

HAWAII

FINAL GRADING ANALYSIS

OVERALL SCORE: **280.76/700 POINTS (39.4%)**
 LETTER GRADE: **F**

I. OVERSIGHT BODY: **20/100 POINTS**

A. IS THERE A STATUTORILY CREATED OVERSIGHT BODY
 THAT IS PUBLICLY ACCOUNTABLE?
20/60 POINTS*

Element	Points Available	Type 1	Type 2	Type 3	Points Awarded (Average)
1. Oversight body is a multi-member board, commission, or panel created by statute	10	0	0	0	0
2. Oversight body was statutorily created specifically to oversee private postsecondary institutions	10	0	0	0	0
3. Multi-member board, commission, or panel is the ultimate decision maker (as opposed to a single person, like the head of a department or director)	10	0	0	0	0
4. Oversight body can engage in rulemaking	10	10	10	10	10
5. Oversight body's meetings must be open to the public	5	0	0	0	0
6. Oversight body's meetings must allow public comment	5	0	0	0	0
7. Oversight body can initiate investigations	5	5	5	5	5
8. Oversight body can impose penalties for violations	5	5	5	5	5
Total Points	60	20	20	20	20

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. HRS § 305J-1 creates the postsecondary education authorization program within the Department of Commerce and Consumer Affairs, to be administered by the Director of Commerce and Consumer Affairs. Hawaii does not have a multi-member body or board charged with administration of its postsecondary education authorization program.

Type 2: Degree-granting, unaccredited postsecondary institutions. The Office of Consumer Protection, within the Department of Commerce and Consumer Affairs, is the state agency responsible for enforcing

Hawaii’s unaccredited degree-granting institutions law, codified in Chapter 446E of the Hawaii Revised Statutes. Hawaii does not have a multi-member body or board charged with administration of its unaccredited degree-granting institutions law.

Type 3: Private trade, vocational, or technical schools. The Hawaii State Department of Education administers laws pertaining to private trade, vocational, or technical schools. Hawaii does not have a multi-member body or board charged with oversight of private trade, vocational, or technical schools.

B. STATUTE-SPECIFIED MEMBERSHIP:

1. TO WHAT EXTENT ARE LIMITATIONS PLACED ON FOR-PROFIT MEMBERSHIP ON THE OVERSIGHT BODY?

0/25 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Explicit prohibition on for-profit majority, plus no possibility of a majority of the quorum	Explicit prohibition on for-profit majority	Discouraged	No prohibition specified, but not discouraged	For-profit majority mandated
Type 1	25 Points	20 Points	10 Points	0 Points	-5 points
Type 2	25 Points	20 Points	10 Points	0 Points	-5 points
Type 3	25 Points	20 Points	10 Points	0 Points	-5 points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. The postsecondary education authorization program is to be administered by the Director of Commerce and Consumer Affairs, not a multi-member body.

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii does not have a multi-member body charged with administration of its unaccredited degree-granting institutions law.

Type 3: Private trade, vocational, or technical schools. Hawaii does not have a multi-member body charged with oversight of private trade, vocational, or technical schools.

2. IS THE OVERSIGHT BODY MANDATED TO INCLUDE AT LEAST ONE CONSUMER ADVOCATE?

0/10 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	No
Type 1	10 Points	0 Points
Type 2	10 Points	0 Points
Type 3	10 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. The postsecondary education

authorization program is to be administered by the Director of Commerce and Consumer Affairs, not a multi-member body.

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii does not have a multi-member body charged with administration of its unaccredited degree-granting institutions law.

Type 3: Private trade, vocational, or technical schools. Hawaii does not have a multi-member body charged with oversight of private trade, vocational, or technical schools.

3. ARE THE MEMBERS APPOINTED BY A PUBLICLY ACCOUNTABLE OFFICIAL OR ELECTED IN A GENERAL ELECTION?

0/5 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	All	Majority	Half	Minority	None
Type 1	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 2	5 Points	3 Points	2.5 Points	1 Point	0 Points
Type 3	5 Points	3 Points	2.5 Points	1 Point	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. The postsecondary education authorization program is to be administered by the Director of Commerce and Consumer Affairs, not a multi-member body.

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii does not have a multi-member body charged with administration of its unaccredited degree-granting institutions law.

