



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS (DCCA)

HAWAII POST-SECONDARY EDUCATION AUTHORIZATION PROGRAM (HPEAP)

Pursuant to Hawaii Revised Statutes (HRS) §305J-6(a), the department shall administer the provisions of this chapter and any administrative rules, policies, and procedures adopted by the director. The following Hawaii State Authorization Reciprocity Agreement policies are hereby adopted and are effective on such date as the Western Interstate Commission for Higher Education's State Authorization Reciprocity Agreement Steering Committee should approve Hawaii's membership in the State Authorization Reciprocity Agreement program.

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

HAWAII STATE AUTHORIZATION RECIPROcity AGREEMENT POLICIES

I. Background

HRS Chapter 304A-3201 states that the State of Hawaii has declared its adherence to the Western Regional Education Compact. As provided in HRS §304A-3202, Article III of the Western Regional Education Compact established the Western Interstate Commission for Higher Education (WICHE). Per HRS §304A-3201.6, the Hawaii WICHE was established within the University of Hawaii for administrative purposes only.

Pursuant to HRS §305J-1, there is established a post-secondary education authorization program to be administered by the director of commerce and consumer affairs.

Pursuant to HRS §305J-16, 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.

Therefore, the director has the authority to enter into an agreement, on behalf of the State of Hawaii, to join the WICHE State Authorization Reciprocity Agreement (W-SARA). The state portal agency is the department's Hawaii Post-Secondary Education Authorization Program (HPEAP).

II. Participation and Policy Requirements Adopted

The director adopts and incorporates herein the participation requirements set forth in the W-SARA document published on November 1, 2013 and the "SARA Policies and Standards" of the National Council for State Authorization Reciprocity Agreements (NC-SARA). The director notes in particular the department's adoption of the physical presence standards as provided in these two documents.

III. State and Institutional Requirements Under W-SARA

A. Applications. Accredited degree-granting post-secondary educational institutions which operate from a principal campus or central administrative unit domiciled in Hawaii and which are authorized under HRS Chapter 305J may apply to HPEAP for approval to deliver distance education programming to students residing in other SARA member states. Institutions that seek participation in SARA may do so by submitting an application in the form required under NC-SARA. Institutions, including any seminary or religious training institution as defined in HRS §305J-2, shall provide documentation that they are accredited by a federally-recognized accrediting agency.

Institutions must also demonstrate they are in compliance with the financial integrity requirements under W-SARA and HRS Chapter 305J of having a federal composite financial responsibility score of at least 1.5. Seminaries or religious training institutions shall also demonstrate financial integrity per W-SARA.

Institutions that have a federal composite financial responsibility score between 1.0 to 1.5 may be considered for conditional approval as described in W-SARA.

However, it is up to HPEAP to determine, at its discretion, if the institution's financial condition is sound.

Institutions shall also provide the following in their applications:

- Documentation demonstrating compliance with the provisions of the Council of Regional Accrediting Commissions (C-RAC) "Interregional Guidelines for the Evaluation of Distance Education (Online Learning)";
- Documentation informing students whether courses or programs potentially leading to professional licensure actually meet state licensing requirements. Each institution shall determine whether the course or program meets the requirements for licensure in the state where the student resides and provide that information in writing. If the institution cannot confirm whether the course or program meets requirements for professional licensure in the student's state, it shall provide current contact information for any applicable licensing boards and advise the student to determine whether the program meets licensure requirements;
- Documentation of its complaints process. Institutions shall provide students enrolled in courses under SARA provisions, its complaint resolution policies and procedures in writing. Each institution shall also provide students with contact information for HPEAP's complaints process if the student is not satisfied with the outcome of the institutional process. The information provided should include that the complaint must be filed with HPEAP within two years of the incident about which the complaint is made; and
- Documentation of its disaster recovery plan. Institutions shall provide to HPEAP a written plan that assures students will receive services for which they have paid or reasonable financial compensation for those not received in the event of an unanticipated closure of the institution. The plan shall include procedures to preserve student records and to provide student records in the form prescribed by the director.

