

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

In the Matter of the Accusation Against:

OLIVET UNIVERSITY

Olivet University (Main)
36401 Tripp Flats Road
Anza, CA 92539

Olivet University (Branch)
1329 S. Hope Street
Los Angeles, CA 90015

Olivet University
(San Francisco Campus)
201 Seminary Drive
Mill Valley, CA 94941

Institution Code: 88680286

BPPE Case No.: BPPE 22-592

OAH Case No.: 2023090005

Respondent.

DECISION AND ORDER

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.

This Decision shall become effective on January 10, 2025.

It is so ORDERED December 10, 2024.

"Original Signature on File"

RYAN MARCROFT
Deputy Director, Legal Affairs Division
Department of Consumer Affairs

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

In the Matter of the Accusation Against:

OLIVET UNIVERSITY, Respondent

Agency Case No. BPPE 22-592

OAH No. 2023090005

PROPOSED DECISION

Debra D. Nye-Perkins, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on November 4, 5, and 6, 2024.

Dionne Mochon, Deputy Attorney General, represented complainant, Deborah Cochrane, Chief of the Bureau for Private Postsecondary Education (bureau or BPPE), Department of Consumer Affairs, State of California.

Olivet University, respondent, appeared on its own behalf through its President, Dr. Jonathan Park, and Vice President, Dr. Walker Tzeng.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on November 6, 2024.

PROTECTIVE SEALING ORDER

Exhibits 21, 24, 27, 28, and P contain confidential information, including student names, and are subject to a protective sealing order. It is impractical to delete or redact the confidential information in these exhibits. No court reporter or transcription service shall transcribe the actual name of any student but shall instead refer to the student by their first and last initials. To protect privacy and confidential personal information from inappropriate disclosure, a written Protective Order Sealing Confidential Records was issued. The order lists the exhibits ordered sealed and governs the release of documents to the public. A reviewing court, parties to this matter, their attorneys, and a government agency decision maker or designee under Government Code section 11517 may review the documents subject to the order, provided that such documents are protected from release to the public.

FACTUAL FINDINGS

The Bureau for Private Postsecondary Education

1. In the late 1980s, accreditation and regulation of private postsecondary educational institutions in California was accomplished by a division within the State Department of Education. As a result of concerns over the integrity and value of degrees being issued by private postsecondary institutions, California's regulatory program was overhauled and oversight responsibility for private colleges was transferred to a Council on Private Postsecondary and Vocational Education. Around the same time, the Legislature adopted the Maxine Waters School Reform and Student Protection Act (Waters Act). The law governing the Council on Private Postsecondary and Vocational Education was merged with the Waters Act, but doing so created a

regulatory framework with duplicative and conflicting statutory provisions. On January 1, 2007, the law governing the accreditation and regulation of the private postsecondary education sector was allowed to sunset, leaving California without an administrative body responsible for accrediting, regulating, and overseeing private postsecondary educational institutions.

In 2009, the Legislature and the Governor reached agreement on Assembly Bill (AB) 48, the Private Postsecondary Education Act, and created a new administrative agency within the Department of Consumer Affairs, the Bureau of Private Postsecondary Education. The bureau is responsible for protecting students and others against fraud, misrepresentation, and improper business practices that might lead to the loss of tuition and related educational funds; establishing and enforcing minimum standards for ethical business practices and the health, safety and fiscal integrity of postsecondary educational institutions; and establishing and enforcing minimum standards for instructional quality and institutional stability for students in all types of private postsecondary educational and vocational institutions.

2. The bureau's paramount objective is protection of the public. To achieve its mission, the bureau reviews and approves applications to operate private postsecondary educational institutions that demonstrate the institution is capable of complying with the minimum requirements set forth in the California Private Postsecondary Education Act of 2009 and corresponding regulations. The bureau may deny the renewal application or cite, revoke, suspend, place on probation, or bring an action for equitable relief against any approved institution whenever the institution has violated laws governing an institution's operation.

The bureau's enforcement program is intended to ensure that timely and appropriate disciplinary action is taken against non-compliant institutions. The bureau

utilizes services of the California Department of Consumer Affairs, the Office of the Attorney General, and the Office of Administrative Hearings to ensure that disciplinary actions are handled in a fair and judicious manner.

Jurisdictional Matters

3. On December 13, 2004, the bureau issued a Temporary Approval to Operate Institution Code number 88680286 to respondent Olivet University. On November 9, 2006, the bureau issued Approval to Operate Institution Code number 88680286 to respondent Olivet University. The Approval to Operate expired on November 1, 2014, and has not been renewed. On December 1, 2011, the bureau granted Approval to Operate by means of accreditation Institution Code number 88680286 to respondent Olivet University, which is approved to operate programs in Chinese, English, Korean, and Spanish for the conferral of Bachelor, Master, and Doctorate programs. The Accredited Approval to Operate will expire on February 28, 2025, unless renewed.

4. On March 17, 2023, complainant signed the accusation in this matter seeking the revocation or suspension of respondent's Approval to Operate Number 88680286 and payment of reasonable costs of investigation and enforcement of this matter based upon 14 causes for discipline, namely: (1) failing to provide all the educational courses represented in its Approval to Operate, and failing to ensure that the students admitted to the educational programs will complete the programs and obtain degrees and diplomas; (2) merging courses in a manner that could result in learning impairment; (3) failing to include a component of face-to-face instruction by duly qualified faculty and failing to present courses in a logically organized manner; (4) failing to present curriculum in a logical manner and failing to address the assessment of learning outcome by duly qualified faculty in course syllabi; (5) failing to address the

financial arrangements or eligibility requirements for scholarships in the institution's policies and procedures; (6) failing to have required National Association of Credential Evaluation Services (NACES) evaluations for faculty, failing to employ faculty that have degrees or terminal degrees in the fields of study offered by respondent, and failing to maintain faculty personnel files; (7) failing to demonstrate that the institution meets the requirements for financial resources; (8) failing to provide adequate staffing to provide assistance required by the bureau at on-site visits and the staff listed in the institution's organizational chart are inconsistent with staff identified at the main location and San Francisco campus; (9) failing to audit the faculty personnel files and ensure the files contained current information; (10) failing to identify all faculty in the institution's catalog and faculty member list provided to the bureau; (11) failing to have enrollment agreements in student records; (12) failing to give bureau staff immediate access to institution records during the on-site visits, failing to properly maintain faculty records, and failing to clearly differentiate the method of course delivery in the syllabi; (13) failing to maintain Student Performance Fact Sheets (SPFS) data in its entirety; and (14) failing to provide documentation of student withdrawal requests or proof of a refund of tuition and fees for students listed on the withdrawn student list.

Complainant further alleged as a disciplinary consideration that on January 28, 2020, in a prior action, the bureau issued Citation number 1920070 to respondent, a citation that is now final, which ordered respondent to provide a written policy of how future compliance will be maintained pursuant to California Code of Regulations, title 5, sections 74112 and 71930, and assessed a \$5,000 administrative fine.

5. Respondent timely filed a notice of defense, and this hearing followed.

Complainant's Evidence

6. Complainant provided testimony from six witnesses at hearing and multiple documents received in evidence. The testimony and documents received in evidence relate to unannounced visits by BPPE staff on November 15, 2022, to respondent's main campus in Anza, California (Anza campus), respondent's branch location in Mill Valley, California (Mill Valley campus, and also referred to in the accusation as the San Francisco campus), and respondent's branch location in Los Angeles, California (Los Angeles campus), as well as an unannounced visit by BPPE staff to the Mill Valley campus on January 31, 2023. The following factual findings are based on the testimony of those witnesses and related documents received in evidence.

TESTIMONY OF ROBERT DAWKINS

7. Robert Dawkins is currently employed by BPPE as a special investigator, a position he has held since May 2022. His duties in this position include investigating complaints from consumers and the public, creating investigative plans, reviewing records, interviewing witnesses, and creating reports. Mr. Dawkins has completed over 44 investigations on behalf of BPPE. Prior to his position with BPPE, he worked as an enforcement analyst for the Bureau of Security and Investigative Services (BSIS), where he investigated complaints related to private investigators, security guards, and alarm companies. Mr. Dawkins completed over 200 investigations for the BSIS. Mr. Dawkins was assigned to investigate respondent on September 1, 2022, based on concerns related to student safety and quality of education after the BPPE became aware of a Newsweek article outlining allegations against respondent.

8. Mr. Dawkins first conducted a license and record search related to respondent, prepared an investigative plan, familiarized himself with respondent's website, and included members of the BPPE team for the unannounced campus visits. After completing his investigation, Mr. Dawkins drafted an investigative report summarizing his findings based upon his own observations, as well as summaries from BPPE staff in the investigative team. Mr. Dawkins made the unannounced site visit to the Anza campus on November 15, 2022, along with Senior Education Specialist Drew Saeteune, Senior Education Specialist Joanna Murray, and Enforcement Analyst Dezi Contreras. They arrived at the Anza campus at 8:45 a.m., which was during the normal business hours of the campus of 8:00 a.m. to 5:00 p.m., as shown on respondent's website. After arriving at the Anza campus, Mr. Dawkins met with members of the administration of respondent, including Dr. Matthias Gebhardt. Mr. Dawkins identified himself with his BPPE issued identity card. Mr. Dawkins asked Dr. Gebhardt to provide him with a course schedule and faculty roster for the Anza campus. Mr. Dawkins explained that he normally makes that request for any unannounced site visit. The course schedule provides the courses offered that day, and the faculty roster assists to identify any faculty members, particularly if Mr. Dawkins needs their personnel files. Mr. Dawkins stated that Dr. Gebhardt provided him with the course schedule and faculty roster that day, and those documents are included in Mr. Dawkins' report. Mr. Dawkins also requested that Dr. Gebhardt provide him with a student enrollment count, which allows Mr. Dawkins to identify how many student records he may need to request. Dr. Gebhart told Mr. Dawkins that there were 80 students enrolled.

During the site visit, Mr. Dawkins toured the Anza campus along with Dezi Contreras while Mr. Saeteune and Ms. Murray observed classroom instruction. During the tour of the campus, Mr. Dawkins toured living quarters and classrooms, all of which were vacant. During the tour, Mr. Dawkins only observed one student on

campus, and Mr. Dawkins attempted to interview the student, but the student was reluctant to answer questions. During the tour, Mr. Dawkins also only observed one faculty member, who was a former student, current instructor, and current daycare provider. After touring the campus, Mr. Dawkins returned to find Ms. Murray and Mr. Saeteune. Ms. Murray directed Mr. Dawkins to a classroom where Microeconomics (ECON 310) and Microeconomics (ECON 610) were being taught. Mr. Dawkins testified that the class was being held at 1:00 p.m. and there were only seven students present with the instructor not present but appearing by live stream. According to Mr. Dawkins, the students were not interacting with the instructor but were just observing.

At the conclusion of the Anza campus site visit, Mr. Saeteune asked Dr. Gebhardt for current student files, and Dr. Gebhardt informed them that the student files had been confiscated by United States Department of Homeland Security (Homeland Security) during its 2019¹ visit, and the student files were returned to respondent "as a dump file" and, as a result, it would require extra time to compile those files. After waiting for about one hour for Dr. Gebhardt to compile those student files, Ms. Murray and Mr. Saeteune advised Dr. Gebhardt that the team had to leave and that Dr. Gebhardt could forward those student files by the close of business that same day.

¹ Mr. Dawkins' report provided that Mr. Gebhardt told him that Homeland Security confiscated student files during its 2019 visit to respondent. During his testimony Mr. Gebhardt stated that Homeland Security confiscated those files in 2021. Regardless, the parties did not dispute that Homeland Security had returned those files to respondent "as a dump file" prior to the November 2022 site visits by BPPE.

9. On January 31, 2023, Mr. Dawkins, along with Mr. Saeteune, Ms. Murray and Education Specialist Forrest Rule, conducted an unannounced site visit to the Mill Valley campus. Mr. Dawkins testified that the purpose of this visit was to collect records and observe classroom instruction. Upon arrival at 10:45 a.m., during operating hours, Mr. Dawkins met with campus director Joseph J. Lee, Ph.D., Dr. Tom J. Cowley, and Professor Thu "Kathy" Tran. Mr. Dawkins asked Dr. Lee and Dr. Cowley for a faculty list, campus map, course offerings for Winter 2023 and for the January 31, 2023, enrolled student list, and faculty handbook. Ms. Tran provided the documents. Mr. Dawkins then toured the campus and observed classrooms, the administration building, and living quarters. Mr. Dawkins testified that all of the classrooms and living quarters were empty with no students, and Mr. Dawkins did not see any faculty on campus other than the three listed above. After the tour Mr. Dawkins asked Dr. Lee for copies of respondent's 2020 and 2021 SPFS backup data, and Dr. Lee informed him that this data is kept at the Anza campus. Dr. Lee informed Mr. Dawkins that he would contact Dr. Gebhardt for the backup data, and Mr. Dawkins informed him that Dr. Gebhardt should be familiar with that request because Mr. Dawkins asked Dr. Gebhardt for that data on December 27, 2022, and had yet to receive the documents requested. Mr. Dawkins testified that he did not receive the 2020 and 2021 SPFS backup data at the site visit on January 31, 2023, but he did receive it later on February 9, 2023.

TESTIMONY OF ASHLEY CORNEJO

10. Ashley Cornejo is currently employed by BPPE as a special investigator, a position she has held for almost two years. Prior to that position she worked for BPPE as an enforcement analyst, a position she held for 11 years before her promotion to special investigator. Ms. Cornejo has completed over 45 investigations for BPPE.

11. Ms. Cornejo was assigned to conduct an unannounced on-site inspection of the Mill Valley campus. On November 15, 2022, Ms. Cornejo and enforcement analyst Brittany Elliott conducted the on-site visit to the Mill Valley campus. Ms. Elliott was "shadowing" Ms. Cornejo who took notes regarding her observations on November 15, 2022, at the Mill Valley campus, and those notes were received in evidence, and after her on-site visit those notes were provided to Mr. Dawkins. Ms. Elliott was shadowing Ms. Cornejo as part of her training with BPPE. Ms. Cornejo arrived at the Mill Valley campus at 10:30 a.m., during the normal school hours as shown on respondent's website and respondent's catalog. Upon arriving, Ms. Cornejo and Ms. Elliott were approached by Professor Thu "Kathy" Tran, who told Ms. Cornejo that she was the registrar. Ms. Cornejo introduced herself to Ms. Tran and told her that she wanted to meet with the campus director or president and wanted a tour of the campus. Ms. Cornejo also asked Ms. Tran for copies of a campus map, program schedule, course schedule, class roster, faculty roster, faculty schedule, graduation information and student roster. Ms. Tran provided that information to Ms. Cornejo, and those documents were received into evidence.

12. During her on-site visit to the Mill Valley campus on November 15, 2022, Ms. Cornejo met with instructor Xianglai "Thomas" Kong, as well as Dr. Walker Tzeng. Mr. Kong introduced himself as the chief faculty officer and accompanied Ms. Cornejo and Ms. Elliott on a tour of the campus. During the tour of campus, Ms. Cornejo observed four faculty offices, but there were no faculty on-site that day. Ms. Cornejo saw two students in the resource center and interviewed them. Ms. Cornejo visited two classrooms, one had only five students and no faculty and the other had no students and no faculty despite the fact that a class was scheduled to be happening in that classroom.

TESTIMONY OF MATTHEW WIGGINS

13. Matthew Wiggins is currently employed by BPPE as a special investigator, a position he has held since December 2022. In his current position, Mr. Wiggins reviews SPFS documents, student records, and financial records to ensure compliance. Prior to that position Mr. Wiggins worked for BPPE as a compliance analyst from April 2014 to December 2022, during which time he conducted unannounced compliance inspections, reviewed documents, and drafted reports. From July 2013 to April 2014, Mr. Wiggins worked for BPPE as a licensing analyst, during which time he was responsible for license reviews. From January 2012 to July 2013, Mr. Wiggins worked for BPPE as a compliance analyst, during which time he was responsible for review of catalogs and responses of licensees to determine compliance. Mr. Wiggins has worked for BPPE for 12 years and has completed over 40 investigations. As part of his duties, he regularly reviews SPFS, and in 2016 he developed a training workshop for compliance with regulations with regard to SPFS.

14. Mr. Wiggins explained that an SPFS is a document that reports outcomes in completion rates, job placement, employment rates, salary and wage data, hours per week, and three-year loan default rates, as well as disclosures that must be initialed and signed by students prior to enrollment in a licensed institution. He explained that the SPFS has to be provided by an institution by December 1 of each year. Additionally, as part of any compliance inspection or during an investigation, the SPFS supporting documents must be provided by an institution upon request of BPPE. Specifically, Education Code section 94929.7, as well as California Code of Regulations, title 5, section 74112, requires institutions to maintain the documents underlying SPFS for five years, in electronic format, and be made available to the BPPE upon request. Mr. Wiggins noted that the SPFS underlying data must include the institutional

representative responsible for collecting the data, as well as the date that the institution verified the data, as well as copies of all written communications between the institution and the employer, and documentation of all efforts made by the institution to contact student graduates.