Type 3: Private trade, vocational, or technical schools. Hawaii does not have a multi-member body charged with oversight of private trade, vocational, or technical schools.

II. STATE OVERSIGHT—EFFICACY: 21.2/100 POINTS

A. DOES THE STATE REQUIRE ONSITE REVIEW OF PRIVATE POSTSECONDARY INSTITUTIONS?

2.7/10 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Mandatory onsite reviews			Discretionary onsite reviews	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No review specified
Type 1	10 Points	8 Points	5 Points	3 Points	0 Points
Type 2	10 Points	8 Points	5 Points	3 Points	0 Points
Type 3	10 Points	8 Points	5 Points	3 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. Although HRS § 305J-8 requires private colleges or universities to be accredited on the basis of an onsite review, Hawaii’s postsecondary education authorization program does not mandate onsite reviews of these institutions. Regarding discretionary reviews, 3 points have been awarded because HRS § 305J-6(c) allows the Department to physically inspect an authorized institution’s facilities and records, but only in the course of conducting an investigation and not on any regular type of schedule.

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii law neither explicitly requires nor allows onsite reviews of unaccredited degree-granting institutions.

Type 3: Private trade, vocational, or technical schools. Hawaii Administrative Rules §§ 8-101-4 and 8-101-9 provide that a license shall not be granted to operate a private trade, vocational, or technical school until the physical plant of the proposed school has been inspected and approved by, among others, the Department of Education for adequacy of the proposed training in the trades or vocations. Because Hawaii law requires a one-time, onsite inspection, and permits the Department to, at any time, inspect a school’s training equipment for adequacy, five points have been awarded.

B. DOES THE STATE REQUIRE UNANNOUNCED INSPECTIONS FOR ONSITE REVIEWS?

1/5 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Required unannounced visits	Discretion to do unannounced visits	No indication
Type 1	5 Points	3 Points	0 Points
Type 2	5 Points	3 Points	0 Points
Type 3	5 Points	3 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. Hawaii law does not explicitly require or allow unannounced visits of accredited degree-granting institutions.

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii law does not explicitly require or allow unannounced visits of unaccredited degree-granting institutions.

Type 3: Private trade, vocational, or technical schools. Although not requiring unannounced visits, Hawaii Administrative Rules §§ 8-101-4 and 8-101-9 authorize the Department to inspect a school or its training equipment for adequacy “at any time.”

C. DOES THE STATE REQUIRE REGULAR REVIEWS OF PRIVATE POSTSECONDARY APPROVAL TO OPERATE?

13.3/20 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Mandatory			Discretionary	None
	Every 2 years or less	Every 3-5 years	Over 5 years	Discretion to conduct onsite reviews	No onsite review specified
Type 1	20 Points	15 Points	10 Points	5 Points	0 Points
Type 2	20 Points	15 Points	10 Points	5 Points	0 Points
Type 3	20 Points	15 Points	10 Points	5 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. HRS § 305J-10 requires a private college or university that is authorized pursuant to HRS § 305J-8 and maintains its accreditation to apply to the Department for reauthorization every two years.

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii law does not require unaccredited degree-granting postsecondary institutions to undergo any initial or subsequent review process.

Type 3: Private trade, vocational, or technical schools. Hawaii Administrative Rule § 8-101-3 provides that an initial license is valid for two years, after which a renewal application must be submitted; each renewal license shall be effective for two years.

D. DO THE CRITERIA FOR RENEWAL OF AUTHORIZATION MANDATE A REVIEW OF FACTORS ESSENTIAL TO ACADEMIC AND ETHICAL INTEGRITY?

1.7/20 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

8 of 8	7 of 8	6 of 8	5 of 8	4 of 8	3 of 8	2 of 8	1 of 8	0 of 8
20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
20 Points	17.5 Points	15 Points	12.5 Points	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Element:	Type 1	Type 2	Type 3
Admission requirements			
Graduation requirements			
Placement rate			
Completion rate (or graduation rate)			
Advertising practices	M		
Cohort default rate			

Accreditation status	M		
Financial aid policies			

M=Mandatory; D=Discretionary

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. HRS § 305J-11 provides that the Director may refuse to reauthorize a private college or university that, among other things, has failed to maintain accreditation or has engaged in false, fraudulent, or deceptive advertising.

