

# H.B. NO. 1079

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## 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 and  
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           institution will seek accreditation, with the scope of  
10           that accreditation plan covering the offering of at  
11           least one degree program, and outlines the process by  
12           which the institution will achieve 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  
18           statements as required by the accrediting agency,

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- 1           attendance at the accrediting agency's required  
2           accreditation applicant workshop, a self-evaluation  
3           report, and documents that reflect the candidate's  
4           hosting of a site visit by the accrediting agency;
- 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           institutional representative shall initial and date  
11           the notice prior to executing any enrollment  
12           agreement. An initialed copy of the notice shall be  
13           given to the student and the original shall be  
14           retained in the enrolled student's records;
- 15           (4) Provide written disclosures in the candidate's  
16           catalog, website, and brochures, that the candidate  
17           for accreditation's approval to offer a degree program  
18           is contingent upon the institution being subsequently  
19           accredited;
- 20           (5) Pay an annual fee of \$5,000; and
- 21           (6) File with the director a surety bond in favor of the  
22           State in the amount of \$50,000. The surety bond shall

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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       due in a timely manner. The student or a parent or legal  
20       guardian of the student who claims loss of tuition or fees as a  
21       result of cessation of operations of a candidate for  
22       accreditation may file a claim with the department if the claim

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1 results from an act or practice that violates this chapter. If  
2 the amount of the surety bond is less than the total prepaid,  
3 unearned tuition and fees that have been paid by students at the  
4 time that the candidate for accreditation ceases operation, the  
5 department shall prorate the amount of the surety bond among the  
6 students. This subsection shall apply only to those students  
7 enrolled at a candidate for accreditation at the time it ceases  
8 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 timeframe with  
12 no extension of time for good cause shall have its provisional  
13 authorization automatically suspended pursuant to section 305J-  
14 12(a) and immediately cease enrolling new students.

15 (d) Failure to reinstate a suspended provisional  
16 authorization within sixty days of suspension shall result in  
17 the revocation of the authorization, and the institution shall  
18 forfeit all fees. The institution shall provide written notice  
19 to all students within thirty days following the date of  
20 revocation.

21 (e) A candidate for accreditation that fails to obtain  
22 accreditation within the required timeframe or that elects to

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1 stop pursuing accreditation shall refund students for any  
2 classes students are currently enrolled in or have not yet  
3 completed and shall comply with any applicable rules, policies,  
4 and procedures for closures of institutions.

5 (f) Any candidate for accreditation that violates this  
6 chapter may be subject to one or more of the sanctions pursuant  
7 to section 305J-11(c)."

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

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

18 "Provisional authorization" means authorization of a  
19 candidate for accreditation for no more than a five-year period,  
20 unless an extension is granted by the director for good cause,  
21 while the candidate for accreditation seeks to satisfy the  
22 requirement for institutional accreditation."

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

3 "(a) The director shall:

4 (1) Unless otherwise provided by law, adopt, amend, and  
5 repeal rules pursuant to chapter 91 to carry out the  
6 purposes of this chapter;

7 (2) Adopt policies and procedures as necessary, without  
8 regard to chapter 91, for reauthorization pursuant to  
9 section 305J-10;

10 (3) Issue declaratory rulings or informal, nonbinding  
11 interpretations and conduct contested case proceedings  
12 pursuant to chapter 91;

13 (4) Grant, deny, confirm, forfeit, renew, reinstate, or  
14 restore authorizations, including provisional,  
15 conditional, probationary, or qualified  
16 authorizations;

17 (5) Revoke, suspend, condition, or otherwise limit the  
18 authorization of an institution for any violation of  
19 this chapter, applicable rules, or the Higher  
20 Education Act of 1965, as amended;

21 (6) Establish requirements for authorization in accordance  
22 with this chapter;

