who are knowledgeable about engineering theory, but are less knowledgeable about the practical side of engineering. According to Dr. Tran, he wishes to teach students the practical side of engineering so they will be able to leave school and begin working directly on engineering projects. Second, Dr. Tran said many people who come out of engineering school have a large amount of student debt. Employers are reluctant to hire these individuals because they lack practical experience. Dr. Tran said CIE is much more affordable and allows for students to obtain a degree while working, and immediately begin employment. He said tuition at CIE is one-tenth of what it would cost at other institutions. Dr. Tran said he has spoken to a number of individuals in the field about his idea of opening an engineering school. He submitted his first application in 2004, but it was apparently abandoned. Once CIE becomes operational, he intends to wind-down his consulting business. He has invested a great deal of time and money in his attempt to launch CIE.

Dr. Tran testified that he promptly responded to the bureau's letters of deficiencies and made corrections to the identified issues. Dr. Tran said that after the bureau issued the denial letter, CIE has taken steps to address the alleged deficiencies. He has prepared revised faculty handbooks and course catalogs. Dr. Tran said the deficiencies relating to the self-monitoring procedures, faculty guidelines, and course catalog have been remedied.

Dr. Tran appeared generally knowledgeable about the application process and the governing regulations. However, his testimony was often general, vague, and nonresponsive. When presented with a question, he would state that the required information was contained in the various submissions. However, he either could not, or would not, identify specific documents in support of his position, other than to say they were contained in the submissions. For example, when told that the syllabus he prepared did not contain material required by regulation, Dr. Tran asserted that the material was contained elsewhere in the submissions, such as in the course catalog. In that sense, he failed to appreciate the regulatory requirements pertaining to course syllabi. At times, he appeared to have difficulty following questions by counsel and repeatedly required assistance locating identified exhibits in the clearly marked binders.

First and Second Causes for Denial: Minimum Operating Standards

COMPLAINANT'S ALLEGATIONS

9. Complainant alleged as the first cause for denial that respondent failed to meet minimum operating standards in that respondent has not developed an educational program that is comprised of curriculum that includes those subject areas that are necessary for a student to achieve the educational objectives in the program in which the student is enrolled. (Cal. Code Regs., tit. 5, § 71710.)

10. As the second cause for denial, complainant alleged the following:

a) Respondent failed to demonstrate that the instruction offered leads to the achievement of the learning objectives of each course (Cal. Code Regs., tit. 5, § 71715, subd. (b));

b) Respondent failed to demonstrate the educational program offered through distance education is appropriate for deliver through distance education methods (Cal. Code Regs., tit. 5, § 71715, subd. (d)(1));

c) Respondent failed to demonstrate that the materials and programs offered through distance education are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(3).)

d) Respondent failed to demonstrate that the institution hired duly qualified faculty to timely complete student evaluations of learning, which are appropriate for use with the distance education methods used, and evaluated by duly qualified faculty. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(6).)

e) Respondent failed to demonstrate the institution's platform for delivering distance education had a mechanism to track and log student work. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(8).)

COMPLAINANT'S EVIDENCE

11. Complainant contended that respondent lacked an adequate online educational platform to deliver its educational program. Respondent intends to offer 100 percent distance education through the internet. The bureau expects that the educational platform will be fully developed and available for testing by bureau staff. Evaluation of the institution's platform is critical for determining whether an institution is capable of operating at a minimum operating standard. Bureau staff evaluate the platform by testing how students and faculty would utilize various features.

In the July 26, 2013, letter of deficiency, Mr. Saeteune requested respondent provide a demonstration of the institution's platform used to deliver the educational programs. Mr. Saeteune wrote, "I expect all courses will be loaded and ready to go. I will choose a few courses during the platform demonstration to evaluate." In response, Dr. Tran said that he would contact Mr. Saeteune about scheduling a time for the demonstration. On October 24, 2013, Mr. Saeteune emailed Dr. Tran requesting that he provide a site address, username, and password for the institution's training platform. On November 20, 2013, Phong Hoang, who identified himself as an electrical engineer with Tran Consulting Engineers, responded with the information. He said that three sample lectures were available for review and CIE was intending to use the platform "WizIQ" to deliver the instruction. WizIQ is a third-party vendor that develops online platforms for the specific needs of an institution. On November

27, 2013, Lac Tan Nguyen, respondent's coordinator, requested that Mr. Saeteune follow-up regarding the evaluation.

On December 12, 2013, respondent demonstrated to Mr. Saeteune a trial version of the WizIQ platform. The trial version expired in 15 days, and Mr. Saeteune testified that it was significant that respondent was using a trial version, since the bureau expects the educational platform to be fully developed prior to the bureau issuing a license to operate. Mr. Saeteune expressed his concerns that respondent had not fully developed a distance education platform. On January 17, 2014, Dr. Tran emailed Mr. Saeteune. The email was not entirely clear, but seemed to suggest that respondent did not want to proceed with a demonstration of the platform until the bureau made a decision on the application.

