
A BILL FOR AN ACT

RELATING TO POST-SECONDARY EDUCATION.

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- Authorization to operate in the State; pilot
5 schools. To operate in this State pursuant to this chapter, a
6 pilot school shall be a private flight school that:

7 (1) Has a physical presence in the State;

8 (2) Is approved by the Federal Aviation Administration;

9 and

10 (3) Offers an accredited professional pilot program that
11 confers an advanced certificate for certified flight

12 instructors."

13 SECTION 2. Section 305J-2, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By adding two new definitions to be appropriately
16 inserted and to read:

17 "Institution" means a private college or university,
18 seminary, religious training institution, or pilot school that



1 is subject to this chapter, unless the context requires
2 otherwise.

3 "Pilot school" means a pilot school that meets the
4 requirements of section 305J- ."

5 2. By amending the definition of "authorization" to read:

6 "Authorization" means the authorization granted to [a
7 ~~private college or university, seminary, or religious training~~
8 an institution as provided in this chapter and any applicable
9 rules and policies. Authorization is not an endorsement by the
10 department."

11 3. By amending the definition of "enrollment agreement" to
12 read:

13 "Enrollment agreement" means the contract prepared by [a
14 ~~private college or university, seminary, or religious training~~
15 an institution that a student signs to indicate agreement to the
16 terms of admission, delivery of instruction, and monetary terms
17 as outlined in the [~~private college, university, seminary, or~~
18 ~~religious training~~] institution's student handbook or catalog."

19 4. By amending the definition of "governing board" to
20 read:



1 ""Governing board" means the elected or appointed group of
2 persons that oversees and controls [~~a private college or~~
3 ~~university, seminary, or religious training~~] an institution."

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

6 "(a) This chapter shall not apply to:

7 (1) Schools or educational programs conducted by firms,
8 corporations, or persons for the training of their own
9 employees;

10 (2) Apprenticeship or other training programs provided by
11 labor unions to union members or applicants for union
12 membership;

13 (3) Schools or educational programs that provide courses
14 of instruction that do not lead to the conferring of a
15 degree [~~+~~], except as provided in section 305J- ;

16 (4) Schools or educational programs that offer seminars,
17 refresher courses, and programs of instruction
18 sponsored by professional, business, or farming
19 organizations or associations for their members or the
20 employees of their members;



- 1 (5) Schools or educational programs that offer courses of
2 instruction conducted by public school complex areas;
- 3 (6) Schools, courses of instruction, or courses of
4 training that are offered by a vendor or the purchaser
5 or prospective purchaser of the vendor's product when
6 the objective of the school or course is to enable the
7 purchaser or the purchaser's employees to gain the
8 skills and knowledge necessary to use the product;
- 9 (7) Schools and educational programs conducted by
10 religious entities that are owned, controlled,
11 operated, and maintained by a religious organization
12 lawfully operating as a nonprofit religious
13 corporation and that award only religious degrees or
14 certificates, including but not limited to a
15 certificate of Talmudic studies, an associate of
16 Biblical studies, a bachelor of religious studies, a
17 master of divinity, or a doctor of divinity;
- 18 (8) Non-degree-granting post-secondary educational
19 institutions licensed by any entity of the State or
20 governed by any other chapter of the Hawaii Revised
21 Statutes;



1 (9) Schools and educational programs that offer courses of
2 instruction exclusively through online and distance
3 education; and

4 (10) Unaccredited post-secondary educational institutions
5 governed by chapter 446E."

6 SECTION 4. Section 305J-6, Hawaii Revised Statutes, is
7 amended by amending subsections (b) and (c) to read as follows:

8 "(b) To administer this chapter, the department shall:

- 9 (1) Maintain a list of the [~~private colleges or~~
10 ~~universities, seminaries, and religious training~~]
11 institutions that have been authorized and make this
12 list available to the public;
- 13 (2) Maintain a list of the states with which the director
14 has entered into a post-secondary education
15 authorization reciprocity agreement and make this list
16 available to the public; and
- 17 (3) Receive, arbitrate, investigate, and process
18 complaints.