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- 1 (7) Investigate and conduct hearings regarding any  
2 violation of this chapter, applicable rules, or the  
3 Higher Education Act of 1965, as amended;
- 4 (8) Create fact-finding committees, including the  
5 appointment of one or more advisory committees, which  
6 may assist the department and make recommendations for  
7 consideration;
- 8 (9) Contract with qualified persons, including  
9 investigative and legal staff, who may be exempt from  
10 chapter 76, to assist the director in exercising the  
11 director's powers and duties;
- 12 (10) Subpoena witnesses and documents, administer oaths,  
13 and receive affidavits and oral testimony, including  
14 communications through electronic media;
- 15 (11) Establish the types and amounts of fees that the  
16 department may assess in order to carry out the  
17 purposes of this chapter;
- 18 (12) Establish policies to require authorized institutions  
19 to submit to the department, upon request, data that  
20 is directly related to student enrollment and degree  
21 completion and, if applicable, student financial aid  
22 and educator preparation programs, which policies

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- 1 shall include a determination as to whether data  
2 received may be disclosed to the public;
- 3 (13) Establish policies and procedures for the handling of  
4 proprietary information;
- 5 (14) Enter into any post-secondary education authorization  
6 reciprocity agreement with other post-secondary  
7 educational authorizers of schools whose home state is  
8 not Hawaii pursuant to section 305J-16; [~~and~~]
- 9 (15) Do any and all things necessary or incidental to the  
10 exercise of the director's powers and duties[~~-~~]; and
- 11 (16) Grant a temporary waiver of the requirement for  
12 accreditation if the director finds there is good  
13 cause and it is necessary for the protection of  
14 students facing imminent financial hardship."

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

17 "(c) To operate in the State, a private college or  
18 university shall be accredited on the basis of an on-site  
19 review[~~-~~], provided that a candidate for accreditation seeking  
20 authorization to operate may be issued a provisional  
21 authorization to operate on an annual basis without  
22 accreditation if the director determines, in accordance with any



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1 administrative rules, policies, or procedures adopted by the  
2 director, that the private college or university is making  
3 satisfactory progress toward accreditation on the basis of an  
4 on-site review performed by the accrediting agency in accordance  
5 with the accrediting agency's policies. A candidate for  
6 accreditation may annually renew its provisional authorization  
7 for a period not to exceed five years, unless an extension is  
8 granted by the director for good cause."

9 SECTION 5. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval.

12  
13 INTRODUCED BY: \_\_\_\_\_



14 BY REQUEST

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**Report Title:**

Post-Secondary Education; Provisional Authorization; Candidate for Accreditation

**Description:**

Creates a framework for authorizing post-secondary degree-granting educational institutions that have applied for accreditation by an accrediting agency recognized by the U.S. Department of Education.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO POST-SECONDARY EDUCATION AUTHORIZATION.

PURPOSE: To create a framework for authorizing post-secondary degree-granting educational institutions that have applied for accreditation by an accrediting agency recognized by the U.S. Department of Education.

MEANS: Add a new section to chapter 305J and amend sections 305J-2, 305J-5(a), and 305J-8(c), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Pursuant to sections 305J-2 and 305J-8, HRS, to be authorized to operate in the State, a degree-granting post-secondary educational institution must be accredited by a regional or national accrediting agency recognized by the U.S. Department of Education. Pursuant to section 305J-3(a)(10), HRS, unaccredited post-secondary educational institutions governed by chapter 446E, HRS, are exempt from chapter 305J, HRS. An "unaccredited post-secondary educational institution" is defined as a degree-granting institution that is not accredited or a candidate for accreditation by at least one accrediting agency recognized by the U.S. Department of Education. "Candidate for accreditation" is not defined in either chapters 305J or 446E, HRS.

There is no provision for authorization or oversight over a post-secondary degree-granting educational institution that has applied for accreditation but is not yet accredited. It may take anywhere between two to five years or more for an institution to become accredited, depending on the type of institution and the accrediting agency.

This measure would provide a framework for the authorization of a candidate for accreditation, defined as an institution that has submitted an application for accreditation which has been accepted by a regional or national accrediting agency recognized by the U.S. Department of Education.

Impact on the public: This bill will benefit consumers by providing a means of oversight so that the Department of Commerce and Consumer Affairs will be able to monitor that the accreditation-seeking institution is making satisfactory progress towards accreditation.

Impact on the department and other agencies: This bill will enable the Hawaii Post-Secondary Education Authorization Program to carry out its responsibilities more effectively. No impact on other agencies is anticipated.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: CCA-107.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.