On May 5, 2014, Mr. Nguyen, respondent's coordinator, emailed Mr. Saeteune stating it was in the final phase of the WizIQ integration of the teaching platform into its website, and respondent was experiencing delays. Mr. Nguyen wrote that respondent was completing the website and would hopefully have three lessons for Mr. Saeteune to review. On August 13, 2014, Mr. Hoang emailed Mr. Saeteune with a username and password and said there were four sample lectures for Mr. Saeteune to review. On August 14, 2014, Dr. Tran wrote to Mr. Saeteune, "I really have a hard time to pay all professors to prepare all lectures, because that will cost CIE tremendous money before CIE even obtain [sic] operation permit. Beside[s], quite a few professors have been in teaching business for long time [and] only provides [sic] lectures a few days before the class." Mr. Saeteune was concerned by this letter because it suggested respondent had not committed money to develop an educational program.

On November 7, 2014, Mr. Saeteune met with respondent's representatives and a WizIQ team member. Mr. Saeteune logged into the platform and played the role of a student. He observed a lecture. There was the ability to type in questions to ask the instructor. However, there was some confusion about how a student would ask questions of an instructor if the lecture was pre-recorded. A student could ask questions of the instructor if the instructor was online during the presentation of the course material. However, according to respondent's enrollment agreement, "CIE offers a distance educational program where the instruction is not offered in real time." This seems to suggest that an instructor would not be present during a lecture. Thus, it was unclear how a student would submit questions.

Moreover, respondent was unable to demonstrate how a student would take quizzes, exams, and turn in assignments. There was no ability to access a syllabus, discussion forums, or place to track student performance. Respondent was also unable to provide critical information regarding the platform. Mr. Saeteune requested information about the back-end of the platform, where faculty could review submitted work and monitor the progress of students. Again, Mr. Saeteune said there was confusion concerning the back-end of the platform and respondent's representatives were unable to provide this information. Mr. Saeteune said respondent's representatives and WizIQ spent 40 minutes discussing

various roles and responsibilities. Mr. Saeteune concluded that respondent had not established a usable educational platform.

On November 10, 2014, Dr. Tran emailed Mr. Saeteune requesting the opportunity to provide another demonstration to Mr. Saeteune. On November 12, 2014, Mr. Saeteune viewed another demonstration. Mr. Saeteune said this demonstration was similar to the one two days before. Respondent still did not have a platform ready for student and faculty use. Mr. Saeteune also observed there was a problem with the sound, which respondent's representatives were not able to fix. Mr. Saeteune continued to maintain that the institution did not have an educational platform that was sufficiently developed to meet minimum operating standards.

12. Complainant contended that respondent lacked adequate course curriculum. A curriculum is an "organized set of courses or modules of instruction that are prerequisites to the award of a degree or diploma." (Ed. Code, § 94828.) As Mr. Saeteune described it, a curriculum is a course map that is designed to build on a student's foundational knowledge. As part of any curriculum, syllabi or course outlines detail the daily topics and learning objectives to be discussed in individual courses with learning outcomes.

Respondent did not submit course syllabi for any course in either of the degree programs. Respondent provided the bureau a recorded PowerPoint presentation for a single course and four sample video lectures. To meet its mission and objectives, an institution's educational program must consist of a curriculum with certain requirements under the Act and its regulations. An institution is required to provide a description of the courses and course outline, including objectives, method of instruction, qualifications of faculty, and the learning outcomes. (Cal. Code Regs., tit. 5, § 71710.)

At the hearing, respondent submitted a syllabus for a course titled "Numerical Analysis for Mathematical Modeling." The syllabus provided the name of the required textbook, a list of topics to be covered, attendance policy (stating that students who miss more than two classes will be eliminated from the program); and grading policy. However, the syllabus failed to include many requirements of Regulation 71710, subdivision (c). It failed to provide the length of the educational program; the sequence and frequency of lessons or class sessions; 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; and the instructional mode or methods.

13. Complainant contended respondent failed to demonstrate the educational program offered through distance education is appropriate for deliver through distance education methods. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(1).) Mr. Saeteune was concerned that respondent proposed to offer bachelor's degrees in engineering through completely online instruction. He researched various universities in an attempt to locate a bachelor's degree program in engineering offering 100 percent distance education. He found none. Mr. Saeteune did locate a degree program at Drexel University where all of the theory was delivered online, but students were required to complete labs on site. However, he

found no bachelor's degree programs offering 100 percent distance education proposed by respondent. Respondent provided no information to the bureau on how it would provide the laboratory or practical components of the education.

14. Complainant alleged respondent failed to demonstrate that the materials and programs offered through distance education are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(3).) As previously discussed, Mr. Saeteune noted many deficiencies in respondent's educational platform. No course syllabi were provided. Neither Dr. Tran nor any of respondent's faculty have experience in providing distance education.

15. Complainant alleged respondent failed to demonstrate that it has clear standards for satisfactory academic progress in the courses to be offered via distance education. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(5).) As noted, respondent did not provide a course syllabus for review. CIE had no policies other than a minimal grading policy contained in the catalog.

