



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

Tuesday, March 12, 2013, 2:00 PM
State Capitol Room 309

Testimony of
Policy Office of the Governor, State of Hawaii

To the House Committee on Higher Education
Representative Isaac Choy, Chair, Higher Education Committee
Representative Linda Ichiyama, Vice Chair, Higher Education Committee

SB 46_SD 2 - Relating to Education

Chair Choy, Vice Chair Ichiyama, and Committee Members:

Thank you for the opportunity to testify in support of Senate Bill 46, Senate Draft 2 (SB 46_SD2). The bill would establish the postsecondary education commission within the Department of Commerce and Consumer Affairs (DCCA) and create a framework for authorizing private postsecondary educational institutions in the State.

The U.S. Department of Education (ED) administers the Higher Education Act (HEA) of 1965, reauthorized as the Higher Education Opportunity Act in 2008. Federal financial aid for students provides grants, loans and work study programs and is part of the Title IV program of the HEA. In 2010, ED established new federal regulations requiring states to "legally authorize" postsecondary institutions within their state and requiring postsecondary institutions to be authorized in states in which they operate in order to qualify for Title IV student financial aid. ED's objective is to ensure "program integrity" of postsecondary institutions in order to protect students from substandard institutions, referred to as "diploma mills."

It is critical that the Legislature establish the state authorization process this year. The state must meet the ED deadline to modify or establish procedures to authorize postsecondary institutions by July 1, 2013. Failing to establish an authorization process puts Title IV federal financial assistance for college students at risk. According to a 2012 State Auditors report, more than 63,000 Hawaii students attending 35 postsecondary institutions received \$283.6 million in Title IV assistance in Fiscal Year 2011.

Since Hawaii does not have a process for authorizing postsecondary institutions, Governor

Neil Abercrombie has notified ED of the state's good faith effort to establish a process and requested an extension to July 1, 2013 in order to meet the requirements for "state authorization." The U.S. Department of Education (ED) sent the Governor a letter dated January 23, 2013 (attached) to remind the state that state authorization procedures need to be developed and implemented by July 1, 2013. The Governor's policy staff has been in contact with ED about legislation to bring the state into compliance.

The Governor's Policy Office continues to work closely with the Senate and House Higher Education Committee leaders, national organizations including the National Governors Association, Western Interstate Commission on Higher Education and Western Association of Schools and Colleges, and relevant state departments to establish a state policy framework, represented in SB 46_SD2. In addition, we continue to meet with Hawaii-based postsecondary institutions to provide information and solicit feedback about the state's plans for authorizing postsecondary institutions. Issues that need to be addressed in the House Draft 1 of this bill include fees and timelines and clarifying the definition of "physical presence."

Over the last two years, the Governor's Office has also worked with the Department of Commerce and Consumer Affairs (DCCA), University of Hawaii Board of Regents Office, and Board of Education to respond to more than 100 requests from institutions seeking authorization; in 2012, the Board of Regents Office responded to 75 requests from institutions. Based on the U.S. Department of Education's IPEDS reports that in 2010-11, Hawaii had 25 institutions qualified for federal Title IV (financial aid) including 10 public University of Hawaii institutions; presumably, these would be the minimum number of institutions seeking state authorization established by this bill.

SB 46_SD2 describes a process that meets the federal requirements, minimizes burden and cost on postsecondary institutions and state departments by meeting minimum requirements to participate in an inter-state reciprocity agreement, and protects Hawaii's residents who are consumers of higher education. Implementing SB 46_SD2 would allow Hawaii-based institutions, based on their authorization in Hawaii, to participate in inter-state reciprocity agreements, reducing institutions' burden and cost to obtain authorization in other states where they have satellite campuses or students taking on-line courses. Furthermore, it reduces the burden on the state's authorizing agency, DCCA as identified in SB 46_SD2, by allowing the state to participate in reciprocity agreements so that eligible out-of-state institutions may be recognized without seeking authorization in Hawaii.

Thank you for your attention to this matter.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
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DEPUTY DIRECTOR

**TO THE
HOUSE COMMITTEE ON
HIGHER EDUCATION**

**THE TWENTY-SEVENTH STATE LEGISLATURE
REGULAR SESSION OF 2013**

**Tuesday, March 12, 2013
2:00 p.m.**

**TESTIMONY ON S.B. NO. 46, S.D. 2
RELATING TO EDUCATION**

**TO THE HONORABLE ISAAC CHOY, CHAIR,
TO THE HONORABLE LINDA ICHIYMA, VICE CHAIR
AND MEMBERS OF THE COMMITTEE:**

My name is Jo Ann Uchida Takeuchi, Deputy Director of the Department of Commerce and Consumer Affairs ("Department"), testifying regarding Senate Bill No. 46, S.D.2. The Department opposes this bill in its current form, but understands that this draft is a work in progress.

Senate Bill No. 46, S.D 2 among other things repeals the existing post-secondary education commission within the University of Hawaii, establishes a new state post-

secondary commission with the Department, sets forth definitional terms, creates exemptions, establishes Commission and Department authority, establishes a complaints and enforcement process, creates a subaccount in the compliance resolution fund, establishes rulemaking authority, and provides for general and special fund appropriations. The majority of the bill takes effect upon approval.

The Department recognizes that the federal regulations that mandate affirmative state oversight of postsecondary schools became effective July 1, 2011 and that states have been granted additional time until July 1, 2013 to provide oversight. At stake is what the Legislative Auditor, in Report No. 12-11 ("report"), estimates as federal funding for around 63,000 Title IV recipients and \$283,646,517.00 in disbursements in the form of student loans and other assistance. The Auditor has estimated that 21 to 31 institutions in Hawaii may seek authorization in order to participate in federal student aid programs. (see, report at p. 20).