19 (c) In conducting an investigation, the department may
20 physically inspect the [~~private college or university, seminary,~~
21 ~~or religious training~~] institution's facilities and records, and



1 the institution shall have an affirmative duty to cooperate with
2 requests from the department for information regarding any
3 investigation or inspection."

4 SECTION 5. Section 305J-10, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[+]§305J-10[+] **Reauthorization.** (a) A private college
7 or university that is authorized pursuant to section 305J-8 and
8 maintains its accreditation shall apply to the department for
9 reauthorization every two years. A private college or
10 university that has its accreditation reaffirmed without
11 sanction and continues to demonstrate its compliance with
12 section 305J-14, shall otherwise be presumed to be qualified for
13 reauthorization under this chapter for a period of two years.

14 (b) A seminary or religious training institution
15 authorized pursuant to section 305J-9 shall apply to the
16 department for reauthorization every two years. A seminary or
17 religious training institution that continues to meet the
18 authorization requirements of this chapter shall otherwise be
19 presumed to be qualified for reauthorization under this chapter
20 for a period of two years.



1 (c) [~~Private colleges or universities, seminaries, and~~
2 ~~religious training institutions~~] A pilot school authorized
3 pursuant to section 305J- shall apply to the department for
4 reauthorization every two years. A pilot school that continues
5 to meet the authorization requirements of this chapter shall
6 otherwise be presumed to be qualified for reauthorization under
7 this chapter for a period of two years.

8 (d) Institutions applying for reauthorization under this
9 section shall pay the fees required pursuant to section 305J-18.

10 [~~(d)~~] (e) If [~~a private college or university, seminary,~~
11 ~~or religious training~~] an institution cannot demonstrate that it
12 meets the authorization requirements of this chapter, the
13 director shall deny the application for reauthorization. The
14 director shall provide the [~~private college or university,~~
15 ~~seminary, or religious training~~] institution with written
16 notification of the denial of the application for
17 reauthorization and the basis for the denial. If, within six
18 months of receiving notice that its application for
19 reauthorization has been denied, the [~~private college or~~
20 ~~university, seminary, or religious training~~] institution
21 corrects the action or condition upon which the denial was



1 based, it may reapply for reauthorization. If the [~~private~~
2 ~~college or university, seminary, or religious training~~]
3 institution does not correct the action or condition upon which
4 the denial was based, it may submit a new application for
5 authorization pursuant to section 305J-8 or 305J-9, whichever is
6 applicable, once the action or condition has been corrected.

7 [~~(e)~~] (f) If a private college or university is under a
8 sanction from its accrediting body at the time that it submits
9 its application for reauthorization, the director may:

- 10 (1) Approve the private college or university's
11 reauthorization; or
- 12 (2) Grant probationary approval of the private college or
13 university's reauthorization; provided that if the
14 private college or university is granted probationary
15 reauthorization:
- 16 (A) The department shall provide the private college
17 or university with written notice of its
18 probationary status;
- 19 (B) The private college or university shall reapply
20 for reauthorization on an annual basis until the
21 accrediting body lifts its sanction; and



1 (C) The private college or university shall provide
2 the department with an annual report on its
3 progress toward removing the sanction."

4 SECTION 6. Section 305J-11, Hawaii Revised Statutes, is
5 amended by amending subsections (b) and (c) to read as follows:

6 "(b) It shall be a violation of this chapter for [a
7 ~~private college or university, seminary, or religious training~~]
8 an institution or its agent to:

9 (1) Make or cause to be made any statement or
10 representation, oral, written, or visual, in
11 connection with the offering of educational services
12 if the [~~private college or university, seminary, or~~
13 ~~religious training~~] institution or its agent knows or
14 reasonably should have known the statement or
15 representation to be false, inaccurate, or materially
16 misleading;