16. Complainant alleged respondent failed to demonstrate that the institution hired duly qualified faculty to timely complete student evaluations of learning, which are appropriate for use with the distance education methods used, and evaluated by duly qualified faculty. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(6).) Respondent did not demonstrate a developed education platform or show how the platform was to be used by a faculty member in evaluating a student's work. There was no evidence that any of the faculty had experience in providing distance education.

17. Finally, complainant alleged respondent failed to demonstrate the institution's platform for delivering distance education had a mechanism to track and log student work. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(8).) Respondent did not develop WizIQ sufficiently to allow for tracking or monitoring submitted assignments.

DR. TRAN'S TESTIMONY

18. Dr. Tran did not directly address the identified deficiencies except in very general terms. Dr. Tran believed respondent has met and exceeded the minimum operating standards. He expressed that the WizIQ platform can be further developed to satisfy the bureau's requirements. He also believed that an engineering program could be offered 100 percent online by providing virtual labs. CIE has a one year contract with WizIQ that expires in April 2017. He expressed reluctance to develop a full academic program until the bureau grants a license to operate. He said it will take CIE approximately three to six months from when the bureau grants the license before CIE will begin to operate. Dr. Tran explained that CIE needs time to advertise and enroll students, and he again expressed reluctance to fully develop a program until the bureau grants operating approval.

TESTIMONY OF ZIAD BAYASI

19. Ziad Bayasi, Ph.D., is a tenured professor in the Department of Civil Engineering at SDSU, where he has taught for the past 26 years. He teaches graduate and undergraduate courses in structural design. He has been licensed in California as a civil and structural engineer since 1990. He owns his own firm performing construction design consulting. Dr. Bayasi also opened a bureau-licensed vocational college for medical assistants and pharmacy technicians. Because of this, he is familiar with the bureau's application process. He agreed to review respondent's application documents and assist Dr. Tran with responding to the bureau's concerns.

Additionally, Dr. Tran retained Dr. Bayasi as a potential faculty member at CIE to teach courses in reinforced concrete and solid mechanics. Dr. Bayasi reviewed the Statement of Issues. He testified that Dr. Tran is a leading authority in hydraulics in California and has an outstanding reputation. Dr. Bayasi believes CIE's program is comparable to other engineering programs.

Dr. Bayasi addressed the efficacy of providing 100 percent distance education for an engineering program. Specifically, he disagreed that a program needs to have a physical lab to provide instruction in person. From his experience in a lab setting, the instructor ordinarily runs the experiment. Even if students run an experiment, only one or two students are generally involved. The rest of the students are spectators and do not actually perform any hands-on work. He said most students just watch the experiment. Thus, a virtual lab experience can offer the same benefits as an in-person lab. Dr. Bayasi said he prepared one experiment for respondent to use as a demonstration. Dr. Bayasi was unaware of what labs if any respondent has already prepared.

Dr. Bayasi has not worked with WizIQ, respondent's online platform. Dr. Bayasi does not teach distant education courses at SDSU. He said he prepared a syllabus for respondent for a course on reinforced concrete.

TESTIMONY OF PRIYAKA BANDWAR

20. Priyaka Bandwar has worked for Tran Engineering Consulting since May 2016 providing IT support. She holds a master's degree in computer technology. Additionally, she has helped respondent set up WizIQ in anticipation of the school operating. Her role is to set up WizIQ, manage all of its content, and save the information in a database. She intends to assist students and faculty technical issues involving WizIQ.

Ms. Bandwar played two short videos to demonstrate how WizIQ will be used at CIE. The first video showed how a student would observe a live class and would interact with the professor. The video also demonstrated how an exam could be created and how a student would take the exam. The second video showed a computer animation of a lab experiment. Ms. Bandwar said she found the demonstrated experiment on the internet. Ms. Bandwar said these videos demonstrated how CIE would use the WizIQ platform to deliver educational

material. In the class demonstration, it appeared the lecture was given in real-time because a professor was present who could answer students' questions. According to updated course catalog respondent submitted at hearing, "Instruction for online courses is not offered in real time. CIE shall transmit the first lesson and any materials to any student seven days after admission has been granted." Ms. Bandwar was unaware that the course material at CIE, according to the enrollment agreement and catalog, were not to be presented in real time. Thus, the relevancy of the demonstration videos was entirely unclear.

MR. SAETEUNE'S OPINION CONCERNING THE DEMONSTRATION VIDEOS

21. Mr. Saeteune viewed the demonstration videos at hearing. This was the first time he saw these demonstration videos. He said the demonstrations were not sufficient to show that respondent can meet minimum operating standards in delivering an educational platform. For example, there was no information on how students get and log assignments, view course grades, and obtain answers to questions from instructors.

Third Cause for Denial: Faculty Policies and Procedures

COMPLAINANT'S ALLEGATION

22. Complainant alleged respondent failed to develop and implement "written policies and procedures providing for the participation by qualified faculty in the conducting of research, development of curricula, academic planning, enforcement of standards of academic quality, pursuit of academic matters related to the institution's mission and objectives, establishment of criteria for contracting with new faculty, and evaluation of faculty credentials." (Cal. Code Regs., tit. 5, § 71720, subd. (a)(2).) Respondent's "New Faculty Handbook," provided to the bureau on March 10, 2014, submission, did not contain any of these policies.