Given the department's lack of subject matter familiarity regarding post-secondary education (the report recommended that the commission remained housed at UH), the small licensee pool, and the requirement that programs within DCCA be self-sufficient, the department strongly urges this committee to narrowly tailor this bill to reduce unnecessary cost and complexity.

In comparing this S.D.2 with the House companion, H.B. 1200, H.D.2, it appears that the bills are very similar. The Department, however, urges the committee to

incorporate from the HD2, language that would authorize the department to staff-initiate complaints, especially relating to violations that would typically not be part of a student complaint. In addition, the Department suggests that the committee consider decoupling unfair or deceptive active or practice violations from licensing violations for purposes of this bill, and setting forth licensing violations and licensing sanctions as provided for in the HD2. The department also recommends that the committee consider regulation by way of a department program rather than through a commission in order to facilitate expeditious handling of authorization matters and to reduce costs, fine-tune the definition of "physical presence" in the bill to provide for unambiguous jurisdiction, clarify the extent to which the University of Hawaii will be subject to the complaints process set forth in the bill and the extent to which the University will be contributing to the self-funding of the program, provide for a mechanism for the program to confirm authorization status of those institutions that seek verification, including distance learning institutions, provide grounds for reauthorization and discipline as well as sanctions, provide for repeal through this bill of existing rules promulgated by the Post Secondary Education Commission through the University of Hawaii, provide for automatic suspension and probation in the event a school loses its accreditation or is placed on probation by its accrediting agency, provide for rulemaking to address retention of student transcripts of closed schools, and provide additional clarifying amendments.

Because the Department is uncertain how the program will be structured, and how many schools, including UH, will be included for purposes of its funding analysis, it is difficult for the department to meaningfully estimate the revenues that would be necessary to implement the law. The Department is mindful of the relatively small pool of licensees that will bear the cost of this regulation but is also aware that the federal government will rigorously monitor and enforce state authorization standards. The Department will need sufficient resources to provide meaningful oversight and consumer protection.

Thank you for the opportunity to written comments.



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**TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE
HOUSE COMMITTEE
ON
HIGHER EDUCATION**

March 12, 2013

2:00 p.m.

SB 46, SD2

RELATING TO EDUCATION.

Chair Choy, Vice-Chair Ichiyama, and committee members, thank you for the opportunity to testify on SB 46, SD2.

The State Procurement Office (SPO) opposes the amendment in SECTION 13 proposing HRS chapter 103D, the Hawaii Public Procurement Code (Code) shall not apply to the contracting of the implementation coordinator or team. SPO's testimony is limited to SECTION 13, page 57, lines 16 to 17 of the bill.

Since the inception of the Code in 1994, state and county departments and agencies have procured and awarded contracts totaling billions of dollars. Whether an expenditure was for construction of capitol improvement projects (CIP), or for goods and services to provide needed services to the public, billions of dollars have been awarded pursuant to the Code.

Today, state and county departments and agencies continue to adhere to the Code requirements in conducting their procurements to award contracts. For example, the City & County of Honolulu's rail construction project has and continues to procure and award contracts expending millions of dollars in accordance with the Code. The State Business and IT/IRM Transformation Plan under the management of the Chief Information Officer (CIO), Office of Information Management and Technology (OIMT), has identified areas needing IT services and new systems. The OIMT is currently in various stages of procurements for numerous solicitations and contracts amounting to millions of dollars in contract awards. All of these solicitations and resulting contract awards were and are conducted in accordance with the Code.

Governmental bodies following the Code which provides oversight and accountability, have a responsibility to maintain the confidence of the vendor/contractor community and the public in the procurement system, by conducting procurement in an accountable, ethical and transparent manner, which are vital to good government.

The Code is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, in the procurement and contracting process. Public procurement's primary objective is to give everyone equal opportunity to compete for government contracts; to prevent favoritism, collusion or fraud in awarding of contracts. The Code should not be viewed as an obstacle to DCCA's mission. To legislate that any one entity, the DCCA, should be exempt from compliance with HRS chapter 103D conveys a sense of disproportionate equality in the law's application.

SPO opposes the language in SECTION 13, page 57, lines 16 to 17 of the bill and ask that it be deleted. Thank you.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony presented before the
House Committee on Higher Education
March 12, 2013 at 2:00pm

By Linda K. Johnsrud

Executive Vice President for Academic Affairs & Provost, University of Hawai'i System

SB 46 SD2 – RELATING TO EDUCATION

Chair Choy, Vice Chair Ichiyama, and members of the Committee:

The University of Hawai'i supports SB 46 SD2 that establishes the post-secondary education commission within the Department of Commerce and Consumer Affairs (DCCA) to authorize post-secondary educational institutions to operate in the state, to maintain a listing of such institutions, and to act on complaints concerning these institutions. SB 46 SD2 addresses the requirements of the U.S. Department of Education regulations under Title IV of the Higher Education Act of 1965, as amended. The University appreciates the thoroughness of SB 46 SD2 in specifying the criteria for authorization of post-secondary institutions, for example, through accreditation status from a recognized national or regional body and demonstration of financial integrity. These provisions serve to protect authorized institutions as well as the public by delineating the basis for authorization.

Furthermore, it is the University's position that placing the authorization function outside the University of Hawai'i (UH) avoids the potential or the appearance of a conflict of interest were the state's sole public university to authorize private providers to operate within the state. The University is available to offer DCCA any expertise it may need regarding post-secondary educational institutions and on accreditation.

Again, we appreciate the thoughtfulness in SB 46 SD2 in addressing the U.S. Department of Education regulations, and thank you for the opportunity to testify.



House Committee on Higher Education

Tuesday, March 12, 2013; 2:00 p.m.

