



ITU

International Technological University

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To: WSCUC via email

Date: June 27, 2022

RE: Notice of ITU Appeal of Accreditation Loss

Dear WSCUC Commission,

Under WASC's Institutional Appeals Policy, International Technological University (ITU) hereby provides notice that it will appeal WSCUC's decision¹ to withdraw ITU's accreditation.

WSCUC has acted with bias, capriciousness and discrimination against ITU under its current CEO, Yau-Gen Chan, commencing in 2015, when a WSCUC Visiting Panel, assembled by then WSCUC Executive Vice President Richard Winn, threatened to withdraw ITU's accreditation unless the ITU Board immediately replaced Yau-Gen Chan as CEO and installed Greg O'Brien as CEO. Immediate withdrawal of accreditation is not even within the available sanctions according to WSCUC's policies. O'Brien had served as a consultant for ITU since 2009, at the recommendation of Richard Winn. It should be noted that O'Brien, the WSCUC-affiliated accreditation consultant, had previously installed two ITU board members, Bhaskar Kura and Alvin Cheung into the ITU Board, who were instrumental in WSCUC's takeover of ITU's board and executive leadership.

After the takeover, WSCUC then acted with heavy bias in favor of the WSCUC-installed O'Brien-led ITU.

In fiscal year end June 30, 2015, ITU held approximately \$20 million in cash reserves and generated \$20 million in annual income, with consistent year end surpluses from 2007 until 2015, during Chan's leadership. In stark contrast, for the fiscal years ending June 30, 2016, 2017, and 2018, under the leadership of O'Brien, ITU posted consistent net losses of \$1.7, \$1.5, and \$4.2 million with enrollment declined over this period by 45%. Each and every year, O'Brien submitted yearly budgets at the beginning of the year that far exceeded actual year end revenues, showing a complete lack of fiscal discipline.

Yet, true to self-inuring, self-serving WSCUC operating standards, on July 20, 2018, WSCUC Commission rewarded the consistent year after year poor financial performance with a six-year extension of ITU's accreditation, all without a single mention of any concern for ITU's financially declining condition or its declining enrollment or ITU's continuing litigation problems with SEVP/Homeland Security and despite having hundreds of pages of formal complaints about O'Brien and Ryan submitted to WSCUC via proper WSCUC complaint channels.

O'Brien outdid himself in fiscal year ending June 30, 2019, when ITU posted a loss of over \$8.1 million dollars, forcing the management shakeup that saw Yau-Gen Chan reinstated as the CEO.

¹ June 15, 2022 Letter from WASC to ITU.

In October, 2019, when O'Brien was removed as CEO, ITU's cash balance was down to under \$2 million, with over half a dozen complaints and / or pending lawsuits. During O'Brien's four plus year tenure, ITU lost more than \$50 million and its enrollment dropped by 73%

Yet, when Yau-Gene Chan again took the reins at ITU and put an end to the looting of ITU by O'Brien and sitting WSCUC Commissioner Barry Ryan (who was hired into the "Provost" position and compensated handsomely with annual \$250K salary, \$4K/month travel expenses and living accommodations paid for by ITU), WSCUC's anti-Chan bias returned, and WSCUC promptly placed the Chan-led ITU on Show Cause Status on Oct 18, 2019 – only three days after Chan's reinstatement as CEO on Oct 15, 2019.

WSCUC VP Mark Goor, taking over Richard Winn's position, declared that the Show Cause Order was due to ITU's financial crisis under Chan's three-day leadership, the very financial crisis engineered by WSCUC insiders to include a WSCUC Commissioner.

President Studley was made full aware of this history in January 2020, during the required meeting with WSCUC and ITU leadership. Yet, WSCUC has continued to act in bad faith with clear bias against ITU under the leadership of Yau-Gene Chan and now seeks to put ITU out of business based primarily on WSCUC's subjective judgment that the university is not financially viable and management's plans are "unrealistic," while providing no objective standards or benchmarks such that ITU could ever hope to satisfy the whims of the voting WSCUC Commissioners. ITU contends this constitutes an unlawful restraint of trade and irreparable harm to current ITU students, alumni, and over 105 new prospective students who have already been admitted into ITU in this latest trimester.

ITU contends both that: (a) WSCUC's failure to follow its established procedures was a significant factor leading to the Commission's appealable adverse action and (b) The Commission's appealable adverse action was discriminatory, arbitrary and capricious.

For example, WSCUC's May 13-14, 2021 site visit report was highly favorable and cited numerous areas where ITU had made significant "Progress" and improvements towards full compliance. Yet, WSCUC's July 12, 2021 action letter directly contradicted specific favorable findings in the official WSCUC site visit report and concluded, with little or no explanation, that ITU would remain on "show cause" status.

In addition to the capricious bias demonstrated by WSCUC towards ITU since 2019, WSCUC relies largely on arbitrary and subjective conclusions in determining that it should withdraw ITU's accreditation.