RESPONDENT'S RESPONSE

23. At the hearing, respondent submitted the following: "CIE's Policy and Procedure for Faculty Participation in Development of Curricula, Academic Planning, Purpose, Goal, Etc." and "Faculty Hiring Guide."² These documents were far more comprehensive than what had previously been submitted to the bureau and contained the requirements required in Regulation 7120, subdivision (a)(2). Respondent had not submitted this document to complainant before the hearing.

² Complainant objected to the admission of any document not previously submitted to the bureau in respondent's application. The objection was overruled and these documents were received as evidence of respondent's remediation of the alleged violations.

Fourth Cause for Denial: Library and Other Learning Resources

COMPLAINANT'S ALLEGATION

24. Complainant alleged respondent failed to demonstrate that it can make available a library and other learning resources to students. Under Regulation 71740, subdivision (a), "A degree granting institution shall make available for student use a library and other learning resources." In its March 10, 2014, response to the bureau, respondent indicated that it does not have agreements with online libraries, but as soon as the bureau grants a permit to operate, respondent will set up an agreement for library resources. Respondent indicated that it did not know how many students would be attending the institution; therefore, it could not initiate a library contract with an online library. According to respondent's catalog submitted to the bureau, respondent will make librarians available to students by e-mail to provide general reference services and assistance. Complainant contended this was insufficient for respondent to satisfy its regulatory requirements.

RESPONDENT'S RESPONSE

25. At hearing, respondent provided a list of links to free online libraries. Respondent contended that students could also pay to access UCLA's and UC San Diego libraries, for \$100 a year. According to the updated catalog submitted at hearing, "Students can access the Online Collection and the CIE library on the internet." The catalog also states, "Librarians are available by e-mail to provide general reference services and assistance on research strategies for coursework and in obtaining information."

Fifth Cause for Denial: Self-Monitoring Procedures

COMPLAINANT'S ALLEGATION

26. Complainant contended that respondent did not have adequate "Self-Monitoring Procedures" to ensure compliance with the Act. Under Regulation 71760: "Each institution shall develop and maintain adequate procedures used by the institution to assure that it is maintained and operated in compliance with the Act and this Division."

In its March 10, 2014, response to the bureau, respondent provided a single page outlining the self-monitoring procedures. The policy provided:

We believe that self-monitoring procedures are very important in helping California Institute of Engineering to recognize and keep track of its operation. Above all, self-monitoring procedures also equip the institution and its staffs [sic] as well as its students to increase positive, healthy educational environments for all. Below is a list of strategies involved in planning a self-monitoring intervention conducted at our school:

- a) Identify the problem
- b) Choose an appropriate solution method
- c) Implement the invented strategy
- d) Solve and improve on task behavior

In addition to implementing the four steps described above, the self-monitoring interventions may include diagrams, charts, checklists, and any other necessary tools by which CIE may be reminded to draw attention to the behavior indicated in the intervention.

Mr. Saeteune testified that the policies were vague, unclear, and did not provide any specific procedures. For example, a checklist relating to general education courses would be inapplicable to respondent, which does not provide general education courses.

RESPONDENT'S RESPONSE

27. At hearing, respondent submitted "CIE Self-Monitoring Procedures Forms & Guidelines." This document and the information it contained were not previously submitted to the bureau. It was far more comprehensive than the previous self-monitoring procedures respondent provided to the bureau and appeared to provide the information required by Regulation 71760.

Sixth Cause for Denial: Catalog

COMPLAINANT'S ALLEGATION

28. Complainant alleged that respondent's catalog submitted on March 10, 2014, did not meet the minimum requirements under the Act. Complainant contended the following:

a) The catalog failed to include language regarding the acceptance of credits earned at other institutions or through challenge examinations and achievement tests; admissions requirements for ability-to-benefit students; a list describing any transfer or articulation agreements between the institution and any other college or university that provides for the transfer of credits earned in the program of instruction; and if the institution has not entered into an articulation or transfer agreement with any other college or university, the disclosure of that fact. (Ed. Code, § 94909, subd. (a)(8)(A).)

b) The catalog failed to include required statements specifying whether the institution or any of its degree programs are accredited by an accrediting agency recognized by the United States Department of Education; whether a graduate of the degree program will be eligible to sit for the applicable licensure exam; whether a degree from the program or institution is not recognized for employment purposes; and, whether a student enrolled in

the institution is not eligible for financial aid. (Ed. Code, §§ 94909, subd. (a)(16) & 94897, subd (p).)

c) The catalog failed to contain required disclosures of the institution's policies and practices regarding any form of financial aid, including all consumer information which the institution is required to disclose to the student under any state or federal financial aid program. (Cal Code Regs., tit., 5, § 71810, subd. (b)(6).)³

EVALUATION OF THE CATALOG SUBMITTED TO THE BUREAU

29. As previously noted, respondent submitted a catalog to the bureau on March 10, 2014. On page 50, the catalog disclosed that courses taken at a regionally accredited college or university and designated as appropriate for baccalaureate credit will be accepted by respondent for credit toward transfer admission. The disclosure stated that CIE has not entered into an articulation or transfer agreement with any other college university. It is found that this language complied with Code section 94909, subdivision (a)(8)(A).

