



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

Thursday, January 31, 2013, 2:00 PM
State Capitol Room 309

Testimony of
Policy Office of the Governor, State of Hawaii
To the House Committee on Higher Education

Representative Isaac Choy, Chair, Higher Education Committee
Representative Linda Ichiyama, Vice Chair, Higher Education Committee

House Bill 1200 - Relating to Education

Chair Choy, Vice Chair Ichiyama, and members of the Committee:

Thank you for the opportunity to testify in support of House Bill 1200 (HB 1200). The bill would establish the postsecondary education commission within the Department of Commerce and Consumer Affairs (DCCA) and create a framework for authorizing private postsecondary educational institutions in the State.

The U.S. Department of Education (ED) administers the Higher Education Act (HEA) of 1965, reauthorized as the Higher Education Opportunity Act in 2008. Federal financial aid for students provides grants, loans and work study programs and is part of the Title IV program of the HEA. In 2010, ED established new federal regulations requiring states to “legally authorize” postsecondary institutions within their state and requiring postsecondary institutions to be authorized in states in which they operate in order to qualify for Title IV student financial aid. ED’s objective is to ensure “program integrity” of postsecondary institutions in order to protect students from substandard institutions, referred to as “diploma mills.”

Since Hawaii does not have a process for authorizing postsecondary institutions, Governor Neil Abercrombie has notified ED of the state’s good faith effort to establish a process and requested an extension to July 1, 2013 in order to meet the requirements for “state authorization.” The Governor’s letter requesting the extension is attached.

The Governor’s Policy Office has worked closely with the Senate and House Higher Education Committee Chairs, national organizations including the National Governors

Association, Western Interstate Commission on Higher Education and Western Association of Schools and Colleges, and relevant state departments over the last two years to develop the state authorization framework described in HB 1200. In addition, we met each year with Hawaii-based postsecondary institutions to provide information and solicit feedback about the state's plans for authorizing postsecondary institutions. The Governor's Office has also worked with the Department of Commerce and Consumer Affairs (DCCA), University of Hawaii Board of Regents Office, and Board of Education to respond to more than 100 requests from institutions seeking authorization.

HB 1200 describes a process that meets the federal requirements, minimizes burden and cost on postsecondary institutions and state departments, and protects Hawaii's residents who are consumers of higher education. Implementing HB 1200 would allow Hawaii-based institutions, based on their authorization in Hawaii, to participate in inter-state reciprocity agreements, reducing institutions' burden and cost to obtain authorization in other states where they have satellite campuses or students taking on-line courses. Furthermore, it reduces the burden on the state's authorizing agency, identified as DCCA in HB 1200, by allowing the state to participate in reciprocity agreements so that eligible out-of-state institutions may be recognized without seeking authorization in Hawaii.

It is critical that the Legislature establish the state authorization process this year. The state must meet the ED deadline to modify or establish procedures to authorize postsecondary institutions by July 1, 2013. Failing to establish an authorization process puts Title IV federal financial assistance for college students at risk. According to a 2012 State Auditors report, more than 63,000 Hawaii students attending 35 postsecondary institutions received \$283.6 million in Title IV assistance in Fiscal Year 2011.

Thank you for your attention to this matter.



EXECUTIVE CHAMBERS

HONOLULU

NEIL ABERCROMBIE
GOVERNOR

May 29, 2012

Eduardo Ochoa, Assistant Secretary
Office of Postsecondary Education
U.S. Department of Education
1990 K Street, N.W.
Washington, D.C. 20006

Dear Assistant Secretary Ochoa:

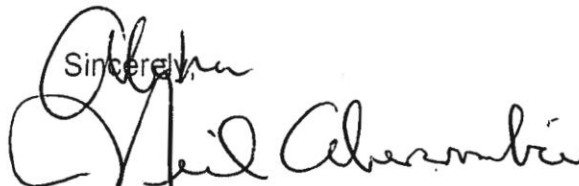
It was a pleasure to meet you last fall while you were in Hawaii for an APEC-related symposium on higher education. This letter is to notify you of the State of Hawaii's intention regarding the Higher Education Opportunities Act regulatory requirement for state authorization of postsecondary institutions. I am notifying you that we will again take advantage of the extension letter described in the Dear Colleague letter of April 20, 2011 (GEN-11-11) for the state to authorize postsecondary institutions.

