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STATE HIGHER EDUCATION EXECUTIVE OFFICERS ASSOCIATION

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Hawaii Postsecondary Education Authorization Program

Vertical Tabs

1. Agency and Contact Information

1A1. Agency Name:

Hawaii Post-Secondary Education Authorization Program (HPEAP)

1A2. Agency Description - Please review the description below and revise as appropriate (e.g., state executive agency, agency with appointed board, department or division within agency, etc.):

The Hawaii Post-Secondary Education Authorization Program (HPEAP) was established within the Department of Commerce and Consumer Affairs pursuant to Hawaii Revised Statutes Chapter 305J.

1A3. Agency Contact - Please review and correct as necessary the contact information below:

Bobbi Lum-Mew

Hawaii Post-Secondary Education Authorization Program (HPEAP)

Phone: 808-586-7327

hpeap@dcca.hawaii.gov [1]

1A4. Who should institutions contact if they have questions about your agency's authority, policies, or application process:

Bobbi Lum-Mew

Hawaii Post-Secondary Education Authorization Program (HPEAP)

Phone: 808-586-7327

hpeap@dcca.hawaii.gov [1]

1B. Links - Please provide web links to your agency home page, the regulations pertaining to authorization, and any other links important for understanding your agency's responsibility for authorization:

[HPEAP Home Page](#) [2]

1C1. Other Agencies - According to our records, the following agencies also have responsibility for authorization in the state. Please correct, add to, or clarify this list of authorizing authorities as necessary. These agencies will also be requested to complete

this survey:

The Hawaii Department of Education licenses vocational schools.

1C2. If the division of responsibility among these agencies is not clear, please explain:

<http://www.hawaiipublicschools.org/TeachingAndLearning/AdultEducation/Pa...> [3]

2. Types of Educational Providers Authorized

2A1. Institution Types Authorized - Indicate the types of institutions that your agency authorizes. Feel free to provide a short explanation of any ambiguity:

Private, in-state, not-for-profit degree granting institutions

Private, in-state, for-profit degree granting institutions

Religious Institutions

2A2. Clarifying comments:

Per HRS § 305J-2, "Private college or university" means a nonpublic post-secondary education institution having a physical presence in the State that offers associate, baccalaureate, post-baccalaureate, master's, or doctoral degrees or diplomas. For purposes of the requirements of this chapter, an out-of-state public institution shall be considered as a private college or university.

[§305J-7] Awarding degrees. (a) A person, partnership, corporation, company, society, or association with a physical presence in the State shall not award, bestow, confer, give, grant, convey, or sell to any other person a degree or honorary degree upon which is inscribed, in any language, the word "associate", "bachelor", "baccalaureate", "post-baccalaureate", "master", or "doctor", or any abbreviation thereof, or offer courses of instruction or credits purporting to lead to any such degree, unless the person, partnership, corporation, company, society, or association is:

(1) A private college or university, seminary, or religious training institution that is authorized pursuant to this chapter;

(2) A school or educational program conducted by a religious entity that is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and that awards only religious degrees or certificates, including but not limited to a certificate of Talmudic studies, associate of Biblical studies, a bachelor of religious studies, a master of divinity, or a doctor of divinity;

(3) An unaccredited post-secondary educational institution governed under chapter 446E; or

(4) A part of the University of Hawaii system.

(b) Notwithstanding subsection (a), in order to award degrees in the State, all private colleges and universities, seminaries, and religious training institutions operating in the State on June 25, 2013 shall be

authorized no later than July 1, 2014.

2C1. Accreditation - Is accreditation required for an institution to be authorized in your state:

Yes

2C2. If yes, please explain:

"Accredited" means holding an institutional accreditation by name to offer post-secondary education as a United States-based institution from a regional or national accrediting agency recognized by the United States Department of Education.

2C3. If yes, what type of accreditation is required? Please check all that apply:

Regional

National

2C4. Clarifying comments:

"Accredited" means holding an institutional accreditation by name to offer post-secondary education as a United States-based institution from a regional or national accrediting agency recognized by the United States Department of Education.

2D1. Does your agency authorize specific academic programs offered by institutions, only institutions themselves, or both:

Institutions Only

2E6a. Others (please list):

Yes

2E6b. Name and Contact Information:

Cosmetology schools should contact the executive officer of the Board of Barbering and Cosmetology at the Department of Commerce & Consumer Affairs -- (808) 586-2696, <http://hawaii.gov/dcca/pvl/> [4] (click on Barbering & Cosmetology).

