

Private Accreditation and State Authorization of Degree Granting and Non-Degree Granting Institutions in Hawaii

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FOREWORD

This report was prepared in response to House Resolution No. 65, H.D. 1, adopted during the Regular Session of 1992. The resolution requested the Legislative Reference Bureau to study the social and economic impacts of unaccredited degree granting and non-degree granting institutions within the State and the beneficial purposes served by these institutions to the people of the State. The resolution also requested a comparative review of other states' existing regulations on unaccredited institutions.

The Bureau wishes to thank the local unaccredited institutions which took the time to respond to the Bureau's questionnaires or provide us with copies of their school brochures and catalogs. The Bureau also wishes to thank the following state officials who provided us with useful information or comments in print or over the phone: Colleen O. Sathre, Director of Planning and Policy, University of Hawaii; David R. Miller, Professor of English, University of Hawaii at Hilo, and Secretary, University of Hawaii Professional Assembly; Edward J. Kormondy, Senior Vice President and Chancellor, University of Hawaii at Hilo; Moss Ikeda, Educational Specialist, Accreditation and Private School Licensing, Department of Education; Philip Doi, Executive Director, Office of Consumer Protection, Department of Commerce and Consumer Affairs; Calvin Kimura, Supervising Executive Secretary, Real Estate Commission, Department of Commerce and Consumer Affairs; and Alvin Yamamoto, Executive Secretary, Board of Cosmetology, Department of Commerce and Consumer Affairs.

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TABLE OF CONTENTS

	Page
FOREWORD	ii
PART I. IMPACTS AND IMPLICATIONS	
1. INTRODUCTION	3
House Concurrent Resolution No. 65, H.D. 1 (1992), in Context.....	3
Scope of the Study.....	4
Useful, Introductory Definitions	4
Introductory Remarks on the Statutory Meaning of Accreditation	5
Endnotes	6
2. HAWAII'S UNACCREDITED POSTSECONDARY EDUCATIONAL INSTITUTIONS ...	8
Introduction	8
Non-Degree Granting Institutions	8
Degree Granting Institutions	11
Degree Granting Institutions: Their Views on Accreditation	15
Endnotes	18
3. THE PROBLEM OF NON-DEGREE GRANTING INSTITUTIONS	19
Introduction.....	19
The National Problem With the Trade Schools	20
The Other Major Players in the GSLP	21
The Accrediting Agencies	21
The Fifty States.....	22
Endnotes	22
4. THE PROBLEM OF UNACCREDITED DEGREE GRANTING INSTITUTIONS: DIPLOMA MILLS OR LEGITIMATE NONTRADITIONAL INSTITUTIONS	24
Introduction.....	24
Diploma Mills	24
Nontraditional Methods of Education	27
The External Degree.....	29
Endnotes	30
PART II. BACKGROUND	
5. PRIVATE SECTOR ACCREDITATION.....	35
The Nature of Accreditation	35
The Purposes of Accreditation: Educational Quality and Institutional Integrity.....	35
The Elements of the Accreditation Process	36

	Page
Two Types of Accreditation: Institutional and Specialized	37
Institutional Accreditation	37
Specialized Accreditation	38
Recognition of Accrediting Agencies by the Council on Postsecondary Accreditation	39
The Historical Development of Accreditation	40
Accreditation and Nontraditional Methods of Education	41
Endnotes	42
6. THE FEDERAL GOVERNMENT'S INVOLVEMENT WITH ACCREDITATION AND STATE LICENSING.....	46
The Triad of Institutional Eligibility.....	46
The Four Types of Eligible Institutions	47
The Two-Component Accreditation Prong of the Triad of Institutional Eligibility.....	47
Exceptions Under the Accreditation Requirement of the Triad of Institutional Eligibility.....	48
Strengthening the State Licensing Prong of the Triad of Institutional Eligibility: The New Part H of the Higher Education Amendments of 1992.....	49
Endnotes	51
7. THE GOVERNANCE STRUCTURE OF HAWAII'S LAW	54
The "Right to Exist" Laws	54
The "Right to Operate" Laws for the Public Institutions	54
The "Right to Operate" Laws for the Private Degree Granting Institutions.....	55
The "Right to Operate" Laws for the Private Non-Degree Granting Institutions	55
The DCCA Schools.....	56
A Short History of the Current Governance Structure for Vocational Education in Hawaii	57
Endnotes	58
8. HAWAII'S LAWS ON UNACCREDITED DEGREE GRANTING INSTITUTIONS	60
Chapter 446E: "Buyer Beware"	60
The Disclosure Requirement	60
The Registration Requirement.....	61
Prior Licensing Law, Repealed Chapter 446D	61
Current Dissatisfaction With Chapter 446E	63
Endnotes	64
PART III. OTHER STATES' LAWS	
9. OTHER STATES' LAWS ON POSTSECONDARY EDUCATIONAL INSTITUTIONS ..	71
Introduction.....	71
Endnotes	71

10.	OTHER STATES' LAWS ON NON-DEGREE GRANTING INSTITUTIONS	73
	Introduction.....	73
	Principles of State Licensing of Proprietary Schools	74
	Five Models for Good Governance.....	74
	Staffing.....	76
	Methods of Paying for Oversight	77
	The Agency's Duties Relating to Consumer Protection	78
	Advertising and School Catalogs	78
	Credentials of School Personnel.....	78
	Institutional Finances.....	79
	Teach Outs	80
	Site Visits	80
	Licensing Exemptions and Exceptions; Accredited Schools	80
	Education Standards; Accreditation	81
	Summary	83
	Endnotes	83
11.	OTHER STATES' LAWS GOVERNING DEGREE-GRANTING INSTITUTIONS.....	86
	Introduction.....	86
	Framework of States' Laws on Degree Granting Institutions.....	87
	The Declared Purposes of States' Statutes	88
	Constitutional Constraints to State Regulation.....	88
	Regulated Private Degree Granting Institutions	89
	Exempted Institutions	89
	Jurisdiction: The Agency Charged With Oversight.....	91
	Degree Granting Authority and Related Matters	92
	Authorization to Operate: The Single-Step Approach	93
	Authorizations to Operate and to Grant Degrees: The Two-Step Approach.....	94
	Specific Degree Granting Provisions Pertaining to Nontraditional Methods of Education	96
	Consumer Protection.....	96
	California's Findings Upon State Reliance Upon Nongovernmental Accreditation	97
	Endnotes	98
12.	FINDINGS AND RECOMMENDATIONS	103
	Non-Degree Granting Institutions.....	103
	Findings	103
	Recommendations	104
	Degree Granting Institutions.....	105
	Findings	105
	Recommendations	108
	Endnotes	110

AFTERWORD	112
Endnotes	112

TABLES

1. Unaccredited Non-Degree Granting Institutions	9
2. Unaccredited Degree Granting Institutions	12

APPENDICES

A. House Concurrent Resolution No. 65, H.D. 1, The House of Representatives, Sixteenth Legislature, 1992 Regular Session, State of Hawaii	115
B. The Bureau's Questions for Unaccredited Institutions and a sample cover letter	117
C. Non-Degree Granting Institutions in Hawaii.....	121
D. Degree Granting Institutions in Hawaii.....	124
E. Degree Granting Institutions Formerly Licensed Under Repealed Chapter 446D	128
F. Regional and National Accrediting Agencies and Associations Recognized by the Secretary of Education as of February 1992	129
G. Excerpt from David Stewart's Diploma Mills, Summarizing State Oversight Statutes for Degree Granting Institutions as of 1988.....	143
H. Model State Legislation for Approval of Postsecondary Educational Institutions and Authorization to Grant Degrees, Prepared by the Education Commission of the States, 1973.....	164

PART I

Impacts and Implications

Chapter 1

INTRODUCTION

House Concurrent Resolution No. 65, H.D. 1 (1992), in Context

In 1989, a law was passed in California to tighten the registration and licensing of unaccredited degree granting institutions offering private postsecondary and vocational education.¹

In the wake of this new law, speculation arose that the State of Hawaii, judged as one of the four most unregulated states in the country, would become a haven for unaccredited colleges and universities, especially the ones leaving California. Unaccredited institutions appear to have been inherently suspect as diploma mills--institutions that confer degrees, worthless ones, for little or no work. Three unaccredited institutions with ties to California consequently formed plans to relocate in the State.² The following year, the State responded, enacting a registration law³ to accompany its disclosure law.⁴ By then, the State was host to eight known unaccredited degree granting institutions, an increase of three from the previous year. Four of the eight had formerly operated in California, one having arrived in the State prior to California's 1989 laws.⁵

Early 1992 estimates of the number of unaccredited degree granting institutions in the State ranged from a half dozen⁶ to a dozen.⁷ One of them, Gold Coast University, was shut down in early 1992 by federal postal inspectors. Its Southern California owner was arrested on federal mail fraud and money laundering charges stemming from his Utah university,⁸ which had been featured in an investigative report by the television program *Inside Edition*.⁹

State officials in the executive and legislative branches express either dissatisfaction with Hawaii's lax laws or unmistakable distrust of the unaccredited colleges and universities. Lawmakers also fear that the presence of these unaccredited institutions may harm the reputation of the State's legitimate private and public colleges and universities. On the other hand, proponents of unaccredited institutions indicate that some students perhaps cannot afford a campus education or need an alternative to accredited institutions.¹⁰

Meanwhile, concerns over unaccredited schools perhaps deepened when a local trucking school went out of business, stranding its mainland students, and increasing the numbers of the homeless.¹¹ (The trucking school was actually an accredited non-degree granting institution.)

Then, during the course of the present study, an important related development occurred at the federal level. In the midsummer of 1992, President Bush reauthorized the Higher Education Act. The Act appears to place the Secretary of Education in a position to apply pressure on the states to heighten their scrutiny of certain postsecondary institutions singled out by the Secretary. The reviews are to be conducted against published state

standards. Uncooperative states will lose their federal funding for the State Student Incentive Grants program, and their new institutions, public or private, will not be able to participate in any federal student assistance programs.¹²

Without any published state standards covering degree granting institutions, much less a general oversight statute or an oversight agency, Hawaii presently appears ill-prepared to cooperate with the Secretary.

Scope of the Study

This study was undertaken in response to House Concurrent Resolution No. 65, H.D. 1, adopted by the Legislature during the 1992 Regular Session (See Appendix A). The Resolution requests the Legislative Reference Bureau to determine the social and economic impacts upon the State of both unaccredited degree granting and non-degree granting institutions as well as any beneficial purposes to the State. The Resolution also requests a comparative review of other states' laws governing unaccredited degree granting and non-degree granting institutions.

In carrying out the express requests of House Concurrent Resolution No. 65, H.D. 1, an implicit request turned out to be that of sorting out the separate concepts that have become entangled and confused with that of accreditation. These concepts include educational quality and diploma mills, nontraditional education (in particular, the external degree), the meaning of non-degree granting status, federal student loan defaults, and state licensing laws. In separating these concepts, the precise issues for public concern may finally emerge.

One such issue appears to be whether the State should act to ensure that unaccredited degree granting institutions which use nontraditional methods of education offer quality education and are not in fact diploma mills. The ultimate issue of whether any of the unaccredited institutions in Hawaii are actually diploma mills is one that cannot be answered in lieu of education standards and experts qualified to render those judgments in light of those standards.

Useful, Introductory Definitions

House Concurrent Resolution No. 65, H.D. 1, requests a study of both degree granting and non-degree granting unaccredited institutions. The following statutory definitions are used in this study. They are found at section 446E-1, *Hawaii Revised Statutes*:

INTRODUCTION

- (1) A "degree" means:

any designation, mark, appellation, series of letters or words, or other symbol which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic or professional program of study beyond the secondary school level.

In this study, a "degree" includes the associate's, baccalaureate, master's, doctoral, and first professional degrees.

- (2) A "degree granting institution" means:

a school, academy, institute, junior college, college, university, or person or entity of whatever kind which furnishes or offers to furnish instruction leading toward or prerequisite to an academic or professional degree beyond the secondary school level.

- (3) The term "non-degree granting institution" is not used in the *Hawaii Revised Statutes*. Based upon the substance of the Resolution, the term will be understood to refer to the private trade, technical, and vocational schools regulated by either the Department of Education or the Department of Commerce and Consumer Affairs. Typically, these institutions provide postsecondary courses below the college or university degree granting level¹³ and issue certificates or diplomas.¹⁴ Institutions exempt from either department's oversight fall outside the scope of this study.

- (4) An "unaccredited institution" means:

a degree granting institution which has not been accredited or provisionally accredited by at least one nationally recognized accrediting agency or association which is listed by the United States Commissioner¹⁵ of Education.

In this study, the term is extended to include non-degree granting institutions as well.

Introductory Remarks on the Statutory Meaning of Accreditation

The nature and process of accreditation are discussed more fully in a later chapter. Still, the meaning of accreditation, as used in section 446E-1, *Hawaii Revised Statutes*, requires some preliminary explanation:

- (1) Accreditation refers to a voluntary private sector undertaking. An institution may simply choose not to seek accreditation.

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

- (2) Perhaps an institution is unaccredited because no recognized accrediting agency yet exists to accredit it.
- (3) Section 446E-1 contemplates institutional accreditation. It is irrelevant if departments or programs within the institution are not accredited. Conversely, an institution that is not institutionally accredited but holds some departmental accreditation is still unaccredited.
- (4) Section 446E-1 permits an accredited institution to be one that is either accredited or provisionally accredited. Provisional accreditation presumably means preaccreditation or candidacy status.
- (5) Section 446E-1 requires that the accrediting agency be listed, or recognized, by the United States Secretary of Education. Not all accrediting agencies are listed or recognized by the Secretary. Some reasons for a lack of recognition are: (1) the accreditor chooses not to seek recognition from the Secretary; (2) the accreditor is in the process of being reviewed by the Secretary for recognition; (3) the accreditor was denied recognition; and (4) the accreditor chooses to be recognized by an entity other than the Secretary, for example, an entity such as the Council on Postsecondary Accreditation, the umbrella organization for accrediting agencies. In any case, an institution that is accredited by an accreditor who is not in turn recognized by the Secretary is nevertheless regarded as an unaccredited institution.
- (6) The recognition granted by the Secretary may extend to only the accrediting agency's accreditation decisions and not include its preaccreditation or candidacy decisions, *i.e.*, its decisions to provisionally accredit an institution. This situation is not addressed in section 446E-1. Conceivably, an institution could be provisionally accredited by an accreditor that is not recognized for its provisional accreditation decisions. It will be assumed that section 446E-1 considers such an institution to be accredited.
- (7) Relatively new institutions are not necessarily unaccredited. Candidacy status may be granted to institutions that have not yet graduated a class. Candidacy status means provisional accreditation; provisional accreditation means the institution is not unaccredited.

ENDNOTES

1. The Private Postsecondary and Vocational Education Reform Act of 1989.
2. Thomas Kaser, "Unaccredited Colleges Find Haven in Hawaii," The Honolulu Advertiser, November 12, 1989, pp. A1, A4.

INTRODUCTION

3. 1990 Haw. Sess. Laws, Act 226.
4. 1979 Haw. Sess. Laws, Act 135, codified as chapter 446E, Hawaii Revised Statutes.
5. Thomas Kaser, "Unaccredited Colleges are Flourishing in Isles," The Honolulu Advertiser, July 15, 1990, p. A8, col. 1; Kaser, Haven, The Honolulu Advertiser, pp. A1, A4.
6. Thomas Kaser, "Postal Inspectors Shut Coast University Here," The Honolulu Advertiser, February 27, 1992.
7. Gregg Kakesako, "'Diploma Mills' Attract State Concern," The Honolulu Star-Bulletin, February 26, 1992, p. A6.
8. Gregg Kakesako, "Federal Fraud Case Shuts Isle 'School'," The Honolulu Star-Bulletin, February 26, 1992, p. A1; Kaser, "Postal Inspectors," The Honolulu Advertiser, February 27, 1992; Kakesako, "'Diploma Mill' Dupes Mainland Pilot, Nurse," The Honolulu Star-Bulletin, March 19, 1992, p. A5.
9. U.S. Department of Justice, Press release, U.S. Attorney, District of Utah, February 4, 1992, p. 4.
10. Gregg Kakesako, "Officials Unsure How to Deal With Unaccredited Schools," The Honolulu Star-Bulletin, February 26, 1992, p. A6; Kakesako, "'Diploma Mills' Attract State Concern," p. A6.
11. Vickie Ong and Beverly Creamer, "Homeless Blacks Protest Impending Aala Ouster," The Honolulu Advertiser, February 27, 1992.
12. Subpart 1, Part H, Higher Education Amendments of 1992, P.L. No. 102-325, 1992.
13. Section 8-101-1, Hawaii Administrative Rules.
14. Ibid.
15. Since May 4, 1980, the former United States Office of Education, which had been "buried" in the enormous Department of Health, Education and Welfare, was elevated to cabinet-level status as the Department of Education. With this change, the position of Commissioner of Education, as the chief executive of the Office of Education, became defunct. The Department of Education is headed by the Secretary of Education, who has assumed the responsibilities of the former positions of both the Commissioner of Education and the Assistant Secretary for Education. The Department of Education Organization Act, Public Law No. 96-88, October 17, 1979; Senate Report No. 96-49, 1979, United States Code Congressional and Administrative News, pp. 1514-1519.

Chapter 2

HAWAII'S UNACCREDITED POSTSECONDARY EDUCATIONAL INSTITUTIONS

Introduction

The Bureau preliminarily determined the identities of the unaccredited degree granting and non-degree granting institutions in Hawaii primarily by reviewing school lists previously prepared by state regulatory agencies, the phone directories for all islands, and some national publications relating to accredited institutions and external degree programs.¹ These institutions were then mailed questionnaires requesting data relevant to their social and economic presence and beneficial purposes in the State. They were asked to correct the Bureau if they were in fact accredited. They were also asked to supplement the completed questionnaire with catalogs, brochures, and application forms describing their programs of study, degrees offered, admission requirements, enrollment, tuition and fees, financial aid, and job placement. For this survey, branch campuses were not considered separate institutions (see Appendix B for a sample questionnaire and cover letters).

The results and findings are summarized below. Random sampling was not presumed; and population standard deviations are used.

Non-Degree Granting Institutions

In the State, a group of about twenty unaccredited non-degree granting institutions are licensed by the Department of Education. Of this group, two teach acupuncture; three teach business and commercial occupations; two, dressmaking; one, electronics; one, income tax preparation; eight, massage therapy; one, security watch; and two, travel and tourism. A second group of about thirteen institutions are registered with the Real Estate Commission (see Appendix C) and prepare students for the state license exams for real estate salespersons. A third group exists that are not licensed or registered with any state agency: they were not reviewed.

Of the twenty institutions licensed by the Department of Education, seven returned a completed questionnaire. Of the thirteen institutions registered with the Real Estate Commission, three returned a completed questionnaire.

The results of the ten completed questionnaires are tabulated below.

HAWAII'S UNACCREDITED POSTSECONDARY EDUCATIONAL INSTITUTIONS

Table 1

UNACCREDITED NON-DEGREE GRANTING INSTITUTIONS

	<u>N</u>	<u>Range</u>	<u>Average</u>	<u>Std. Dev.</u>	<u>Total</u>
<u>For the 1990-1991 or Last Academic Year:</u>					
Number of Hawaii applicants for admission	10	0-1,085	261	397	2,609
Number of Hawaii applicants accepted for admission	10	0-1,085	253	400	2,534
Number of Hawaii admittees who enrolled	10	0-1,085	181	316	1,815
Number of graduates	10	4-900	196	324	1,959
Number of graduates resided in Hawaii	10	0-773	177	288	1,766
Number of staff members resided in Hawaii	6	2-4	3	1	16
Number of staff members already resided in Hawaii prior to their employment	6	0-4	2	1	13
<u>As of July 1992:</u>					
Number of enrolled students	8	7-153	48	51	386
Number of enrolled students resided in Hawaii	8	0-152	41	53	328
Number of alumni	2	60-73	66	6	133
Number of alumni resided in Hawaii	3	0-67	39	28	117
Number of faculty	10	1-13	4	4	45
Number of faculty resided in Hawaii	10	1-13	4	4	43
<u>1991 Tax Year:</u>					
Gross revenues	8	\$32,361 to \$672,552	\$191,164	\$217,135	\$1,529,313
Expenses attributable to Hawaii providers	5	\$12,100 to \$696,636	\$280,989	\$252,584	\$1,404,947
State of Hawaii taxes	7	(\$660) to \$4,000	\$857	\$1,503	\$5,996

N = Number of institutions providing an answer

Std. Dev. = The population standard deviation

Source: LRB Questionnaire.

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

The following comments and generalizations pertain at most only to the ten institutions that returned completed questionnaires. They are not intended to be a reflection or random sample of all the unaccredited non-degree granting institutions in the State.

Regarding their reasons for being established in Hawaii, four of the schools indicated that they prepared students to sit for particular state professional and vocational licensing exams. Five mentioned that the founders were already Hawaii residents. Two noted their unique curriculum. One pointed out Hawaii's Pacific rim opportunities for cross-cultural exchange.

In terms of the student body numbers, an average of forty-eight students were attending each institution as of mid-July 1992, the date the questionnaires were mailed out. Eighty-five percent of those students were evidently Hawaii residents. As of mid-July 1992, the total alumni at each institution averaged sixty-seven people. Eighty-eight percent of the alumni from each institution were Hawaii residents. Also, during the 1990-1991 academic year, the institutions received on average 261 applications from Hawaii residents. Ninety-seven percent of Hawaii applicants were accepted at each school. Seventy-two percent of the acceptees actually enrolled. In that same year, each institution graduated a class of about 196 students. Ninety percent of those graduates were Hawaii residents. Generally, since 1985, past and present students reportedly have not lodged any complaints with the State against these institutions.

In terms of faculty members, an average of five were working at each institution as of mid-July 1992. An average of four were Hawaii residents. In terms of staff members, an average of three Hawaii-based members were working at each institution during the 1990-1991 academic year. Evidently an average of two were locally recruited.

These institutions grossed average revenues of \$191,164 in 1991. Each expended \$280,989 for Hawaii service providers. Hawaii state taxes for 1991 averaged \$857.

A very rough estimate of the average life span of non-degree granting schools is about nine years (standard deviation of twelve years). This figure is based upon the approximately twenty-seven schools which have closed down since 1980, whose records are in the inactive files at the Department of Education.

By and large, then, these institutions primarily educate Hawaii residents, and their graduates remain in Hawaii. Their faculty members live and work in Hawaii. And their Hawaii-based staff members have been locally recruited. This accords with the school catalogs submitted by six of them, indicating that they provide classroom-based instruction. Comparing the revenue and expense figures, it appears that some may have sustained operating losses in 1991.

The schools unanimously reported that their students did not receive or were not eligible to receive any state or federal financial aid. A few schools indicated that government

agencies and social service organizations such as Vocational Rehabilitation, the Department of Veterans Affairs, Alu Like, and Work Hawaii might have been financially assisting their students.

Among some of the comments volunteered by the schools both in the questionnaire and during phone conversations or gleaned from their media advertising were those related to accreditation and state licensing. While one school noted that it was licensed by the State and would seek accreditation as a future goal, a few of the real estate and massage schools equated their state license or certificate of registration with accreditation. Generally, however, state licensure and the accreditation process referenced in section 446E-1, *Hawaii Revised Statutes*, are not equivalent.

One real estate school's remark that the schools were over-regulated by the Real Estate Commission in terms of fee structures and licensing requirements tended to contrast with the Commission's own perception that more implementation was needed in monitoring and evaluating the schools, instructors and courses. In contrast, the massage schools, noting their struggle to achieve legitimacy in the community, pointed out the absence of any accrediting agency for massage therapy and the lack of massage program offerings at accredited institutions, and desired stronger state licensing.

Degree Granting Institutions

In the State, there appear to be about ten unaccredited degree granting institutions (see Appendix D), which are not licensed by any state agency.² These ten are fairly new, having incorporated in Hawaii between 1985 and 1991--six as nonprofit corporations, four as for-profit corporations.³ Four evidently originated in California, where they had been "state authorized."⁴ "Authorization to operate" was the more lenient of the two licensing standards under California's prior laws; the stricter standard was "approval to operate."⁵ One arrived from Missouri after Missouri adopted oversight statutes in 1985 and while its application for degree granting status was placed upon deferral.⁶ Six are on Oahu and four are on the Big Island. They are as follows:

- (1) Eurotechnical Research University, Hilo;
- (2) Greenwich University, Hilo;
- (3) Honolulu University, Honolulu;
- (4) Kennedy-Western University, Honolulu;
- (5) Pacific Western University, Honolulu;
- (6) Redemption Bible College, Honolulu;

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

- (7) Tokai International College, Honolulu;
- (8) University of Health Sciences, Honolulu;
- (9) University of the Nations, Kona; and
- (10) Vision Christian University, Hilo.

Five returned completed questionnaires and copies of school catalogs and brochures. A sixth sent school catalogs and brochures. The results of the five completed questionnaires are tabulated below.

Table 2
UNACCREDITED DEGREE GRANTING INSTITUTIONS

	<u>N</u>	<u>Range</u>	<u>Average</u>	<u>Std. Dev.</u>	<u>Total</u>
<u>For the 1990-1991 or Last Academic Year:</u>					
Number of Hawaii applicants for admission	4	0-138	70	67	281
Number of Hawaii applicants accepted for admission	4	5-138	58	58	232
Number of Hawaii admittees who enrolled	4	5-138	54	56	217
Number of graduates	4	14-87	46	32	183
Number of graduates resided in Hawaii	4	0-14	4	6	16
Number of staff members resided in Hawaii	4	1-220	57	94	229
Number of staff members already resided in Hawaii prior to their employment	4	0-15	6	6	23
<u>As of July 1992:</u>					
Number of enrolled students	4	45-8,412	2,523	3,444	10,093
Number of enrolled students resided in Hawaii	4	0-243	93	100	372
Number of alumni	3	62-4,550	1,559	2,115	4,678
Number of alumni resided in Hawaii	3	0-28	10	13	29
Number of faculty	4	39-196	111	69	444
Number of faculty resided in Hawaii	4	0-80	21	34	84

HAWAII'S UNACCREDITED POSTSECONDARY EDUCATIONAL INSTITUTIONS

	<u>N</u>	<u>Range</u>	<u>Average</u>	<u>Std. Dev.</u>	<u>Total</u>
<u>1991 Tax Year:</u>					
Gross revenues	4	\$0 to \$240,364	\$124,691	\$114,816	\$498,763
Expenses attributable to Hawaii providers	4	\$0 to \$1,700,911	\$486,238	\$706,464	\$1,944,954
State of Hawaii taxes	4	\$0 to \$8,835	\$2,374	\$3,740	\$9,496

N = Number of institutions providing an answer

Std. Dev. = The population standard deviation

Source: LRB Questionnaire.

The following comments and generalizations pertain at most only to the five or six institutions that returned completed questionnaires or provided copies of their school catalogs. They are not intended to be a reflection or random sample of all the unaccredited degree granting institutions in the State.

Regarding their reasons for being established in Hawaii, five noted Hawaii's proximity to the Pacific rim nations or the opportunities for cross-cultural exchange. The sixth regarded Hawaii a bastion of academic freedom.

Two offered associate's degrees; four, baccalaureate degrees; four, master's degrees; four, doctoral degrees; and two offered law degrees. Degrees were offered in many subject areas in two of the institutions; scientific research in one; Christian ministries in another; liberal arts in a fifth; and administration, education, and engineering/computer science in the sixth.

Three charged tuition on a degree basis; two, on a calendar basis. The fee schedule of the sixth was not immediately clear from the catalog. For the three institutions that charged tuition on a degree basis, the average tuition for a United States citizen was at least \$2,698 for a bachelor's degree, \$2,665 for a master's, and \$3,032 for a doctorate. The law degree for the two sponsoring institutions averaged at least \$4,150.⁷

In terms of student body numbers, an average of 2,523 students were enrolled at each institution as of mid-July 1992. Four percent were evidently Hawaii residents. As of mid-July 1992, the total alumni at each institution averaged 1,560 people. Less than one percent of the alumni from each institution were Hawaii residents. Also, during the 1990-1991 academic year, the institutions received on average seventy applications from Hawaii residents. Eighty-three percent of the Hawaii applicants were accepted at each school. Ninety-three percent of the acceptees actually enrolled. In the same year, each institution graduated a class of about forty-six students. Nine percent were Hawaii residents. Generally, since 1985,

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

past and present students reportedly have not lodged any complaints with the State against these institutions.

In terms of faculty members, an average of 111 were providing services to each institution as of mid-July 1992. An average of twenty-one were Hawaii residents. In terms of staff members, an average of fifty-seven Hawaii-based members were working at each institution during the 1990-1991 academic year. Evidently, an average of six were locally recruited.

These institutions grossed average revenues of \$124,691 in 1991. Each expended \$486,238 for Hawaii service providers. Hawaii state taxes for 1991 averaged \$2,374.

The six responding institutions indicated that their students were not receiving or eligible to receive any state or federal financial aid.

By and large, then, these institutions present a significant contrast to their non-degree granting counterparts. These degree granting institutions primarily educate non-Hawaii residents, and their graduates do not reside in Hawaii. Their faculty members live and work outside the State of Hawaii. And their Hawaii-based staff members have not been locally recruited. With regard to the revenue and expense figures, it appears that some sustained substantial operating losses in 1991. They earned a little less than their non-degree granting counterparts, but expended much more for Hawaii service providers.

Further information about these institutions, derived largely from the school catalogs, relates to nontraditional students and nontraditional methods of education (topics discussed in Chapter 4). The declared missions of four of the six institutions were to serve nontraditional students--those older, working adults who cannot leave work or family responsibilities behind and participate in classroom-based instruction. These four indicated that they offer external degree programs. External degree programs are generally self-paced, individualized courses of learning pursued outside of a classroom or campus setting, under the guidance of a mentor. Three of them also stated that they grant credits for prior experiential learning--creditworthy learning that occurred prior to enrollment in a nonacademic setting. For these three, the degree programs were designed to be completed in about one year. For the fourth, the degree program required about two years.

The remaining two institutions appeared less nontraditional. Both institutions seemed addressed to a younger crowd of students. Both evidently had campuses and used classroom-based instruction. Neither indicated the practice of granting credits for prior experiential learning. However, one seemed to employ a significant amount of community work ("live learn" concept) in combination with short, intensive seminars. The other stated that it intended to educate primarily non-Hawaii students.

Degree Granting Institutions: Their Views on Accreditation

Finally, through their school catalogs, questionnaires, and correspondence, the degree granting institutions offered many observations and comments on accreditation. One institution declared that regional accreditation was its goal, since accreditation would help its students in transferring course credits to other institutions. By and large, though, the others voiced some dissatisfaction with accreditation, reflecting that it was, among other things, incompatible with their institutional missions, an "academic millstone," a dinosaur, unrelated to educational quality, or otherwise flawed. Some comments were identical. Their remarks are quoted below:

Universities 1 and 2:

Accreditation is a peculiarly American concept. In every other country in the world, all colleges and universities either are operated by the government, or gain the full right to grant degrees directly from the government. In the U.S., accreditation is an entirely voluntary process, done by private non-governmental agencies. As a result of this lack of central control or authority, there have evolved good accrediting agencies and bad ones, recognized ones and unrecognized ones, legitimate ones and phoney ones . . ."

University 1:

In all cases, groups of established universities have banded together to form private clubs, called the accrediting societies. There are no governmental accrediting societies or agencies. All such groups in the United States, from the largest to the smallest, are private clubs - or trade unions, pure and simple. The members, through their unions, accredit themselves. Accrediting is like the saying "It's legit because I say it's legit . . ." attributed to Al Capone!

. . . the accrediting societies will not tolerate much innovation in any new program, and none of the societies in the United States will accept new schools that do not offer coursework.

We do not apply for nor do we expect to be subsidized by American tax dollars from government grants, and therefore we have not applied for accreditation by any American accrediting society recognized by the U.S. Office of Education.

. . . since the martial arts and martial sciences are newly recognized academic disciplines in the United States, there has yet to be established any professional or private accrediting society that accredits martial arts colleges.

About the only situation where we would recommend that you do not pursue our degree is if you want a doctorate only to qualify for a

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

job that some specific organization decrees will only be offered to holders of an accredited degree! Since an accredited degree never guarantees any job, one wonders if [our university's] doctorate and other degrees are not far better value for money?

Since by definition, "research universities" cannot fit the U.S. concept of "accreditation," it has become popular at state levels to force them out of business. Most other countries prize and honor their research schools and are leaving the U.S. behind in technology.

University 2:

The simple fact is that no school offering non-resident Doctoral programs has ever been accredited by any of the more-than-80 recognized accrediting agencies."

If accreditation is to be made compulsory for non-state institutions, then a reasonable time (poss. 5 years) should be given to allow the institution to meet the requirements of the accrediting body. Accreditation may not necessarily make standards higher, but may severely limit the types of programs which can be offered.

The Federal Department of Education has noted the narrowness of existing accrediting agencies It is argued that the needs of non-traditional students [sic] have not been adequately met - especially external study students.

Universities 3 and 4:

Accreditation is essentially recognized by the Federal Government as a mechanism for the authorization to distribute government educational funds Degrees granted or issued in conformance with cited statutes, are all equally legal under the law.

University 3:

To be affiliated with a regional accrediting association, the institution must have a rather rigid educational delivery system. Typically, this includes class attendance, provisions relating to transferability of previous education, and limited acceptance of credit for work experience. Since [the university] is oriented toward the working adult who has attained a level of knowledge through professional experience, and who wishes to have this experience quantified into academic credit, **the University is not seeking nor is it regionally accredited by any agency or association listed by the United States Department of Education.**

University 4:

[The university] has not sought membership in any independent accrediting association. Nevertheless the University meets or exceeds all standards set by the State of Hawaii.

University 5:

[The university] is unique in its international missionary training scope [sic] with locations in many countries. Validation by an accrediting agency in one nation could be limiting [since] a student may begin his/her education in South America, continue it in the United States and complete the . . . degree requirements in Europe.

[The university] is an integral part of . . . an international and multi-denominational missionary organization. Normally accreditation agencies require the separation of the educational institution from the parent organization . . .

Accreditation would likely require a partially non-[] governing board Since [the university] needs freedom to grow into the fulfillment of the purposes for which it was created, we do not believe that it is right to form a non-[] governing board.

[The university] maintains a staff of volunteer missionaries who must raise their own support independently of their positions with the university. Accrediting agencies require salaries for university staff members on the basis that a good solid income helps to ensure stability in the university system and quality in it [sic] programs.

Our modular approach to education is generally unknown by accrediting boards Our present library resource strategy is different from what is required for accreditation standards in a centralized location.

[Our c]ourses do not transfer on a one-for-one basis, but neither do courses at other universities, and accreditation is not always the main factor in that decision. The major factor is quality of instruction, as proved out by quality of the student. On that basis, our students are already showing up well; and we see more and more institutions happy about accepting our students into their programs. Of course, it is true that lack of accreditation can leave certain professional doors closed. But for many students, this is not an insurmountable problem. It all depends on what career or profession the individual student is pursuing, for what purpose, and in which nation.

ENDNOTES

1. Hawaii, Department of Education, August 1991 Licensed Private Trade, Vocational or Technical Schools list; Hawaii, Department of Commerce and Consumer Affairs, Board of Cosmetology, August 1990 Beauty Schools list; Hawaii, Department of Commerce and Consumer Affairs, Real Estate Commission, June 1992 Real Estate Schools list; March 9, 1992, list of unaccredited degree granting institutions, Testimony in support of H.C.R. No. 65, Department of Commerce and Consumer Affairs; Sherry S. Harris (ed.), 1990-1991 Accredited Institutions of Postsecondary Education (Washington, D.C.: American Council on Education 1991); Mary Pat Rodenhouse (ed.), 1992 Higher Education Directory (Virginia: Higher Education Publications, Inc., 1992); John Bear, College Degrees by Mail (Ten Speed Press, 1991).
2. Seven were recently featured in a series of articles by Thomas Kaser in the The Honolulu Advertiser: see Thomas Kaser, "Unaccredited Colleges Find Haven in Hawaii," The Honolulu Advertiser, November 11, 1989, p. A1; Thomas Kaser, "'Wall-less' University is Offering 14 Degrees in One Suite of Offices," The Honolulu Advertiser, November 13, 1989, p. A1; and Thomas Kaser, "Unaccredited Colleges are Flourishing in Isles," The Sunday Star-Bulletin and Advertiser, July 15, 1990, p. A8.
3. Hawaii, Business Registration Division, Department of Commerce and Consumer Affairs.
4. Appendix C, "Protecting the Integrity of California Degrees," California Postsecondary Education Commission, 1989.
5. California, The Private Postsecondary Education Act of 1977, sec. 94300 et. seq., Deering's California Codes (Main Vol. 1989); California, The Private Postsecondary and Vocational Education Reform Act of 1989, sec. 94300 et. seq., Deering's California Codes (1992 Supplement).
6. Telephone interview, Department of Higher Education, State of Missouri.
7. For the State of Hawaii, annual tuition figures for the 1991-1992 academic year were \$1,290 at the four-year public institutions and \$4,448 at the private ones. Nationwide annual tuition figures were \$2,137 for the public four-year colleges and \$10,017 for the private ones. From: The Chronicle of Higher Education Almanac, August 26, 1992, pp. 34, 54.

Chapter 3

THE PROBLEM OF NON-DEGREE GRANTING INSTITUTIONS

Senator NUNN. Mr. Ferguson, you are saying that you have more trouble in Florida with schools that are accredited than with those who are not?

Mr. FERGUSON. Yes, sir.

Senator NUNN. In terms of what, quality of education?

Mr. FERGUSON. Yes, sir, I am . . .

The Florida official's comments were affirmed in subsequent testimony by both his Illinois counterpart, who noted that his officie [sic] has not received "a written complaint about any non-accredited school in the past few years". . .

Abuses in Federal Student Aid Programs: Report Made by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, United States Senate, 1991

Introduction

The problem of widespread federal student loan defaults by trade school students does not stem from the unaccredited trade schools, as suggested in H.C.R. No. 65, H.D. 1. Rather, it stems from the accredited ones. Generally, trade school students may borrow federal student loans only if their school is accredited. They generally would not be able to obtain such loans if their school were unaccredited.

For example, the Hawaii Transportation Systems, Inc., the commercial heavy vehicle training school whose state license was revoked in January 1992, was an accredited trade school. It had been accredited as of 1988 by the National Association of Trade and Technical Schools¹ after receiving its initial state license in 1987. A federal program review subsequently uncovered several discrepancies in the school's administration of student financial aid funds under the federal rules. In particular, its 1989 cohort default rate was 27.3 percent: a default rate over twenty percent indicates impaired administrative capability. Further evidence of impaired capability were unpaid and late refunds, and discrepant attendance records.²

Accordingly, with regard to non-degree granting institutions, the remainder of this study is redirected largely to the nation-wide problem posed by the accredited trade schools.

The National Problem With the Trade Schools

In this country, more than 4,000 proprietary institutions, or private trade schools, educate an estimated two million students a year in a wide range of occupational programs. Despite their growing presence, many states ignore them. This policy of neglect, nurtured by schools wishing to be treated more as unfettered small businesses rather than as educational institutions, now requires reevaluation.³ These trade schools, at least the accredited ones, have had the highest overall rate of federal student loan defaults over the years (followed by two-year public colleges, and two-year private colleges).⁴ And, as of late 1990, unpaid student loans were costing the federal government \$2.4 billion a year, more than twice as much five years previously.⁵

In particular jeopardy was the Guaranteed Student Loan Program ("GSLP"), one of the seven major student financial aid programs administered by the federal Department of Education under Title IV of the Higher Education Act of 1965, as amended. The GSLP includes the Stafford loans, the Parent Loans for Undergraduate Students ("PLUS"), and the Supplemental Loans for Students ("SLS").⁶ The defaults created two groups of victims: (1) the hundreds of thousands of students left with little or no training, no jobs, and significant debts they cannot possibly repay; and (2) the American taxpayer who would have to shoulder the cost of the billions of dollars in attendant losses.⁷

Following a year-long investigation, the United States Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs reported in May 1991 that it had uncovered evidence implicating the trade schools in either fraud, waste, abuse, mismanagement, incompetence, neglect, inefficiency, or ineffectiveness for their participation in the federal loan programs throughout the 1980's.⁸

According to the Senate report, the more unscrupulous trade schools chose as their mission the running of a business rather than the education of their students, and reaped huge profits and exorbitant salaries. Upon being approved to participate in the federal student financial aid programs, some schools unjustifiably raised their tuition fees. Emphasis was then placed on the recruitment of students and the consequent procurement of those federal funds. Tuition was "front-end-loaded," with the expectation that many students would subsequently drop out of school.⁹

Moreover, the schools used several techniques to evade GSLP requirements, thereby ensuring or increasing the inflow of federal funds. Branch campuses, which accounted for about one-third of all trade schools, were systematically used to circumvent Department of Education rules that required a school to be in operation for two years prior to its participation in federal student aid programs. Some of the branch campus programs were also discovered to be radically different from those at the parent campus. Course-stretching, or the practice of deliberately extending the lengths of short courses, was used to meet specified course length prerequisites for GSLP funds. Also, improper refund practices resulted in increased costs to both the students and to the GSLP program. There were widely observed instances

of falsification of information regarding the so-called "ability to benefit" students, false and misleading advertising, and unethical or illegal recruitment efforts.¹⁰

Trade schools, or their accreditors, on the other hand, maintained that: (1) only a small minority of trade schools were to blame; (2) their students were poor, and poorer people were more likely to default on loans;¹¹ and (3) no correlation had ever been established between high default rates and the quality of education.¹²

The Other Major Players in the GSLP

In all fairness, the Senate report also uncovered evidence implicating all the other major players in the GSLP for the program's serious deviation from its stated goal of promoting equal educational opportunities. These other players included the various states, the private accrediting agencies, the financial organizations, and the federal Department of Education.¹³ Some of the findings are summarized below which relate to the various states and the private accrediting agencies.