We acknowledge that there are many postsecondary institutions, public and private, operating in the state. The University of Hawaii colleges, the state's public institutions of higher education, are legally authorized in the state via constitutional provision. Private institutions are approved to operate as business entities, but the state does not regulate degree-granting postsecondary institutions by state charter, law, constitutional provision or other article of incorporation. The state's postsecondary commission, attached to the University of Hawaii, does not meet the regulatory requirements.

As directed by guidance from the October 29, 2010 Federal Register (Volume 75, Number 209), Hawaii will need to establish a process to legally authorize institutions by name as educational institutions to operate education programs beyond secondary education. State higher education leaders including my educational policy advisor, State Senate Education Chair, University of Hawaii System Executive Vice President and Provost, and Hawaii P-20 Executive Director have been researching this issue and developing a response. State leaders have engaged postsecondary programs affected by these requirements, held informational meetings, and consulted with national and regional partners including the National Governors Association and the Western Interstate Consortium for Higher Education (WICHE).

This year, the Legislature passed Senate Bill 1382 (enclosed) which directs the Legislative Auditor to recommend a structure and process for state authorization. As you may imagine, establishing a new regulatory process is costly and a significant burden on states particularly in these lean fiscal times. Thus, we anticipate participating in a multi-state consortium for authorization to both reduce the burden on the state and since today's postsecondary education is no longer confined by state boundaries given distance education opportunities.

If you have any questions, please contact Tammi Chun, my education policy advisor, at 808-594-3654.

Sincerely,

NEIL ABECROMBIE
Governor, State of Hawaii

Enclosure



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

**PRESENTATION OF THE DEPARTMENT OF
COMMERCE AND CONSUMER AFFAIRS**

TO THE HOUSE COMMITTEE ON
HIGHER EDUCATION

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Thursday, January 31, 2013
2:00 p.m.

TESTIMONY ON HOUSE BILL NO. 1200, RELATING TO EDUCATION.

TO THE HONORABLE ISAAC W. CHOY, CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 1200, Relating To Education. My name is Jo Ann Uchida Takeuchi, Deputy Director of the Department. The Department supports the intent of this bill but does not support the relocation of this program from the University of Hawaii to the Department.

The Department recognizes the importance of quickly establishing a mechanism for Hawaii's authorization of institutions of higher learning. However, the Department does not believe that it is necessary, appropriate or feasible to do so by moving the

state post-secondary education commission from its current location at the University of Hawaii to the Department.

House Bill No. 1200, among other things, repeals the existing post secondary education commission within the University of Hawaii, establishes a new state post-secondary education commission with the Department of Commerce and Consumer Affairs, and sets forth definitions, exempt organizations, department's power and authority, restrictions on awarding degrees, authorization to operate in the state, reauthorization procedures, disciplinary sanctions, winding down procedures, school responsibilities, bonding requirements, reciprocity requirements, complaints procedures, authorization fees, creation of a subaccount within the compliance resolution fund, rulemaking authority, and general and special fund appropriations. Most importantly, the bill provides for an effective date of July 1, 2013, which the department understands is a mandatory start date for the program.

Given the time frame within which the program must be operational, the state can ill afford using the months between the present time and July 1, 2013 to stand up a brand new program within a department has no expertise in education and no familiarity with the Higher Education Act.

The State Auditor, in her Study of the Higher Education Act, Report No. 12-11, December 2012 ("Auditor Report"), came to a similar conclusion when she stated:

The Department of Commerce and Consumer Affairs could also potentially accommodate a state authorization program, but its lack of experience in postsecondary education and the mandate for self-sustaining programs could pose significant challenges.

Auditor Report at page 23.

