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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
House Committee on Lower and Higher Education  
Tuesday, February 12, 2019  
2:15 p.m.  
State Capitol, Conference Room 309**

**On the following measure:  
H.B. 409, RELATING TO EDUCATION**

**WRITTEN TESTIMONY ONLY**

Chair Woodson and Members of the Committee:

My name is Catherine Awakuni Colón, and I am the Director of the Department of Commerce and Consumer Affairs (DCCA or Department). The Department offers comments on this bill.

This bill defines, for the purpose of compulsory education, a private school to be an education institution that teaches K-12 and that is licensed or accredited by the Hawaii Association of Independent Schools (HAIS) or the Western Association of Schools and Colleges (WASC).

The Department supports efforts to ensure student safety and quality education. Because the DCCA had interacted with HAIS last session on H.B. 2680 (Relating to Education), HAIS contacted the DCCA last December to renew discussions about DCCA oversight. HAIS indicated it was concerned that some, if not many, small private schools in Hawaii do not meet the State's health and safety requirements for schools

(e.g., fire safety inspection, certificate of occupancy, or, if serving food, a health department certificate). HAIS also provided the DCCA with a list of independent private and parochial schools of which HAIS is currently aware. Based on that list and the bill draft received, the DCCA recommended that HAIS conduct outreach to affected schools before finalizing a regulatory model, to avoid unintended consequences and to obtain feedback from stakeholders.

Last week, HAIS and the Hawaii Council of Private Schools (HCPS) testified on S.B. 980, the companion bill of H.B. 409, that may create the impression that the DCCA at one time mandated licensing of private schools or that the Department made licensing optional but encouraged. To be clear, the DCCA has no oversight of K-12 private schools, and that HAIS' work through an MOU with the Department of Education is solely between those agencies.

Although this bill as drafted does not involve the DCCA, the Department notes that the Committee may wish to include HCPS as an additional licensing organization, since HAIS and the HCPS work collaboratively on private school oversight. In addition, the DCCA continues to recommend conducting outreach to affected schools so that this measure can be appropriately tailored to allow time for compliance.

Thank you for the opportunity to testify on this bill.



**TO:** The Honorable Justin H. Woodson, Chair  
The Honorable Mark J. Hashem, Vice Chair  
The Honorable Amy A. Perruso, Vice Chair  
House Committee on Lower & Higher Education

**FROM:** Philip J. Bossert, Executive Director  
Hawaii Association of Independent Schools

**RE:** HB 409 - RELATING TO EDUCATION  
In Support

**DATE:** Tuesday, February 12, 2019  
2:15 pm, Conference Room 309

Aloha Chair Woodson, Vice Chair Hashem, Vice Chair Perruso and Members of the Committee:

The Hawaii Association of Independent Schools (HAIS) strongly supports HB 409.

HAIS is a membership organization that currently represents 92 of Hawaii's independent schools; and, in collaboration with the Western Association of Schools & Colleges (WASC) accredits 52 of those 92 institutions. The other 40 institutions are either licensed by HAIS's subsidiary organization, the Hawaii Council of Private Schools (HCPS) but choose not to be accredited by HAIS/WASC, or they are accredited by some other educational accrediting body, such as those representing Catholic schools, Lutheran schools, Christian schools, etc.

In 1995, Act 188 deregulated HDOE's licensing of Hawaii private schools. The legislature requested that HAIS form a new subsidiary organization to take over the responsibility from the Hawaii Dept. of Education (HDOE) for licensing of private schools in Hawaii. In a 1998 memorandum of agreement between HDOE and HAIS, HCPS was formed by HAIS to license Hawaii private schools and to ensure that all of Hawaii's private and parochial schools were healthy, safe and sustainable institutions providing a sound education program for Hawaii's children.

HCPS has performed this licensing function since 1998. However, whereas licensing of private schools was mandated by DCCA prior to 1998 when performed by HDOE, DCCA made licensing "optional but encouraged" when this responsibility was passed on to HAIS/HCPS. As a result, HCPS currently licenses approximately 90 of the nearly 160 schools in Hawaii operating as private educational programs. An HCPS-licensed school must meet established licensing criteria, which address safety and health, a viable educational program, facilities, governance, administration, faculty/staff, admissions, and finances. Other than DHS which licenses approximately 30 private preschools in Hawaii, there is no organization in Hawaii currently checking on the status of these criteria for the other 40+ private schools unless they

are being accredited by some other accrediting organization and that accreditation process includes the checklist of items required for licensing in Hawaii.

Hawaii currently has a robust and comprehensive system in place — the Hawaii Council of Private Schools — that allows our industry to self-regulate. We recommend that this remain the approved private school licensing procedure, but that DCCA change its licensing requirement from “optional” to “required”, leaving accreditation as optional. The proposed language of HB 409 will accomplish this, and it will add no additional expense or workload to DCCA. HCPS will continue to be responsible for all licensing activities.

H AIS and HCPS believe it is problematic that there is no requirement which holds unlicensed private schools to current industry standards that are verified by a recognized third-party evaluator. We do not believe that HCPS needs to be the only entity providing that verification, and that such evaluation can be performed as part of the accrediting process carried out by other recognized accrediting bodies as long as it incorporates the licensing checklist.

H AIS believes all parents should have assurances, including those who choose to send their children to private schools, that those schools provide a safe, healthy, educationally sound and financially viable environment for all children to learn. Thus, we strongly support HB 409 that will require licensure of all private schools through an entity recognized by the State of Hawaii.

Thank you.