The Accrediting Agencies

As stated earlier, accreditation by an agency recognized by the Secretary of Education is a prerequisite for an institution's participation in federal student assistance programs. Seven accrediting agencies accredited the vast majority of trade schools receiving GSLP funds.¹⁴ The Senate report confirmed that for a variety of reasons, these agencies could not assure that trade schools were providing the kind of quality education required for GSLP participation.

One reason was that the tradition of accreditation was simply not suited to the structure and operations of trade schools. The tradition was based almost entirely upon principles and assumptions developed over the years in relation to traditional two- and four-year colleges and universities, whose basic concern is not profit, but the education of their students.¹⁵

A second reason was that the nature of accreditation is ill-suited to prevent GSLP fraud and abuse. In contrast to the Department of Education's expectations that accrediting agencies would review whether Title IV funds were administered properly at the schools, the accrediting agencies rejected the notion that they were regulatory agencies and disclaimed both the expertise and the resources to adequately police the student aid programs.¹⁶

A third reason was that the policies and procedures of accreditation did not facilitate Title IV purposes. Trade school owners could acquire accreditation for an unaccredited school simply by purchasing an accredited school and establishing a connection between the two. Trade schools also acquired accreditation from two or more accreditors in order to

ensure that the receipt of Title IV funds in case accreditation was lost from any one agency. The automatic accreditation of branch campuses without preoperation site visits allowed schools to expand beyond their administrative and financial capabilities to educate their students properly. And even when site visits were done, team members often lacked sufficient training or experience to identify potential or actual problems at schools under review and to not be duped altogether. Site visits are arguably the single most important part of the accreditation process.¹⁷

Other reasons cited were: (1) the long intervals of time, typically five years, between initial accreditation and re-accreditation, in which serious GSLP problems could go undetected; (2) the legal process that hinders an accreditor's ability to take quick and decisive action against a school; and (3) the perception of accreditors that they are the advocates of the schools and not the guardian of the students' or government's interests.¹⁸

The Fifty States

Along with accreditation, state licensure is another key prerequisite for a school to participate in the GSLP. According to the Senate report, the states evidently failed to protect the federal government and student borrowers for a number of reasons:

- (1) States lack uniform standards for licensure, and responsibility for licensure within a state is often fragmented among separate agencies;
- (2) Insufficient staff numbers and resources prevented the critically important site visits from being conducted;
- (3) State licensing officials bowed to the political pressure exerted by the trade schools in certain states; and
- (4) Investigations ended without censure, and due process constraints made it difficult to revoke a school's license.¹⁹

ENDNOTES

1. Sherry S. Harris (ed.), 1990-91 Accredited Institutions of Postsecondary Education (Washington D.C.: American Council on Education, 1991), p. 107.
2. U.S., Department of Education, Program Review Report on Hawaii Transportations Systems, Inc., July 21, 1992. The applicable federal rules are found at 34 C.F.R. Parts 668, 682, and 690.
3. State Higher Education Executive Officers, The Methods and Effectiveness of State Licensing of Proprietary Institutions (Denver, 1991), pp. v, xi.
4. Thomas DeLoughry, "Loan-Default Rate Is Dipping Slightly, Education Department Says," The Chronicle of Higher Education, April 18, 1990, p. A19.

THE PROBLEM OF NON-DEGREE GRANTING INSTITUTIONS

5. Thomas DeLoughry, "Senate Panel and Education Department Fault Accreditors of Trade Schools in Costly Loan-Default Problem," *The Chronicle of Higher Education*, September 19, 1990, p. A28.
6. U.S., Senate, Permanent Subcommittee On Investigations Of The Committee On Governmental Affairs, "Abuses in Federal Student Aid Programs," Report No. 102-58 (Washington, D.C.: U.S. Government Printing Office, 1991), pp. 2-3.
7. Ibid., pp. 2-3.
8. Ibid., pp. 6, 33.
9. Ibid., p. 8.
10. Ibid., pp. 11-13.
11. Mary Crystal Cage, "Tougher Regulations for For-Profit Trade Schools Gain Support in a Growing Number of States," *The Chronicle of Higher Education*, April 25, 1990, p. A24.
12. Scott Jaschik, "Education Department Accreditation Panel Thrust Into Midst of Some of Higher Education's Most Volatile Issues," *The Chronicle of Higher Education*, March 13, 1991, p. A22.
13. Permanent Subcommittee on Investigations, pp. 1, 6, 33.
14. Ibid., p. 4.
15. Ibid., pp. 4, 15-16.
16. Ibid., p. 17.
17. Ibid., pp. 17-19.
18. Ibid., pp. 19-20.
19. Ibid., pp. 13-15.

Chapter 4

THE PROBLEM OF UNACCREDITED DEGREE GRANTING INSTITUTIONS: DIPLOMA MILLS OR LEGITIMATE NONTRADITIONAL INSTITUTIONS

Introduction

Accreditation ideally acts as a third party assurance that a university maintains an acceptable level of educational integrity and quality. Thus, degree granting institutions which are accredited enjoy at least a presumption of legitimacy. Degree granting institutions that are not accredited lack this third party assurance and do not enjoy that same presumption of legitimacy. Whether unaccredited institutions in fact lack educational integrity and quality is conceptually another matter.

Complicating the issue of legitimacy is the predominant use by some unaccredited institutions of nontraditional methods of education. Nontraditional methods of education carry greater risks for fraud than do traditional methods. Four of the six institutions responding to the Bureau's surveys claim to be nontraditional institutions, offering external degree programs. Three grant credits for prior experiential learning.

The use of nontraditional methods of education, however, is not restricted to unaccredited colleges and universities. Some seventy colleges and universities accredited by the regional accrediting bodies offer academic courses for credit through correspondence study.¹ Furthermore, some were evidently established with nonresidential instruction as one of their primary institutional mission (for example, Regent's College in New York, and Thomas Edison State College in New Jersey are both accredited by the Middle States Association of Colleges and Schools).

Following are discussions of the diploma mill problem and the phenomenon of nontraditional methods of education. Inevitably, the question raised is whether any of the local unaccredited degree granting institutions which purportedly educate their students through nontraditional methods of education are legitimate or just diploma mills. Do these institutions resemble the Regent's College in New York or Gold Coast University in Hawaii, which postal inspectors closed down in early 1992 in connection with mail fraud and money laundering charges?² The Bureau is not in a position to answer these kinds of questions.

Diploma Mills

The diploma mill phenomenon is described in detail by David Stewart and Henry Spille in their 1988 book *Diploma Mills: Degrees of Fraud*. A "diploma mill" is defined as "a person or organization selling degrees or awarding degrees without an appropriate academic base and without requiring a sufficient degree of postsecondary-level academic achievement." An

PROBLEM OF UNACCREDITED DEGREE GRANTING INSTITUTIONS

appropriate academic base means "an academic and financial resource base that is substantive enough to enable the institution to fulfill its mission." A sufficient degree of postsecondary-level academic achievement means that "[c]ourse requirements should specify achievement at the postsecondary education level and assessment procedures should be in place to determine whether students have indeed acquired skills or knowledge beyond those required for high school graduation and at a level consistent with the degrees being sought."³

Most diploma mills are allegedly legal; some, illegal, depending upon state authorization and related laws. Universities are generally easy to set up.⁴ There are two types of diploma mills. The pure diploma mill sells a diploma or degree upon payment of a fee and without any pretense of requiring proof of college-level learning. Transcripts and letters of recommendation may be offered as well.

However, more common and more threatening to the integrity of credits and credentials are the marginal institutions. They grant degrees while specifying requirements that emulate but fall far short of those ordinarily specified at legitimate colleges and universities. The basic programs appear respectable enough in their outlines, but they lack substance and are academically unsound. These marginal institutions often target adult learners with the pitch that their unique needs are not being adequately served by mainstream institutions of higher education.⁵

Tell-tale signs of a diploma mill are varied. Signs that arouse suspicion include the following:

- (1) Mail is received only at a postal box number or at a mail forwarding service;
- (2) Promotional literature contains grammatical and spelling errors, words in Latin, extravagant or pretentious language, and sample diplomas;
- (3) Degrees can be obtained within a few weeks or months from the time of enrollment; backdating is possible;
- (4) Faculty members hold advanced degrees from the diploma mill itself or similar organizations;
- (5) The award of academic credit for life experience is the prime come-on;
- (6) The institution lacks accreditation by an accrediting agency recognized by either the Council on Postsecondary Accreditation or the Secretary of Education;
- (7) Words denoting a legal status such as "licensed," "state-authorized," or "state-approved" are misused to suggest an equivalence to accreditation;

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

- (8) Tuition and fees are paid on a degree basis rather than on a per semester, per quarter, or per course basis;
- (9) Prospective students are encouraged to "enroll now" before tuition or fees are increased, or that they qualify for a "fellowship," "scholarship," or "grant"; and
- (10) There is no library.⁶

The roots of the diploma mill problem appear to be: (1) the inherent flexibility and pragmatic orientation of the pluralistic State of American postsecondary education, which make it possible for diploma mills to flourish under the banner of innovation and outreach; (2) the sharp increase in the American level of educational attainment since the middle of this century; and (3) credential consciousness, or the preoccupation of Americans with academic degrees.⁷ Thus, clients of diploma mills are apt to be people flocking toward the white-collar job market who find themselves unable or unwilling to compete legitimately within an increasingly credential-conscious society. Some know they are engaging in fraud; some are themselves defrauded. Foreign citizens are prominent in each group.⁸

Nationwide, as of 1986, a rough estimate of the number of questionable educational institutions was 357; at least forty-three were legal, at least 126 were not. Clusterings occurred in eleven states, among them Arizona, California, Florida, and Missouri.⁹ As of 1988, heavy diploma mill activity occurred in the white-collar fields of business (making the MBA especially valuable), counseling and therapy, health sciences (including medicine), nutrition, education, and religion.¹⁰

Direct victims of diploma mills are foreign students ignorant of the American system of accreditation as an instrument to assure academic quality. Indirect victims of diploma mills are: (1) employers who are defrauded into hiring, retaining, or promoting employees on the mistaken belief that their credentials are valid; (2) consumers, such as elderly patients, who receive services from those they believe to be professionals, who in fact do not possess the knowledge or skills indicated by their credentials; and (3) holders of legitimate American academic degrees which are devalued in the presence of diploma mill degrees.¹¹ It is this third area--the potential debasing of the academic currency--that appears to be leading concern among local lawmakers.¹²

Finally, the chief victim of diploma mill activity may well be the legitimate and academically respectable programs of nontraditional education at accredited institutions, whose innovative concepts and ideas are misused and abused by the diploma mills. As diploma mills ignore or abuse legitimate procedures, the entire practice of nontraditional education may be called into question.¹³

Nontraditional Methods of Education

Emerging onto the American scene in the 1970's,¹⁴ nontraditional methods of education "incorporates credit programs based on new or unconventional forms of education that are free of time, place, and space limitations typical of traditional classroom-based instruction."¹⁵ By deemphasizing time, space and course requirements in favor of competence and performance and by encouraging diversity of individual opportunity rather than uniform prescription, nontraditional education seeks to place the institution second to the student. The student's needs are more important than the institution's convenience. In this way, colleges and universities are made more responsive to the needs of adult learners. However, unless great care is taken to protect the freedom it offers, it can also be the unwitting means to a lessening of academic rigor and even to charlatanism.¹⁶

Nontraditional methods of education are nontraditional for any of the following practices:¹⁷

- (1) The learning experience occurs off campus in regional learning centers, a field work location, an office or factory, or the learner's home;
- (2) The institution grants maximum recognition of prior, college-level learning, regardless of the manner by which such learning was attained;
- (3) The methods of instruction are based not in the classroom but through the media or programmed learning materials;
- (4) The students design their own programs and experiences, pursue competency-based curricula,¹⁸ or enjoy reduced or no-residency requirements.

The first and second of these practices appear to encompass the recognition of experiential learning. Experiential learning means learning acquired outside the sponsorship of a college or university. It is acquired through: (1) structured formal instruction or courses offered by businesses, government agencies, labor unions, professional or voluntary associations, and the military; or (2) the individual's own experiences of work, travel, reading, or self-study.¹⁹

Proper assessment of experiential learning requires:

- (1) A systematic collection and presentation of information;
- (2) Faculty application of systematic assessment techniques to determine if the learning is of college level and of a type applicable toward a college degree;
- (3) The allocation of credit among the relevant knowledge areas and recordkeeping for accountability.

As of 1986, ninety-seven percent of American colleges and universities had policies permitting the acceptance of credit for learning acquired in noncollegiate settings. Methods of identifying, documenting, and evaluating experiential learning include: (1) portfolio developments and (2) credits by examination. The Council for Adult and Experiential Learning ("CAEL") publishes guidelines for the former. As of 1986, ninety-three percent of American postsecondary institutions used the latter method, which includes the College Board College-Level Examination Program ("CLEP") and the Defense Activity for Non-Traditional Education Support ("DANTES"). A guideline is also available from the American Council on Education ("ACE") called "Model Policy on Awarding Credit for Extracurricular Learning."²⁰

There are at least two reasons for such guidelines. One is that the practice of assessing an individual's work and non-work experiences and assigning college credit for those experiences can be easily abused. Inappropriately followed and used to excess, the practice has become the veneer of legitimacy for the diploma mills, which will assign credit for experiential learning without using either proper procedures for assuring documentation or methods of assessing whether learning actually occurred and is representative of college-level performance.²¹

The second reason relates to individually acquired experiences. "[U]nstructured life activities often cannot be squared with formal course requirements and . . . the body of organized and theoretical knowledge which serves as the basis for formal study often is not conveyed by direct experience."²²

An example of the challenges of assessing the creditworthiness of individually-acquired learning can be found in the recent book *College Degrees By Mail*. In the book, its author, the former president of the Big Island's Greenwich University, advises that he "has yet to meet anyone with an IQ higher than room temperature who has not done at least some creditworthy things, assuming they were presented properly in a portfolio." He then lists 100 potentially creditworthy items, assuring the reader that the list "could easily be ten or one hundred times as long." Among the noteworthy are the following:

Being Dungeonmaster; Having intensive talks with a doctor; Reading the newspaper; Watching public television; Planning a trip; Planning a balanced diet; Decorating a home or office; Eating in an exotic restaurant; Laying bricks; Keeping tropical fish; Serving on a jury; Listening to Shakespeare's plays on tape; Taking photographs; Helping in a political campaign; Playing golf; Applying statistics to gambling; Taking care of sick animals; Reading this book.²³

The External Degree

Nontraditional methods of education are epitomized by the external degree,²⁴ an otherwise traditional degree but for the fact that it may be completed mainly by independent reading, correspondence study, the use of programmed instruction and computer and television media, or contract learning (which refers to a written agreement between a student and the instructor, setting forth the terms and conditions of a learning project).²⁵ In particular, an external degree program grants credit for experiential learning and contains little or no residency requirements. There is no classroom attendance. Learning is done independently.

Without the traditional setting of residential study and classroom attendance, external degree programs have complicated the task of detecting academic fraud.²⁶ They have also undermined the value of residency itself, which traditionally meant that a student leaves home to live and study in a university community.

Regarded as the chief difference between an internal and an external degree program, residence was traditionally regarded as an essential, if not the crucial, element of the college or university degree. However, proponents of external study point out that the purpose of residency is the development not of adults but of youths, through supervision by older mentors and sustained interaction with other youths.²⁷

Thus, the external degree attempts to benefit the adult learner. Adult learners are the working adults, homemakers, young or older adults, who are motivated to study independently or who cannot easily attend a campus or who cannot or do not wish to devote themselves to full-time classroom endeavors.²⁸ Some are "second chance" students, previously thwarted in their educational pursuits.²⁹

To some extent, generally recognized colleges and universities have not served the needs of these mature adults who have work and family responsibilities, although a large number reportedly have taken major steps to redress the situation.³⁰ Their efforts were given a boost of encouragement recently by the federal government.³¹

According to Cyril O. Houle, noted as the primary theoretician of nontraditional education in the United States and a professor emeritus of education at the University of Chicago,³² the external degree arrived suddenly and powerfully to the attention of the American academic community in 1970 and was borne earlier of the internal degree, moved on by the deep and perennial egalitarianism of the American ethos and the belief that individuals should maximize their educational levels.³³

In America, the external degree developed out of the second of two patterns traced out by the internal degree: (1) the first was the wholly prescribed pattern, in which all students completed a set course of studies in the same fashion and the same sequence; (2) the second was the elective system, characterized by a freedom of choice among courses. Both patterns were internal in the sense that the degree was to be secured only through full-time

study by young people in residence on the campus of a college or university. The elective system led to the development of credit courses, which in turn facilitated the emergence of the part-time student.³⁴

The growth of the part-time student in the early years of the twentieth century led to the birth of the external degree. Its development has been characterized by a movement away from classroom-based instruction and formal requirements to independent study and an assessment of actual learning. Its driving force has been the challenge of treating the adult learner differently from the campus-bound teenager.³⁵ As of 1979, the external degree was still evolving with no set model or standard being followed.³⁶

ENDNOTES

1. David W. Stewart and Henry A. Spille, Diploma Mills: Degrees of Fraud (American Council on Education and the MacMillan Publishing Co., 1988), pp. 56-58.
2. Gold Coast University was incorporated in Hawaii as a for-profit corporation in 1991. It was shut down in February 1992 by federal postal inspectors following the arrest of its owner, Edward Reddeck, for 26 counts of mail fraud and money laundering in connection with the North American University, which was his Utah university. Gold Coast was without a campus, office, or local faculty. Its address was that of a mail-forwarding service. It offered its programs on a correspondence basis, claimed to be accredited, and attempted to attract working adults who wished to devise a college degree program around their work schedules. The accrediting agency that accredited Gold Coast was founded by Reddeck himself.

A recidivist offender, Reddeck operated similar operations throughout the country dating back at least to 1978, when he was convicted of mail fraud and served time in federal prison for his Texas university. He was also permanently enjoined from conducting any educational services in Missouri in connection with his Missouri university.

The catalog for his Utah university claimed that students could obtain a degree for tuition payments of between \$1,500 and \$3,000, and that individually-designed programs would be developed with the assistance of a teacher-advisor from among a vast array of degree programs and options, including independent study, seminars, travel, social experiences, programmed and technologically-aided systems and scheduled on-campus courses.

From: Gregg Kakesako, "Federal Fraud Case Shuts Isle 'School,'" The Honolulu Star-Bulletin, February 26, 1992, p. A1; Thomas Kaser, "Postal Inspectors Shut Coast University," The Honolulu Advertiser, February 27, 1992; Kakesako, "'Diploma Mill' Dupes Mainland Pilot, Nurse," The Honolulu Star-Bulletin, March 19, 1992, p. A5; U.S., Department of Justice, U.S. Attorney, District of Utah, press release, February 4, 1992; United States of America v. Edward P. Reddeck, et al., U.S. District Court, District of Utah, Central Division, #92-CR-22W.

3. Stewart and Spille, pp. 9-10.
4. Ibid., p. 184.
5. Ibid., p. 11.
6. Ibid., pp. 25-34.

PROBLEM OF UNACCREDITED DEGREE GRANTING INSTITUTIONS

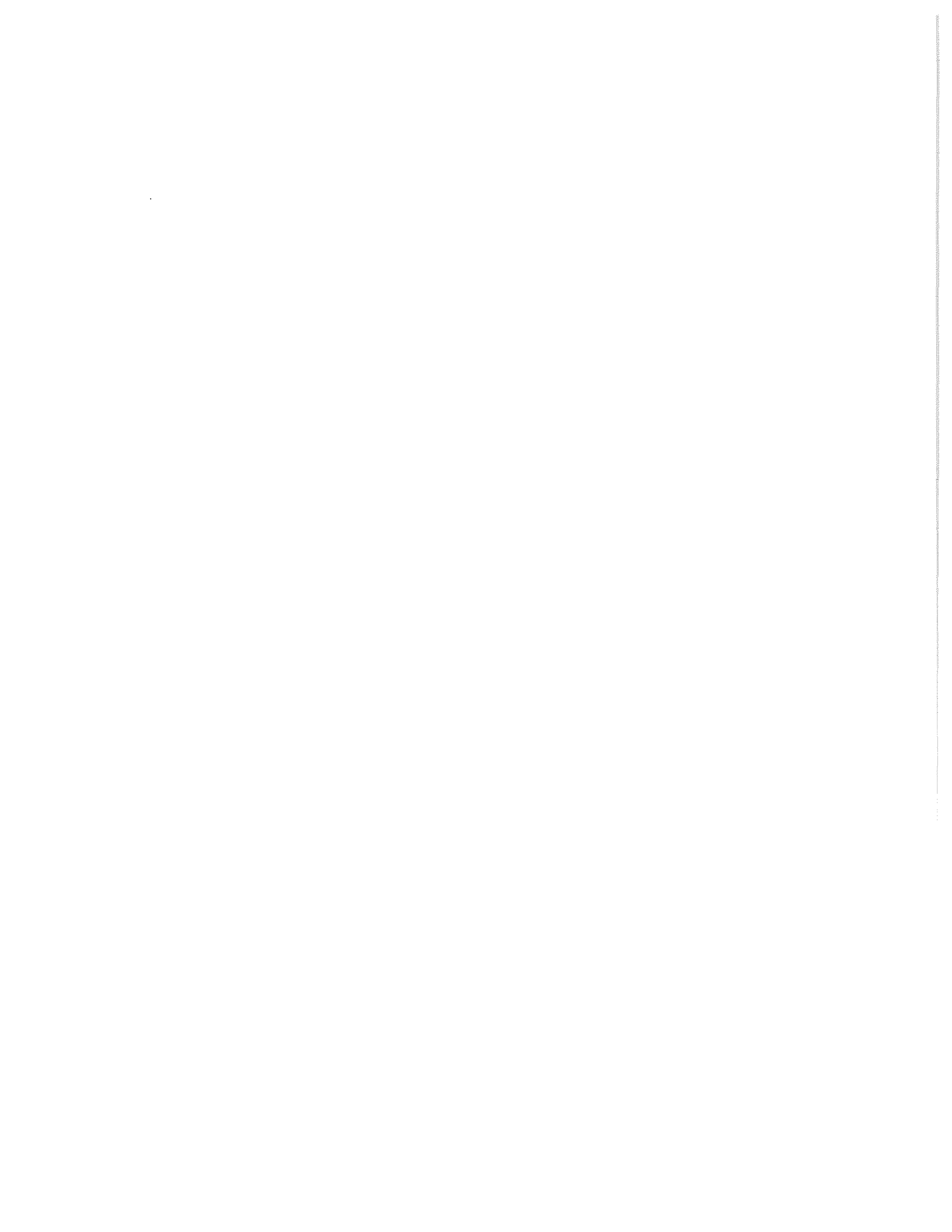
7. Ibid., pp. 12, 45-46.
8. Ibid., p. 14.
9. Ibid., pp. 36-38.
10. Ibid., pp. 15-20.
11. Ibid., pp. 21, 184.
12. Gregg Kakesako, "Officials Unsure How to Deal With Unaccredited Schools," The Star-Bulletin, February 26, 1992, p. A6.
13. Stewart and Spille, pp. 56, 185.
14. California, Postsecondary Education Commission, "Protecting the Integrity of California Degrees," 1989, p. 57.
15. Stewart and Spille, p. 46.
16. Kenneth E. Young, et al. (ed.), Understanding Accreditation, quoting the 1973 report of the Commission on Non-Traditional Study, which is regarded as having defined and legitimated the movement (San Francisco: Jossey-Bass Publishers, 1983), p. 345.
17. Stewart and Spille, p. 46.
18. Competency-based curricula allows credit for prior college-level learning, while simultaneously allowing the identification of those learning competencies that must still be acquired before a degree can be awarded. Competencies are basically units or modules of learning that are generally narrower in scope than traditional courses. Stewart and Spille, pp. 54-55.
19. Ibid., pp. 47-51.
20. Ibid., pp. 47-54.
21. California, Postsecondary Education Commission, pp. 57-58; Stewart and Spille, p. 51.
22. Cyril O. Houle, The External Degree (San Francisco: Jossey-Bass Publishers, 1973), p. 71.
23. John Bear, College Degrees by Mail (Ten Speed Press, 1991), p. 48.
24. California, Postsecondary Education Commission, p. 57.
25. Stewart and Spille, pp. 51-52, 54.
26. California, Postsecondary Education Commission, p. 57.
27. Houle, pp. 158-161.
28. Stewart and Spille, p. 46.
29. Houle, pp. 46, 59, 80.

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

30. Stewart and Spille, p. 56.
31. Whereas it was the 1986 Reauthorization Act that added the nontraditional student as a beneficiary of the goal of the original 1965 Higher Education Act of achieving equal educational opportunity (House Report No. 99-383, on P.L. No. 99-498, in 1986 United States Code Congressional and Administrative News, pp. 2576, 2578), the 1986 programs for nontraditional students were never funded (House Report No. 102-447 on P.L. No. 102-325, Higher Education Amendments of 1992, in 1992 United States Code Congressional and Administrative News, p. 344). The federal government, however, recently reaffirmed its commitment to nontraditional students in the 1992 amendments, one of whose five basic goals is to modify the student aid programs to more effectively serve the needs of nontraditional students, who are understood to be "older, independent of their parents, working, and generally attending school part time" and are acknowledged to be among the majority in postsecondary education (H.R. No. 102-447 on P.L. No. 102-325, Higher Education Amendments of 1992, in 1992 United States Code Congressional and Administrative News, p. 343).
32. California, Postsecondary Education Commission, p. 59.
33. Houle, pp. 1, 3-7, 64.
34. ibid., pp. 3-7.
35. ibid., pp. 7-12; 14-15; 87-90.
36. David E. Kapel et al., American Educators' Encyclopedia, rev. ed. (Connecticut: Greenwood Press, 1991), p. 213.

PART II

Background



Chapter 5

PRIVATE SECTOR ACCREDITATION

The Nature of Accreditation

In the world of postsecondary education, accreditation refers to a voluntary, self-regulatory private sector enterprise through which participating institutions encourage each other to attain and improve their educational quality. It is understood that no institution fully realizes its potential. Through peer evaluation, accreditation aims to provide reliable third party assurance that an institution or its program meets or exceeds an accrediting agency's qualifications and minimum educational standards.¹ There is reason, then, for confidence in an institution's or program's purposes, in the appropriateness of its resources and plans for carrying out these purposes, and in its effectiveness in accomplishing these goals.² Accreditation is the higher education community's principal means for quality assessment and self-regulation.³

Intended as a voluntary practice of self-regulation, accreditation operates without any overt enforcement tools. Accrediting agencies have no legal control over educational institutions or their programs.⁴ Rather, it relies on peer pressure to achieve its ends. That is the basis for its authority.⁵ Thus, the ultimate test for an institution is whether it is acceptable to other institutions. Accordingly, accreditation aspires toward being an internally motivated quality enhancement process, rather than an externally imposed quality control mechanism.⁶

Accreditation is generally granted for a specific term, such as five or ten years, although accrediting bodies generally reserve the right to review member institutions or programs at any time for cause.⁷

The Purposes of Accreditation: Educational Quality and Institutional Integrity

The fundamental purposes of accreditation are to: (1) assure the educational quality of an institution or program; and (2) assist in the improvement of the institution or program.⁸ There seem to be two preeminent concerns: (1) educational quality; and (2) institutional integrity.

Educational quality is defined and interpreted within the context of the institution's or program's own statement of scope and purpose as compared with similar institutions or programs. A review is made of educational inputs, resources, processes, and outcomes.⁹ Outcomes (of educational experiences) are the current focus of emphasis and increasing interest.¹⁰ Educational quality is judged by standards, defined by the participants themselves, that tend toward the general and variable in order to account for the great diversity of postsecondary educational institutions in the country.¹¹

Institutional integrity means that an institution delivers the kind of education that it promises.¹² It is made up of three components: (1) the institution demonstrates a clarity and preeminence of educational mission in the operations of the institution; (2) the institution represents itself accurately and honestly to its clientele; and (3) the institution operates its programs ethically and is accountable for every aspect of its programs.¹³

Two externally imposed purposes may have worked to undermine the voluntary nature of accreditation. Eligibility for federal institutional and student aid funds, on the one hand, and state professional licensure, on the other hand, require that postsecondary educational institutions be accredited.¹⁴ Such requirements tend to give accrediting bodies a certain amount of leverage in their dealings with postsecondary institutions.¹⁵

The Elements of the Accreditation Process

According to Kenneth Young, the founding president of the Council on Postsecondary Accreditation:

Accreditation is a process by which an institution of postsecondary education evaluates its educational activities, in whole or in part, and seeks an independent judgement to confirm that it substantially achieves its objectives and is generally equal in quality to comparable institutions or specialized units Essential elements in the accreditation process are (1) a clear statement by the institution of its educational intentions, (2) the conduct of a directed self-study focused on the achievement of these intentions, (3) an on-site evaluation by a selected group of peers, and (4) a decision by an independent accrediting commission that, in light of its standards, the institution or specialized unit is worthy of accreditation.¹⁶

The heart of this evaluative process is the institutional self-study, conducted with regard to the institution's own missions.¹⁷ The self-study is supposed to take into consideration the interests of a broad cross-section of constituencies--students, faculty, administrators, alumni, trustees, and in some circumstances the local community.¹⁸ Potential shortcomings of the self-study may be that it is incomplete or lacking in objective data.¹⁹ Another is that its integrity may be compromised by the compliance mentality fostered by state minimum standards requirements. Weaknesses identified through the self-study, if required to be made public, could be perceived by state governments as cause for licensure limitations. The self-study report could then become a self-indictment.²⁰

Also crucial in the accreditation process is the on-site evaluation. The site-visit team, sent by the accrediting commission, normally consists of professional educators (faculty and administrators), specialists selected according to the nature of the institution, and members representing specific public interests.²¹ The on-site review is undertaken in light of the

agency's standards and procedures, and the institution's missions.²² A potential difficulty with the review is that the reviewing team may be untrained or not fully expert, and the visit too short.²³

As a general observation, accrediting agencies exhibit much variation in composition, size, and workload. They also vary in their accreditation standards and procedures covering the stability of an institution, the integrity of its programs and administration, and the probity of its dealings with potential and enrolled students. In particular, substantial variation exists regarding their standards and reporting procedures for assessing the financial health of the institution. Not all of them properly assess the school's financial report, arguably the single most complete indicator of institutional stability: a deteriorating financial report nearly always precedes an abrupt school closure. Lastly, educational standards vary widely.²⁴

Furthermore, recent criticism has been levelled at the agencies which accredit proprietary schools or trade schools. The criticism is that accreditation is simply not suited to the structure and operations of trade schools. The traditional approach to accreditation was based almost entirely upon principles and assumptions developed over the course of many years for traditional two- and four-year colleges and universities. The traditional approach assumes that the basic concerns of the institution are not profit-making but the welfare of its students.²⁵

Two Types of Accreditation: Institutional and Specialized

Accreditation can be either: (1) institutional; or (2) specialized or programmatic.²⁶

Institutional Accreditation

Institutional accreditation normally applies to an entire institution. A grant of accreditation means that each part of the institution is contributing to the achievement of the institution's objectives.²⁷ It does not mean that all of the institution's programs are of equal quality but that no part has been found to be so weak as to undermine the overall educational effectiveness of the institution and its services to students. Neither does it mean that all aspects of institutional life have been found to be of equal quality, but that, as a whole, the institution bears integrity; it does the job it claims to be doing.²⁸

As indicated earlier, institutions are judged primarily in terms of their own self-declared missions and objectives. Broad criteria are used to review the educational programs, the adequacy of the library and learning resources, student personnel services, financial conditions, the effectiveness of management, student assessment, short- and long-range planning, and administrative strength. The criteria used are broad because attention is directed to the whole institution, and postsecondary institutions are of widely different purposes and scopes.²⁹

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

Institutional accreditation is performed by the six regional accrediting associations and by some of the national accrediting agencies. They enjoy considerable power from the fact that federal student aid eligibility is generally determined by institutional accreditation, and not by specialized accreditation.³⁰

There are currently six regional associations. Their boundaries have resulted from historical tradition rather than any planned development.³¹ Hawaii is located in the region served by the Western Association of Schools and Colleges ("WASC"). The region also includes California, American Samoa, Guam, Federated States of Micronesia, Republic of Palau, Commonwealth of Northern Mariana Islands, the Pacific Basin, and East Asia.³² The other five regional associations are: Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Southern Association of Colleges and Schools, and Northwest Association of Schools and Colleges.³³ It appears from their directories that the regional associations normally accredit the degree granting institutions--the universities, four-year colleges, two-year junior and community colleges. Some also accredit certain degree granting trade schools (New England Association, Southern Association, North Central Association).

In instances where an institution based in one region operates satellite programs or a branch campus in a different region, the regional accrediting associations have adopted the policy of allowing the agency with jurisdiction over the main campus to be responsible as well for the out-of-state programs.³⁴ Accordingly, the Hawaii branch campuses or satellite programs of some out-of-state institutions are regionally accredited by associations other than WASC, in particular, the North Central Association and the Southern Association.

The regional associations, composed of the institutions themselves, maintain a low profile: unacceptable applications are not announced, and no public notice is given of institutions withdrawing from the accreditation process.³⁵

Lastly, the national institutional agencies include at least the Career College Association (formed from the merger of the National Association of Trade and Technical Schools and the Association of Independent Colleges and Schools), the National Home Study Council, the American Association of Bible Colleges, the Association of Advanced Rabbinical and Talmudic Schools, and The Association of Theological Schools in the United States and Canada.³⁶

Specialized Accreditation

Specialized accreditation normally applies to the evaluation of programs, departments or schools which usually are parts of a total collegiate or other postsecondary institution which is accredited by one of the regional accrediting commissions.³⁷ Thus, institutional accreditation is often a prerequisite for program accreditation by a specialized accrediting

body.³⁸ In turn, specialized accreditation of certain programs like law or medicine is sometimes a state requirement for graduates to sit for standardized license exams.³⁹

Specialized accreditation is performed by the specialized accrediting agencies, who are all national in their scope of operations.⁴⁰ Some of them also accredit "free-standing" professional schools and vocational schools which are not regionally accredited. In such a case they are effectively functioning as institutional accrediting agencies;⁴¹ and their accrediting decisions will affect eligibility for federal financial aid.⁴²

Often associated with professional organizations, specialized accrediting agencies accredit programs that prepare students for a particular profession or occupation. Such accreditation provides assurances about the adequacy of certain educational programs in professional and occupational fields where improper activities pose the threat of causing irreparable harm to the public health, welfare, or safety. Criteria for evaluation are developed by the educators and the practitioners in the field.⁴³ Specialized accrediting agencies evidently accredit both degree granting and non-degree granting programs or institutions.

Most agencies have at least two levels of accreditation, one for preaccreditation and one for accreditation, but the terminology is not standardized or consistent from one agency to another. "Provisional" accreditation could mean preaccreditation or probation. Accreditation is granted for an average length of six years; the modal length of years is five.⁴⁴

Specialized accreditation developed out of turn-of-the-century concerns relating to educational quality within the medical and legal professions, and subsequently spread to other professions as well, including those in which the social need for public safety and quality assurance was not altogether apparent, such as journalism, theology, and computer science.⁴⁵ The accrediting agencies tend to be formed by associations of educational institutions, professional associations, or a combination of both. The make-up of the agency helps determine whether it is the educational institutions or the professions which are being served by the accreditation process. The professional associations view accreditation as a tool to protect and improve the status of the profession and its practitioners, while the educational institutions or programs view accreditation as a tool to assure educational quality.⁴⁶ The proliferation of specialized accrediting agencies over the last two decades in various fields are causing colleges and universities to wonder whether these agencies are too plentiful, too powerful, too expensive, and not really serving a social need.⁴⁷

Recognition of Accrediting Agencies by the Council on Postsecondary Accreditation

The purported hub of voluntary accreditation activity in the United States is the Council on Postsecondary Accreditation ("COPA"). A nonprofit corporation based in Washington, D.C., it was founded in 1975 to provide national leadership on accreditation issues and to restrain federal involvement in accreditation matters. Financed primarily by the

institutional accrediting bodies, COPA aims to foster and facilitate accrediting bodies in their efforts to promote and ensure the quality and diversity of American postsecondary education.

In particular, its corporate charter empowers it to grant recognition, through membership, to accrediting bodies that meet its criteria on standards, organizational structure, scope, public responsibility, evaluation practices and procedures, and educational philosophy.⁴⁸ COPA's recognition functions, unlike those of the Secretary of Education, do not serve purposes of eligibility for federal financial aid. However, both COPA and the Secretary of Education recognize virtually the same accrediting agencies.⁴⁹

COPA's recognition process serves to: (1) ensure the integrity and consistency of accreditation policies and procedures; (2) improve accrediting practices; and (3) provide accreditation information to the educational community and interested sectors of the public.⁵⁰ In other words, it attempts to act as a safeguard against the problem of "accreditation mills," which are accrediting agencies that use extremely questionable standards and procedures in assessing the academic quality of educational institutions. Accrediting agencies, like universities, are fairly easy to establish.⁵¹ Conversely, the recognition also may give accrediting agencies some clout in higher education circles.⁵²

Over the past decade, the six regional accrediting associations reportedly have become increasingly dissatisfied with COPA, demanding changes in its structure, mission, and finances. Confusion has existed from its beginnings as to its role and authority, as well as its legitimacy.⁵³

The Historical Development of Accreditation

Historically, the practice of private sector accreditation emerged as a national phenomenon in the early 1900's to help differentiate high schools from colleges, and colleges from medical schools, and to develop common standards to guide and control the public universities and the private colleges, and assure a basic level of quality.⁵⁴ Toward the end of this century, accreditation still tackles the fundamental question of what exactly is an institution of postsecondary education.⁵⁵

Accreditation is unique to this country; in other nations, the establishment and maintenance of educational standards is usually the official responsibility of a ministry of education. In this country, the standards developed within the private sector. The reason originates in the United States Constitution. The Constitution does not give the federal government express authority over education; nor does it expressly withhold it from the states. Thus, the power over education devolves to the states under the Tenth Amendment, which states that: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." However, despite their reserved powers over education, states supposedly lacked the initiative to address the problems that accreditation would seek to resolve.⁵⁶

Moreover, since private accreditation developed to fill a regulatory void created through state inaction, the accrediting agencies are not subject to the constitutional constraints of due process and equal protection. Their accreditation function does not constitute "state action" because it was never "traditionally the exclusive prerogative of the State." The agencies did not perform a public function.⁵⁷

Although states have enacted various regulatory measures directly affecting postsecondary institutions, these measures have not supplanted accreditation. Rather, by the end of World War II, many state laws and regulations affecting postsecondary education had come to incorporate by reference the private accreditation process.⁵⁸ While the various states' regulations lacked uniformity, this lack of uniformity might have been offset to some degree by the tendency of accrediting agencies to promote both regional and national approaches to the determination of educational quality.⁵⁹

The deference paid by state governments to the accreditation process also might have been attributable to treasured notions of academic freedom. It is believed that postsecondary education in this country derives its strength and excellence from the unique and diverse character of its many individual institutions. These qualities supposedly are best sustained and extended by the freedom of these institutions to determine their own objectives and to experiment in the ways and means of education within the framework of their respective authority and responsibilities.⁶⁰ Academic freedom, then, is believed to be the base of academic strength and excellence. The relationship between academic freedom and accreditation was not determined.

Accreditation and Nontraditional Methods of Education

The emergence of nontraditional institutions and programs in the late 1960's raised the issue of whether accreditation, which was geared mainly toward evaluating the education process within traditional institutions, could effectively assess the quality of education in those new institutions and programs, which place their emphasis less on educational process and more on educational outcomes, arguably the single most important concept to emerge from the nontraditional education movement.⁶¹

The answer is unclear, although there were indications in 1983 that accreditation was adapting to its new clientele. In a 1978 study, COPA had found that accreditors were reasonably successful in adapting and applying the process-oriented model for traditional education to the evaluation of nontraditional education, and that educators had encouraged such an assessment of educational outcomes in the accreditation process. The study concluded that as long as an institution could appropriately demonstrate rigor in its educational programs and the educational effectiveness of its students, the institution should have the right to seek and obtain accreditation.