S.B. 46, SD2

Relating to Education

Testimony in Support

Chair Choy, Vice Chair Ichiyama and Members of the Committees, my name is Geoffrey Bannister, and I am President of Hawai'i Pacific University (HPU). HPU is a private, non-profit university with three campus locations: the Hawaii Loa campus on the windward side of the island, the downtown campus in Honolulu, and Oceanic Institute, an affiliate research facility at Makapu'u Point. We currently have more than 4,200 undergraduate and 1,000 graduate students, plus an additional 2,300 students matriculating through HPU's Military Campus Programs. I am proud to say, we are one of the most culturally diverse universities in America with the state's largest nursing, MBA and military servicing programs.

HPU supports SB 46, SD2 which establishes the post-secondary education commission within the Department of Commerce and Consumer Affairs (DCCA), creates the framework for authorizing private post-secondary educational institutions in the state, and creates the post-secondary education authorization subaccount of the compliance resolution fund.

In 2010, the U.S. Department of Education set a July 2011 deadline for institutions to comply with the requirement that states authorize post-secondary institutions. However, it recognized that states might be unable to provide authorizations by that date, and thus provided a means for institutions to be granted an authorization extension to as late as July 1, 2013. In the absence of an entity and framework for authorizing post-secondary institutions, Hawaii may become ineligible to receive Title IV federal funds, or student aid. During 2011-2012, students attending HPU received approximately \$43,000,000 in Title IV aid.

In discussions with some of the other private colleges and universities in Hawaii and the DCCA, we have reached a consensus as follows:

- **Post-secondary authorization would be a program within the DCCA as opposed to a commission.**

RATIONALE:

As a program with the director of the DCCA as its authority, the process of post-secondary education authorization would be streamlined and more cost-effective. A commission requires the appointment of members, convening of meetings and staff to assist in coordinating matters. Additionally, as time is of the essence, a program negates the necessity of commissioners being appointed on an interim basis. All applications for authorization will instead be reviewed and approved by the director.

- **References to unfair and deceptive acts would be deleted from the bill.**

RATIONALE:

References to unfair and deceptive acts are not appropriate for purposes of this bill, and would complicate its enforceability. Also, claims for unfair and deceptive acts give rise to the possibility of treble damages which should not be part of the authorization scheme.

- **The definition of physical presence would include institutions that maintain administrative offices or an institutional mailing address, street address or phone number in the state.** However, using the Nebraska statute as a model, the following types of educational instruction will be excluded from the definition of "physical presence":

an educational experience arranged for an individual student, such as a clinical, practicum, residency, or internship; or any of the following:

course offerings on a military installation solely for military personnel or civilians employed on such installation; or

course offerings in the nature of a short course or seminar if instruction for the short course or seminar takes no more than twenty classroom hours; or

courses offered online or through the United States mail or similar delivery service which do not require the physical meeting of a student with instructional staff.

RATIONALE:

There are private educational institutions that maintain administrative offices in Hawaii. These institutions reach out to and enroll local students. Unless these institutions are required to be authorized here, our local students would have no recourse except in the institution's home state. However, distance learning and other types of short courses should be excluded as those are very limited in nature or provided only on a one-time basis.

- **DCCA would be allowed to prescribe through administrative rules the manner in which transcripts and other documents of institutions that cease operating in Hawaii are to be retained.**

RATIONALE:

We understand that transcripts and documents of institutions that cease operation can be very voluminous. To ease the burden upon the DCCA, it is necessary to allow the DCCA the flexibility to enact administrative rules to determine how such records are to be retained, including in digitized form.

We ask for your favorable consideration of our suggestions. Thank you for the opportunity to provide this testimony.

Contact: Linda Chu Takayama, Attorney at Law

Phone number: (808) 545-3060

Email: Ltakayama@hawaii.rr.com



Testimony Presented to the
House Committee on Higher Education
Tuesday, March 12, 2013 at 2:00 pm

by
Chaminade University of Honolulu President
Bro. Bernard J. Ploeger, SM, Ph.D.

SB 46 SD2
Relating to Education

Chairperson Choy, Vice Chair Ichiyama and members of the Committee on Higher Education:

Thank you for the opportunity to provide testimony in **support** of **SB 46 SD2** establishing the post-secondary education commission within the Dept. of Commerce and Consumer Affairs and repealing the sections establishing the commission within the University of Hawaii. The commission will have the power to authorize private post-secondary educational institutions in the state, will create a post-secondary education compliance resolution fund, and will make an appropriation to fund permanent positions in the DCCA.

It is imperative that action immediately be taken by the State of Hawaii to create such a commission. The purpose of this legislation is to bring Hawaii into compliance with Title IV changes issued by the U. S. Dept. of Education in October 2010. Without passage of this legislation, neither the state nor independent universities will be qualified to receive funding under the Higher Education Act of 1965.

Chaminade University of Honolulu supports this legislation to establish a post-secondary education commission within the DCCA because it already has the authority for consumer protection and is a neutral third-party in the educational community. We also would strongly support authorization to enable Hawaii to enter into reciprocity agreements with other states. Reciprocity agreements enable distance education providers to offer postsecondary education programs in other states without having to seek authorization from each of those states, thus reduction paperwork and costs.

Thank you for allowing us to submit this testimony.

Bro. Bernard J. Ploeger, SM
Bro. Bernard J. Ploeger, SM
Bro. Bernard
Bro. Bernard J. Ploeger, SM



Hawai'i State House Committee on Higher Education

Tuesday, March 12, 2013

Conference room 309; 2:00 p.m.

SB 46 SD2 – Relating to Education – In Support

Chair Choy, Vice Chair Ichiyama and members of the Committee,

The University of Phoenix supports SB 46 SD2 which would create a framework for authorizing post-secondary education institutions which operate within the state. This legislation, which is the culmination of a two-year process including a State Auditor's Sunrise Review, is critical to ensure that many higher education students in Hawai'i continue to have access to federal financial aid. University of Phoenix serves approximately 4,000 Hawai'i residents and has three physical locations in the state.