17 (2) Falsely represent or deceptively conceal, directly or
18 by implication, through the use of a trade or business
19 name, the fact that the institution is a private
20 college or university, seminary, [~~or~~] religious
21 training institution[+], or pilot school;



- 1 (3) Adopt a name, trade name, or trademark that represents
2 falsely, directly or by implication, the quality,
3 scope, nature, size, or integrity of the [~~private~~
4 ~~college or university, seminary, or religious~~
5 ~~training~~] institution or its educational services;
- 6 (4) Intentionally and materially represent falsely,
7 directly or by implication, that students who
8 successfully complete a course or program of
9 instruction may transfer the credits earned to any
10 institution of higher education;
- 11 (5) Intentionally and materially represent falsely,
12 directly or by implication, in its promotional
13 materials or in any other manner:
- 14 (A) Its size, location, facilities, or equipment;
- 15 (B) The number, educational experience, or
16 qualifications of its faculty;
- 17 (C) The extent or nature of any approval received
18 from any state agency; or
- 19 (D) The extent or nature of any accreditation
20 received from any accrediting agency, body, or
21 association;



1 (6) Provide prospective students with testimonials,
2 endorsements, or other information that has the
3 tendency to mislead or deceive prospective students or
4 the public regarding its current practices;

5 (7) Designate or refer to its sales representatives by
6 titles that imply that the sales representatives have
7 training in academic counseling or advising if they do
8 not; and

9 (8) Represent, directly or by implication, that it is
10 authorized by the State or approved or accredited by
11 an accrediting agency or body when it has not been
12 authorized, approved, or accredited.

13 (c) Any [~~private college or university, seminary, or~~
14 ~~religious training~~] institution or its agent that violates this
15 chapter may be subject to one or more of the following
16 sanctions:

17 (1) A fine equal to a sum of not less than \$500 or more
18 than \$10,000 for each violation. The penalties
19 provided in this subsection are cumulative to the
20 remedies or penalties available under all other laws



1 of this State. Each day that a violation occurs shall
2 be considered a separate violation;

3 (2) An order directing corrective action on the part of
4 the institution;

5 (3) An order of restitution to one or more affected
6 students;

7 (4) Revocation, suspension, probation, or conditions on
8 the institution's authorization;

9 (5) An order relating to cessation of operations or
10 alternate enrollment; or

11 (6) The payment of costs of investigation and legal
12 action, irrespective of the outcome."

13 SECTION 7. Section 305J-12, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending subsection (b) to read:

16 "(b) An institution's authorization shall be placed on
17 probationary status without further action by the department in
18 the event that:

19 (1) The institution is placed on probationary status by
20 its accrediting agency, contemporaneous with the
21 action of such agency;



1 (2) The institution's accrediting agency ceases to be
2 recognized by the United States Department of
3 Education; [~~or~~]

4 (3) In the case of a seminary or religious training
5 institution, the seminary or religious training
6 institution no longer meets the definition of such
7 under this chapter[-]; or

8 (4) In the case of a pilot school, the pilot school no
9 longer meets the definition of such under this
10 chapter."

11 2. By amending subsection (e) to read:

12 "(e) [~~A private college or university, seminary, or~~
13 ~~religious training]~~ An institution that is authorized pursuant
14 to this chapter shall:

15 (1) Not make or cause to be made any oral, written, or
16 visual statement or representation that violates
17 section 305J-11(b);

18 (2) Provide the department with a copy of its enrollment
19 agreement, if applicable, in accordance with its
20 reauthorization schedule;



1 (3) Provide bona fide instruction, in accordance with the
2 standards and criteria set by its accrediting body;
3 and

4 (4) If its ownership changes, provide the department with
5 any material information concerning the transaction at
6 least thirty days prior to the transaction."