15. In February 2023, Mr. Wiggins was assigned to review the SPFS backup data for respondent for the 2021 school year. Mr. Wiggins reviewed respondent's 2021 annual report, the 2021 and 2022 graduate catalog, and the 2020 and 2021 SPFS backup data that was provided to Mr. Dawkins by respondent. Mr. Wiggins reviewed those documents to ensure respondent was accurately representing the data in its SPFS submissions. He explained that the individual data points for each student, as well as the graduate catalog, have the standard occupation code (SOC), and the graduate's position listed in the backup data has to be related to the SOC codes. Mr. Wiggins testified that he did not review the undergraduate catalog because the backup documentation he reviewed was only for the Master of Divinity and Master of Arts in Music programs.

In analyzing the data from respondent, Mr. Wiggins determined that respondent had deficiencies in its SPFS submissions. Specifically, respondent submitted 20 SPFS documents for 20 programs showing performance data for completion rates and job placement rates. However, respondent only provided backup data for three of those 20 programs, and failed to provide any backup data for 17 of those programs. He explained that failure to provide backup data for all of the 20 programs is a violation of California Code of Regulations, title 5, sections 71930 and 74112, subdivision (m). Furthermore, the backup data for those three programs also had deficiencies, including there was no data for salary for one student, another student was listed as employed with employment listed as "continuing education" but

with no data to substantiate that information or show why the student was not available for employment, another student was shown as employed in the field full-time but with no salary shown and instead "NA" listed and no hours shown, another student was listed as temporarily employed in the field at Olivet Assembly but did not report that the student was institutionally employed, and another student was listed as employed as an administrative assistant but that did not match the SOC code for the program. Additionally, with regard to any missing information, the verification date was also missing, and respondent did not provide information on how it attempted to get information from the students. These are all violations of California Code of Regulations, title 5, section 74112, subdivision (m). Mr. Wiggins explained that students rely on SPFS data to ensure that the institution is the right fit for their goals, and if the institution is reporting inaccurate information in the SPFS, then students will be misled.

16. Mr. Wiggins also testified that he previously reviewed respondent's SPFS information when he conducted an unannounced site visit to the Anza campus in February 2019. He explained that he did not review the SPFS backup data on that occasion. He stated that on that February 2019 visit, respondent failed to provide any backup data as requested. As a result, BPPE issued a citation to respondent for failure to provide the backup data. A copy of that citation, which was issued on January 28, 2020, was received in evidence. The citation issued an administrative fine of \$5,000 along with an order of abatement requiring respondent to provide a written policy of how future compliance will be maintained as required by California Code of Regulations, title 5, sections 74112 and 71930.

17. On cross-examination, Mr. Wiggins testified that if a graduate program at respondent's institution did not have any graduates, then there would be no backup

data. Mr. Wiggins stated that respondent had 25 such programs with no graduates. However, respondent had 17 programs for which it reported data for graduates in the SPFS, but respondent provided no backup data for those 17 programs, which is a violation of the regulations. He also explained that with regard to the backup data provided by respondent, having a notation that no salary information was given would be in compliance with the applicable regulations. However, leaving the salary information blank would not be in compliance with the applicable regulations because the respondent has an obligation to explain and has an obligation to provide steps taken to obtain the information, which it did not do. Mr. Wiggins also testified that he has not seen any evidence that respondent has remediated the deficiencies in the SPFS or SPFS backup data he reviewed.

TESTIMONY OF JOANNA MURRAY

18. Joanna Murray is currently employed by BPPE as a senior education specialist, a position she has held since 2017. From 2015 to 2017, she worked for BPPE as an education specialist. In 2018, she was appointed to be the Assistant Chair of the distance education committee of the National Association of State Administrators and Supervisors of Private Schools (NASASPS). In 2022, she became an Administrator of NASASPS. Ms. Murray completed her master's degree from the University of Maryland and while in graduate school she was a grader and taught workshops. She also worked for 12 years as a college instructor at Field College and designed curriculum. She has participated on policy committees and proposed changes to regulations. Ms. Murray's duties as an education specialist include review of applications and renewals for an institution's approval to operate with a focus on quality of education, and review of an institution's change to educational objectives when new programs are added or educational delivery mechanisms are changed. Ms. Murray is also involved in

complaint investigations for a determination of compliance when it involves quality of education issues. Ms. Murray also tracks an institution's pursuit of accreditation for degree-granting institutions that are mandated to be accredited. In California, the law requires an institution to be accredited if they are offering degree programs. Ms. Murray is a subject matter expert on quality of education.

19. Ms. Murray explained that the process of accreditation for an institution is different than California's approval for an institution. The State of California has laws and regulations that an institution must follow to be approved to operate in California. By contrast, accreditors have standards, which are not written into law, and those standards can change or be waived. Accreditation does not always overlap with approval from the State of California.

20. Ms. Murray was assigned to work with Mr. Dawkins for the investigation of respondent to review the quality of education of their programs. Ms. Murray accompanied Mr. Dawkins for the unannounced on-site visits on November 15, 2022, to the Anza campus, and on January 31, 2023, to the Mill Valley campus.

21. During the November 15, 2022, Anza campus visit, Ms. Murray met with Dr. Gebhardt and informed him that she was a senior education specialist and was there to observe classes. She requested that he provide her with a class schedule and faculty information. Dr. Gebhardt provided those documents to her. Ms. Murray observed three classes on the Anza campus that day, and those were the only classes happening on the Anza campus that day. The three classes were: (1) English as a Foreign Language; (2) Management 450 (Ethical and Legal Issues in Business) and Management 720 (Business Law); and (3) Micro-Economics. With regard to the English as a Foreign Language class, Ms. Murray observed seven students in the room with an eighth student coming in late and the instructor of the class at a small table in the

front of the room. In that class, the students were listening to the instructor talk about how to improve their writing.

With regard to the merged class of Management 450 and Management 720 class, Ms. Murray observed that there were seven students in the room, but no instructor in the room. Instead, the instructor appeared remotely on a television screen at the front of the room. The students were watching the screen and taking notes, but there was no interaction between the students and the instructor appearing remotely. She also observed that there was a children's class on the other side of the wall, which was very loud.

With regard to the Micro-Economics class, Ms. Murray observed that this class was not happening in the room where it was scheduled per the class schedule. As a result, Ms. Murray went to nearby classrooms and found the class in the research and development building taking place in a computer lab room. She observed seven students at a long table, as well as other students working independently. There was no instructor in the room, but instead there was an instructor appearing on a monitor "with a live stream of a lecture." One student was controlling the remote control to the monitor, which Ms. Murray observed was very hard to hear because the volume was quiet. Ms. Murray observed that there was no interaction between the students and the instructor on the monitor.

While on the Anza campus, Ms. Murray interviewed "a couple of students" and three faculty members. She stated that a couple of the faculty members were also students at the institution. Ms. Murray was on the Anza campus for about five hours total. Ms. Murray also obtained documents in conjunction with the Anza campus including: Olivet Undergraduate Academic Catalog (2022-2023) as posted to the website; Olivet Graduate Academic Catalog (2022-2023) as posted to the website and

a hard copy provided on-site; Olivet Zinzendorf School of Doctoral Studies Academic Catalog (2022-2023) by a link to the website posting provided via email; current student enrolled rosters (campus-based students) provided via thumb drive and subsequent email; sample active student files provided via thumb drive; Fall 2022 Anza campus class schedule provided by hard copy and emailed; and syllabi provided via email.

22. During the January 31, 2023, Mill Valley campus visit, Ms. Murray testified that when they arrived on campus that day, they walked through the administration building but nobody was there. She stated they did encounter one student, as well as Thu "Kathy" Tran, who led them to Dr. Lee, who became their point person for the visit. Ms. Murray requested a class schedule, faculty list and handbook, and campus map from Dr. Lee and was provided those documents. Ms. Murray asked for those documents so that she could observe classroom instruction, as well as to ensure the faculty handbook was communicating to the faculty what was expected of them. During the on-site visit to the Mill Valley campus, Ms. Murray observed two classes, namely Old Testament II and Statistical Computing.

With regard to the Old Testament II class, Ms. Murray stated that Ms. Tran taught that class with five students in the room, and Ms. Murray sat in the back of the classroom. Ms. Tran lectured during the class. Ms. Murray stated that the class was scheduled from 1:30 p.m. to 3:30 p.m., and this was a four-unit class and should be meeting four hours per week. However, this class was only scheduled for two hours per week. Additionally, the class actually met for only one hour and 15 minutes and went from 1:30 p.m. to 2:45 p.m. Ms. Murray observed Ms. Tran instructing the students to turn to the bible and look up particular items. At the end of the class, Ms. Tran assigned reading from the bible and a reflection paper. Ms. Murray also noted

that the five students in this class were master's degree level students and were "a couple of quarters into their master's program." Ms. Murray noted that this class had a lack of rigor for learning for a master's level class.

With regard to the Statistical Computing course, Ms. Murray observed that there were only two students in the class, and the instructor, who was the faculty of record, appeared only by a monitor and was live streaming into the class. Ms. Murray noted that another faculty member was in the room, Thomas Kong, but he was not teaching the course and was not assigned to teach the course. Ms. Murray observed that when the faculty instructing the class on the television wanted to show a video, the sound on the video would not work, so the instructor asked Mr. Kong to play the video separately for the students. Also, when one of the students had a question, the microphone was not working, which was difficult for the faculty/student interaction. Ms. Murray noted that this was week three of the class, and "they were struggling" with technology. Ms. Murray spoke with Dr. Lee, who informed her that there are not always faculty members in the classrooms, and sometimes there are teaching assistants in the classrooms to assist with the technology.

While on the Mill Valley campus site visit, Ms. Murray interviewed students and faculty. During her on-site visit to the Mill Valley campus, Ms. Murray obtained the following documents used in her review: faculty list, campus map, course offerings for Winter 2023, current Mill Valley campus enrolled student list, course offerings for January 31, 2023, faculty handbook, and MyOlivet Populi learning management system (student access was provided for a small number of courses) and log-in information for that site was emailed to Ms. Murray on February 10, 2023. Ms. Murray also reviewed additional documents retrieved by BPPE investigators during their November 15, 2022, site visit to the Mill Valley campus including: campus map, Bachelors in

Information Technology and Master's in Information Technology program outlines, current quarter course schedule, undergraduate catalog excerpts, class schedule for the week of October 14-19, 2022, class schedule for the week of November 14-19, 2022, revised schedule for the week of November 14-19, 2022, Tuesday class schedule, Tuesday class roster, faculty course assignment schedule, faculty list with contact information, September to November 15, 2022, calendar schedule, and student rosters for 2021 to 2022. Ms. Murray reviewed all these documents, as well as all the documents obtained for the Anza campus described above, and relied on them, to reach her conclusions in this matter, which she summarized in her report received in evidence.

23. Ms. Murray testified, and summarized in her report, that after her review of the documents above, she concluded that respondent failed to offer sufficient courses at both the Anza campus and Mill Valley campus to meet the minimum operating standards as required in California Code of Regulations, title 5, sections 71710, subdivision (a), 71715, subdivision (b), and 71745, subdivisions (a)(1) and (a)(2). Specifically, with regard to the Anza campus, Ms. Murray found that two of respondent's degree programs had insufficient course offerings, namely: Bachelor of Arts in Theology and Master of Arts in Graphic Arts. Ms. Murray testified, and wrote in her report, that her review of the enrolled Anza campus students for the Fall 2022 quarter and cross-checking with courses required for each program with enrolled students shows that respondent is offering inadequate courses to support students who have enrolled in Chinese or Korean language programs on-site. She noted that respondent's graduate and undergraduate catalogs have a policy regarding instruction in languages other than English as follows:

Students enrolled in any of the programs described may demonstrate proficiency in additional languages of instruction throughout the course of study. Even though this allows registration of additional courses as they are available, more than half (50%) of the program must be completed in the original program language, or a change of program must be applied for.

Ms. Murray referenced the student enrollments at the Anza campus. The referenced document shows one student pursuing a bachelor's degree in theology given in Chinese, and one student enrolled on-site in a Master of Arts in graphic arts program in the Korean language. Ms. Murray then compared the course offerings for the Anza campus, which show that for the Bachelor of Arts in theology, there is only one four-unit course offered on the Anza campus in Chinese and all other course offerings are in English. With regard to the Master of Arts program, there were no units offered in Korean and all units offered were in English only. Accordingly, respondent offered insufficient course offerings for those degree programs for those students.

With regard to the Mill Valley campus, Ms. Murray testified and wrote in her report that her review of the enrolled Mill Valley campus students for the Winter 2023 quarter and cross-checking with courses required for each program with enrolled students shows that respondent is offering inadequate courses to support students enrolled in the five degree programs of: Bachelor of Arts in information technology, Master of Arts in information technology, Bachelor of Arts in music, Master of Arts in music, and Master of Arts in graphic arts. Ms. Murray stated that the only course offered in the Winter 2023 quarter for each of these degree programs was only one

four-unit class. With regard to the Bachelor of Arts and Master of Arts in information technology, those program requirements were outlined in program outlines provided to BPPE staff on November 15, 2022. Those documents demonstrated that for the bachelor's degree in information technology, during most regular quarters requires 16 units per quarter for on-time graduation. For the master's degree in information technology, that program requires students to take no fewer than eight units each Fall, Winter, and Spring quarters with the Summer quarter considered optional. With regard to the bachelor's degree in music, the only course offered in Winter 2023 was Introduction to Worship, a four-unit class. With regard to the master's degree in music, the only course offered in Winter 2023 was Contemporary Praise and Worship, a four-unit class. The only course offered for the master's in graphic arts degree for Winter 2023 was Making Ideas Visible, a four-unit course. Ms. Murray noted that the undergraduate academic catalog for respondent provides:

To be classified as full-time, undergraduate students must be enrolled for a minimum of 12 quarter hours, while graduate students must take a minimum of 8 quarter hours.

Ms. Murray noted that respondent simply did not provide enough courses to provide sufficient units for those students to graduate in a timely manner. Ms. Murray opined that respondent's failure to offer sufficient courses violated several regulations, including California Code of Regulations, title 5, sections 71710, subdivision (a), 71715, subdivision (b), and 71745, subdivisions (a)(1) and (a)(2).

24. Ms. Murray also concluded that respondent violated the requirements of Education Code section 94898, subdivision (a), by inappropriately merging classes where learning impairment will result at both the Anza campus and at the Mill Valley campus. Inappropriate merging of classes occurs when students, who have not

received the same amount of instruction such as graduate level and undergraduate level students, are merged into the same class such that the merging would result in an impairment of the students' learning. Ms. Murray made her conclusions based upon course schedules and syllabi, if those syllabi were available to her. Ms. Murray specifically requested syllabi from Dr. Gebhardt and he provided her a link to syllabi on December 21, 2022. Ms. Murray noted that the syllabi given to her were not complete and did not include all the syllabi that respondent should have.

With regard to the Anza campus, Ms. Murray noted several inappropriately merged classes during her testimony and summarized this in her report. Specifically, for the Fall 2022 quarter, the class Bible 240 is a required core class for most of the bachelor's degree programs offered by respondent, and Ms. Murray received a syllabus for this class. At the Anza campus, the Bible 240 class was combined with a master's level class of Bible 520 in the same classroom during the same time to receive a lecture from Professor Lin Liu. Ms. Murray wrote in her report that when students "who have received nowhere near the same amount of instruction (due to their being enrolled in different degree levels and often different majors as well) are inappropriately placed in courses together. Either bachelor's candidates will be overwhelmed, or master's course requirements will lack rigor." Ms. Murray noted that she was unable to further assess the discrepancies because respondent failed to provide her with a syllabus for the Bible 520 class as requested.

Another inappropriate merging of classes on the Anza campus involved the ECON 310, a bachelor's degree general education requirement for economics, and the ECON 610, a core course in microeconomics for master's degree students in the business program. Ms. Murray noted that the course schedule provided to her showed that both of those classes were placed in a single classroom under a single faculty

member, Sebastian Kieta, on Tuesdays from 1:00 p.m. to 5:00 p.m. Furthermore, the syllabus for ECON 610 shows the use of a textbook, which according to the publisher's website is intended for "the introductory economics student" and not for intermediate undergraduate and certainly not for an advanced graduate course. Ms. Murray noted that the ECON 610 course "appears to be designed with no more rigor than an introductory undergraduate course on the subject," and that the "intended educational level of the course appears to be suppressed to the level of the merged undergraduate course in a way that will impair the student's learning of the appropriate subject matter for the class."

Additionally, other inappropriately merged classes, which Ms. Murray observed while on the Anza campus, are the MGMT 720, business law class which is a core requirement for a master's in business administration (MBA), and MBMT 450, ethical and legal issues in business, a bachelor's in business administration core requirement class. Both of these classes were merged in the same class on Tuesday from 8:00 a.m. to 12:00 p.m. offered by Professor Jacob Chaterjee as a "hybrid-San Francisco" class. Ms. Murray testified, and wrote in her report, that these two classes are a "grave mismatch" because one is a bachelor's degree level course about ethics and law, and the other course is a master's level course about business law. Those are two totally different subjects with different course objectives and utilizing different textbooks. Ms. Murray noted that the lecture she observed was about criminal law, which has nothing to do with ethics in business. She opined that these two classes cannot be effectively merged without impairing student learning.