The Auditor ultimately recommended that the authorization authority remain housed at the University of Hawaii, stating:

With an existing statutory vehicle and access to postsecondary education expertise, the University of Hawaii is the most suitable option for housing an authorization authority. The State Postsecondary Education Commission attached to UH could serve as the authorizing entity, but its membership should be amended to include representatives from institutions identified in the Higher Education Act. This would enable the commission to provide an independent, third-party complaints process as mandated by federal regulations and mitigate possible conflicts of interest.

Auditor Report at page 29.

Based on the Department's own experiences in standing up new licensing programs, the Department believes that the focus of the legislation should be on meeting the basic elements of state authorization set forth in the Higher Education Act within the prescribed timeframes to ensure uninterrupted eligibility for federal funding, rather than on the nuts and bolts of setting up the infrastructure for a new regulatory entity. According to the Auditor Report, Hawaii Title IV program participation in FY11 included over 63,000 program recipients and \$283,646,517.00 in disbursements. The Department believes that, given the time frame for implementation, the state's Title IV program recipients are best served if the state agency with the most postsecondary education expertise assist the state in transitioning to compliance with the Higher Education Act. For these reasons, the Department recommends that this committee adopt the recommendations of the Auditor and maintain state postsecondary education authority at the University of Hawaii.

Thank you for the opportunity to submit comments on House Bill No. 1200.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON HIGHER EDUCATION
ON
HOUSE BILL NO. 1200

January 31, 2013

RELATING TO EDUCATION

House Bill No. 1200 establishes the Post-Secondary Education Commission within the Department of Commerce and Consumer Affairs (DCCA), which was previously assigned to the University of Hawaii (UH) for administrative purposes, to bring Hawaii in compliance with the U.S. Department of Education regulations for programs authorized under Title IV of the Higher Education Act of 1965, as amended, and to more appropriately serve as the authorizing State agency for educational programs beyond secondary education. The bill also authorizes the Post-Secondary Education Commission to assess fees to private colleges, universities, seminaries, or religious training institutions for deposit into a separate subaccount of the Compliance Resolution Fund. In addition, the bill authorizes 4.00 positions and appropriates an unspecified amount of general and special funds for the operations of the program.

While the Department of Budget and Finance appreciates the intent of the bill to revise the State Post-Secondary Education Program, we defer to the DCCA and to UH regarding the technical issues and merits of the bill.

However, as a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3 of the Hawaii Revised Statutes. Special or revolving funds should:

1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 1200, it is difficult to determine whether the proposed source of revenues will be self-sustaining.

I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, Hawaii Revised Statutes.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON HIGHER EDUCATION
ON
HOUSE BILL NO. 1200

January 31, 2013

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I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, Hawaii Revised Statutes.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony presented before the
House Committee on Higher Education
January 31, 2013 at 2:00 p.m.

By Linda K. Johnsrud

Executive Vice President for Academic Affairs & Provost, University of Hawai'i System

HB 1200: RELATING TO EDUCATION

Chair Choy, Vice Chair Ichiyama, and members of the House Committee on Higher Education:

The University of Hawai'i supports HB 1200 that establishes the post-secondary education commission within the Department of Commerce and Consumer Affairs (DCCA) to authorize private post-secondary educational institutions to operate in the state, to maintain a listing of such private institutions, and to act on complaints concerning these institutions. HB 1200 addresses the requirements of the U.S. Department of Education regulations under Title IV of the Higher Education Act of 1965, as amended. The University appreciates the thoroughness of HB 1200 in specifying the criteria for authorization of private institutions, for example, through accreditation status from a recognized national or regional body and demonstration of financial integrity. These provisions serve to protect authorized private institutions as well as the public by delineating the basis for authorization. Furthermore, it is the University's position that placing the authorization function outside the University of Hawai'i (UH) avoids the potential or the appearance of a conflict of interest were the state's sole public university to authorize private providers to operate within the state.