7 SECTION 8. Section 305J-13, Hawaii Revised Statutes, is
8 amended by amending subsections (a) and (b) to read as follows:

9 "(a) If a private college or university, seminary, [e~~r~~]
10 religious training institution, or pilot school under the
11 jurisdiction of the department ceases operating within the
12 State, the institution, its owner, or the owner's designee, and
13 its governing board shall be jointly and severally liable to
14 deposit with the department the institution's educational
15 records requested by the department in a form to be prescribed
16 by the director.

17 (b) If the director determines that the records of [a
18 ~~private college or university, seminary, or religious training~~]
19 an institution that ceases operating within the State are in
20 danger of being destroyed, secreted, mislaid, or otherwise made
21 unavailable to the department, the director may seek a court



1 order authorizing the department to seize or take possession of
2 the records and seek additional relief as may be appropriate."

3 SECTION 9. Section 305J-14, Hawaii Revised Statutes, is
4 amended by amending subsection (j) to read as follows:

5 "(j) A seminary [~~or~~], religious training institution, or
6 pilot school shall not be subject to the requirements of this
7 section."

8 SECTION 10. Section 305J-15, Hawaii Revised Statutes, is
9 amended by amending subsection (h) to read as follows:

10 "(h) A seminary [~~or~~], religious training institution, or
11 pilot school shall not be subject to the requirements of this
12 section."

13 SECTION 11. Section 305J-17, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending subsection (a) to read:

16 "(a) A student or former student of the University of
17 Hawaii system, a private college or university, seminary, [~~or~~]
18 religious training institution, or pilot school may file a
19 complaint with the department concerning the institution at
20 which the student is or was enrolled; provided that if a former
21 student files a complaint, the complaint shall be filed within



1 two years after the former student discontinued enrollment at
2 the institution; provided that the [~~two-year~~] two-year
3 restriction on complaints shall not apply to complaints related
4 to obtaining transcripts."

5 2. By amending subsections (c), (d), and (e) to read:

6 "(c) Nothing in this section shall give the department
7 jurisdiction to consider complaints that infringe on the
8 academic or religious freedom of, or question the curriculum
9 content of, [~~a private college or university, seminary, or~~
10 ~~religious training~~] an institution.

11 (d) Upon receipt of a complaint pursuant to
12 [~~+~~]subsection[~~+~~] (a) or (b), the department shall determine
13 whether the complaint was properly filed. The complaint shall
14 warrant investigation only after the student or former student
15 has exhausted all administrative remedies available at the
16 University of Hawaii system, private college or university,
17 seminary, [~~or~~] religious training institution[~~+~~], or pilot
18 school; provided that if the complaint involves a violation of
19 state or federal criminal law, this requirement shall not apply.
20 If a complaint warrants investigation, the department shall
21 forward the complaint to the University of Hawaii system,



1 private college or university, seminary, [Ø] religious training
2 institution[+], or pilot school. The University of Hawaii
3 system, private college or university, seminary, [Ø] religious
4 training institution, or pilot school shall have thirty days to
5 respond in writing to the complaint. During the thirty-day
6 period, the University of Hawaii system, private college or
7 university, seminary, [Ø] religious training institution, or
8 pilot school, with the department's assistance, may attempt to
9 resolve the complaint with the student. If the department
10 determines at any time that the complaint no longer warrants
11 investigation, the department shall dismiss the complaint.

12 (e) If a complaint is not resolved within the thirty-day
13 period, the department may:

14 (1) Dismiss the complaint based on the response of the
15 University of Hawaii system, private college or
16 university, seminary, [Ø] religious training
17 institution[+], or pilot school; or

18 (2) Investigate and, where appropriate, take disciplinary
19 action in a manner consistent with chapter 91."



1 SECTION 12. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 13. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 14. This Act shall take effect on July 1, 2017.

7



Report Title:

Hawaii Post-secondary Education Authorization Program; FAA-approved Pilot Schools

Description:

Makes pilot schools that are approved by the Federal Aviation Administration subject to the oversight of the Hawaii Post-secondary Education Authorization Program. (SD1)

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