

JAN 25 2017

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:

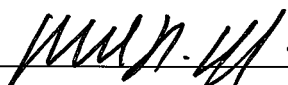
17 "(c) To operate in the State, a private college or
18 university shall be accredited on the basis of an on-site
19 review[-], provided that a candidate for accreditation seeking
20 authorization to operate may be issued a provisional
21 authorization to operate on an annual basis without
22 accreditation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

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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.