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

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

Case No. 1003057

13 **ONLINE VOCATIONAL ACADEMY, INC.**

**FIRST AMENDED**

14  
15 **Approval to Operate an Institution Non-**  
**Accredited Applicant**

**STATEMENT OF ISSUES**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Dr. Michael Marion, Jr. (Complainant) brings this First Amended Statement of Issues  
21 solely in his official capacity as the Chief of the Bureau for Private Postsecondary Education,  
22 Department of Consumer Affairs.

23 2. On or about December 8, 2015, the Bureau for Private Postsecondary Education  
24 received an application for an Approval to Operate an Institution Non-Accredited from Online  
25 Vocational Academy, Inc. (Respondent). On or about December 7, 2015, David Pinnell certified  
26 under penalty of perjury to the truthfulness of all statements, answers, and representations in the  
27 application. The Bureau denied the application on September 28, 2017.

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1 **JURISDICTION**

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

6 4. Education Code (Code) Section 94886 states:

7 Except as exempted in Article 4 (commencing with section 94874) or in  
8 compliance with the transition provisions in Article 2 (commencing with Section  
9 94802), a person shall not open, conduct, or do business as a private  
postsecondary educational institution in this state without obtaining an approval  
to operate under this chapter.

10 5. Code Section 94887 states:

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

15 **STATUTORY PROVISIONS**

16 6. Code section 94837 states:

17 "Educational program" means a planned sequence composed of a single course  
18 or module, or set of related courses or modules, that provides education, training,  
19 skills, or experience, or a combination of these.

20 7. Code section 94897 states in pertinent part:

21 An institution shall not do any of the following:

22 ...

23 (b) Promise or guarantee employment, or otherwise overstate the availability of  
24 jobs upon graduation.

25 ....

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1 **REGULATORY PROVISIONS**

2 8. Title 5, California Code of Regulations (CCR), section 71100 states:

3 (a) An applicant seeking approval to operate pursuant to Section 94886 of the  
4 Code, other than Approval to Operate by Accreditation pursuant to Section  
5 94890(a)(1) of the Code, shall complete the "Application for Approval to Operate  
6 for an Institution Not Accredited," Form Application 94886 (rev. 2/10). An  
7 applicant seeking approval to operate by accreditation pursuant to Section  
8 94890(a)(1) of the Code shall comply with section 71390.

9 (b) An applicant shall submit the completed form, the information or  
10 documentation required by this Article, the appropriate application fee as  
11 provided in Section 94930.5(a)(1) of the Code, and any appropriate annual fee as  
12 required by Article 1 of Chapter 5 of this Division, to the Bureau.

13 (c) An application that fails to contain all of the information required by this  
14 article shall render it incomplete.

15 9. Title 5, CCR, section 71700 states:

16 The Bureau may request that an institution document compliance with the  
17 standards set forth in the Act and this Division to obtain and maintain an approval  
18 to operate.

19 10. Title 5, CCR section 71710 states in part:

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

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

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

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

...

(2) a statement of educational objectives;

(3) length of the educational program;

...

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

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

...



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

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

3 11. Title 5, CCR, section 71715 states in part:

4 ...

5 (d) Distance education as defined in section 94834 of the Code, does not require  
6 the physical presence of students and faculty at the same location but provides  
7 for interaction between students and faculty by such means as  
8 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:

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

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

13 ...

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

15 ...

#### 16 **FACTS**

17 12. On December 8, 2015, the Bureau received an Application for Approval to Operate  
18 For [sic] An Institution Non-Accredited (Application No. 28811) from Respondent. Respondent  
19 seeks to provide certificate level programs in information technology through a combination of  
20 "one-on-one" instruction at the student's residence and on-line instruction. According to  
21 Respondent's mission statement, Respondent "provide[s] individualized and intensive training to  
22 injured workers so they may acquire the new skills required for re-employment ...[and]...  
23 provide[s] training to assist students in orientation for new employment."