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

COPA had suggested that American postsecondary education should be viewed as a continuum with strictly traditional institutions and programs on one end and the highly nontraditional institutions and programs on the other. The former emphasize the structure and process involved in achieving an institution's purpose and mission (administration, organization, financial resources, academic programs, student services, physical resources), with minimal attention to educational outcomes. The latter emphasize educational outcomes, with minimal attention to structure and process.⁶²

Current examples of accredited, nontraditional degree granting institutions are the private nonprofit Regents College and the public Empire State College in New York, and the public Thomas A. Edison State College in New Jersey. All three are institutionally accredited by the Middle States Association of Colleges and Schools.⁶³ California's National University, Fielding Institute, California School of Professional Psychology, and Wright Institute are examples of nontraditional, nonresidential institutions accredited by WASC.⁶⁴

ENDNOTES

1. American Council on Education, 1991-1992 Accredited Institutions of Postsecondary Education (Washington, D.C., 1992), p. 556; 34 C.F.R. 602.2 (1991); Kenneth E. Young et al. (ed.), Understanding Accreditation (Washington, D.C.: Jossey-Bass Publishers, 1983), pp. 82-84.
2. Accredited Institutions, p. 555.
3. David W. Stewart and Henry A. Spille, Diploma Mills: Degrees of Fraud (American Council on Education and MacMillan Publishing Co., 1988), p. 117.
4. U.S., Department of Education, February 1992 Nationally Recognized Accrediting Agencies and Associations: Criteria and Procedures for Listing by the U.S. Secretary of Education and Current List (hereafter "Secretary's handbook") (Office of Management and Budget No. 1840-0607), p. 3.
5. California, Postsecondary Education Commission, "The State's Reliance on Non-Governmental Accreditation," Commission Report 89-13, 1989, pp. 9, 11.
6. Young, pp. 10, 84.
7. Accredited Institutions, p. 547.
8. Stewart and Spille, p. 110; Young, p. 22.
9. Young, p. 25.
10. Accredited Institutions, p. 546; Federal Register Vol. 53, No. 127, July 1, 1988, pp. 25089-25090 on the rules adoption of 34 C.F.R. 601 et. seq.
11. Young, p. 21; Commission Report 89-13, p. 9.
12. Young, pp. 25, 171.
13. Commission Report 89-13, p. 22.

PRIVATE SECTOR ACCREDITATION

14. Ibid., p. 11; 34 C.F.R. sec. 602.1(b) (1991); Secretary's handbook, p. 3.
15. Young, p. 282.
16. Ibid., p. 21.
17. Ibid., p. 21; Commission Report 89-13, p. 11.
18. Accredited Institutions, p. 546.
19. Commission Report 89-13, p. 11.
20. Young, pp. 77, 280.
21. Accredited Institutions, p. 546.
22. Commission Report 89-13, p. 11.
23. Ibid.
24. Ibid., pp. 11-23.
25. U.S., Senate, Permanent Subcommittee On Investigations Of The Committee On Governmental Affairs, "Abuses in Federal Student Aid Programs," Report No. 102-58 (Washington, D.C.: U.S. Government Printing Office, 1991), p. 16.
26. Secretary's handbook, p. 2; 34 C.F.R. 602.12.
27. Secretary's handbook, p. 2.
28. Stewart and Spille, p. 113.
29. Ibid., p. 112.
30. Scott Jaschik, "Some Accrediting Groups May Be Allowed to Use 'Diversity Standards,'" The Chronicle of Higher Education, May 15, 1991, p. A20.
31. Young, pp. 177-179.
32. Western Association of Schools and Colleges (WASC), 1991-1992 Directory, and Art. II, sec. 1 of its constitution.
33. These are the jurisdictions of the other five regional associations:

Middle States Association of Colleges and Schools: the Canal Zone, the Commonwealth of Puerto Rico, Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, and the Virgin Islands.

New England Association of Schools and Colleges: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

North Central Association of Colleges and Schools: Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, and Wyoming.

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

Southern Association of Colleges and Schools: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Texas, Tennessee, and Virginia.

Northwest Association of Schools and Colleges: Alaska, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

1991-1992 WASC directory, p. 138.

34. Young, p. 77.
35. Ibid., pp. 168, 184.
36. Accredited Institutions, p. 694.
37. Secretary's handbook, p. 2.
38. Stewart and Spille, p. 114.
39. Young, p. 203; Courtney Leatherman, "Specialized Accrediting Agencies Challenged By Campus Officials," *The Chronicle of Higher Education*, September 18, 1991, pp. A1, A22.
40. Young, p. 190.
41. Secretary's handbook, p. 2; Accredited Institutions, p. 546.
42. Young, p. 203.
43. Stewart and Spille, pp. 110-111, 114, 115.
44. Young, pp. 196-197.
45. Ibid., pp. 187-190; Leatherman, *The Chronicle of Higher Education*, p. A22.
46. Young, pp. 191-193, 198, 200.
47. Courtney Leatherman, *The Chronicle of Higher Education*, pp. A1, A22.
48. Young, pp. xxi, 295-309; Stewart and Spille, p. 117; Secretary's handbook, p. 2.
49. Stewart, pp. 155-156; Leatherman, *The Chronicle of Higher Education*, p. A23; compare Secretary of Education's listing of recognized agencies in his February 1992 *Nationally Recognized Accrediting Agencies* with COPA's listing of its recognized agencies in its 1991-1992 *Accredited Institutions of Postsecondary Education*.
50. The COPA Handbook, p. 39.
51. Stewart and Spille, p. 121.
52. Ibid., pp. 118, 125.

PRIVATE SECTOR ACCREDITATION

53. Young, p. 295; Courtney Leatherman, "Leaders of Regional Accrediting Agencies Voice Dissatisfaction With National Organization; Some Say Defections Are Possible," *The Chronicle of Higher Education*, March 27, 1991, p. A15.
54. Young, pp. 2, 273; Secretary's handbook, p. 1.
55. Ibid., p. 32.
56. Ibid., pp. 19, 233, 273.
57. Medical Institute of Minnesota v. National Association of Trade and Technical Schools, 817 F.2d. 1310, 1313 (8th Cir. 1987); Transport Careers, Inc. v. National Home Study Council, 646 F. Supp. 1474, 1478-1479, 1479 n. 4 (N.D. Ind. 1986); Parsons College v. North Central Association of Colleges and Secondary Schools, 271 F. Supp. 65, 70, 74 (N.D. Ill. 1967).
58. Young, p. 275.
59. Ibid., p. 276; Accredited Institutions, p. 546.
60. Accredited Institutions, p. 547.
61. Young, pp. 344, 348.
62. Ibid., p. 348.
63. Directory of Middle States Association of Colleges and Schools - 1992; 1992 catalogs of the Regents College; 1991-1993 bulletins or catalogs of Thomas Edison State College; 1991-1993 bulletins or catalogs of Empire State College.
64. Letter from the University of Hawaii at Hilo Chancellor to the Legislative Reference Bureau, September 8, 1992.

Chapter 6

THE FEDERAL GOVERNMENT'S INVOLVEMENT WITH ACCREDITATION AND STATE LICENSING

The Triad of Institutional Eligibility

The federal government is indirectly involved with the accreditation process. Federal higher education statutes require the Secretary of Education to "publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered."¹ The statutory mandate is the principal means of enabling the Secretary to fulfill his stewardship responsibility of ensuring that federal moneys are used at institutions or programs that meet certain standards with regard to quality.² In turn, the mandate intends to facilitate the accreditation function of improving the quality of postsecondary education.³

An institution's accreditation by an agency so listed or recognized by the Secretary is one of three requirements for postsecondary institutions to be eligible to receive federal student aid funds. The other two are (1) a license by the state in which the institution operates and (2) a certification to the federal government by the school that it is administratively and financially capable of properly and efficiently administering federal funds. Together, these three requirements are known as the "triad" of institutional eligibility,⁴ promoting the "effective and workable" partnership of the federal government, the state governments, and the accrediting agencies.⁵

Again, the triad of institutional eligibility is as follows:

- (1) A license to operate in the state in which it is located;
- (2) Accreditation by an accrediting agency recognized by the Secretary of Education; and
- (3) A certification by the institution to the federal government of the institution's financial and administrative capability in handling federal funds.

The federal rules regarding institutional eligibility appear to be located at 34 C.F.R. Part 600 "Institutional Eligibility Under the Higher Education Act of 1965, as Amended." Those regarding recognized accrediting agencies are located at 34 C.F.R. Part 602 "Secretary's Procedures and Criteria for Recognition of Accrediting Agencies." These rules are promulgated under the federal higher education statutes found at 20 U.S.C.A. sec. 1058 et seq. In turn, the federal funding programs of these statutes are enacted under the Congressional spending powers of Article 1, section 8, cl. 1 of the United States Constitution: "The Congress shall have the power to . . . provide for the . . . general welfare of the United States . . ."⁶

The Four Types of Eligible Institutions

In addition to the triad of institutional eligibility, there are four possible types of eligible institutions:⁷

- (1) Institutions of higher education, which are nonprofit, typically degree granting institutions;
- (2) Proprietary institutions of higher education, which are for-profit trade schools which are at least two years old and whose training programs are at least six months long (sixteen semester hours or 600 clock hours in length);
- (3) Postsecondary vocational institutions, which are nonprofit trade schools which are at least two years old and whose training programs are at least six-months in long (sixteen semester hours or 600 clock hours in length); and
- (4) Vocational schools, which are trade schools which are at least two years old and whose programs are at least eight semester hours or 300 clock hours in length.

Under these additional rules, it is clear that institutions whose programs are very new or very short will not be eligible to receive federal funds. For program length, 300 clock hours is the cut off. Thus, Hawaii's real estate schools, whose programs run approximately forty clock hours, are ineligible.

The Two-Component Accreditation Prong of the Triad of Institutional Eligibility

The accreditation prong of the triad of institutional eligibility requires that a postsecondary educational institution be accredited by an accrediting agency recognized by the Secretary of Education. (See Appendix F for the most recent list of recognized accrediting agencies.) This requirement involves two components. The first component is that the institution is accredited by an accretor. The second component is that the accretor is recognized as being reliable by the Secretary.⁸

Regarding the first component, it appears that an accrediting agency must base its accreditation decision following minimally acceptable trade practices and procedures codified in 34 C.F.R. 602.16 on the integrity of process. In brief, these practices and procedures entail: (1) published standards; (2) an institutional self-study; (3) an on-site evaluation; (4) publication of accredited status; and (5) periodic evaluation.

The accreditation decisions of the accrediting agencies are subject to the common law obligation of fundamental fairness, and cannot be arbitrary or unreasonable and must be

supported by substantial evidence.⁹ The federal rules, however, do not give schools a cause of action against the accreditors.¹⁰

Regarding the second component, the Secretary recognizes an accrediting agency: "only if the Secretary determines that the agency is a reliable authority as to the quality of the education or training offered by postsecondary educational institutions or programs within the agency's scope of activity, taking into account the degrees or certificates offered and the education or specific occupational training offered."¹¹ The accrediting agency must also demonstrate a need for its services that is not being served by some other agency.¹² Recognition is re-evaluated at least once every five years.¹³

To obtain and maintain recognition, an accrediting agency generally must establish that it meets the nine criteria listed at 34 C.F.R. 602.11-602.19. In brief, these criteria look to: (1) the accretor's experience; (2) its breadth of operations; (3) the public availability of its introductory materials; (4) its national recognition by educators, licensing bodies, or employers; (5) its resources; (6) its adherence to trade practices and procedures in rendering accreditation decisions; (7) its attention to the institution's educational effectiveness (outcomes); (8) its attention to the institution's public disclosures; and (9) its respect for the decisions of states and other accrediting agencies.

Some rule changes for recognition are anticipated in light of the recently enacted Higher Education Amendments of 1992 (P.L. No. 102-325). It appears that recognition by the Secretary will soon require accrediting agencies to review an institution's student loan default rates and compliance with student aid rules, and to make public a summary of reviews that result in an institution's accreditation being denied, terminated, or suspended. Also, accrediting agencies will have to be composed of one public member for every six members representing institutions accredited by the agency.¹⁴

Finally, the Secretary's decisions regarding recognition constitutes reviewable governmental agency action. The decision must be consistent with the explicit criteria established by the regulations and must not be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.¹⁵ Moreover, the Secretary's decision to recognize an accrediting agency may be challenged by an institution which was denied accreditation by that agency.¹⁶

Exceptions Under the Accreditation Requirement of the Triad of Institutional Eligibility

Under the federal rules, certain nonprofit unaccredited institutions can satisfy the accreditation requirement of the triad of institutional eligibility through one of two avenues. But for their lack of accreditation, these institutions are those that would be classified as institutions of higher education or postsecondary vocational institutions.¹⁷

The first avenue is for the institution to receive the status of preaccreditation by an accrediting agency recognized by the Secretary for its preaccreditation decisions. Preaccreditation refers to: (1) the decision of a nationally recognized accrediting agency that an unaccredited public or private nonprofit institution is progressing toward accreditation within a reasonable period of time; and (2) the determination of the Secretary that the institution will meet the accreditation standards of the accrediting agency within a reasonable time.¹⁸

The second avenue is known as the "3IC method."¹⁹ Here, the Secretary must determine that the institution's credits are accepted on transfer by at least three accredited institutions for credit on the same basis as transfer credits from any accredited institution.²⁰ In applying for this exception, the institution must present sufficient information and documentation that within the preceding three years, at least twelve of its regular students transferred to at least three accredited institutions--four at each institution--and that the three institutions accepted their credits for transfer on the same basis as they accepted the credits of students who transferred from any accredited institution.²¹

Strengthening the State Licensing Prong of the Triad of Institutional Eligibility: The New Part H of the Higher Education Amendments of 1992

Besides accreditation, another prong of the triad of institutional eligibility is the institution's state license to operate. The state licensure prong is set to be strengthened by recent federal developments.

One of the five basic goals of the Higher Education Amendments of 1992 is to make "major changes to enhance the integrity of the student financial aid programs."²² The triad system for determining the eligibility of an institution to participate in Title IV (student assistance) programs had been generally faulted as being ineffective in assuring integrity in the Title IV programs and preventing abuse and mismanagement of Title IV funds. In order to strengthen the state licensing prong of the triad, Congress enacted a new Subpart 1 of Part H to Title IV of the Higher Education Act of 1965 with the intention that all states participate in it.²³

The new Subpart 1 of Part H of Title IV authorizes the Secretary to enter into agreements with the states, in which each state designates one postsecondary approving agency to be responsible for the conduct or coordination of the review and approval of all institutions of higher education in the state for the purposes of determining Title IV program eligibility.²⁴ However, the Secretary may not enter into such agreements, and states may not be held responsible for fulfilling the obligations of the agreements, unless Congress appropriates funds to reimburse the states for the added administrative costs of performing the functions required by the agreements.²⁵

While the effective date of the act was October 1, 1992,²⁶ no appropriations reportedly were made for the current fiscal year ending September 30, 1993. Moreover, the implementing federal rules are not yet in effect.²⁷ Thus, no federal-state agreements can yet be made.

The agreement, once transacted, entails two basic duties upon the State. The first duty is the designation of a state postsecondary review agency to be the single contact point with the Secretary, regardless of the identity or number of separate agencies which actually perform the review functions for that State. The contact agency need not be the one to perform the reviews. Also, the contact agency could even be another State's agency, serving a consortium of states.²⁸

In Hawaii, the designated agency appears to be the State Post-Secondary Education Commission. The commission "may serve as the state agency for the receipt of federal funds where the federal legislation dealing with higher education or post-secondary education requires as a condition of state receipt of such funds, the designation of a state agency which is broadly representative of the general public and of post-secondary education in the State" ²⁹

The second duty requires the state to review an institution which was previously identified by the Secretary as showing signs of financial and administrative difficulties, being under new management, or being new to Title IV programs.³⁰ The agreement between the state and the Secretary may allow the state to contract with a private agency, accrediting agency, or peer review system for assistance in performing the review functions.³¹ The state, or its delegatee, will review the institution in accordance with published state standards that are consistent with the State's laws, developed in consultation with the institutions in the state, and subject to disapproval by the Secretary. The review must determine the institution's compliance with fourteen specified criteria relating to the institution's ability to administer academic programs to the benefit of students. These criteria cover consumer protection and some educational quality control issues.

Consumer protection criteria relate to such matters as disclosures, academic records preservation and teach outs, refund policies, procedures for resolving student complaints, course completions and job placement data, financial and administrative capacities, and compliance with fire, safety, and health codes. Educational quality control criteria relate to such matters as an institution's having methods to assess a student's ability to successfully complete the course of study for which the student has applied, and the appropriateness of the number of credit or clock hours required for completion of programs.³²

The state must also contract with a recognized accrediting agency or equivalent organization to review the quality and content of an institution's courses or programs of instruction, training, or study in relation to achieving the stated objectives for which the courses or programs are offered, including the adequacy of the space, equipment,

instructional materials, staff, and student support services for providing education and training that meets such stated objectives.³³

If the state finds that an institution fails one of the review standards, it must notify the Secretary of its findings and of any actions taken against the institution.³⁴

Finally, a State's failure to either enter into an agreement with the Secretary or to perform the required reviews means that no new postsecondary institutions in the state may participate in any Title IV programs, and existing institutions will receive only provisional certification to participate. Also, the state will be ineligible to receive three types of funds: (1) reimbursement funds for the costs of performing the required reviews; (2) funds for the State Student Incentive Grants program; and (3) funds for the newly established National Early Intervention Scholarship and Partnership Program.³⁵

The second major duty of the agreement seems to presume the existence of state oversight agencies and oversight statutes, in particular, published state standards. The governance structure of Hawaii's laws are discussed in the next chapter. It appears that regulatory mechanisms are in place for reviewing the non-degree granting institutions, but not for the private degree granting ones.

ENDNOTES

1. See 20 U.S.C.A. sec. 1058 et al.
2. Federal Register, Vol. 53, No. 127, July 1, 1988, p. 25088.
3. Ibid.
4. State Higher Education Executive Officers, The Methods and Effectiveness of State Licensing of Proprietary Institutions (Denver, 1991), p. 3, n. 7.; U.S., Senate, Permanent Subcommittee On Investigations Of The Committee On Governmental Affairs, "Abuses in Federal Student Aid Programs" (Washington, D.C.: U.S. Government Printing Office, 1991), pp. 3-4.
5. Federal Register Vol. 53, No. 127, July 1, 1988, p. 25088.
6. Kenneth Young et al. (ed.), Understanding Accreditation (San Francisco: Jossey-Bass Publishers, 1983). For discussions on the federal control of higher education through financial aid programs, see Financial Aid in Higher Education: What's Wrong, Who's Being Hurt, What's Being Done, 17 Journal Of College And University Law 483 (1991); Measuring the Reach of Title IX: Defining Program and Recipient in Higher Education, 17 Akron L. Rev. 335 (1984); and Federal Regulation of Higher Education Via Student Loan Programs: is it Valid? 32 U. Kan. L. Rev. 233 (1983).
7. 34 C.F.R. Part 600, Institutional Eligibility Under the Higher Education Act of 1965, As Amended, 600.2, 600.4, 600.5, 600.6, 600.7, July 1, 1991 ed.
8. 34 C.F.R. Part 602, Secretary's Procedures and Criteria for Recognition of Accrediting Agencies. A discussion of the most recent rules amendments of 1988 can be found at Federal Register Vol. 53, No. 127, July 1, 1988, pp. 25088-25099. It is notable for the Secretary's reaffirmation of the need for accrediting

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

agencies to use educational outcomes as a principal measure of the quality of education or training offered by an institution or program seeking to obtain or continue accredited status. The Secretary also intended that the rules recognized that accrediting bodies were already moving toward strengthening their assessment of educational effectiveness (pp. 25089-25090).

Previous lists of recognized agencies over the last several years were published in 1985 [nurse education at 50 Fed. Reg. 3011 (1985); complete list at 50 Fed. Reg. 40213 (1985); corrections at 50 Fed. Reg. 41933 (1985); revisions at 51 Fed. Reg. 44940 (1986)]; 1984 [complete list at 49 Fed. Reg. 1275 (1984); revisions at 49 Fed. Reg. 18351 (1984)]; 1982 [complete list at 47 Fed. Reg. 25563 (1982); corrections at 47 Fed. Reg. 27885 (1982); revisions at 47 Fed. Reg. 49699 (1982); further revisions at 48 Fed. Reg. 14434 (1983)]; and 1979 [complete list at 44 Fed. Reg. 4017 (1979); revisions at 45 Fed. Reg. 16338 (1980)].

9. Wilfred Academy of Hair and Beauty Culture v. Southern Ass'n of Colleges and Schools, 738 F. Supp. 200, 207-208 (S.D. Tex. 1990); Medical Institute of Minnesota v. National Association of Trade and Technical Schools, 817 F.2d 1310, 1314 (8th Cir. 1987).
10. Wilfred Academy, p. 208; Transport Careers v. National Home Study Council, 646 F. Supp. 1474, 1479-1480 (N.D. Ind. 1986).
11. 34 C.F.R. 602.1(a), 602.10(a) (1991).
12. California, Postsecondary Education Commission, "The State's Reliance on Non-Governmental Accreditation," Commission Report 89-13, 1989, pp. 13-14.
13. 34 C.F.R. 602.3(e) (1991).
14. "The Higher Education Amendments of 1992: What They Mean for Colleges and Students," *The Chronicle of Higher Education*, August 5, 1992, p. A22; Subpart 2 of Part H of the Higher Education Amendments of 1992, P.L. No. 102-325.
15. Sherman College of Straight Chiropractic v. U.S. Com'r of Ed., 493 F. Supp. 976, 979 (D.C.D.C. 1980).
16. Sherman College, pp. 978-979.
17. 34 C.F.R. 600.2, 600.4, 600.6, 600.8, July 1, 1991 ed.
18. 34 C.F.R. 600.2, July 1, 1991 ed.; see 20 U.S.C.A. sec. 1085(b)(5)(A) Main Vol.
19. David W. Stewart and Henry A. Spille, Diploma Mills: Degrees of Fraud (American Council on Education and MacMillan Publishing Co., 1988), pp. 156-157.
20. 34 C.F.R. 600.4(a)(5)(ii) and 600.6(a)(5)(ii), July 1, 1991 ed.; see 20 U.S.C.A. sec. 1085(b)(5)(B).
21. 34 C.F.R. 600.8(a)(2) and (e)(1), July 1, 1991 ed.
22. H.R. No. 102-447 on P.L. No. 102-325, 1992, p. 343, U.S. Code Congressional and Administrative News No. 7, September, 1992.
23. H.R. No. 102-447 on P.L. No. 102-325, 1992, pp. 418-419, U.S. Code Congressional and Administrative News No. 7, September, 1992.
24. Section 494(a) and (b), P.L. No. 102-325, 1992; H.R. No. 102-447 on P.L. No. 102-325, p. 418, U.S. Code Congressional and Administrative News No. 7, September, 1992.

THE FEDERAL GOVERNMENT INVOLVEMENT

25. Section 494A(c), P.L. No. 102-325, 1992; H.R. No. 102-447 on P.L. No. 102-325, 1992, p. 419-420, U.S. Code Congressional and Administrative News No. 7, September, 1992.
26. Section 2, P.L. No. 102-325, 1992.
27. Telephone interview, U.S. Department of Education, November 12, 1992.
28. Section 494A(a), P.L. No. 102-325, 1992; H.R. No. 102-447 on P.L. No. 102-325, 1992, p. 419, U.S. Code Congressional and Administrative News No. 7, September, 1992.
29. Hawaii Rev. Stat., sec. 305H-2.
30. H.R. No. 102-447 on P.L. No. 102-325, p. 420, U.S. Code Congressional and Administrative News No. 7, September, 1992; Section 494C(a) and (b), P.L. No. 102-325, 1992.
31. Section 494C(f), P.L. No. 102-325, 1992.
32. Attachments to letter from the University of Hawaii Director of Planning and Policy to the Acting President and Chancellor, August 26, 1992; "The Higher Education Amendments of 1992: What They Mean for Colleges and Students," The Chronicle of Higher Education, August 5, 1992, p. A22; Section 494C(d), P.L. No. 102-325, 1992.
33. Section 494C(d)(15), P.L. No. 102-325, 1992.
34. Section 494C(h), P.L. No. 102-325, 1992.
35. Section 494(c), P.L. No. 102-325, 1992; Attachments to letter from the University of Hawaii Director of Planning and Policy to the Acting President and Chancellor, August 26, 1992.

Chapter 7

THE GOVERNANCE STRUCTURE OF HAWAII'S LAW

The "Right to Exist" Laws

Postsecondary educational institutions in Hawaii, both degree-granting or non-degree granting, come into existence either by constitutional mandate for the public institutions or by registration under the business statutes for the private institutions. These laws may be called "right to exist" laws. The public institutions comprise the entire University of Hawaii system, which includes the two universities, a senior college, and the community colleges. All are degree granting institutions. The University of Hawaii system is established under Article X, section 5 of the State Constitution. The State's power to establish the University system is in turn reserved to the State under the Tenth Amendment of the United States Constitution.

The private institutions, both degree-granting and non-degree granting, generally come into existence through the business registration statutes of Title 23, Corporations and Partnerships, *Hawaii Revised Statutes*--in particular, Chapter 415 on Business Corporations and Chapter 415B on Nonprofit Corporations.

The "Right to Operate" Laws for the Public Institutions

The system of laws regulating the academic operations of these institutions is more complex. These laws may be called "right to operate" laws. For the public institutions, all of whom are degree granting, Article X, section 6 of the State Constitution apparently grants the University of Hawaii system, through its Board of Regents, with substantial self-regulatory powers. The Board has the "power, as provided by law, to formulate policy, and to exercise control over the university" It also has "exclusive jurisdiction over the internal organization and management of the university." The Board's power evidently covers academic as well as administrative and fiscal operations.

However, if any member institution of the University of Hawaii system lacks accreditation, that institution conceivably may be subject to the disclosure and registration requirements of chapter 446E, *Hawaii Revised Statutes*, which is enforced by the Department of Commerce and Consumer Affairs ("DCCA"). Unlike its predecessor chapter 446D, current chapter 446E does not carry any express exemption for degree granting institutions maintained by the State. However, the potential intrusion over the University's affairs appears to be so minimal that Article X, section 6 of the State Constitution is probably not violated.

The "Right to Operate" Laws for the Private Degree Granting Institutions

The academic operations of the private degree-granting institutions are subject to some degree of regulation depending upon whether the institutions are accredited or unaccredited. If the institutions are accredited, then their academic operations are not regulated by any statutes. If they are unaccredited, then they must comply with the same disclosure and registration requirements of chapter 446E, *Hawaii Revised Statutes*, discussed previously. In particular, the lack of accreditation must be disclosed in promotional materials.

The chapter 446E registration is separate and distinct from the Title 23 registration. Title 23 registration announces that the institution exists. Chapter 446E registration announces that the institution is unaccredited.

It is here with the private degree granting institutions that the lack of both a governing agency and standards for operation poses potential problems regarding the State's ability to carry out the duties under any future agreement with the Secretary of Education pursuant to Part H of the Higher Education Amendments of 1992, discussed earlier.

The "Right to Operate" Laws for the Private Non-Degree Granting Institutions

The academic operations of the private non-degree granting institutions are subject to either the licensing laws of the Department of Education ("DOE") or the licensing or registration laws of the professional and occupational boards and commissions of DCCA. These laws generally cover both accredited and unaccredited institutions alike. They do not distinguish between the two.

Generally, non-degree granting institutions come under the jurisdiction of the DOE, although there are exceptions. The Department's statutory authority covers private trade, technical, and vocational schools and can be found at Chapter 300, Part III, Section 300-41 et seq., *Hawaii Revised Statutes*. Under its rules, the Department has interpreted its jurisdiction to cover those schools which provide only post-secondary courses below the college or university degree-granting level.¹ The administrative rules are found in Title 8, Chapter 101, Hawaii Administrative Rules (Department of Education) entitled, "Licensing of Private Trade, Vocational or Technical Schools." These schools cannot operate without a license.² No license is issued until the Department "has approved the method and content of the advertising, the standards and the methods of instruction, and the equipment provided."³ No distinctions are made in the statutes and the rules between accredited and unaccredited non-degree granting institutions. Notably, a non-degree granting institution which decides to grant degrees becomes excepted from continued regulation by the DOE, and oversight is not picked up by any other department.

Review of the DOE's rules indicates that the DOE seems to have in place the published state standards necessary to carry out any future review of trade schools identified by the Secretary of Education under any federal-state agreement transacted under Part H of the Higher Education Amendments of 1992.

Certain private non-degree granting institutions are statutorily excepted from the DOE's jurisdiction under section 300-41, *Hawaii Revised Statutes*. These include schools with too few students or too few classes, no-tuition schools run by employers for their employees, non-profit courses run by fraternal societies or professional organizations for their members, recreation or hobby courses, flying schools qualified under the United States Civil Aeronautics Administration, and lastly, schools that are registered by the DCCA.

The DCCA Schools

The schools registered with DCCA are the cosmetology schools and the real estate salesperson and broker schools. The real estate schools require a certificate of registration from the Real Estate Commission (which is attached to the DCCA for administrative purposes) in order to offer courses. The certificate will not be granted by the Commission unless the school maintains a sufficient number of registered instructors and requires a course of training approved by the Commission.⁴ The Commission's statutory mandate is given at sections 467-9.5 and 467-25.5(a), *Hawaii Revised Statutes*. Its administrative rules are set out in Chapter 16-99, Subchapter 5, Hawaii Administrative Rules (Department of Commerce and Consumer Affairs). The statutes use the term "accreditation," but accreditation appears to specifically mean Commission approval of real estate courses.⁵ The rules use the term more ambiguously.⁶ Also, the Commission will probably not be affected by Part H of the Higher Education Amendments of 1992 since the course of training of the real estate schools is too short to qualify for federal student assistance.

The cosmetology schools require a license from the Board of Cosmetology (which is attached to the DCCA for administrative purposes) in order to operate. The license will not be granted by the board unless the school employs and maintains a sufficient number of licensed instructors, and requires a course of training approved by the board.⁷ The Board's statutory mandate is given at section 439-18, *Hawaii Revised Statutes*. Its administrative rules can be found in Chapter 16-78, Subchapter 7, Hawaii Administrative Rules (Department of Commerce and Consumer Affairs) entitled, "Beauty School Requirements." The statutes and the rules do not distinguish between accredited and unaccredited cosmetology schools.

Review of the Board's rules indicates that the Board seems to have in place the published state standards necessary to carry out any future review of cosmetology schools singled out by the Secretary of Education. All of the cosmetology schools are accredited and, according to the Board's apprenticeship manual, offer training programs at least 700 clock hours in length. Evidently, they are eligible to receive federal student assistance funds.

A Short History of the Current Governance Structure for Vocational Education in Hawaii

The historical pattern over the years has been one of receding jurisdiction for the DOE.

In 1939, the Department of Public Instruction, which was the territorial forerunner of the present state-level DOE, was granted official authority to license all private trade schools.⁸ The Legislature had noted that:

. . . there is no statute relating to the licensing of this type of school, and the only licensing Act now in force relates to schools giving academic instruction to children whose attendance is covered by the compulsory attendance law.

An increasing number of applications is filed with the Department of Public Instruction for licenses to establish private trade schools, but the Department has no authority under the present law to question the adequacy of equipment, the qualifications of teachers, or a change in the character of the courses offered after a license has once been issued, and has no authority to revoke a license once granted.

The passage of this Act will protect all vocational schools maintaining good standards of sanitation, equipment and instruction from unfair competition.

The Superintendent and Assistant Superintendent for Vocational Education and other members of the Department of Public Instruction were observed to be in "complete accord" with the provisions of the bill.⁹

In 1961, the Legislature granted the DOE with most of its present licensing exceptions found at section 300-41, *Hawaii Revised Statutes*.¹⁰ Exceptions were created for schools or training programs which did not have a regular place of business, a regular curriculum, and hours and periods of instruction which coincide or approximate those which characterize ordinary private or public institutions of learning, such as beauty culture schools, sewing schools, modeling schools, short term real estate classes and other schools, education or short term training programs of a similar nature.¹¹

In 1964, the DOE appears to have lost its jurisdiction unwillingly over the public technical schools. That year, the University of Hawaii was given a legislative mandate to create a community college system out of the technical schools, whose jurisdiction would be transferred from the DOE to the University of Hawaii.¹² The DOE "seriously questioned the educational value of combining technical and vocational subjects with an academic curriculum and strongly favored continued separation of the two fields."¹³ The University, meanwhile, apparently supported the measure in its entirety.¹⁴

The one expansion of the DOE's jurisdiction came in 1965 when the definition of trade schools was clarified to include correspondence schools located within the State.¹⁵

Finally, in 1982, cosmetology and real estate schools were statutorily excepted from DOE oversight.¹⁶ Until then, both types of schools had been under the dual regulation of both the DOE and the Department of Regulatory Agencies, which would be renamed that year as the Department of Commerce and Consumer Affairs.¹⁷ It was perceived that this dual regulation had created unnecessary administrative effort. Furthermore, the Department of Regulatory Agencies had testified that the Board of Cosmetology and the Real Estate Commission both had had regulations that adequately addressed the issues of curriculum, instructors and operation of their respective schools.¹⁸

Nine years earlier, in 1973, the Real Estate Commission was given its official authority to register real estate schools.¹⁹ Although it had already begun a practice of registering schools and administratively promulgating quality standards, the Commission had adopted the position that registration should be mandated by the Legislature.²⁰

The Board of Cosmetology was not always known by that name or placed within DCCA. It was originally established in 1929 as the Territorial Board of Hairdressers, Cosmeticians and Cosmetologists. One of the Board's duties was to oversee the schools for hairdressers and cosmeticians or cosmetologists. Barbers schools were exempted.²¹ The Board was apparently placed within the Board of Health.²² In 1959, the Board, whose name had since been changed to the "Beauty Culture Board," was transferred to the Department of Treasury and Regulation.²³ In 1963, the Beauty Culture Board had its name changed to the "Board of Cosmetology,"²⁴ and the Department of Treasury and Regulation became known as the "Department of Regulatory Agencies."²⁵

ENDNOTES

1. Section 8-101-1, Hawaii Administrative Rules.
2. Hawaii Rev. Stat., sec. 300-42.
3. Hawaii Rev. Stat., sec. 300-44.
4. Hawaii Rev. Stat., secs. 467-8, 467-25.5(a); Sections 16-99-50(a) and 16-99-51(a), Hawaii Administrative Rules.
5. Hawaii Rev. Stat., sec. 467-9.5(2) and (3).
6. Compare sections 16-99-50(b), 16-99-66(a), and 16-99-68(c), Hawaii Administrative Rules.
7. Hawaii Rev. Stat., sec. 439-18(b).
8. 1939 Haw. Sess. Laws, Act 225.

THE GOVERNANCE STRUCTURE OF HAWAII'S LAW

9. 1939 Senate Journal, Senate Standing Committee Report No. 373, and 1939 House Journal, House Standing Committee Report No. 508. on H.B. No. 511.
10. 1961 Haw. Sess. Laws, Act 160.
11. House Standing Committee Report No. 608 and Senate Standing Committee Report No. 138 on S.B. No. 110, First Legislature, 1961, State of Hawaii.
12. 1964 Haw. Sess. Laws, Act 39.
13. Senate Standing Committee Report No. 459 on H.B. No. 257, H.D. 1., Second Legislature, 1964, Session Laws of Hawaii.
14. House Standing Committee Report No. 383 on H.B. No. 257 and Senate Standing Committee Report No. 459 on H.B. No. 257, H.D. 1, Second Legislature, 1964, Session Laws of Hawaii.
15. 1965 Haw. Sess. Laws, Act 175.
16. 1982 Haw. Sess. Laws, Act 188.
17. 1982 Haw. Sess. Laws, Act 204.
18. House Standing Committee Report No. 67-82 and Senate Standing Committee Report No. 721-82 on H.B. No. 2161-82, Eleventh Legislature, 1982, Session Laws of Hawaii.
19. 1973 Haw. Sess. Laws, Act 150.
20. House Standing Committee Report No. 719 on H.B. No. 1043, Seventh Legislature, 1973, Session Laws of Hawaii.
21. 1929 Haw. Sess. Laws, Act 145.
22. Rev. Laws of Hawaii, Title 7 (1935).
23. 1959 Haw. 2d Sp. Sess. Laws, Act 1.
24. 1963 Haw. Sess. Laws, Act 111.
25. 1963 Haw. Sess. Laws, Act 114.

Chapter 8

HAWAII'S LAWS ON UNACCREDITED DEGREE GRANTING INSTITUTIONS

Chapter 446E: "Buyer Beware"

The previous chapter noted that private, and possibly public, degree granting institutions are subject to a minimal amount of oversight if they are unaccredited. This law is found in chapter 446E, *Hawaii Revised Statutes*, on unaccredited degree granting institutions.

Chapter 446E is administered by the Department of Commerce and Consumer Affairs ("DCCA").¹ It is a two-issue consumer protection chapter directed at unaccredited degree granting institutions. It requires disclosure and registration. The disclosure law was originally enacted in 1979,² and it may have been based upon the disclosure provisions of a draft submitted by the University of Hawaii.³ The law was then amended in 1990⁴ to adopt the recommendations proposed by Pacific Western University.⁵ Also, in 1990, the registration requirements were added.⁶

An unaccredited degree granting institution is "a degree granting institution which has not been accredited or provisionally accredited by at least one nationally recognized accrediting agency or association which is listed by the United States Commissioner of Education."⁷ Stated otherwise, an accredited degree granting institution is an institution that is either accredited or provisionally accredited.

The Disclosure Requirement

An unaccredited degree granting institution must disclose its lack of accreditation in its catalogs, promotional materials, and written contracts for instruction.⁸ The disclosure must be conspicuous and follow a given format.⁹ Failure to make the required disclosure constitutes an unfair or deceptive act or practice,¹⁰ subject to a civil penalty of \$500 to \$10,000 for each day of the violation¹¹ and civil lawsuits for damages and injunctions brought by or on the behalf of injured consumers.¹²

The disclosure law is geared toward consumer protection, ensuring that prospective students shopping for educational services are adequately informed about the unaccredited status of any such institution that competes in the educational marketplace. Consumers will consequently be able to make informed decisions regarding their choice of school and curriculum.¹³ The need for such information relates to concerns that an unaccredited institution might in fact be a diploma mill, granting degrees for a price and offering virtually no courses of instruction.¹⁴ Additionally, unaccredited institutions must adhere to certain recordkeeping requirements in accordance with rules that have not yet been adopted.¹⁵

The Registration Requirement

As a result of the 1990 amendment to the original 1979 law, chapter 446E now requires unaccredited degree granting institutions to register themselves with the Department and submit certain student-oriented materials requested by the Department.¹⁶ The registration requirement is intended to augment the disclosure requirements, and to ensure the well-being of students and the integrity of higher education in Hawaii.¹⁷

Registration is supposed to be conducted in a manner established by administrative rules. Since the administrative rules have not yet been adopted, no institutions are currently registered with the Department. The statutes warn institutions that once registered, they cannot refer to their registration as state licensing, approval, or regulation of their operations.¹⁸ To do so would be unscrupulous and constitute a misleading form of advertising.¹⁹ Concerns that that is exactly what will happen is reportedly responsible for the delay in the rules' publication.²⁰ Moreover, no express statutory penalties are in place to accompany registration violations.

Prior Licensing Law, Repealed Chapter 446D

In 1979, chapter 446E replaced and repealed chapter 446D.²¹ Chapter 446D was a licensing law that was aimed at assuring some measure of educational quality by generally allowing only accredited institutions to grant degrees and represent themselves as universities. It was enacted in 1971,²² and amended in 1977²³ and 1978.²⁴

The original 1971 law was the law that made the Department of Regulatory Agencies (now, DCCA) the oversight agency for degree granting institutions.²⁵ The choice of a governing agency was enacted into law without much protest from the Director of Regulatory Agencies, who had simply testified that he had had "no comment on the merits of the bill."²⁶ Expertise in educational matters was presumably provided through an advisory committee consisting of the President of the University of Hawaii and a limited number of specified officials from other licensed institutions and of members of the public, appointed by the Governor.²⁷

Chapter 446D required degree-granting institutions outside of the University of Hawaii system²⁸ to obtain a license from the Director prior to awarding any degrees,²⁹ including honorary ones.³⁰ Only a licensee could hold itself forth as a "junior college," "college," or a "university," subject to an exception for prior nonconforming users.³¹

Prerequisites toward obtaining a license were proof by the applicant of the following two facts: (1) either a state charter as an educational corporation or establishment in another state;³² and (2) accreditation of the applicant(s)'s educational program(s) by at least one

nationally recognized accrediting agency or association listed by the United States Commissioner of Education.³³

The grant of a license was expressly not intended to be perceived as any kind of State endorsement of the institution or its course of instruction.³⁴ The license remained valid as long as accreditation was maintained.³⁵ Licensing fees were imposed.³⁶ Violations of chapter 446D would be subject to injunctions³⁷ and, from 1973, punishable as petty misdemeanors.³⁸ Falsifying accreditation information constituted perjury, a class C felony.³⁹

Chapter 446D also contained temporary permit provisions. A temporary permit carried the same privileges as a license. Valid for five years, it was available to an applicant failing the accreditation requirement if the director determined that the applicant's academic and financial plans for working toward accreditation were feasible and acceptable.⁴⁰ The temporary permit could be extended for up to five more years if the applicant had been making acceptable progress toward accreditation.⁴¹ The unaccredited, temporary permit holder would be able to call itself a university and would be able to award degrees. An institution without a permit would presumably be able to graduate a class but would not be able to award degrees. (See Appendix E for a list of licensees and temporary permit holders as of 1979.)