With regard to the Mill Valley campus, Ms. Murray concluded that respondent inappropriately merged several classes based upon the schedule of classes provided to BPPE investigators on November 15, 2022, and other documents. She noted that the

inappropriate merging of all of these classes would result in learning impairment of students. One example of inappropriate merging of classes is the ITSE 510, Principles of Software Development, which is a graduate level course, merged with the ITEC 320 class, Principles of Software Development, which is an undergraduate level course. Both of those classes are scheduled to be taught at the same time, with the same professor, Ray Lei, in the same room. Each course has a different syllabus with different degree levels (master's versus bachelor's), differing objectives, and have different textbooks. Ms. Murray opined that there is no way these two classes can be reasonably combined without learning impairment of students.

Another example includes the MUTH 110, Musicianship & Theory II, and MUPR 152, Applied Music: Composition II, both bachelor's level classes, and both scheduled to be taught at the same time and place as a "San Francisco-hybrid" by the same instructor, Hyungmin Lee. Ms. Murray noted that the MUTH 110 class is focused on music theory, while the MUPR 152 class is focused on application, which are different skills. Ms. Murray opined that this appears to be another inappropriate merger of classes, but that she was unable to further assess the discrepancies because respondent did not provide a syllabus for MUPR 152 as requested.

Ms. Murray also noted other examples of inappropriately merged classes at the Mill Valley campus, including four sets of merged classes in the English as a Second Language program with the same class, location, time, and instructor, but with the classes having disparity in skill levels of beginner and advanced. Ms. Murray noted that with regard to these merged classes, "'Foundation' courses have been combined with 'Advanced Level' courses, and Intermediate Level courses outlined in the curriculum appear to have been neglected. Specifically, the ENGL 011, Beginner Reading and Writing I, class was merged with ENGL 080, Advanced Reading and Writing I. The ENGL

020, Beginner Reading and Writing II, class was merged with ENGL 081, Advanced Reading and Writing II. Also, ENGL 030, Beginner Listening and Speaking I, class was merged with ANGL 071, Advanced Listening and Speaking I. Also, ENGL 040, Beginner Listening and Speaking II, class was merged with ENGL 072, Advanced Listening and Speaking II. Ms. Murray concluded in her report regarding these merged classes that the "scaffolding of skills and concepts for these courses are such that the disparity in proficiency levels would either prove too difficult for students without advanced proficiency, too rudimentary for students with advanced proficiency, or both." Ms. Murray noted that the syllabi for these courses each had a very different plan of instruction and course outline.

Ms. Murray also testified and noted in her report that while at the Mill Valley campus, Professor Thu "Kathy" Tran told her that the bachelor's core theology general education course BIBL 330 is combined or merged with BIBL 501, Old Testament I, a Master of Divinity (MDiv) major core requirement course. Ms. Tran is the instructor for both of those merged courses, held at the same time in the same room. Ms. Tran informed Ms. Murray that each course has two varying levels of ability and requirements with different textbooks. Ms. Tran informed Ms. Murray that it is challenging for her to simultaneously manage the instruction for the two very different courses. Ms. Murray's review of the course syllabi for each of these courses merged into one class show that the courses "are shown to have the same four course objectives, with wording only slightly varied. Syllabi additionally reveal both courses require only reflection papers and discussion, while the BA course additionally requires a group project and the master's course only additionally requires attendance – a substantial 25% of the MDiv candidate's grade." Ms. Murray noted that, accordingly, the master's level course lacks rigor. She also noted that the last three weeks of scheduled activities on the separate syllabi are not synchronized at all. As a result, "the

merging of classes appears to additionally be a logistical impossibility towards quarter's end."

25. Ms. Murray also concluded and summarized in her report that respondent misrepresented the method of instruction for its courses at both the Anza campus and the Mill Valley campus in violation of California Code of Regulations, title 5, section 71715, subdivision (c), because respondent characterized some courses as "hybrid" when in fact the courses were taught by "distance" learning as defined by the regulation. Ms. Murray explained that a hybrid course is a combination of direct instruction and distance instruction as defined by California Code of Regulations, title 5, section 71715, subdivisions (c) and (d). Specifically, direct instruction requires the physical presence of one or more students and one or more faculty members at the same location. Distance instruction, defined by the regulation and Education Code section 94834, 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 or other technical means. Ms. Murray also reviewed the ABHE Commission on Accreditation, which is the accreditation entity for respondent, Standards and Policies Manual 2024 regarding their definition of hybrid classes. This document was also received in evidence. That document shows that face-to-face traditional classroom must use 51 percent or more of face-to-face instruction but may have "some technologically-mediated educational engagement strategies . . . to replace some face-to-face meetings" for "hybrid classrooms" as long as that is no more than 49 percent of instruction.

Ms. Murray testified and summarized in her report that for the Anza campus, two of the three class sessions she observed were utilizing the Zoom platform and a monitor to livestream the professors, who were physically in a different location from

the students in the classroom, and no other faculty were in attendance. Ms. Murray's discussions with both Dr. Gebhardt and Dr. Lee confirmed that this type of instruction was customary. In many cases the faculty don't live in California and never come to the school physically. Accordingly, with the faculty of record appearing only through a livestream from a remote location, no duly qualified faculty are providing the necessary "face-to-face instruction" to qualify as a hybrid class. Instead, the classes qualified only as distance learning.

Similarly, with regard to the Mill Valley campus, Ms. Murray did observe one course listed as a "hybrid" course and in that class, and there was a second faculty member in the classroom assisting with technology used to deliver the livestream from the faculty of record. However, Ms. Murray's conversation with Dr. Lee, who informed her that teaching assistants are at times stationed in the classrooms in lieu of duly qualified faculty, demonstrated that respondent is failing to meet the standard definition of a hybrid class, which requires a direct instruction component.

26. Ms. Murray also concluded that respondent violated various regulations, including California Code of Regulations, title 5, sections 71710, subdivisions (b), (e), and (f), 71715, subdivisions (d)(3) and (d)(5), and 71700 based upon having curriculum being presented in an illogical or unorganized manner and for ambiguity around which and how learning outcomes are assessed, as well as failing to provide documentation of compliance in all courses. Ms. Murray reviewed course descriptions, catalogs, and focused on over three and one-half dozen syllabi provided from respondent to the investigators of BPPE, as well as additional syllabi provided by respondent after the accusation in this matter was filed. Ms. Murray testified, and wrote in her report, that her review of syllabi showed that curriculum was found in some instances to contain contradictions and inconsistencies that may result in course

objectives being neglected, learning outcomes being unassessed, and a lack of clarity as to what is required to maintain satisfactory academic progress. She listed six such courses in her report with specific examples, including course syllabi that included: graded assignments nowhere mentioned in the course outline; a final project in the curriculum that is not mentioned in the outline of graded assignments; one course where the total graded assignments reach only an 80 percent grade with the curriculum missing key assessments needed to satisfy all requirements; one course that indicates 30 hours is to be spent on research papers, but none are assigned in the curriculum and no grade points are allotted for the research assignments; one course where one third of the total clock hours are estimated to be spent "studying for exams" but there are no exams for the course; and a course where the course requirements in the posted syllabus vary considerably from the posted table on the "assignments" page in the MyOlivet Populi learning management system.

As mentioned above, Ms. Murray reviewed the additional syllabi provided by respondent after the accusation in this matter was filed. These documents were received in evidence. Ms. Murray testified about numerous problems with each of these syllabi. One syllabus described the class as hybrid and provided a classroom assigned, but failed to provide the dates and times the class would meet and provided office hours given in Eastern Standard time zone despite the fact that the class is in California. That same syllabus for a class involving publication design had listed as an assessment of course learning as "listening and interpreting exercises," which should not apply to a publication class. That same syllabus also has as a course requirement a midterm exam and a final exam, but in the section that lists how the students will be graded never mention any exams. Another syllabus for a class titled "Introduction to Missions" described the course as helping students "learn the building blocks of interpreting," which has nothing to do with missions. Ms. Murray reviewed the course

catalog regarding the Introduction to Missions course to ensure she was correct that this syllabus has nothing to do with that course. Ms. Murray stated that these syllabi were supposed to be corrected syllabi from respondent, but they are "very much out of compliance."

27. Finally, Ms. Murray opined, and summarized in her report, that respondent also violated California Code of Regulations, title 5, section 71810, subdivision (b)(6), for failing to set forth in its catalogs respondent's policies and practices regarding any form of financial aid or scholarships. Ms. Murray testified that Dr. Gebhardt told her that most of the respondent's students receive scholarships to attend Olivet University. However, Ms. Murray's review of respondent's undergraduate and graduate catalogs, and those catalogs fail to describe the financial arrangements or eligibility requirements for any scholarships as required. Ms. Murray's communications with students at both the Anza campus and the Mill Valley campus showed that the students had a lack of clarity around the terms of scholarships, including whether there are any requirements of internships, academics, or work to receive the scholarship.

28. On cross-examination, Ms. Murray testified that she was never informed that the syllabi documents provided to her were only templates for faculty to use, but instead she understood that the documents were syllabi for the courses listed on the document.

TESTIMONY OF DREW SAETEUNE

29. Drew Saeteune is currently employed by BPPE as a Senior Education Specialist, a position he has held since October 2014. Prior to that position he worked for BPPE as an Education Specialist from May 2012 to October 2014. Prior to that

position he worked for BPPE as a Licensing Analyst from November 2010 to May 2012. His duties as a Senior Education Specialist include review of applications for recommendation of approval or denial, research and analysis of education programs and program reviews for degree granting institutions, and providing assistance to the enforcement unit for investigations involving quality of education issues. Mr. Saeteune also recruits and retains experts as needed by BPPE. Prior to his work at BPPE, Mr. Saeteune was nationally certified as an investigator and inspector for another agency with the Department of Consumer Affairs. Mr. Saeteune has received training from BPPE on interpretation of statutes and regulations, investigation and inspection, and conducting site visits primarily for California State University and University of California systems. He has gained experience in curriculum review, syllabus evaluations, faculty review and expectations, and policy and procedures. Mr. Saeteune ensures that institutions are addressing any issues through accreditation. Mr. Saeteune was assigned to assist Mr. Dawkins in his investigation of respondent regarding quality of education issues.

30. Mr. Saeteune participated in the on-site visits to the Anza campus and the Mill Valley campus and received documents from respondent during those visits. Mr. Saeteune requested documents during those visits, including faculty files, sampling of student files, faculty handbook, undergraduate and graduate catalogs, and other documents. Mr. Saeteune prepared a report summarizing his conclusions regarding his investigation and review of respondent, which was received in evidence. He also prepared two memorandum documents supplementing that report, which were received in evidence. The following factual findings are based on Mr. Saeteune's testimony and related documents received in evidence.

31. Mr. Saeteune went to the Anza campus with Mr. Dawkins for the unannounced site visit on November 15, 2022. During that visit, Mr. Saeteune met with Dr. Gebhardt and requested documents from him, including all faculty files, and a sampling of student files including active, graduated, and withdrawn student files. Dr. Gebhardt provided Mr. Saeteune faculty files and three student files during the visit. Additionally, Mr. Saeteune listed in his report documents that he received and reviewed in conjunction with the November 15, 2022, Anza campus visit, including: Olivet Undergraduate Academic Catalog (2022-2023) as posted to the website; Olivet Zinzendorf School of Doctoral Studies Academic Catalog (2022-2023) posted to the website; current student enrolled rosters (campus-based students) provided via thumb drive and subsequent email; sample active student files provided via thumb drive; Fall 2022 Anza campus class schedule provided by hard copy and emailed; and syllabi provided via email. During his visit to the Anza campus, Mr. Saeteune did not interview any faculty members because he was not able to locate any faculty members. Mr. Saeteune was on the Anza campus on November 15, 2022, for about six to seven hours total.

32. Mr. Saeteune went to the Mill Valley campus for an unannounced site visit on January 31, 2023. During that visit Mr. Saeteune also did not interview any faculty members because he was not able to locate any faculty members. He also did not observe any classes because of the small size of the classes available he did not want to distract from the class. Instead, Ms. Murray observed the classes while Mr. Saeteune focused on obtaining faculty information. Mr. Saeteune listed in his report the documents that he obtained in conjunction with the January 31, 2023, Mill Valley campus site visit as: faculty list, campus map, course offerings Winter 2023, current Mill Valley enrolled student list, course offerings January 31, 2023, and faculty handbook. Additionally, he listed documents he reviewed that were obtained by

investigators during the Mill Valley campus site visit on November 15, 2022, as: Mill Valley campus map, bachelor's in IT and master's in IT program outlines, current quarter course schedule, undergraduate catalog excerpts, class schedule for the week of October 14-19, 2022, class schedule for the week of November 14-19, 2022, revised schedule for the week of November 14-19, 2022, Tuesday class schedule, Tuesday class roster, faculty course assignment schedule, faculty list with contact information, September to November 15, 2022, calendar schedule, and student rosters for 2021 to 2022. Mr. Saeteune was on the Mill Valley campus on January 31, 2023, for about six to seven hours total.

33. Mr. Saeteune testified and wrote in his report that his review of the faculty lists and course catalogs did not match up. Specifically, respondent provided 24 faculty member files and informed BPPE that they had more faculty that provide online instruction for a total of 38 faculty members. Those faculty included 13 full-time, 8 part-time, and 17 faculty who did not identify as either full-time or part-time. Of those faculty members, 16 have expired contracts with respondent, four faculty members did not have contract dates, 13 faculty members did not have faculty course assignments as part of their contract, and 14 faculty member personnel files were not provided. Mr. Saeteune also noted that a number of faculty members did not have academic transcripts in their file or personnel files were not provided for review. Also, the faculty members identified in the faculty list differed greatly from those listed in the catalogs. Mr. Saeteune described specific examples from both the undergraduate and graduate catalogs that identify numerous faculty members not disclosed to BPPE. As a result, BPPE was unable to determine exactly how many faculty are employed by respondent. Mr. Saeteune stated that BPPE's inability to assess how many faculty are employed by respondent can cause harm to students because BPPE is unable to determine if respondent has sufficient faculty to offer the courses in their programs. Mr. Saeteune

also noted that respondent has multiple faculty members with foreign degrees, and as a result respondent is required to provide a National Association of Credential Evaluation Services (NACES) evaluation for each of those faculty members. However, respondent failed to provide the NACES evaluation for three of those faculty members in violation of California Code of Regulations, title 5, section 71720, subdivision (a)(4)(A)(1).

Mr. Saeteune concluded that respondent violated California Code of Regulations, title 5, section 71720, subdivision (a)(1), based on his conclusion that respondent does not have a sufficient number of faculty members to ensure that its students can receive necessary instruction, advisement, and achieve the specific learning objectives of each offered course in a program that leads to a degree as required. He further explained that even if respondent is offering courses for which no students are enrolled, then respondent is still obligated under the regulation to already have qualified faculty members contracted to teach those courses, and respondent must document that because respondent is advertising to the public that it can offer those courses of study.

Furthermore, Mr. Saeteune's review of faculty files and the faculty handbook from respondent shows that 16 faculty members did not have current contracts with respondent. Mr. Saeteune testified to the identity of each of those 16 faculty members as identified by their initials and shown in faculty files received in evidence. Mr. Saeteune explained that it is important for respondent to have current contracts with its faculty to demonstrate which faculty member is teaching which courses currently, as well as to show that those faculty members have a current obligation to teach. Mr. Saeteune also identified four faculty members by their initials as shown in faculty files, who do not have any dates associated with their contracts with respondent. Mr.

Saeteune explained that if a faculty member has an expired contract, then there is no obligation of that faculty member to teach at the institution. Without an active contract, BPPE can't determine if respondent has appropriate faculty members to provide instruction. Mr. Saeteune explained that respondent's failure to have active contracts with faculty members is a violation of California Code of Regulations, title 5, section 71720, subdivisions (a)(2) and (a)(6).

Mr. Saeteune's review of faculty files also revealed that some faculty members had course assignments and others did not. Specifically, Mr. Saeteune identified 13 faculty members, by initials and reference to faculty file pages, without course assignments. He explained that respondent is required to document that each faculty member is duly qualified to perform the duties for an assigned course. Respondent's failure to document assigned courses to faculty members is a violation of California Code of Regulations, title 5, section 71720, subdivision (a)(9).

Mr. Saeteune's review of faculty files also revealed that approximately 12 of respondent's faculty members obtained their degree or terminal degree from Olivet University, with a majority of those having the Doctor of Ministry degree from Olivet University. Mr. Saeteune explained that while faculty are allowed to teach at an institution where they obtained their degree, regulations require that an institution have diverse faculty with degrees from a variety of colleges and universities in the field of instruction. If the majority of the faculty is degreed from the same university, as is the case with respondent, this is an issue and a violation of California Code of Regulations, title 5, section 71720, subdivision (a)(5).