Massage schools should contact the Department of Education, Community Education Office -- which licenses private, trade, vocational or technical schools -- (808) 203-5511, <http://adulthood.k12.hi.us/index.html> [5] (click on the Licensing link).

3. Exemptions

3A1. General Exemptions - Are certain institutions or programs exempt by law or policy from your state authorization requirements:

Yes

3A2. If yes, to which institutions or programs does the exemption apply? How does it work (please describe)? If available, please provide any pertinent web links:

[§305J-3] Applicability of chapter; exceptions. (a) This chapter shall not

apply to:

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

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

(3) Schools or educational programs that provide courses of instruction that do not lead to the conferring of a degree;

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

(5) Schools or educational programs that offer courses of instruction conducted by public school complex areas;

(6) Schools, courses of instruction, or courses of training that are offered by a vendor or the purchaser or prospective purchaser of the vendor's product when the objective of the school or course is to enable the purchaser or the purchaser's employees to gain the skills and knowledge necessary to use the product;

(7) Schools and educational programs conducted by religious entities that are owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and that award only religious degrees or certificates, including but not limited to a certificate of Talmudic studies, an associate of Biblical studies, a bachelor of religious studies, a master of divinity, or a doctor of divinity;

(8) Non-degree-granting post-secondary educational institutions licensed by any entity of the State or governed by any other chapter of the Hawaii Revised Statutes;

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

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

3A3. If yes, how does the institution or program claim an exemption? For example, is the exemption automatic as long as it meets specified criteria, does the institution or program notify the agency and the exemption is granted, is there an application process, etc.:

The exemption is automatic as long as it meets specified criteria. The institution may contact HPEAP for confirmation.

3B. Other Requirements - If an institution or program is exempt from state authorization, are there any other state requirements that an institution would need to fulfill in order to operate in your state (e.g., providing contact information, list of programs, etc.):

Contact information is appreciated but not required.

3C1. Religious Institutions - Does your state constitution or do your state laws provide any exemptions for religious institutions:

Yes

3C2. If yes, are all religious institutions exempt (please describe):

No, not all are exempt.

A school or educational program conducted by a religious entity that is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and that awards only religious degrees or certificates, including but not limited to a certificate of Talmudic studies, associate of Biblical studies, a bachelor of religious studies, a master of divinity, or a doctor of divinity;

3C3. If yes, are religious institutions that award only religious degrees or certificates exempt (please describe):

Yes. A school or educational program conducted by a religious entity that is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and that awards only religious degrees or certificates, including but not limited to a certificate of Talmudic studies, associate of Biblical studies, a bachelor of religious studies, a master of divinity, or a doctor of divinity;

3C4. If yes, are certain religious institutions exempt that meet other criteria (please describe):

N/A

4. Authorization of Distance Education

4A1. Does your agency require purely (100%) distance education programs, including online or correspondence study programs that enroll residents of your state, to be authorized without regard to physical presence:

No

4B1. If not, does your agency determine whether an institution must be authorized based on a physical presence ("operating") standard:

Yes

4B2. Clarifying comments:

"Physical presence" means:

(1) Having a physical location in the State, where students receive synchronous or asynchronous instruction; or

(2) Establishing an administrative office in the State in order to:

- (A) Provide information to prospective students, enrolling students, or the general public about the institution;
- (B) Provide services to enrolled students;
- (C) Provide office space for instructional or non-instructional staff; and

- (D) Maintain an institutional mailing address, street address, or telephone number in the State.

5. Physical Presence Policy – Common “Triggers”

5A. If your agency uses a physical presence standard, how does your agency define physical presence? If available, please provide a link to that policy or a citation to the relevant regulation giving that standard:

"Physical presence" means:

(1) Having a physical location in the State, where students receive synchronous or asynchronous instruction; or

(2) Establishing an administrative office in the State in order to:

(A) Provide information to prospective students, enrolling students, or the general public about the institution;

(B) Provide services to enrolled students;

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

(D) Maintain an institutional mailing address, street address, or telephone number in the State.