The law was intended as a precautionary measure against the future establishment of diploma mills, those "educational institutions which engage in the outright sale of degrees and make no pretense of requiring any kind of academic achievement and those institutions which grant degrees based on an obviously inadequate course of study."⁴² In particular, as pointed out by the Legislature in 1977, "[t]his law was initially adopted to protect consumers from fraudulent correspondence and residence [sic] schools."⁴³ (The word "nonresidence" was probably intended.) As a matter of policy, "a degree should be awarded only in the instance of legitimate academic achievement and that the educational standards of this community would be severely altered in the event [this] type of institution . . . should take root in the State of Hawaii."⁴⁴

Chapter 446D was scheduled for sunset on December 31, 1979.⁴⁵ That year, following a disagreement between both houses of the Legislature over whether to extend the sunset or to repeal the chapter,⁴⁶ the 1979 Legislature settled on the House position to repeal chapter 446D and replace it with a new chapter on disclosure. One reason given was that:

the continued existence of Chapter 446D does not bear a sufficiently compelling relation to the protection of that part of the public that may deal with degree granting institutions.⁴⁷

A second reason was that the House had found that the Department of Regulatory Agencies had suffered undue administrative burdens in enforcing chapter 446D. The Department:

had difficulty insuring that an applicant for or holder of a temporary permit has good faith feasible plans for obtaining accreditation because of the nature of the accreditation process which takes place over an extended period of years.⁴⁸

Thus, legislative perceptions of regulatory overkill and undue administrative burdens appear to have been crucial factors in the repeal of chapter 446D.

The repeal marked a turning point in the State's policy toward private degree granting institutions. It had been evident in the 1977 and 1978 amendments to chapter 446D that the guiding policy was the reduction of administrative burdens upon the State. With the 1979 repeal, it became clear that this policy had matured into that of *laissez faire* or deregulation.

Of the executive agencies, the University of Hawaii had stood alone in its position that disclosure requirements by themselves were inadequate to protect the public.⁴⁹ Both the Department of Regulatory Agencies and the Antitrust Division of the Department of the Attorney General had pressed for deregulation of the colleges and universities industry.⁵⁰

The Department of the Attorney General had testified that "[l]icensing by the state should be undertaken only when, and to the extent, necessary to protect the public health, safety and welfare. Where these goals can be met by alternatives to full licensure, such alternatives should be adopted." The Department had believed that a required disclosure of unaccredited status, aided by sanctions for failure to make that disclosure, were less restrictive alternatives to full licensure through which "consumers would still be given the same degree of protection they are currently receiving, while at the same time eliminating unnecessary and administratively burdensome regulation (*i.e.*, licensing)."⁵¹

While consumer protection was still state policy, the State relaxed its regulations to accord with what it felt was the minimal level of harm posed by the unaccredited degree granting institutions. Although chapter 446D was intended as a *precautionary* measure to prevent the establishment of diploma mills, perhaps the harm was not perceived as imminent enough to merit holding the shield in place.

Current Dissatisfaction With Chapter 446E

Chapter 446E presents a minimalist approach to consumer protection. Essentially a "buyer beware" law, it imposes little administrative burdens upon DCCA and embodies the *laissez faire* philosophy that gave it life in 1979. At the time, the prevailing sentiment in the executive branch of government seemed to be that a simple disclosure was all that was needed to allow students to make informed decisions and to ward off questionable institutions, and that new schools would naturally strive toward accreditation. Yet, based upon the responses to the Bureau's survey, it appears that for some institutions, the lack of accreditation does not represent a badge of shame that would otherwise be covered up if

there were no disclosure law. Rather, this seeming shortcoming is the sword of their crusade. They question the value of accreditation and declare their intentions not to seek it.

With the 1990's, the focus of consumer protection issues may be closing in on concerns with education standards and the idea of a university. Perhaps intended as a hyperbole, the Department of Commerce and Consumer Affairs reportedly remarked that a "corner drugstore can issue degrees in Hawaii as long as it tells you that they are unaccredited"52 Similarly, a local educator phrased the policy issue as whether the concept of a university can be expanded so as to include the selling of a cabbage. This refocusing of issues away from peripheral "buyer beware" issues to core concerns relating to education standards seems to be a reaction to the influx of unaccredited colleges and universities from states which recently toughened their own licensing laws. The DCCA believes Hawaii attracts these schools because of its lax standards.⁵³

During the 1992 legislative session, a bill was introduced that would have restricted the use of the term "university" to residential institutions, those traditional institutions with campus-based instruction, and prohibited its use by correspondence schools.⁵⁴ In support of that bill, the University of Hawaii administration and its faculty union presented a united front in underscoring the importance of maintaining quality standards for a university education.⁵⁵ Otherwise, if these unaccredited institutions should turn out to be diploma mills, their presence would harm reputable private and public institutions by debasing the currency of the latter's degrees.⁵⁶

That laws relating to education standards are exactly what is needed is the probable source of DCCA's dissatisfaction with the 1990 registration laws. The Department never implemented the 1990 law out of fear that the fact of registration might somehow be manipulated to imply state approval.⁵⁷ This fear may have been justified in advance. In a recent book, *College Degrees by Mail*, the former President of Greenwich University provides the following information about local establishments such as Eurotechnical Research University, Greenwich University, Honolulu University, and Pacific Western University: "**Recognition:** Unaccredited; state registered."⁵⁸ It should be noted that the author had enthusiastically supported the passage of the 1990 registration laws. He had assured legislators that if either Missouri or Utah had had legislation comparable to the laws that Hawaii was considering, those states would not have fallen prey to the nefarious deeds of a reputed diploma mill operator.⁵⁹ In context, it appears that he was referring to Edward Reddeck, who in fact opened Gold Coast University in Hawaii the following year.

ENDNOTES

1. Haw. Rev. Stat., sec. 446E-4.
2. 1979 Haw. Sess. Laws, Act 135.

LAWS ON UNACCREDITED DEGREE GRANTING INSTITUTIONS

3. Hawaii, Letter, Durward Long, Vice President for Academic Affairs, University of Hawaii, in his capacity as chairperson of the advisory committee under Chapter 446D, Hawaii Revised Statutes, to the Senate Committee on Consumer Protection, March 2, 1979, relating to amendments to Chapter 446D, Hawaii Revised Statutes.
4. 1990 Haw. Sess. Laws, Act 226.
5. Pacific Western University testimony on S.B. No. 2119, to the Senate Committee on Consumer Protection and Commerce, February 1, 1990.
6. 1990 Haw. Sess. Laws, Act 226.
7. Haw. Rev. Stat., sec. 446E-1.
8. Haw. Rev. Stat., sec. 446E-2(a). The added requirement that an unaccredited institution disclose whether it is provisionally accredited or is a candidate for accreditation demands an impossible task. If the unaccredited institution were provisionally accredited or a candidate for accreditation, then the institution, by definition, would not be unaccredited. It would be accredited, and not subject to chapter 446E. The lack of coordination between the definition of an unaccredited institution and the required disclosures was previously noted by DCCA in its 1990 testimony on S.B. No. 2119 on February 5, 1990. This lack of coordination appears to have developed in 1979 when a Senate committee grafted the recommendations of a private citizen onto the disclosure provisions of a bill that had been adopted by an earlier Senate committee and perhaps had been drafted by the University of Hawaii. (See University of Hawaii letter to the Senate Committee on Consumer Protection, March 2, 1979, and the testimony of Donald Lubitz on H.B. No. 1588, March 19, 1979.)
9. Haw. Rev. Stat., sec. 446E-2(a).
10. Haw. Rev. Stat., sec. 446E-3.
11. Haw. Rev. Stat., sec. 480-3.1.
12. Haw. Rev. Stat., secs. 480-13(b), 480-13(c), 480-14(c), and 480-15.
13. Conference Committee Report No. 121 on S.B. No. 2119, Fifteenth Legislature, 1990, Session Laws of Hawaii; House Standing Committee Report No. 601 on H.B. No. 1588, Tenth Legislature, 1979, Session Laws of Hawaii.
14. Senate Standing Committee Report No. 769 on H.B. No. 1588, Tenth Legislature, 1979, Session Laws of Hawaii.
15. Haw. Rev. Stat., sec. 446E-2(b).
16. 1990 Haw. Sess. Laws, Act 226; Haw. Rev. Stat., sec. 446E-4.
17. Senate Standing Committee Report No. 2336 on S.B. No. 2119, Fifteenth Legislature, 1990, Session Laws of Hawaii.
18. Haw. Rev. Stat., sec. 446E-5.
19. House Standing Committee Report No. 1217-90 on S.B. No. 2119, Fifteenth Legislature, 1990, Session Laws of Hawaii.
20. Gregg Kakesako, "'Diploma Mills' Attract State Concern," The Honolulu Star-Bulletin, February 26, 1992, p. A6.

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

21. 1979 Haw. Sess. Laws, Act 135.
22. 1971 Haw. Sess. Laws, Act 169.
23. 1977 Haw. Sess. Laws, Act 158.
24. 1978 Haw. Sess. Laws, Act 126.
25. 1971 Haw. Sess. Laws, Act 169; Haw. Rev. Stat., sec. 446D-2.
26. Testimony of the Director of Regulatory Agencies on H.B. No. 28, 1971.
27. 1978 Haw. Sess. Laws, Act 126. The 1978 amendment introduced size limitations and public membership on the committee. Under the 1971 law, the advisory committee consisted of the President of the University of Hawaii and specified officials of all the licensed institutions. Without any limitations on the size of the committee, the committee had accumulated sixteen new members within the previous six years, reaching the "unworkable size" of seventeen members in 1978. Administrative burdens dictated a cap. The Department of Regulatory Agencies, though, acknowledged that the institutions had found the committee to be a useful forum for discussing common problems and interests. From: Testimony of the Department of Regulatory Agencies to the House Committee on Consumer Protection and Commerce and the Senate Committee on Judiciary on H.B. No. 2814-78, February 21, 1978 and March 16, 1978; House Standing Committee Report No. 331-78 and Senate Standing Committee Report No. 987-78 on H.B. No. 2814-78, Ninth Legislature, 1978, Session Laws of Hawaii.

Secondly, public membership was advocated by the Department of Regulatory Agencies, which had a long-standing policy "to insure at least some public rather than industry representation on all licensing boards." Ibid.

28. See Haw. Rev. Stat., sec. 446D-15.
29. Haw. Rev. Stat., sec. 446D-4.
30. Haw. Rev. Stat., sec. 446D-9.
31. Haw. Rev. Stat., sec. 446D-8.
32. Prior to the 1977 amendments, the institution had to be chartered as a nonprofit educational corporation in the State of Hawaii (Act 169, Session Laws of Hawaii 1971). The 1977 amendments eliminated the requirements that domestic educational corporations be nonprofit and that out-of-state educational institutions be incorporated which offered educational programs in Hawaii (Act 158, Session Laws of Hawaii 1977). Regarding domestic corporations, the distinction between profit or non-profit status was perceived to be an invalid criterion for judging the educational worth of a school. Such a restriction would prohibit fully accredited and reputable schools from offering degree programs locally (House Standing Committee Report No. 632 on H.B. No. 1198, Ninth Legislature, 1977, Session Laws of Hawaii). Regarding out-of-state institutions, it was noted that "[s]tate supported colleges and universities generally [sic] are not incorporated. Therefore, under present law, there is some question whether they can be chartered as an educational corporation in Hawaii. If no provision is made in the law, these schools could be prohibited from offering their educational programs in Hawaii. The proposed amendments would make it clear that educational institutions of sister states can be licensed" (House Standing Committee Report No. 632 on H.B. No. 1198, Ninth Legislature, 1977, Session Laws of Hawaii).

LAWS ON UNACCREDITED DEGREE GRANTING INSTITUTIONS

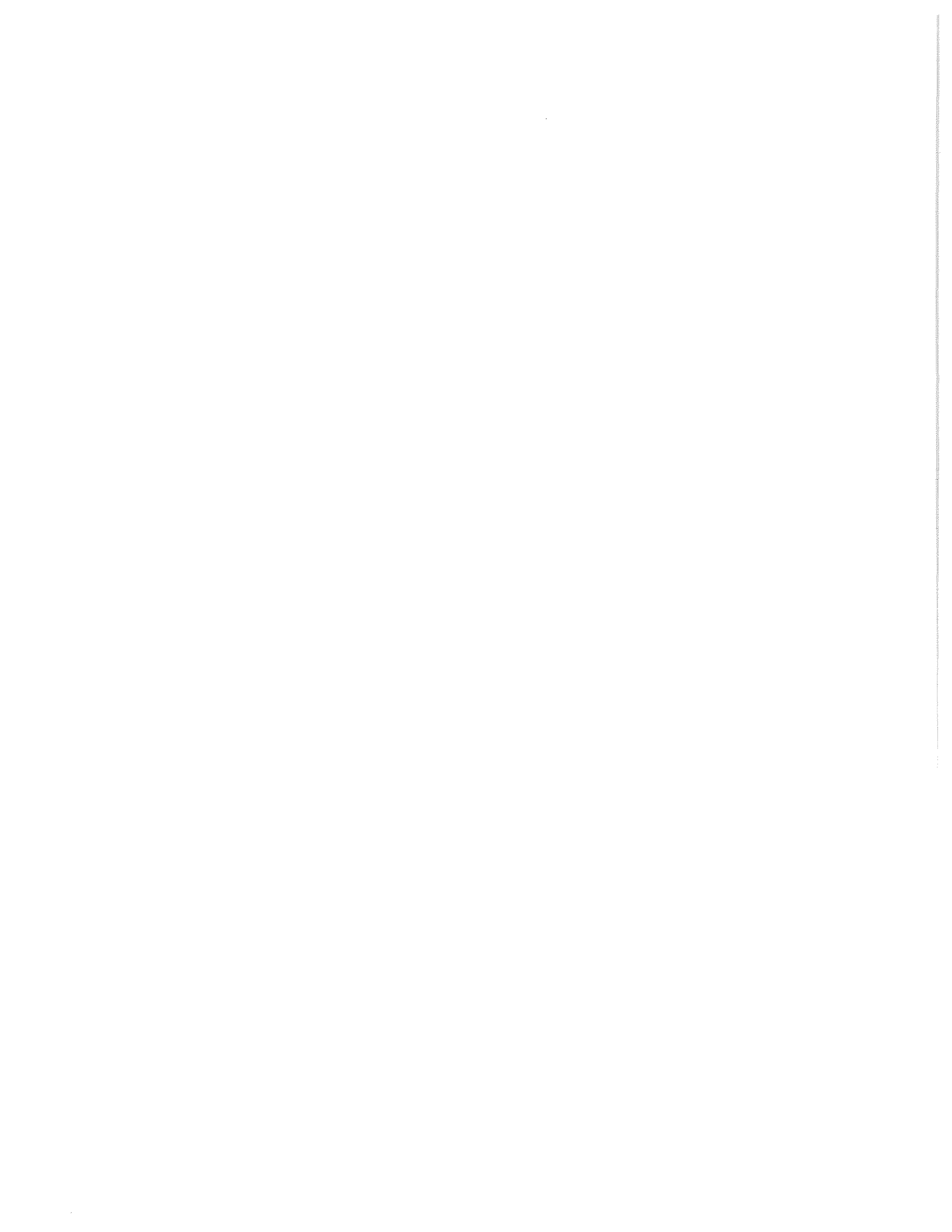
33. 1977 Haw. Sess. Laws, Act 158; Haw. Rev. Stat., sec. 446D-4. The 1977 amendments eliminated the so-called "3IC" exception to the accreditation requirement. Under this exception, an unaccredited institution had to prove that its credits were, in essence, transferable to at least three accredited institutions. The repeal of the exception was supported by both the University of Hawaii and the Department of Regulatory Agencies. The stated purpose of the repeal was to "ensure that only nationally accredited institutions would be licensed to grant degrees by the State" (Senate Standing Committee Report No. 658 and Conference Committee Report No. 13 on H.B. No. 1198, Ninth Legislature, 1977, Session Laws of Hawaii). It would also lighten the administrative burdens upon the two agencies.
34. Haw. Rev. Stat., sec. 446D-12.
35. Haw. Rev. Stat., sec. 446D-4.
36. Haw. Rev. Stat., sec. 446D-4.
37. Haw. Rev. Stat., sec. 446D-14.
38. Haw. Rev. Stat., secs. 446D-13, 701-107(4), and 706-640(4); 1972 Haw. Sess. Laws, Act 9 (adopting the Hawaii Penal Code, effective 1973).
39. Haw. Rev. Stat., secs. 446D-13 and 710-1060(3); 1972 Haw. Sess. Laws, Act 9.
40. Haw. Rev. Stat., sec. 446D-5.
41. Ibid.
42. Haw. Rev. Stat., sec. 446D-1.
43. House Standing Committee Report No. 632 and Senate Standing Committee Report No. 658 on H.B. No. 1198, Ninth Legislature, 1977, Session Laws of Hawaii.
44. House Standing Committee Report No. 411 and Senate Standing Committee Report No. 764 on H.B. No. 28, Sixth Legislature, 1971, Session Laws of Hawaii.
45. 1977 Haw. Sess. Laws, Act 70.
46. The House of Representatives wanted to repeal chapter 446D and replace it with a disclosure law (House Standing Committee Report No. 601 on H.B. No. 1588, Tenth Legislature, 1979, Session Laws of Hawaii). The Senate wanted to retain the chapter, extend its sunset, and add a disclosure requirement (Senate Standing Committee Report Nos. 769 and 915 on H.B. No. 1588, Tenth Legislature, 1979, Session Laws of Hawaii).
47. House Conference Committee Report No. 8 on H.B. No. 1588, Tenth Legislature, 1979, Session Laws of Hawaii.
48. House Standing Committee Report No. 601 on H.B. No. 1588, Tenth Legislature, 1979, Session Laws of Hawaii.
49. See Testimony of Durward Long, Vice President for Academic Affairs, University of Hawaii, before the Senate Committee on Higher Education on H.B. No. 1588, March 20, 1979.
50. See Testimony of the Department of Regulatory Agencies before the Senate Committee on Higher Education on H.B. No. 1588, March 20, 1979, and the Testimony of the Antitrust Division of the Department of the Attorney General before the Senate Committee on Higher Education on H.B. No. 1588, March 20, 1979.

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

51. Testimony of the Antitrust Division, Department of the Attorney General before the Senate Committee on Higher Education on H.B. No. 1588, March 20, 1979.
52. Gregg Kakesako, "'Diploma Mills' Attract State Concern: Legislators Don't Want Hawaii to Become a Haven for Misleading Operations," The Honolulu Star-Bulletin, February 26, 1992, p. A6. The quote accurately reflects the current position of the Executive Director of the Office of Consumer Protection, and apparently paraphrases a standard form letter sent by the Director in response to inquiries from the public regarding local unaccredited degree granting institutions. Telephone interview with Philip Doi, Executive Director, Office of Consumer Protection, Department of Commerce and Consumer Affairs, January 11, 1993.
53. Testimony of the Department of Commerce and Consumer Affairs before the House Committee on Consumer Protection and Commerce on H.B. No. 3581, February 5, 1992.
54. H.B. No. 3581, 1992. The bill passed Second Reading in the House.
55. Testimony of David Rush Miller, Professor of English, University of Hawaii at Hilo, and Secretary, University of Hawaii Professional Assembly; Testimony of John Radcliffe, Associate Executive Director, University of Hawaii Professional Assembly; and Testimony of Colleen O. Sathre, Director of Planning and Policy, University of Hawaii before the House Committee on Higher Education and the Arts on H.B. No. 3581, February 2, 1992.
56. Testimony of Colleen O. Sathre, Director of Planning and Policy, University of Hawaii before the House Committee on Higher Education and the Arts on S.B. No. 2119, March 14, 1990; Gregg Kakesako, "'Diploma Mills' Attract State Concern."
57. Gregg Kakesako, "'Diploma Mills' Attract State Concern."
58. John Bear, College Degrees by Mail (Ten Speed Press, 1991).
59. Testimony of John Bear on S.B. No. 2119 and H.B. No. 2369, 1990.

PART III

Other States' Laws



Chapter 9

OTHER STATES' LAWS ON POSTSECONDARY EDUCATIONAL INSTITUTIONS

Introduction

Extensive and fairly recent studies have already been published on other states' methods of governing degree-granting and non-degree granting postsecondary educational institutions. A 1991 study exists of the laws governing non-degree granting institutions in some twenty states, including Hawaii. Prepared by the State Higher Education Executive Officers ("SHEEO"),¹ it is entitled *The Methods and Effectiveness of State Licensing of Proprietary Institutions*. A 1987 survey of the laws governing degree granting institutions in all fifty states was completed by the American Council on Education ("ACE").² In stark contrast to its participation in the SHEEO study, Hawaii was noted to be the only state that neither responded to ACE's inquiries nor wished to be a part of its survey, "as a matter of policy." The results are published in an appendix to the 1988 book *Diploma Mills: Degrees of Fraud*.

Also, a 1989 study of the relationship of California's licensing laws with non-governmental accreditation (of degree granting and non-degree granting institutions) was published by the California Postsecondary Education Commission ("CPEC"),³ called "The State's Reliance on Non-Governmental Accreditation." Finally, a 1973 annotated model act for degree granting institutions was drafted by the Education Commission of the States ("ECS"),⁴ in cooperation with the regional accrediting associations, via a predecessor organization of the Council on Postsecondary Accreditation.⁵

These three comprehensive studies, along with the model legislation, have been most helpful to the present study.

ENDNOTES

1. SHEEO states in its study that it is "a nonprofit, nationwide association of the chief executive officers serving statewide coordinating and governing boards of postsecondary education. Forty-nine states [including Hawaii] . . . are members." It is based in Colorado.
2. ACE is a national nongovernmental organization concerned with postsecondary education, consisting of approximately 1,500 institutions of higher education and accrediting associations. Founded in 1918, it is based in Washington, D.C. From: David E. Kapel, Charles S. Gifford, and Marilyn B. Kapel, American Educators' Encyclopedia, Revised Edition (Connecticut: Greenwood Press, 1991).
3. CPEC is a state citizen board established in 1974 by the California legislature and governor to coordinate the efforts of California's colleges and universities and to provide independent, non-partisan policy analysis and recommendations to the governor and the legislature. From: California, Postsecondary Education Commission, State Oversight of Postsecondary Education: Three Reports on California's Licensure of Private Institutions and Reliance on Non-Governmental Accreditation, 1989.

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

4. ECS is an organization formed by interstate compact in 1966. Almost all states are members. Its principal function is to assist governors, state legislators, and educators with the improvement of education. It is based in Colorado. From: American Educators' Encyclopedia, Revised Edition.
5. Kenneth E. Young (ed.), Understanding Accreditation (San Francisco: Jossey-Bass Publishers, 1983), p. 184.

Chapter 10

OTHER STATES' LAWS ON NON-DEGREE GRANTING INSTITUTIONS

Introduction

Recently, the State Higher Education Executive Officers ("SHEEO") published a 1991 study on "The Methods and Effectiveness of State Licensing of Proprietary Institutions." Proprietary institutions generally are private trade, technical and vocational schools; collectively, trade schools. Most are non-degree granting institutions, although SHEEO does note that less than ten percent of them offer academic degrees.¹ (A local example is Cannon's Business College.)

The SHEEO study was motivated by the federal student loan default problem that had centered around the nation's accredited trade schools.² Its purpose was to seek ways to improve state oversight of the proprietary sector.³ The one-year study reviewed the laws of some twenty states, including Hawaii's. The states studied were:⁴

- | | |
|----------------|------------------|
| (1) Alabama | (11) Mississippi |
| (2) Alaska | (12) Missouri |
| (3) California | (13) Montana |
| (4) Colorado | (14) New Jersey |
| (5) Florida | (15) New York |
| (6) Georgia | (16) Ohio |
| (7) Hawaii | (17) Tennessee |
| (8) Illinois | (18) Texas |
| (9) Indiana | (19) Utah |
| (10) Michigan | (20) Wisconsin |

The recommendations of this eighty-page study are summarized in this chapter. Where relevant, the State's statutes, administrative rules, and levels of enforcement activity are measured against the SHEEO recommendations. The enforcement data were obtained from copies of the SHEEO questionnaires that had been previously completed by the Department of Education and the Board of Cosmetology. The Real Estate Commission, which had not been included in the SHEEO survey, was gracious enough to complete a sample SHEEO questionnaire sent to them by the Bureau.

Principles of State Licensing of Proprietary Schools

The study found that strengthened state licensing over proprietary schools should be based on the following six principles:⁵

- (1) The license to operate a school must be conditioned upon a reasonable expectation of business viability and success.

Rationale: Poor management correlates with poor educational services and consumer protection.

- (2) In the event of a school's sudden closure, students must be financially protected and given the opportunity to complete their program of study.

Rationale: The consequent student loan defaults are the major reason for state reform.

- (3) The State must act to assure both consumer protection and educational quality.

Rationale: Consumer protection and educational quality are overlapping concerns.

- (4) The State must have adequate financial resources to properly enforce its licensing standards.

Rationale: Otherwise, a cruel hoax is perpetrated on consumers.

- (5) Institutional licensing standards must be fair and equally applied.

Rationale: Equal protection.

- (6) The State should maximize its coordination and consolidation of its licensing system.

Rationale: Avoid duplication of efforts.

Five Models for Good Governance

Governance encompasses staffing, budget and funding, the licensing process, and the role of the governed in the oversight process. Due to the diversity of the various states' governance models in licensing proprietary schools, SHEEO declined to search for an ideal governance model, which probably did not exist. And if it did, it would only create delays in any State's reforms. Instead, SHEEO presented five basic models of good governance. A

State's choice of the appropriate model would reflect a policy decision that involves a balance between administrative burdens and consumer protection.⁶ The five models are as follows:

- (1) Coordination model: The current agencies with oversight responsibilities work more closely with each other in order to avoid duplication and inconsistencies.
 - (a) Advantages: It involves the least amounts of new legislation and adverse effects on the current bureaucracy.
 - (b) Disadvantages: It may accomplish the least.
- (2) Licensure board model: Oversight rests exclusively with an independent board.
 - (a) Advantages: The board's duties are not subjugated to the missions of a larger agency. The board devotes exclusive attention to licensing and oversight.
 - (b) Disadvantages: The board may become lost and anonymous in the *overall* state bureaucracy. It may also lose its credibility and effectiveness if it is dominated by the schools.
- (3) Consolidation model: All licensing and oversight authority is vested in a single, existing agency with prior postsecondary experience.
 - (a) Advantages: Uniform standards can be applied more readily. The agency's mission will be directed more to regulation than to policy-making.
 - (b) Disadvantages: The agency has no public accountability, and licensing may not be its sole or primary function.
- (4) Student aid agency model: This is the consolidation model superimposed over the existing state agency that guarantees student loans and awards state grants.
 - (a) Advantages: It carries the same advantages of the consolidation model. In addition, the agency will have considerable leverage to apply against schools with high federal student loan defaults.
 - (b) Disadvantages: The agency may lack credibility with education standards. Guarantor-shopping may emerge.
- (5) Dual licensing model: One agency, with expertise in management and financial operations, handles institutional licensing. A second agency, with expertise in education standards, then handles programmatic approval.

LAWS ON NON-DEGREE GRANTING INSTITUTIONS

- (a) Advantages: It is potentially the most effective model. Independent, separate analyses offer a high level of consumer protection.
- (b) Disadvantages: It is the most administratively complex model. A multiplicity of boards will be involved in the programmatic approval process.

Regardless of the model chosen, SHEEO encouraged the use of advisory commissions composed of school representatives. Through these commissions, schools can formally raise their concerns and have their views sounded on proposed legislation. SHEEO discouraged the inclusion of school representatives on oversight bodies with direct authority for the licensing of schools. The potential for conflicts of interests outweigh the benefits of expertise and knowledge of the proprietary sector.⁷

In Hawaii, three agencies oversee proprietary schools: the Department of Education, the Real Estate Commission, and the Board of Cosmetology. Proprietary school representation is possible on the Real Estate Commission and the Board of Cosmetology,⁸ but not with the Department of Education.

Of the five models, the student aid agency model may be inapplicable. Hawaii may not have a state guaranty agency. That leaves four. The Governor's "zero growth budget requirement" over the next three years⁹ eliminates models that may be costly to implement, necessitating structural changes to state government funded by legislative appropriations. That leaves the coordination model, which keeps the present agency structures intact, but may accomplish the least. The choice of this model would reflect a policy decision that at present administrative burdens are a weightier concern than consumer protection.

As for advisory commissions, they are not used in any of the three agencies. However, statutory language allows the Department of Education to "consult with trade or vocational experts"¹⁰ and the Board of Cosmetology has expressed a necessity for educational experts to assist the Board to assure accountability and quality of the training programs and facilities of the beauty schools.¹¹

Staffing

SHEEO found that most of the states participating in its study exhibited inadequate numbers of staff. SHEEO offered a general rule of thumb: for every twenty-five schools subject to licensure and re-licensure, a state needs at least one full-time employee.¹²

In addition to an administrative head and a clerical staff, SHEEO urged states to employ the following types of professional staff members:¹³

- (1) Investigators, to conduct the site visits;

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

- (2) Accountants and financial analysts, to identify schools that exhibit signs of financial irregularities;
- (3) Educators, to examine the education process; and
- (4) Staff attorneys, to work exclusively with licensing issues.

Adequate staffing is necessary to conduct annual relicensure and on-site visits. More frequent visits should be made to problem schools. The key is preventive medicine.¹⁴

As of the 1989-1990 academic year, the Department of Education employed two full-time employees to oversee some thirty-eight schools enrolling a total of some 1,075 students.¹⁵ The same staff also had licensing authority over approximately 138 elementary and secondary institutions.¹⁶ During the same academic year, the Board of Cosmetology employed two employees to oversee four cosmetology schools that enrolled a total of approximately 270 students.¹⁷ The Real Estate Commission had two employees to oversee twenty prelicensing schools and twenty-nine continuing education providers that enrolled a total of about 57,400 students.¹⁸

Thus, just in terms of sheer numbers, the Department of Education appears to be grossly understaffed. No inquiry was made into the types of professional staff members employed by these three agencies. (For the schools that these agencies regulate, see Appendix C.)

Methods of Paying for Oversight

In order to adequately staff a licensing agency, SHEEO supported a combination of licensing fees and legislative appropriations.¹⁹ Two reasonable types of fee schedules are the enrollment-based and the institutional revenue-based schedules. They are justified on the grounds that larger schools impose greater regulatory burdens upon the State.²⁰ Also, supplemental fees can be used for special or unusual tasks, such as changes of address, course additions, and investigations of complaints. Again, the justification is increased oversight burdens.²¹

In Hawaii, the Department of Education and the Real Estate Commission use flat fee schedules.²² The Board of Cosmetology uses an enrollment-based fee schedule.²³ It is not known if supplemental fees are used by any of them.

The two agencies that use flat fee schedules should consider switching to one of the other two fee schedules in order to offset any anticipated budget constraints imposed by the Governor's "zero growth budget requirement" over the next few years²⁴ or perhaps even to strengthen regulatory efforts in accordance with the SHEEO recommendations. As for any of

the additional duties that someday may be triggered under the Higher Education Amendments of 1992, the added costs of performing those duties are meant to be reimbursed by the federal government.

The Agency's Duties Relating to Consumer Protection

Consumer protection is one of the State's two major areas for regulatory concern; the other is education standards. Consumer protection issues are concerned primarily with the financial and administrative aspects of an institution. They deal less with the educational product delivered than with the ways in which schools present themselves to students, the general public, employers, and the State.²⁵ Consumer protection issues involve advertising, school catalogs, credentials of school personnel, institutional finances, teach outs, site visits, and licensing exemptions.

Advertising and School Catalogs

The many recommendations relating to advertising are of a kind that is already in effect for the most part in the rules of the Department of Education²⁶ and to a lesser extent the rules of the Real Estate Commission.²⁷ The Board of Cosmetology has no rules pertaining to advertising.

Likewise, the SHEEO recommendations regarding information in school catalogs are already in effect in the rules of the Department of Education²⁸ and the Real Estate Commission.²⁹ The Board of Cosmetology has no rules pertaining to school brochures or catalogs.

Credentials of School Personnel

SHEEO urged that school personnel should all be subject to the approval of the State.³⁰ Extensive background checks should be made of owners for possible criminal histories and poor credit ratings; checks should also be made of their prior work experiences and personal references. Less extensive checks can be made on other school personnel.³¹

Presently in Hawaii, background checks relating to school owners are not mentioned in the rules of the three state agencies.

Institutional Finances

The purpose in reviewing and overseeing the institution's finances is to avoid surprise closures.³² SHEEO advocated the following:³³

- (1) Agencies should require that schools use pro rata tuition refund policies for students.

Rationale: They are the most equitable form of refund.

- (2) The Legislature should establish a tuition protection fund.

Rationale: A fairly new development in state licensing, a tuition protection fund is established by the Legislature, managed by the state Treasurer, and supported by required school contributions. Payments from the fund are made to students when a school closes. The fund offers better protection than surety bonding.

- (3) A condition of relicensure should be the submission of certified annual financial statements.

Rationale: Financial statements reveal important facts about the school's reliance on federal student aid, and whether its expenditures favor instruction and training or staff and administration.

Regarding pro rata tuition refunds, only the DOE requires them.³⁴ The Real Estate Commission requires full refunds for schools not starting on time.³⁵ Regarding tuition protection funds, none of the agencies have installed them. All three use only surety bonding as a condition of licensure or relicensure.³⁶ It is not known to what extent surety bonding aided the trucking school students whose school closed on them in January 1992.

Finally, regarding certified financial statements, both the Department of Education and the Board of Cosmetology require their submission.³⁷ The Real Estate Commission does not.³⁸ However, a purpose for obtaining those statements is inapplicable to real estate schools. These schools do not appear to be eligible to participate in federal student aid programs; their courses are too short.

In light of the Higher Education Amendments of 1992 (discussed in Chapter 6), the Department of Education and the Board of Cosmetology should scan the financial statements to anticipate the schools that meet any of the review criteria of Section 494C(b) of the federal act. Those schools will be the ones for whom the Secretary of Education will request added reviews.

Teach Outs

SHEEO recommended that an initial licensing requirement should be the school's submission of a teach out plan. A teach out plan describes a school's arrangements for continuing a student's training should the school suddenly close. It involves placing students into schools with similar programs in order for the students to complete their course of training and obtain a certificate.³⁹

In Hawaii, none of the agencies currently require the submission of teach out plans. A teach out requirement might have helped the trucking school students who were not able to complete their education when their school closed down in January 1992.

Site Visits

SHEEO urged state agencies to conduct annual site visits of the schools, with unannounced visits every two years. Site visits allow on-hand inspection of facilities, books, teaching aids, current lesson plans, and school files and records. They are regarded as the State's most effective method to understand first-hand the activities and functions of a school.⁴⁰

In Hawaii, all three agencies report that site visits for licensure or re-licensures are seldom or never conducted.⁴¹ The DOE, however, is required under its rules to inspect a school prior to its initial license; subsequent visits may be made thereafter.⁴² Under its own rules, the Real Estate Commission may conduct inspections for applicants and registered schools,⁴³ whose classrooms are subject to inspection by the commission.⁴⁴ The Board of Cosmetology has no site visit rules.

Licensing Exemptions and Exceptions; Accredited Schools

SHEEO disapproved the granting of licensing exemptions to the following types of institutions:⁴⁵

- (1) Accredited schools

The 1973 ECS model, which grants such exemptions, is outdated. Accreditation teams conduct site visits only at three to five year intervals. The school's finances are often not thoroughly examined. That accreditation is an insufficient form of oversight is demonstrated by the widespread abuse in the federal student aid programs, for which accreditation is an eligibility requirement. No substitute exists for direct state oversight of proprietary schools.

(2) Branch campuses

If licensing is required only of a school's main campus, then the parent organization can sidestep complete state oversight by establishing many branch campuses.

(3) Religious schools

Unless carefully tailored around solely religious subjects, the exemption can provide an avenue for religious schools to offer decidedly non-religious, wholly unregulated programs.

In Hawaii, the DOE offers no exemptions for accredited schools or branch campuses. It does offer a religion exemption, which is tailored around religious subjects.⁴⁶

Due to the secular subject matter of real estate schools and cosmetology schools, the religion exemption is not an issue. Furthermore, nothing in the rules of either the Real Estate Commission or the Board of Cosmetology indicates that branch campuses or accredited schools are exempted from licensure.⁴⁷

Education Standards; Accreditation

Consumer protection is thus one of the two major areas for regulatory concern. The second is the setting and maintaining of minimum education standards. SHEEO conceded that duplication of efforts between state licensing and private accreditation is possible, but advised that accreditation should never be substituted for state oversight. Independent state reviews are warranted in order to protect the rights of students and any public funding of those schools.⁴⁸ In Hawaii, however, private trade school students generally do not receive any State financial assistance.⁴⁹

SHEEO identified three primary areas in which to set up and maintain education standards. They are as follows:⁵⁰

(1) Pre-enrollment standards

In order to allow them to make informed enrollment decisions, potential students should be able to determine prior to enrollment whether programs are appropriate to their skills and abilities. A state-administered or state-approved diagnostic skills test may serve this purpose. Drawbacks of using the test are enrollment delays, hampering of recruitment efforts, and state administrative expenses.

(2) Curriculum and program standards

For each school, states should use expert consultants to review the objectives of the school's program, the teaching methodology, and the expected outcomes for the students. Relevant information would be student-teacher ratios, minimum entrance requirements, course listings, breakdown of instructional hours, school policies on academic probation and suspension, and grading standards.

(3) Outcomes

Outcomes refer to attrition and graduation, job placement, employer-satisfaction with program graduates, and student-satisfaction with completed programs. Acceptable measures of outcomes need to be developed by the states.

Currently in Hawaii, this type of oversight appears to be conducted in various degrees by the three agencies.

Regarding pre-enrollment standards, it was noted that neither Hawaii nor any other state used state-administered or state-approved diagnostic exams in assessing the ability of prospective students to benefit from trade school programs.⁵¹

Regarding curriculum and program standards, more oversight activity occurs. The DOE rules indicate that the Department at least collects information from schools relating to curriculum,⁵² standards and methods of instruction,⁵³ and enrollment numbers.⁵⁴ It is unclear to what degree the Department actually examines and gives approval to the information it collects.

Both the Real Estate Commission and the Board of Cosmetology, with their more specialized focus, evidently engage in more intensive regulation of the curriculum and program standards of their schools. Real estate schools offer a course of training prescribed by statute⁵⁵ to be approved by the Commission⁵⁶ with minimum class hours set by administrative rules.⁵⁷ Also, the Real Estate Commission does collect data on enrollment and program offerings.⁵⁸

The Board of Cosmetology, through its statutes⁵⁹ and rules,⁶⁰ enforces a very specific beauty school curriculum in terms of course content, practical applications, and class hours. It also mandates a specific instructor-student ratio.⁶¹

Finally, regarding proprietary school outcomes, there does not appear to be much monitoring. The Real Estate Commission, however, does collect data on student completions and student license data.⁶²

Summary

SHEEO's ultimate recommendation was that its specific recommendations be applied where the problems are greatest: " The level of regulation in the states should fit the level of potential abuse."⁶³

Differences do exist between SHEEO's recommendations for state licensure and the corresponding level and intensity of Hawaii's regulation of these schools. The "level of potential abuse" appears to be greatest for the schools regulated by the Department of Education. The Department is grossly understaffed, and under its jurisdiction was the accredited trucking school that allegedly mishandled federal student aid funds and closed down. A combination of a tuition protection fund and a teach out plan might have decreased the likelihood of stranding the trucking school students in the middle of the Pacific with no certificate, nowhere to go, and, in some publicized cases, nothing to do but join the ranks of the homeless. It seems that this possibility will exist for any other school that is accredited and unique to Hawaii and recruits its students from among the underprivileged.