SB 46 SD2 addresses new federal regulations that require private colleges or universities to be legally authorized by a state for Title IV eligibility purposes. The state must have a process to review and appropriately act on complaints concerning the institution and the process must include enforcing applicable state laws.

At the time the U.S. Department of Education finalized these new regulations, it recognized the July 1, 2011 effective date may not be obtainable. Accordingly, Hawai'i requested and was granted extensions to July 1, 2013 and now must act to put in place acceptable procedures to meet the Department's oversight and approval requirements and authorize institutions by June 30, 2013. We sincerely appreciate the Committee's willingness to consider the legislation, given that the bill needs to be signed into law, a structure put in place and institutions authorized prior to July 1, 2013.

According to the December 2012 "Study of the Higher Education Act" from the Auditor of the state of Hawai'i, approximately **63,000 students** in the state received more than **\$283,000,000** in Title IV funds in fiscal year 2011. In the event the deadline is not met, a great number of college students in the state of Hawai'i are in jeopardy of losing the ability to participate in federal Title IV Federal Student Aid programs and, effectively, to continue their post-secondary education. Although we are not proponents of additional regulation, we understand the need to address the federal regulations to ensure Hawai'i's students remain eligible for Title IV funding and have been working with the Department of Commerce and Consumer Protection, Legislators and other private institutions on this measure. We feel this bill addresses the new federal regulations without being overly burdensome. Many of the updated provisions are similar to requirements we already comply with in other states.

If you have any questions please feel free to contact Joe Gregorich, Associate Vice President, State Government Affairs at 916.228.4495 or joseph.gregorich@apollogrp.edu or Chris Fagan at 602.557.8302 or Christopher.fagan@apollogrp.edu.

Thank you for the opportunity to testify in support of this measure.



To be presented to the House Committee of Higher Education

March 12, 2013; 2:00AM

Regarding SB46 SD2: "Relating to Education"

Testimony in Support with Comments

Chair Choy, Vice Chair Ichiyama, and Honored Members.

My name is Dr. Loren Cunningham, and I am the co-founder of the University of the Nations with Dr Howard V. Malmstadt. This university is an international interdenominational Christian organization and training institution, with more than 400 campuses operating in more than 140 countries and in 40 states including Hawaii. We are accredited by the Global Accreditation Association headquartered in Switzerland. We have been in operation in Hawaii since 1973, and the Kona campus was founded in 1978 (when we acquired the old Pacific Empress Hotel and golf course). We offer certificates and associate, bachelor and master's degrees to train missionaries, pastors, and others who will work in areas of study that strengthen the moral foundation in various spheres of society. At the Kona location alone we currently are training over 2,000 students per year from more than 60 countries.

The annual positive economic impact for West Hawaii from the UofN Kona, campus is more than \$15 million. The state and county also benefit from income, GET and property taxes with over 600 full time staff.

I understand the need for the state to comply with federal requirements for funding under the Higher Education Opportunity Act of 2008 and the 2010 federal regulations (Title 4), and what you propose in that area seems reasonable. Nevertheless, the bill, as written, seems to broaden the scope unnecessarily to include institutions not dependent upon Title 4 funding. The University of the Nations is one of these institutions. **We do not seek nor receive Title 4 funding for our students.**

I feel it is very important that qualified religious training institutions continue to be exempt from state accreditation requirements. We agree with other universities who request that **HRS 446E be maintained and not be repealed.**

The UofN requests that you move this bill out of the HED committee. We are generally in support of SB 46 SD2, and in particular support the language at Section 2, Subsection 11 and additionally respectfully offer the following comments to SB 46 SD2 as follows:

Section 2, Subsection 11. Exceptions (Support)

Section 7. Authorization to operate in the State; private college or university and Section 8.

Authorization to operate in the State; seminary or religious training institutions (Comment) Those institutions who fall under the exemption of HRS 446E and who do not seek Title 4 funding should be expressly excepted out from coverage under SB 46 SD2. Express reference should be made in these Sections back to the exception provision in Section 2, subsection 11.

Section 9: Reauthorization (Comment). Those institutions who fall under the exemption of HRS 446E and who do not seek Title 4 funding should be expressly excepted out from coverage under SB 46 SD2. Express reference should be made in this Section back to the exception provision in Section 2, subsection 11.

Thank you for the opportunity to testify in support of SB 46 SD 2 with comments.

Sincerely,

A handwritten signature in dark ink, appearing to read "Loren Cunningham".

Loren Cunningham

President, University of the Nations, Kona campus



International Quantum University for Integrative Medicine

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Honolulu, HI 96813

Tel: (877) 888-8970

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March 11th, 2013

To be presented to the Committee on Higher Education
March 12, 2013; 2:00 p.m.

Regarding SB (Senate Bill) 46: "Relating to Education"
(As well as its Companion Bill, House Bill 1200)

Testimony - Support

Chair Isaac W. Choy, Vice Chair Linda Ichiyama, and the rest of the honored committee, I appreciate this opportunity to speak with you. The following is our testimony, which we offer in order to show **support of SB 46 SD 2.**

My name is Paul Drouin, and I am a medical doctor from Canada. Just weeks ago, I proudly received my American citizenship here in Hawaii. I am also the President of the International Quantum University for Integrative Medicine.

We are an unaccredited, post-secondary educational institution, based here in Hawaii. We offer degrees to professionals who want to use Natural, Holistic, and Integrative Medicine in their practices. We are an online university, use innovative teaching methods, and offer in-house financing to qualified applicants. These people range from full-time students who love and want to learn more about Natural Medicine, to those already practicing, who are looking to gain more expertise and a professional certification in their field.

