



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

April 26, 2017

GOV. MSG. NO. 1104

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 26, 2017, the following bill was signed into law:

HB1079 HD2

RELATING TO POST-SECONDARY EDUCATION
AUTHORIZATION
ACT 004 (17)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO POST-SECONDARY EDUCATION AUTHORIZATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 305J, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§305J- Candidates for accreditation; requirements;
5 sanctions. (a) A candidate for accreditation shall:

6 (1) Provide an accreditation plan that, at a minimum,
7 identifies an accrediting agency recognized by the
8 United States Department of Education from which the
9 candidate will seek accreditation, covers the offering
10 of at least one degree program, and outlines the
11 process by which the candidate will achieve
12 accreditation;

13 (2) Provide all additional documentation the department
14 deems necessary to determine if the candidate for
15 accreditation will become fully accredited within five
16 years of its provisional authorization to operate.

17 Additional documentation may include financial



1 statements as required by the accrediting agency,
2 documentation of accrediting agency's required
3 accreditation applicant workshop and a self-evaluation
4 report;

5 (3) Provide written notification to students, prior to the
6 execution of any student enrollment agreement, that
7 the approval to offer a degree program is contingent
8 upon the candidate for accreditation being
9 subsequently accredited. The student and the
10 candidate's representative shall initial and date the
11 notice prior to executing any enrollment agreement.

12 An initialed copy of the notice shall be given to the
13 student and the original shall be retained in the
14 enrolled student's records;

15 (4) Provide written disclosures in the candidate's
16 catalog, website, and brochures that the candidate's
17 approval to offer a degree program is contingent upon
18 the candidate being subsequently accredited;

19 (5) Pay an annual fee of \$5,000; and

20 (6) File with the director a surety bond in favor of the
21 State in the amount of \$50,000. The surety bond shall



1 be executed by the candidate for accreditation as the
2 principal and by a surety company authorized to do
3 business in the State and shall run concurrently with
4 the provisional authorization period and any period of
5 reauthorization, unless terminated or canceled by the
6 surety company. The surety bond shall be conditioned
7 as follows: That the candidate for accreditation
8 shall satisfy all claims of any student or enrollee of
9 the candidate for accreditation, or of any parent or
10 legal guardian of a student or enrollee of the
11 candidate for accreditation, whom the director finds
12 to have suffered a loss of tuition or fees as a result
13 of an act or practice that is a violation of this
14 chapter.

15 (b) If a candidate for accreditation ceases operation, the
16 director may make demand on the surety bond upon the claim for a
17 refund by a student or the parent or legal guardian of a
18 student, and the surety on the surety bond shall pay the claim
19 in a timely manner. The student or a parent or legal guardian
20 of the student who claims loss of tuition or fees as a result of
21 the cessation of operations of a candidate for accreditation may



1 file a claim with the department if the claim results from an
2 act or practice that violates this chapter. If the amount of
3 the surety bond is less than the total prepaid, unearned tuition
4 and fees that have been paid by students at the time that the
5 candidate for accreditation ceases operation, the department
6 shall prorate the amount of the surety bond among the students.
7 This subsection shall apply only to those students enrolled at a
8 candidate for accreditation at the time it ceases operation.

9 (c) A candidate for accreditation that is no longer
10 covered by a surety bond as required by this section or that
11 fails to obtain accreditation within the required time frame
12 with no extension of time for good cause shall have its
13 provisional authorization automatically suspended pursuant to
14 section 305J-12(a) and shall immediately cease enrolling new
15 students.

16 (d) A candidate for accreditation's failure to reinstate a
17 suspended provisional authorization within sixty days of
18 suspension shall result in the revocation of the authorization,
19 and the candidate shall forfeit all fees. The candidate shall
20 provide written notice to all students within thirty days
21 following the date of revocation.



1 (e) A candidate for accreditation that fails to obtain
2 accreditation within the required time frame or that elects to
3 stop pursuing accreditation shall refund students for any
4 classes students are currently enrolled in or have not yet
5 completed and shall comply with any applicable rules, policies,
6 and procedures for closures of institutions or transition to a
7 non-accredited status.

8 (f) Any candidate for accreditation that violates this
9 chapter may be subject to one or more of the sanctions provided
10 by section 305J-11(c)."

11 SECTION 2. Section 305J-2, Hawaii Revised Statutes, is
12 amended by adding two new definitions to be appropriately
13 inserted and to read as follows:

14 "Candidate for accreditation" or "candidate" means a
15 degree-granting institution that has submitted an application
16 for accreditation to a regional or national accrediting agency
17 recognized by the United States Department of Education;
18 provided that the application has been accepted pursuant to the
19 accrediting agency's application requirements and is pending
20 approval by the accrediting agency.