30. On page 50, the catalog disclosed that a graduate could apply for licensure "as long as the candidate meets all with [sic] requirements of the Board for Professional Engineers, Land Surveyors, and Geologists." The catalog disclosed that a degree from CIE may not be recognized by some employers, and students at CIE are not eligible for U.S. financial aid. The catalog did not specify whether respondent or its degree programs were accredited as required by Code section 94909, subdivision (a)(16).

31. On page 45, the catalog provided a provision on financial aid. It stated, "When CIE is approved by the federal and state financial aid, students can complete a (FAFSA) application form for financial aid." The catalog provided a section on student eligibility requirements for financial aid. The catalog failed to disclose any required consumer information as required by Regulation 71810, subdivision (b)(6).

RESPONDENT'S RESPONSE

32. At hearing, respondent submitted an updated catalog that was not previously submitted to the bureau. The updated catalog contained a provision stating respondent has no transfer or articulation agreements with other colleges or universities; therefore no units can be transferred. This was a different policy than contained in the earlier catalog.

The updated catalog identified that its degree programs were unaccredited, but omitted language in the earlier version disclosing that a degree from an unaccredited institution is not recognized for some employment positions, including, but not limited to, positions with the State of California; and that a student enrolled in an unaccredited

³ At hearing, complainant struck from the Statement of Issues paragraph 40, subdivision (c) (p. 13 lines 26-28), alleging a violation of Code section 94909, subdivision (a)(10).

institution is not eligible for federal financial aid programs. Thus, the updated catalog was not in compliance with Code section 94909, subdivision (a)(16).

The updated catalog contained a statement that CIE does not provide state and federal financial aid. The updated catalog removed a section from the earlier catalog that provided information on financial aid. By doing so, the updated catalog now complies with Regulation 71810, subdivision (b)(6).

Seventh Cause for Denial: Minimum Educational Requirements to Award Undergraduate Degree

COMPLAINANT'S ALLEGATION

33. Complainant alleged that respondent failed to specify the distribution of general credit requirements by subject area for each undergraduate degree program as required by Regulation 71850. Respondent is offering bachelor's degrees requiring completion of general education courses, which respondent does not offer. Respondent expects the general education courses to be transferred from another institution, but has not clearly identified the appropriate type and level of general education courses by subject area to ensure that prospective students have completed the appropriate coursework at another institution.

According to the catalog submitted to the bureau on March 20, 2014, respondent does not offer general education courses and requires students to submit a transcript with all required courses completed at other accredited institution to meet the general education requirements. The catalog stated that students should take the listed courses prior to entering CIE and complete a minimum of 60 units in general education. Respondent provided a list of "general education" courses for each major. Rather than providing general education subject areas, the list provided specific classes such as physics, biology, chemistry, calculus and analytical geometry, engineering statistics, AutoCAD, and principles of engineering economy. The catalog even provided the names of textbooks for each of these classes. According to Mr. Saeteune, these courses are not in general education. Rather, general education is comprised of various classes in such disciplines as communications, critical thinking, the humanities, and social sciences. Mr. Saeteune said that the general education requirements are decided by the institution, but the institution must identify the credit requirements by subject area for each undergraduate degree program.

RESPONDENT'S RESPONSE

34. Respondent contended that students must complete 60 units of general education courses with a minimum 2.5 GPA from other academic institutions in order to be eligible to take respondent's entrance exam. At the hearing, respondent provided updated general education requirements listing the same classes respondent previously listed as general education classes. The section breaks the classes down into three categories: math, statistics/economy, and computer programs. Respondent contended that this satisfied the regulatory requirements.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Except as otherwise provided by law, a party asserting at an administrative hearing that he or she should be granted a certain benefit, such as a license or permit, has the burden to establish by a preponderance of the evidence that he or she should be granted that benefit. (Evid. Code, §§ 115, 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051-52.) “Preponderance of the evidence” means evidence that has more convincing force than that opposed to it. If the evidence is so evenly balanced that one is unable to say that the evidence on either side of an issue preponderates, the finding on that issue must be against the party who had the burden of proving it. (*People v. Mabini* (2000) 92 Cal.App.4th 654, 663.)

Statutory and Regulatory Authority

2. Education Code section 94887 provides:

An approval to operate shall be granted only after an applicant has 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 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 if the application does not satisfy those standards.

3. Education Code section 9497, subdivision (p), provides an institution shall not:

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

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

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

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

4. Education Code section 9409, subdivision (a), provides an institution shall provide a prospective student, either in writing or electronically, with a school catalog containing, at a minimum, all of the following:

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

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

[¶] . . . [¶]

(10) A statement reporting whether the institution participates in federal and state financial aid programs, and if so, all consumer information that is required to be disclosed to the student pursuant to the applicable federal and state financial aid programs.

[¶] . . . [¶]

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

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

(B) A degree program that is unaccredited or a degree from an unaccredited institution is not recognized for some employment

positions, including, but not limited to, positions with the State of California.