24 13. On December 21, 2015, the Bureau sent Respondent a letter confirming receipt of the  
25 Application but informed Respondent that the application was incomplete in that the contact  
26 information for all members of the governing board were not included and an accreditation plan  
27 had not been submitted.

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1 a. Respondent's 2018 catalog failed to demonstrate how Respondent will assess each  
2 student, prior to admission, in order to determine whether each student has the skills and  
3 competencies needed to succeed in a distance education environment, in violation of title 5, CCR,  
4 71715(d)(2).

5 b. Respondent's 2019 catalog identified admissions requirements that include

- 6 ✓ Have access to a computer and an internet connection
- 7 ✓ Be able to turn on and off a computer.
- 8 ✓ Be able to type on a computer (typing speed will be taught in the program)
- 9 ✓ Be able to sign onto an internet distance education program.
- 10 ✓ Have the ability to concentrate in a distance education environment.
- 11 ✓ Have the discipline to direct self-study activities and meet deadlines.
- 12 ✓ Be able to contact the instructor via telephone for assistance.

13 However, Respondent failed to demonstrate how these requirements will assist it in  
14 assessing whether each student has the skills and competencies needed to succeed in a distance  
15 education environment, in violation of title 5, CCR, 71715(d)(2).

16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

17 **(Failure to Demonstrate Capacity to Satisfy Minimum Operating Standards**  
18 **- Meaningful Interaction with Faculty)**

19 20. Respondent's application is subject to denial under Code section 94887 and title 5,  
20 CCR, sections 71100, 71700, and 71715(d)(4), for failing to demonstrate how it will provide for  
21 meaningful interaction with faculty who are qualified to teach using distance education methods,  
22 in that the school catalog received by the Bureau in March, 2019 provides the instructor's  
23 telephone number and e-mail address but fails to demonstrate how meaningful interaction  
24 between students and faculty will be provided.

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1 THIRD CAUSE FOR DENIAL OF APPLICATION

2 (Failure to Demonstrate Capacity to Satisfy Minimum Operating Standards  
3 - Description of Educational Programs)

4 21. Respondent's application is subject to denial under Code section 94887 and title 5,  
5 CCR, sections 71100, 71700 and 71710, for failing to demonstrate its capacity to satisfy  
6 minimum operating standards as follows:

7 a. Respondent failed to demonstrate that subject areas and courses or modules in its  
8 educational programs are presented in a logically organized manner or sequence to students, in  
9 violation of title 5, CCR, 71710(b), as follows:

10 i. The Academic Policies in Respondent's catalog required each student to log  
11 into a course module during the first week of instruction. However, the syllabus for the  
12 "Introduction to Computers" course did not include an educational component addressing how to  
13 log on the course nor provide an orientation to the on-line learning management system.  
14 Respondent subsequently provided a 2019 Catalog that includes an orientation for the online  
15 learning management system, known as Canvas Online Classroom. However, Respondent  
16 provided no information as to whether this course is a prerequisite for its other courses for which  
17 it seeks approval, or whether the Respondent wishes to add this course to its list of approved  
18 programs.

19 b. Respondent failed to demonstrate that the subject areas in the "Seeking New  
20 Employment" course are sufficient for the student to achieve the educational objectives of the  
21 course as required by 5 CCR §71710(c)(2), as follows:

22 i. In or about March, 2019, Respondent changed the name of the "Coping with  
23 New Employment" course to "Seeking New Employment" because of deficiencies in the course  
24 content. However, because the syllabus for the "Seeking New Employment" course does not  
25 include a statement of educational objectives as required by 5 CCR §71710(c)(2), Respondent  
26 failed to demonstrate that the subject areas in the new course are sufficient for the student to meet  
27 the educational objectives.

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1 c. Respondent failed to demonstrate that the courses “Seeking New Employment,”  
2 “Computer Literacy,” “Beginning Word 2016,” “Beginning Excel 2016,” and “Beginning  
3 PowerPoint 2016” meet the program’s educational objectives in that the revised syllabi for these  
4 courses do not include a statement of the educational objectives, length of the educational  
5 program, a complete citation of textbooks and other required written materials and how each skill  
6 will be measured, as required by title 5, CCR, 71710(c).