We understand the need to safeguard Hawaii students and their families, and as such, we want to offer our testimony in regards to Senate Bill 46 and House Bill 1200. We believe that making sure Hawaii's students are safe, well-served, and are able to gain access to the financial aid that they need is an important role of Hawaii's government.

We know that Senate Bill 46 and House Bill 1200 need to pass in order to make sure students of Hawaii get the correct financial aid, so please understand that we are coming into this discussion with that in mind. We do understand that you are looking for a way to make this bill work for Hawaii, and we offer our help, advice, and comments, both past and future, to help you in any way that we can. We want to make sure that Hawaii's students have access to the education that they want and deserve, and as such, we respectfully **request that House Bill 1200 be made to mirror Senate Bill 46 SD 2.**

We support SB 46 SD 2 because in this version of the bill, as in the earliest version in both the House and Senate, Chapter 446 is not repealed or modified. The Senate Ways and Means Committee stated in the WAM committee report on February 27th, 2013 to amend SB 46 by “(7) Deleting the repeal of chapter 446E, Hawaii Revised Statutes, on unaccredited degree-granting institutions.” Also, the author of this bill, **Senator Jill Tokuda**, has recommended that **SB 46 not include unaccredited universities**, and we wish to support that recommendation.

-1- In order to fully implement the recommendation HB 1200 would need to mirror SB 46 SD 2, or include the following changes in HB 1200:

-A- Change to SB 46 language:

Starting on page 10, line 3:

(11) Unaccredited post-secondary educational institutions governed by chapter 446E, except as provided under section —4.

-B- Remove the following:

Starting on page 15, line 8:

~~(14) Effective July 1, 2015, oversee the authorization of unaccredited degree granting institutions pursuant to chapter 446E.~~

-C- Remove the following:

Starting on page 56, line 12:

~~SECTION 9. Section 446E-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:~~

~~—“"Commission" means the state post-secondary education commission established under section —3.”~~

~~SECTION 10. Section 446E-1, Hawaii Revised Statutes, is amended by deleting the definition of "director".~~

~~—["Director" means the director of commerce and consumer affairs.]~~

~~SECTION 11. Section 446E-1.5, Hawaii Revised Statutes, is repealed.~~

~~—["§446E-1.5 Advisory board. The state post-secondary education commission, as established by chapter 304A, part VII, subpart C, shall serve as a resource to the director as needed regarding the requirements of this chapter."]~~

~~SECTION 12. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of commerce and consumer affairs for the purposes of implementing chapter 446E, Hawaii Revised Statutes, shall be transferred to the post-secondary education commission established under part I of this Act and shall remain in full force and effect until amended or repealed by the commission.~~

~~SECTION 13. Chapter 446E, Hawaii Revised Statutes, is amended by substituting the term "commission" or like terms, wherever the term "director", or like terms appear, as the context requires.~~

Modifying or repealing Chapter 446E of the Hawaii Revised Statutes would negatively impact schools and the State of Hawaii.

Repealing Chapter 446E of the Hawaii Revised Statutes will destroy or significantly change legally operating universities in the State of Hawaii, including ours. We have been operating here for over six years and have not had any complaint or issue. We have paid taxes, followed the rules, and made sure to comply with the Hawaii Revised Statutes.

If the State decides to modify or repeal Chapter 446E of the Hawaii Revised Statutes, it will not only lose universities and programs that are of educational value to the State's citizens, but it will also have negative economic implications. **Legally operating universities under Chapter 446E of the Hawaii Revised Statutes pay taxes, hire employees, and give opportunities for students here in Hawaii that the State would be removing if Chapter 446E is repealed. For example, the University of Nations in Kailua-Kona on the Big Island has a local economic impact of at least \$15 million per year to the area in local taxes, jobs, and tourism.**

The current laws are quite rigorous, the Bureau of Consumer Affairs has been effective in eliminating bad schools, and there is currently not an overabundance of private non-accredited colleges or universities. As long as the current private non-accredited colleges and universities abide by the requirements of Chapter 446E, they should be able to serve the state of Hawaii.

The State should honor the fact that some schools do not want to be accredited. Accreditation is a voluntary process, and some schools do not want to do it, for a multitude of reasons, including cost, political reasons, religious reasons, etc. As long as the college or University is offering a quality education, it should not be discriminated against, either in law or word, by those who believe that accreditation should be forced.

In fact, modifying or repealing Chapter 446E would have no impact on other educational institution continuing to receive federal funds under Title IV of the Higher Education Act of 1965. **In fact, according to DCCA Deputy Director Jo Ann Uchida, applying this Bill to Chapter 446E institutions "significantly and unnecessarily complicates the fiscal and subject matter implications of this bill."**

The implications from modifying or repealing Chapter 446E are huge. Modifying or repealing Chapter 446E would not just destroy or significantly change current legally operating colleges and universities: **It would also stop new universities, colleges, and businesses from coming to Hawaii.** HB 1200 in its current form would make starting a school or business more difficult to do in this State, which could negatively impact both the economy of Hawaii, and the ability of the citizens of Hawaii to find the education for which they are looking.

The current legally operating unaccredited universities offer much to the islands of Hawaii, and directly positively impact the State's economy in the millions of dollars. Losing these universities would be a travesty, and **is not necessary to passing SB 46 and HB 1200.**

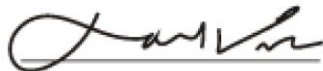
This law should not apply to unaccredited colleges and universities, and does not need to in order to pass the law and receive federal funding.