Mr. Saeteune also testified that in his evaluation of respondent's quality of education for course offerings and faculty members, he found that respondent did not meet the requirements of the regulations because some degree programs had no

faculty members identified in respondent's documents who were qualified to teach the courses in the field of study. As examples, Mr. Saeteune pointed to the undergraduate catalog for two programs that failed to identify any faculty associated with that degree program. Specifically, those programs were the Bachelor of Arts and Fine Arts major, as well as the Bachelor of Science in Agriculture.

34. Mr. Saeteune also testified, and concluded in his report, that at both the Anza campus and the Mill Valley campus, respondent had insufficient administrative staff to assist BPPE in providing requested documents, which is a violation of California Code of Regulations, title 5, section 71730, subdivision (d). He noted in his report that during his visit to the Anza campus all document requests were made through Dr. Gebhardt and that information was relayed to three other staff members for retrieval, which took the entire day or longer to obtain. He stated that the faculty handbook shows that respondent has approximately 32 administrative positions to support the institution, but on the site visit respondent did not have sufficient staff to timely retrieve files requested or satisfy simple document requests. Additionally, at the Mill Valley campus during the on-site visit, upon arrival BPPE staff had difficulty finding assistance with no visible support staff present. They were eventually able to make contact with Professor Thu "Kathy" Tran and Dr. Joseph Lee, and all requests were obtained by Ms. Tran. Despite the faculty handbook identifying multiple staff positions and administrative staffing at the Mill Valley campus, there was only one support staff member attending to BPPE requests. As a result, BPPE had difficulty obtaining documents and the documents provided took the staff the entire day to provide.

Furthermore, Mr. Saeteune testified and concluded in his report that respondent violated statutes and regulations regarding its obligation to maintain records and timely produce those records in response to a BPPE request. Specifically,

Mr. Saeteune noted that BPPE staff was not given immediate access to requested documents and not all requests for records were provided by respondent in a timely manner or at all in some cases. Accordingly, respondent's failure to maintain and timely produce requested documents to BPPE is a violation of Education Code section 94900.5, as well as California Code of Regulations, title 5, section 71930, subdivisions (a), (c)(4), and (e).

35. Mr. Saeteune also testified and concluded in his report that his review of student records provided by respondent demonstrated that respondent violated California Code of Regulations, title 5, section 71920, subdivisions (b)(3) and (b)(4), for failing to properly document required withdrawal information for withdrawn students. Specifically, the withdrawn student files provided by respondent failed to include any student withdrawal requests or documentation of any refund of tuition or fees as required by the regulation. Furthermore, many of the student records provided by respondent did not have the required enrollment agreement, which is a contract between the student and the institution for services the student signs up for with the institution. Mr. Saeteune stated that failure to include the enrollment agreement in the student files is a violation of California Code of Regulations, title 5, section 71920.

36. Mr. Saeteune also testified and concluded in his report that his review of the faculty handbook provided by respondent demonstrated that respondent violated California Code of Regulations, title 5, section 71960, regarding self-monitoring procedures. Mr. Saeteune testified and wrote in his report that respondent's faculty handbook states:

All faculty members' academic files are audited every three years to ensure that all documents are current.

Mr. Saeteune explained that self-monitoring is an institutional policy and procedure required by accreditation entities that ensure the institution is making quarterly or semi-annual or annual reviews to ensure they are operating within the BPPE statutes and regulations. However, as demonstrated by Mr. Saeteune's review of faculty files, respondent is not following this stated policy above because many of the faculty files as discussed above don't have contracts at all, don't have current contracts, don't have transcripts of academic records, and don't have course assignments. These missing documents demonstrate that respondent has failed to follow its policy to audit these files to ensure compliance.

37. On cross-examination, Mr. Saeteune stated that he was aware and had been informed by Dr. Gebhardt that Homeland Security had taken many of its files in 2019. However, Mr. Saeteune noted that the on-site visits were in 2022 after respondent had received the documents back in electronic form.

TESTIMONY OF JENNIFER JONES

38. Jennifer Jones is currently employed by BPPE as a Lead Annual Report Analyst, a position she has held since 2015. Prior to that position she worked as a field investigator for BPPE from 2011 to 2015. Her duties in her current position include review of annual reports for institutions and communication with the institutions regarding their annual report submissions and related components. She is also responsible for conducting monthly workshops regarding SPFS and backup data for SPFS where she explains how to complete an SPFS and how to maintain the data required to be reported in the SPFS. Ms. Jones is a subject matter expert regarding annual reports and SPFS documents submitted to BPPE. She also works with the information technology department of BPPE to develop an automated system for submission of annual reports and updating any regulation changes required for SPFS

submissions. Ms. Jones was assigned to review respondent's annual report and financial statement for the 2021 reporting year. She was assigned to that task on December 28, 2022. BPPE received respondent's 2021 annual report on December 2, 2022, and it received respondent's 2021 financial report on December 5, 2022.

39. Ms. Jones explained that an institution's annual report is combined data for an institution's main location and branch locations for a period of one year with the components of SPFS (containing two years of data), catalog for the reporting year, enrollment agreements, and financial statements for the reporting year. She explained that the deadline for submission of the annual report and its components is December 1st of every year. She explained that an institution must submit a financial statement in hard copy by mail each year, which includes the balance sheet, income statement, and cash flow statement. Ms. Jones also explained the components required to be submitted by an institution for an SPFS include graduation rates, job placement rates, license examination placement rates, salary and wage information, and other data.

40. Ms. Jones testified that an institution is required to maintain a minimum amount of financial resources to operate as set forth in California Code of Regulations, title 5, section 71745, subdivision (a)(6). That regulation requires an institution to always maintain an asset to liability ratio of 1.25. Ms. Jones's review of respondent's 2021 financial statement as submitted by respondent to BPPE shows that respondent failed to meet the requirements of the regulation with regard to the asset to liability ratio. Specifically, Ms. Jones used respondent's 2021 financial statement to create a financial responsibility worksheet, which was received in evidence, wherein she analyzed the data provided to determine if respondent was in compliance with the regulation. Her analysis of the data shows that in 2021, respondent had an asset to

liability ratio of 1.16, which is less than the required 1.25. Accordingly, respondent violated California Code of Regulations, title 5, section 71745, subdivision (a)(6).

41. Ms. Jones reviewed respondent's 2021 annual report and its components to determine if there were any deficiencies. Ms. Jones testified that she found multiple deficiencies, as set forth below. Specifically, Ms. Jones found that the data reported in the SPFS and the data reported in the graduate identification data template (GIDT), which is part of the annual report, were inconsistent. Ms. Jones testified about specific examples of these inconsistencies. For example, the SPFS data reported for the Riverside campus of respondent had one graduate in 2021, but the GIDT reported zero graduates for 2021 for the Riverside campus. Another example from the SPFS data showed two graduates for 2021, but the GIDT data showed one graduate for 2021. Other examples include: the SPFS for the Bachelor of Arts in Music program shows zero graduates for 2021, but the GIDT shows three graduates for 2021 in that program; the SPFS for the Bachelor of Arts in Theology program shows three graduates, but the GIDT shows eight graduates in 2021 for that program; the SPFS data reported for the Bachelor of Arts in Theology program shows seven graduates for the San Francisco campus in 2021, but the GIDT data shows two graduates for 2021 for the Bachelor of Arts in Theology program at the San Francisco campus; the SPFS data for 2020 for the Bachelor of Arts in Theology program shows one graduate, but the GIDT data for 2020 for the Bachelor of Arts in Theology program shows seven graduates; the SPFS data for the Certificate in English as a Second Language for 2021 for the Riverside campus shows one graduate, and for the San Francisco campus shows one graduate, but the GIDT for that program for 2021 shows zero graduates; the SPFS for the Doctor of Ministry program for 2021 reported one graduate employed in the field, but the GIDT reported zero graduates for that program in 2021; and the SPFS for the Master of Arts in Information Technology for 2021 reported zero graduates, but the GIDT for that

program for 2021 reported eight graduates. Ms. Jones testified about numerous other such discrepancies between the SPFS and the GIDT data reported by respondent in the annual report for 2021.

Ms. Jones explained that it is important for the annual report to be accurate because the data reported in that report and the included SPFS tell BPPE and the public about the school's performance. If the data is inaccurate, then that tells BPPE that the institution is not keeping records properly. Perspective students need to know this information to know how the school is performing.

42. On cross-examination, Ms. Jones testified that when BPPE finds that an annual report is insufficient or inaccurate, BPPE reaches out to the institution to make corrections. Ms. Jones did exactly that for respondent on December 8, 2022. She testified that respondent did not provide a corrected version of the SPFS, but did respond on April 10, 2024, (two years later) to correct a discrepancy on one of the program work flows.

Respondent's Evidence

43. Respondent provided the testimony of seven witnesses at hearing and provided multiple documents received in evidence. The following factual findings are made from that testimony and related documents.

TESTIMONY OF DR. WALKER TZENG

44. Dr. Walker Tzeng is currently the Vice President of Olivet University, a position he assumed in June 2024. He is also currently the Chaplain of Olivet University. Prior to his position as Vice President, Dr. Tzeng worked from March 2004 to June 2024 as the Chief Operating Officer (CEO) of Olivet University. His

responsibilities as Vice President include strategic planning and compliance with respondent's accreditation. He explained that respondent is accredited with the Association of Biblical Higher Education (ABHE). Dr. Tzeng has worked as a peer evaluator and has served the ABHE accreditation body. In his current role with respondent, he has dealt with accreditation issues, specifically weakness with standards compliance, written progress reports, and written systems of improvement. Dr. Tzeng has been a peer evaluator for ABHE and completed 18 site visits to various institutions in that role.

45. Dr. Tzeng testified that BPPE investigated respondent based solely on an email from Newsweek regarding allegations of money laundering, trafficking, and visa fraud. However, Dr. Tzeng noted that those issues are not within BPPE's jurisdiction. He also noted that respondent has never been charged with those crimes and was only accused by the media. Dr. Tzeng testified that he believes BPPE is biased against respondent because it is a Christian institution and because it has international students. Dr. Tzeng stated that BPPE has a "racial bias," and an "Americanized cultural bias" against respondent regarding its investigation. He criticized the BPPE investigators for failing to research respondent prior to the site visits, and for conducting unannounced site visits that he characterized as an attempt to find "gotcha accusations." Dr. Tzeng testified that because the staff and administrators "don't know as much about what the state regulators do," the unannounced site visits without prior notification of what BPPE wanted to review was unfair.

46. Dr. Tzeng also testified that he believes many of the allegations in the accusation in this matter have been remedied. Specifically, Dr. Tzeng stated that with regard to the seventh cause for discipline, respondent's failure to demonstrate possession of sufficient financial resources based on the 2021 asset to liability ratio

being less than the required 1.25, the asset to liability ratio used by Ms. Jones was only one of the kinds of ratios used by other institutions and that the United States Department of Education uses the federal financial composite score ratio, which is a total composite using reserve, equity and liability to assets, and with that computation respondent was above the required ratio as used by the educational industry. He also noted that Ms. Jones did not do an analysis of the asset to liability ratio for 2020, which he said met the requirements. He stated, "schools have a lot of reasons why they may have a lower ratio for one year versus another, these things happen." Dr. Tzeng stated, "In the education industry we don't consider it a problem unless there are multiple years . . . it is not as serious of an issue as [BPPE] claims." Dr. Tzeng criticized the BPPE's use of the ratio for its allegation, and claimed ignorance to the requirements of California Code of Regulations, title 5, section 71745, subdivision (a)(6).

47. Dr. Tzeng also criticized the BPPE's investigation in this matter with regard to the allegations related to quality of education, particularly with regard to the outcomes of the school. He stated that the goal of respondent is to make an impact for the ministry for the Kingdom of God, which incorporates faith-oriented academics. He stressed, "You can't have a secular viewpoint for faith academics." He stated that the BPPE improperly "focused on the technical stuff."

48. Dr. Tzeng testified that respondent has mitigated the 14 allegations in the accusation of this matter by "following actions of improvement," and by developing policies and personnel. However, he provided no specific evidence of any steps of mitigation taken by respondent.

TESTIMONY OF DR. JONATHAN PARK

49. Jonathan Park is the current President of Olivet University, a position he has held since June 2024. Prior to this position, Dr. Park was a student at Olivet University where he received his Doctor of Ministry degree in 2024. He received his Master of Divinity degree from Olivet University in 2015. Prior to his time with Olivet University, Dr. Park worked as a pastor in a church in St. Louis, Missouri, where he worked for about two and a half years. As the President of respondent, Dr. Park oversees all operations of the institution, including all external affairs and legal issues. Dr. Park became the President of respondent "in the midst of the accusation by [BPPE]." Dr. Park testified that he believes that respondent has not received the same or equal treatment by BPPE as other universities because of the media allegations, particularly by Newsweek.

50. Dr. Park stated that he was not at any of the campuses of respondent during the site visits by BPPE and learned about those site visits after they happened. He believes respondent has tried to cooperate with BPPE during and after those site visits. Dr. Park testified that respondent was not in the best situation to respond to BPPE's request and did not "have normal operations." Specifically, Dr. Park stated that respondent was not operating normally because of a fire that took place on September 5, 2022, immediately outside of the Anza campus, which is the main campus of respondent, one day before the first day of orientation for new students on September 6, 2022. A state of emergency was declared on September 8, 2022, and the Anza campus was evacuated on September 8, 2022. Dr. Park noted that this incident was the first time respondent had any of its campuses evacuated. He noted that the fire did not reach the Anza campus, but instead it stopped right before the campus. It took several weeks to clean up the aftermath of the fire and as a result, it was not a

normal academic term at the Anza campus. Because of the evacuation, there was a delayed start to that term, and "it was hard to catch up." He stated that he was surprised that BPPE did not know about the fire that took place "right outside of campus" when they conducted their site visits. He asserted that the fire impacted respondent's ability to respond to the BPPE's requests, because "the staff had to deal with the aftermath of the disaster." He stated that some of the documents were not in place at the time of BPPE's site visit because of the fire, and that is the reason they were not given in a timely manner. However, Dr. Park admitted on cross-examination that the evacuation was lifted on September 12, 2022, a full two months before the on-site visit by BPPE, no files were removed as part of the evacuation, none of the campus was damaged as a result of the fire, and the only impact was the cleaning of ash and turning water and power back on.

51. Dr. Park testified that respondent has made a lot of effort to remediate "a lot of the things in the accusation," and "when we find them, we voluntarily fix them." He asserted that "some of the accusation is not warranted." Dr. Park testified that during the site visits, BPPE personnel did not ask for a list of all faculty at all locations of respondent, but instead only asked for a list of the faculty teaching at that particular campus in that particular term. Dr. Park admitted that he was not present during the site visits, so it is unclear how he has such information.

With regard to the refund policy for students who withdraw from courses of study at respondent, Dr. Park testified that students at respondent do not pay tuition at all, and as a result, there is no refund. Thus, Dr. Park believes that the cause for discipline regarding respondent's failure to provide a refund policy is not justified. However, he stated that respondent "fixed that" to show that when a student withdraws from a program, they get zero dollars refunded.

52. Dr. Park testified that he believes that "the other minor things" alleged in the accusation as violations of regulations have been remedied. However, he failed to provide any specific testimony regarding which other allegations have been remedied or how. He stated that respondent provided quarterly reports to BPPE for the past three consecutive quarters. Dr. Park asserted that "94 other institutions did not receive an accusation," and he questioned why respondent got an accusation. He asserted that the reason was because BPPE is biased against respondent.

53. On cross-examination, Dr. Park testified that respondent has a total of about 300 students currently enrolled. He was unable to say how many students are enrolled in any of the graduate programs versus undergraduate programs. Dr. Park admitted that he is not familiar with the BPPE statutes or regulations, but respondent has recently appointed a compliance officer to "become familiar" with applicable statutes and regulations and BPPE practices.

TESTIMONY OF MATTHIAS GEBHARDT

54. Matthias Gebhardt is currently employed by respondent as a faculty member, and he also does "training and advising and compliance work and a lot of work behind the scenes" for respondent. Mr. Gebhardt was the President of Olivet University from March 2020 to June 2024. Prior to March 2020, he was the Vice President for Academic Affairs, a position he held from 2018 to March 2020. Prior to that position, and from 2014 to 2018, Mr. Gebhardt was a faculty member at Olivet University and "worked on its online program for theological college." During his time at respondent, Mr. Gebhardt has been responsible for accreditation renewals, reporting to BPPE as well as out of state agencies, and has "worked on two other accreditation matters for the school and for other schools." Prior to 2010, Mr. Gebhardt was an ordained minister in Germany. Mr. Gebhardt has "served as the

liaison" between BPPE and respondent for several years, and he has completed BPPE compliance workshops, as well as an SFPS workshop in 2019. He has participated in state licensing applications, responded to inquiries from ten different state agencies, as well as from accreditors.