7 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

8 **(Failure to Demonstrate Capacity to Satisfy Minimum Operating Standards**  
9 **- Subject Areas Necessary to Achieve Educational Objective of Program)**

10 22. Respondent's application is subject to denial under Code sections 94887, and title 5,  
11 CCR, sections 71100, 71700 and 71710(a), for failing to demonstrate its capacity to satisfy  
12 minimum operating standards in that the syllabi for the courses “Seeking New Employment,”  
13 “Computer Literacy,” “Beginning Word 2016,” “Beginning Excel 2016,” and “Beginning  
14 PowerPoint 2016” do not match the course descriptions in the 2019 School Catalog.

15 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

16 **(Failure to Demonstrate Capacity to Satisfy Minimum Operating Standards**  
17 **- Evaluation by Duly Qualified Faculty of Learning Outcomes)**

18 23. Respondent's application is subject to denial under Code sections 94887, and title 5,  
19 CCR, sections 71100, 71700 and 71710(e) and (f) for failing to demonstrate that its course syllabi  
20 contain specific learning outcomes to measure the students' learning of the material and that  
21 duly qualified faculty evaluate those learning outcomes in that:

22 a. Respondent failed to demonstrate whether assignments are to be submitted to faculty  
23 for assessment, and how and when a student is expected to submit assignments in the syllabi or in  
24 the Canvas Learning Management System.

25 b. For competency-based courses such as “Beginning Word 2016,” “Beginning Excel  
26 2016,” and “Beginning PowerPoint 2016,” which do not use quiz-based assessments, Respondent  
27 failed to demonstrate how specific learning outcomes are measured by duly qualified faculty to  
28 determine if students are learning the material.



1 c. The course description for “Seeking New Employment” states that competencies are  
2 measured by both practical and written testing, however Respondent failed to demonstrate how  
3 practical assessments are performed by duly qualified faculty.

4 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

5 **(Prohibited Practices – Guarantee or Overstatement of Job Availability)**

6 24. Respondent's application is subject to denial under Code section 94897(b) in that  
7 Respondent’s course descriptions in the 2019 Catalog for the Beginning Microsoft Word,  
8 Beginning Microsoft Excel, and Beginning Microsoft PowerPoint courses overstate job  
9 availability in that Respondent’s course description for each of these courses state:

10 Students successfully completing this course will receive a certificate of  
11 completion and be qualified to obtain entry-level employment in the field of  
12 Office/Business Administration with some of the following career opportunities:  
Administrative Assistant, General Office Clerk, Secretary, Receptionist and  
Information Clerk.

13 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

14 **(Failure to Demonstrate Capacity to Satisfy Minimum Operating Standards**  
15 **- Delivery Through Distance Education)**

16 25. Respondent's application is subject to denial under title 5, CCR, sections 71100,  
17 71700 and 71715(d)(1) in that Respondent failed to demonstrate that the Computer Literacy  
18 course is appropriate for delivery through distance education as follows:

19 a. The Computer Literacy Course includes competencies such as “start and log onto a  
20 computer” and “how to use a mouse and keyboard.” Respondent failed to demonstrate that  
21 distance education is an appropriate platform for a student who does not know how to use a  
22 computer.

23 **PRAYER**

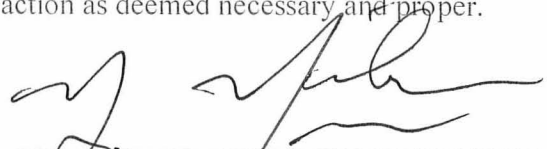
24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
25 and that following the hearing, the Director of the Department of Consumer Affairs issue a  
26 decision:

27 1. Denying the application of Online Vocational Academy, Inc. for a Approval to  
28 Operate an Institution Non-Accredited; and,

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

DATED: 4/18/19

  
DR. MICHAEL MARION, JR.  
Chief  
Bureau for Private Postsecondary Education  
Department of Consumer Affairs  
State of California  
*Complainant*

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