INSTRUCTIONAL ACTIVITIES

5B1a. Hosting short term, face-to-face, seminars or conferences in the state where students meet in person:

No

5B2a. Permitting a student to complete an internship, externship, field experience, or clinical practicum organized by the institution:

No

5B2c. Does this apply only to distance education students or more generally:

Distance Education Only

5B3a. Permitting a student to complete an internship, externship, field experience, or clinical practicum found by the student acting independently:

No

5B3c. Does this apply only to distance education students or more generally:

Distance Education Only

PROPERTY IN THE STATE

5B4a. Maintaining a location (physical building) in the state that is used for instructional activity:

Yes

5B6a. Housing ONLY computer servers or other equipment at a physical location in the state:

No

5B7a. Maintaining an in-state address or phone number, regardless of use:

Yes

5B7b. Clarifying Comments:

Depends on use.

"Physical presence" means:

(1) Having a physical location in the State, where students receive synchronous or asynchronous instruction; or

(2) Establishing an administrative office in the State in order to:

- (A) Provide information to prospective students, enrolling students, or the general public about the institution;
- (B) Provide services to enrolled students;
- (C) Provide office space for instructional or non-instructional staff; and
- (D) Maintain an institutional mailing address, street address, or telephone number in the State.

RECRUITING ACTIVITIES

5B8a. Organized, consistent, on - the - ground recruiting of students in the state by employees or agents of the institution:

No

5B8c. What if the agent is only recruiting students in the state on an occasional basis (i.e. at job fairs):

No

THIRD PARTY AGREEMENTS/CONTRACTS

5B9a. Having a contract/agreement between the institution and in-state institutions or in-state entities to provide services for students (i.e. library, gym, computer centers, etc.):

No

5B10a. Requiring a student to take a proctored exam at a location or with an entity in the state prescribed by the institution:

No

5B11a. Requiring a student to take a proctored exam with an entity in the state chosen by the student but approved by the institution:

No

ADVERTISING

5B12a. Advertising in local media sources that are largely viewed by residents of the state :

No

5B13a. Advertising in national media sources that can be accessed by residents of the state:

No

EMPLOYMENT IN THE STATE

5B14a. Employing full-time faculty in the state to provide instruction via distance education programs to students in the state:

No

5B14c. What about adjunct faculty:

No

5B15a. Employing full-time faculty in the state to provide instruction via distance education programs solely to students outside of the state:

No

5B15c. What about adjunct faculty:

No

5B16a. Employing mentors, tutors, or preceptors in the state to aid students, who are residents of the state, on an individual basis:

No

OTHER

6. Application Process

6A. Description - Please provide a short description of the application process to obtain state authorization. If available, please provide web links to the specific references to all applicable state laws, regulations, manuals, forms, or other pertinent documents:

<http://cca.hawaii.gov/hpeap/forms/> [6]

<http://cca.hawaii.gov/hpeap/frequently-asked-questions/> [7]

6B. Processing Time - Generally, how long does it take to approve applications (assuming that the agency has received all required information from the institution)? Please provide a typical range if appropriate:

60 days

6C. Duration - What is the authorization duration:

2 years

6D. Maintenance - What does an institution need to do to maintain authorization:

Continue to meet or maintain the conditions and requirements necessary to qualify for or maintain an authorization which includes accreditation and demonstration of financial integrity.

6E. Reporting - What kinds of information or data must an institution report to your agency as a condition for continued authorization? How frequently is this reported or updated? Is this information published or shared publicly:

Accreditation and demonstration of financial integrity. Depending on which option under the law was utilized to demonstrate financial integrity, an institution may need to provide an annual audited financial statement or annual verification of continued coverage under a surety bond. An institution which provided a surety bond must also recalculate the amount of the surety bond annually. This information is not published. The listing of authorized schools is published on our website.

6F. Loss of Status - Can an institution lose its authorized status? If so, how?:

Yes.

[§305J-12] Requirements to maintain authorization. (a) Authorization by the director shall be conditioned on the maintenance of accreditation by the institution and compliance with section 305J-14. Authorization shall be automatically suspended effective as of the date of the cancellation or expiration of accreditation or the cancellation or expiration of the surety bond if a surety bond was filed with the department. The director shall not reinstate the affected institution until satisfactory proof of compliance is submitted to the department. Failure to reinstate a suspended authorization

within sixty days of suspension shall result in the termination of the authorization, and the institution shall forfeit all fees and shall be required to apply for authorization as a new applicant.

