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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;  
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.



**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. (HB1079 HD2)

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

