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## A BILL FOR AN ACT

RELATING TO POST-SECONDARY EDUCATION.

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

1           SECTION 1. Section 305J-14, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3           "(c) A private college or university may also demonstrate  
4 financial integrity if it:

- 5           (1) Has received and maintains full accreditation without  
6 sanction from an accrediting body that is recognized  
7 by the United States Department of Education, and  
8 which accrediting body requires the private college or  
9 university to maintain a surety bond or an escrow  
10 account or has affirmatively waived or otherwise  
11 removed that requirement for the private college or  
12 university;
- 13           (2) Operates an instructional facility in the State;
- 14           (3) Annually provides to the department audited financial  
15 statements for the most recent fiscal year that  
16 demonstrate that the private college or university  
17 maintains positive equity [~~and profitability~~];



- 1 (4) Maintains a composite score of at least 1.5 on its  
2 equity, primary reserve, and net income ratios, as  
3 required in title 34 Code of Federal Regulations  
4 section 668.172; and
- 5 (5) Meets or exceeds the pro rata refund policies required  
6 by the United States Department of Education in title  
7 34 Code of Federal Regulations part 668; provided that  
8 if it does not participate in federal financial aid  
9 programs, its refund and termination procedures shall  
10 comply with the requirements of its accrediting body."

11 SECTION 2. Section 304A-3153, Hawaii Revised Statutes, is  
12 repealed.

13 ~~["§304A-3153] Procedures for complaints concerning~~  
14 ~~institutions of higher education. In consultation with~~  
15 ~~institutions of higher education in the State, the commission is~~  
16 ~~authorized to establish and administer procedures for receiving~~  
17 ~~and responding to complaints from students, faculty, staff, and~~  
18 ~~others concerning institutions of higher education in the~~  
19 ~~State." ]~~

20 SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken.

22



# H.B. NO. 2142

1 SECTION 4. This Act shall take effect upon its approval.

2

INTRODUCED BY: *Linda Ichizama*

*Sam W. King*

JAN 21 2014



# H.B. NO. 2142

**Report Title:**

Post-Secondary Education; Authorization; Financial Integrity;  
University of Hawaii; Complaints

**Description:**

Repeals the requirement that a private college or university show that it maintains profitability as a means of demonstrating financial integrity to the department of commerce and consumer affairs. Repeals section 304A-3153, HRS, relating to procedures for complaints concerning institutions of higher education in the State.

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





# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Higher Education  
Tuesday, February 04, 2014 at 2:01p.m., Conference Room 309  
By Jan Javinar,  
Interim Associate Vice President for Student Affairs

### HB2142 – RELATING TO POST-SECONDARY EDUCATION

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

Among other things, HB 2142 proposes to repeal section 304A-3153, Hawai'i Revised Statutes, relating to complaint procedures concerning institutions of higher education in Hawai'i.

The University of Hawai'i offers its support on only Section 2 of HB 2142 as Section 1 involves the Department of Commerce & Consumer Affairs to whom we defer for comment. Section 2 repeals section 304A-3153, HRS, which authorizes the State Post-Secondary Education Commission, administratively attached to the University of Hawai'i, to receive and respond to complaints concerning institutions of higher education authorized to operate in Hawai'i.

Last year, the Legislature approved SB46 SD2 HD3 CD1 which the Governor signed into law as Act 180. This bill appropriately identified DCCA as the state agency which would perform the regulatory function of authorizing institutions that offer education programs beyond secondary education. DCCA's role in performing this function is described in Chapter 305J of Hawai'i Revised Statutes. The State Post-Secondary Education Commission never performed this regulatory function to authorize such institutions.

In the law, section 305J-17, HRS, the DCCA is also tasked to receive and respond to complaints from consumers related to those institutions offering post-secondary programs in Hawai'i. As such, there is no need for duplicative language and function for the State Post-Secondary Education Commission in section 304A-3153, HRS. The University supports repealing this duplication.

Thank you for the opportunity to testify on HB 2142. The University welcomes this action as it seeks to minimize redundancy in the law.

**ichiyama2-Fern**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 31, 2014 9:40 AM  
**To:** HEDtestimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for HB2142 on Feb 4, 2014 14:01PM\*

**HB2142**

Submitted on: 1/31/2014

Testimony for HED on Feb 4, 2014 14:01PM in Conference Room 309

| <b>Submitted By</b>   | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|-----------------------|---------------------|---------------------------|---------------------------|
| Javier Mendez-Alvarez | Individual          | Support                   | No                        |

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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# LATE TESTIMONY

NEIL ABERCROMBIE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

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DEPUTY DIRECTOR

## PRESENTATION OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

### TO THE HOUSE COMMITTEE ON HIGHER EDUCATION

### TWENTY-SEVENTH STATE LEGISLATURE REGULAR SESSION, 2014

TUESDAY, FEBRUARY 4, 2014  
2:01 P.M.

### TESTIMONY ON HOUSE BILL NO. 2142 RELATING TO POST-SECONDARY EDUCATION

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

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 2142, Relating to Post-Secondary Education. My name is Bobbi Lum-Mew, Program Administrator for the Department's Hawaii Post-Secondary Education Authorization Program ("HPEAP"). HPEAP offers the following testimony in support of this bill.

House Bill No. 2142 deletes the requirement that a private college or university must show that it maintains profitability every year that it has been in operation as a means of demonstrating financial integrity to the Department.

As background, existing law provides for three means of demonstrating financial integrity in §305J-14, Hawaii Revised Statutes ("HRS"). The first option is applicable to those schools that have operated continuously in the State for at least ten years and maintain a composite score of at least 1.5 as required by federal law. The second option, which is amended in this bill, is applicable for schools in the State less than 10 years and requires that the school maintain the 1.5 composite score and demonstrate through audited financial statements that the school maintains both positive equity and profitability in each year of its operations. The third option is for the school to provide a surety bond in an amount determined by the director.

HPEAP supports the deletion of the term "and profitability" in the second option. HPEAP has been advised that although it is important that schools consistently maintain positive equity in their financial statements, it is not uncommon or necessarily inappropriate for a school to have financial statements that do not reflect profitability every single year that it has been in operation. Schools may incur a loss in any particular year and still maintain positive equity. The current requirement that the school's financial statements consistently reflect profitability may unrealistically inhibit the school's ability to execute business plans or expansion plans or result in the school having to use the more expensive option of securing a surety bond.

House Bill No. 2142 also repeals §304A-3153, HRS. In effect, this will repeal the authority of the state post-secondary education commission, placed within the University of Hawaii for administrative purposes, to establish and administer procedures for receiving and responding to complaints concerning institutions of higher education.



# LATE TESTIMONY

Testimony on House Bill No. 2142  
February 4, 2014  
Page 3

This authority over complaints relating to authorized post-secondary educational institutions was given to the Department last year. Thus, it is appropriate that this section be repealed. As background, Chapter 305J, HRS, was enacted in 2013 after the passage of Act 180. HRS §305J-6(b)(3) gives the Department the power to receive, arbitrate, investigate, and process complaints.

Thank you for the opportunity to testify on House Bill No. 2142.