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

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

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

(3) In the case of a seminary or religious training institution, the seminary or religious training institution no longer meets the definition of such under this chapter.

Also:

[\$305J-11] Grounds for refusal to reauthorize, reinstate, or restore and for revocation, suspension, probation, or denial; condition of authorization or sanctions. (a) In addition to any other acts or conditions provided by law, the director may refuse to reauthorize, reinstate or restore, or may deny, revoke, suspend, or condition in any manner, including but not limited to placement on probation, any authorization for any one or more of the following acts or conditions on the part of the institution or applicant:

(1) Failure to meet or maintain the conditions and requirements necessary to qualify for or maintain an authorization;

(2) Failure to maintain accreditation as required by this chapter;

(3) Engaging in false, fraudulent, or deceptive advertising, or making untruthful or improbable statements;

(4) Procuring an authorization, reauthorization, or certification through fraud, misrepresentation, material omission, or deceit;

(5) Misconduct, incompetence, gross negligence, or manifest incapacity in the operation of the institution;

(6) Revocation, suspension, deauthorization, or other disciplinary action by another state or federal agency against an institution or applicant for any reason provided by this chapter or rules adopted hereunder;

(7) Criminal conviction, whether by nolo contendere or otherwise, of a penal crime directly related to the qualifications, functions, or duties of the institution or applicant in any jurisdiction in which the institution operates;

(8) Failure to report in writing to the department any disciplinary decision issued against the institution or the applicant in another jurisdiction within thirty days of the disciplinary decision;

(9) Failure to report in writing to the department any change in accreditation status by any accrediting agency;

(10) Failure to demonstrate or maintain a record of financial integrity; or

(11) Violating any provision of this chapter or rules adopted hereunder.

(b) It shall be a violation of this chapter for a private college or university, seminary, or religious training institution or its agent to:

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

(2) Falsely represent or deceptively conceal, directly or by implication, through the use of a trade or business name, the fact that the institution is a private college or university, seminary, or religious training institution;

(3) Adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the private college or university, seminary, or religious training institution or its educational services;

(4) Intentionally and materially represent falsely, directly or by implication, that students who successfully complete a course or program of instruction may transfer the credits earned to any institution of higher education;

(5) Intentionally and materially represent falsely, directly or by implication, in its promotional materials or in any other manner:

- (A) Its size, location, facilities, or equipment;
- (B) The number, educational experience, or qualifications of its faculty;
- (C) The extent or nature of any approval received from any state agency; or
- (D) The extent or nature of any accreditation received from any accrediting agency, body, or association;

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

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

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

611. Amendments - Is your agency currently planning to amend its application process by

the end of 2013:

No

7. Fees Associated with Authorization

7A. Application Fee - Is there an application fee to initiate the authorization process? If so, what is the fee or fee schedule? Please provide a web link if available:

Yes.

[\$305J-18] Fees; public hearing. (a) An institution applying for authorization shall pay \$10,000 to the department upon application for authorization under this chapter and every two years thereafter upon application for reauthorization.

(b) The director may assess fees as provided in this chapter and, notwithstanding any other law to the contrary, may change the amount of the fees required by this section at any time without regard to chapter 91, if the director:

A revised fee schedule became effective 1/1/17: See

<http://cca.hawaii.gov/hpeap/files/2015/11/Adoption-of-Fee-Schedule-Signe...> [8]

7B. Other Costs - Are there any other costs associated with the state authorization process (e.g. site visits, hiring a reviewer, surety bond, tuition recovery fund, agent licensing, etc.):

A surety bond may be required. See previous information.

There are fees for any additional financial reviews (for example, the annual recalculation of the surety bond). See

<http://cca.hawaii.gov/hpeap/files/2015/11/Adoption-of-Fee-Schedule-Signe...> [8]

7C. Renewal Costs - What are the costs, if any, to renew authorization:

[\$305J-18] Fees; public hearing. (a) An institution applying for authorization shall pay \$10,000 to the department upon application for authorization under this chapter and every two years thereafter upon application for reauthorization.

Fee changes were effective Jan. 1, 2017.

See

<http://cca.hawaii.gov/hpeap/files/2015/11/Adoption-of-Fee-Schedule-Signe...> [8]

7D. Exemption Costs - What costs are associated with receiving a waiver or exemption to authorization:

None. HPEAP does not certify exemptions.