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii law does not require unaccredited degree-granting postsecondary institutions to undergo any initial or subsequent review process.

Type 3: Private trade, vocational, or technical schools. Hawaii law does not mandate a review of any of the above items when renewing the license of a private trade, vocational, or technical school.

E. DOES THE STATE'S OVERSIGHT DISTINGUISH BETWEEN FOR-PROFIT AND NONPROFIT EDUCATIONAL INSTITUTIONS?

0/15 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, strongly distinguished	Yes, moderately distinguished	Yes, slightly distinguished	Not distinguished
Type 1	15 Points	10 Points	5 Points	0 Points
Type 2	15 Points	10 Points	5 Points	0 Points
Type 3	15 Points	10 Points	5 Points	0 Points

Explanation:

With regard to all three types of institutions, Hawaii law does not distinguish between for-profit and nonprofit schools.

F. DOES THE STATE REQUIRE INCREASED OVERSIGHT/SCRUTINY OF PRIVATE POSTSECONDARY INSTITUTIONS BASED ON POOR PERFORMANCE?

2.5/10 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, mandatory but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 2	10 Points	7.5 Points	5 Points	2.5 Points	0 Points
Type 3	10 Points	7.5 Points	5 Points	2.5 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. Pursuant to HRS § 305J-10, if a private college or university is under a sanction from its accrediting body at the time that it submits its application for reauthorization, the Director may, among other things, grant probationary approval of the reauthorization, with specific conditions that must be met.

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii law does not require increased oversight or scrutiny of degree-granting unaccredited post-secondary institutions based on poor performance.

Type 3: Private trade, vocational, or technical schools. Pursuant to Hawaii Administrative Code § 8-101-11, the Department may revoke, suspend, or not renew a school’s license because of the school’s failure to comply with applicable law.

G. DOES STATE LAW INCLUDE ANY SPECIAL PROTECTIONS FOR VETERANS WHO ATTEND PRIVATE POSTSECONDARY INSTITUTIONS?

0/20 POINTS

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 Points	0 Points
Type 2	20 Points	0 Points
Type 3	20 Points	0 Points

Explanation:

With regard to all three types of institutions, Hawaii law does not include any special protections for veteran students beyond the protections and procedures expressly required by federal law.

III. STATE OVERSIGHT—SCOPE AND INCLUSION:

83.3/100 POINTS

A. ARE EXEMPTIONS TO STATE OVERSIGHT COVERAGE LIMITED?

83.3 /100 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	No exemptions	Few exemptions	Moderate exemptions	Broad exemptions
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points
Type 3	100 Points	75 Points	50 Points	0 Points

Explanation:

The oversight schemes for all three types of institutions contain various common-sense exemptions for which no points were deducted (e.g., schools and educational programs conducted by firms, corporations,

or persons for the training of their own employees; apprentice or other training programs provided by labor unions to union members or union applicants for membership; and schools, courses of instructions, or courses of training that are offered by a vendor to the purchaser of the vendor’s product, when the objective of the school or course is to enable the purchaser to gain skills and knowledge which enable the purchaser to use the product).

Type 1: Degree-granting, accredited postsecondary institutions. In addition to the common-sense exemptions noted above, the oversight scheme for accredited degree-granting institutions also expressly exempts schools and educational programs that offer courses of instruction exclusively through online and distance education (although provisions for unaccredited degree-granting institutions would purportedly pertain to such institutions that provide online or distance education).

Type 2: Degree-granting, unaccredited postsecondary institutions. Only the common-sense exemptions noted above were identified, so no points were deducted for Hawaii’s oversight of degree-granting, unaccredited postsecondary institutions.

Type 3: Private trade, vocational, or technical schools. In addition to the common-sense exemptions noted above, the oversight scheme for private trade, vocational, or technical schools also exempts classes or courses of instruction that are conducted for 20 or less class sessions during any 12-month period and classes conducted for less than 5 students at one and the same time.

IV. DISCLOSURE REQUIREMENTS: **5/100 POINTS**

A. ARE INSTITUTIONS REQUIRED TO DISCLOSE INSTITUTIONAL PERFORMANCE MEASURES TO POTENTIAL STUDENTS?

0/20 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, mandatory	Yes, discretionary	None
	Fact sheet or equivalent required to be given to students	Fact sheet or equivalent given to students upon request	No fact sheet required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points
Type 3	20 Points	10 Points	0 Points

Explanation:

None of the three types of schools are required to disclose institutional performance measures to prospective students. Although not related to institutional performance measures, HRS § 446E-2 does require that Type 2 schools disclose in all catalogs, promotional materials, and contracts for instruction, the fact that they are not accredited by any nationally recognized accrediting agency listed by the U.S. Secretary of Education.