**LATE**

**HB-409**

Submitted on: 2/11/2019 7:25:41 PM

Testimony for LHE on 2/12/2019 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Andrea Quinn	Individual	Oppose	No

Comments:

Dear Honorable Committee Members:

Please oppose HB409, which would allow schools to be compulsory if they are accredited by either the Western Association of Schools and Colleges (WASC) or the Hawaii Association of Independent Schools (HAIS).

The wording of this bill is misleading on two fronts.

Making schools compulsory that are accredited by HAIS would by extension make attending religious schools mandatory, since those are often the schools that are "independent." This has the potential to violate our constitutional guarantees of freedom from government-sponsored religion, thus opening the state up to expensive legal costs in defense of this type of legislation.

Also, DOE public schools are already accredited, or in the process of accreditation, by WASC, therefore including WASC in the wording of the proposed legislation is unnecessary and redundant. It appears to be nothing more than a ruse by HAIS to reverse declining enrollment of the private schools under its umbrella by burrowing proposed legislation under a morass of jargon.

If private schools want to reverse declining enrollment perhaps they could start by reducing their typically exorbitant fees.

Thank you for the opportunity to present my testimony.

Andrea Quinn

Kihei`



# Late Testimony

TO: Committee on Lower and Higher Education  
FROM: Michael Rockers, Ed.D., Superintendent of Catholic Schools  
RE: HB409  
DATE: February 12, 2019

The Hawaii Catholic Schools **strongly oppose HB409** WHICH CHANGES THE DEFINITION OF "PRIVATE SCHOOL" SO PARENTS ARE OBLIGED, under the Compulsory Attendance Law, TO SEND THEIR CHILD TO ONLY THOSE PRIVATE SCHOOLS WHICH ARE ACCREDITED BY the Western Association of Colleges and Schools (WASC) or LICENSED BY Hawaii Council of Private Schools (HCPS).

The reasons for this opposition are many and include:

1. **Act 188 of the 1995 Legislature, eliminated Department of Education (DOE) regulation and oversight of private schools. At that time, the Department of Commerce and Consumer Affairs made licensing by HAIS/HCPS optional but encouraged. There is no statutory basis for any governmental licensing of Catholic or other private schools in the State of Hawaii. IN FACT NO STATE HAS LICENSING REGULATIONS FOR PRIVATE SCHOOLS (see attached).**
2. HB409 would assign supervisory and regulatory control over the Catholic Schools in Hawaii to a secular entity. This means that a third party would have the authority to a mandate what the Hawaii Catholic Schools do regarding matters such as curriculum, pedagogy, personnel and educational programs.
3. All of Hawaii's K-12 or K-8 Grade Catholic Schools are accredited presently by the Western Association of Schools and Colleges (WASC). We appreciate what that accreditation agency provides our schools to help us implement a process of continual improvement. We also appreciate what the Hawaii Association of Independent Schools (HAIS) does to support professional development and school improvement for many of Hawaii's private schools. **However, mandating that we must be accredited by WASC or licensed by the Hawaii Council of Private Schools to legally accept students is not warranted.**
4. The State is entitled to, and presently does, exercise some regulatory authority over private education related to safety, record keeping, immunizations, and public health. However, delegating authority to license a Catholic School to a third party, as proposed in House Bill 409 and Senate Bill 980 is unconstitutional.
5. In short, Catholic schools in Hawaii were first established in 1840 and have grown as an effective system to serve Hawaii's youth. There are presently 33 Catholic schools employing over 800 people, serving approximately 8,300 students. The expansive system has served Hawaii for over 175 years with a strong tradition of student achievement and academic excellence. The Hawaii Catholic Schools enroll about one-fourth of all the students in private schools in the State. We receive no State funds, and yet SB409 provides a third party the power to shut down a Catholic School if that school is not licensed by HCPS or accredited by WASC.

Information taken from U.S. Department of Education's 2009 "State Regulations for Private Schools"

State	Accreditation Requirements	Registration Requirements	Licensure Requirements
Alabama - AL	none	required	none
Alaska - AK	none	none	none
Arizona - AZ	none	none	none
Arkansas - AR	none	none	none
California - CA	optional	required	none
Colorado - CO	optional	none	as small business
Connecticut - CT	optional	none	none
Delaware - DE	optional	none	none
Florida - FL	none	required	none
Georgia - GA	none	none	none
Hawaii - HI	optional	required	optional
Idaho - ID	optional	none	none
Illinois - IL	none	optional	none
Indiana - IN	optional	none	none
Iowa - IA	required	none	none
Kansas - KS	optional	required	none
Kentucky - KY	optional	none	optional
Louisiana - LA	none	required	none
Maine - ME	none	none	none
Maryland - MD	none	required	none
Massachusetts - MA	none	none	none
Michigan - MI	optional	none	boarding schools only
Minnesota - MN	optional	none	none
Mississippi - MS	optional	none	none
Missouri - MO	none	none	none
Montana - MT	optional	none	none
Nebraska - NE	optional	none	none
Nevada - NV	optional	none	optional
New Hampshire - NH	optional	required	none
New Jersey - NJ	none	required	none
New Mexico - NM	optional	none	none
New York - NY	none	optional	none
North Carolina - NC	optional	required	none
North Dakota - ND	optional	none	none
Ohio - OH	none	none	none
Oklahoma - OK	optional	none	none
Oregon - OR	none	none	boarding schools only
Pennsylvania - PA	optional	required	optional
Rhode Island - RI	none	required	none
South Carolina - SC	optional	none	none
South Dakota - SD	optional	none	none
Tennessee - TN	required	none	none
Texas - TX	optional	none	none
Utah - UT	optional	none	none
Vermont - VT	none	none	none
Virginia - VA	optional	none	optional
Washington - WA	optional	none	none
West Virginia - WV	optional	none	none
Wisconsin - WI	optional	none	none
Wyoming - WY	none	none	optional