8. Interstate Reciprocity

8A. Do your state regulations explicitly allow or prohibit interstate reciprocal agreements about authorization? If so, please describe:

[§305J-16] Reciprocity. The director may enter into any post-secondary education authorization reciprocity agreement; provided that the authorization standards of the reciprocity agreement shall be comparable to or exceed the authorization requirements of this chapter and any applicable administrative rules.

8B. What is the process, if any, to obtain a reciprocal agreement with your state:

Hawaii is a member of SARA.

<http://cca.hawaii.gov/hpeap/sara/> ^[9]

8C. Are there any reciprocal agreements currently in place or under consideration? If so, please list those agreements:

Hawaii is a member of SARA.

<http://cca.hawaii.gov/hpeap/sara/> ^[9]

9. Consumer Protection and Student Complaints

9A1. Does your agency have a process for handling complaints about postsecondary institutions or programs::

Yes

9A2. If yes, please describe the process or provide a web link to the material that describes the complaint process:

<http://cca.hawaii.gov/hpeap/student-complaint-process/> ^[10]

9A3a. If yes, does this complaint process extend to institutions not authorized by the agency that may enroll residents of the state (such as explicitly distance education programs with no physical presence or exempt institutions):

No

9A4. If available, please provide a web link to the complaint form:

[Student Complaint Form](#) ^[11]

9B. Who is the contact person for receiving complaints? Please include name, title, address, phone, and email if available:

Bobbi Lum-Mew

HPEAP Administrator

P.O. Box 541
Honolulu, HI 96809
(808) 586-7327

hpeap@dcca.hawaii.gov [1]

9C. If your agency has no formal process for handling complaints related to postsecondary institutions, what state agency would handle a complaint:

For complaints against unaccredited degree granting institutions, contact the Office of Consumer Protection at the Department of Commerce & Consumer Affairs -- <http://cca.hawaii.gov/ocp/udgi/> [12].

The Consumer Resource Center may be contacted for information on filing complaints -- (808) 587-4272.

10. Enforcement

10A. If your agency finds that an institution or program is operating in your state without authorization, what is the resulting warning or enforcement action:

Enforcement action against unlicensed activity would be taken by the Attorney General's Office.

10B. Can an institution or program appeal a warning or enforcement action? If yes, please describe the process or provide web links to the regulations/policies:

An authorized institution which has enforcement action taken against it, may appeal pursuant to the Hawaii Administrative Procedure Act, Chapter 91, Hawaii Revised Statutes.

11. Legislative or Regulatory Changes

11A1. Amendments - Is your agency or state legislature currently planning to amend its regulations or alter its physical presence policy:

Yes

11A2. If yes, please provide a brief description of the anticipated change:

We will be promulgating rules in the near future to clarify the physical presence policy.

11A3. If yes, when does the agency expect the change to be fully implemented:

We plan to promulgate rules in the near future.

11C2. If yes, please provide a brief description of the anticipated change:

We plan to promulgate rules in the near future.

11C1. Other Changes - Is your agency or state legislature making any other changes in your state regulations or statutes with regard to state authorization:

Yes

Source URL: http://sheeo.org/sheeo_surveys/user/83

Links

[1] <mailto:hpeap@dcca.hawaii.gov>

- [2] <http://cca.hawaii.gov/hpeap/>
- [3] <http://www.hawaiipublicschools.org/TeachingAndLearning/AdultEducation/Pages/Licensing-a-vocational-school.aspx>
- [4] <http://hawaii.gov/dcca/pvl/>
- [5] <http://adulted.k12.hi.us/index.html>
- [6] <http://cca.hawaii.gov/hpeap/forms/>
- [7] <http://cca.hawaii.gov/hpeap/frequently-asked-questions/>
- [8] <http://cca.hawaii.gov/hpeap/files/2015/11/Adoption-of-Fee-Schedule-Signed-11-10-15.pdf>
- [9] <http://cca.hawaii.gov/hpeap/sara/>
- [10] <http://cca.hawaii.gov/hpeap/student-complaint-process/>
- [11] <http://cca.hawaii.gov/hpeap/files/2013/08/Student-Complaint-Form.pdf>
- [12] <http://cca.hawaii.gov/ocp/udgi/>