Also, § 8-101-3(h) of the Hawaii Administrative Rules requires Type 3 schools to prepare and make available for distribution to prospective students and other interested persons, a brochure containing “essential information about the school and the courses of instruction it offers” (e.g., entrance requirements, schedule of all charges, length of each course, the school’s policy on, among other things,

the refund of tuition and other fees collected, student loans or financing plans, and placement services), but none of that information pertains to the institution’s performance.

B. WHICH INSTITUTIONAL PERFORMANCE DISCLOSURES ARE REQUIRED TO BE GIVEN TO STUDENTS PRIOR TO ENROLLMENT?

0/60 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

Type 1: Degree-granting, accredited postsecondary institutions

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods/sources used to calculate	10 Points	5 Points	0 Points

Type 2: Degree-granting, unaccredited postsecondary institutions

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods/sources used to calculate	10 Points	5 Points	0 Points

Type 3: Private trade, vocational, or technical schools

Disclosures	Mandatory	Discretionary	Not specified
Cohort default rate (CDR)	10 Points	5 Points	0 Points
Graduation / completion rates	10 Points	5 Points	0 Points
Placement rates	10 Points	5 Points	0 Points
Wage information	10 Points	5 Points	0 Points
License exam passage rates	10 Points	5 Points	0 Points
Methods/sources used to calculate	10 Points	5 Points	0 Points

C. DOES THE STATE REQUIRE SCHOOLS TO DISCLOSE ELEMENTS ESSENTIAL TO STUDENT PROTECTION PRIOR TO ENROLLMENT OR IN THE ENROLLMENT CONTRACT?

5/20 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

Type 1: Degree-granting, accredited postsecondary institutions

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

Type 2: Degree-granting, unaccredited postsecondary institutions

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

Type 3: Private trade, vocational, or technical schools

Element description	Mandatory	Discretionary	Not specified
Total cost of program	5 Points	2.5 Points	0 Points
Refund information	5 Points	2.5 Points	0 Points
Transferability of credits	5 Points	2.5 Points	0 Points
Length of program	5 Points	2.5 Points	0 Points

Explanation:

Although Hawaii law does not require Type 1 or Type 2 schools to provide such information, Hawaii Administrative Rule § 8-101-3(n) requires private trade, vocational, or technical schools to prepare and make available a brochure or catalog containing specified information, including a schedule of all charges; the school’s policy on refund of tuition and other fees collected; and the length of each course.

V. REGULATION OF RECRUITING PRACTICES:

66.7/100 POINTS

A. HAS THE STATE PUT INTO LAW A LIST OF PROHIBITED ACTS REGARDING ADVERTISING AND RECRUITING?

66.7/100

	Yes, strong regulation	Yes, moderate regulation	Yes, weak regulation	No list of prohibited acts
Type 1	100 Points	75 Points	50 Points	0 Points
Type 2	100 Points	75 Points	50 Points	0 Points
Type 3	100 Points	75 Points	50 Points	0 Points

PROHIBITED ACTS

Included in list of prohibited acts	Type 1	Type 2	Type 3
Misleading representations using the word “college” or “university”	X		
Misleading institution affiliations (e.g., military, public institution, business)	X	X	X
Promise of employment			X
Compensation for enrollment			
Compensation or “bounty” to recruiters			
Deception (broad prohibition)	X		X
Misrepresentation (broad Prohibition)	X		X
Misleading representations re: accreditation	X	X	

1-3=Weak; 3.5-6=Moderate; 6.5-8=Strong

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. HRS § 305J-11 provides that the Director may refuse to reauthorize, reinstate or restore, or may deny, revoke, suspend, or condition in any manner a school’s authorization for, among other things, engaging in false, fraudulent, or deceptive advertising, or making untruthful or improbable statements. It also provides that it shall be a violation of the law for a private college or university or its agent to 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; to adopt a name, trade name or trademark that represents false, directly or by implication, the quality, scope, nature, size, or integrity of the private college or university; or to 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.