ENDNOTES

1. The Methods and Effectiveness of State Licensing of Proprietary Institutions, State Higher Education Executive Officers (SHEEO) (Denver: 1991), pp. 11, 13.
2. Ibid., pp. v, 6.
3. Ibid., p. xi.
4. Ibid., p. 8.
5. Ibid., p. xi, 15-19.
6. Ibid., pp. xii, 21-29.
7. Ibid., p. 40.
8. Haw. Rev. Stat., secs. 467-3 and 439-3(c).
9. Hawaii, Memorandum from the Director of Finance to All Department Heads, State of Hawaii, October 5, 1992.
10. Haw. Rev. Stat., sec. 300-44.
11. SHEEO questionnaire.
12. SHEEO, pp. 32-33.
13. Ibid., pp. 32-34.
14. Ibid., p. 41.

LAWS ON NON-DEGREE GRANTING INSTITUTIONS

15. SHEEO questionnaire.
16. Hawaii, Department of Education, 1991-1992 Directory.
17. SHEEO questionnaire.
18. Copy of the SHEEO questionnaire sent by the Legislative Reference Bureau to the Real Estate Commission.
19. SHEEO, pp. xii, 35-36.
20. Ibid., pp. 36-38.
21. Ibid., pp. 38-39.
22. SHEEO questionnaire; Section 8-101-3(e), Hawaii Administrative Rules; Copy of the SHEEO questionnaire sent by the Legislative Reference Bureau to the Real Estate Commission; Haw. Rev. Stat., sec. 467-25.5.
23. SHEEO questionnaire; Haw. Rev. Stat., sec. 439-18(a).
24. Hawaii, Memorandum from the Director of Finance.
25. SHEEO, p. 45.
26. Section 8-101-7, Hawaii Administrative Rules.
27. Section 16-99-68, Hawaii Administrative Rules.
28. Section 8-101-3(n), Hawaii Administrative Rules.
29. Section 16-99-67, Hawaii Administrative Rules.
30. SHEEO, p. xiii.
31. Ibid., pp. 48-49.
32. Ibid., p. 51.
33. Ibid., pp. 52-55.
34. Section 8-101-8(d), Hawaii Administrative Rules.
35. Section 16-99-59(b), Hawaii Administrative Rules.
36. Section 8-101-3(a)(15), Hawaii Administrative Rules (Department of Education); Sections 16-99-53(b)(8), 16-99-53.1, and 16-99-65(b)(4), Hawaii Administrative Rules (Real Estate Commission); and Sections 16-78-49(12) and 16-78-56, Hawaii Administrative Rules (Board of Cosmetology).
37. SHEEO questionnaire.
38. Copy of the SHEEO questionnaire sent by the Legislative Reference Bureau to the Real Estate Commission.
39. SHEEO, pp. xiii, 56-57.

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

40. Ibid., pp. xiii, 57.
41. SHEEO questionnaire; Copy of the SHEEO questionnaire sent by the Legislative Reference Bureau to the Real Estate Commission.
42. Sections 8-101-9 and 8-101-4(b), Hawaii Administrative Rules.
43. Section 16-99-64, Hawaii Administrative Rules.
44. Section 16-99-56(a), Hawaii Administrative Rules.
45. SHEEO, pp. 58-59.
46. SHEEO questionnaire; Haw. Rev. Stat., sec. 300-41; Section 8-101-2, Hawaii Administrative Rules; Hawaii, Department of Education, Private School List, August 1991, Licensed Private Trade, Vocational or Technical Schools.
47. Section 16-99-50(b), Hawaii Administrative Rules (Real Estate Commission); Section 16-78-48, Hawaii Administrative Rules (Board of Cosmetology).
48. SHEEO, p. 61.
49. SHEEO questionnaires; Copy of the SHEEO questionnaire sent by the Legislative Reference Bureau to the Real Estate Commission.
50. SHEEO, pp. xiv, 62-70.
51. Ibid., p. 65.
52. Sections 8-101-5 and 8-101-3(a)(7), Hawaii Administrative Rules.
53. Section 8-101-3(a)(8), Hawaii Administrative Rules.
54. Section 8-101-3(h), Hawaii Administrative Rules.
55. Haw. Rev. Stat., secs. 467-25.5(a) and 467-8(2).
56. Section 16-99-57, Hawaii Administrative Rules.
57. Section 16-99-36, Hawaii Administrative Rules.
58. Copy of the SHEEO questionnaire sent by the Legislative Reference Bureau to the Real Estate Commission.
59. Haw. Rev. Stat., sec. 439-18(b).
60. Section 16-78-51, Hawaii Administrative Rules.
61. Section 16-78-54, Hawaii Administrative Rules.
62. Copy of the SHEEO questionnaire sent by the Legislative Reference Bureau to the Real Estate Commission.
63. SHEEO, p. xiv.

Chapter 11

OTHER STATES' LAWS GOVERNING DEGREE-GRANTING INSTITUTIONS

Introduction

As previously mentioned, the American Council on Education ("ACE") conducted a 1987 survey of all state statutes, including the laws of the District of Columbia, governing postsecondary degree granting institutions. Statutes were judged relatively strong, of average strength, or relatively weak, depending on the presence of ten criteria. The more of the criteria that were present, the stronger the law was judged to be. The survey did not examine the enforcement of the statutes or the intensity or quality of oversight.¹ (See Appendix G for the state-by-state summary.)

State statutes were judged as relatively strong if they contained most of the following ten criteria.²

- (1) Preoperation review with minimum criteria for authorized operation specified;
- (2) Site visit required;
- (3) Few or no exemptions from regulation except for institutions having accreditation from an agency recognized by the United States Department of Education or by the Council on Postsecondary Accreditation;
- (4) Finances reviewed for adequacy including attention to audits and insurance;
- (5) Periodic "reauthorization" required;
- (6) Activities of recruiting agents regulated;
- (7) List maintained of institutions authorized to operate;
- (8) Restrictions apply against misleading advertising;
- (9) Out-of-state institutions regulated in manner comparable to those domiciled in the State; and
- (10) Penalties listed for violators of statutes.

These criteria have evidently withstood the test of time because they appear to be derived from an earlier 1972 set of findings published by Florida State University.³

Twenty-two states (counting the District of Columbia) were judged to have relatively strong statutes. They were:⁴ Arizona, Arkansas, Connecticut, District of Columbia, Illinois, Indiana, Maine, Maryland, Massachusetts, Nevada, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, West Virginia, and Wisconsin (for certain types of institutions).

Thirteen states were judged to have relatively weak statutes. They were:⁵ **Hawaii**, Idaho, Iowa, Louisiana, Missouri, Montana, Nebraska, New Mexico, Oklahoma, South Dakota, Utah, Wisconsin (for certain types of institutions), and Wyoming. Hawaii was noted to have "no statutes governing authorization of non-accredited, degree-granting, postsecondary education institutions. As a matter of policy, Hawaii does not respond to inquiries and does not wish to be included in this survey."⁶

Thus, the other fifteen states, including California, were categorized as states whose statutes were of average strength. It should be noted that the ACE survey was completed prior to California's vaunted 1989 reforms.

The survey results also tend to reflect the notion that the coastal states have restrictive laws while the heartland states are laissez-faire. As with all surveys, even the ACE survey should be taken with a grain of salt. Recent media coverage in the other states suggests that even the strong states are not entirely problem-free with regard to questionable unaccredited degree granting institutions.⁷

Framework of States' Laws on Degree Granting Institutions

This study seeks to use ACE's results to develop a building-block approach to legislation in this area. Attention here is paid to the statutory framework into which some of the ten criteria may be fitted. The framework includes the state agency charged with oversight of the institutions, the types of regulated institutions, the exempted institutions, and regulations relating to degree granting authority and consumer protection. Furthermore, attention is also given to ways in which accreditation has been incorporated into state laws. In quite a few states, accreditation serves to exempt an institution from regulation or serves as permissive evidence that the institution meets the State's minimum standards to operate.

The states chosen for study include:⁸ California, Illinois, Maine, Nevada, New York, Ohio, Rhode Island, Tennessee, Texas, Vermont, and Washington. These states were picked primarily because they were rated as having strong statutes by the 1987 ACE survey. Presumably, their statutes have not been weakened over the last five years. California was picked because the passage of its 1989 laws gave Hawaii cause for concern over its own "lax" laws. Also, the ECS model legislation was reviewed since it appears to have been adopted in significant measure in at least Tennessee, Nevada, and Washington. (See Appendix H for the ECS model legislation.)

The Declared Purposes of States' Statutes

States share similar purposes in enacting statutes that primarily regulate private degree granting institutions. The statutes are enacted to provide for the protection, education, and welfare of both the citizens of the state and the State's legitimate institutions and their graduates. Specifically, citizens must be protected from deception by fraudulent or substandard academic degrees and by fraudulent, substandard, or unethical educational operations (Texas, Illinois, Tennessee, Nevada, California, and Washington).

It is in the public interest to regulate the granting of degrees because degrees are used by: (1) employers in judging the training of prospective employees; (2) professional groups in determining qualifications for admission to and continuance of practice; and (3) the general public in assessing the competence of persons engaged in a wide range of activities necessary to the general welfare (Texas and Illinois).⁹

There were also public policy concerns that legislation should not unreasonably hinder legitimate educational innovations (Nevada and California).

Constitutional Constraints to State Regulation

The power to regulate higher education, devolving to the states under Article X of the United States Constitution, is constrained by other constitutional provisions, in particular, the due process and equal protection clauses of the fourteenth Amendment. The proper constitutional test for statutes challenged under either of the fourteenth Amendment clauses appears to be the "rational basis" test.¹⁰

For example, a 1936 New York court apparently used the rational basis test to turn back a due process challenge to a statute which prohibited institutions from referring to themselves as "schools of law" unless that right had been granted by the regents. A law school had conducted one-year courses that would be helpful to businessmen, but would not qualify them to sit for the New York bar examination. The court held that the law was reasonable because: (1) it had a tendency to promote the general welfare; and (2) it was not arbitrary or capricious. The school's use of the term "school of law" would tend to induce the belief that its course of study would be a step toward the legal profession.¹¹

Likewise, a 1964 Connecticut court used the rational basis test to uphold an equal protection challenge to a statute which exempted institutions from prohibitions on the use of terms such as "college" or "university" if those institutions had been using those forbidden terms prior to a certain date. The grandfather exemption was struck down because it created a closed class that bore no rational relationship to the exemption's purpose of protecting the public from misrepresentations. There was no way of knowing that a grandfathered institution, which had not yet caused offense, might not mislead the public in the future.¹²

Other potential sources of constitutional constraints under the United States Constitution are the Obligation of Contracts clause of Article I, section 10, the Interstate Commerce clause of Article I, section 8, the Supremacy clause of Article VI, paragraph 2, and the Free Exercise and Establishment of Religion clauses of the First Amendment. Also, the delegation doctrine under a State's own constitution is another potential consideration.¹³

Regulated Private Degree Granting Institutions

Statutes regulating degree granting institutions are primarily directed at private institutions that operate in the State. The institutions can generally be established either as corporations or unincorporated entities, such as persons, partnerships, or associations (California, Ohio, Maine, Illinois, and Vermont). They can be established in the governing state or in a different state.

To fall within the ambit of a State's oversight statutes, institutions, wherever or however established, must operate or do business, or intend to operate or do business in the State. To operate or do business means establishing or maintaining a place of business, facility, location, or representative in the State, through which the institution offers or intends to offer educational services leading the awarding of a degree, even if the degree is eventually awarded by a different institution (Texas, California, Ohio, Maine, Tennessee, Nevada, Illinois, and Vermont). Operations thus include the establishment of branch campuses or extension programs by out-of-state private institutions (Nevada and Illinois).

Also subject to a State's statutes are public institutions established in a different state that operate or intend to operate in the regulating state, perhaps through branch campuses or satellite programs (Vermont, Ohio, Nevada, Texas, and Illinois).

Exempted Institutions

Other states' legislation were reviewed for exemptions relevant largely to private degree granting institutions. Since some sets of statutes dealt with both degree granting and non-degree granting institutions, they contained some exemptions that seemed relevant more to the latter than to the former type of institution (Tennessee, California, and Nevada). Among the typical exemptions relevant more to non-degree granting institutions were those of the sort found in section 300-41, *Hawaii Revised Statutes*, for private trade schools as well as in Section 4 of the 1973 ECS model (See Appendix H). They cover elementary and secondary schools, certain kinds of education sponsored by trade unions or professional organizations, vocational education, and eleemosynary institutions.

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

Exemptions relevant to private degree granting institutions have been organized here according to whether or not they involve accreditation. Among the exemptions not related to accreditation are the following:

- (1) Religious institutions that do not grant degrees (Vermont and Ohio) or do not grant degrees in nonsectarian matters (California and Washington);
- (2) Institutions operating solely on a federal reservation over which the federal government has exclusive jurisdiction (Maine);
- (3) Institutions grandfathered in prior to a present law's effective date (Maine, Ohio, Illinois, and Rhode Island);
- (4) Certain professional schools under the approval of the state agency administering the professional licensing examination (Tennessee and Texas);
- (5) The State's own public degree granting institutions (Illinois, Vermont, and Washington); and
- (6) Non-degree granting institutions (Vermont).

The fifth and sixth exemptions are probably not necessary if legislation is drafted specifically at private degree granting institutions and not generally at degree granting institutions or postsecondary institutions.

Few states grant an exemption for accredited degree granting institutions (Texas, California, Vermont, Washington, and Tennessee). The exemption appears to reflect institutional accreditation. Two states have limited the availability of the exemption to only fully accredited institutions; those with provisional accreditation, candidacy status, or an application for accreditation being processed, do not qualify for it (Texas and California). Furthermore, the accreditation must come from a recognized agency. Generally, the recognition itself must come, not from the United States Secretary of Education, but from the State's oversight agency for degree granting institutions (Texas, Vermont, Washington, and Tennessee), except in California.

It seems that the accreditation exemption is more readily available to in-state institutions than it is to in-state branches or extensions of out-of-state institutions. For example, Vermont, Washington, and Texas grant an unrestricted accreditation exemption to private institutions established primarily in the respective state. Vermont does not grant it to institutions whose primary operation lies outside Vermont. Washington grants the exemption to branch campuses of out-of-state institutions only if the branch is separately accredited from the main campus. Texas apparently grants the exemption only for private branch campuses that may have been grandfathered under a prior authorization statute. Texas evidently does not exempt branch campuses of out-of-state public institutions.

While Tennessee and California both grant somewhat restricted accreditation exemptions even to its in-state institutions, the exemptions are nonetheless more favorable to in-state institutions than out-of-state ones. Tennessee grants only a grandfather-type accreditation exemption to private institutions primarily based and chartered in the State. The exemption is not available to branch sites of out-of-state institutions. California grants a more generous exemption to institutions accredited by WASC, in whose accrediting region California falls, than to those accredited by any other national agency recognized by the United States Department of Education.

Jurisdiction: The Agency Charged With Oversight

Oddly enough, in none of the other states was governance over private degree granting institutions placed with a department of commerce and consumer affairs. Invariably, the oversight agency was one whose missions related to education. The variations that did occur occurred in a State's particular choice of an education agency and in the other types of other institutions assigned to that agency. After all, there are at least four types of degree granting institutions: in-state public, in-state private, out-of-state public, and out-of-state private. There are two general types of postsecondary institutions: degree granting and non-degree granting (*i.e.*, the trade schools). And there are two types of educational levels: postsecondary and nonpostsecondary. Furthermore, some agencies are parts of other agencies.

In a minority of states, it appeared that the agency that regulated private degree granting institutions also regulated public nonpostsecondary schools (Maine, Vermont, and New York). In the majority of states, though, the agency that regulated private degree granting institutions appeared to be devoted exclusively to postsecondary institutions. The agency was either the one that also supervised the public institutions of higher education (Ohio, Tennessee, Texas, Illinois, New York, Rhode Island, and Washington) or one that was created solely to regulate private postsecondary education (California and Nevada).

In states where the agency regulating private degree granting institutions also regulated the public degree granting institutions, it appeared that the agency was a "super board" or "super commission" perched over the individual boards of each of the public institutions of higher education. The coordinating board's other duties included the formulation of the master plan (Ohio, Washington, New York, Texas, Rhode Island, Tennessee, and Illinois), the administration of federal programs of student financial aid (Washington), the approval of new degree programs at the public institutions (Ohio and Tennessee), the determination of the mission of each public institution (Texas, Ohio, Rhode Island, and Tennessee), and the determination of the need for any new institutions (Tennessee, Ohio, and Texas).

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

In some states, the agency governing private degree granting institutions also governed private non-degree granting institutions (California, Nevada, Rhode Island, Tennessee, and the ECS model). In other states, private non-degree granting institutions were regulated by a different agency (Texas, Illinois, New York, Maine, Washington, and Ohio). In at least two of the states where the regulation of degree granting institutions and non-degree granting institutions was divided between two separate agencies, coordinating provisions were found in either the statute governing non-degree granting institutions (Texas) or in the both of the separate statutes governing non-degree granting institutions and degree granting institutions (Ohio), addressing the situation of a trade school wishing to offer degrees.

Lastly, while the ECS model legislation refrains from recommending which state agency should regulate degree granting (and non-degree granting) institutions, it does offer advice on the factors that need to be addressed when deciding whether jurisdiction should be given to a new agency or an existing one. These factors are dependent upon the State's specific circumstances--its statutes, constitutional constraints, accepted practices, and political realities:

If an existing agency is designated . . . it should have the capability and experience for using regulatory powers. It should also have an understanding and empathy for the institutions to be regulated. Further, if it is not currently representative of the constituent institutions to be regulated, it should develop an appropriate advisory structure with such representation.

On the other hand, if a new commission is formed, [the legislation needs] to specify methods of selection or appointment of the commission's members, terms of office, provisions for removing members and filling vacancies, and provisions for staff and their functions The commission should have fair and equitable representation of the various components of postsecondary education and of the public.

Degree Granting Authority and Related Matters

Central to statutes governing degree granting institutions are the provisions that relate to an institution's authority to grant degrees. Among the basic operations of an institution, relevant to its degree granting authority, are the following:

- (1) Delivering or furnishing educational services;
- (2) Granting, awarding, or conferring degrees; and
- (3) Using the terms "college" or "university."

In order to operate in a state, institutions must obtain authorization from the State's oversight agency. For the sake of simplicity, the term "authorization" is used here throughout. Other terms used in the various states' statutes include: "approval" (Illinois, Rhode Island, California, Maine, and Vermont), "charter" and "registration" (New York), "authorization" (Washington, Tennessee, Texas, Maine, Ohio, Vermont, and Nevada), and "license" (Nevada).

Authorizations are granted for a specified period of years; they are subject to fees and renewals, and may be revoked or limited (ECS, Tennessee, Texas, California, Maine, Ohio, Nevada, Vermont, Illinois, New York, Rhode Island, and Washington). Procedural due process rights may be outlined for institutions wishing to contest a denial, revocation, suspension, or other limitation of authorization (ECS, Tennessee, Texas, California, Nevada, and Illinois). Unauthorized acts appear to be generally punishable as misdemeanors (Texas, Nevada, New York, Tennessee, Vermont, and Washington; exception, Illinois-felonies). Each day on which a violation occurs may constitute a separate violation (Washington, Nevada, and Tennessee), or each degree conferred without authority constitutes a separate violation (Texas). Injunctive relief to the State is also generally available (Washington, Illinois, Nevada, Rhode Island, Tennessee, California, Texas, Ohio, and Vermont). Proving the lack of an adequate remedy at law may not be necessary to obtain that relief (Tennessee). In some states, remedies and penalties were nonexclusive and cumulative (Washington and California).

Authorization to Operate: The Single-Step Approach

In most states, the authorization to operate permits both the delivery of educational services and the subsequent conferring of degrees (California, Tennessee, Ohio, Rhode Island, Vermont, and Washington). About half of these states are those in which the same agency handles both degree granting and non-degree granting institutions (California, Tennessee, and Rhode Island). The authorization to operate may also permit the institution to call itself a "university" or "college" (Ohio). If not, separate authorization may be required (Tennessee).

In order to obtain or renew their authorization to operate, institutions must demonstrate that they meet or will meet minimum standards. On-site visits may be made to determine compliance (California and Tennessee). Site visits may be made to out-of-state as well in-state operations of an institution and branch campuses as well as main campuses (California). They may also be made in conjunction with accreditation visits (California and Tennessee). Temporary authorizations are possible for new institutions (California and Tennessee).

Minimum standards are either set out in the statutes (California and Tennessee) or left to the governing agency to develop through its administrative rules (Washington, Vermont, Ohio, and Rhode Island). Minimum standards involve elements such as institutional mission,

the administration, curriculum, instruction, faculty, facilities, finances, safety and health codes, staff, academic recordkeeping, tuition and refund schedules, admission standards, financial aid, academic requirements, libraries, student activities, degrees granted and the degree granting process, and ethical practices (California and Tennessee).

A few states attempt to harmonize state minimum standards with private accreditation. In California, the minimum standards are not meant to exceed the accreditation standards of WASC. In Tennessee, accreditation by an accrediting agency recognized by the Council on Postsecondary Accreditation may be accepted as evidence of compliance with minimum standards.

Authorizations to Operate and to Grant Degrees: The Two-Step Approach

Other states authorize the granting of degrees separately from the furnishing of educational services, and may require two separate authorizations for each. If separate authorizations are required, it was not always clear from the statutes whether minimum standards are the same for each level of authorization (Illinois, Maine, and New York). If mentioned at all, the institution's right to call itself a "university" or "college" accompanies either the right to furnish educational services (Maine) or the right to grant degrees (New York and Texas).

States using the two-step approach generally were those in which the regulation of degree granting institutions and non-degree granting institutions were split between two separate agencies (Texas, New York, Maine, and Illinois; exception, Nevada). After an institution begins to offer educational services, it may be required to wait out a certain period of time before it can obtain authorization to grant degrees (Illinois-one year; Texas-two years). Or, it may be required to successfully achieve degree granting authority within a certain period of time (Maine-three years; New York - "specified time"); unsuccessful institutions risk losing their authorization to furnish educational services. This latter approach seems to manifest some sort of an up-or-out policy.

Maine presents an intriguing version of this two-step authorization model. Whereas other states designate a single executive agency to handle both the authorization to deliver educational services and the authorization to grant degrees, Maine separates those responsibilities between the state Board of Education and the Legislature. The state Board grants an institution "temporary approval" to both offer courses for academic credit and call itself a "college" or "university." But it is the Legislature that grants the institution the authority to confer degrees. Consequently, it is seemingly the Legislature which defines the idea of a university.

Texas and Nevada are two states whose authorization statutes expressly incorporate accreditation, apparently to direct regulatory efforts away from the accredited institutions.

OTHER STATES' LAWS GOVERNING DEGREE-GRANTING INSTITUTIONS

Texas uses accreditation to implement an up-or-out policy for private unaccredited institutions. An institution is not required to obtain any authorization simply to offer educational services. It is required to obtain authorization to grant degrees and call itself a "college" or a "university." It cannot apply for that authorization until it has been in operation for at least two years. Once authorization from the Texas Higher Education Coordinating Board is granted, the institution is then required, within a period of time prescribed by the Board, to become accredited by an accrediting agency recognized by the Board. If the institution achieves its accreditation successfully, it then becomes exempted from the authorization statutes. If it does not, it then loses its authority to grant degrees and call itself a "college" or "university." In effect, Texas regulates neither the mere furnishing of educational services nor the operations of accredited private universities. Texas regulates only the degree granting activities of the unaccredited institutions.

Nevada requires private degree granting institutions to obtain from the Commission on Postsecondary Education both a license to operate and a separate authorization to confer degrees. For accredited institutions, their accreditation serves as evidence of compliance with the minimum standards necessary for a license to operate; it also satisfies the prerequisites for obtaining an authorization to grant degrees. The accreditation must come from an accrediting agency recognized by either the United States Department of Education or the Council on Postsecondary Accreditation. On the other hand, unaccredited institutions must independently meet the minimum standards for the license to operate by hosting at least one on-site visit by representatives from institutions or businesses that are directly affected by the applicant's programs. Secondly, to obtain an authorization to grant degrees, the unaccredited institution must then establish that the majority of its course credits are transferable to at least one accredited college or university.

Lastly, the authorization system has a formal character in New York. Whereas most states grant authorization through the issuance of a certificate or license, New York grants authorization through the issuance of the corporate charter: a provisional charter to offer educational services; a subsequent, absolute charter to grant degrees. A charter entitles an institution to become a member of an umbrella entity headed by the Board of Regents and known as "The University of the State of New York." This entity encompasses private colleges and universities as well as the public colleges and universities, including and not to be confused with the corporation headed by a Board of Trustees and known as the "State University of New York" ("SUNY"). The entity also encompasses secondary institutions, libraries, museums, and public television and radio. Unlike other states, New York evidently treats not-for-profit incorporation and the authorization to operate as somewhat inseparable acts: the right to exist equals the right to operate. Also noteworthy is the fact that the New York Board of Regents is the only state oversight agency recognized by the Secretary of Education for its registration functions. The board is effectively a recognized accrediting agency.¹⁴

Specific Degree Granting Provisions Pertaining to Nontraditional Methods of Education

A few of the states had specific statutory provisions dealing with nontraditional methods of education. In Illinois, the general statutory mandate is that no institution shall be authorized to grant degrees unless it requires an appropriate period of instruction to be in residence. An exception is made for institutions that do not conduct instruction in residence, provided that the Board of Higher Education finds that the institution:

- (1) Maintains physical facilities suitable and sufficient to the giving of a program or programs of instruction of degree caliber in the field or fields wherein it proposes to grant degrees;
- (2) Maintains a suitable and sufficient faculty for instruction in its degree granting program or programs;
- (3) Maintains its student records in a safe and suitable place so that there is reasonable assurance that they are and will remain available for all normal purposes for a reasonable period of time;
- (4) Maintains a stability sufficient to carry out its obligations under the enrollment contracts . . .¹⁵

In California, institutions may offer credit for prior experiential learning:

only after an evaluation by qualified faculty and only in disciplines within the institution's curricular offerings that are appropriate to the degree pursued. The council shall develop specific standards regarding the criteria for awarding credit for prior experiential learning at the graduate level, including the maximum number of hours for which credit may be awarded.¹⁶

Through its administrative rules, the Council for Private Postsecondary and Vocational Education has mandated that for undergraduate programs, no more than thirty semester units out of 120 units may be awarded for prior experiential learning. For graduate programs, the maximum is no more than nine units out of sixty units.¹⁷

Consumer Protection

Along with matters relating to degree granting authority, consumer protection is another concern of state statutes governing degree granting institutions.

A previous chapter on the SHEEO recommendations for proprietary schools discussed consumer protection concerns such as teach outs and tuition reimbursement funds. Provisions dealing with these particular types of concerns were found in statutes that governed both degree granting and non-degree granting institutions (Tennessee and California). In order to develop some sense of consumer protection concerns that may be endemic to the degree granting institutions, state statutes governing only degree granting institutions were reviewed (Texas, Washington, Ohio, Maine, and Illinois).

Washington, which substantially follows the ECS model legislation, requires institutions to carry surety bonding and to preserve academic records in case of closure. Academic records preservation, according to the ECS, helps ensure the availability of such records for students who may need them at a later date. Washington also prohibits institutions from enforcing education-related debts against students if the institution was not authorized to offer degrees at the time the parties agreed to the debt. Washington also gives students and prospective students the option to void their education payment contracts if they are state residents and the contracts attempt to make another State's law apply, fix venue, or subject the debtor to the jurisdiction of another state. This option to void a contract, apparently liberalizing the counterpart ECS provision that automatically voids the contract, is designed to end the common practice of unscrupulous out-of-state institutions obtaining judgments for tuition in their own states against students from other states.

Ohio makes the maximum allowed interest charges on loan agreements between the student and the institution dependent upon the gross yield to approved lenders on guaranteed student loans. Maine specifies that degree granting authority is not transferable and terminates upon an institution's merger or consolidation with another institution.

California's Findings Upon State Reliance Upon Nongovernmental Accreditation

It may be tempting to incorporate accreditation into state oversight statutes, since a significant measure of regulatory activities is thereby performed not by the state but by the private sector. However, California's experience leading up to its 1989 reforms suggests that any state reliance upon nongovernmental accreditation should not be done injudiciously. Prior to the 1989 reforms, the California Postsecondary Education Commission conducted a study of that State's reliance upon nongovernmental accreditation for both degree granting and non-degree granting institutions.¹⁸ It found that due to the diversity among the accrediting bodies in terms of their accrediting standards and procedures as well as in their composition, size, and workloads, the State's near total dependence upon the accrediting associations had the indirect effect of promoting substantially irregular treatment of private institutions.¹⁹

In affirming that state oversight looks to the maintenance of minimum educational standards and essential consumer protection,²⁰ the Commission proposed two guidelines for

state policy. First, it proposed that the state should retain responsibility for ensuring compliance with its minimum quality standards and consumer protection laws. Second, it proposed that the state should not, without restriction, rely upon all recognized regional accrediting agencies to protect the consumer and maintain the integrity of degrees; rather, it should rely upon individual accrediting agencies on an agency-by-agency basis as determined by the appropriate state agency. Such reliance would be found appropriate only if the accrediting agency could demonstrate that its standards and procedures for protecting consumers and maintaining the integrity of degrees substantially covers the standards and consumer protection requirements of the State's licensing laws and are rigorously enforced.²¹

In particular, the Commission pointed out that statutory exemptions for accredited institutions means that the state will be unable to perform the following state functions:²²

1. Certifying the integrity of the institution's leadership;
2. Determining the stability of the institution;
3. Ensuring the integrity of academic degrees and other educational certification;
4. Maintaining complete and accurate information about the educational institutions operating within its borders;
5. Guaranteeing an expeditious response to student complaints;
6. Providing for equitable tuition refunds;
7. Providing for the maintenance of academic records in case of school closure; and
8. Protecting students against loss of time and money due to institutional fraud or bankruptcy.

The 1989 California legislature ultimately adopted a policy that placed heavy reliance upon WASC and less reliance upon all other nationally recognized accrediting agencies. The legislature granted a near total exemption for two-year and four-year in-state nonprofit institutions accredited by WASC and only a very qualified exemption for in-state nonprofit institutions accredited by other nationally recognized accrediting agencies. Out-of-state accredited institutions with in-state branches enjoyed no exemption.

ENDNOTES

1. Stewart, Diploma Mills, pp. 207-208.
2. Ibid.
3. See Louis W. Bender and James A. Davis, Danger: Will External Degrees Reincarnate Bogus Degree Mills? A Challenge to State and National Agencies (Department of Higher Education, Florida State University 1972), p. 40.

OTHER STATES' LAWS GOVERNING DEGREE-GRANTING INSTITUTIONS

4. Stewart, Diploma Mills, pp. 210-244.
5. Ibid., pp. 217-244.
6. Ibid., p. 217.
7. In Washington: "State to Write Regulations for Religion-Linked Schools," Seattle Times, March 17, 1991, p. B6. In Arizona: John Schroeder, "Law School Opens Amidst Licensing Flap," Arizona Republic/Phoenix Gazette, February 26, 1992, p. 5N1.
8. The citations to the other states' statutes are given below. References to non-degree granting institutions do not include the specialized laws, such as those relating to cosmetology schools:

California: Degree granting and non-degree granting institutions and their oversight agency are found at CAL. EDUCATION CODE ch. 3, Private Postsecondary and Vocational Institutions, §94300 et seq. (Deering 1992 Supp.). The regional accrediting association for degree granting institutions is the Western Association of Schools and Colleges.

Illinois: Degree granting institutions are found at ILL. REV. STAT. ch. 144, Private College Act, §120 et seq. (1991); Academic Degree Act, §230 et seq. (1991). The oversight agency for degree granting institutions is described at ch. 144, Board of Higher Education Act, §180.9 et seq. (1991). Non-degree granting institutions are found at ch. 144, Private Business and Vocational Schools Act, §136 et seq. (1991). The regional accrediting association for degree granting institutions is the North Central Association of Colleges and Schools.

Maine: Degree granting institutions are found at ME. REV. STAT. ANN. ch. 409, Degree-Granting Institutions, tit. 20-A, §10701 et seq. (1983). The counterpart nonlegislative oversight agency is described at ch. 5, State Board of Education, tit. 20-A, §401 et seq. (1983). Non-degree granting institutions are found at ch. 323, Private Business, Trade and Technical Schools, tit. 20-A, §9501 et seq. (1983). Additionally, correspondence schools are separately covered at ch. 321, Correspondence Schools, tit. 20-A, §9201 et seq. (1983). The oversight agency for both is described at subch. II, Commissioner, tit. 20-A, §251 et seq. (1983). The regional accrediting association for degree granting institutions is the New England Association of Schools and Colleges.

Nevada: Degree granting and non-degree granting institutions and their oversight agency are found at NEV. REV. STAT. ch. 394, Private Educational Institutions and Establishments, §394.005 et seq. (1991). The regional accrediting association for degree granting institutions is the Northwest Association of Schools and Colleges.

New York: Degree granting institutions and their oversight agency are found at N.Y. EDUC. LAW Art. 5, University of the State of New York, §201 et seq. (Consol. 1985). Non-degree granting institutions are found at Art. 101, Private Trade and Correspondence Schools, §5001 et seq. (Consol. 1991 Pocket Part). The regional accrediting association for degree granting institutions is the Middle States Association of Colleges and Schools. Additionally, the New York State Board of Regents is itself a federally recognized state agency.

Ohio: Degree granting institutions are found at OHIO REV. CODE ANN. ch. 1713, Educational Corporations, §1713.01 et seq. (Baldwin 1986). The oversight agency is described at ch. 3333, Ohio Board of Regents, §3333.01 et seq. (Baldwin 1988). Non-degree granting institutions are found at ch. 3332, Proprietary Schools, §3332.01 et seq. (Baldwin 1991 Pocket Part). The regional accrediting association for degree granting institutions is the North Central Association of Colleges and Schools.

Rhode Island: It appears that degree granting and non-degree granting institutions are found at R.I. GEN. LAWS ch. 40, Private Schools, §16-40-1 et seq. (1988). The oversight agency is described at ch. 59, Board of

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

Governors for Higher Education, §16-59-4 et seq. (1991 Pocket Part). Correspondence schools are found at ch. 50, Correspondence Schools, Home Study and Related Courses, §16-50-1 et seq. (1988). The regional accrediting association for degree granting institutions is the New England Association of Schools and Colleges.

Tennessee: Degree granting and non-degree granting institutions are found at TENN. CODE ANN. Part 20, Postsecondary Education Authorization Act, §49-7-2001 et seq. (1990). The oversight agency is described at Part 2, Tennessee Higher Education Commission, §49-7-201 et seq. (1990). The regional accrediting association for degree granting institutions is the Southern Association of Colleges and Schools.

Texas: Degree granting institutions are found at TEX. STAT. ANN. subch. G, Regulation of Private Degree-Granting Institutions of Higher Education, §61.301 et seq. (Vernon 1987); and subch. H, Regulation of Public Institutions of Higher Education Established Outside the Boundaries of the State of Texas, §61.401 et seq. (Vernon 1987). The oversight agency for degree granting institutions is described at subch. A, General Provisions, §61.002 et seq. (Vernon 1987). Non-degree granting institutions are found at ch. 32, Texas Proprietary School Act, §32.01 et seq. (Vernon 1987). The regional accrediting association for degree granting institutions is the Southern Association of Colleges and Schools.

Vermont: Degree granting institutions are found at VT. STAT. ANN. ch. 3, State Board of Education, tit. 16, §175 et seq. (1989). The oversight agency is described at §162 et seq. (1989). Statutes for non-degree granting institutions could not be located. But correspondence schools are found at ch. 85, Correspondence Schools, tit. 16, §2751 et seq. (1989). The oversight agency is described at ch. 5, subch. 1, Commissioner of Education, §211 et seq. (1989). The regional accrediting association for degree granting institutions is the New England Association of Schools and Colleges.

Washington: Degree granting institutions are found at WASH. REV. CODE ch. 28B.85, Degree-Granting Institutions, §28B.85.010 et seq. (1989). The oversight agency for degree granting institutions is described at ch. 28B.80, Higher Education Coordinating Board, §28B.80.150 et seq. (1989). Non-degree granting institutions are found at WASH. REV. CODE ANN. ch. 28C.10, Private Vocational Trade Schools, §28C.10.020 et seq. (1992 Pocket Part). The regional accrediting association for degree granting institutions is the Northwest Association of Schools and Colleges.

9. The declared purposes of states' statutes bear much in common with the "Declaration of Policy" from the 1961 model legislation prepared by the Council of State Governments ("CSG") for degree granting institutions:

It is the policy of this state to prevent deception of the public resulting from the conferring and use of fraudulent or substandard degrees. Since degrees, diplomas and similar measures of academic achievement are constantly used by employers in judging the training of prospective employees; by public and private professional groups in determining qualifications for admission to and continuance of practice; and by the general public in assessing the extent of competence of persons engaged in a wide range of activities necessary to the general welfare, regulation by law of such evidences of academic achievement is in the public interest. To the same end, the protection of legitimate institutions and of those holding degrees from them is also in the public interest.

Quoted in Shelton College v. State Board of Education, 226 A.2d 612, 620 (N.J. Sup. Ct. 1967).

The CSG is a joint agency of all fifty state governments, whose governing board consists of the governors and two legislators from each state. The council works to strengthen state government by, among other things, assisting states in solving specific problems of policy formulation and operations and serving as a catalyst and representative on issues and opportunities affecting the states. Founded in 1933, it is based in Lexington, Kentucky. [From: Encyclopedia of Associations, 26th Ed. 1992, edited by Deborah M. Burek (Detroit: Gale Research Inc., 1991)]

OTHER STATES' LAWS GOVERNING DEGREE-GRANTING INSTITUTIONS

10. In contrast, the repeal of Chapter 446D, Hawaii Revised Statutes, was justified by language in the conference committee reports, noted earlier, suggesting that a test was used which was stricter than necessary.
11. Institute of Metropolis v. University of the State of New York, 249 A.D. 33, 291 N.Y.S. 893 (N.Y. App. Div. 1936), aff'd without op, 274 N.Y. 504, 10 N.E.2d 521 (1937).

One of the local unaccredited universities has a law school intended to be helpful to medical doctors, providing them with a home study program in "medical law." The school's program expressly disclaims that it provides professional training or qualifies its graduates to pass state bar examinations. Its curriculum consists of casebooks (an anthology of legal opinions), hornbooks (a textbook-like law school study aid), and Nutshells (a more compact version of a hornbook). The school awards its graduates a "J.D."

12. State of Connecticut v. DeWitt School, Inc., 201 A.2d 472 (Conn. 1964).

As explained later by a 1967 New Jersey court, the grandfather clause in the Connecticut case created a facially invidious classification because it sought to give a competitive economic advantage to those already in the business to be regulated. The New Jersey court indicated that the burden of proving invidiousness is a heavy one, and hinted that the judiciary is very deferential to a legislature's purposes. The exemption date in the New Jersey statute on required authorizations for degree granting powers was based upon a date prior to which an institution's power to confer degrees had been granted expressly through special acts of incorporation by prior legislatures. See, Shelton College v. State Board of Education, 226 A.2d 612 (N.J. Sup. Ct. 1967).

13. See Louis W. Bender and James A. Davis, Danger: Will External Degrees Reincarnate Bogus Degree Mills? A Challenge to State and National Agencies (Department of Higher Education, Florida State University 1972) for cases collected and discussed regarding the authority for state jurisdiction, pp. 32-62.

The delegation doctrine, or the delegation of powers, refers to the transfer of authority by one branch of government in which such authority is vested to some other branch or administrative agency [Black's Law Dictionary, Fifth Ed. (St. Paul: West Publishing Co., 1979)]. At the federal level, due process appears to require that delegations of legislative authority be accompanied by adequate substantive standards to confine agency power or procedural safeguards to assure fair, informed decisionmaking. The fundamental objective of the delegation doctrine is to assure adequate control and accountability in the exercise of official power. Thus, while one concern under the doctrine is whether Congress has given away too large a share of its legislative authority, another is whether the delegation provides a mechanism to check the agency's exercise of discretion. Delegation questions also arise at the state level because many state constitutions are based upon the principle of separation of powers and provide for due process of law. As of 1981, state practice was varied: some states adhered to a relatively stringent version of the doctrine and required that statutes contain detailed standards confining agency discretion; others seemed to have abandoned the requirement of statutory standards altogether [Ernest Gellhorn and Barry B. Boyer, Administrative Law and Process in a Nutshell (St. Paul: West Publishing Co., 1981), pp. 21-29]. Hawaii appears to be part of the latter group. In 1987, the Hawaii State Supreme Court did not seem to be particularly perturbed by the observation that the Legislature had vested unusually broad discretionary powers in the county liquor commissions; it was only mindful that legislative grants of authority be limited so as to ensure that important choices of social policy are made by the Legislature, the branch of government most responsive to the popular will [Hyatt Corp. v. Honolulu Liquor Commission, 69 Hawaii 238, 241, 243-244 (1987)].