The Department of Commerce and Consumer Affairs' Deputy Director, Jo Ann Uchida, also **DOES NOT SUPPORT** repealing Chapter 446. In her testimony to the Ways and Means Committee, she states:

***"The department [DCCA] opposes including unaccredited institutions (chapter 446E) within the scope of this bill** as provided for page 10 lines 9-14 and page 52, lines 4-5. Unaccredited degree granting institutions by definition will not qualify for state authorization or federal funding. Including these institutions in this bill, even with a delayed implementation date, significantly and unnecessarily complicates the fiscal and subject matter implications of this bill."*

Modifying or repealing Chapter 446E would not serve to help the citizens of Hawaii, which is what Senate Bill 46 and House Bill 1200 purport to do. We understand the need to make sure that structure is in place, both to safeguard the peoples of Hawaii, and to help the State to receive federal monies, but modifying or repealing Chapter 446E does not do that. Therefore, we would like to reiterate our **request that House Bill 1200 be made to mirror Senate Bill 46 SD 2.**

We appreciate this opportunity to give testimony in regards to Senate Bill 46 and House Bill 1200. If there is any way we can be of further assistance, please contact us. Thank you.



Dr. Paul Drouin, M.D.

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To Be Presented to the Committee on Higher Education
March 12, 2013 2:00 pm
Regarding Senate Bill 46 SD2, House Bill 1200
“Relating to Education”

TESTIMONY IN SUPPORT OF SB46 SD2, HB1200

Chair Isaac W. Choi, Vice Chair Linda Ichiyama, and the rest of the honored committee:

We appreciate this opportunity to testify in the form of the following letter, since I am unable to be physically present with you.

My name is Irv S. Katz, Ph.D. and I am Chancellor of International University of Professional Studies. I received my doctorate degree in Clinical Psychology at Michigan State University in 1956. I have been in the academic community for over fifty years, which included being Chairman of the Psychology Department at University of Nevada, Las Vegas and Director of the Graduate Program for Antioch University in the State of Hawaii. I founded IUPS to provide students with opportunities I saw were missing and antiquated during my fifty years teaching in accredited universities. I was a member of WICHE (Western Interstate Commission for Higher Education) training and research for 8 years.

We are submitting testimony today specifically in support of the final version of SB46, which was passed in the Senate on February 27th. In the final version, the previous language calling for the repeal of 446E was removed.

We urge the House to adopt the language of SB46, in place of the current language with regard to 446E in HB1200.

SB46, Page 10 – 11:

§-2 Applicability of this chapter; exceptions.

(b) This chapter shall not apply to:

11) Unaccredited post-secondary educational institutions governed by chapter 4463.

To replace the following:

HB1200, Page 8 – 15:

§ -2 Applicability of this chapter; exceptions.

(b) This chapter shall not apply to:

(11) Unaccredited post-secondary educational institutions governed by chapter 446E,

AND ELIMINATE THE FOLLOWING:

except as provided under

§4. (a) (14) Effective July 1, 2015, oversee the authorization of unaccredited degree granting institutions pursuant to chapter 446E.

BACKGROUND:

IUPS is a non-accredited, non-profit educational institution that has been in existence for 24 years, since 1988. We offer degrees, providing students with a mentor-based, individualized, and self-paced alternative learning system, with a primary goal to produce competent professionals rooted in deep self-awareness, sensitive to multi-cultural and global issues, and committed to serving humanity. Armed with their degrees, graduates have been making substantial contributions in Hawaii and the rest of the world.

IUPS is a university that offers online programs and also direct teaching, using innovative and advanced teaching methods, to highly qualified applicants. It's important to note that many of the traditional universities are beginning to use some of the technological advances that we have been using for many years. Our tuition is comparatively low, which is highly appreciated in these days of soaring tuition costs. We offer graduate degrees in:

- Consciousness Studies
- Expressive Arts Therapy
- Holistic Psychology
- Integrated Health Sciences
- Organizational Development & Transformation
- Professional Coaching and Human Development
- Somatic and Spiritual Psychology
- Transformational Education
- Transpersonal Psychology

You'll notice that some of these degree specializations include programs not offered by the traditional Hawaii Institutions.

Our faculty graduated from some of the most esteemed institutions in the country. We have faculty members with doctorate degrees from Harvard, Yale, Barnard College, University of North Carolina, as well as MDs from UCLA and Stanford University. When I testified before the state legislature over a three-year period ending in 1999, along with representatives from other universities, we were able to demonstrate to the legislature that our presence in the state of Hawaii justified the passage of 446E. Since that time, with the enforcement of 446E, the situation has only improved.

ARGUMENT IN FAVOR OF SUPPORT OF SB46

We support the passage of SB46 to comply with federal regulations and request that the wording in SB46 be mirrored in HB1200, excluding unaccredited schools governed by 446E.

We agree with the February 11, 2013 testimony of Jo Ann Uchida Takeuchi on behalf of the Department of Commerce and Consumer Affairs before the House Committee on Consumer Affairs and Commerce where she stated “the department opposes making changes through this bill to the existing unaccredited degree institutions law, Hawaii Revised Statutes, 446 E.” She also stated that “The cost of implementing the program solely for accredited agencies will already be high; the added cost of unaccredited degree granting institution enforcement will likely drive that cost significantly higher.”

This testimony in essence is supported by the February 11, 2013 testimony of Evelyn Schemmel on behalf of Heald College before the House Committee on Commerce and Consumer Protection: She stated that the bill should “be significantly narrowed to address the issue at hand,” and that “the necessary level of analysis and deliberation required of a piece of legislation introducing such significant change and expansive new government duties” should be considered. **Even if the changes are delayed until 2015, there would be considerable cost factors to be dealt with.**

We have reviewed the proposed testimony of International Quantum University for Integrative Medicine, Akamai University, and the University of the Nations and we are in agreement with their recommendations for specific amendments to the language of SB 46.

The current laws found in 446E have been and continue to be effective, and the Department of Commerce and Consumer Affairs has been diligent and rigorous in eliminating diploma mills.