The University would also like to provide these additional comments on HB 1200:

The state's post-secondary education commission was established in 1972 to qualify the state to receive federal funds for student financial aid, and was placed within the University of Hawai'i. Currently it has three functions: certification of higher education programs for veterans; distribution of federal financial aid to private and public institutions of higher education; and support for the state's membership in the Western Interstate Commission on Higher Education (WICHE).

The University respectfully requests that the certification function for veterans' higher education programs be moved to the post-secondary education commission in DCCA because its function is similar to private institution authorization. The University proposes to transfer a position from its veterans' affairs office to DCCA which will provide continuity, expertise, and experience in this area.

The University recommends that the federal financial aid and WICHE functions remain at UH. In the case of federal financial aid distribution, current UH personnel are able to absorb the work within their position responsibilities related to financial aid. Continuing to perform

this task at UH would provide, with existing resources, the needed expertise in financial aid and would benefit students by enabling the state to seamlessly deliver federal scholarships.

Similarly, WICHE support functions are absorbed by current UH staffing on a part-time basis. WICHE is a membership organization, and the University supports the state's membership and the WICHE commissioners. WICHE, a fifteen-state commission of western states, helps Hawai'i's students through student exchange programs and supports institutions by student access and success, workforce development, data, and policy initiatives and technical support. Two examples of student exchange programs that assist the state are the Professional Student Exchange Program and the Western Regional Graduate Program. They allow Hawai'i students the opportunity to study in select WICHE states or institutions that offer critical professional programs or high-quality distinctive graduate programs that are not available in our state.

Again, we appreciate the thoughtfulness in HB 1200 in addressing the U.S. Department of Education regulations, and thank you for the opportunity to testify.



House Committee on Higher Education

January 31, 2013; 2:00 p.m.

H.B. 1200

Relating to Education

Testimony in Support

Chair Choy, Vice Chair Ichiyama and Members of the Committee, my name is Geoffrey Bannister, and I am President of Hawai'i Pacific University (HPU). HPU is a private, non-profit university with three campus locations: the Hawaii Loa campus on the windward side of the island, the downtown campus in Honolulu, and Oceanic Institute, an affiliate research facility at Makapu'u Point. We currently have more than 4,200 undergraduate and 1,000 graduate students, plus an additional 2,300 students matriculating through HPU's Military Campus Programs. I am proud to say, we are one of the most culturally diverse universities in America with the state's largest nursing, MBA and military servicing programs.

HPU supports HB 1200 which establishes the post-secondary education commission within the Department of Commerce and Consumer Affairs (DCCA), creates the framework for authorizing private post-secondary educational institutions in the state, and creates the post-secondary education authorization subaccount of the compliance resolution fund.

In 2010, the U.S. Department of Education set a July 2011 deadline for institutions to comply with the requirement that states authorize post-secondary institutions. However, it recognized that states might be unable to provide authorizations by that date, and thus provided a means for institutions to be granted an authorization extension to as late as July 1, 2013. In the absence of an entity and framework for authorizing post-secondary institutions, Hawaii may become ineligible to receive Title IV federal funds, or student aid.

We respectfully offer the following minor clarifying amendments:

Page 6, lines 17-18 to read:

(C) Provide office space for instructional and non-instructional staff; ~~and~~ or non-instructional staff.

RATIONALE: The use of “and” in this context in this subsection is inconsistent with the functionality of sections (1) and (2) under the definition of “Physical presence.”

Page 15, beginning at line 21 to read:

(a) To operate in the State, a private college or university shall apply for, on a form prescribed by the department, and receive authorization from the commission; provided that a private college or university shall apply for and obtain a separate authorization for each campus, branch, or site that is separately accredited. A separate authorization shall not be required for additional professional accreditations.

RATIONALE: Private colleges or universities often hold additional professional accreditations recognizing certain programs within the college or university. Such accreditations are in addition to and come under the overall umbrella of the institutional accreditation to offer post-secondary education.

Page 17, lines 15-16 to read:

(d) A private college or university shall [~~immediately~~] within thirty days notify the department.....

RATIONALE: The term “immediately” is somewhat vague and a more specific timeframe would ease compliance with notification requirements.