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

5. California Code of Regulations, title 5, section 71100, provides that an application for approval to operate for an institution not accredited that fails to contain all information required by sections 71100-71380 is incomplete.

6. California Code of Regulations, title 5, section 71290, states: "The Form Application 94886 shall include a copy of the institution's catalog, in published or proposed-to-be-published form. The catalog shall meet the requirements of the Act and of section 71810."

7. 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."

8. California Code of Regulations, title 5, section 71710 provides:

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:

(a) those subject areas that are necessary for a student to achieve the educational objectives of the educational program in which the student is enrolled;

(b) subject areas and courses or modules that are presented in a logically organized manner or sequence to students;

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

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

(2) a statement of educational objectives;

(3) length of the educational program;

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

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

(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;

(7) instructional mode or methods.

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

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

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

9. California Code of Regulations, title 5, section 71715, provides:

(a) Instruction shall be the central focus of the resources and services of the institution.

(b) The institution shall document that the instruction offered leads to the achievement of the learning objectives of each course.

[¶] . . . [¶]

(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 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:

(1) ensure that the educational program offered through distance education is appropriate for delivery through distance education methods;

(2) assess each student, prior to admission, in order to determine whether each student has the skills and competencies to succeed in a distance education environment;

(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;

(4) provide for meaningful interaction with faculty who are qualified to teach using distance education methods;

(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.

10. California Code of Regulations, title 5, section 71720, subdivision (a), provides for an educational program leading to a degree:

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

11. California Code of Regulations, title 5, section 71740 provides:
 - (a) A degree granting institution shall make available for student use a library and other learning resources.
 - (b) An institution shall provide or make provisions for the library and other learning resources needed to support each educational program it offers, including resources such as reference works, periodicals, monographs, and media and equipment specific to the educational programs offered.
 - (c) An institution shall describe onsite library and other learning resources, if any, that enable students to pursue inquiries, searches for information and documentation, and assignments connected with their study programs.
 - (d) An institution that depends for library and other learning resources primarily on other institutions' collections and resources not in its possession shall do all of the following:
 - (1) Describe those library and other learning resources, in the application and catalog.
 - (2) Provide students and faculty with access to the regular services of a professional librarian or information specialist experienced in the electronic retrieval of information, who shall provide support for faculty in curriculum matters and actively serve as a resource guide for both graduate and undergraduate students.
 - (3) Assure that students have access to the library collections and resources of another institution, organization, or library.
 - (4) Document compliance with paragraphs (1), (2), and (3).
12. California Code of Regulations, title 5, section 71760 provides:
 - (b) The institution shall specify the maximum credit it will transfer from another institution for each educational program, and the basis upon which the transferred credit will be awarded.
 - (1) Except as limited by subdivision (c) of this section, a maximum of 75 percent of the units or credit that may be

applied toward the award of a bachelor's degree may be derived from a combination of any or both of the following:

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

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

13. California Code of Regulations, title 5, section 71810 provides:

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

[¶] . . . [¶]

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

14. California Code of Regulations, title 5, section 71850 provides:

Graduation requirements for an undergraduate degree program shall meet minimum credit requirements and shall include provisions for general education appropriate to the level and type of degree. The institution shall specify the distribution of general education credit requirements by subject area for each undergraduate degree program.

(a) A Bachelor's degree may be awarded to a student whom the institution can document has achieved sequential learning equivalent in general education and equivalent in depth of achievement in a designated major field to that acquired in four years of study beyond high school, as measured by a minimum

of 120 semester credits or its equivalent. At least 25 percent of the credit requirements for a Bachelor's degree shall be in general education.

15. California Code of Regulations, title 5, section 71400, subdivision (d)(1), provides: "When specific minor deficiencies are identified during processing but the institution is substantially in compliance with the requirements of the Code and this Division, a conditional authorization to operate may be granted for a period not to exceed six (6) months, to permit the institution to correct those deficiencies identified."

Evaluation

FIRST CAUSE FOR DENIAL

Cause exists to deny respondent's application pursuant to Regulations 71100 and 71710 for failure to demonstrate the capacity to satisfy the minimum operating standards.⁴ A curriculum is an "organized set of courses or modules of instruction that are prerequisites to the award of a degree or diploma." (Ed. Code, § 94828.) An institution is required to provide a description of the courses and course outline, including objectives, method of instruction, qualifications of faculty, and the learning outcomes. (Cal. Code Regs., tit. 5, § 71710.) Respondent did not have a curriculum developed for each of its areas of study as required under regulation 71710. Although respondent did list the courses required for each degree program, and provided a very brief description of the course and required textbook, respondent did not submit course syllabi for any course in either of the degree programs that met the requirements under Regulation 71710, subdivision (c). The single syllabus respondent provided at hearing, which was not previously submitted to the bureau, was skeletal and failed to provide the information required by regulation.

SECOND CAUSE FOR DENIAL

16. Cause exists to deny respondent's application pursuant to Regulations 71100 and 71715. Respondent failed to meet the minimum requirements as specified below:

a) Respondent failed to establish that the instruction offered leads to the achievement of the learning objectives of each course. (Cal Code. Regs., tit. 5, § 71715, subd. (b).) As previously discussed, respondent did not submit to the bureau course syllabi for any course in either of the degree programs. The syllabus submitted at hearing was incomplete. Although the catalog provided brief descriptions and topics, there was little in the way of learning objectives.