55. Mr. Gebhardt was present at the Anza campus on November 15, 2022, during the site visit by BPPE. Mr. Gebhardt testified that he took personal notes during the site visit. Mr. Gebhardt testified that during the November 15, 2022, site visit to the Anza campus, he "asked several times to confirm that this was a [BPPE] visit" because "there were concerns that other interests and agencies would be utilizing this visit." The BPPE investigative team arrived on the Anza campus at about 9:30 a.m., and Mr. Gebhardt met with them in the lobby where the team introduced themselves to him. Mr. Gebhardt then took them to a conference room, and thereafter he took them on a campus tour. He stated that they asked for a course schedule, which was provided to them while they were on the campus tour. After the tour, the investigators asked for a number of documents, including a list of current students for the Anza campus, a list of graduates for the last two years, and a list of withdrawn students for that year. Mr. Gebhardt stated that he spoke primarily with Mr. Saeteune, and Mr. Gebhardt asked him to clarify the requests to make sure he was providing the correct lists. After the clarifying questions, Mr. Gebhardt understood that he had to provide a list of all current students for the Anza campus, a course list for all the courses those students were taking but not any courses that would be taken at another campus site or online courses taken by students not residing in California. Mr. Gebhardt stated that those lists were provided to the investigators, as well as a faculty list that matched the list for those specific courses, which he confirmed many times.

Mr. Gebhardt stated that he used the "student information system," which is not maintained by respondent but is an industry standard system used by many schools, to "run queries" to make sure he was getting the correct lists. He testified, "to be absolutely clear on the course list" the staff went through every student profile, meaning transcript, for each student on the Anza campus, which is about 80 students, to make sure the courses listed in the course list submitted to BPPE were correct "so that we don't miss the mark." Mr. Gebhardt stated that the investigators asked for the course offerings schedule for the Anza campus, and the course offerings list for the students on the Anza campus. Again, Mr. Gebhardt verified that request because of the potential for misunderstanding. Mr. Gebhardt stated that there were delays in getting these lists and he "had to explain that to them." Mr. Gebhardt stated that he told the investigators that the registrar and the dean for the Anza campus were not at work that day because they were both at a conference in east Asia. However, respondent did have staff on hand, and they did compile the lists. Mr. Gebhardt stated that the investigators "also asked for a few odd things" like for 20 student files, a list of all internship sites, and a list of all students employed by respondent and their job descriptions and how they are paid.

Mr. Gebhardt testified that Mr. Dawkins asked him to provide employment records, which are not part of the student files. Mr. Gebhardt told Mr. Dawkins that he is not entitled to those employment records because they are not student records, and it is not appropriate for Mr. Dawkins to ask for those. According to Mr. Gebhardt, Mr. Dawkins then "suddenly switched attitude and became aggressive in his demeanor," and asked, "Are you telling me you are not cooperating with the investigation?" Mr. Gebhardt responded, "No," and was thereafter "very careful and worried." Mr. Gebhardt stated that he provided everything the investigators requested before the end of the day on November 15, 2022. During the November 15, 2022, Anza campus

site visit, Ms. Murray and Mr. Dawkins interviewed Mr. Gebhardt and asked various questions for about 30 minutes.

After the November 15, 2022, Anza campus site visit, both Ms. Murray and Mr. Dawkins communicated with Mr. Gebhardt requesting additional documents and asking clarifying questions. They asked for all syllabi for all courses for all degree programs offered by respondent. Mr. Gebhardt stated that "we had about a month to get that." He stated that in response to that request, respondent provided about 400 syllabi templates, which were general outlines of the class given to the professor of the class "to make minor modifications to organize visually and in a logical manner." Ms. Murray also requested supporting documentation for SFPS. Mr. Gebhardt stated that Mr. Saeteune also "changed his request to ask for a student list including all students at the university, even those overseas." Respondent provided that list and insisted that Mr. Saeteune only asked for a student list for the Anza campus initially. Mr. Gebhardt testified that the investigators never asked him for a faculty list of all faculty members at all of respondent's locations, and no such list was ever provided to BPPE.

After the BPPE investigation, respondent never received any notice to comply or notice of insufficiencies. The next event was BPPE filing the accusation in this matter, which respondent learned about through a media inquiry.

56. Mr. Gebhardt testified that he is the person from respondent's institution that was responsible for compliance with BPPE statutes and regulations in 2022 and in 2023. He continues to have that responsibility as of the date of this hearing, but "the plan is to change that after the hearing" because his role with respondent has already changed and he is no longer the President of Olivet University as of June 2024. Mr. Gebhardt testified regarding respondent's position, defense, and mitigation for each of the 14 causes for discipline alleged in the accusation in this matter. He also testified

that respondent's attorneys wrote a response to the accusation, which mirrored Mr. Gebhardt's testimony at hearing regarding respondent's arguments and position for each of the causes for discipline, and that document was received in evidence. The document is 60 pages in length inclusive of exhibits.

57. With regard to the first cause for discipline that respondent has insufficient course offerings thereby failing to ensure that students will complete programs and obtain degrees in a timely manner, Mr. Gebhardt testified that respondent disputes these allegations because the regulations cited do not require respondent to offer all educational courses represented in its approval to operate at all times and to require this is unreasonable. In the written statement of respondent's response to the accusation, it states, "[c]ourse availability is built around student matriculation, progression, and student demand." It further provides that there are several newer programs at respondent "still developing their enrollment," and for those programs, "courses are offered in terms students enrolled only. Faculty is already identified and ready to teach, should students enroll." The written response provided examples of such newer programs as the B.S. in Agriculture program, and the Master of Theology program, which has not been popular for some time. Mr. Gebhardt stated that respondent simply disagrees with the first cause of action, and stated that respondent provided a course offering document, as well as faculty names and credentials to BPPE to address the first cause for discipline.

Additionally, with regard to the allegations that respondent did not offer adequate courses to support students enrolled in Chinese or Korean language programs on-site at the Anza campus, Mr. Gebhardt testified that respondent only offers Chinese and Korean programs in the online modality and not on-site. Respondent does not offer Chinese or Korean language courses on-site at the Anza

campus at all. The two students identified by Ms. Murray for this proposition are not on-site Anza campus students, but are instead e-Campus students meaning online only students. The Chinese language student requested to take some on-site classes on the Anza campus to supplement her online courses, which was approved. In order to graduate, this student must take at least 50 percent of her courses in the Chinese language, which she does online. The same is true for the Korean language student identified by Ms. Murray. The allegations related to these two students is based on Ms. Murray's misunderstanding of respondent's program offerings and the fact that these two students are not on-site students. BPPE simply misunderstood that all students listed were not all on-site students. It is noted that both the identified students Ms. Murray referenced were listed on the student list as "e-campus," indicating that they were online students.

58. With regard to the second cause for discipline regarding the merging of classes, Mr. Gebhardt testified that these allegations are "partially disputed and partially remediated" by respondent. Mr. Gebhardt admitted that respondent did have inappropriately merged classes during the time of the inspection. Respondent's written response provides that the pairs of classes of BIBL 120 and BIBL 520 Ms. Murray discussed with regard to the inappropriate merging issue are advanced standing courses and the merging in that case is warranted with no learning impairment for students. However, the written response, as well as Mr. Gebhardt's testimony admits that some of the merged classes, specifically ECON 310 and ECON 610, should not have been merged classes. Mr. Gebhardt stated that respondent "looked at the BPPE regulations closely, and it was decided that the faculty should wholesale make sure this does not happen." He stated that the merging of the economics classes was to "for economy and saving on faculty." Regardless, Mr.

Gebhardt testified that respondent has corrected these merged classes and moving forward classes offered by respondent will no longer be merged.

59. With regard to the third cause for discipline regarding the misrepresentation of method of instruction, Mr. Gebhardt stated that respondent simply disagrees with BPPE interpretation of the applicable regulations that "hybrid" courses can be provided through qualified faculty appearing only by technology and not in person. Mr. Gebhardt stated that there is no definition of hybrid in the regulations or statutes. Additionally, respondent has since revised its undergraduate and graduate catalogs to more clearly define the modalities used for delivery of instruction for its courses. Respondent asserts that qualified faculty appearing in a classroom by videoconference while students are in person in the classroom and able to interact with the faculty by use of technology is compliant with regulatory and statutory requirements.

60. With regard to the fourth cause for discipline regarding failure to present curriculum in a logical manner and failing to address the assessment of learning outcome by duly qualified faculty in course syllabi, Mr. Gebhardt testified that these issues have been remediated because respondent has updated the syllabi. In the written response, respondent stated that qualified faculty do assess learning outcomes as required, but "it was just not outlined in the syllabus as BPPE indicates is necessary." Mr. Gebhardt stated that one syllabi that Ms. Murray cited in her testimony had a cut and paste error, and he stated that all the syllabi provided by respondent to BPPE were "templates" of syllabi. Mr. Gebhardt also stated that respondent disputes that the regulations cited in this allegation require the curriculum be logically organized, and "what does that mean?" Mr. Gebhardt did agree that the syllabus for a course needs to make sense. The written response for respondent provides that to address this

allegation respondent has created a "Syllabus Checklist (BPPE Requirements)" that outlines all elements required by BPPE to be included in every syllabus, including assessments of learning outcomes by qualified faculty, and all syllabus templates have since been updated.

On cross-examination, Mr. Gebhardt testified that respondent provided 115 corrected syllabi to BPPE in April 2024, July 2024, and October 2024. However, he admitted that none of those corrected syllabi were offered into evidence in this matter.

61. With regard to the fifth cause for discipline regarding failure to address financial arrangements and eligibility requirements for scholarships in respondent's policies and procedures or respondent's catalogs, Mr. Gebhardt testified that these allegations have been remediated by respondent by updating its catalogs as required. Mr. Gebhardt admitted that respondent failed to have this information in its catalog. He asserted that the section related to scholarships was removed only from one catalog for only one year, which was the year of the BPPE inspection. While he admits that regulations require respondent's catalogs to include information about financial arrangements and eligibility for scholarships, this information has always been available to students on respondent's website, which is what most students rely upon rather than the catalog. Regardless, this cause for discipline has been remediated because now that same information regarding financial arrangements and eligibility for scholarships shown on respondent's website is now included in all of respondent's latest catalogs.

On cross-examination, Mr. Gebhardt admitted that the current 2024 catalog does not contain any written policy regarding whether a scholarship must be repaid if a student obtains a degree but does not work in the field. He stated that respondent would not require any such repayment, but he admitted that this policy is not reflected

in the 2024 academic catalog for undergraduate or graduate studies. He did assert that policy is on respondent's website, but no documents corroborating that testimony were offered.

62. With regard to the sixth cause for discipline regarding failure to maintain minimum educational requirements for faculty, Mr. Gebhardt testified that respondent partially disputes these allegations and also has partially remediated the allegations. Specifically, the allegations related to the three faculty members with foreign degrees that require a foreign credential evaluation from NACES, Mr. Gebhardt admitted that for those three faculty members, respondent did not have NACES evaluations in their personnel files as required, but those individuals had other foreign credential evaluations during the time they were hired. Each of these three individuals have since ultimately passed the NACES requirements, which has been updated in their files. In its written response, respondent asserted that with regard to one of those three faculty members, only his undergraduate degree was from a foreign institution and his graduate degrees, which qualify him to teach in the subject field, were from U.S. institutions and accordingly no NACES approval was required.

With regard to the allegations within the sixth cause for discipline regarding failure to have current faculty contracts for faculty members, Mr. Gebhart admitted there were missing faculty contracts and expired contracts for faculty in the personnel files for faculty, but he stated that those missing and expired contracts have been remedied by replacing those expired contracts with current ones or placing the active contracts in the files as required. However, respondent argues that the faculty members were always qualified to teach the courses regardless of the state of the contracts.

With regard to the allegations within the sixth cause for discipline regarding failure to have faculty from a diverse background because 12 of the faculty members have degrees from Olivet University, Mr. Gebhardt stated that the regulations and statutes do not prohibit respondent from hiring qualified faculty members who are alumni of respondent. Mr. Gebhardt noted that respondent currently has 81 faculty members holding a total of 238 degrees, and of those degrees only 78 were granted by respondent with the remaining 160 degrees granted by other institutions. Accordingly, only about 38 percent of the degrees are from respondent, which is less than 50 percent and therefore the faculty members have diverse backgrounds. However, on cross-examination Mr. Gebhardt admitted that these numbers of outside degrees are for the current faculty of respondent and not for the previously submitted list of faculty provided to BPPE during their inspection.

With regard to the allegations within the sixth cause for discipline regarding failure to have sufficient number of faculty members to teach the courses, including general education courses, offered for degree programs, Mr. Gebhardt testified respondent disputes these allegations and argues that respondent has always had a sufficient number of qualified faculty members to teach the required courses. In its written response, respondent wrote that respondent offers a select number of courses each term but does not offer all courses in all programs every term, which would be impossible. The written response also noted that respondent's programs are "shared courses between locations which reduce the need for separate faculty for every course in a particular program," and there are some programs with no current enrollments. The written response also asserted that BPPE never requested, and respondent never provided, a complete list of all course sections offered and of all faculty teaching, including courses with only online students enrolled. Respondent also provided in its written response two tables showing course name and code, faculty name with

degrees and qualifications to show it has been and continues to be in compliance with the regulations regarding these allegations.

On cross-examination, Mr. Gebhardt was asked about the course respondent offers for a bachelor's degree in architecture. Mr. Gebhardt testified that respondent "is not now recruiting" for that degree program and "does not plan to enroll students" in that degree program. As a result, Mr. Gebhardt admitted that respondent "does not currently have faculty to teach that program." He stated that "if we accept applications for that program, then we will hire faculty for it." He argued that respondent would have "a year or two lead time to do that." Mr. Gebhardt stated that one faculty member, A.Y., is listed in respondent's records as a faculty member for the architecture program, but A.Y. is not qualified to teach all courses in the architecture program.

With regard to the allegations within the sixth cause for discipline regarding the allegation that respondent provided a list of faculty members that did not match the faculty members identified in respondent's catalogs, the written statement of response argued that this allegation is based on a misunderstanding of BPPE. Specifically, respondent argues that BPPE only asked for a list of faculty members from the Anza campus and Mill Valley campus, and those lists were provided. However, later BPPE asked for the list of faculty members teaching classes, including online classes, to students on those two campuses, which is a longer list of faculty members. Respondent argued that these lists "resulted in a smaller faculty list than the list included in the catalog." Respondent also argued that the catalogs had included faculty "who had taught in the past five years, and might be eligible to teach in the future." As a result, the list of current teaching faculty did not match the faculty listed in the catalogs. Respondent asserted that respondent has since remediated these

allegations and the academic catalogs have been updated to show the faculty currently instructing the courses.

63. With regard to the seventh cause for discipline regarding failure to demonstrate possession of sufficient financial resources, Mr. Gebhardt stated only the year 2022 had an asset to liabilities ratio less than 1.25 as required by regulation. He noted that for all other years the ratio was sufficient to meet the regulatory requirements. Mr. Gebhardt argued that respondent may not have complied with the applicable regulations on this issue for 2022, but "in spirit it did" because respondent did have sufficient financial resources.

64. With regard to the eighth cause for discipline regarding respondent's failure to have adequate staff available to assist BPPE at on-site visits, Mr. Gebhardt stated that this issue has "largely been remediated" because the faculty handbook and faculty contracts have been updated. Mr. Gebhardt then argued that other policies have been updated, but he failed to address the issue of insufficient staff for on-site visits other than to state that the registrar and faculty members were at a conference in Asia at the time, and there was a fire two months prior to the on-site visit at the Anza campus. He also noted that Homeland Security had taken some files in 2021. The written response of respondent argued that respondent disagrees with these allegations. Specifically, respondent argued that because the on-site visits were unannounced and unexpected, respondent had no opportunity to ensure all staff were available on the day of the on-site visit. Respondent asserted, "[G]iven the number of students being served, Olivet's staffing levels are sufficient to cover all aspects of its operations . . . "

65. With regard to the ninth cause for discipline regarding self-monitoring procedures and respondent's failure to audit the faculty personnel files to ensure they

are current, Mr. Gebhardt stated that respondent has remediated any issues underlying these allegations because respondent has updated the faculty files, and respondent engaged a company to help review the procedures and create a checklist of items needed to be reviewed. However, respondent did not provide any documentary evidence to corroborate this testimony. In its written response, respondent admitted these allegations and wrote: "Olivet does not dispute that it had failed to carry out the faculty file audit with the frequency stated in its Faculty Handbook, and did not timely address some of the findings from its most recent audit prior to the November 2022 BPPE site visits." Respondent argued that it has reviewed its internal monitoring and addressed these weaknesses prior to the filing of the accusation in this matter.

66. With regard to the tenth cause for discipline regarding respondent's failure to identify all faculty in respondent's catalog and faculty member list provided to BPPE, Mr. Gebhardt stated that this issue was addressed as noted in response to the sixth cause for discipline above. The policy has been updated to clarify which faculty members can be included in the catalog, and this issue has been remediated.

67. With regard to the eleventh cause for discipline regarding respondent's failure to have enrollment agreements in student records, Mr. Gebhardt testified these allegations have been remedied because respondent has since updated student files to make sure the executed enrollment agreements are contained therein. In its written response, respondent argued that while some of the student files BPPE obtained from respondent did not include the required student enrollment agreements, not all of the student files had missing enrollment agreements. It noted that of the 18 student files retrieved by BPPE, only six of those files had enrollment agreements missing.