Page 26, lines 6-7 to read:

(2) [~~Annually~~] In accordance with its reauthorization schedule provide the department with a copy of its enrollment agreement, if applicable.

RATIONALE: Providing the department with copies of the enrollment agreement at the time reauthorization is required would lessen the burden on departmental personnel of tracking paperwork.

Thank you for the opportunity to testify.

Contact: Linda Chu Takayama, Attorney at Law

Phone number: (808) 545-3060

Email: Ltakayama@hawaii.rr.com



LATE

TESTIMONY

Of

David A. Longanecker, President

Western Interstate Commission for Higher Education

Supporting

Hawaii Legislation Regarding State Authorization of Postsecondary Institutions

I am honored to offer this testimony in support of HB 1200 and SB 46, companion legislative proposals to ensure appropriate state authorization of degree granting postsecondary institutions in Hawaii. The Western Interstate Commission for Higher Education (WICHE), which I serve as President and CEO, applauds the authors of these pieces of legislation for bringing forth exemplary legislation that, if adopted, will not only serve Hawaii well, but will provide a national example of exemplary legislation.

WICHE has followed the development of this legislation closely because we are actively engaged in developing a program for reciprocal recognition of our fifteen member states and the pacific territories efforts in state authorization. Reciprocity within the WICHE region will help the states by reducing the costs associated with redundant and unnecessary state authorization efforts, it will help the institutions by reducing the costs of redundant compliance efforts, and most importantly it will help the students and prospective students by ensuring reasonable, comparable, and adequate consumer protection from state to state, not only within the WICHE region but throughout the new network between WICHE and its three sister regional compacts.

As WICHE began developing its voluntary State Authorization Reciprocity Agreement (SARA) more than a year ago, we frankly did not anticipate that Hawaii would originally be a part of this agreement. Reciprocity in state authorization requires confidence from the reciprocity parties that each of the participating states is providing reasonable oversight of the institutions operating from within the state, both for the purposes of assuring adequate consumer protection but also for the practical purpose of assuring that students attending those institutions remain eligible for federal student assistance. Up until this time, Hawaii has had no such oversight, so obviously would not have been eligible to join in a reciprocity agreement.

The legislation before you today not only would make the state able to participate in reciprocity, it provides a truly exceptional example for other states to follow.

For more than a quarter century the federal government, the states, and the accrediting community have partnered in a process of quality assurance referred to as the federal triad. The federal government currently provides more than \$90 billion in student financial assistance annually to approximately 20 million students in public, private non-profit, and private for-profit institutions around

the nation in the form of grants, loans, and work-study programs, so the federal government has a very strong interest in assuring these programs work well. To insure the integrity of the use of these federal funds, the federal government itself ensures that all participating institutions have the financial resources to responsibly provide their services, but relies on accreditation to assure the academic integrity of the institutions, and on the states to provide consumer protection, which is rightly a state responsibility. In recent years it became apparent that the role of the states within the federal triad needed to be shored up to preserve program integrity. This was true for two reasons. First, some states, including Hawaii, were providing virtually no oversight of the institutions within their jurisdiction, thus not assuring that this particular leg of the triad was being adequately supported. By contrast, some states were so onerous and outdated in their oversight that they were impeding innovation and broad access to postsecondary education. Second, the rapid advent of on-line learning was creating a myriad of problems, including a complex, redundant, and expensive process for institutions, which needed to secure approvals in many states. In addition, virtually no states were accepting responsibility for oversight of activities of their institutions when operating outside the state, thus there was no effective oversight of on-line activities in general.

To remedy these deficiencies, the federal Department of Education clarified their expectations of states and provided a limited amount of time for states to come into compliance. The legislation before you will not only bring Hawaii into compliance, but will set your state as an example of how to provide sufficient regulation and oversight without becoming overzealous in the process.

We applaud Hawaii for pursuing this legislation. You, your citizens, and your institutions will be well served by this effort.