14. February 1992 Handbook of the Secretary of Education, p. 19.
15. Chapter 144, §235, Illinois Revised Statutes 1989.
16. Section 94310(7), California Education Code (Deering 1992 Supp.).

DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

17. Ch. 2, Art. 17, §71890(h)(1)-(15), California Education Code (Deering 1992 Supp.).
18. The State's Reliance on Nongovernmental Accreditation: A Report to the Legislature in Response to Assembly Concurrent Resolution No. 78 (Resolution Chapter 22, 1988), Commission Report 89-13, California Postsecondary Education Commission ("CPEC") 1989. The Commission reviewed the following nine accrediting commissions, associations, or agencies [p. 1]:
 - (1) The Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges ("WASC");
 - (2) The Accrediting Commission for Senior Colleges and Universities of WASC;
 - (3) The Accrediting Council for Continuing Education and Training;
 - (4) The American Association of Bible Colleges;
 - (5) The Association of Independent Colleges and Schools;
 - (6) The Council on Chiropractic Education;
 - (7) The National Accrediting Commission of Cosmetology Arts and Sciences;
 - (8) The National Association of Trade and Technical Schools; and
 - (9) The National Home Study Council.
19. CPEC, The State's Reliance, pp. 11-12; 18-23.
20. ibid., p. 3.
21. ibid., pp. 3-4.
22. ibid., p. 26.

Chapter 12

FINDINGS AND RECOMMENDATIONS

NON-DEGREE GRANTING INSTITUTIONS

Findings

Non-degree granting institutions are understood to be the private trade, technical, and vocational schools ("trade schools") that provide courses below the degree granting level. Most, but not all trade schools, are in turn non-degree granting. Unless excepted, trade schools in Hawaii generally come under the jurisdiction of the Department of Education. Of the excepted schools, the real estate schools and cosmetology schools come under the jurisdiction, respectively, of the Real Estate Commission and the Board of Cosmetology, both of which are boards or commissions placed within the Department of Commerce and Consumer Affairs for administrative purposes. The other excepted schools are either unregulated or fall under federal jurisdiction.

Both accredited and unaccredited trade schools are licensed by the Department of Education. The real estate schools registered with the Real Estate Commission are generally unaccredited. The cosmetology schools licensed with the Board of Cosmetology are generally accredited. Neither the statutes nor the administrative rules make explicit distinctions between accredited and unaccredited schools. Neither do they expressly incorporate accreditation. Furthermore, accreditation is not equivalent to state licensure but refers to a traditionally voluntary, private sector activity performed among peer educational institutions.

Of the approximately thirty-three unaccredited schools licensed by the Department of Education or registered with the Real Estate Commission, ten responded to the Bureau's questionnaires. Their responses for 1992 indicated that their students and faculty members are predominantly Hawaii residents. The average student enrollment was forty-eight students. The average number of faculty was five. Gross revenues averaged \$191,164 in 1991. Students did not or were not eligible to receive any state or federal financial aid.

The highly publicized federal student loan default crisis did not involve the unaccredited trade schools. It implicated the accredited ones. For example, the Hawaii trucking school that closed down in January 1992 was an accredited trade school. Nationwide, the worst offenders in the loan scandal were the trade schools, followed by the two-year public colleges, and then the two-year private colleges.

Accreditation by an accrediting agency recognized by the United States Secretary of Education is generally a prerequisite toward an institution's eligibility to participate in certain federal higher education student assistance programs. Two other prerequisites for an institution are a federal certification to participate in the federal funding programs and a state

license to operate. Together, these three prerequisites are known as the triad of institutional eligibility. Training courses of short duration, such as those offered by the real estate schools, are excluded from eligibility.

In a 1991 United States Senate report, the trade school accrediting agencies were faulted for being unreliable authorities in ensuring quality education. State licensure shortcomings included insufficient numbers of staff members, ineffective enforcement, kowtowing to political pressure, a lack of uniform standards among the states, and fragmented responsibility for licensure within a state.

Motivated by the loan default scandal, a subsequent multi-state study on state laws for trade schools reaffirmed the need for adequate staffing, offering the general rule of thumb that for every twenty-five schools licensed by an agency, that agency should have at least one full-time employee. Additionally, professional staff members were to include investigators, accountants, educators, and attorneys. The study also urged the use of annual site visits, teach outs, tuition reimbursement funds, graduated fee schedules, and criminal record checks for school owners. With deference to the variety of state governance structures, five models of good governance were presented. The ultimate recommendation was to apply the recommendations where problems were potentially the greatest.

Since real estate schools do not participate in federal student loan programs, the motivating force for regulatory reform bypasses them. Problems appear to be greatest with the schools licensed by the Department of Education. After all, one of them was the trucking school. If anything, the uniqueness of the school to the State and the ensuing homeless problem points out the need for teach outs and tuition protection funds in order to allow students whose training is interrupted by the school's closure to complete their training elsewhere. Furthermore, the Department is host to a mix of unique schools, some accredited and some not.

Using the rule of thumb of one employee to every twenty-five schools, it appears the Department is sorely understaffed. The two-member staff licenses some thirty-five trade schools in addition to its primary authority over some 138 "K-12" schools.

Recommendations

Since the SHEEO recommendations are intended to be applied where problems are potentially the greatest and problems did materialize with the trucking school closure, the following recommendations pertain largely to the Department of Education.

The Department of Education needs adequate staffing in order to enforce its licensing regulations. Legislative funding should be made available to hire at least one professional staff member to work exclusively with the approximately thirty-five trade schools. The new staff member's skills and duties should be coordinated to complement those of the present

FINDINGS AND RECOMMENDATIONS

staff members so that together they may successfully perform the SHEEO-recommended roles of investigator, educator, accountant, and attorney. Tasks include exploring methods of obtaining information on prior credit ratings and criminal history records, reviewing financial statements, and conducting annual on-site visits.

In order to address the specific problems posed by the trucking school closure, the Legislature should consider mandating the establishment of a tuition protection fund, which is to be supported by school contributions, not legislative appropriations. Likewise, the Department should consider adopting administrative rules which require schools, as part of the licensure and relicensure process, to submit credible teach out plans. These plans appear to be especially relevant to schools that are unique to the islands. If they close down, their students cannot simply transfer to a cross-town rival.

Lastly, in order to help shoulder the increased administrative burdens that increased oversight brings, the Department should consider replacing its flat fee schedule with either the enrollment-based or revenue-based schedules and charging supplemental fees for special burdens such as investigations of complaints.

DEGREE GRANTING INSTITUTIONS

Findings

Degree granting institutions are postsecondary institutions that offer courses leading to degrees. They are commonly understood to mean two-year and four-year colleges and universities. Presently, no agency in the state licenses or authorizes private degree granting institutions, whether those institutions are established in the State or established out-of-state but operate branch campuses or extension programs in the State. Likewise, no state agency licenses or authorizes other States' public degree granting institutions that operate branch campuses or extension programs in the State. Minimal duties over the disclosure of unaccredited status are delegated to the Office of Consumer Protection of the Department of Commerce and Consumer Affairs.

Based upon informal reports and educated guesswork, there are approximately ten unaccredited degree granting institutions in the State. All are private corporations, some for-profit, some nonprofit. They were incorporated in the State between 1985 and 1991.

Of the ten, six responded to the Bureau's questionnaires. Their responses indicated that their students, alumni, and faculty members are predominantly not Hawaii residents. For 1992, the average student enrollment was 2,523 students and the average number of faculty was 111. In 1991, gross revenues averaged \$124,691. Students did not or were not eligible to receive any state or federal financial aid. Four of the six stated a dedication to serving nontraditional students and reportedly operated external degree programs. Three of them indicated that academic credit was granted for prior experiential learning.

Their lack of accreditation generally precludes them from participating in federal student assistance programs, unless they were to qualify under the preaccreditation or "3IC" exceptions. Impliedly, then, they were not involved in the federal student loan default crisis. Instead, their lack of accreditation, combined with their nontraditional methods of education, have raised the separate problem of whether these institutions are diploma mills or legitimate nontraditional institutions.

Diploma mills include the well-intentioned but incompetent marginal institutions, whose basic programs appear respectable enough in their outlines but lack substance and are academically unsound, as well as the pure diploma mills, which sell degrees without making any pretense of requiring proof of degree-level learning.

Nontraditional methods of education have been used in America at least since the 1970's, and some nontraditional institutions are accredited, notably Regent's College in New York and Thomas A. Edison State College in New Jersey. Ideally, nontraditional methods of education place the institution second to the student by deemphasizing time, space, and course requirements in favor of competence and performance. If not carefully used, they can lead to a lessening of academic rigor and to charlatanism.

In particular, the practice of granting credits for experiential learning poses difficulties of proper documentation and assessment since unstructured life activities often cannot convey the theoretical knowledge that serves as the basis for formal study. Furthermore, without required classroom attendance, external degree programs have complicated the task of detecting academic fraud and have tended to undermine the value of residential study, traditionally regarded as the essential, if not the crucial, element of the college or university degree. However, the purpose of residency might have been to nurture youths, not adult learners, for whom nontraditional methods of education were reportedly set up to serve.

If the unaccredited, nontraditional institutions prove to be nothing more than diploma mills, whether of the marginal or pure varieties, then their presence in the State conceivably victimizes the more established (and accredited) colleges and universities. After all, the latter will be known by the company they keep. Additionally, they victimize foreign students ignorant of the value of accreditation, employers lulled by a job applicant's vaguely impressive credentials, consumers contracting for services from unqualified professionals, and the very viability of nontraditional methods of education.

The local unaccredited, nontraditional institutions are an entity small and unknown. No source of objective third party evaluations on them are available, since the institutions are both unaccredited and unlicensed.¹ Regarding their lack of accreditation, the institutions have chosen not to participate in the voluntary accreditation process, which is described as an internally motivated quality enhancement process that focuses on educational quality and institutional integrity. A grant of accreditation would have provided some third party assurance that the institution met or exceeded the accrediting agency's minimum educational

FINDINGS AND RECOMMENDATIONS

standards. Similarly, regarding their lack of licensure, the State has no oversight agency or set of oversight statutes relating to an institution's degree granting authority. Thus, no third party assurance of quality exists from the public sector as well.

To combat the diploma mill problem, states with strong licensing laws conduct preoperation reviews and on-site visits, grant few or no licensing exemptions, review the institution's financial reports, require periodic reauthorizations to operate, regulate the activities of recruiting agents, maintain lists of authorized institutions, punish misleading advertising, oversee the in-state operations of out-of-state institutions as well as those domiciled in the State, and penalize violators.

The eleven states reviewed in this study all chose an education agency to oversee both private degree granting institutions as well as the in-state branches of out-of-state public institutions. A popular choice of agency was the coordinating board or commission for the State's public colleges and universities, whose other major duties included formulating the master plan.

Minimum standards to operate cover institutional mission, administration, curriculum, instruction, faculty, facilities, safety and health codes, staff, education recordkeeping, tuition and refund schedules, admission standards, financial aid, academic requirements, libraries, student activities, degrees offered, and ethics.

In some states, the authorization to operate allows both the furnishing of educational services and the granting of degrees. In other states, the granting of degrees requires separate authorization. The right of an institution to call itself a "university" or "college" attaches at one stage or the other.

Institutional accreditation is used by a few states to either exempt in-state private institutions from the authorization laws or to constitute evidence that the institution meets required minimum standards to operate. The statutes of a few states such as Illinois and California also have restrictive provisions relating to nontraditional methods of education.

Lastly, the recently enacted Higher Education Amendments of 1992 appear to require states to have some kind of a regulatory mechanism in place through which to conduct reviews of postsecondary institutions requested by the Secretary of Education as part of a new federal-state compact. It seems that states must have published standards of review and an oversight agency to at least delegate the responsibility of performing those reviews. Clarification of the statute's exact requirements may come later through the federal regulations. Uncooperative states risk losing certain federal funds for their institutions of higher education--both the degree granting and non-degree granting ones. Among the institutions of higher education in Hawaii, the federal amendments may generate their greatest repercussions through the degree granting institutions. The reason is that oversight agencies and oversight laws already exist for the non-degree granting postsecondary institutions. They do not exist for the degree granting institutions. Timing is a factor. Once

the federal regulations are disseminated and Congressional appropriations authorized for release, the State may find itself without the legal capacity to enter into a valid agreement with the Secretary of Education. Both degree granting and non-degree granting institutions will suffer.

Recommendations

Without the State's vigilance or the accreditors' fellowship, no one was taking care of the house as a few out-of-state guests arrived and made themselves a new home. Academic freedom, if left totally unchecked, could conceivably cause the house someday to become renovated into a Pandora's box of mock institutions, some of which may crawl out and die their natural deaths in the academic free market, others of which may leave smears all over the reputable institutions. Disturbing this lethargic, laissez-faire setting is the thunder-clap command of the federal government that all states stand up in waiting to review their troubled, accredited institutions. The problem of regulation centers around the unaccredited, nontraditional institutions, but in light of the federal enactments, it also encompasses the accredited, traditional institutions as well.

The Bureau makes the following recommendations for the Legislature regarding any proposed legislation affecting degree granting institutions:

First, since the colleges and universities industry is substantially unregulated, any proposed legislation should be referred to the Legislative Auditor for a sunrise analysis. Admittedly, the industry appears quite unlike the professions and vocations contemplated under chapter 26H, *Hawaii Revised Statutes*. However, the repealed chapter 446D was on the 1979 sunset schedule.² Consistency dictates that the door through which a former licensing law once made its exit is the door through which the next one should make its entrance. Furthermore, a sunrise analysis conforms with state practice in Texas and California, in which the oversight agencies or statutes are on a sunset schedule.

Notably, a sunrise analysis no longer implies that the Legislature thereby has designated the Department of Commerce and Consumer Affairs as the appropriate agency to regulate professions and vocations reviewed under chapter 26H.³ A legislative choice of DCCA as the oversight agency for degree granting institutions may convey the appearance, intentionally or otherwise, of a political perception that the educational missions of a university are merely high-flown ideals that are in fact subjugated to the general running of a business. Such a choice also would go against the trend of practice in the other states of delegating the responsibility to an education agency, typically the coordinating board or commission of the public university system.

Secondly, the Legislature should realize that a choice of an oversight agency for this State that conforms with the practice in other states would be the coordinating board which oversees the entire University of Hawaii system: the Board of Regents. Expertise over

FINDINGS AND RECOMMENDATIONS

degree granting matters would seem to rest with this agency more than with any other in the State, including the Department of Education, which is already severely understaffed with regard to its private trade schools. Furthermore, the alternative of creating and funding an entirely new council on private postsecondary education, as California and Nevada have done, may appear to be an inefficient use of funds during these zero-growth budget years, and an even less desirable alternative than increasing the responsibilities of a university in the process of trimming away \$16 million from its 1993-1995 biennium operating budget plan.⁴

However, the Legislature should also deliberate over the wrinkle that the Board of Regents which oversees the entire system is also the managing board for each institution in the system. If this wrinkle should develop into some kind of a problem, a next best alternative for an oversight agency may be the State Post-Secondary Education Commission. The Commission is composed of the Board of Regents and representatives from the private nonprofit and proprietary institutions. It is already the probable contact point for the upcoming federal-state compact under Part H of the Higher Education Amendments of 1992. However, the present, limited purpose of the Commission is merely to act as a funnel for the State's receipt and disbursement of federal funds for higher education.⁵

Third, assuming that the proposed legislation designates the Board of Regents as the governing agency, the Legislature should use as models those statutes from other states which deal primarily with degree granting institutions, such as those from Texas, Washington, Ohio, Illinois, and Maine. Statutes which grapple with both degree granting and non-degree granting institutions, like California's, are not the best models to adopt *in whole*; problems of implied repeals will arise when the new legislation is set against the existing state statutes on non-degree granting institutions. To make sensible use of those statutes requires disengaging the provisions that deal with degree granting institutions from the provisions that deal with non-degree granting institutions. In particular, the Legislature may wish to consider adopting some of the individual provisions in the California legislation that deal with nontraditional methods of education. The Legislature also should disregard regulatory models that do not readily fit into the existing structure of the State's bureaucracy. For example, the New York system appears unusable because the governing agency is an all-inclusive entity whose authorizations are grants of corporate memberships to a host of educational institutions, such as universities, secondary schools, museums, libraries, and public television and radio.

Fourth, the Legislature should also consider incorporating accreditation into any proposed legislation. One reason for incorporating accreditation is to avoid any duplication of efforts between the State and the private accrediting agencies. One advantage is to maintain the spirit of the zero-growth budget requirement through the minimization of administrative burdens and increased spending. However, the California experience regarding state reliance on accreditation is a reminder that states should retain the ultimate responsibility for ensuring compliance with minimum quality standards and consumer protection laws; furthermore, states should not indiscriminately rely upon all regional accrediting agencies.

Fifth, if nothing else, the Legislature should make certain cosmetic changes to the existing language of chapter 446E for purposes of clarity. In particular, the definition of "unaccredited institution" in section 446E-1, *Hawaii Revised Statutes*, should be amended by replacing the outdated term "United States Commissioner of Education" with the current and accurate term "United States Secretary of Education."

Also, the definition of "unaccredited institution," which alludes to the triad of institutional eligibility, should be amended by replacing the phrase "provisionally accredited" with the phrase "preaccredited." "Preaccreditation" is the term used in the federal regulations and "signifies that the agency has determined that the institution or program is progressing towards accreditation within a reasonable period of time."⁶ This particular recommendation assumes that the gist of the present definition should be retained.

Sixth, the definition of "unaccredited institution" is not well coordinated with the disclosure requirements for unaccredited institutions in section 446E-2, *Hawaii Revised Statutes*. Under the current definition, provisionally accredited institutions are not unaccredited. Because they are not unaccredited, the current disclosure section does not apply to them. These institutions therefore need not disclose their lack of full accreditation. To resolve the situation, the Legislature should either delete the reference to provisional accreditation in the definition or delete the language in the disclosure section that makes provisionally accredited institutions disclose their lack of full accreditation. As guidance, the California and Texas statutes regard provisionally accredited institutions to be unaccredited.

Ideally, if the University of Hawaii considered itself the appropriate agency to provide oversight in this area, it could expedite matters by taking the initiative to begin gathering information on the degree granting institutions presently operating in the State, whether those institutions are private or out-of-state public, accredited or unaccredited. There is precedent for this. As mentioned earlier, the territorial Department of Public Instruction was faced with a similar situation prior to 1939 with regard to the private trade schools. The department had taken the initiative and processed applications for licenses without the benefit of an official legislative mandate. However, it is not known if the department also had had concurrent jurisdiction over the public technical schools.

ENDNOTES

1. In 1991, five of them were listed among the "One Hundred Good Schools Offering Degrees Entirely or Almost Entirely by Home Study" in John Bear's book *College Degrees by Mail* (Ten Speed Press, 1991). The five universities were: Eurotechnical Research University, Greenwich University, Honolulu University of Arts and Sciences and Humanities, Kennedy-Western University (Agoura Hills, California address), and Pacific Western University. Bear was then the president of Greenwich University. Also listed was a "School Without a Name," which did not yet exist in Hilo, but was planned by the author.
2. The sunset report, formerly called an "impact statement," was required to have been done in 1978 by the Director of Regulatory Agencies (under Act 70, Session Laws of Hawaii 1977). The Legislative Auditor did not obtain jurisdiction over sunset reports until 1979 (under Act 121, Session Laws of Hawaii 1979). Likewise, the

FINDINGS AND RECOMMENDATIONS

Auditor did not obtain jurisdiction over sunrise reports until 1984 (under Act 156, Session Laws of Hawaii 1984). The Department of Commerce and Consumer Affairs has no copies on file of the chapter 446D impact statement. (Telephone inquiry of staff, Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs, December 21, 1992.)

3. Hawaii Rev. Stat., sec. 26H-2.5.
4. Esme M. Infante, "UH to Eliminate 178 Jobs," The Honolulu Advertiser, November 20, 1992, p. A1.
5. Hawaii Rev. Stat., chapter 305H.
6. 34 CFR §602.2 (1991 ed.).

AFTERWORD

Part of the present study was devoted to exploring the impacts of Hawaii's unaccredited degree granting institutions upon Hawaii. The institutions that responded to the Bureau's survey provided data indicating that the large majority of their students, graduates, and faculty do not study, work, or reside here. Impliedly, their impacts lie elsewhere, in other states or in other countries.

Therefore, any proposed legislation regarding such unaccredited institutions may cause the institutions in turn to produce their most immediate impacts outside of the State. Indeed, the State's current lack of substantive legislation may itself be contributing to the creation of legal impacts elsewhere. Evidently it did in New Zealand.

It seems that on July 23, 1990--the effective date of New Zealand's Education Amendment Act 1990--, a ten-year-old residential New Zealand art school had to forego claims of being a "university college" with "degree programmes." Under the act, only the seventeen recognized universities could use such terms as "university" or "degree," unless additional institutions could meet formal approval requirements. The art school then affiliated itself with Hilo's Greenwich University, which had incorporated in Hawaii earlier that same year. The art school resumed its title of "college" and subsequently awarded degrees to two students in December 1990. It claimed that the degrees were from Greenwich University, even though the students had been enrolled entirely at the art school.

The New Zealand Qualifications Authority responded, ordering the art school to cease awarding degrees because neither the school nor Greenwich was approved by the New Zealand government to grant degrees *in New Zealand*. There was an added difficulty. The Associate Education Minister himself had presided over the school's graduation ceremonies, praising the school for achieving international credibility through its affiliation with an American university. So that left the Education Minister--himself an honorary graduate of the art school--with the task of finessing the entire situation by adopting the apparent legal fiction that the degrees actually had been conferred, *not* in New Zealand, but *in Hawaii* under United States law; therefore, approval by the Qualifications Authority was not needed.¹

Of course, neither Hawaii nor the United States has laws governing the degree-granting authority of colleges and universities.

ENDNOTES

1. Russ Francis, "Art School Senior Staff Remain Professors Despite Challenge," *The Dominion Sunday Times*, July 22, 1990; "College Caters for Creative Students," *New Zealand Herald Supplement*, January 23, 1991; Russ Francis, "Doubts Cast on College Degrees," *The Dominion Sunday Times*, February 17, 1991; Russ Francis, "Education Amendment Act Violated: Arts College Ordered to Stop Awarding Degrees," *The Dominion Sunday Times*, February 24, 1991; Russ Francis, "College Involved with Illicit Degrees Refuses to Refund Fee," *The Dominion Sunday Times*, March 3, 1991; Jane Shanahan, "University Degrees Bought From 'Diploma Mill'," *The Dominion Sunday Times*, March 17, 1991.

Appendices

HOUSE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE IMPACTS
OF UNACCREDITED DEGREE GRANTING AND NON-DEGREE GRANTING
INSTITUTIONS ON THE STATE.

WHEREAS, in recent years, the State of Hawaii has seen an
influx of unaccredited degree granting and non-degree granting
institutions and proprietary schools within its jurisdiction; and

WHEREAS, many of these institutions are an important part of
the nation's postsecondary education system; and

WHEREAS, more than 4000 of these institutions educate an
estimated two million students in a wide range of educational
programs, both degree and non-degree; and

WHEREAS, along with the growth of these institutions within
the State of Hawaii, concern over the actual educational benefit
of these institutions has grown commensurately; and

WHEREAS, despite this growing presence, many states are
either unwilling or unable to acknowledge the issue of these
institutions from both a regulatory and a policy perspective; and

WHEREAS, this lack of regulation, sometimes supported by
these institutions that wish to be treated more as unfettered
small businesses rather than educational institutions, has led to
lax standards in some institutions; and

WHEREAS, issues that have been raised about these
institutions include their growing use of the major federal
student grant and loan programs, the significant growth in total
dollars being defaulted by student borrowers through the
federally guaranteed student loan programs (coinciding with the
increasing use of loan programs by students from these
institutions), the quality of the education and training received
by students, and the sudden closure of institutions and the
subsequent disruption to students; and

WHEREAS, these issues have placed these institutions under
increasing scrutiny by policymakers, the media, and prospective
students; and

WHEREAS, reports of some unaccredited institutions charging exorbitant amounts for tuition and subsequently granting diplomas to individuals which are of little or no value in the job market due to the institution's unaccredited status; and

WHEREAS, many of the disreputable institutions prey upon those people who can ill afford to be taken advantage of in this way; and

WHEREAS, these victims consist mainly of low-income people wishing to better themselves and individuals from foreign countries where these unaccredited colleges advertise vigorously in order to increase their enrollment; and

WHEREAS, currently, no specific statutory scheme of regulation of this industry to deter any unscrupulous activities in this area exists in the State; now, therefore,

BE IT RESOLVED by the House of Representative of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, the Senate concurring, that this body requests the Legislative Reference Bureau with the cooperation of the Department of Education and the Department of Commerce and Consumer Affairs, to study the impacts of the presence of unaccredited degree granting and non-degree granting institutions and schools within the State; and

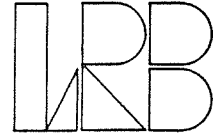
BE IT FURTHER RESOLVED that the study include a comparative review of other states' existing regulations on this issue, a determination of the social and economic impacts of these unaccredited institutions and schools on the State, and whether or not such institutions and schools serve a beneficial purpose to the people of the State; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Director of the Legislative Reference Bureau; the President of the University of Hawaii; the Superintendent of Education; and the Director of the Department of Commerce and Consumer Affairs.

Appendix B

Samuel B. K. Chang
Director

Research (808) 587-0666
Revisor (808) 587-0670
Fax (808) 587-0720



LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

August 10, 1992

Administrative Office
Pacific Western University
7 Waterfront Plaza
500 Ala Moana Boulevard
Honolulu, Hawaii 96813

Dear Administrative Officer:

The Legislative Reference Bureau is conducting a study of the impacts of unaccredited degree granting and non-degree granting institutions on the State. The study is being undertaken pursuant to H.C.R. No. 65, H.D. 1. Enclosed is a copy of the resolution.

Generally, degree granting institutions are colleges and universities offering associate's, baccalaureate, graduate, or professional degrees. Non-degree granting institutions tend to be the vocational, trade, and technical schools. Unaccredited institutions are those that are not accredited by an accrediting agency recognized by the United States Secretary of Education.


The Pacific Western University is evidently an unaccredited degree granting institution. Please correct us if we are mistaken.

This letter asks your assistance by providing us with materials relevant to our study. We have enclosed a questionnaire pertaining to your institution. We would greatly appreciate your taking the time to respond to the questions and return the completed questionnaire to us as soon as possible. A self-addressed envelope for this purpose is also enclosed.

In order for us to gain a fuller understanding of your institution, you are most welcome to supplement the completed questionnaire with copies of application forms and a school catalog or brochure describing your programs of study, degrees offered, admission requirements, enrollment, tuition and fees, financial aid, and job placement. We will gladly provide you with a copy of the completed report.

The researcher assigned to this study is Dean Sugano. He can be reached at 587-0674 if you have any questions or would like to discuss these issues in more depth. Thank you for your cooperation.

Sincerely,


Samuel B. K. Chang
Director

SBKC:jv
Enclosure

QUESTIONS FOR UNACCREDITED INSTITUTIONS

Note: If your institution actually consists of branches, franchises, members, or affiliates located both within and without the State of Hawaii, please provide answers pertinent to the institution(s) registered with the Business Registration Division of the State of Hawaii Department of Commerce and Consumer Affairs.

1. What is the name of your institution? _____

2. Is your institution degree granting or non-degree granting?

3. How many applications for admission were received during the 1990-1991 or last academic year from applicants with permanent mailing addresses in the State of Hawaii? _____

4. How many of these Hawaii applicants were accepted for admission? _____

5. How many of these Hawaii admittees have actually enrolled? _____

6. What is the current **total** enrollment of students, part-time and full-time, in your institution? _____

7. Of this total, how many have State of Hawaii permanent mailing addresses?

8. How many students graduated from your institution during the 1990-1991 academic year? _____

9. How many students graduated from your institution during the 1990-1991 academic year whose permanent mailing addresses are in the State of Hawaii? _____

10. Based on your present alumni mailing lists, how many of your graduates have mailing addresses in the State of Hawaii? _____

11. Based on your present alumni mailing lists, how many of your graduates do not have mailing addresses in the State of Hawaii? _____

12. Please name any prominent graduates of your institution who are currently living or working in the State of Hawaii.

May we contact them? Yes _____ No _____

If yes, please provide a contact address or telephone number.

13. How many faculty members, including full-time, part-time, and adjunct, have home addresses outside of the State of Hawaii? _____

14. How many faculty members, including full-time, part-time, and adjunct, have home addresses in the State of Hawaii? _____

a. Please name them:

b. May we contact them? Yes _____ No _____

If yes, please provide a contact address or telephone number.

15. Prior to joining your faculty, how many present faculty members had State of Hawaii home addresses? _____

Please name them:

16. How many present administrative staff members lived and worked in the State of Hawaii for at least six months of the 1990-1991 or last academic year? _____

17. Of these staff members, how many had lived in the State of Hawaii for at least six months prior to their employment with your institution? _____

18. What was the total amount of the institution's Hawaii state tax owed or refunded for 1991? _____

19. What was the reported amount of the institution's gross revenues for the 1991 Hawaii state tax returns? _____

20. Based on the institution's 1991 Hawaii state tax returns, what was the total amount of business expenses attributable to services provided by State of Hawaii residents, businesses located in the State of Hawaii, or the Hawaii state or local governments?

21. What types of State of Hawaii or federal financial aid do your students receive or are eligible to receive? _____

22. If any of your students are State of Hawaii residents, what do you perceive as their reasons for attending your institution over any of the accredited institutions in this State? _____

23. What are the reasons that your institution was established within the State of Hawaii?

Name any states in which your institution or any predecessor institution was previously established:

24. To the best of your knowledge, since 1985, have any of your past or present students lodged any complaints against your institution, its staff, or its faculty with any State of Hawaii agency? _____

a. If so, which state agencies?

b. What were the nature of those complaints, and how were they resolved? _____

25. Please feel free to make any comments or remarks that relate to the matters concerned in the Resolution that you feel should be pointed out to the Legislature expressing the views of your institution or institutions like yourself.

Appendix C

NON-DEGREE GRANTING INSTITUTIONS IN HAWAII

Accredited Non-Degree Granting Institutions As of 1992

Institutions licensed by the State Department of Education:

Automotive:

- (1) New York Technical Institute of Hawaii; Honolulu; accredited by the Career College Association

Barbering:

- (1) Hawaii Institute of Hair Design, barber division; Honolulu; accredited by the Career College Association

Business/Commercial:

- (1) Denver Business College; Honolulu; accredited by the Career College Association
- (2) Hawaii Business College; Honolulu; accredited by the Career College Association

Medical:

- (1) Med-Assist School of Hawaii, Inc.; Honolulu; accredited by the Accrediting Bureau of Health Education Schools

Travel/Tourism:

- (1) Travel Institute of the Pacific; Honolulu; accredited by the Career College Association;
- (2) Travel University International; Honolulu; accredited by the Career College Association

Institutions licensed with the Board of Cosmetology:

- (1) Hollywood Beauty College; Honolulu; accredited by the National Accrediting Commission of Cosmetology Arts and Sciences
- (2) Trendsetters Beauty College, Inc.; Aiea, Hilo, Kahului; accredited by the National Accrediting Commission of Cosmetology Arts and Sciences

Unaccredited Non-Degree Granting Institutions As of 1992

Institutions licensed by the State Department of Education:

Acupuncture:

- (1) Big Island Acupuncture College with Herbal Medicine; Kamuela
- (2) Oriental Medical Institute of Hawaii; Honolulu

Business/Commercial:

- (1) Intercultural Communications Institute; Honolulu
- (2) Ross College of Court Reporting; Honolulu
- (3) Urawantandai Hawaii College; Hilo

Dressmaking/Tailoring/Designing:

- (1) Fashion Center; Honolulu
- (2) Style Center School of Fashion Design; Honolulu

Electronics:

- (1) Electronics Institute; Honolulu

Income Taxes:

- (1) H & R Block Tax Tuition School; Aiea, Hilo, Honolulu, Kailua, Pearl City, Wahiawa

Massage:

- (1) Aisen Shiatsu School, Inc.; Honolulu
- (2) All Hawaiian School of Massage; Honolulu
- (3) American Institute of Massage Therapy; Kailua
- (4) Hawaiian Islands School of Body Therapies; Kailua-Kona
- (5) Honolulu School of Massage; Honolulu
- (6) Institute of Body Therapeutics; Lahaina
- (7) Maui Academy of the Healing Arts; Kihei
- (8) Pacific College, Center for Bodywork & Awareness; Hanalei

Security:

- (1) Continental Security School; Honolulu

Travel/Tourism:

- (1) Traveler's Choice School of Travel; Honolulu
- (2) Windward Travel Institute; Kaneohe

Institutions registered with the Real Estate Commission:

- (1) Century 21 Real Estate School; Honolulu
- (2) Dower School of Real Estate; Honolulu
- (3) ERA Real Estate School; Kaneohe
- (4) Fahrni School of Real Estate; Aiea
- (5) Hawaii Institute of Real Estate; Honolulu
- (6) Hawaiian School of Real Estate; Honolulu
- (7) Homesite Real Estate School; Honolulu
- (8) Maui School of Real Estate; Wailuku
- (9) Pence School of Real Estate; Honolulu

- (10) Real Estate Schools of Saint Michael; Aiea
- (11) Seiler School of Real Estate; Kihei
- (12) Vitousek Real Estate School; Honolulu
- (13) Waikiki Realty Real Estate School; Honolulu

Sources: 1991-1992 Accredited Institutions of Postsecondary Education (American Council on Education: Washington, D.C. 1992); Career College Association 1992 Handbook of Private Accredited Career Colleges and Schools; the draft handbook of the Secretary of Education; the August 1991 Private School List of the Hawaii State Department of Education; the August 1990 Beauty Schools List of the Board of Cosmetology of the Hawaii State Department of Commerce and Consumer Affairs; the June 16, 1992 Real Estate Schools List of the Real Estate Commission of the Hawaii State Department of Commerce and Consumer Affairs.

Appendix D

DEGREE GRANTING INSTITUTIONS IN HAWAII

Accredited Degree Granting Institutions As of 1992

Institutions established out-of-state (only the regional accrediting associations are noted)

- (1) Central Michigan University; Mount Pleasant, Michigan; accredited by the North Central Association of Colleges and Schools; Gourman rating 3.26; military local address
- (2) Central Texas College; Killeen, Texas; accredited by the Southern Association of Colleges and Schools; military local address
- (3) DeVry Institute of Technology & Business; Chicago, Illinois; accredited by the North Central Association of Colleges and Schools
- (4) Embry-Riddle Aeronautical University; Daytona Beach, Florida; accredited by the Southern Association of Colleges and Schools; military local address
- (5) Forest Institute of Professional Psychology; Wheeling, Illinois; accredited by the North Central Association of Colleges and Schools
- (6) Fuller Theological Seminary; Pasadena, California; accredited by the Western Association of Schools and Colleges
- (7) University of Oklahoma; Norman, Oklahoma; accredited by the North Central Association of Colleges and Schools; Gourman rating 3.99; military local address
- (8) University of Phoenix; Phoenix, Arizona; accredited by the North Central Association of Colleges and Schools
- (9) University of Southern California; Los Angeles, California; accredited by the Western Association of Schools and Colleges; Gourman rating 3.97; military local address
- (10) Wayland Baptist University; Plainview, Texas; accredited by the Southern Association of Colleges and Schools; Gourman rating 2.73; military local address

Institutions Established In Hawaii

Institutions accredited by the Western Association of Schools and Colleges

Public community colleges:

- (1) Hawaii Community College; Hilo
- (2) Honolulu Community College; Honolulu
- (3) Kapiolani Community College; Honolulu; professional accreditation by the American Medical Association, the American Physical Therapy Association
- (4) Kauai Community College; Lihue; professional accreditation by the National League for Nursing, Inc.
- (5) Leeward Community College; Pearl City
- (6) Maui Community College; Kahului; professional accreditation by the American Culinary Federal Educational Institute, the National League for Nursing
- (7) Windward Community College; Kaneohe

Public senior colleges and universities:

- (1) University of Hawaii at Hilo; Gourman rating 2.98
- (2) University of Hawaii at Manoa; professional accreditation by the National League for Nursing, the National Architectural Accrediting Board (program is either provisionally accredited, accredited with some reservations, or approved on probation), the American Speech-Language-Hearing Association, the American Assembly of Collegiate Schools of Business, the American Psychological Association, the American Dental Association, the Accreditation Board for Engineering and Technology, Inc., the Accrediting Council on Education in Journalism and Mass Communications, the American Bar Association, the American Library Association, the American Medical Association, the National Association of Schools of Music, the Council on Education for Public Health, and the Council on Social Work Education; Gourman rating 3.85
- (3) University of Hawaii at West Oahu; Pearl City

Private junior colleges:

- (1) Kansai Gaidai-Hawaii College; Honolulu

Private senior colleges and universities:

- (1) Brigham Young University--Hawaii Campus; Laie; professional accreditation by the Council on Social Work Education; Gourman rating 2.63
- (2) Chaminade University of Honolulu; Honolulu; no professional accreditation; Gourman rating 2.76
- (3) Hawaii Pacific University; Honolulu; no professional accreditation; Gourman rating 2.56, as Hawaii Pacific College

Institutions accredited by national accrediting agencies:

- (1) Cannon's International Business College of Honolulu; Honolulu; accredited by the Career College Association
- (2) International College and Graduate School of Theology; Honolulu; candidate for accreditation by the Transnational Association of Christian Schools
- (3) Tai Hsuan Foundation College of Acupuncture and Herbal Medicine; Honolulu; accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine

Unaccredited Degree Granting Institutions As of 1992

- (1) Eurotechnical Research University; 961-9236; Hilo; established as a Hawaii for-profit corporation on November 3, 1989; formerly "state authorized" in Mountain View, California; closed California operation in December 1990
- (2) Greenwich University; 935-9934; Hilo; established as a Hawaii for-profit corporation on February 2, 1990; formerly based in Missouri as the International Institute for Advanced Studies; left Missouri while its application for degree granting authority was placed on deferral following the state's adoption of oversight statutes in 1985

- (3) Honolulu University of Arts and Sciences and Humanities; 955-7333; Honolulu; established as a Hawaii nonprofit corporation on March 2, 1987; formerly "state authorized" as Golden State University in Los Angeles, California; closed California operation in September 1990
- (4) Kennedy-Western University; 536-0004; Honolulu; established as a Hawaii for-profit corporation on February 2, 1989; also appears to operate in Agoura Hills, California
- (5) Pacific Western University; 526-3966; Honolulu; established as a Hawaii for-profit corporation on June 14, 1988; operations appear to be based in Los Angeles, California
- (6) Redemption Bible College; 262-2341; Kailua; established as a Hawaii nonprofit corporation on August 27, 1991
- (7) Tokai International College; 973-4100; Honolulu; Tokai University at Honolulu was established as a Hawaii nonprofit corporation on May 5, 1987
- (8) University of Health Sciences; no phone listing; Honolulu; established as a Hawaii nonprofit corporation on January 22, 1986
- (9) University of the Nations; 326-7228; Kona; established as a Hawaii nonprofit corporation on June 26, 1985
- (10) Vision Christian University; 966-6385 (not in service); Hilo; established as a Hawaii nonprofit corporation on May 7, 1990

Note: The Gourman Report is self-described as "the only qualitative guide to American and International institutions of higher education which assigns a precise, numerical score in assessing the strengths and shortcomings of each school and program." The stated purpose of the report is that institutions neither perform their utmost in ensuring a superior educational experience nor frankly inform the public of any unavoidable compromises caused by funding, geography or educational focus. "Accreditation appears to be mainly a finding that an institution is not conspicuously defective in physical and staff resources." Data for the ratings are drawn from the institutions, external resources, and entities in the business of making "correct projections of the success graduates from given institutions and disciplines will enjoy in the 'real world'." Criteria for the evaluation of programs and institutions cover: (1) Auspices, control and organization of the institution; (2) Total educational programs offered and degrees conferred; (3) Age of the institution and individual programs, disciplines, and divisions; (4) Faculty; (5) Students; (6) Admissions requirements; (7) Enrollment figures; (8) Curricular content; (9) Standards and quality of instruction; (10) Administration; (11) Nondepartmental areas; (12) Physical plant; (13) Finances; and (14) Library. The overall academic ratings of American undergraduate institutions are categorized as follows: (1) Marginal 2.01-2.99; (2) Adequate 3.01-3.50; (3) Acceptable Plus 3.51-3.99; (4) Good 4.01-4.40; and (5) Strong 4.41-4.99.