1 "Provisional authorization" means authorization of a
 2 candidate for accreditation for no more than a five-year period,
 3 unless an extension is granted by the director for good cause,
 4 while the candidate for accreditation seeks to satisfy the
 5 requirement for institutional accreditation; provided that no
 6 provisional authorization shall be given for more than a ten
 7 year period."

8 SECTION 3. Section 305J-5, Hawaii Revised Statutes, is
 9 amended by amending subsection (a) to read as follows:

10 (a) The director shall:

- 11 (1) Unless otherwise provided by law, adopt, amend, and
 12 repeal rules pursuant to chapter 91 to carry out the
 13 purposes of this chapter;
- 14 (2) Adopt policies and procedures as necessary, without
 15 regard to chapter 91, for reauthorization pursuant to
 16 section 305J-10;
- 17 (3) Issue declaratory rulings or informal, nonbinding
 18 interpretations and conduct contested case proceedings
 19 pursuant to chapter 91;
- 20 (4) Grant, deny, confirm, forfeit, renew, reinstate, or
 21 restore authorizations, including provisional,



- 1 conditional, probationary, or qualified
2 authorizations;
- 3 (5) Revoke, suspend, condition, or otherwise limit the
4 authorization of an institution for any violation of
5 this chapter, applicable rules, or the Higher
6 Education Act of 1965, as amended;
- 7 (6) Establish requirements for authorization in accordance
8 with this chapter;
- 9 (7) Investigate and conduct hearings regarding any
10 violation of this chapter, applicable rules, or the
11 Higher Education Act of 1965, as amended;
- 12 (8) Create fact-finding committees, including the
13 appointment of one or more advisory committees, which
14 may assist the department and make recommendations for
15 consideration;
- 16 (9) Contract with qualified persons, including
17 investigative and legal staff, who may be exempt from
18 chapter 76, to assist the director in exercising the
19 director's powers and duties;



- 1 (10) Subpoena witnesses and documents, administer oaths,
2 and receive affidavits and oral testimony, including
3 communications through electronic media;
- 4 (11) Establish the types and amounts of fees that the
5 department may assess in order to carry out the
6 purposes of this chapter;
- 7 (12) Establish policies to require authorized institutions
8 to submit to the department, upon request, data that
9 is directly related to student enrollment and degree
10 completion and, if applicable, student financial aid
11 and educator preparation programs, which policies
12 shall include a determination as to whether data
13 received may be disclosed to the public;
- 14 (13) Establish policies and procedures for the handling of
15 proprietary information;
- 16 (14) Enter into any post-secondary education authorization
17 reciprocity agreement with other post-secondary
18 educational authorizers of schools whose home state is
19 not Hawaii pursuant to section 305J-16; ~~and~~
- 20 (15) Grant a temporary waiver of the requirement for
21 accreditation if the director finds there is good



1 cause and it is necessary for the protection of
 2 students facing imminent financial hardship; and
 3 ~~[(15)]~~ (16) Do any and all things necessary or incidental to
 4 the exercise of the director's powers and duties."

5 SECTION 4. Section 305J-8, Hawaii Revised Statutes, is
 6 amended by amending subsection (c) to read as follows:

7 "(c) To operate in the State, a private college or
 8 university shall be accredited on the basis of an on-site
 9 review[-]; provided that a candidate for accreditation seeking
 10 authorization to operate may be issued a provisional
 11 authorization to operate on an annual basis without
 12 accreditation subject to a determination by the director that
 13 issuance is in accordance with administrative rules, policies,
 14 or procedures adopted by the director. A candidate for
 15 accreditation may annually renew its provisional authorization
 16 for a period not to exceed five years, unless an extension is
 17 granted by the director for good cause."

18 SECTION 5. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on July 1, 2017.



APPROVED this 26 day of APR, 2017

A handwritten signature in black ink, reading "David Ige". The signature is written in a cursive style with a large, looping flourish at the end of the word "Ige".

GOVERNOR OF THE STATE OF HAWAII

HB No. 1079, HD 2

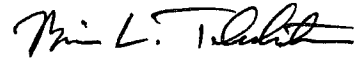
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: March 7, 2017
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: APR 06 2017
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the Senate of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Ronald D. Kouchi
President of the Senate



Carol Taniguchi
Clerk of the Senate