Regardless, a new standard operating procedure has been created to remediate this issue and to streamline the process of student record keeping and maintenance.

68. With regard to the twelfth cause for discipline regarding respondent's failure to give BPPE staff immediate access to respondent's records during on-site visits, failing to properly maintain faculty records, and failing to clearly differentiate the method of course delivery in the syllabi, Mr. Gebhardt testified that these issues are redundant to the allegations set forth in the third, eighth, and ninth causes for discipline and he has already addressed these allegations as set forth above.

69. With regard to the thirteenth cause for discipline regarding respondent's failure to maintain SPFS data in its entirety, Mr. Gebhardt testified that these allegations have since been remediated. Mr. Gebhardt admitted that respondent found deficiencies in the SPFS and back up data in response to BPPE's review and has since corrected those issues. The remediation respondent has done for these allegations includes the recent appointment of a Director of Institutional Research and Compliance to ensure that respondent's policies and procedures are uniformly applied and submissions in the annual report, SPFS, and SPFS back up data are covered moving forward.

70. With regard to the fourteenth cause for discipline regarding respondent's failure to provide documentation of student withdrawal requests or proof of refund of tuition and fees for students who have withdrawn, Mr. Gebhardt testified that students of respondent do not pay out of pocket tuition or fees, and as a result any refund from withdrawal would be zero dollars. He stated that respondent did have a policy for refunding any amounts to withdrawn students within 45 days. However, he admitted respondent now understands it is required to have statements regarding any such

refund even if that amount is zero dollars, and respondent has developed procedures to address this issue moving forward.

71. Mr. Gebhardt testified that he is grateful for the work BPPE did in pointing out the deficiencies in the accusation, but he asserted that BPPE should have better communication with respondent in the future so that any deficiencies can be remediated without the need for an accusation being filed.

72. On cross-examination, Mr. Gebhardt testified that respondent currently has a total of 519 students with 251 being residential students and 268 students being fully online students. Respondent has five campuses throughout the United States and no international campuses.

73. Mr. Gebhardt testified that when the fire occurred in September 2022, about 80 to 90 students were evacuated from the Anza campus, and some of those students were back on campus within a few days and others, who were evacuated to the Mill Valley campus, took two weeks or longer to return to the Anza campus. This resulted in a two-week delay of the start of the new term. Mr. Gebhardt stated that while some records were removed from the Anza campus during that evacuation, those were returned to the Anza campus within five days.

TESTIMONY OF DR. MARTIN ZHAO

74. Martin Zhao is currently employed as the Compliance Officer of respondent, a position he has held since January 2023. He also works as the Director of the St. Louis campus of respondent located in Missouri, a position he has held since April 2023. Dr. Zhao began working at respondent in 2018 as a faculty member and also had responsibilities in administration coordinating programs. He began coordinating online programs for respondent in March 2020. He has also participated

in some accreditation work for respondent during his time working there. Dr. Zhao holds a bachelor's degree in information engineering from a Chinese institution, a master's degree in computer science from a Chinese institution, and a Ph.D. in Instruction Technology from Florida State University, which he received in 2017, focusing on instruction design and assessment. Dr. Zhao came to the United States after he was evangelized by an Olivet University missionary in China. After he understood that Jesus was his only savior, and that he had a calling from the lord to do missionary work, Dr. Zhao began doing missionary work and first learned about Olivet University. He enrolled in Olivet University's Master of Divinity program in 2006. Dr. Zhao testified that after he received his Ph.D. in 2017, respondent hired him and he participated in accreditation work. He stated that he does not know why respondent hired him to be respondent's Compliance Officer.

75. Dr. Zhao stated that he currently has two roles at respondent, and he spends 50 percent of his time as Compliance Officer and the other 50 percent of his time as the Director of the St. Louis campus. He testified that of his compliance work, he spends about half of his compliance work time addressing BPPE issues, which would constitute about 20 percent of his workload. He is also responsible for compliance work for respondent to address other agency issues for Missouri, Washington D.C., Tennessee, and Florida. In addition, he also provides compliance work for the ABHE accreditation. The accusation in this matter was filed in March 2023, and he began work as a compliance officer in April 2023. Dr. Zhao stated that he worked closely with Mr. Gebhardt to familiarize himself with the applicable statutes and regulations and compare that to respondent's operations. Dr. Zhao also attended compliance workshop trainings provided by BPPE and received a certificate in 2023 and subscribes to the BPPE mailing list. Dr. Zhao also consults with outside counsel regarding the applicable statutes and regulations to ensure compliance.

76. Dr. Zhao testified that since the accusation in this matter was filed, he has worked to try to remediate any non-compliance issues immediately. Dr. Zhao testified he focused on the causes for discipline in the accusation numbered one, two, three, four, ten, and thirteen.

77. With regard to the first cause for discipline in the accusation regarding course offerings, Dr. Zhao asserted that respondent is now compliant with the regulations. He stated that respondent checks the course registration for each student to make sure that the student has enough courses to satisfy their requirements, which is something respondent has been doing for a very long time. Most of respondent's students are international students, and as a result respondent must also be compliant with various student exchange visitor programs that require full-time programs. Respondent checks the course registration for each student to ensure compliance with the regulations and with the requirements of exchange programs as a safeguard.

78. Dr. Zhao testified that respondent has made voluntary submissions to BPPE since the filing of the accusation in this matter to show that respondent is in compliance with applicable statutes and regulations. Specifically, respondent submitted three compliance submission packets to BPPE, one in Spring 2024, one in July 2024, and another in October 2024. In the Spring 2024 package, there were two parts, one part devoted to student information and course offerings and the other part devoted to faculty files. For the student information, respondent included courses offered to California students, which are defined as any student on a California campus or who resides in California, or students enrolled in a residency program in California meaning at least part of a program is offered in California. The faculty files part of the package includes two different lists of faculty members, one list of all faculty members employed by respondent who reside in California, and the other list includes any

faculty member who teaches California students. Dr. Zhao testified that BPPE did not give respondent guidance on what those voluntary submissions should contain, but he prepared those submissions based on what he thought BPPE wanted.

TESTIMONY OF STUDENT D.T.

79. D.T. is currently a bachelor's student at respondent and is double majoring in theology and business. He has attended Olivet University for a little over two years. D.T. testified that the application process to attend Olivet University was straightforward and he signed an enrollment agreement, but he does not remember anything about that agreement. D.T. is currently taking five courses this quarter, but on average he typically takes three or four courses per quarter. He has never had an instance where he does not have enough courses to take.

80. In November 2022, D.T. met with a man from BPPE while D.T. was in the school dining hall volunteering in the kitchen. The man asked him what he was doing in school and if he was able to leave the school. D.T. told him he was free to leave and that summers are hot there on campus and he avoids staying on campus during the summer. D.T. generally enjoys campus life at Olivet University.

81. D.T. also testified that he does have some courses where the faculty members only appear online, but when that happens there is a proctor in the room. This quarter he only has two classes where the faculty appear in the class by videoconferencing. D.T. also meets with his academic advisor one or two times per quarter to select his classes to ensure he has what he needs in order to graduate in a timely manner.

TESTIMONY OF STUDENT E.Z.

82. E.Z. is currently an undergraduate student at Olivet University seeking her Bachelor of Arts in Child Development Studies and anticipates obtaining her degree in Summer 2026. E.Z. has been enrolled at Olivet University since 2022. E.Z. typically takes three to four courses per semester, and she gets a syllabus for each course.

83. E.Z. testified that she knows many people she characterized as teachers and leaders, who are alumni of Olivet University who shared their experiences of Olivet University with her. E.Z. was inspired to apply to Olivet University and she did so by searching their website, obtaining the application link, and submitting her application online. E.Z. stated that she signed an enrollment agreement, but she does not recall its contents. E.Z. generally enjoys her campus life at Olivet University.

84. E.Z. testified that Dr. Zhao asked her if she would like to testify at this hearing. E.Z. stated that she heard about the hearing from other students, and she understood that the hearing was about proving that respondent is properly functioning as a school and "raising students to be Christian leaders and to testify to the word of God."

TESTIMONY OF STUDENT M.T.

85. M.T. is currently a graduate student at Olivet University seeking her Master of Divinity degree. She has been a student at Olivet University since 2021 and anticipates graduation in Spring 2025. M.T. is a student at respondent's Mill Valley campus. On average M.T. takes about four courses per quarter. She has never had an experience where Olivet University did not offer enough courses for her to take to obtain her degree. After she graduates from Olivet University, M.T. intends to move back to China "to preach God's word."

86. M.T. testified that she learned about Olivet University from her pastor, who was an alumnus of Olivet University. M.T. is from China and was participating in missionary work there during which she "found [she] needed academic and spiritual equipment," searched for respondent's website, and applied to be a student online. M.T. paid an application fee to apply to respondent.

87. M.T. stated that she did an internship on the Mill Valley campus as an administrative assistant in the main administrative building. On November 15, 2022, she was in that building in the registrar's office when someone spoke with her and asked her questions. M.T. testified that the summary paragraph in Ms. Cornejo's on-site visit notes for the Mill Valley campus, wherein Ms. Cornejo noted that she had spoken to the registrar briefly, but the registrar indicated that English was not her first language by saying "um," was referring to a conversation M.T. had with Ms. Cornejo and not a conversation that Ms. Cornejo had with the registrar. However, M.T. did not recall any substance of that conversation other than to testify that M.T. never identified herself as the registrar of the Mill Valley campus. M.T. also never identified herself as "Kathy" Tran.

Evaluation

88. The bureau's purpose is protection of the public, which is accomplished by enforcement of statutes and regulations governing an institution's operation. Compliance with those statutes and regulations is paramount to ensuring public protection. Complainant provided six witnesses and numerous documents received in evidence to establish the alleged causes for discipline, and respondent presented seven witnesses and numerous documents in its defense. An evaluation of that evidence is provided below for each of the alleged causes for discipline.

FIRST CAUSE FOR DISCIPLINE

89. With regard to the allegations that respondent provided insufficient course offerings, complainant provided testimony of Ms. Murray regarding her analysis of course catalogs, student rosters, and class schedules provided by respondent. Ms. Murray credibly testified that her review and comparison of enrolled campus-based students at the Mill Valley campus to the courses required for each degree program for those students shows that in the Winter 2023 quarter, for five degree programs, no more than a single 4 unit class on campus was offered, yet the course catalog required either 8 hours or 16 hours per quarter for on-time graduation. In response, Mr. Gebhardt and respondent's written response argued that respondent is simply not required to offer all courses necessary for a degree at all times and the regulations cited do not require them to do so. However, respondent failed to explain how in the specific degree programs alleged the enrolled students would meet the minimum necessary units for the Winter 2023 quarter to timely graduate. Ms. Murray's testimony regarding this issue was simply more credible.

Furthermore, Ms. Murray's testimony regarding respondent's inappropriate merging of classes was credible and supported by documentary evidence. Mr. Gebhardt admitted during his testimony that respondent had inappropriately merged classes and has taken steps to correct or mitigate this issue moving forward.

Additionally, Ms. Murray testified and cited applicable regulations showing that respondent inappropriately characterized courses in its catalog as "hybrid" courses, when in fact they were distance courses. She observed classes at the Anza campus and the Mill Valley campus with students in the classroom and faculty appearing by videoconference from a remote location. She noted that many faculty don't live in the state of California and never come to the campuses. In response, respondent admitted

to the use of the word hybrid in its catalogs, and respondent argued, and Mr. Gebhardt testified, that the term hybrid is not defined in the regulations, and that respondent's use of the term "hybrid" in its catalogs was appropriate for situations where the faculty only appears by videoconference and not physically in the classrooms at all. A review of California Code of Regulations, title 5, section 71715, subdivision (d), shows that "distance education 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 . . ." Notably, this definition fits squarely into the modality of teaching respondent is providing in these classes. While the regulations and statute don't define "hybrid" classes, California Code of Regulations, title 5, section 71715, does define "distance education" and defines "direct instruction," which requires the physical presence of students and faculty in the same location. Accordingly, the term hybrid would necessarily require some, but not all, instruction have a component of the physical presence of the faculty and staff in the same location. Therefore, respondent's argument fails. Complainant established this cause for discipline by clear and convincing evidence.

With regard to the allegations that respondent did not offer adequate courses to support the students who have enrolled in Chinese or Korean language programs on-site, Ms. Murry testified that two students listed on the student roster provided by respondent each require at least 50 percent instruction in either Chinese or Korean as offered in on-site classes. However, the student roster received in evidence and about which Ms. Murray testified clearly lists each of those students as "e-Campus - Chinese" and "e-Campus-Korean." As Mr. Gebhardt testified, the "e-Campus" notation indicates that these students are online students and not on-site students despite the fact that they may attend some classes on-site. Mr. Gebhardt's testimony regarding this issue

was credible and supported by the documents cited by Ms. Murray. Accordingly, complainant failed to establish this basis of the first cause for discipline.

With regard to the allegations that respondent would use faculty assistants "in lieu of" duly qualified faculty to teach classes, Ms. Murray testified that Dr. Lee told her this while on the Mill Valley campus. However, Ms. Murray testified that her observations showed that a duly qualified faculty member would appear by teleconference with the faculty assistant helping with the technology, but not necessarily teaching the class. Accordingly, Ms. Murray's own observations contradicted the assertion that a faculty assistant would teach the class, instead the faculty would teach by teleconference. It appears that the use of the phrase "in lieu of" may have been misunderstood during the conversation, and complainant provided no evidence to support the allegation that faculty assistants were teaching the classes. Accordingly, complainant failed to establish this basis of the first cause for discipline.

SECOND CAUSE FOR DISCIPLINE

90. With regard to the allegations that respondent inappropriately merged courses that could result in learning impairment of students, complainant established this cause for discipline by clear and convincing evidence as explained above. Respondent admitted to this allegation and argued that these issues have since been remedied.

THIRD CAUSE FOR DISCIPLINE

91. With regard to the allegations that respondent failed to include a component of face-to-face instruction by duly qualified faculty and by failing to present courses in a logically organized manner, as explained above complainant established this cause for discipline by clear and convincing evidence. Respondent

argued that that its method of instruction by using telecommunication for the faculty to appear from a remote location fit within its use of the term hybrid in its catalogs. However, respondent also stated that it has since clarified its catalogs to more clearly show the method of instruction. Respondent failed to provide documentary evidence to corroborate that assertion.

FOURTH CAUSE FOR DISCIPLINE

92. With regard to the allegations that respondent failed to present curriculum in a logical manner and failed to address the assessment of learning outcome by duly qualified faculty in course syllabi, Ms. Murray credibly testified regarding the content of syllabi documents respondent provided to BPPE as requested. Documentary evidence presented showed that many of the syllabi were internally inconsistent, contained information not related to the course listed, failed to provide any information on assessment of learning outcomes, and sometimes were downright incomprehensible. Ms. Murray noted that respondent did not provide syllabi for many classes at all. In response to these allegations, Mr. Gebhardt testified, and respondent wrote in its written response, that respondent provided "templates" of syllabi to BPPE instead of actual syllabi used in classes. Notably, BPPE did not request templates of syllabi but instead requested the actual syllabi used in classes, which respondent failed to provide. Respondent's failure to provide those actual syllabi calls into question whether they ever existed as utilized in a class. During his testimony, Dr. Gebhardt admitted that the assessment of learning outcomes were not provided in the syllabi, but claims that this issue has now been remedied with the use of syllabus checklists, and the syllabus templates have now been updated. However, no documentary evidence was presented to corroborate that assertion. Complainant established this cause for discipline by clear and convincing evidence.

FIFTH CAUSE FOR DISCIPLINE

93. With regard to the allegations that respondent failed to address the financial arrangements or eligibility requirements for scholarships in respondent's policies and procedures or in its catalogs, respondent admitted through the testimony of Mr. Gebhardt, and in its written response, that respondent failed to have the information regarding the requirements for scholarships and requirements for financial arrangements in its catalog. He also admitted that the regulations require that information to be contained in the catalog. Mr. Gebhardt argued that this issue has been remedied, however on cross-examination admitted that it was not found in respondent's 2024 catalogs. Complainant established the fifth cause for discipline by clear and convincing evidence.

SIXTH CAUSE FOR DISCIPLINE

94. With regard to the allegations that respondent failed to have the required NACES evaluation for faculty, failed to employ faculty with degrees in fields of study offered by respondent, and failed to maintain faculty personnel files as required, complainant provided clear and convincing evidence to establish these allegations. Specifically, Mr. Saeteune credibly testified that his review of documents provided showed that three faculty members of respondent did not have NACES evaluations of their foreign degrees as required in the faculty files. Respondent admitted, through the testimony of Mr. Gebhardt and its written response, that those three faculty members did not have the required NACES evaluations in their files. However, he argued they did have other foreign credential evaluations, and their files have since been updated to reflect that, as well as they have since passed their NACES evaluations.