Type 2: Degree-granting, unaccredited postsecondary institutions. HRS § 446E-5 provides, among other things, that no unaccredited institution shall indicate or suggest that the state licenses, approves or regulates its operations, nor shall it disclose in any catalog, promotional material or written contract for instruction that it has applied for future accreditation.

Type 3: Private trade, vocational, or technical schools. Hawaii Administrative Rule § 8-101-7 provides, among other things, that a school’s license shall be revoked if it engages in unfair or deceptive acts or practices as defined by law; a school may not advertise that it is endorsed by business establishments, organizations or individuals engaged in the kind of work for which training is given unless substantiating evidence is filed with the department; a school, or its representatives, shall not advertise that it guarantees or implies to guarantee, employment to its students or graduates, nor shall a school advertise that students or graduates will receive a definite wage per hour, per day, per week or per month; and a school shall not advertise or claim that it will completely train students in any given length of time.

VI. COMPLAINT PROCESS AND RELIEF FOR STUDENTS:

31.26/100 POINTS

A. DOES THE STATE REQUIRE A BOND OR FUND
AS A CONDITION OF AUTHORIZATION?

8.9/20 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	No
Type 1	20 6.67 Points	0 Points
Type 2	20 Points	0 Points
Type 3	20 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. HRS § 305J-14 provides that a private college or university shall provide evidence of financial integrity at the time of its application for authorization by meeting one of three specified criteria; however, only one of those three criteria involves the filing of a surety bond in favor of the state in a specified amount. Thus, Hawaii receives partial credit (one-third of the total possible points).

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii law does not require that degree-granting unaccredited post-secondary institutions file a bond as a condition of authorization.

Type 3: Private trade, vocational, or technical schools. Hawaii Administrative Rule § 8-101-3(a)(15) requires a school to submit, along with its application for licensure, a surety bond in the sum of \$50,000, payable in a form satisfactory to the Department, to provide indemnification to any student who suffers loss as a result of the school not fulfilling its obligations under the terms of its license. However, the bonding requirement may be reduced at the discretion of the Department upon a showing by the school that the requirement is excessive and at no time do advance collections from the students amount to \$50,000, in which case the bond requirement would be reduced according to a specified schedule.

B. DOES THE STATE REQUIRE A REFUND OF TUITION IF A STUDENT ENROLLS AS THE RESULT OF MISREPRESENTATION?

3.33/20 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	No refund required
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points
Type 3	20 10 Points	10 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. Hawaii law does not explicitly require a refund of tuition if a student enrolls as the result of misrepresentation.

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii law does not explicitly require a refund of tuition if a student enrolls as the result of misrepresentation.

Type 3: Private trade, vocational, or technical schools. Hawaii Administrative Rule § 8-101-8 requires that if an authorized course for which students are registered does not start on the date advertised, enrollees shall be entitled to a refund of all tuition and fees collected. However, Hawaii law does not explicitly require a refund of tuition if the student enrolls as the result of any other types of misrepresentation. Thus, Hawaii is receiving partial credit (10 of the possible 20 points).

C. DOES THE STATE REQUIRE INSTITUTIONS TO REFUND TUITION IN THE EVENT OF CLOSURE?

3.33/20 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, full refund	Yes, partial refund	Yes, refund in limited circumstances	No refund required
Type 1	20 Points	15 Points	10 Points	0 Points
Type 2	20 Points	15 Points	10 Points	0 Points
Type 3	20 Points	15 Points	10 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. Hawaii law does not explicitly require institutions to refund tuition in the event of insolvency. However, HRS § 305J-15(b) provides that if a private college or university ceases operation, the Director may make demand on the surety bond upon the demand for a refund by a student or the parent or legal guardian of a student, and the principal on the surety bond shall pay the claim due in a timely manner. If the amount of the surety bond is less than the total prepaid, unearned tuition and fees that have been paid by students at the time the private college or university ceases operation, the Department shall prorate the amount of the surety bond among the students. However, as noted above, not all colleges and universities are required to post a surety bond.

HRS § 305J-15(g) provides that if a private college or university ceases to operate in the state, the department of the attorney general may file a claim against the private college or university to recover restitution for the enrolled students of the private college or university.