We agree with the statement that the State of Hawaii should honor those schools that do not want to be accredited. Over the last fifteen years, we have examined the issue of accreditation thoroughly and have come to the conclusion that accreditation will be more of an albatross than an asset. Tuition would be increased multiple times. Many of the required regulations would be a hindrance to the effectiveness and flexibility of our program.

It is an unwarranted generalization to assume that accreditation is always positive and non-accreditation is negative in all cases. Accreditation is voluntary and choosing not to be accredited is a valid alternative. That brings innovative educational opportunities to more students, and lower tuition rates. The people of Hawaii should not be deprived of this option.

In conclusion, we support SB46 and request that the House adopt the language in SB46 with regard to unaccredited institutions, replacing the current language in HB1200.

We appreciate this opportunity to submit this testimony, and if we can be of further assistance, please contact us.

Irv S. Katz, Ph.D.
Chancellor
International University of Professional Studies
(808) 573-7722



March 12, 2013
2:00 p.m.
Conference Room 309

TESTIMONY TO
THE HOUSE COMMITTEE ON
HIGHER EDUCATION

RE: SB 46 SD2 – Relating to Education

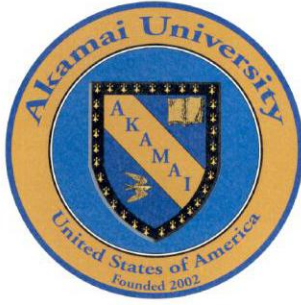
Chair Choy, Vice Chair Ichiyama and the members of the committee,

My name is Robert Witt and I am executive director of the Hawaii Association of Independent Schools (HAIS), which represents 99 private and independent schools in Hawaii and educates over 33,000 students statewide.

HAIS supports SB 46 SD2 which establishes the post-secondary education commission within the Department of Commerce and Consumer Affairs and creates the framework for authorizing private post-secondary educational institutions in the State.

HAIS' membership encompasses all levels of education including post-secondary institutions. This measure would bring Hawaii in compliance with federal mandates in order to continue a private post-secondary student's access to Title IV funding. We understand that without this legislation many of Hawaii's students would be financially overburdened and likely unable to pursue their educational endeavors. Thus, we offer our support for this measure.

Thank you for the opportunity to testify.



Douglass Capogrossi, PhD
President

Akamai University

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TESTIMONY REGARDING SB46 SD2 AND HB1200

FROM: Douglass Capogrossi, Ph.D.
President

TO: Committee on Higher Education
Isaac W. Choy, Chair
Linda Ichiyama, Vic Chair

DATE: March 11, 2013

RE: Senate Bill SB46: "Relating to Education"
House Bill HB1200

Honorable Chair Isaac W. Choy
and House Committee on Higher Education,

Our purpose in writing is to provide **testimony in favor** of the existing version of SB46 SD2, now under consideration, and to make recommendations related to HB1200.

Akamai University supports SB 46 SD 2 because this version of the bill no longer repeals or modifies HRS Chapter 446E. The Senate Ways and Means Committee stated in the WAM Committee Report on February 27th, 2013 to amend SB 46 by:

“(7) Deleting the repeal of chapter 446E, Hawaii Revised Statutes, on unaccredited degree-granting institutions.”

Also, the author of this bill, Senator Jill Tokuda, has recommended that SB 46 **not include unaccredited universities**, and we wish to support that recommendation for HB1200, as well.

Further, it is our position that unaccredited degree-granting institutions and start-up schools are not a bad element, so long as they are governed

effectively with respect to their operational integrity, as has been the case with HRS 446E. We therefore recommend that the House Committee on Higher Education take the following action:

HB 1200 should mirror SB 46 SD 2, or incorporate the following in order to fully remove language related to unaccredited degree-granting institutions:

A. **Change HB1200 to SB 46 language:**

Starting on page 10, line 3: (11) Unaccredited post-secondary educational institutions governed by chapter 446E (delete.... except as provided under section -4)

B. **Remove** the following from HB1200:

Starting on page 15, line 8: (14) Effective July 1, 2015, oversee the authorization of unaccredited degree granting institutions pursuant to chapter 446E.

C. **Remove** the following from HB1200:

Starting on page 56, line 12:

SECTION 9. Section 446E-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

""Commission" means the state post-secondary education commission established under section -3."

SECTION 10. Section 446E-1, Hawaii Revised Statutes, is amended by deleting the definition of "director".

["Director" means the director of commerce and consumer affairs."]

SECTION 11. Section 446E-1.5, Hawaii Revised Statutes, is repealed.

["§446E-1.5 Advisory board. The state post-secondary education commission, as established by chapter 304A, part VII, subpart C, shall serve as a resource to the director as needed regarding the requirements of this chapter."]

SECTION 12. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of commerce and consumer affairs for the purposes of implementing chapter 446E, Hawaii Revised Statutes, shall be transferred to the postsecondary education commission established under part I of this Act and shall remain in full force and effect until amended or repealed by the commission.

SECTION 13. Chapter 446E, Hawaii Revised Statutes, is amended by substituting the term "commission" or like terms, wherever the term "director", or like terms appear, as the context requires modifying or repealing Chapter 4

Additionally, we ask that no language be added to either bill that repeals or modifies HRS446E. This current law governing unaccredited degree-granting institutions, HRS446E, has proved to be effective legislation over the past decade, guiding our Hawaii unaccredited college in the ethical conduct of our affairs. In fact, HRS446E was instrumental in permitting sufficient levels of operation to allow us to build a track record as a start-up school, whereby we have achieved sufficiently high academic quality and institutional integrity to be deemed successful in international accreditation with a government-recognized accreditor. HRS446E therefore provided us as a start-up school with an opportunity to grow and achieve under responsible legislation. It is our position therefore that HSR446E should remain as an important element of the Hawaii governance, permitting start-up schools a vehicle within which to operate and grow.