January 31, 2013
2:00 p.m.
Conference Room 309

TESTIMONY TO
THE HOUSE COMMITTEE ON HIGHER EDUCATION

RE: HB 1200 – Relating to Education

Chair Choy, Vice Chair Ichiyama and the members of the committee,

My name is Robert Witt and I am executive director of the Hawaii Association of Independent Schools (HAIS), which represents 99 private and independent schools in Hawaii and educates over 33,000 students statewide.

HAIS supports HB1200 which establishes the post-secondary education commission within the Department of Commerce and Consumer Affairs and creates the framework for authorizing private post-secondary educational institutions in the State.

HAIS' membership encompasses all levels of education including post-secondary institutions. This measure would bring Hawaii in compliance with federal mandates in order to continue a private post-secondary student's access to Title IV funding. We understand that without this legislation many of Hawaii's students would be financially overburdened and likely unable to pursue their educational endeavors. Thus, we offer our support for this measure.

Thank you for the opportunity to testify.

LATE



Testimony Presented to the
House Committee on Higher Education
House Committee on Education

Thursday, January 31, 2013 at 2:00 pm

by
Chaminade University of Honolulu President
Bro. Bernard J. Ploeger, SM, Ph.D.

HB 1200
Relating to Education

Chairpersons Choy and Takumi, and members of the Committees on Higher Education and Education:

Thank you for the opportunity to provide testimony in **support** of HB 1200 establishing the post-secondary education commission within the Dept. of Commerce and Consumer Affairs and repealing the sections establishing the commission within the University of Hawaii. The commission will have the power to authorize private post-secondary educational institutions in the state, will create a post-secondary education compliance resolution fund, and will make an appropriation to fund permanent positions in the DCCA.

It is imperative that action immediately be taken by the State of Hawaii to create such a commission. The purpose of this legislation is to bring Hawaii into compliance with Title IV changes issued by the U. S. Dept. of Education in October 2010. Without passage of this legislation, neither the state nor independent universities will be qualified to receive funding under the Higher Education Act of 1965.

Chaminade University of Honolulu supports this legislation to establish a post-secondary education commission within the DCCA because it already has the authority for consumer protection and is a neutral third-party in the educational community. In addition, we would strongly support authorization to enable Hawaii to enter into reciprocity agreements with other states. Reciprocity agreements enable distance education providers to offer postsecondary education programs in other states without having to seek authorization from each of those states, thus reduction paperwork and costs.

Thank you for allowing us to submit this testimony.

Bro. Bernard J. Ploeger, SM
Bro. Bernard Ploeger, SM
Bro. Bernard
Bro. Bernard J. Ploeger, SM

Office of the President • (808) 735-4741 • Fax (808) 735-7748

Chaminade University of Honolulu • 3140 Wai'ala'e Avenue • Honolulu, Hawai'i 96816-1578 • www.chaminade.edu



LATE

Hawai'i State House of Representatives

Committee on Higher Education

Thursday, January 31, 2013

House Bill 1200 – In Support with Technical Amendments

Hearing Testimony – University of Phoenix

Chair Choy and members of the Committee on Higher Education,

On behalf of the University of Phoenix, thank you for giving us the opportunity to testify in support of House Bill 1200 which would create a framework for authorizing post-secondary education institutions which operate within the state. This legislation, which is the culmination of a two-year process including a State Auditor's Sunrise Review, is critical to ensure that many higher education students in Hawai'i continue to have access to federal financial aid. University of Phoenix serves approximately 4,000 Hawai'i residents and has three physical locations in the state.

On October 29, 2010, the United States Department of Education published final regulations concerning a range of program integrity issues tied to Federal Student Financial Aid as administered under Title IV of the Higher Education Act, as amended. Most of these regulations went into effect July 1, 2011. Included for the first time were specific federal requirements for state authorization of institutions of higher education whose students are eligible for Title IV funds. These requirements are contained in 34 C.F.R. 600.9.