⁴ Although not specifically referenced in the seven causes for denial, Education Code section 94887 authorizes the denial of an application for an approval to operate if the applicant does not present sufficient evidence to establish the capacity to satisfy the minimum operating standards.

b) Respondent failed to demonstrate the educational program offered through distance education is appropriate for delivery through distance education methods. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(1).) Respondent did not establish that a bachelor's degree in engineering can be delivered through a 100 percent distance learning. There was exceedingly little evidence to establish that the educational program offered by respondent is appropriate for delivery through distance education methods. Although Drs. Tran and Bayashi believed that labs could be provided online to the same efficacy as a lab where students are present in person, respondent failed to demonstrate that *it* could provide this educational program. Indeed, respondent's demonstration of a single lab experiment, consisting of a single computer animation, was rudimentary and not even designed by respondent's faculty. There was no evidence that any other college or university, accredited or unaccredited, provided 100 percent distance education leading to a bachelor's degree in engineering. Of course, it is entirely possible that a college or university could develop such a course; but in this case, respondent did not. In fact, respondent failed to fully develop a single course for its program. Fundamentally, it was unclear how respondent would present its material. The demonstration of a sample lecture was of live instruction; but this conflicted with respondent's intention to not provide any live instruction.

c) Respondent failed to demonstrate that the materials and programs offered through distance education are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(3).) As previously found, there were many deficiencies in respondent's educational platform. The course syllabus provided at hearing was skeletal. Neither Dr. Tran nor any of respondent's faculty had demonstrated experience in providing distance education.

d) Respondent failed to demonstrate that it has clear standards for satisfactory academic progress in the courses to be offered via distance education. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(5).) Respondent did not provide a course syllabus containing statements of educational objectives and specific learning outcomes tied to the sequence of the presentation of the material to measure the students' learning of the material. In fact, the single syllabus submitted at the hearing stated that a student would be dismissed from the program for missing two classes, which conflicted with other policies contained in the catalog. This demonstrated a lack of clear and consistent standards.

e) Respondent failed to demonstrate that the institution hired duly qualified faculty to timely complete student evaluations of learning, which are appropriate for use with the distance education methods used, and evaluated by duly qualified faculty. (Cal. Code Regs., tit. 5, § 71715, subd. (d)(6).) Respondent did not demonstrate a developed education platform or show how the platform was to be used by a faculty member in evaluating a student's work. There was no evidence that any of the proposed faculty have any experience working with WizIQ, respondent's online platform.

f) Respondent failed to demonstrate the institution's platform for delivering distance education had a mechanism to track and log student work. (Cal. Code Regs., tit. 5,

§ 71715, subd. (d)(8).) Respondent did not develop WizIQ sufficiently to allow for tracking or monitoring submitted assignments. Respondent's belief that it *could* develop WizIQ for such tasks was not sufficient to establish minimum operating standards.

THIRD CAUSE FOR DENIAL

17. Cause does not exist to deny respondents application for failure to provide "written policies and procedures providing for the participation by qualified faculty in the conducting of research, development of curricula, academic planning, enforcement of standards of academic quality, pursuit of academic matters related to the institution's mission and objectives, establishment of criteria for contracting with new faculty, and evaluation of faculty credentials." (Cal. Code Regs., tit. 5, § 71720, subd. (a)(2).) Respondent's "New Faculty Handbook," provided to the bureau on March 10, 2014, submission, did not contain these policies. However, respondent has prepared new documents, titled "CIE's Policy and Procedure for Faculty Participation in Development of Curricula, Academic Planning, Purpose, Goal, Etc" and "Faculty Hiring Guide" that provide information sufficient to satisfy the regulation.⁵

FOURTH CAUSE FOR DENIAL

18. Cause exists to deny respondent's application pursuant to Regulations 71100 and 71740. Respondent does not intend to provide a library to its students. An institution that depends on another institution's collections for library and other learning resources must adhere to certain requirements under the bureau's regulations, including that the institution's librarian is a professional librarian or information specialist experienced in the electronic retrieval of information. (Cal. Code Regs., tit. 5, § 71740, subd. (d)(2) & (4).) In its March 10, 2014, response to the bureau, respondent indicated that it does not have agreements with online libraries, but as soon as the bureau grants a permit to operate, respondent will set up an agreement for library resources. This response did not establish compliance with the regulation and provided grounds for denial. At hearing, respondent provided a list of online libraries, some free and others requiring paid subscriptions, that students can access.

⁵ Complainant contended that only the application material previously submitted to the bureau should be considered in these proceedings, such that respondent's amended policies and catalog should not be considered. This argument is rejected. These proceedings are conducted in accordance with the Administrative Procedures Act (Gov. Code, § 11500, et. seq.) (Cal. Code Regs., tit. 5, § 71400.5, subd. (c).) Government Code section 11504 provides, "The statement of issues shall be a written statement specifying the statutes and rules with which the respondent must show compliance by producing proof at the hearing . . ." This text implies that a respondent may bring forth evidence to establish compliance, even if the respondent failed to previously establish compliance at the time the application was denied. Additionally, there are no other statutory provisions limiting the admission of evidence to that which was previously provided. As such, respondent is not barred from presenting evidence establishing remediation, such that it is no longer in violation of a particular rule or law.