Kind regards,

A handwritten signature in black ink, reading "Douglass Capogrossi". The signature is written in a cursive, flowing style.

Douglass Capogrossi, Ph.D.
President

TESTIMONY
Of
David A. Longanecker, President
Western Interstate Commission for Higher Education
Supporting
Hawaii Legislation Regarding State Authorization of Postsecondary Institutions

I am honored to offer this testimony in support of SB 46, proposed legislation to ensure appropriate state authorization of degree granting postsecondary institutions in Hawaii. The Western Interstate Commission for Higher Education (WICHE), which I serve as President and CEO, applauds the authors of this legislation for bringing forth an exemplary proposal that, if adopted, will not only serve Hawaii well, but will provide a national example for other states to follow.

Hawaii needs legislation of this nature for three reasons.

- First, in the modern environment of American higher education, states have a responsibility to their citizens to assure that institutions that provide education within their bounds are providing students with a quality educational experience. Securing a postsecondary education is the second most costly expenditure that most people will ever make in their lives, exceeded only by the purchase of a home; thus it is critical for the consumers of this service to have reasonable assurances of the quality of the experience being provided. Frankly, Hawaii has been lax in this level of oversight historically, being one of very few states that, for all practical purposes, has not regulated in this area. While this may have worked OK in the past, it will not work well in a future that will see the influx of many new educational providers seeking to serve up higher education in new and lucrative ways.
- Second, in the current higher education environment, states need to have a way of overseeing the delivery of education by institutions that operate primarily from somewhere else, but have established a campus or other physical presence in the state. States want to assure that such institutions operating within their bounds are providing an adequate education for the residents of the state.
- Third, states want to assure that their institutions, be they public, private non-profit, or private for-profit, are able to provide their on-line educational services in other states.

The legislation proposed to you today would accomplish all three of these objectives.

WICHE has followed the development of this legislation closely because we are actively engaged in developing a program for reciprocal recognition between our fifteen member states and the Pacific territories efforts in state authorization. Reciprocity within the WICHE region will help the states by reducing the costs associated with redundant and unnecessary state authorization efforts, it will help the institutions by reducing the costs of redundant compliance efforts, and most importantly it will help the students and prospective students by ensuring reasonable, comparable, and adequate consumer protection from state to state, not only within the WICHE region but throughout the new network between WICHE and its three sister regional compacts.

As WICHE began developing its voluntary State Authorization Reciprocity Agreement (SARA) more than a year ago, we did not anticipate that Hawaii would originally be a part of this agreement. Reciprocity in state authorization requires confidence from the reciprocity parties that each of the participating states is providing reasonable oversight of the institutions operating from within the state, both for the purposes of assuring adequate consumer protection but also for the practical purpose of assuring that students attending those institutions remain eligible for federal student assistance. Up until this time, Hawaii has had no such oversight, so obviously would not have been eligible to join in a reciprocity agreement.

The legislation before you today not only would make the state able to participate in reciprocity, it provides a truly exceptional example for other states to follow.

For more than a quarter century the federal government, the states, and the accrediting community have partnered in a process of quality assurance referred to as the federal triad. The federal government currently provides more than \$90 billion in student financial assistance annually to approximately 20 million students in public, private non-profit, and private for-profit institutions around the nation in the form of grants, loans, and work-study programs, so the federal government has a very strong interest in assuring these programs work well. To insure the integrity of the use of these federal funds, the federal government itself ensures that all participating institutions have the financial resources to responsibly provide their services, but relies on accreditation to assure the academic integrity of the institutions, and on the states to provide consumer protection, which is rightly a state responsibility. In recent years it became apparent that the role of the states within the federal triad needed to be shored up to preserve program integrity. This was true for two reasons. First, some states, including Hawaii, were providing virtually no oversight of the institutions within their jurisdiction, thus not assuring that this particular leg of the triad was being adequately supported. By contrast, some states were so onerous and outdated in their oversight that they were impeding innovation and broad access to postsecondary education. Second, the rapid advent of on-line learning was creating a myriad of problems, including a complex, redundant, and expensive process for institutions, which needed to secure approvals in many states. In addition, virtually no states were accepting responsibility for oversight of activities of their institutions when operating outside the state, thus there was no effective oversight of on-line activities in general.

To remedy these deficiencies, the federal Department of Education clarified their expectations of states and provided a limited amount of time for states to come into compliance. The legislation before you

will not only bring Hawaii into compliance, but will set your state as an example of how to provide sufficient regulation and oversight without becoming overzealous in the process.

It has come to our attention at WICHE that an outstanding issue with regard to the proposed legislation is whether this type of activity should be conducted under the auspices of a new state board or as an executive branch program. There are advantages and disadvantages of both, and different states have pursued this in different ways. It is certainly simpler to manage the activity as a program, because the program administrators can more simply promulgate rules and administer the program without "interference." On the other hand, it is often that "interference," be it from a board or from constituent concerns brought to the attention of a board, that ensures greater transparency and public accountability. A board also brings a broader perspective to decision making, simply because more good minds on a task bring greater wisdom to that task. Often, the resolution of what works best depends upon the culture of governance within a state. States with strong executive powers tend to pursue more government by executive branch management, whereas states with strong traditions of participatory government tend to prefer governance by lay boards. especially in regulatory activities management of the activity will potentially affect various stakeholders in significant ways and where a board may bring greater capacity for difference voices to be heard and different perspectives to be reflected. There is no certainty, though, about which is the best way to go. You who know Hawaii well must make this decision.

We applaud Hawaii for pursuing this legislation. You, your citizens, and your institutions will be well served by this effort.