In order for a college or university to be legally authorized by a state for Title IV eligibility purposes, the state must have a process to review and appropriately act on complaints concerning the institution. The process must include enforcing applicable state laws. Additionally, the institution must meet the minimum requirements for state authorization in one of the following ways:

- The institution is established by name as an educational institution by a state through a charter, statute, constitutional provision, or other action issued by an appropriate state agency or state entity authorized to operate educational programs beyond secondary education; **and**

- The institution complies with any applicable state approval or licensing requirements, except that the state may exempt the institution from any state approval or licensure requirements based on the institution's accreditation by one or more accrediting agencies recognized by the Secretary of Education or based upon the institution being in operation for at least 20 years; **or**
- An institution established by a state on the basis of authorization to do business or to operate as a non-profit, must be approved or licensed by name by the state and may not be exempt from state approval or licensure based upon years of operation, accreditation, or other comparable exemption.

At the time the U.S. Department of Education finalized the regulations, it recognized the July 1, 2011 effective date may not be obtainable. Accordingly, the regulations allowed a state to request a one (1) year extension of the effective date to July 1, 2012 and if necessary, an additional one (1) year extension to July 1, 2013. Hawai'i requested and was granted the extensions to July 1, 2013 and now must act to put in place acceptable procedures to meet the Department's oversight and approval requirements and authorize institutions as required under the federal rules by June 30, 2013. We sincerely appreciate the Committee's willingness to consider the legislation so early in the year, given that the bill needs to be signed into law and a structure needs to be in place prior to July 1, 2013.

According to the December 2012 "Study of the Higher Education Act" from the Auditor of the state of Hawai'i, approximately 63,000 students in the state received more than \$283,000,000 in Title IV funds in fiscal year 2011. In the event the deadline is not met, a great number of college students in the state of Hawai'i are in jeopardy of losing the ability to participate in federal Title IV Federal Student Aid programs and, effectively, to continue their post-secondary education. Although we are not proponents of additional regulation, we understand the need to address the federal regulations regarding state authorization in order to ensure Hawai'i's students remain eligible for Title IV funding. We feel this bill accomplishes that purpose without being overly burdensome. Many of the updated provisions are similar to requirements we already comply with in other states.

However, there are two specific areas where we believe technical amendments would provide a more effective piece of legislation.

§4(c) as it relates to state funds stipulates, "No funds appropriated by the legislature may be used to aid a person attending an institution not owned or exclusively controlled by the State or a department of the State..." This provision would eliminate eligibility for state educational assistance to any student who does not attend an institution that is controlled or owed by the state of Hawai'i. University of Phoenix believes this provision goes beyond the scope of the federal state authorization requirements and unduly restricts access to higher education for residents of Hawai'i. We request that §4(c) be omitted.

Additionally, §7(d) in part requires a college or university to “[i]mmediately notify the department of any material information related to an action by the institution’s accrediting body concerning the institution’s accreditation status, including but not limited to reaffirmation or loss of accreditation, approval of a request for change, a campus evaluation visit, a focused visit, or approval of additional locations...” Many institutions, such as the University of Phoenix, have locations across the United States and, as currently written this section may be interpreted to require that institutions notify the Department of Commerce and Consumer Affairs whenever an action by our accrediting body takes place regardless of its impact on students in Hawai’i. For example, the University of Phoenix would be required to notify DCCA if a new location in Florida was approved by its accrediting body. This interpretation would create additional work for staff at DCCA and result in little value for the people of Hawai’i. In order to avoid this outcome, we request amending this section to read: “A private college or university shall, immediately within 30 days of receipt of notice of a final action, notify the department of any material information related to ~~an~~ such action by the institution’s accrediting body concerning the institution’s accreditation status, including but not limited to reaffirmation or loss of accreditation, approval of a request for change, a campus evaluation visit, a focused visit, or approval of additional locations in Hawai’i. In addition, the institution shall within 30 days of receiving the information notify the department if the institution’s accrediting body is no longer recognized by the United States Department of Education.”

If you have any questions, please feel free to contact Joe Gregorich, Associate Vice President, State Government Affairs at 916.228.4495; joseph.gregorich@apollogrp.edu or Chris Fagan at 602.557.8302; Christopher.fagan@apollogrp.edu.

Thank you very much for your time.