Type 2: Degree-granting, unaccredited postsecondary institutions. Hawaii law does not explicitly require a refund of tuition in the event of insolvency.

Type 3: Private trade, vocational, or technical schools. Hawaii law does not explicitly require a refund of tuition in the event of insolvency.

D. DOES THE STATE ALLOW STUDENTS AMPLE TIME TO MAKE A COMPLAINT?

6.7/10 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	2 years or more (or no deadline)	Up to 1 year	Less than 1 year	Not applicable
Type 1	10 Points	5 Points	1 Point	0 Points
Type 2	10 Points	5 Points	1 Point	0 Points
Type 3	10 Points	5 Points	1Point	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. HRS § 305J-17 provides that a student or former student of a private college or university may file a complaint with the Department concerning the institution at which the student is or was enrolled; provided that if a former student files a complaint,

the complaint shall be filed within two years after the former student discontinued enrollment at the institution.

Type 2: Degree-granting, unaccredited postsecondary institutions. Though Hawaii has a generic complaint process available to consumers through the Office of Consumer Protection (<http://cca.hawaii.gov/ocp/files/2015/08/OCP-Complaint-Form.pdf>), Hawaii law does not set forth a complaint process specific to degree-granting, unaccredited postsecondary institutions. Because there is no process specific to these institutions, the state receives no credit for this element as it relates to degree-granting, unaccredited postsecondary institutions.

Type 3: Private trade, vocational, or technical schools. HRS §8-101-10, which sets forth the process for filing a formal complaint with regard to a private trade, vocational, or technical school, does not specify a time by which a complaint must be submitted.

E. DOES THE STATE REQUIRE INSTITUTIONS TO DISCLOSE INFORMATION ABOUT FILING A COMPLAINT WITH THE STATE OVERSIGHT BODY?

5/20 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

Type 1: Degree-granting, accredited postsecondary institutions.

Medium	Yes	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

Explanation:

Hawaii put in place regulations in July 2017 which require institutions to establish and sustain a complaint procedure that includes clearly understood and published processes for a student to lodge a complaint within the institution, to the department, and to the institution's accrediting agency, if applicable. Information on the complaint procedure shall be reasonably accessible and at a minimum, shall be found in each institution's official catalog and website. **Hawaii Administrative Rules § 16-255-5**

Type 2: Degree-granting, unaccredited postsecondary institutions.

Medium	Yes	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

Explanation:

Hawaii law does not require degree-granting, unaccredited postsecondary institutions to disclose information about filing a complaint with the state oversight body.

Type 3: Private trade, vocational, or technical schools.

Medium	Yes	Discretionary	Not specified
Catalog	10 Points	5 Points	0 Points
Website	5 Points	2.5 Points	0 Points
Enrollment contract	5 Points	2.5 Points	0 Points

Explanation:

Hawaii law does not require private trade, technical, or vocational schools to disclose information about filing a complaint with the state oversight body.

F. IS THE COMPLAINT PROCESS READILY ACCESSIBLE AND AVAILABLE ON THE STATE OVERSIGHT BODY'S WEBSITE?

4/10 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, with address	Yes, with phone #	Yes, with email address	Yes, with electronic form	No
Type 1	2 Points	2 Points	3 Points	3 Points	0 Points
Type 2	2 Points	2 Points	3 Points	3 Points	0 Points
Type 3	2 Points	2 Points	3 Points	3 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. With regard to degree-granting, accredited postsecondary institutions, the student complaint process is available at <http://cca.hawaii.gov/hpeap/student-complaint-process/> and an electronic form is available at <http://cca.hawaii.gov/hpeap/forms/student-forms/>.

Type 2: Degree-granting, unaccredited postsecondary institutions. The Office of Consumer Protection, which oversees laws applicable to degree-granting, unaccredited postsecondary institutions, has a generic complaint process available at <http://cca.hawaii.gov/ocp/files/2015/08/OCP-Complaint-Form.pdf>. However, it is unclear how many students know or will readily determine that the Office of Consumer Protection is the body that oversees this type of institution, since the Office does not require the registration or licensing of these institutions.

Type 3: Private trade, vocational, or technical schools. The Hawaii Department of Education administers the licensure of private trade, vocational, and technical schools. However, information about the complaint process is not readily available on the Department's website.