Sources: The 1992 Higher Education Directory (Higher Education Publications, Inc.: Falls Church, Va. 1992); the 1991-1992 Accredited Institutions of Postsecondary Education (American Council on Education: Washington, D.C. 1992); 1992 Handbook of Private Accredited Career Colleges and Schools; 1991-1992 Western Association of Schools and Colleges Directory; Spring 1992 NCA Quarterly (a publication of the North Central Association of Colleges and Schools); 1992 Member List of the Commission on Colleges of the Southern Association of Colleges and Schools; the Transnational Association of Christian Schools; the draft handbook of the Secretary of Education; the Business Registration Division of the Hawaii State Department of Commerce and Consumer Affairs; the State of Missouri Department of Higher Education; the State of California Council for Private Postsecondary and Vocational Education; March 9, 1992 Testimony of the Hawaii State Department of Commerce and Consumer Affairs on H.C.R. No. 65; T. Kaser, "Unaccredited Colleges are Flourishing in Isles," The Sunday Star-Bulletin & Advertiser, July 15, 1990, p. A8; the GTE Hawaiian Tel Directory; 1990-1992 University of the Nations catalogue; Pacific Western University (Hawaii) current catalog; 1992-1993 Tokai International College catalog; 1992 Greenwich University catalogue; Eurotechnical Research University information bulletin; J. Bear, College Degrees by Mail (Ten Speed Press 1991); Protecting the Integrity of California Degrees, Appendix C (California Postsecondary Education Commission 1989); The Gourman Report: A Rating of Undergraduate Programs in American and International Universities, 7th Ed., revised (National Education Standards 1989).

Appendix E

DEGREE GRANTING INSTITUTIONS FORMERLY LICENSED UNDER REPEALED CHAPTER 446D

Licensed Degree Granting Institutions As of 1979: (In Order of Licensure Date)

- (1) Laverne College; January 26, 1972
- (2) International College; December 13, 1974
- (3) Hawaii Loa College; January 13, 1975
- (4) Chaminade College of Honolulu; August 29, 1975
- (5) Brigham Young University; February 7, 1975
- (6) Hawaii Pacific College; April 8, 1975
- (7) Pepperdine University; April 15, 1975
- (8) United States International University; April 23, 1975
- (9) Embry-Riddle Aeronautical University; March 29, 1977
- (10) Pacific Christian College; March 29, 1977
- (11) University of Southern California; April 12, 1977
- (12) Barstow College, Off-Campus Program - Hawaii; June 2, 1977
- (13) University of Central Michigan; August 30, 1977
- (14) University of Oklahoma; August 30, 1977
- (15) University of Northern Colorado; August 30, 1977
- (16) Center for Degree Studies; September 6, 1977
- (17) Marywood College; September 6, 1977
- (18) Roosevelt University; February 10, 1978
- (19) McKendree College; May 26, 1978
- (20) Antioch University West; January 22, 1979
- (21) Nova University; January 22, 1979
- (22) West Coast Bible College; January 22, 1979
- (23) California State University, Dominguez Hills; February 23, 1979

Degree Granting Institutions With A Temporary Permit As of 1979 (In Order of Permit Date)

- (1) University of Western Pacific; August 29, 1975
- (2) Maharishi International University; August 20, 1977
- (3) Kansai Gaidai Community College; February 7, 1979
- (4) Business Training Institute of Hawaii; February 23, 1979

Source: Department of Commerce and Consumer Affairs, Professional & Vocational Licensing Division.

Nationally Recognized Accrediting Agencies And Associations

Criteria and Procedures for
Listing by the U.S. Secretary of Education
and Current List



Form Approved
OMB No. 1840-0607
EXP. DATE 01/31/1994

FEBRUARY 1992

Department of Education
Office of Postsecondary Education
Higher Education Management Services

Nationally Recognized Accrediting Agencies and Associations

The following regional and national accrediting agencies and associations are recognized by the U.S. Secretary of Education as reliable authorities concerning the quality of postsecondary education or training offered by educational institutions or programs. The dates included with each entry are: date of initial listing/date of action taken as result of last full-scale review/date of next regular review.

Regional Institutional Accrediting Associations

Connecticut, Maine, Massachusetts, New Hampshire,
Rhode Island, Vermont
New England Association of Schools and Colleges
1952/1987/1992
Richard J. Bradley, Executive Director
Sanborn House
15 High Street
Winchester, Massachusetts 01890
Tel.: (617) 729-6762

Regional Institutional Accrediting Commissions

Alabama, Florida, Georgia, Kentucky, Louisiana, Mis-
sissippi, North Carolina, South Carolina, Tennessee,
Texas, Virginia
Commission on Colleges
Southern Association of Colleges and Schools
1952/1991/1996
James T. Rogers, Executive Director
1866 Southern Lane
Decatur, Georgia 30033-4097
Tel. (800) 248-7701

Commission on Occupational Education Institutions
Southern Association of Colleges and Schools
1969/1989/1994
Kenneth W. Tidwell, Executive Director
1866 Southern Lane
Decatur, Georgia 30033-4097
Tel. (800) 248-7701

Alaska, Idaho, Montana, Nevada, Oregon, Utah, Washington
Commission on Colleges
Northwest Association of Schools and Colleges
1952/1988/1992
Joseph A. Malik, Executive Director
3700-B University Way, NE
Seattle, Washington 98105
Tel. (206) 543-0195

Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas,
Michigan, Minnesota, Missouri, Nebraska, New Mexico,
North Dakota, Ohio, Oklahoma, South Dakota, West
Virginia, Wisconsin, Wyoming
Commission on Institutions of Higher Education
North Central Association of Colleges and Schools
1952/1988/1992
Patricia A. Thrash, Director
159 North Dearborn Street
Chicago, Illinois 60601
Tel. (312) 263-0456

Commission on Schools
North Central Association of Colleges and Schools
1974/1987/1992
Kenneth F. Gose, Executive Director
Arizona State University
Tempe, Arizona 85287-3011
Tel. (800) 525-9517

California, Hawaii, American Samoa, Guam, and the Com-
monwealth of the Northern Marianas
Accrediting Commission for Community and Junior Col-
leges
Western Association of Schools and Colleges
1952/1988/1992
John C. Petersen, Executive Director
P.O. Box 70
3060 Valencia Avenue, Suite 3
Aptos, California 95003
Tel. (408) 688-7575

Accrediting Commission for Schools
Western Association of Schools and Colleges
1974/1985/1990
Don E. Halverson, Executive Director
1606 Rollins Road
Burlingame, California 90410
Tel. (415) 697-7711

Accrediting Commission for Senior Colleges and Universities

Western Association of Schools and Colleges

1952/1988/1994

Stephen S. Weiner, Executive Director

c/o Mills College, Box 9990

Oakland, California 94613

Tel. (415) 632-5000

Delaware, District of Columbia, Maryland, New Jersey, New

York, Pennsylvania, Puerto Rico, Virgin Islands

Commission on Higher Education

Middle States Association of Colleges and Schools

1952/1986/1992

Howard L. Simmons, Executive Director

3624 Market Street

Philadelphia, Pennsylvania 19104

Tel. (215) 662-5606

Commission on Secondary Schools

Middle States Association of Colleges and Schools

1988/1991/1994

Dr. John Michalcewiz, Executive Director

3624 Market Street

Philadelphia, Pennsylvania 19104

Tel. (215) 662-5606

National Institutional and Specialized Accrediting Bodies

ACUPUNCTURE

First professional master's degree and professional master's level certificate and diploma programs in acupuncture

National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine

1988/1990/1993

Penelope Ward, Executive Director

1424 16th St., NW, Suite 501

Washington, DC 20036

Tel. (202) 265-3370

ALLIED HEALTH

Private, postsecondary institutions offering allied health education

Accrediting Bureau of Health Education Schools

1982/1991/1994

Jeanne Glankler, Administrator

Oak Manor Offices, 29089 U.S. 20 West

Elkhart, Indiana 46514

Tel. (219) 293-0124

Blood bank technologist

Cytotechnologist

Diagnostic medical sonographer

Electroneurodiagnostic technologist

Emergency medical technician-paramedic

Histologic technician/technologist

Medical assistant

Medical laboratory technician (certificate and associate degree)

Medical record administrator and medical record technician

Medical technologist

Nuclear medicine technologist

Occupational therapist

Ophthalmic medical assistant

Perfusionist

Physician assistant (assistant to the primary care physician and surgeon's assistant)

Radiation therapy technologist and radiographer

Respiratory therapist and respiratory therapy technician

Surgical technologist

Committee on Allied Health Education and Accreditation

American Medical Association

1952/1988/1992

John J. Fauser, Director

515 North State Street

Chicago, Illinois 60610

Tel. (312) 464-4660

The Committee on Allied Health Education and Accreditation (CAHEA) of the American Medical Association is recognized as a coordinating agency for accreditation of education for the allied health occupations listed above. In carrying out its accreditation activities, CAHEA cooperates with the review committees sponsored by various allied health and medical specialty organizations. For information concerning the cooperating review committee and dates relative to Department of Education recognition and next review, refer to the disciplines as listed separately below. Other allied health disciplines accredited by agencies recognized by the Department outside the aegis of CAHEA are also listed below.

ARCHITECTURE

First professional degree programs

National Architectural Accrediting Board, Inc.

1952/1991/1996

John Maudlin-Jeronimo, Executive Director

1735 New York Avenue, NW

Washington, DC 20006

Tel. (202) 783-2007

ART

Degree-granting schools and departments and non-degree granting schools that are predominantly organized to offer education in art, design, or art/design-related disciplines.

Commission on Accreditation

National Association of Schools of Art and Design

1966/1987/1992

Samuel Hope, Executive Director, NASAD

11250 Roger Bacon Drive, Suite 21

Reston, Virginia 22090

Tel. (703) 437-0700

BIBLE COLLEGE EDUCATION

Bible colleges and institutes offering undergraduate programs

Commission on Accrediting

American Association of Bible Colleges

1952/1991/1996

Randall E. Bell, Executive Director, AABC

Box 1523

Fayetteville, Arkansas 72701

Tel. (501) 521-8164

BLIND AND VISUALLY HANDICAPPED EDUCATION

Specialized schools for the blind and visually handicapped, including organizations providing postsecondary vocational education programs that prepare the blind and visually handicapped for employment

National Accreditation Council for Agencies Serving the Blind and Visually Handicapped

1971/1991/1992

Ruth Westman, Executive Director

232 Madison Avenue, Suite 907

New York, New York 10016

Tel. (212) 779-8080

BLOOD BANK TECHNOLOGY

Programs for the specialist in blood bank technology

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Committee on Accreditation of Specialist in

Blood Banking Technology Schools

American Association of Blood Banks

1974/1988/1992

Carol Anderson, Director of Transfusion Sciences and Education, AABB

1117 North 19th Street, Suite 600

Arlington, Virginia 22209

Tel. (703) 528-8200

BUSINESS

Baccalaureate and master's degree programs in business administration and management, and baccalaureate and master's degree programs in accounting

Accreditation Council

American Assembly of Collegiate Schools of Business

1952/1988/1992

William K. Laidlaw, Jr., Executive Vice President, AACSB

605 Old Ballas Road, Suite 220

St. Louis, Missouri 63141

Tel. (314) 872-8481

Private, postsecondary schools, junior colleges, and senior colleges that are predominantly organized to educate students for business careers, including master's degree programs in senior colleges of business

Accrediting Commission for Independent Colleges and Schools

Career College Association

1956/1991/1994

James M. Phillips, Executive Director

750 First Street, NE

Washington, DC 20002

Tel. (202) 336-6700

CHIROPRACTIC

Programs leading to the D.C. degree

Commission on Accreditation

The Council on Chiropractic Education

1974/1987/1992

Ralph G. Miller, Executive Vice President, CCE

4401 Westown Parkway, Suite 120

West Des Moines, Iowa, 50265

Tel. (515) 226-9001

Straight chiropractic education

Commission on Accreditation

Straight Chiropractic Academic Standards Association, Inc.

1988/1990

Leroy G. Moore, Executive Director, SCASA

Post Office Box 17357

Spartanburg, South Carolina 29301

Tel. (803) 578-8770

CHRISTIAN EDUCATION

Christian postsecondary institutions whose missions are characterized by a belief in Biblical inerrancy, Biblical authority, and in the historicity of the first eleven chapters of Genesis that offer certificates, diplomas, associate, baccalaureate, and graduate degrees

Accrediting Commission

Transnational Association of Christian Schools

1991/1993

J. Gordon Henry, Executive Director

2114 Arrow Court

Murfreesboro, Tennessee 37130

Tel. (615) 890-8384

CLINICAL PASTORAL EDUCATION

Basic, advanced, and supervisory clinical pastoral education programs

Accreditation Commission

Association for Clinical Pastoral Education, Inc.

1969/1991/1996

Duane Parker, Executive Director, ACPE

1549 Claremont Road, Suite 103

Decatur, Georgia 30033

Tel. (404) 320-1472

Centers/programs, including those that offer clinical pastoral education, that award certificates, baccalaureate and master's degrees for training for specialized ministries in the Catholic Church

Commission on Certification and Accreditation

United States Catholic Conference

1987/1991/1994

Sr. Kay Sheskaitis, Executive Director, USCC

4455 Woodson Road

St. Louis, Missouri 63134-0889

Tel. (314) 427-2500

COMPUTER SCIENCE

Baccalaureate programs in computer science

Computer Sciences Accreditation Commission

Computing Sciences Accreditation Board, Inc.

1988/1991/1996

Patrick M. La Malva, Executive Director, CSAB

345 East 47th Street

New York, New York 10017

Tel. (212) 705-7314

CONSTRUCTION EDUCATION

Baccalaureate degree programs

American Council for Construction Education

1988/1991/1996

Daniel Dupree, Executive Vice-President

901 Hudson Lane

Monroe, Louisiana 71201

Tel. (318) 323-2413

CONTINUING EDUCATION

Non-collegiate continuing education institutions and programs

Accrediting Commission

Accrediting Council for Continuing Education and Training

1978/1991/1992

Roger Williams, President, ACCET

Main Street Center

600 East Main Street, Suite 1425

Richmond, Virginia 23219

Tel. (804) 648-6742

COSMETOLOGY

Postsecondary schools and departments of cosmetology arts and sciences

National Accrediting Commission of Cosmetology Arts and Sciences

1970/1987/1992

Mark Gross, Chief Executive Officer

901 North Stuart Street, Suite 900

Arlington, Virginia 22203

Tel. (703) 527-7600

CULINARY ARTS

Postsecondary programs in culinary arts and foodservice management which award certificates, diplomas or associate degrees

Accrediting Commission

American Culinary Federation Educational Institute

1990/1993

Mary G. Petersen, Executive Director

959 Melvin Road

Annapolis, Maryland 21403

Tel. (301) 268-5959

CYTOTECHNOLOGY

Programs for the cytotechnologist

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Cytotechnology Programs Review Committee

American Society of Cytology

1974/1988/1992

Shirley Indictor, Secretary

1015 Chestnut Street, Suite 1518

Philadelphia, Pennsylvania 19107

Tel. (215) 922-3880

DANCE

Institutions and units within institutions offering degree-granting and non-degree-granting programs in dance and dance-related disciplines

Commission on Accreditation

National Association of Schools of Dance

1983/1991/1996

Samuel Hope, Executive Director, NASD

11250 Roger Bacon Drive, Suite 21

Reston, Virginia 22090

Tel. (703) 437-0700

DENTAL AND DENTAL AUXILIARY PROGRAMS

Programs leading to the DDS or DMD degree, advanced general dentistry and speciality programs, general practice residency programs and programs in dental hygiene, dental assisting and dental technology

Commission on Dental Accreditation

American Dental Association

1952/1989/1994

Mario Santangelo, Secretary

211 East Chicago Avenue

Chicago, Illinois 60611

Tel. (312) 440-2500

DIAGNOSTIC MEDICAL SONOGRAPHY

Programs for the diagnostic medical sonographer

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Joint Review Committee on Education in Diagnostic Medical Sonography, which is sponsored by the American College of Radiology, American Institute of Ultrasound in Medicine, American Society of Echocardiography, American Society of Radiologic Technologists, Society of Diagnostic Medical Sonographers, and the Society of Nuclear Medicine

1983/1991/1992

Marilyn Fay, Executive Director
20 N. Wacker Drive, Suite 900
Chicago, Illinois 60606-2901
Tel. (312) 704-5151

DIETETICS

Coordinated undergraduate programs in dietetics and post-baccalaureate dietetic internships

Division of Education Accreditation/Approval

The American Dietetic Association

1974/1991/1996

Beverly Mitchell, Administrator
Department of Education, ADA
216 West Jackson Blvd., Suite 800
Chicago, Illinois 60606-6995
Tel. (312) 899-0040

ELECTRONEURODIAGNOSTIC TECHNOLOGY

Programs for the electroneurodiagnostic technologist

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Joint Review Committee on Education in Electroneurodiagnostic Technology, which is sponsored by the American Electroencephalographic Association and the American Society of Electroneurodiagnostic Technologists

1983/1991/1992

Patricia Smith, Executive Secretary
P.O. Box 11434
Norfolk, Virginia 23517
Tel. (804) 627-6791

EMERGENCY MEDICAL SERVICES

Programs for the emergency medical technician-paramedic

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Joint Review Committee on Educational Programs for the EMT-Paramedic, which is sponsored by the American College of Emergency Physicians, American College of Surgeons, American Society of Anesthesiologists, National Association of Emergency Medical Technicians, and the National Registry of Emergency Medical Technicians

1983/1988/1992

Philip A. von der Heydt, Executive Secretary
1701 West Eules Boulevard, Suite 200
Eules, Texas 76040
Tel. (817) 283-2835

ENGINEERING

Basic (baccalaureate) and advanced (master's) level programs in engineering, associate and baccalaureate degree programs in engineering technology, and engineering-related programs at the baccalaureate level

Accreditation Board for Engineering and Technology, Inc.

1952/1987/1992

David R. Reyes-Guerra, Executive Director
345 East 47th Street
New York, New York 10017
Tel. (212) 705-7685

FORESTRY

Programs leading to a bachelor's or higher first professional degree

Society of American Foresters

1952/1989/1992

P. Gregory Smith, Associate Director
Educational and Professional Standards
5400 Grosvenor Lane
Bethesda, Maryland 20814
Tel. (301) 897-8720

FUNERAL SERVICE EDUCATION

Independent schools and collegiate departments

Committee on Accreditation

American Board of Funeral Service Education

1972/1987/1992

Gordon S. Bigelow, Executive Director, ABFSE
14 Crestwood Road
Cumberland, Maine 04201
Tel. (207) 829-5715

HEALTH SERVICES ADMINISTRATION

Graduate programs in health services administration

Accrediting Commission on Education for Health Services Administration

1970/1989/1994

Sherril B. Gelmon, Executive Secretary
1911 North Fort Myer Drive, Suite 503
Arlington, Virginia 22209
Tel. (703) 524-0511

HISTOLOGIC TECHNOLOGY

Program for the histologic technician/technologist

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the
National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists

1974/1988/1992

Jacqueline N. Parochka, Executive Director
8410 West Bryn Mawr Avenue, Suite 670
Chicago, Illinois 60631
Tel. (312) 714-8800

HOME STUDY EDUCATION

Home study schools (including associate, baccalaureate, or master's degree-granting home study schools)

Accrediting Commission

National Home Study Council

1959/1991/1993

William A. Fowler, Executive Secretary
1601 18th Street, NW
Washington, DC 20009
Tel. (202) 234-5100

INDUSTRIAL TECHNOLOGY

Baccalaureate degree program

National Association of Industrial Technology

1988/1992

Alvin Rudisill, Executive Director
3157 Packard Road, Suite A
Ann Arbor, Michigan 48108-1900
Tel. (313) 677-0702

INTERIOR DESIGN

Two-year pre-professional assistant level programs (certificate and associate degree), first professional degree level programs (master's and baccalaureate degree and three-year certificate) and post-professional master's degree programs

Committee on Accreditation

Foundation for Interior Design Education Research

1976/1989/1992

Kayem Dunn, Executive Director, FIDER
60 Monroe Center, NW
Grand Rapids, Michigan 49503
Tel. (616) 458-0400

JOURNALISM AND MASS COMMUNICATIONS

Units within institutions offering professional undergraduate and graduate (master's) degree programs

Accrediting Committee

Accrediting Council on Education in Journalism and Mass Communications

1952/1991/1996

Susanne Shaw, Executive Director, ACEJMC
University of Kansas School of Journalism
Stauffer-Flint Hall
Lawrence, Kansas 66045
Tel. (913) 864-3973

LANDSCAPE ARCHITECTURE

Baccalaureate and master's programs leading to the first professional degree

Landscape Architectural Accreditation Board

American Society of Landscape Architects

1971/1987/1992

Karen Niles
Staff Vice President,
Planning and Programs, ASLA
4401 Connecticut Avenue, NW, Fifth Floor
Washington, DC 20008-2302
Tel. (202) 686-2752

LAW

Professional schools

Council of the Section of Legal Education and Admissions to the Bar

American Bar Association

1952/1987/1992

James P. White
Consultant on Legal Education, ABA
550 West North Street
Indianapolis, Indiana 46202
Tel. (317) 264-8340

LIBRARIANSHIP

Master's programs leading to the first professional degree

Committee on Accreditation

American Library Association

1952/1987/1992

Prudence Dalrymple, Director of Accreditation
50 East Huron Street
Chicago, Illinois 60611
Tel. (312) 944-6780

MARRIAGE AND FAMILY THERAPY

Graduate degree programs and clinical training programs

Commission on Accreditation for Marriage and Family Therapy Education

American Association for Marriage and Family Therapy

1978/1991/1993

Robert Stahman, Chairman, Committee on Accreditation
1100 17th Street, NW, 16th Floor
Washington, DC 20036
Tel. (202) 452-0109

MEDICAL ASSISTANT EDUCATION

Private medical assistant schools and programs

Accrediting Bureau of Health Education Schools

1974/1991/1994

(See listing under ALLIED HEALTH, above)

One- and two-year medical assistant programs

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the
Curriculum Review Board
American Association of Medical Assistants' Endowment
1974/1988/1992
Monique M. Buckner, Assistant Director of Accreditation
20 North Wacker Drive, Suite 1575
Chicago, Illinois 60606
Tel. (312) 899-1500

MEDICAL LABORATORY TECHNICIAN EDUCATION
Schools and programs for the medical laboratory technician
Accrediting Bureau of Health Education Schools
1969/1991/1994
(See listing under ALLIED HEALTH, above)
*Associate degree and certificate programs for the medical
laboratory technician*
Committee on Allied Health Education and Accreditation
American Medical Association
(See listing under ALLIED HEALTH, above)
In cooperation with the
**National Accrediting Agency for Clinical Laboratory
Sciences**
1974/1988/1992
(See listing under HISTOLOGIC TECHNOLOGY, above)

MEDICAL RECORD EDUCATION
*Programs for the medical record administrator and medical
record technician*
Committee on Allied Health Education and Accreditation
American Medical Association
(See listing under ALLIED HEALTH, above)
In cooperation with the
Council on Education
American Medical Record Association
1952/1988/1992
Carol Petrie Liberty, Director, Academic Division, AMRA
919 North Michigan Avenue, Suite 1400
Chicago, Illinois 60611
Tel. (312) 787-2672

MEDICAL TECHNOLOGY
Professional programs
Committee on Allied Health Education and Accreditation
American Medical Association
(See listing under ALLIED HEALTH, above)
In cooperation with the
**National Accrediting Agency for Clinical Laboratory Sci-
ences**
1952/1988/1992
(See listing under HISTOLOGIC TECHNOLOGY, above)

MEDICINE
Programs leading to the M.D. degree
**Liaison Committee on Medical Education of the Council on
Medical Education of the American Medical Association**

**and the Executive Council of the Association of American
Medical Colleges**
1952/1991/1996
The LCME is administered in odd-numbered years, begin-
ning each July 1, by:
Harry S. Jonas, Secretary, LCME
American Medical Association
515 North State Street
Chicago, Illinois 60610
Tel. (312) 464-4657

The LCME is administered in even-numbered years, begin-
ning each July 1, by:
Donald G. Kassebaum, Secretary, LCME
Association of American Medical Colleges
One Dupont Circle, NW, Suite 200
Washington, DC 20036
Tel. (202) 828-0670

MICROBIOLOGY
*Postdoctoral programs in medical and public health labora-
tory microbiology*
Committee on Postdoctoral Educational Programs
American Academy of Microbiology
1979/1987/1992
Peggy McNult, Program Assistant
1325 Massachusetts Avenue, NW
Washington, DC 20005
Tel. (202) 737-3600

MUSIC
*Institutions and units within institutions offering degree-
granting and non-degree-granting programs in music and
music-related disciplines, including community/junior col-
leges and independent degree-granting institutions*
Commission on Accreditation
Commission on Non-Degree-Granting Accreditation
Commission on Community Junior College Accreditation
National Association of Schools of Music
1952/1987/1992
Samuel Hope, Executive Director, NASM
11250 Roger Bacon Drive, Suite 21
Reston, Virginia 22090
Tel. (703) 437-0700

NATUROPATHIC MEDICINE
Programs leading to the N.D. or N.M.D. degree
Commission on Accreditation
Council on Naturopathic Medical Education
1987/1991/1994
Cecil Baxter, Executive Director, CNME
18726 56th Ave., NE
Seattle, Washington 98155
Tel. (206) 485-2063

NUCLEAR MEDICINE TECHNOLOGY

Programs for the nuclear medicine technologist

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Joint Review Committee on Educational Programs in Nuclear Medicine Technology, which is sponsored by the American College of Radiology, American Society of Clinical Pathologists, American Society for Medical Technology, American Society of Radiologic Technologists and the Society of Nuclear Medicine

1974/1988/1992

Elaine Cuklanz, Executive Secretary

1144 West 3300 South

Salt Lake City, Utah 84119-3330

Tel. (801) 975-1144

NURSE ANESTHESIA

Generic nurse anesthesia educational programs/schools

Council on Accreditation of Nurse Anesthesia Educational Programs

1955/1991/1996

Betty J. Horton, Director of Accreditation

216 Higgins Road

Park Ridge, Illinois 60068

Tel. (708) 692-7050

Basic certificate and basic master's degree nurse-midwifery educational programs

Division of Accreditation

American College of Nurse-Midwives

1982/1991/1995

Ronald E. Nitzsche, Chief Operating Officer, ACN-M

1522 K Street NW, Suite 1120

Washington, DC 20005

Tel. (202) 289-0171

Programs in practical nursing, and diploma, associate, baccalaureate, and higher degree nurse education programs

Board of Review for Baccalaureate and Higher Degree Programs

Board of Review for Diploma Programs

Board of Review for Practical Nursing Programs

Board of Review for Associate Degree Programs

National League for Nursing, Inc.

1952/1990/1992

Patricia Moccia, Executive Vice President, NLN

350 Hudson Street

New York, New York 10014

Tel. 1-800-669-1656

OCCUPATIONAL THERAPY

Professional Programs

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Accreditation Committee

American Occupational Therapy Association

1952/1988/1992

Brena G. Manoly, Director, Division of Accreditation, AOTA

1383 Picard Drive, Suite 300

Rockville, Maryland 20849-1725

Tel. (301) 948-9626

OCCUPATIONAL, TRADE AND

TECHNICAL EDUCATION

Private, postsecondary degree and non-degree granting institutions that are predominantly organized to educate students for trade, occupational, or technical careers

Accrediting Commission for Trade and Technical Schools

Career College Association

1967/1991/1994

Dorothy Fenwick, Executive Director

750 First Street, NE, Suite 900

Washington, DC 20002

Tel. (202) 336-6700

OPHTHALMIC MEDICAL ASSISTANT

Programs of six months or longer for the ophthalmic medical assistant

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Joint Review Committee on Educational Programs for the Ophthalmic Medical Assistant, which is sponsored by the

American Association of Certified Allied Health Personnel in Ophthalmology and the Joint Commission on Allied

Health Personnel in Ophthalmology

1983/1988/1992

Alice Gelines, Administrator

2025 Woodlane Drive

St. Paul, Minnesota 55125-2995

Tel. (612) 770-9775

OPTICIANRY

Two-year programs for the ophthalmic dispenser and one-year programs for the ophthalmic laboratory technician

Commission on Opticianry Accreditation

1985/1987/1992

Floyd H. Holmgrain, Jr., Executive Director

10111 Martin Luther King, Jr. Highway, Suite 100

Bowie, Maryland 20720-4299

Tel. (301) 459-8075

OPTOMETRY

Professional degree programs, residency programs, and optometric technician programs

Council on Optometric Education

American Optometric Association

1952/1988/1992

Joyce Urbeck, Manager

243 North Lindbergh Boulevard

St. Louis, Missouri 63141

Tel. (314) 991-4100

OSTEOPATHIC MEDICINE

Programs leading to the D.O. degree

Bureau of Professional Education

American Osteopathic Association

1952/1989/1994

William Douglas Ward, Director

Office of Education, AOA

142 East Ontario Street

Chicago, Illinois 60611

Tel. (312) 280-5800

PERFUSION

Programs for the perfusionist

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Accreditation Review Committee for Perfusion Education, which is sponsored by the American Association for Thoracic Surgery, American Board of Cardiovascular Perfusion, American Society of Extracorporeal Technology, and the Society of Thoracic Surgeons

1983/1991/1992

Robert Parks, Executive Director

Department of Allied Health and Accreditation

American Medical Association

P.O. Box 11124

Chicago, Illinois 60611

Tel. (312) 751-2570

PHARMACY

Professional degree programs

American Council on Pharmaceutical Education

1952/1988/1994

Daniel A. Nona, Executive Director

311 West Superior

Chicago, Illinois 60610

Tel. (312) 664-3575

PHYSICAL THERAPY

Professional programs for the physical therapist and programs for the physical therapist assistant

Commission on Accreditation in Education

American Physical Therapy Association

1977/1990/1995

Virginia Nieland, Director

Department of Accreditation, APTA

Trans Potomac Plaza

1111 North Fairfax Street

Alexandria, Virginia 22314

Tel. (703) 684-2782

PHYSICIAN ASSISTANT EDUCATION

Programs for the physician assistant

Committee on Allied Health Education and Accreditation

American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Accreditation Review Committee on Education for the Physician Assistant, which is sponsored by the American Academy of Family Physicians, American Academy of Pediatrics, American Academy of Physician Assistants, American College of Physicians, American College of Surgeons, and the Association for Physicians Assistant Programs

1974/1988/1992

L. M. Detmer, Secretary, ARC-PA

Department of Allied Health Education and Accreditation

American Medical Association

515 North State Street

Chicago, Illinois 60610

Tel. (312) 464-4623

PODIATRY

Colleges of podiatric medicine, including first professional and graduate degree programs

Council on Podiatric Medical Education

American Podiatric Medical Association

1952/1988/1992

Jay Levrio, Director

9312 Old Georgetown Road

Bethesda, Maryland 20814

Tel. (301) 571-9200

PSYCHOLOGY

Doctoral programs in clinical, counseling, school and combined professional-scientific psychology, and pre-doctoral internship programs in professional psychology

Committee on Accreditation

American Psychological Association

1970/1988/1992

Paul Nelson, Director, Office of Accreditation, APA

750 First Street, NE

Washington, DC 20002-4242

Tel. (202) 336-5979

PUBLIC HEALTH

Graduate schools of public health and graduate programs offered outside schools of public health in community health education and in community health/preventive medicine

Council on Education for Public Health

1974/1987/1992

Patricia Evans, Executive Director

1015 15th Street, NW

Washington, DC 20005

Tel. (202) 789-1050

RABBINICAL AND TALMUDIC EDUCATION

Advanced rabbinical and Talmudic schools

Accreditation Commission

Association of Advanced Rabbinical and Talmudic Schools

1974/1987/1991

Bernard Fryshman, Executive Director, AARTS

175 Fifth Avenue, Room 711

New York, New York 10010

Tel. (212) 477-0950

RADIOLOGIC TECHNOLOGY

Programs for the radiographer and radiation therapy technologist

Committee on Allied Health Education and Accreditation
American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Joint Review Committee on Education in Radiologic Technology, which is sponsored by the American College of Radiology and the American Society of Radiologic Technologists

1957/1988/1992

Marilyn Fay, Executive Director

20 North Wacker Drive, Suite 900

Chicago, Illinois 60606-2901

Tel. (312) 704-5300

RESPIRATORY THERAPY

Programs for the respiratory therapist and respiratory therapy technician

Committee on Allied Health Education and Accreditation
American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Joint Review Committee for Respiratory Therapy Education, which is sponsored by the American Association for Respiratory Therapy, American College of Chest Physicians, American Society of Anesthesiologists and the American Thoracic Society

1974/1988/1992

Philip A. von der Heydt, Executive Director

1701 West Euless Boulevard, Suite 200

Euless, Texas 76040

Tel. (817) 283-2835

SOCIAL WORK

Master's and baccalaureate degree programs

Commission on Accreditation

Council on Social Work Education

1952/1987/1992

Nancy Randolph, Director

Division of Standards and Accreditation, CSWE

1600 Duke Street, Suite 300

Alexandria, Virginia 22314

Tel. (703) 683-8080

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

Master's degree programs

Educational Standards Board

American Speech-Language-Hearing Association

1967/1991/1996

Delores Battle, Chair

Educational Standards Board, ASHA

10801 Rockville Pike

Rockville, Maryland 20852

Tel. (301) 897-5700

SURGICAL TECHNOLOGY

Programs for the surgical technologist

Committee on Allied Health Education and Accreditation
American Medical Association

(See listing under ALLIED HEALTH, above)

In cooperation with the

Joint Review Committee on Education for the Surgical Technologist, which is sponsored by the American College of Surgeons, American Hospital Association, and the Association of Surgical Technologists

1978/1991/1992

William Teutsch, Secretary-Treasurer

8307 Shaffer Parkway

Littleton, Colorado 80127

Tel. (303) 978-0878

TEACHER EDUCATION

Baccalaureate and graduate programs for the preparation of teachers and other professional personnel for elementary and secondary schools

National Council for Accreditation of Teacher Education

1952/1989/1994

Arthur Wise, President

2010 Massachusetts Avenue, NW

Washington, DC 20036

Tel. (202) 466-7496

THEATER

Institutions and units within institutions offering degree-granting and/or non-degree-granting programs in theater and theater-related disciplines

Commission on Accreditation

National Association of Schools of Theatre

1982/1991/1996

Samuel Hope, Executive Director, NAST
11250 Roger Bacon Drive, Suite 21
Reston, Virginia 22090
Tel. (703) 437-0700

THEOLOGY

Freestanding schools, as well as schools affiliated with larger institutions, offering graduate professional education for ministry and graduate study of theology

Commission on Accrediting

Association of Theological Schools in the United States and Canada

1952/1987/1992

Jim Waits, Executive Director, ATS
10 Summit Park Drive
Pittsburgh, Pennsylvania 15275-1102
Tel. (412) 788-6505

VETERINARY MEDICINE

Colleges of veterinary medicine offering programs leading to a professional degree, and two-year collegiate programs for veterinary technicians

Council on Education

American Veterinary Medical Association

1952/1987/1992

Committee on Veterinary Technician Activities and Training

American Veterinary Medical Association

1977/1987/1992

Edward R. Ames, Director, Scientific Activities, AVMA
930 North Meacham Road
Schaumburg, Illinois 60196
Tel. (312) 885-8070

Other

Registration [accreditation] of collegiate degree-granting programs or curriculums offered by institutions of higher education and of credit-bearing certificate and diploma programs offered by degree-granting institutions of higher education

New York State Board of Regents

1952/1991/1994

Thomas Sobol, Commissioner of Education
State Education Department
The University of the State of New York
Albany, New York 12224
Tel. (518) 457-3300

Accrediting Agencies and Associations Recognized for their Preaccreditation Categories

Under the terms of the Higher Education Act and other Federal legislation providing funding assistance to postsecondary education, an institution or program is eligible to apply for participation in certain Federal programs if, in addition to meeting other statutory requirements, it is accredited by a nationally recognized accrediting agency or association—or if it is an institution with respect to which the U.S. Secretary of Education has determined that there is satisfactory assurance the institution or program will meet the accreditation standards of such agency or association within a reasonable time. An institution or program may establish satisfactory assurance of accreditation by acquiring preaccreditation status with a nationally recognized agency or association which has been recognized by the U.S. Secretary of Education for the award of such status. According to the Criteria for Nationally Recognized Accrediting Agencies and Associations, if an accrediting agency or association has developed a preaccreditation status, it must demonstrate that it “applies criteria and follows procedures that are appropriately related to those used to award accreditation status.”

The following is a list of accrediting agencies and associations recognized for their preaccreditation categories and the categories which are recognized:

Regional Institutional Accrediting Association

NEW ENGLAND ASSOCIATION OF SCHOOLS AND COLLEGES: *Candidate for Accreditation*

Regional Institutional Accrediting Commissions

MIDDLE STATES ASSOCIATION OF COLLEGES AND SCHOOLS —

Commission on Higher Education: *Candidate for Accreditation*

Commission on Secondary Schools: *Candidate for Accreditation*

NORTH CENTRAL ASSOCIATION OF COLLEGES AND SCHOOLS —

Commission on Institutions of Higher Education: *Candidate for Accreditation*

Commission on Schools: *Candidate for Accreditation*

NORTHWEST ASSOCIATION OF SCHOOLS AND COLLEGES —

Commission on Colleges: *Candidate for Accreditation*

SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS —

Commission on Colleges: *Candidate for Accreditation*

Commission on Occupational Education Institutions: *Candidate for Accreditation*

WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES —

Accrediting Commission for Community and Junior Colleges: *Candidate for Accreditation*

Accrediting Commission for Schools: *Candidate for Accreditation*

Accrediting Commission for Senior Colleges and Universities: *Candidate for Accreditation*

National Institutional and Specialized Accrediting Bodies

ACCREDITING COUNCIL FOR CONTINUING EDUCATION AND TRAINING

Accrediting Commission: *Preaccreditation Status*

AMERICAN ASSOCIATION OF BIBLE COLLEGES —

Commission on Accrediting: *Candidate for Accreditation*

AMERICAN ASSOCIATION OF NURSE ANESTHETISTS —

Council on Accreditation of Nurse Anesthesia Educational Programs/Schools: *Preaccreditation*

AMERICAN COUNCIL ON PHARMACEUTICAL EDUCATION — *Candidate, Precandidate*

AMERICAN DENTAL ASSOCIATION —

Commission on Dental Accreditation: *Accreditation Eligible*

AMERICAN OPTOMETRIC ASSOCIATION —

Council on Optometric Education: *Reasonable Assurance, Preliminary Approval* (for professional degree programs); *Candidacy Pending* (for optometric residency programs in facilities of the Veterans' Administration)

- AMERICAN OSTEOPATHIC ASSOCIATION —
Bureau of Professional Education: *Preaccreditation Status, Provisional Accreditation*
- AMERICAN PHYSICAL THERAPY ASSOCIATION —
Commission on Accreditation in Education: *Candidate for Accreditation*
- AMERICAN PODIATRIC MEDICAL ASSOCIATION —
Council on Podiatric Medical Education: *Reasonable Assurance*
- AMERICAN VETERINARY MEDICAL ASSOCIATION —
Council on Education: *Reasonable Assurance of Accreditation*
- ASSOCIATION OF ADVANCED RABBINICAL AND TALMUDIC SCHOOLS —
Accreditation Commission: *Correspondent, Candidate*
- ASSOCIATION FOR CLINICAL PASTORAL EDUCATION, INC. —
Accreditation Committee: *Candidacy for Accredited Membership*
- ASSOCIATION OF THEOLOGICAL SCHOOLS IN THE UNITED STATES AND CANADA —
Commission on Accrediting: *Candidate for Accredited Membership*
- CAREER COLLEGE ASSOCIATION —
Accrediting Commission for Independent Colleges and Schools: *Recognized Candidate for Junior College Accreditation, Recognized Candidate for Senior College Accreditation (applies to institutions already holding accredited status)*
- COUNCIL ON CHIROPRACTIC EDUCATION —
Commission on Accreditation: *Recognized Candidate for Accreditation*
- COUNCIL ON EDUCATION FOR PUBLIC HEALTH —
Preaccreditation
- COUNCIL ON NATUROPATHIC MEDICAL EDUCATION —
Recognized Candidate for Accreditation
- COUNCIL ON SOCIAL WORK EDUCATION —
Commission on Accreditation: *Candidacy*
- LIAISON COMMITTEE ON MEDICAL EDUCATION —
Reasonable Assurance, Provisional Accreditation
- STRAIGHT CHIROPRACTIC ACADEMIC STANDARDS ASSOCIATION, INC. —
Commission on Accreditation: *Candidate for Accreditation*

Appendix G

**DIPLOMA
MILLS**
Degrees of Fraud

David W. Stewart
Henry A. Spille

AMERICAN COUNCIL ON EDUCATION  MACMILLAN
PUBLISHING COMPANY
NEW YORK

Collier Macmillan Publishers
LONDON

Walters, Dan. "Diploma Mills a Painful Subject." *Sacramento Bee*, 15 June 1987.

Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities. *Handbook of Accreditation*. March 1982.

Whitney, Douglas R., and Andrew G. Malizio (eds.). *Guide to Educational Credit by Examination*, Second Edition. New York: American Council on Education/Macmillan, 1987.