B. Complaints Process The department's student complaints process is provided in HRS §305J-17 and Act 34, SLH 2015. Complaints regarding student grades or student conduct violations are governed by institutional policy. The director notes specifically, per HRS §305J-17(c), the department does not have jurisdiction to consider complaints that infringe on the academic or religious freedom of, or question the curriculum content of an institution. However, complaints reviewable under SARA include allegations by a distance education student of harm caused because an

institution operated contrary to practices set forth in the C-RAC guidelines. Further, per HRS §305-17(b), the department may investigate complaints of possible violations of the chapter or rules based on any information the department receives concerning possible violations.

When a complaint is made to the department, HPEAP shall notify the SARA portal agency for the state in which the student is located of receipt of the complaint. It is expected that the other SARA state will try to facilitate the resolution of any complaint. If the department is notified by a SARA portal agency in another state of a complaint filed by a Hawaii student, the department will try to facilitate the resolution of any complaint.

C. Disaster Recovery Plan. Pursuant to HRS §305J-13 and the School Closure Policy adopted by the director, if an institution ceases to operate, the student transcripts and other requested records, if any, are to be deposited in an electronic form to the department. Specifically, the director prescribes that student transcript records shall be deposited electronically as either PDF files which are the actual printable students transcripts or tab delimited text files.

In the unanticipated closure of an institution, the department may request assistance from the institution's accreditor as the accreditor applies its standards under 34 CFR §602.24(c) (see Appendix A) of federal requirements for catastrophic events. The department's provisions that address claims against an institution if it ceases to operate can be found in HRS §305J-15. The department shall apply its policies and procedures for catastrophic events consistently and equally within each sector to residents of any state.

D. Reporting. Institutions shall annually submit to the NC-SARA any data requested by NC-SARA, including the number of students enrolled in the institution via distance education delivered outside the state, reported by state, territory, or district in which the students reside. Institutions shall also submit reports as HPEAP may request on occasion to respond to inquiries from SARA authorities in other states, WICHE, or NC-SARA.

The department shall comply with any requirements for reporting to NC-SARA the number and disposition of complaints.

E. Fees. Institutions shall pay to NC-SARA the annual SARA participation fee as required by NC-SARA.

Institutions shall also pay to the department an annual fee to cover the department's cost of administering SARA. This fee will be established after Hawaii receives approval to join SARA. The department may establish a surety bond requirement if it determines it is needed to better protect consumers.

APPENDIX A

(c) *Teach-out plans and agreements.*

(1) The agency must require an institution it accredits or preaccredits to submit a teach-out plan to the agency for approval upon the occurrence of any of the following events:

(i) The Secretary notifies the agency that the Secretary has initiated an emergency action against an institution, in accordance with section 487(c)(1)(G) of the HEA, or an action to limit, suspend, or terminate an institution participating in any title IV, HEA program, in accordance with section 487(c)(1)(F) of the HEA, and that a teach-out plan is required.

(ii) The agency acts to withdraw, terminate, or suspend the accreditation or preaccreditation of the institution.

(iii) The institution notifies the agency that it intends to cease operations entirely or close a location that provides one hundred percent of at least one program.

(iv) A State licensing or authorizing agency notifies the agency that an institution's license or legal authorization to provide an educational program has been or will be revoked.

(2) The agency must evaluate the teach-out plan to ensure it provides for the equitable treatment of students under criteria established by the agency, specifies additional charges, if any, and provides for notification to the students of any additional charges.

(3) If the agency approves a teach-out plan that includes a program that is accredited by another recognized accrediting agency, it must notify that accrediting agency of its approval.

(4) The agency may require an institution it accredits or preaccredits to enter into a teach-out agreement as part of its teach-out plan.

(5) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, to submit that teach-out agreement for approval. The agency may approve the teach-out agreement only if the agreement is between institutions that are accredited or preaccredited by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that—

(i) The teach-out institution has the necessary experience, resources, and support services to—

EXHIBIT 2

(A) Provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the institution that is ceasing operations either entirely or at one of its locations; and

(B) Remain stable, carry out its mission, and meet all obligations to existing students; and

(ii) The teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances and that it will provide students with information about additional charges, if any.