VII. ENFORCEMENT: 53.3/100 POINTS

A. IS THERE LOSS OF STATE AID FOR SCHOOLS THAT REPEATEDLY PRODUCE SUBSTANDARD GRADUATION RATES, JOB PLACEMENT RATES, AND/OR COHORT DEFAULT RATES?

0/30 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes, required	Yes, required but limited	Yes, discretionary	Yes, discretionary but limited	No
Type 1	30 Points	20 Points	15 Points	5 Points	0 Points
Type 2	30 Points	20 Points	15 Points	5 Points	0 Points
Type 3	30 Points	20 Points	15 Points	5 Points	0 Points

Explanation:

With regard to all three types of institutions, Hawaii law does not provide for the loss of state aid for schools with consistently poor graduation rates, job placement rates, and/or cohort default rates.

B. DOES STATE LAW EXPLICITLY AUTHORIZE A PRIVATE RIGHT OF ACTION FOR STUDENTS AGAINST INSTITUTIONS THAT HAVE VIOLATED THE LAWS AND REGULATIONS IN PLACE TO GOVERN THEM?

20/30 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	30 Points	15 Points	0 Points
Type 2	30 Points	15 Points	0 Points
Type 3	30 Points	15 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. Chapter 305J does not explicitly state that any person who violates its terms shall be deemed to have engaged in an unfair or deceptive act or practice; however, because a student might still be able to prove such a violation, it appears that in limited circumstances such a private right of action exists.

Type 2: Degree-granting, unaccredited postsecondary institutions. HRS § 446E-3 explicitly states that any person who violates Chapter 446E shall be deemed to have engaged in an unfair or deceptive act or practice pursuant to HRS § 480-2, thus giving individual students or graduates the right under HRS § 480-13 to file lawsuits or class actions against private schools for unfair or deceptive acts or practices.

Type 3: Private trade, vocational, or technical schools. Hawaii law does not explicitly state that any person who violates statutes or regulations applicable to private trade, vocational, or technical schools terms shall be deemed to have engaged in an unfair or deceptive act or practice; however, because a student might still be able to prove such a violation, it appears that in limited circumstances such a private right of action exists.

C. DOES STATE LAW EXPLICITLY ALLOW ATTORNEY FEE AWARDS FOR STUDENTS WHO PREVAIL IN LITIGATION AGAINST PRIVATE FOR-PROFIT POSTSECONDARY INSTITUTIONS?

20/20 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	Limited	No
Type 1	20 Points	15 Points	0 Points
Type 2	20 Points	15 Points	0 Points
Type 3	20 Points	15 Points	0 Points

Explanation:

With regard to all three types of institutions, HRS § 480-13 generally requires an award of attorney fees to plaintiffs who successfully challenged an institution’s unfair or deceptive acts or practices declared unlawful in HRS § 480-2.

D. DOES STATE LAW EXPLICITLY AUTHORIZE ATTORNEY GENERAL INVOLVEMENT?

13.3/20 POINTS*

**points for Type 1, Type 2, and Type 3 schools have been averaged to calculate the above score*

	Yes	Limited circumstances	No
Type 1	20 Points	10 Points	0 Points
Type 2	20 Points	10 Points	0 Points
Type 3	20 Points	10 Points	0 Points

Explanation:

Type 1: Degree-granting, accredited postsecondary institutions. HRS § 305J-5 explicitly provides that the Director, acting through the Department of the Attorney General, may proceed by injunction against any violation of this chapter, but an injunction proceeding or an order issued therein or as a result thereof shall not bar the imposition of any other penalty for a violation of this chapter.

Type 2: Degree-granting, unaccredited postsecondary institutions. Chapter 446E does not explicitly authorize prosecution for violations of its provisions; however, because such prosecutions might be brought pursuant to other provisions, it appears that such involvement is authorized in limited circumstances.

Type 3: Private trade, vocational, or technical schools. Hawaii law specifically pertaining to private trade, vocational, or technical schools does not explicitly authorize Attorney General involvement; however, because such prosecutions might be brought pursuant to other provisions, it appears that such involvement is authorized in limited circumstances. Also, some prosecutorial involvement is explicitly authorized by HRS § 302A-428, which states that any person, firm, or corporation that violates sections 302A-424 to 302A-428 shall be guilty of a misdemeanor, but shall be subject to a maximum fine of not more than \$ 100 or imprisonment for not more than ninety days, or both.