Furthermore, Mr. Saeteune credibly testified his review of respondent's catalogs in comparison to faculty rosters shows that respondent does not have qualified faculty to teach many of the courses required for degrees offered by respondent. Some degree programs have no faculty identified. In response, Mr. Gebhardt argued that respondent has always had sufficient faculty to teach its course offerings for degree programs, but he admitted on cross-examination that at least with regard to the program for bachelor's degree in architecture, respondent does list that as a course offering but currently has no faculty qualified to teach the courses. He stated that if respondent accepted applications for that program, then respondent would hire the faculty and for unknown reasons stated respondent would have a one or two years' lead time to hire such faculty. As Mr. Saeteune credibly testified, respondent is still obligated to have qualified faculty for degree programs offered even if it has no current students. Indeed, Mr. Saeteune's testimony in that regard is directly supported by the language of California Code of Regulations, title 5, section 71720, subdivision (a)(1).

With regard to respondent's maintenance of faculty personnel files, respondent admitted through Mr. Gebhardt's testimony and its written response that respondent failed to maintain those faculty personnel files by having expired contracts and missing contracts. Mr. Gebhardt argued that those issues have been remedied because respondent has since updated that information in the faculty files.

With regard to the allegations that respondent failed to have faculty members with a sufficiently diverse background because 12 of the faculty members have degrees from Olivet University, Mr. Saeteune credibly testified that his review of the faculty rosters provided by respondent show that 12 of the 38 faculty members of respondent have their degrees from respondent, which is an issue with regard to the

required diversity of faculty degrees as set forth in regulation. In response, Mr. Gebhardt argued that respondent currently has 81 faculty members holding degrees of which only about 38 percent were granted by respondent. However, on cross-examination, Mr. Gebhardt admitted that these were the current faculty of respondent and not the faculty list as of the date of the on-site inspection. Respondent did not provide evidence to rebut Mr. Saeteune's analysis in this regard. Complainant established this allegation by clear and convincing evidence.

With regard to the allegations that respondent provided a list of faculty during the BPPE inspections that did not match the faculty identified in respondent's catalogs, Mr. Saeteune credibly testified that his review of the documents showed that respondent provided 24 faculty member files to BPPE and represented that they had more faculty totaling 38 faculty members, and that his review of respondent's catalogs showed that there were other faculty members identified in those catalogs that were not previously disclosed to BPPE. As a result, BPPE was unable to determine the number and identity of the faculty members of respondent. In response to this allegation, Mr. Gebhardt testified that during the site visits BPPE only asked for faculty members teaching at the Mill Valley and Anza campuses, and not all faculty members teaching online classes. Respondent also admitted that the faculty listed in the catalogs included faculty, "who had taught in the past five years, and might be eligible to teach in the future." Accordingly, respondent admitted that the faculty listed in its catalogs was not currently accurate. Respondent asserted that the catalogs have since been updated to identify only current faculty, but did not provide any evidence to corroborate that assertion. Complainant established this allegation by clear and convincing evidence.

SEVENTH CAUSE FOR DISCIPLINE

95. With regard to the allegations that respondent failed to demonstrate that it meets the requirements for financial resources as required by regulations, Ms. Jones credibly testified that her review of annual report data and her calculations showed that for the year 2022, respondent had a ratio of assets to liabilities of 1.16, which is less than the required 1.25. Respondent admitted that for 2022, that calculation was correct, and it fell below the financial requirement. However, respondent argued that in all other years the ratio was above the 1.25 requirement and as a result complied with the "spirit" of the regulation. Complainant established this allegation by clear and convincing evidence.

EIGHTH CAUSE FOR DISCIPLINE

96. With regard to the allegations that respondent had inadequate staff present at both the Mill Valley and Anza campuses to provide assistance as required to BPPE investigators during the on-site visits, complainant established this allegation by clear and convincing evidence. The credible testimony of Mr. Dawkins, Mr. Saeteune, and Ms. Murray showed that when they arrived at these campuses, there was very few staff there to assist them, and it took approximately six hours to obtain requested documents, some of which was not provided until much later after the on-site visits. In response to this allegation, Mr. Gebhardt complained that because the on-site visits were "unannounced and unexpected" respondent did not have the opportunity to ensure all staff were available to assist BPPE. Notably, statutes and regulations allow for unannounced site visits for this very reason to assess whether an institution is properly functioning and meeting the required standards of the regulations, including having sufficient staff to properly operate.

NINTH CAUSE FOR DISCIPLINE

97. With regard to the allegations that respondent failed to audit the faculty personnel files to ensure the files contained current information, complainant established this allegation by clear and convincing evidence. Respondent admitted, through the testimony of Mr. Gebhardt and in its written response, that it failed to carry out the faculty file audit as required. Respondent asserted that it has since remediated this issue by updating the faculty files and hiring a company to help create a checklist for such an audit. However, respondent provided no evidence to corroborate that testimony.

TENTH CAUSE FOR DISCIPLINE

98. With regard to the allegations that respondent failed to identify all faculty members in its catalog and faculty member list provided to BPPE, complainant established these allegations by clear and convincing evidence as discussed above in the evaluation of the sixth cause for discipline.

ELEVENTH CAUSE FOR DISCIPLINE

99. With regard to the allegations that respondent failed to have enrollment agreements in student records, complainant established this allegation by clear and convincing evidence. Mr. Saeteune credibly testified that his review of student records provided by respondent showed that many student records provided did not include enrollment agreements as required. Respondent, through the testimony of Mr. Gebhardt and its written response, admitted that it failed to have student enrollment agreements in at least six student files provided to BPPE. Respondent argued it has now remediated these issues by updating the student files, but respondent provided no evidence to corroborate that testimony.

TWELFTH CAUSE FOR DISCIPLINE

100. With regard to the allegations that respondent failed to give BPPE staff immediate access to respondent's records as required during on-site visits, failed to properly maintain faculty records, and failed to clearly differentiate the method of course delivery in the syllabi, complainant established these allegations by clear and convincing evidence as discussed above.

THIRTEENTH CAUSE FOR DISCIPLINE

101. With regard to the allegations that respondent failed to maintain SPFS data in its entirety for the 2020-2021 school year, complainant established these allegations by clear and convincing evidence. Mr. Wiggins, an expert in maintaining SPFS data, credibly testified regarding the extensive deficiencies in respondent's SPFS back up data. Respondent, through Mr. Gebhardt's testimony, admitted that respondent failed to properly maintain the SPFS data in its entirety. He testified that respondent has remediated these issues by hiring Dr. Zhao as respondent's Director of Institutional Research and Compliance to ensure future compliance.

FOURTEENTH CAUSE FOR DISCIPLINE

102. With regard to the allegations that respondent failed to provide documentation of student withdrawal requests or proof of refund of tuition and fees for students listed on the withdrawn student list, complainant established these allegations by clear and convincing evidence. Mr. Saeteune credibly testified that his review of withdrawn student files provided by respondent did not include the required information as required by regulation. In response to this allegation, respondent asserted that respondent's students do not pay tuition at all, and as a result there would be no refund. However, he admitted that respondent failed to have the required

withdrawal and refund information in student files, and respondent has developed procedures to address this issue moving forward.

Cost of Investigation and Enforcement

103. Complainant seeks recovery of enforcement costs of \$66,256.25 and investigative costs in the amount of \$11,455.25, pursuant to Business and Professions Code section 125.3.

104. In support of the request for recovery of enforcement costs, the Deputy Attorney General who prosecuted the case signed a declaration on October 30, 2024, requesting total enforcement costs of \$66,256.25. Attached to the declaration is a document entitled "Master Time Activity by Professional Type." This document identifies the tasks performed, the dates legal services were provided, who provided the services, the time spent on each task, and the hourly rate of two Supervising Deputy Attorney Generals, four Deputies Attorney General, and two paralegals from March 8, 2023, through October 30, 2024, for a total of \$64,432.25 in prosecution costs for a total of 288.25 hours of work. The declaration further provided a "good faith estimate" for eight additional hours of work from the Deputy Attorney General at a rate of \$228 per hour totaling \$1,824 for further preparation of the case up to the commencement of the hearing.

105. In support of the request for recovery of investigation costs, a Certification of Costs of Investigation signed by Elizabeth Elias, Enforcement Chief, BBPE, Department of Consumer Affairs, was received in evidence. The certification provided that Ms. Elias reviews and approves all investigative costs incurred by BBPE in this matter and provided that a Special Investigator I was assigned to investigate this matter in Fiscal year 2022/2023 and spent a total of 68.75 hours at an hourly rate of

\$71.24 totaling \$4,897.75 in investigator costs. The certification further provided a breakdown of those 68.75 hours with 32 hours for investigation listing seven different general task categories performed but without assignment of hours to each category, 10 hours for report writing, and 26.75 hours for travel. The certification further provided that a subject matter expert provided financial review work for a total cost of \$6,557.50 with no break-down of how many hours were spent for any individual task, the date the task was performed, or the hourly rate. Complainant seeks a total cost of investigation of this matter is \$11,455.25.

106. California Code of Regulations, title 1, section 1042, subdivision (b), requires that this declaration must include "specific and sufficient facts to support findings regarding actual costs incurred and the reasonableness of the costs." Under the regulations, a cost request must be accompanied by a declaration or certification of costs. For services provided by persons who are not agency employees, the declaration must be executed by the person providing the service and describe the general tasks performed, the time spent on each task, and the hourly rate. In lieu of the declaration, the agency may attach copies of the time and billing records submitted by the service provider. (Cal. Code Regs., tit. 1, § 1042, subd. (b)(2).)

107. The certification of enforcement costs for work up to October 30, 2024, satisfied the requirements of California Code of Regulations, title 1, section 1042, subdivision (b), and the certification supports a finding that costs in the amount of \$64,432.25 are reasonable in both the nature and extent of the work performed. However, the estimated additional time for costs of \$1,824 are speculative and do not satisfy the requirements of California Code of Regulations, title 1, section 1042, subdivision (b), and are not allowed.

108. The certification of investigative costs failed to provide the name of the Special Investigator I providing the investigative services, or the time spent on each task performed, or the date it was performed. Furthermore, the subject matter expert entry for \$6,557.50 provided no information on the name of the expert, any specific task performed, the date of the task, time spent on each task or the hourly rate. For these reasons, the request for investigative costs of \$11,455.25 is denied.

109. Accordingly, the total reasonable costs of enforcement and investigation of this matter is \$64,432.25. This total is analyzed further below with respect to whether complainant established the causes for discipline as alleged in the accusation. Respondent did not present any evidence regarding its ability to pay costs or otherwise.

LEGAL CONCLUSIONS

The Bureau's Responsibilities

1. Education Code section 94875 provides, in part:

The bureau shall regulate private postsecondary educational institutions through the powers granted, and duties imposed, by this chapter. In exercising its powers, and performing its duties, the protection of the public shall be the bureau's highest priority. If protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Burden and Standard of Proof

2. Complainant bears the burden of proof of establishing that the charges in the accusation are true. (Evid. Code, § 115; 500.) The standard of proof required is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) The obligation to establish charges by clear and convincing evidence is a heavy burden. It requires a finding of high probability; it is evidence so clear as to leave no substantial doubt, or sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Christian Research Institute v. Alnor* (2007) 148 Cal.App.4th 71, 84.)

Applicable Statutes, Regulations, and Authority

3. Education Code section 94898, subdivision (a) provides:

An institution shall not merge classes unless all of the students have received the same amount of instruction. This subdivision does not prevent the placement of students, who are enrolled in different educational programs, in the same class if that class is part of each of the educational programs and the placement in a merged class will not impair the students' learning of the subject matter of the class.

4. Education Code section 94900.5 provides:

An institution shall maintain, for a period of not less than five years, at its principal place of business in this state,

complete and accurate records of all of the following information:

(a) The educational programs offered by the institution and the curriculum for each.

(b) The names and addresses of the members of the institution's faculty and records of the educational qualifications of each member of the faculty.

(c) Any other records required to be maintained by this chapter, including, but not limited to, records maintained pursuant to Article 16 (commencing with Section 94928).

5. Education Code section 94909 provides in part:

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

[¶] . . . [¶]

(7) Information regarding the faculty and their qualifications. . . .

6. Education Code section 94929.5 provides:

(a) An institution shall annually report to the bureau, as part of the annual report, and shall publish in its School Performance Fact Sheet, all of the following:

(1) The job placement rate, calculated by dividing the number of graduates employed in the field by the number of graduates available for employment for each program that is either (1) designed, or advertised, to lead to a particular career, or (2) advertised or promoted with any claim regarding job placement.

(2) The license examination passage rates for the immediately preceding two years for programs leading to employment for which passage of a state licensing examination is required, calculated by dividing the number of graduates who pass the examination by the number of graduates who take the licensing examination the first time that the examination is available after completion of the educational program. The institution shall use state agency licensing data to calculate license examination passage rates. If those data are unavailable, the institution shall calculate the license examination passage rate in a manner consistent with regulations adopted by the bureau.

(3) Salary and wage information, consisting of the total number of graduates employed in the field and the annual wages or salaries of those graduates stated in increments of five thousand dollars (\$5,000).

(4) If applicable, the most recent official three-year cohort default rate reported by the United States Department of

Education for the institution and the percentage of enrolled students receiving federal student loans.

(b) Nothing in this section shall limit the bureau's authority to collect information from an institution to comply with this section and ensure, by regulation and other lawful means, that the information required by this section, and the manner in which it is collected and reported, is all of the following:

(1) Useful to students.

(2) Useful to policymakers.

(3) Based upon the most credible and verifiable data available.

(4) Does not impose undue compliance burdens on an institution.

(c) Data and information disclosed pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) is not required to include students who satisfy the qualifications specified in subdivision (d) of Section 94909, but an institution shall disclose on its fact sheet and to the bureau whether its data, information, or both, excludes any students pursuant to this subdivision.

7. Education Code section 94932 provides:

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

8. Education Code section 94937 provides:

(a) As a consequence of an investigation, which may incorporate any materials obtained or produced in connection with a compliance inspection, and upon a finding that an institution has committed a violation, the bureau may place an institution on probation or may suspend or revoke an institution's approval to operate for:

(1) Obtaining an approval to operate by fraud.

(2) A material violation or repeated violations of this chapter or regulations adopted pursuant to this chapter that have resulted, or may result, in harm to students. For purposes of this paragraph, "material violation" includes,

but is not limited to, misrepresentation, fraud in the inducement of a contract, and false or misleading claims or advertising, upon which a student reasonably relied in executing an enrollment agreement and that resulted, or may result, in harm to the student.

(b) The bureau shall adopt regulations, within one year of the enactment of this chapter, governing probation and suspension of an approval to operate.

(c) The bureau may seek reimbursement pursuant to Section 125.3 of the Business and Professions Code.

(d) An institution shall not be required to pay the cost of investigation to more than one agency.

9. California Code of Regulations, title 5, section 71700, provides:

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.

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

(a) In order to meet its mission and objectives, the educational program defined in Section 94837 of the Code shall be comprised of a curriculum that includes:

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

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

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

(A) A short, descriptive title of the educational program;

(B) A statement of educational objectives;

(C) Length of the educational program;

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

(E) Complete citations of textbooks and other required written materials;

(F) 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;

(G) Instructional mode or methods.

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

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

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

(b) An educational program of 32 hours or less as described in Section 94837 of the Code shall be presumed to be "designed to lead to employment" if any of the following apply:

(1) It is on the Eligible Training Provider List the Employment Development Department published on its website at www.edd.ca.gov pursuant to the Workforce Innovation and Opportunity Act (Public Law 113-128) section 122 (29 U.S. Code section 3152) and Code of Federal Regulations, Title 20, section 680.500;

(2) The institution represents that the course or module, either separately or as part of a set of related courses or modules, leads to employment or a career, either as stated by the institution to the Bureau on any application submitted to the Bureau for approval of any institution or educational program, including sections 71100, 71105, 71210, 71220, and 71390, or in any other written correspondence provided to the Bureau, or in any advertising or publication used to solicit or recruit

prospective students. "Advertising" shall have the meaning set forth in section 74140;

(3) The institution represents in its course or module materials, syllabus, or course outline that the educational objectives of the course or module includes preparing or fitting students with the skills and knowledge necessary to satisfy the qualifications for licensure in a specified career, occupation, vocation, job, or job title.

11. 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.

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

(d) Distance education as defined in section 94834 of the Code, does not require the physical presence of students

and faculty at the same location but provides for interaction 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.

Authority cited: Sections 94803, 94885 and 94887, Education Code. Reference: Sections 94834 and 94885, Education Code.

12. California Code of Regulations, title 5, section 71720, subdivision (a), provides in part:

(a) An Educational Program Leading to a Degree.

(1) An institution offering an educational program that leads to a degree shall employ duly qualified faculty sufficient in number to provide the instruction, student

advisement, and learning outcomes evaluation necessary for the institution to document its achievement of its stated mission and objectives, and for students to achieve the specific learning objectives of each course offered;

[¶] . . . [¶]

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

[¶] . . . [¶]

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

13. California Code of Regulations, title 5, section 71730, subdivision (d), provides:

The administrative staffing at each branch location shall reflect the purposes, size, and educational operations at

that location and at any satellite location for which the branch has administrative responsibilities.