However, it is respondent's responsibility to provide library services, not the students' responsibility to locate and pay for an appropriate service. Moreover, this contradicts the statements in the revised catalog stating that librarians are available to answer questions by e-mail and students can access CIE's library and online collection on the internet. Respondent failed to establish compliance with Regulation 71740.

FIFTH CAUSE FOR DENIAL

19. Cause does not exist to deny the application pursuant to Regulation 71760. Although the self-monitoring policies respondent initially submitted to the bureau in March 2014 were vague, unclear, and did not provide any specific procedures for monitoring the institution as required by regulation, at hearing, respondent submitted "CIE Self-Monitoring Procedures Forms & Guidelines." This document was far more comprehensive than the previous self-monitoring procedures respondent provided to the bureau, establishing compliance with the regulation.

SIXTH CAUSE FOR DENIAL

20. Cause exists to deny respondent's application pursuant to Regulations 71100 and 71770 and Code section 94909. Respondent's catalog submitted on March 10, 2014, did not meet the minimum requirements under the Code. The catalog failed to include required statements specifying whether the institution or any of its degree programs are accredited by an accrediting agency recognized by the United States Department of Education. (Ed. Code, § 94909, subd. (a)(16).) The updated catalog identified that its degree programs were unaccredited, but failed to disclose that a degree from an unaccredited institution is not recognized for some employment positions, including, but not limited to, positions with the State of California; and that a student enrolled in an unaccredited institution is not eligible for federal financial aid programs. (Ed. Code, § 94909, subd. (a)(16)(A) & (B).)

SEVENTH CAUSE FOR DENIAL

21. Cause exists to deny respondent's application pursuant to Regulations sections 71100 and 71850. For both degree programs, respondent lists specific courses and units students must take to obtain 60 units of what is termed general education prior to acceptance to CIE. The courses are specific, and only relate to the following disciplines: physics, chemistry, biology, calculus, statistics, and computer programs. Rather than specifying categories of general education, respondent lists specific course names as prerequisites for admission that it terms general education. The weight of the evidence did not establish that respondent specified the distribution of general education credit requirements by subject area for each undergraduate degree program, as required by Regulation 71850.

Denial of the Application is Required for Public Protection

22. Consumer protection is the bureau's highest priority. (Ed. Code, § 94875.) Respondent had the burden of demonstrating that it was currently capable of meeting the

minimum standards to operate a private postsecondary institution in California. Overwhelming evidence showed that respondent institution failed to demonstrate the capacity to meet minimum operating standards in numerous areas.

Fundamentally, respondent failed to show that it has the capacity to meet minimum operating standards to operate as an institution. Respondent seeks to offer distance learning in two bachelor's degree programs in engineering. Respondent failed to meet minimum operating standards in critical operational and educational areas. First, respondent lacked detailed curricula and syllabi for its programs. Due to the absence of curricula and syllabi, respondent was unable to document that it met minimum requirements to award undergraduate degrees. Additionally, respondent failed to show that it developed an educational program appropriate through delivery through distance education and that it fully developed a platform to deliver the material.

Dr. Tran testified that it would take the institution approximately six months to become operational once the bureau grants an operating license. He expressed unwillingness to invest money in developing a curriculum, hire faculty, and bring the institution close to operational status before such time the bureau grants an operating license. Such reservations are understandable in light of the high costs of opening a private degree-conferring university. However, the bureau cannot fulfill its responsibility to ensure consumer protection if the proposed institution does not demonstrate a capacity to meet minimum operating standards. The evidence did not establish that respondent is anywhere near this point. Dr. Tran is to be commended for his consistent attempts to correct deficiencies brought to its attention during the application process. He appeared genuinely dedicated to starting this new chapter in his career. However, operating a private postsecondary institution in California is not for the faint of heart – there are a myriad of regulations and laws governing operation that can prove difficult for those who are experienced in running universities, let alone a person with no experience in this arena. Respondent contended that a conditional license is appropriate in order to allow the bureau to monitor the institution. However, public protection requires denial of the application at this time. Had the deficiencies been limited to a few minor violations, a conditional license would have been appropriate. (Cal. Code Regs., tit. 5, § 71400, subd. (d)(1).) However, the serious deficiencies that exist in this case cannot be easily remedied and require respondent to fully develop a curricula and educational platform. The bureau must be provided with an opportunity to fully evaluate any updated application and material before a license to operate is granted. The bureau's denial of the application is affirmed.


//

//

ORDER

The application of respondent, California Institute of Engineering, Paul Hoa Tran, owner, for approval to operate an institution not accredited is denied.

DATED: August 18, 2016

DocuSigned by:

19DED247706C4FB...

ADAM L. BERG
Administrative Law Judge
Office of Administrative Hearings