WSCUC has never informed ITU of any particular standards or benchmarks, financial or otherwise, that accredited institutions are required to obtain. Yet, WSCUC makes the following subjective determinations, without explanation or analysis, in justifying its decision to withdraw accreditation:

- ITU had not demonstrated that it is financially stable or that it has sufficient resources to assure its long-term viability.
- ITU's enrollment management plans and enrollment estimates were not realistic.
- The institution had failed to provide sufficient evidence of integrated planning between resource allocation and educational objectives.

- ITU has not provided evidence that it has integrated planning processes based on the examination of evidence that would lead to the formation of a realistic strategic position, or that the institution consults among its constituencies to attempt to formulate that strategic position.

The above conclusions are entirely subjective and are made without any explanation. WSCUC's voting Commissioners overreach and bias is on full display when it concludes that ITU's enrollment estimates are not realistic without explaining how or why they believe so with any specificity.

WSCUC also demonstrates its bias and bad faith and a failure to follow its own procedures in rejecting ITU's request for an extension of show cause status.

As noted in the June 15, 2022 action letter:

As a matter of policy, the Commission has determined that it will grant an extension for good cause only under exceptional circumstances and only when the following criteria are met:

*The institution must have demonstrated **significant accomplishments** in addressing the areas of noncompliance during the period under sanction, AND*

*The institution must have demonstrated **at least partial compliance** with the Standard(s) cited, and, for any remaining deficiencies, demonstrate an understanding of those deficiencies, and readiness, institutional capacity, and a plan to remedy those deficiencies within a period of extension granted by the Commission.*

In determining whether these criteria have been met, Commission policy provides in all such cases that the Commission will also consider whether:

- *The quality of education provided by the institution is judged to be in compliance with the Standards at the time of the extension, AND*
- *The Commission has evidence of any new or continuing violations of Standard 1 regarding institutional integrity, AND*
- *The Commission has evidence of other reasons or current circumstances why the institution should not be continued for good cause. (WSCUC Accreditation Handbook revised, Part IV, Forms of Possible Commission Actions, Sanctions, p 52).*

In short, ITU should qualify for an extension if it shows **significant accomplishments** and at least **partial compliance** with the identified standards of concern.

ITU contends it has demonstrated significant accomplishments in addressing the areas of noncompliance during the period under sanction, notably:

- As recognized in the May 13-14, 2021 WSCUC site visit report, "The team concludes that ITU has responded adequately to the Show Cause requirements in the area of the board." ITU's April 8, 2022 submission further explained recent positive developments for board education and development.
- ITU developed its Strategic Plan, Enrollment Plan, and Assessment Plan submitted in

October 2021.

- ITU developed, and continues to revise and improve, a Teach Out Plan, submitted in October 2021, and revised and improved in February 2022, and again in April 2022.
- ITU financially weathered the financial storm created by the Covid-19 pandemic, the settlement of a significant lawsuit, and years of accreditation sanctions.

Based on the above, ITU has demonstrated at least partial compliance with the Standard(s) cited, and, for any remaining deficiencies, ITU has demonstrated and continues to demonstrate an understanding of those deficiencies. ITU has participated in good faith in responding to all WSCUC requirements and has the readiness, institutional capacity, and a plan to remedy those deficiencies within a period of extension granted by the Commission.

Based on this simple analysis under the WSCUC rules, ITU should receive an extension of the show cause.

However, WSCUC cites the following for denying an extension:

(a) ITU has not demonstrated compliance with Standards originally cited in the Show Cause Order.

This statement is not relevant to the question of whether an extension should be granted. The rule requires that the institution show significant accomplishment and partial compliance, and ITU has done that.

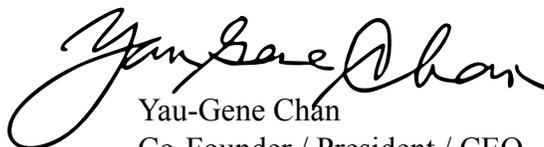
(b) The Commission's findings, particularly with respect to CFR 3.4, are underscored by the institution's own description of its current circumstances: "...with declining enrollment, a current negative cashflow from operations and no significant assets with independent market value."

Similarly, this statement is not relevant to the question of whether an extension should be granted.

(c) While partial compliance may have been achieved in other areas as noted, ITU has not put forward evidence that the institution has the capacity to resolve remaining deficiencies or that it has developed coherent, realistic plans to do so.

After acknowledging partial compliance, WSCUC concludes with nothing more than a subjective, arbitrary and unsupported opinion: that ITU has not proven, to the Commission's capricious satisfaction, that it has the "capacity" to move towards compliance or develop a coherent, realistic plan to do so.

Please acknowledge receipt of this notice of appeal. Thank you.


Yau-Gene Chan
Co-Founder / President / CEO