14. California Code of Regulations, title 5, section 71760, provides:

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.

15. 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.

(b) An Associate degree may be awarded only to a student whom the institution can document has achieved sequential learning equivalent to that acquired in two years of study beyond high school, as measured by a minimum of 60 semester credits or its equivalent. Except as provided in subdivision (c) of this section, at least 25 percent of the credit requirements for an Associate degree shall be in general education.

(c) The Specialized Associate degree (Occupational) or the Associate of Applied Science degree may be awarded only to a student who completes at least the learning outcomes equivalent to a minimum of 60 semester credits or the equivalent. A minimum of seventy-five percent of the credits shall be in the occupational area for which training is offered. The general education offered as part of a Specialized Associate degree (Occupational) or an Associate of Applied Science degree program shall be such as is necessary for a student to achieve the educational objectives of the program in which the student is enrolled. General education shall be at the same level of quality as that taught in approved Bachelor's or Associate degree programs.

16. California Code of Regulations, title 5, section 71865, provides, in part:

(a) A Master's degree may only be awarded to a student who demonstrates at least the achievement of learning in a

designated major field that is equivalent in depth to that normally acquired in a minimum of 30 semester credits or its equivalent or one year of study beyond the Bachelor's degree.

[¶] . . . [¶]

(c)(1) A Doctor of Philosophy degree (Ph.D.) is a research-oriented degree requiring a minimum of three years of full-time graduate education or the equivalent in part-time study. Such a doctoral program shall include substantial instruction in both theory and research at an advanced level in a designated field and specialty, and may only be awarded to a student who has completed a program of study that includes research methodology and demonstrated learning achievement through original research directly attributable to the student. Each educational program leading to a Doctor of Philosophy degree shall involve preparation for scholarship and systematic inquiry.

(2)(A) Each Doctor of Philosophy program shall include a minimum of two formal evaluations of the student by a doctoral committee. The doctoral committee shall be composed of at least three members of the institution's own faculty who meet the qualifications in subdivision (c)(3).

(B) The first evaluation shall consider the student's qualifications, including the student's knowledge, skills, and conceptual framework, for undertaking rigorous inquiry into the student's designated field.

(C) The second evaluation shall consider the design procedures and products of a formal original inquiry proposed and completed by the student.

(3) The faculty members who serve on each student's doctoral examining committee shall meet the following qualifications:

(A) Each member shall have earned a Doctoral degree from: an institution that is approved by the Bureau or previously approved by a predecessor agency of the Bureau; or an accredited institution in the 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 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 performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES).

(B) The chair and the majority of the committee shall have earned degrees related to the student's field of investigation.

(C) A minimum of 50% of the faculty on the committee shall have degrees conferred by an institution accredited by an accrediting association recognized by the United States Department of Education or the American Bar Association, unless the accreditation does not exist.

(D) All of the faculty shall have three or more years of field or research experience related to their degrees obtained after they obtained their degrees.

(E) All of the faculty shall have been active in their field of scholarship or profession during the five year period preceding their participation on the committee.

(4) The formal evaluation procedures shall provide the committee as a whole with the opportunity to jointly examine the candidate.

(5) If the candidate is not physically present and the evaluation must take place by telephone or other means of electronic communication, one of the following shall apply:

(A) One faculty member on the student's doctoral committee from the main location (i.e., the state in which the program is licensed or otherwise officially approved)

must be present at the location where the doctoral student is examined.

(B) A proctor, selected and approved by the doctoral committee, shall sit as an observer with the student at the distant location and verify, under penalty of perjury under the laws of the State of California, the identity of the student and the facts that the student received no prompting by anyone and did not have access to unallowed materials during the evaluation process.

(6) If a project includes more than one student, the individual student's role and contributions shall be clearly identified and documented.

(7) The institution shall maintain a written record of the evaluations. This record shall include the names and signatures of all committee members who participated in the evaluations. . . .

17. California Code of Regulations, title 5, section 71920, provides in part:

(a) The institution shall maintain a file for each student who enrolls in the institution whether or not the student completes the educational service.

(b) In addition to the requirements of section 94900, the file shall contain all of the following pertinent student records:

[¶] . . . [¶]

(3) Copies of all documents signed by the student, including contracts, instruments of indebtedness, and documents relating to financial aid;

(4) Records of the dates of enrollment and, if applicable, withdrawal from the institution, leaves of absence, and graduation; and . . .

18. California Code of Regulations, title 5, section 74112, provides specific information regarding the required content of the institutions Annual Report and Performance Fact Sheet, which must be prepared separately by the institution for each program.

19. California Code of Regulations, title 5, section 75100, provides:

(a) The Bureau may suspend, revoke or place on probation with terms and conditions an approval to operate.

(b) "Material violation" as used in section 94937 of the Code includes committing any act that would be grounds for denial under section 480 of the Business and Professions Code.

(c) The proceedings under this section shall be conducted in accordance with Article 10 (commencing with Section 11445.10) of Chapter 4.5 or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, as requested by the institution.

Cause Exists to Discipline Respondent's Approval to Operate

20. Cause exists to discipline respondent's approval to operate based upon that part of the first cause of discipline that alleged violations of California Code of Regulations, title 5, sections 71710, subdivision (a), 71715, subdivision (b), and 71745, subdivisions (a)(1) and (a)(2), because complainant established by clear and convincing evidence that respondent failed to offer adequate courses to support enrolled students on the Anza campus for the Winter 2023 quarter in the Bachelor of Arts programs for Information Technology and Music, and for the Master of Arts program for Graphic Arts, Music, and Information Technology; respondent included inappropriately merged classes at both the Anza campus and the Mill Valley campus for the Fall 2022 quarter; respondent failed to provide duly qualified faculty to give face-to-face instruction when the faculty only appeared by livestream from a remote location and the catalogs described the course as "hybrid"; respondent's syllabi did not present the curriculum in a logical or organized manner and had ambiguities regarding assessment of learning outcomes and respondent failed to provide BPPE some syllabi as requested; and respondent failed to clearly define the term "scholarship" or the requirements for scholarships in its catalogs or its policies and procedures.

Cause does not exist to discipline respondent's approval to operate based upon those parts of the first cause for discipline that alleged violations of California Code of Regulations, title 5, sections 71710, subdivision (a), 71715, subdivision (b), and 71745, subdivisions (a)(1) and (a)(2), because complainant failed to establish by clear and convincing evidence that respondent did not offer adequate courses to support the students who have enrolled in Chinese or Korean language programs on-site; or that respondent used faculty assistants in classrooms in lieu of duly qualified faculty.

21. Cause exists to discipline respondent's approval to operate based upon the second cause for discipline for violation of Education Code section 94898, subdivision (a), because complainant established by clear and convincing evidence that respondent merged courses in a manner that could result in learning impairment.

22. Cause exists to discipline respondent's approval to operate based upon the third cause for discipline for violation of California Code of Regulations, title 5, sections 71710, subdivision (b), 71715, and 71715, subdivision (d), because complainant proved by clear and convincing evidence that respondent failed to include a face-to-face component of instruction by a qualified faculty member and for failing to present courses in a logically organized manner.

23. Cause exists to discipline respondent's approval to operate based upon the fourth cause for discipline for violation of California Code of Regulations, title 5, sections 71700, 71710, subdivision (a)(3), and 71715, subdivisions (d)(3) and (d)(5), because complainant proved by clear and convincing evidence that respondent failed to present curriculum in a logical manner and for failing to address the assessment of learning outcome by duly qualified faculty in course syllabi.

24. Cause exists to discipline respondent's approval to operate based upon the fifth cause for discipline for violation of California Code of Regulations, title 5, section 71810, subdivision (b)(6), because complainant proved by clear and convincing evidence that respondent failed to address the financial arrangements or eligibility requirements for scholarships in respondent's policies and procedures or its catalogs.

25. Cause exists to discipline respondent's approval to operate based upon the sixth cause for discipline for violation of California Code of Regulations, title 5, sections 71720, subdivisions (a)(1), (a)(5), and (a)(9), and 71850, because complainant

proved by clear and convincing evidence that respondent failed to have required NACES evaluations for faculty, failed to employ faculty having degrees in fields of study for degrees offered by respondent, and failed to maintain faculty personnel files as required.

26. Cause exists to discipline respondent's approval to operate based upon the seventh cause for discipline for violation of California Code of Regulations, title 5, section 71745, subdivision (a)(6), because complainant proved by clear and convincing evidence that respondent failed to demonstrate respondent met the requirements for financial resources as required for the 2020-2021 school year with regard to its ratio of assets to liabilities.

27. Cause exists to discipline respondent's approval to operate based upon the eighth cause for discipline for violation of California Code of Regulations, title 5, section 71730, subdivision (d), because complainant proved by clear and convincing evidence that the staff listed in respondent's organizational chart was inconsistent with the staff identified at the Anza campus and the Mill Valley campus, and that respondent failed to have adequate staffing present at the Anza campus and the Mill Valley campus to provide assistance to BPPE as required during the on-site visits.

28. Cause exists to discipline respondent's approval to operate based upon the ninth cause for discipline for violation of California Code of Regulations, title 5, section 71760, because complainant proved by clear and convincing evidence that respondent failed to audit the faculty personnel files to ensure the files contained current information.

29. Cause exists to discipline respondent's approval to operate based upon the tenth cause for discipline for violation of Education Code section 94909,

subdivision (a)(7), because complainant proved by clear and convincing evidence that respondent failed to identify all current faculty in respondent's graduate and undergraduate catalogs and failed to provide a current faculty member list to BPPE as requested.

30. Cause exists to discipline respondent's approval to operate based upon the eleventh cause for discipline for violation of California Code of Regulations, title 5, section 71920, because complainant proved by clear and convincing evidence that respondent failed to have enrollment agreements in the student records as required.

31. Cause exists to discipline respondent's approval to operate based upon the twelfth cause for discipline for violation of Education Code section 94900.5 and California Code of Regulations, title 5, section 71930, subdivision (a), because complainant proved by clear and convincing evidence that respondent failed to give BPPE staff immediate access to respondent's records during on-site visits, failed to properly maintain faculty records, and failed to clearly differentiate the method of course delivery in the syllabi.

32. Cause exists to discipline respondent's approval to operate based upon the thirteenth cause for discipline for violation of Education Code section 94929.5 and California Code of Regulations, title 5, section 74112, because complainant proved by clear and convincing evidence that respondent failed to maintain SPFS data in its entirety for the 2020-2021 school year.

33. Cause exists to discipline respondent's approval to operate based upon the fourteenth cause for discipline for violation of California Code of Regulations, title 5, section 71920, subdivisions (b)(3) and (b)(4), because complainant proved by clear and convincing evidence that respondent failed to provide documentation of student

withdrawal requests or proof of a refund of tuition and fees for students listed on the withdrawn student list.

Disciplinary Guidelines

34. California Code of Regulations, title 5, section 75500 provides:

In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code section 11400 et seq.), the Bureau shall comply with the "Disciplinary Guidelines" [August 2010], which are hereby incorporated by reference. Deviation from these disciplinary guidelines and orders, including the standard terms of probation, is appropriate where the Bureau in its sole discretion determines that the facts of the particular case warrant such deviation, e.g., the presence of aggravating or mitigating factors; age of the case; discipline history; evidentiary issues.

35. The Disciplinary Guidelines provide general factors to be considered, probationary terms, and guidelines for specific offenses. The guidelines for specific offenses reference the applicable statutory and regulatory provisions. The recommended penalties and conditions of probation provided in the Disciplinary Guidelines are merely guidelines, and mitigating or aggravating circumstances and other factors may necessitate deviations from those guidelines. However, if any deviations from the guidelines are made, explicit explanation of the circumstances underlying that deviation must be included in the Proposed Decision.

36. The Disciplinary Guidelines provide factors to be considered in determining whether revocation, suspension or probation is to be imposed in a given case, including the following:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
2. Actual or potential harm to any consumer, student or the general public.
3. Prior record of discipline, citations, or notices to comply.
4. Number and/or variety of current violations.
5. Mitigation and aggravation evidence.
6. Rehabilitation evidence.
7. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
8. Overall criminal record.
9. Time passed since the act(s) or offense(s) occurred.
10. Whether or not the respondent cooperated with the Bureau's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
11. Recognition by respondent of its wrongdoing and demonstration of corrective action to prevent recurrence.

37. The Disciplinary Guidelines provide a recommended discipline for violations of California Code of Regulations, title 5, sections 71700 to 71930, for failure to maintain minimum institutional operating standards, of a maximum of revocation, and a minimum of revocation stayed and three years of probation with standard terms and conditions. The recommended discipline for violations of Education Code sections 94900 and 94900.5 for insufficient recordkeeping, are a maximum of revocation, and a minimum of revocation stayed and three years of probation with standard terms and conditions plus optional conditions. The recommended discipline for violations of Education Code sections 94898, prohibitions in instruction such as merging of classes or changing method of delivery, are a maximum of revocation, and a minimum of revocation stayed and three years of probation with standard terms and conditions plus optional conditions.

Appropriate Discipline

38. Having found that cause to discipline respondent's approval to operate exists, consideration must be given to what appropriate discipline must be given.

39. As a disciplinary consideration, respondent has previously received a citation on January 28, 2020, for violations of California Code of Regulations, title 5, section 74112, for failure to submit SPFS in the correct format, failure to provide all data required, and failure to provide supporting documentation for the SPFS submitted. That citation included an Order of Abatement requiring respondent to provide a written policy of how it would maintain future compliance with the requirements of SPFS submission. Despite this citation and Order of Abatement, respondent continued to violate California Code of Regulations, title 5, section 74112, as set forth above.

40. The number of allegations set forth in this accusation and established by complainant was numerous and significant. Respondent's current President and Vice President testified extensively that they believed that BPPE was biased against respondent for a number of reasons. However, the evidence provided failed to support those assertions. Respondent claimed that they were hindered in their ability to provide the appropriate records to BPPE in a timely manner because of a fire near the Anza campus that occurred two months prior to the on-site visit, because Homeland Security had taken some files from the campus in either 2019 or 2021 and returned those files electronically to respondent, and because the site visits were unannounced and unexpected so they did not have sufficient staff on-site at the time of the visits. None of those asserted reasons sufficiently explained respondent's lack of compliance with the required regulations and statutes. Respondent's current and former President, and its current Vice President all testified that the violations at issue in this accusation were "technical" and "minor" violations, indicating that respondent continues to minimize its failure to abide by the requirements set by BPPE for approval to operate. While respondent asserted that it has remedied most of the issues underlying the allegations in this matter, it failed to provide convincing evidence that it has actually done so or will successfully continue to do so in the future. Respondent's officers, past officers, and recently appointed compliance officer all testified that they are in the process now of learning the requirements of the BPPE statutes and regulations. Given that respondent has had its approval to operate from BPPE since November 19, 2006, it is deeply concerning that respondent failed to fully understand those statutes and regulations as required until now. Respondent continues to show a cavalier attitude toward compliance with the BPPE's statutes and regulations.

41. After consideration of all evidence presented and the disciplinary factors listed in the Disciplinary Guidelines, the only degree of discipline that would ensure public protection is the revocation of respondent's approval to operate.

Costs of Enforcement

42. Business and Professions Code section 125.3, subdivision (a), authorizes an administrative law judge to direct a licensee who has violated the applicable licensing act to pay a sum not to exceed the reasonable costs of investigation and prosecution. As found above, the reasonable costs in this matter are \$64,432.25.

43. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45, the California Supreme Court set forth five factors to be considered in determining whether a particular licensee should be ordered to pay the reasonable costs of investigation and prosecution under statutes like Business and Professions Code section 125.3. Those factors are: whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Ibid.*)

44. Applying the *Zuckerman* factors to this case leads to the following conclusions: respondent was not successful in getting the charges dismissed or reduced, respondent demonstrated a subjective good faith belief in the merits of its position, respondent failed to raise a colorable challenge to the proposed discipline, and respondent provided no evidence or argument to establish that it does not have the financial ability to pay costs; and the scope of the investigation was appropriate in light of the alleged misconduct.

45. After consideration of the *Zuckerman* factors in this case, a reduction of the costs of enforcement is not appropriate. Accordingly, an appropriate cost amount of \$64,432.25 is deemed reasonable and respondent shall pay that amount to the bureau within 90 days of the effective date of this decision.

ORDER

1. Respondent Olivet University's Approval to Operate Number 88680286 is revoked. Respondent Olivet University shall cease enrollment of new students in all education programs beginning on the effective date of this decision. Respondent Olivet University shall comply with procedures provided by the Bureau regarding notification to, and management of, students.

2. Within 30 days of the effective date of this decision, respondent Olivet University shall propose a plan to teach-out students of current education programs of respondent Olivet University pursuant to Title 5, section 76240, of the California Code of Regulations for approval by the Bureau.

3. Respondent Olivet University is ordered to pay costs of enforcement in the amount of \$64,432.25 within 90 days of effective date of this decision.

DATE: December 5, 2024

Debra D. Nye-Perkins

DEBRA D. NYE-PERKINS

Administrative Law Judge

Office of Administrative Hearings