BONUS POINTS:

Hawaii receives no bonus points.



ILLUMINATING INFORMATION



RECENT LEGISLATION / RULEMAKING

In June 2015, the Hawaii State Senate passed Senate Concurrent Resolution 46, which requests the Department of Education (DOE) and the Department of Commerce and Consumer Affairs (DCCA) to convene a working group to evaluate the licensure of private trade, vocational, and technical schools. Among other things, the resolution states that

- the purpose of the licensing and regulation of such schools is to protect consumers against false, deceptive, misleading, or unfair practices and to ensure adequate educational quality at private trade, vocational, and technical schools;
- DOE is unable to effectively administer the licensure of private trade, vocational, and technical schools due to its lack of understanding and expertise regarding the specialized curricula offered at these schools and lack of experience in providing post-secondary education and overseeing post-secondary institutions;
- DCCA's primary responsibility is to protect consumers and it has experience in the licensure of professions and businesses, and a number of trades and vocations now receive state licensure for business operations through DCCA;
- the possible impact on existing schools and students that would result from the establishment of alternative licensing program structures for the various private trade, vocational, and technical schools in the State requires further consideration, including any potential fee increases from changes to the DOE's long-standing licensing fee structure that would result from a program restructuring; and
- the Legislature is committed to improving the licensure process for private trade, vocational, and technical schools in the State of Hawaii, which may include the establishment of alternative licensure structures or models.

To that end, the Resolution requests DOE and DCCA, in collaboration with existing licensed private trade, vocational, and technical schools in Hawaii, to convene a working group to, among other things,

- evaluate and review the state's current licensing program for private trade, vocational, and technical schools, and to consider alternative licensing program structures or models that are in the best interest of private trade, vocational, and technical schools and for students;
- consider licensure procedures that protect consumers from false, deceptive, misleading, and unfair practices at private trade, vocational, and technical schools and ensure adequate educational quality at these schools;
- examine potential impacts to private trade, vocational, and technical schools and their students resulting from changes in fees or related licensing costs associated with a new licensing system; and
- submit a report of findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2016.

In 2013, the Hawaii State Legislature considered House Bill No. 1200, which would have established the State Post-Secondary Education Commission within DCCA; effective July 1, 2015, the Commission would have been charged with overseeing the post-secondary authorization program of unaccredited

degree-granting institutions pursuant to Chapter 446E, HRS. In conjunction with its consideration of that measure, the Legislature passed Senate Concurrent Resolution 119, requesting that the Hawaii State Auditor conduct a sunrise analysis of the bill.

In January 2014, the Auditor released its report, *Sunrise Analysis: Regulation of Unaccredited Degree Granting Institutions* (Report No. 14-03), which concluded that HB 1200 is not needed to comply with the Higher Education Act of 1965. The Auditor also found that the proposed regulation is unwarranted, and that the measure had several flaws. For example, it did not specify a regulatory framework; that is, it does not state whether it would require licensure, certification, or registration for unaccredited degree granting institutions. The Auditor found the cost of regulation would be prohibitive, at nearly twice the fees for accredited institutions. These costs would likely translate to higher costs for consumers and restrict entry into the field for other unaccredited institutions. Also, the Auditor noted that while there had been numerous complaints against unaccredited degree granting institutions, these have declined considerably in recent years, from a peak of 239 in 2005 to one in 2013. Following the release of the Auditor's report, the Legislature took no further action on HB 1200.

RECIPROCITY AGREEMENTS

Hawaii is a member of the State Authorization Reciprocity Agreements (SARA).

LITIGATION, INVESTIGATIONS, AND ACTIONS INVOLVING PRIVATE FOR-PROFIT EDUCATIONAL INSTITUTIONS IN HAWAII

For a listing of Hawaii Office of Consumer Protection enforcement actions against unaccredited degree granting institutions from 1997–2012, see Hawaii State Auditor, *Sunrise Analysis: Regulation of Unaccredited Degree Granting Institutions* (Report No. 14-03) at Appendix A (available at <http://files.hawaii.gov/auditor/Reports/2014/14-03.pdf>).

For more information about pending and recent federal and state government investigations and actions regarding for-profit colleges see David Halperin's compilation at <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges/#sthash.1vc4HmPw.dpuf>.