Willingham, Warren W. *Principles of Good Practice in Assessing Experiential Learning*. Columbia, MD.: Council for the Advancement of Experiential Learning, 1977.

Wittstruck, John R. "Requirements for Certificates, Diplomas and Associate Degrees: A Survey of the States." Denver, CO: State Higher Education Executive Officers Association, April 1985.

Wittstruck, John R. "State Oversight of Degree Granting Authority in Proprietary Institutions: Report of a SHEEO Survey." Denver, CO: State Higher Education Executive Officers Association, January 1984.

Young, Kenneth E., Charles M. Chambers, H.R. Kells, and Associates. *Understanding Accreditation*. San Francisco: Jossey-Bass, 1983.

Interviews

Interviews or, more often, informal telephone conversations from which cited materials were drawn were conducted with the following persons: Ellen Benkin, University of California, Los Angeles (11 May 1987); Otho Allen Ezell, FBI (1983–1987); Clara H. Lawhead, Pasco County (Florida) Health Department (1987–1988); E. Patrick McQuaid, Education Commission of the States (25 August 1987); Robert L. Pence, FBI (1984); Peter Reinecke, U.S. Congressional staff (1987); Barbara Uehling, University of California at Santa Barbara (1987); and Michael Vorbeck, Council of Europe (1985–1987). In addition, several telephone conversations were held with an inmate at a federal correctional facility who wishes to remain anonymous (1987).

Appendix D Summary of State Statutes Governing State- Authorized Institutions Awarding Degrees at the Postsecondary Level with Names and Addresses of Persons Providing State Oversight

The one-paragraph summaries that follow have been developed from results of an ACE survey sent to persons responsible for overseeing nonpublic, degree-granting institutions in each state, except Hawaii which does not respond to such surveys. A reply to the survey was received from all states, as well as from the District of Columbia and Puerto Rico. The statutes in each state have been categorized as (1) relatively strong, (2) average strength, or (3) relatively weak.

In making these determinations, the following general criteria were used in labeling statutes as "relatively strong:"

1. Preoperation review with minimum criteria for authorized operation specified
2. Site visit required
3. Few or no exemptions from regulation except for in-

stitutions having accreditation from an agency recognized by COPA or recognized by the U.S. Department of Education

4. Finances reviewed for adequacy including attention to audits and insurance
5. Periodic "reauthorization" required
6. Activities of recruiting agents regulated
7. List of institutions authorized to operate maintained
8. Restrictions apply against misleading advertising
9. Out-of-state institutions regulated in manner comparable to those domiciled in the state (or reciprocity arrangements with strong statute states)
10. Penalties listed for violators of statutes.

Statutes are declared to be "relatively weak" if they do not contain provisions of the kind specified in the foregoing paragraph. Statutes labeled as of "average strength" tend to fall somewhere between "strong" and "weak" as described by these criteria.

All of the officials responding to the survey were given an opportunity to react to proposed summaries of their statutes and to the categorization of such statutes as "relatively strong," "average strength," or "relatively weak." Requests for change in any of the narratives were carefully considered. However, the final determination as to the wording of each summary and its categorization was made by the authors of this volume. These categorizations are *not* a commentary on the intensity or quality of oversight and enforcement activities by the designated state agencies. They do represent judgments as to the relative strength of state statutes.

Several words of caution are in order about interpretation of these summaries. The relative strength of a state's statutes is not the only factor affecting control of questionable institutions operating within a state's boundaries. Strong statutes may not be adequately enforced. Relatively weak statutes, if aggressively enforced, may be a deterrent to diploma mill activity. State administrative regulations and codes that implement statutes may also be important and have been taken into account in the summaries for some states.

Following each summary paragraph are names and ad-

resses of those people responsible for oversight activities of nonpublic, degree-granting institutions in each state. Also listed are contact persons (designated "C") in some states at agencies having no explicitly specified oversight activities; these persons are listed because the state wishes to keep abreast of activities in this area. For an analysis of state statutes and enforcement efforts, readers are referred to chapter 10, "State Laws: The Baseline Defenses" and chapter 11, "California: A Very Special Case."

Alabama

A site visit with preoperation review is required for authorization. A \$10,000 surety bond is also required. Recruiting agents are regulated and must be bonded and licensed. There are restrictions against misleading advertising. A relatively large number of categories of institutions are exempt from the statutes, for example, "schools operated on a nonprofit basis and offering only courses or programs of study in the performance of or preparation for the ministry of any established church, denomination, or religion." The Alabama State Department of Education may institute such actions as may be necessary to enforce the statutes. In addition to any other remedy, the Department may apply for relief by injunction, mandamus, or any other appropriate remedy in equity without being compelled to allege or prove that an adequate remedy at law does not otherwise exist. Violations of the statute are considered as misdemeanors and are punishable upon conviction by a fine of not more than \$500 or imprisonment for a term of not more than six months, or both. (Average Strength Statutes)

Charles Saunders
Coordinator of Private Schools Unit
Department of Education
Room 348
State Office Building
Montgomery, AL 36130
(205) 261-2910

Alaska

A site visit for both initial and renewal authorization is required for all in-state institutions, but not for out-of-state

institutions applying for authorization. Review includes attention to finances as well as program quality. Authorization is usually granted for one or two years initially and for two or three years thereafter. Surety bonds (institutional and for agents) are required in an amount proportional to the tuition income of the institution. The Commission on Postsecondary Education has the authority to grant exemptions to nonprofit postsecondary education institutions offering courses (except by correspondence) acceptable for credit toward associate, bachelor's or graduate degrees. Penalties apply for violations of the state statutes. (Average Strength Statutes)

Linda Low
 Director for Institutional Authorization
 Alaska Commission on Postsecondary Education
 3601 C Street, Suite 478
 Anchorage, AK 99503
 (907) 561-4207

Arizona

A relatively new statute (January 1, 1985) was enacted to combat what had been a diploma mill epidemic. The statute requires that all degree programs be accredited by an accrediting agency recognized by the U.S. Department of Education or COPA. Institutions not yet accredited must post a \$15,000 surety bond and are subject to a site visit to verify the institution's quality. Authorization is required for specific degree programs and for institutions. Agents of educational organizations are regulated. Restrictions are placed against misleading advertising, and civil/criminal penalties are listed for violations of the state statutes. (Relatively Strong Statutes)

Dona Marie Markley
 Director, State Board for Private Postsecondary
 Education
 1812 West Monroe
 Room 214
 Phoenix, AZ 85007
 (602) 255-5709

542

Arkansas

Educational institutions in Arkansas must incorporate, and all institutions that wish certification (authorization) by the state must be accredited by an agency recognized by COPA. On-site visits are required. Authorization is accomplished in two stages. An institution authorized after review for the first stage may engage in planning and development only. Only after authorization at the second stage may degrees be awarded. Authorization is typically renewed every two years. A grandfather clause exempts from provisions of the statute religious institutions in operation prior to 1975. The State Department of Education requires surety bonding of agents. Violators of the statutes may be guilty of a misdemeanor and, if convicted, may be fined not more than \$1,000 or be imprisoned not more than three months. (Relatively Strong Statutes)

John Spraggins (Dr.)
 Associate Director for Academic Affairs
 Arkansas Department of Higher Education
 1220 West 3rd Street
 Little Rock, AR 72201-1904
 (501) 371-1441

Dorris R. Robinson-Gardner (Dr.)
 Coordinator of Academic Programs
 Department of Higher Education
 1220 West 3rd Street
 Little Rock, AR 72201-1904
 (501) 371-1441

California

Until 1984, California's laws governing nonaccredited, degree-granting, private postsecondary education institutions were largely permissive in that they permitted the existence under an authorization statute of institutions that were virtually immune from state inspection and review. As a result, a large number of very questionable institutions received authorization and operated in apparent compliance with California's laws. Between 1978 and 1984 changes were made in

that authorization statute, strengthening the state's authority—with the most recent amendments requiring an on-site review to verify that the authorized institution meets minimal state standards. In addition to authorization, the state has an "approval" status that is granted to institutions that the state determines meets established institutional standards. (This approval process is sometimes claimed as "equivalent to accreditation" which is not the case.) The California law also requires that institutions based outside of the state, seeking to operate within the state, undergo a separate state approval process. All institutions authorized or approved (including out-of-state approved) are required to undergo periodic state reauthorization or reapproval procedures. A number of authorized or approved institutions in California operate off-campus programs in other states and in foreign countries. The California Department of Education's Private Postsecondary Education Division does not review these programs in making its decisions with respect to authorization or approval. A special category of authorization applies to institutions awarding degrees in theology or religion. Certain other religious institutions are not covered by the state's Education Code. Under California's newly strengthened laws, many marginal institutions are being closed or are not choosing to reapply for authorization under the stricter requirements. (For more detailed information about the unique history of California's statutes and enforcement mechanisms, refer to chapter 11 of this volume.) (Average Strength Statutes)

Joseph P. Barankin (Dr.)
 Assistant Superintendent of Public Instruction
 and Director
 Private Postsecondary Education Division
 California State Department of Education
 721 Capitol Mall, P.O. Box 944272
 Sacramento, CA 94244-2720
 (916) 322-1852

Roy W. Steeves
 Assistant Director
 Private Postsecondary Education Division
 California State Department of Education

601 West Fifth Street, Suite 910
 Los Angeles, CA 90017
 (213) 620-4256

Colorado

Nonaccredited, degree-granting institutions are required to make continual, reasonable, and timely progress toward accreditation by an agency recognized by COPA and to have an on-site (in Colorado) accreditation visit. Institutions are prohibited from advertising or initiating programs not first designated as holding potential to achieve accreditation by a COPA-approved accrediting association. Initial authorization status may then be granted by the Colorado Commission on Higher Education. Institutions are required to register annually with the Commission. No bonds are required, and no specific restrictions regarding misleading advertising exist under the higher education statutes. It is a misdemeanor under Colorado statutes to violate terms of the authorization laws. (Average Strength Statutes)

Timothy M. Grieder (Dr.)
 Director, Continuing Education and Extended
 Academic Programs
 Colorado Commission on Higher Education
 1300 Broadway, 2nd Floor
 Denver, CO 80203
 (303) 866-2723

Connecticut

Any institution offering credits and degrees at the college level must be "licensed" and/or "accredited" by the Board of Governors for Higher Education. (Licensure in Connecticut means "approval to operate an institution or programs of higher learning at a specific location(s) for a specified period. Licensure does not provide authority to confer degrees." Accreditation as used by the Connecticut government means "approval . . . to operate an institution or program of higher learning at a specific location(s) for a specified period and to confer specified degrees. This type of accreditation should not

be confused with COPA-recognized accreditation which is not a governmental function.) Connecticut explicitly requires on-site visits to educational institutions to verify the quality of the facilities and programs. Authorizations must be renewed every three years. State "accreditation" must be renewed every five years. Restrictions are in place against misleading advertisements by educational organizations. (Relatively Strong Statutes)

Donald H. Winandy (Dr.)
 Director of Licensure and Accreditation
 Board of Governors for Higher Education
 61 Woodland Street
 Hartford, CT 06105
 (203) 566-2325

Delaware

The Department of Public Instruction is charged with recommending for authorization degree-granting programs in all nonpublic institutions. It has like responsibilities for authorization of all private and business trade schools. Evaluation of both programs and finances of these educational institutions is accomplished. Out-of-state institutions must also undergo review and approval under the same guidelines applying to in-state institutions. (Average Strength Statutes)

Ervin C. Marsh (Dr.)
 State Supervisor, Certification and Personnel Division
 Department of Public Instruction
 Townsend Building, Box 1402
 Dover, DE 19901
 (302) 736-4688 or 736-4686

District of Columbia

Washington, D.C., requires a three-year provisional authorization and a site visit to educational institutions by the Educational Institute Licensure Commission and/or its designee. Washington requires authorization for each specific de-

gree program. Site visits are required every five years for renewal of authorization if the institution is nonaccredited. Corporations may require their treasurers to post surety bonds in an amount the Corporation deems sufficient. Restrictions against misleading advertisements are in place, as are fines and jail sentences for violators of the statute. The District of Columbia has no laws regulating recruiting agents of degree-granting institutions. The statutes specifically prohibit institutions from implying in their titles any official connections with the United States government or the District of Columbia government. This prohibition is also applicable to nonresidents and foreign corporations conferring degrees in the District of Columbia. (Relatively Strong Statutes)

John G. Stone, III
 Executive Director
 Educational Institution Licensure Commission
 Suite M-102
 605 C Street, NW
 Washington, D.C. 20001
 (202) 727-3511

Florida

Site visits are required during the period before the State Board of Independent Colleges and Universities considers the application and during a period of temporary licensure (authorization). All out-of-state institutions except those with a religious exemption are regulated on the same basis as in-state institutions. Authorization and exemptions are reviewed annually. Misleading advertisements are specifically prohibited. Recruiting agents are regulated. The Board maintains an up-to-date list of authorized institutions. The state's penalty statute was strengthened in 1986 to include probation and fines in addition to misdemeanor charges. A relatively large number of institutions and categories of institutions are exempt from the authorization requirements (e.g., chartered religious colleges). A grandfather clause also exempts Florida colleges "the credits or degrees of which are accepted for

credit by at least three accredited colleges of higher learning, which were exempt prior to July 1, 1982." Florida's current statutes are a vast improvement over earlier laws that encouraged the establishment of a number of very questionable institutions in the state. (Average Strength Statutes)

C. Wayne Freeberg (Dr.)
Executive Director
State Board of Independent Colleges and Universities

Mailing Address:
c/o Department of Education
Tallahassee, FL 32399
(904) 488-8695

Location:
Suite D-13
Sun Federal Place
345 South Magnolia
Tallahassee, FL 32301
(904) 487-3673

Sandra Lee Knight
Associate Director
State Board of Independent Colleges and Universities

Mailing Address
c/o Department of Education
Tallahassee, FL 32399
(904) 487-3673

Georgia

Georgia requires "such investigation of the applicant as the [State Board of Education] may deem necessary or appropriate." A site visit is required for initial authorization and periodically thereafter as determined by the State Board of Education. Relatively numerous categories of institutions are exempt from the authorization process. Georgia does make violation of its statutes punishable by a \$1,000 fine, and re-

quires a surety bond from \$5,000 to \$50,000, depending on enrollment. Agents of educational institutions are regulated. Amendments to the statutes in 1987 explicitly prohibit the sale of postsecondary degrees, diplomas, or certificates. Use of fraudulent credentials and transcripts in connection with any business, trade, profession, or occupation is also prohibited. (Average Strength Statutes)

Janie W. Smith (Dr.)
Coordinator, Private College and University Standards
Georgia Department of Education
1870 Twin Towers East, Capitol Square
Atlanta, GA 30334
(404) 656-2538

Hawaii

The state has no statutes governing authorization of non-accredited, degree-granting, postsecondary education institutions. As a matter of policy, Hawaii does not respond to inquiries and does not wish to be included in this survey. (Relatively Weak Statutes)

Idaho

The state government plays no significant role in evaluating the financial stability or degree program quality of its educational institutions. Educational institutions must, however, register with the Department of Education and post a \$10,000 surety bond. Registered (authorized) institutions must refrain from use of terms such as "accredited," "approved," or "licensed" in advertising. Only "registered" is acceptable in such ads. Any agent selling courses must have an agent's permit. Both registered institutions and their agents must reapply for registration annually. A relatively higher number of categories of institutions are exempt from regulation. Idaho makes violations of the statutes punishable by a \$1,000 fine or a six-month sentence. (Relatively Weak Statutes)

Eldon Nelson
 Supervisor of Support Services
 Idaho State Department of Education
 Len B. Jordon Office Building
 650 West State Street
 Boise, ID 83720
 (208) 334-2206

Illinois

A two-step process is required of new institutions wishing to operate and award degrees. The institution must first receive authorization to operate and must within three years thereafter achieve degree-granting authority. An application is reviewed and a site visit conducted for both operating authority and for each degree being considered. If the expertise does not exist on the staff, the Board of Higher Education at its expense obtains the services of an out-of-state consultant to review the application in light of the applicable criteria. Authorization is awarded for specific degrees at specific sites. An annual review process is in place for each authorization granted by the Board. Violation of the statute can result in revocation of authority to operate and/or grant degrees. False, deceptive, misleading, or unfair advertising is prohibited. Catalogs and brochures must contain information describing degree programs offered, program objectives, length of program, schedule of tuition, fees, and all other charges and expenses necessary for completion of the courses of study. This and related information must be available to students prior to their enrollment. A surety bond is not required. There is no exemption from statutory regulation for degree-granting religious institutions. (Relatively Strong Statutes)

Kathleen Kelly (Dr.)
 Associate Director for Academic and Health Affairs
 Illinois Board of Higher Education
 500 Reisch Building
 4 West Old Capitol Square
 Springfield, IL 62701
 (217) 782-3442

Indiana

A four-step process to "accreditation" (authorization) is specified. On-site visits, including consulting experts when needed, are required in order to verify the quality of an organization's facilities and programs. Restrictions against possible abuses by agents of educational organizations are in place, as are restrictions against false advertising. A surety bond (\$50,000 maximum) is required for authorization. Authorization must be renewed every five years. Most violations of the statute are considered as misdemeanors. A person who, with intent to defraud, represents himself or herself to be an agent of a postsecondary proprietary educational institution commits a felony. Certain religious institutions are exempt from regulation. Out-of-state institutions, however, are not exempt. (Note: The proprietary nomenclature in the name of the Commission is misleading with reference to the broad scope of the agency's mission.) (Relatively Strong Statutes)

Phillip H. Roush
 Commissioner
 Indiana Commission on Proprietary Education
 32 East Washington St.
 Suite 804
 Indianapolis, IN 46204
 (317) 232-1320

Iowa

Iowa does not require on-site visits for registration (authorization) of educational institutions. Institutions must renew such registration annually. A relatively large number of categories of institutions are exempt from the registration process. No civil or criminal penalties are in place against violators of the state's statutes. Iowa does have restrictions against false advertisements, and the state requires a \$50,000 surety bond. While Iowa's statutes covering higher education are relatively weak, the state does have a very strong consumer protection law which applies to higher education as well as to other areas. (Relatively Weak Statutes)

(C) Robert J. Barak (Dr.)
 Director of Academic Affairs and Research
 State Board of Regents
 Lucas State Office Building
 Des Moines, IA 50319
 (515) 281-3934

Kansas

Approved institutions must meet the standards of the Kansas State Board of Regents before approval (authorization); accreditation by an agency recognized by the Board of Regents satisfies that requirement. Site visits are required by a "committee of higher education peers" before authorization can be attained. This process must be repeated every ten years. A surety bond (\$20,000 minimum) is required. There are no restrictions on advertising. (Average Strength Statutes)

Martine Hammond (Dr.)
 Director of Academic Affairs
 Kansas Board of Regents
 14th Floor, Merchants National Bank
 Topeka, KS 66612
 (913) 296-3421

Kentucky

The Council on Higher Education in Kentucky requires that educational institutions establish financial stability and program quality when applying for licensure or license (authorization) renewal. Site visits may be conducted during the licensing process, and expert consultants are required. A surety bond of \$5,000–\$50,000, based on enrollment, is required. Advertisements are reviewed during the authorization process. There are no restrictions on the activities of an institution's agents and no penalties for violations of the authorization statutes. Proprietary institutions (including those offering associate degrees) are regulated by the Kentucky State Board for Proprietary Education. However, should such an institution seek to award degrees at the baccalaureate or

higher levels, it would be subject to the jurisdiction of the Kentucky Council on Higher Education. (Average Strength Statutes)

Aphrodite Brough (Dr.)
 Associate Director for Academic Program
 Kentucky Council on Higher Education
 1050 U.S. 127 South
 Frankfort, KY 40601
 (502) 564-3553

Robert Summers
 Executive Director
 Kentucky State Board for Proprietary Education
 P.O. Box 456
 Frankfort, KY 40602
 (502) 564-4233

Louisiana

Louisiana requires educational institutions only to register (or incorporate), a process that does not constitute approval by the state. Such registration is renewed annually. No higher level of state authorization is available. The state statute poses requirements that are so minimal there is no obvious reason for an institution to operate in violation of them. (Relatively Weak Statutes)

Larry Tremblay (Dr.)
 Coordinator of Research and Data Analysis
 Louisiana Board of Regents
 161 Riverside Mall
 Baton Rouge, LA 70801
 (504) 342-4253

Maine

Any postsecondary education institution seeking to award a degree must obtain legislative authorization through a "private and special law." Authorization is granted for specific degrees. On-site reviews of the institution are conducted dur-

ing the authorization process to ensure financial stability and degree quality and are conducted by a team consisting of individuals from other Maine postsecondary education institutions. This team must be approved by the State Board of Education. Following the visit, the team makes a report and recommendation for action to the Board and the legislature. No surety bonding is required but there are some restrictions on advertising prior to authorization being granted. Violations of Maine's statutes are punishable by a \$5,000 fine. (Relatively Strong Statutes)

Frederick Douglas
Director
Higher Education Services
State Department of Education and Cultural Services
State Department of Education Building
Augusta, ME 04333
(207) 289-5800

Maryland

Maryland requires on-site visits for authorization of an educational institution, for renewal of that authorization, and for authorization of specific degree programs. On-site visits are designed to ensure that the institution's administration, faculty, curriculum, facilities, library, and publications comply with minimum requirements set by the State Board of Higher Education. Maryland requires a \$500,000 surety bond before authorizing a four-year college and a \$300,000 surety bond before authorizing an associate-level college. Religious colleges may be exempted if they can certify that their programs are purely religious and that they are financially stable. (Relatively Strong Statutes)

Donald Stoddard (Dr.)
Coordinator, Academic Affairs
State Board for Higher Education
16 Francis Street
Annapolis, MD 21401
(301) 974-2971

Massachusetts

Higher education institutions in Massachusetts are reviewed every twelve years, and proprietary (for-profit) organizations are reviewed every three years. A visiting committee may be appointed to perform on-site evaluations. Authorization is required for specific degree programs. A consumer protection clause protects the consumer against misleading advertisements. Out-of-state institutions must apply for degree granting authorization. No institutions are exempt from authorization statutes. (Relatively Strong Statutes)

John Weston (Dr.)
Academic Program Officer
Division of Academic Affairs
Massachusetts Board of Regents of Higher Education
One Ashburton Place, Room 1401
Boston, MA 02108
(617) 727-7785

Michigan

An on-site visit is required in Michigan before an educational institution is authorized to operate, and a site visit is required before a change in an academic program is authorized. Annual reports to the State Board of Education are required. However, a legal requirement for triennial inspection has not been implemented. No institutions are exempted from authorization statutes. (Average Strength Statutes)

David Hanson
Specialist, Accreditation and Approval
State Department of Education
P.O. Box 30008
Lansing, MI 48909
(517) 373-6551

Minnesota

In Minnesota a site visit to verify information for approval (authorization) of educational institutions is optional. Information submitted by educational institutions for regis-

tration is used to determine approval. No restrictions are placed on agents of educational institutions except that they must identify themselves properly. Penalties are not listed for violations of the statute. Minnesota requires degree programs and courses to register yearly and requires institutions that have no binding agreement preserving student records to post a \$20,000 surety bond. Restrictions against misleading advertisements are listed. Certain religious institutions are exempt from statutory regulations. (Average Strength Statutes)

E. Ann Kelly (Dr.)
 Manager of Programs
 Minnesota Higher Education Coordinating Board
 Suite 400, Capitol Square Building
 550 Cedar Street
 Saint Paul, MN 55101
 (612) 296-9699

Mississippi

Mississippi's Commission on College Accreditation has authority to "accredit" (authorize) postsecondary educational institutions that wish to operate in Mississippi. The Commission has adopted the standards of the Southern Association of Colleges and Schools and requires full accreditation from that organization before an institution can qualify for full "accreditation" by Mississippi's Commission. Educational institutions have seven years to reach full "accreditation" from the state. Institutions must reach "candidate" status by the fifth year, and they are subject to a site visit if one is deemed appropriate and necessary. Bible colleges in Mississippi must show they have applicant status, provisional accreditation, and eventual full accreditation from the American Association of Bible Colleges. Theological seminaries must show similar recognition from the Association of Theological Schools. Provisionally approved institutions are required to submit annual reports and receive annual approval. Court action is required to remove authorization to award degrees and to remove an institution's name from the annual list of "approved" insti-

tutions. The only restriction on advertising applies to institutions not holding full "accreditation" from the state. Some institutions continue to operate and award degrees under a "grandfather clause" enacted in 1964. (Average Strength Statutes)

George Carter
 Executive Secretary
 Board of Trustees of State Institutions of Higher Learning
 P.O. Box 2336
 Jackson, MS 39205
 (601) 982-6611

Missouri

Proprietary institutions may be authorized to operate and award degrees without any state-sponsored review of program quality. The Coordinating Board for Higher Education Board may, however, investigate applicants. Missouri also examines for consumer fraud protection. By "proprietary school," Missouri means "any person not specifically exempted . . . which offers or maintains on either a profit or not for profit basis . . . a course or courses of instruction or study through classroom instruction or correspondence." Certificates of approval (authorization) are required before courses may be offered or degrees awarded. The board may require posting of a "security bond" of not less than \$5,000 or 10 percent of the preceding year's gross tuition but may not exceed \$25,000. A seven-member Proprietary School Advisory Committee is appointed by the Board; members must be either individual proprietors, general partners of partnerships, or managerial employees of proprietary schools. Missouri exempts a relatively large number of institutions from regulation under its statutes including: (1) religious, denominational, or charitable organizations exempt from property taxation, and (2) any college or university represented directly or indirectly on the Coordinating Board's Advisory Committee. It is relatively easy for an organization to qualify for the religious exemption. The Board may dispense with investi-

gation of out-of-state applicants and grant authorization if it finds the applicant is authorized in another state with statutes roughly equivalent to Missouri's. Violations of the statutes are considered as misdemeanors and are punishable under Missouri law. (Relatively Weak Statutes)

Robert Jacob (Dr.)
Assistant Commissioner
Department of Higher Education
101 Adams Street
Jefferson City, MO 65101
(314) 751-2361

Montana

Licensing (authorization) of educational institutions by the state is required, but the state has no significant role in evaluating the institution's financial stability or program quality. No site visit is required. However, the Department of Commerce may request further information and conduct any investigation it believes to be appropriate. Montana does place restrictions on misleading advertisements and on the activities of agents of educational institutions. Penalties are established for violations of the statutes. Annual renewal of authorization requires submission of financial statements including balance sheet and curriculum changes. Surety bonds (\$10,000 for institutions and \$1,000 for agents) are required and must be renewed annually. No degree-granting institutions are exempted from these requirements. (Relatively Weak Statutes)

(C) Carrol Krause
Commissioner for Higher Education
Montana University System
33 South Last Chance Gulch
Helena, MT 59620
(406) 444-6570

Nebraska

"Provisional accreditation" (authorization) of nonaccredited schools for three years is allowed and is renewable for

another three years without an explicit site visit requirement. Some out-of-state institutions are exempted from state requirements but no in-state institutions are so exempted. (Relatively Weak Statutes)

Sue Gordon-Gessner
Executive Director
Nebraska Coordinating Commissioner for
Postsecondary Education
P.O. Box 95005
301 Centennial Mall South
Lincoln, NE 68509
(402) 471-2847

Nevada

"Licensing" (authorization) requires on-site visits by a panel that may include representatives of businesses or institutions affected by the educational organization and individuals with special knowledge of the field. Specific degree programs must be authorized, with investigation, if necessary. Comprehensive prohibitions against misleading advertising are enacted. A \$5,000 surety bond is required for authorization. Activities of agents for both in-state and out-of-state educational institutions are regulated. Authorization must be renewed every two years and is usually completed administratively. However, each new program or degree to be offered must be separately approved by the Commission on Postsecondary Education. (Relatively Strong Statutes)

John V. Griffin
Administrator
Nevada Commission on Postsecondary Education
State Capitol Complex
1000 East William, Suite 102
Carson City, NV 89710
(702) 885-5690

New Hampshire

The Postsecondary Education Commission is charged with authorizing both in-state and out-of-state institutions to op-

erate and grant specific degrees for a stated period of years. The statutes say that on-site inspections of educational institutions are to be conducted by the Commission "where possible" In practice, such inspections are accomplished for all nonaccredited institutions seeking degree-granting authority. Renewal of authorization requires a "reevaluation," but not a site visit. Each proposed new degree program must be submitted to the Commission for prior evaluation and approval. Anyone violating the statute regarding degree-granting authority in New Hampshire is guilty of a misdemeanor if a person or a felony if a corporation. In addition, the Commission has authority to seek injunctive relief in situations involving educational institutions. (Average Strength Statutes)

James A. Busselle (Dr.)
Executive Director
Postsecondary Education Commission
2 ½ Beacon Street
Concord, NH 03301
(603) 271-2555

New Jersey

Educational corporations in New Jersey must obtain licensure (authorization) from the Board of Higher Education, and must obtain approval for any course of study leading to a degree. Financial stability must be established, either by the State of New Jersey auditor or by an annual audit by an independent CPA. Program quality is required in such areas as the educational program, faculty, library, student services, physical facilities, and publications. The Department of Higher Education employs external consultants to assist it in the evaluation of authorization petitions for new degree programs. Authorization may be granted for a period not to exceed five years. The New Jersey Licensure and Approval Advisory Board makes recommendations to the Chancellor and to the Board of Higher Education on applications for licensure by nonaccredited New Jersey institutions and all out-of-state institutions. Proprietary institutions in New Jer-

sey may be licensed to grant the associate in applied science degree for up to five years before renewing their application. (Relatively Strong Statutes)

Amorita Suarez
Director
Office of Program Review, Accreditation and Licensure
Department of Higher Education
225 West State Street
Trenton, NJ 08625
(609) 292-2955

New Mexico

New Mexico grants educational institutions a "certificate of approval" after two years of operation. Thereafter, annual renewal is required. The state, however, does not actually "approve" the institution, it simply registers it. Although a "survey" of the institution is required by the Commission on Higher Education, no significant role is played by the state in the authorization process. New Mexico offers exemption to its statutes to a relatively large number of different categories of educational institutions (e.g., nonprofit religious institutions). Agents are required to pay a \$5.00 fee. A \$5,000 surety bond is required of institutions, and misleading ads are restricted. Violations of the statutes may be punished by a \$1,000 fine or imprisonment for not more than six months, or both. An attempt to strengthen these statutes failed in the 1987 legislative session. New Mexico's Commission on Higher Education has recently been given oversight responsible for all "proprietary" institutions—a term statutorily defined as including *both* for-profit and not-for-profit organizations. (Relatively Weak Statutes)

(C) Rosalie A. Bindel (Dr.)
Associate Executive Director for Academic Affairs
Commission on Higher Education
1068 Cerrillos Road
Santa Fe, NM 87501-4295
(505) 827-8300

New York

Institutions are chartered by the Regents of The University of the State of New York and receive specific authority in their charter to confer degrees. Site visits are made by State Education Department personnel and consultants expert in the subject fields being reviewed to ensure the quality of postsecondary level educational facilities and programs (including off campus offerings). Organizations may qualify for provisional or absolute charters. The Board of Regents has delegated to the Commissioner of Education the responsibility for registering (authorizing) all degree and certificate programs including those out-of-state institutions. New York regulates the actions of agents of educational institutions and prohibits misleading advertisements. Penalties for violation of state statutes are listed. (Relatively Strong Statutes)

Denis F. Paul (Dr.)
 Assistant Commissioner for Higher
 Education Academic Review
 New York State Education Department
 Cultural Education Center—Room 5A37
 Empire State Plaza
 Albany, NY 12330
 (518) 474-8299

Kevin Reilly (Dr.)
 Director, Division of Academic Program Review
 New York State Education Department
 Cultural Education Center—Room 5A37
 Empire State Plaza
 Albany, NY 12330
 (518) 474-3871

North Carolina

The North Carolina rules and standards relating to state oversight of postsecondary education are, to a significant extent, based on the "Model Licensing Law" developed in 1973 by the Education Commission of the States. On-site review of nonaccredited educational institutions that "may necessi-

tate use of a team of examinees" is required before an institution can be licensed (authorized). A surety bond of at least \$10,000 is required. No person or agency with whom an authorized institution contracts is to have a record of unprofessional conduct or incompetence that would reasonably call into question the overall quality of the institution. False, deceptive, misleading, or unfair practices associated with promotion, sales, collection, or credit are prohibited. Exempt from authorization requirements (including oversight under the most recent statutes) are institutions continuously conducting postsecondary degree activity in North Carolina since July 1, 1972; certain types of religious institutions; and institutions conducting postsecondary education degree activity within the military. State statutes are published in an unusually well-designed and clearly written catalogue. (Average Strength Statutes)

John F. Corey (Dr.)
 Associate Vice President for Planning
 The University of North Carolina, General
 Administration
 P.O. Box 2688
 Chapel Hill, NC 27514
 (919) 962-6981

North Dakota

All postsecondary educational institutions must be accredited by an agency recognized by the U.S. Department of Education. The Board of Higher Education may require additional evidence and make further investigation if necessary. Institutions seeking their first authorization to operate may be provisionally authorized on an annual basis until accredited. Full authorization is withheld until accreditation is achieved. (Average Strength Statutes)

Ellen Chaffee (Dr.)
 Associate Commissioner for Academic Affairs
 State Board of Higher Education
 State Capitol Building

Bismarck, ND 58505
(701) 224-2960

Ohio

Nonprofit educational institutions seeking a certificate of authorization in Ohio must be initially authorized and periodically reauthorized by the Board of Regents for each degree program offered. This authorization is both time and site specific for each program. Institutions seeking "certification," (authorization) may be, and usually are, examined on site by representatives of the Board of Regents. The representatives (usually Regents' staff and external consultants) have the right to inspect school records as well as Regents' records. The Board of Regents may require that the award of general degrees be limited to specific areas of instruction until such time as an institution can demonstrate that appropriate resources for instruction have been developed. The conduct of out-of-state institutions is covered thoroughly by Ohio's statutes. Action may be taken against misleading advertising.

Note: Proprietary (for-profit) institutions offering post-secondary degree instruction in Ohio are subject to the authority of the Ohio Board of School and College Registration rather than to the authority of the Ohio Board of Regents. All organizations, firms, and partnerships must apply for and receive a certificate of registration (authorization) before they may confer the associate or baccalaureate degree. The certificate is valid for two years. No new programs may be offered until the program has been registered and approved by the Board. A surety bond of \$10,000 is required. Out-of-state schools must secure a certificate of registration before soliciting students in Ohio. An agent of any school must apply for and receive an agent's permit before soliciting business. Penalties for violations of the statutes are specified. (Relatively Strong Statutes)

Jonathan Tafel (Dr.)
Director, Certificates of Authorization and Continuing
Education
Ohio Board of Regents

3600 State Office Tower
30 East Broad Street
Columbus, OH 43215
(614) 466-3334
(Also Ms. Linda Ogden at the same address)

Maurice Jones
Executive Secretary
Ohio State Board of School and College Registration
30 East Broad Street
Columbus, OH 43215
(614) 466-2752

Oklahoma

The Oklahoma State Regents for Higher Education formulate the regulations and standards by which private educational institutions are "accredited" (authorized), unless the institutions are accredited by a regional agency. Private educational institutions in existence prior to the 1981 statute are exempt from its provisions. The Oklahoma Higher Education Code covering private colleges and universities (Article XI, Sections 140-144) is very brief. No explicit provision is made for institutional site visits, surety bonding, false advertising penalties for violations, etc. (Relatively Weak Statutes)

(C) Melvin R. Todd (Dr.)
Vice Chancellor for Academic Administration
Oklahoma State Regents for Higher Education
500 Education Building
State Capitol Complex
Oklahoma City, OK 73105
(405) 521-2444

Oregon

The Oregon Educational Coordinating Commission may send a representative or a committee to inspect and review an educational institution applying for authorization. Authorization may be granted for a term not to exceed five years.

Each degree program must be authorized. Site reviews are conducted for renewal of authorization. Restrictions against misleading advertising are enacted. No nonaccredited institutions are exempted from regulation. Penalties up to \$500 may be levied against violators of the statutes. Graduate schools of theology are exempt (for professional degrees in religion). Surety bonding (amount equal to total tuition receipts for a term) may be required if the institution's financial base is considered to be weak. (Relatively Strong Statutes)

David A. Young (Dr.)
 Administrator, Academic Degree
 Office of Educational Policy and Planning
 Oregon Educational Coordinating Commission
 225 Winter Street NE
 Salem, OR 97310
 (503) 378-3921

Pennsylvania

Site visits of proposed educational degree-granting institutions are conducted by teams that include appropriate experts. The organization is required to have \$500,000 of unencumbered endowment. Institutions not accredited by a nationally recognized agency are to be evaluated every five years. Additional program and degree approval after the initial request is dependent upon an institution's charter or articles of incorporation. However, since 1969, every new institution must have each new program leading to a degree approved, as well each new degree. Each degree program of an institution is to be audited every five years by the institution. A statement indicating the procedures utilized and the results must be submitted to the Department of Education upon request. All out-of-state institutions must receive authorization to operate. There are penalties for violations of the statutes. (Relatively Strong Statutes)

Warren D. Evans (Dr.)
 Chief, Division of Postsecondary Education Services
 Acting Chief, Division of Program Approval
 Chartering/Governance/Accreditation Specialist

Pennsylvania Department of Education
 333 Market Street
 Harrisburg, PA 17126-0333
 (717) 783-8228

Puerto Rico

No private or out-of-state higher education institution can be established and operated in Puerto Rico without being previously authorized by the Council on Higher Education. Evaluation teams from both accredited nonpublic and the Commonwealth universities are appointed by the Council on Higher Education and are asked to provide advice about governance, financial stability, faculty, curriculum, library, learning resources, physical facilities, and public liability. Renewal of authorization is required every four years for both the institution and its programs of study. Prior approval of any new program is also required. Theological schools granting religious-service degrees not intended to result in eligibility for positions of employment outside of the religion to which they are oriented are exempt from provisions of the authorization statute. (Relatively Strong Statutes)

Ismael Ramirex Soto (Dr.)
 Executive Director,
 Office of the Council on Higher Education of
 Puerto Rico
 Box F
 University of Puerto Rico Station
 San Juan, Puerto Rico 00931
 (809) 758-3350 or 3356

Madeline Quilichini
 Associate Director, Licensing and Accreditation
 Office of the Council on Higher Education of Puerto
 Rico
 Box F
 University of Puerto Rico Station
 San Juan, Puerto Rico 00931
 (809) 758-3350 or 3356

Rhode Island

No institution may grant degrees without obtaining authorization from the Board of Governors for Higher Education. The Board is quite explicit in stating its responsibilities for regulatory intentions governing (1) proprietary schools; (2) in-state institutions of higher education; and (3) out-of-state institutions of higher education. The published protocols of the Board provide for site visits, restrictions on misleading advertising, and penalties for violation of the statutes. Rhode Island has very detailed criteria for use in reviewing proposals submitted by institutions wishing to offer degree programs in the state. (Relatively Strong Statutes)

Cynthia Ward (Dr.)
Associate Commissioner of Program and Planning
Rhode Island Office of Higher Education
199 Promenade Street
Providence, RI 02908
(401) 277-2685

South Carolina

A team site visit to educational institutions seeking authorization is required. The state authorizes specific degree programs and requires accredited institutions from other states to be authorized. A surety bond of at least \$10,000 is required. Site visits are not necessarily required for renewal of authorization but in practice are carried out by the Commission on Higher Education. A penalty of as much as \$5,000 may be imposed for violations of the statutes. Institutions and their agents are prohibited from engaging in advertising, sales, collection, credit, or other practices which are false, deceptive, misleading, or unfair. Bible schools and theological schools are exempt. (Average Strength Statutes)

Alan S. Krech
Assistant Director for Planning and Special Projects
South Carolina Commission on Higher Education
1429 Senate Street
Columbia, SC 29201
(803) 253-6260

South Dakota

Postsecondary education institutions "wishing to maintain, advertise, solicit for, or conduct a course of instruction in the state" must apply for an institutional license. Applicants for a license must show sound financial condition; must post a surety bond of \$10,000 for the institution and (eventually) a \$1,000 bond for each agent; and must give evidence of sound educational programs and safe living and studying facilities. No site visit or personal verification of the information submitted is required. Applicants pay a \$100 fee; renewal each year costs \$50. "An applicant need not resubmit all information required in the initial application at the time of renewal." No site visit is required for renewal. Solicitors, or agents, must pay a fee of \$25 (renewed annually for \$10) and sign an affidavit stating they have a copy of the statutes and are familiar with them. South Dakota's statute requires that each school's catalogue or brochure contain specific relevant information for students. Institutions and their agents are prohibited from using false advertisements. A relatively large number of categories of institutions are exempt from South Dakota's statutes. (Relatively Weak Statutes)

(C) Roxie Thielen
Administrative Aide
South Dakota Department of Education and
Cultural Affairs
Richard Kneip Building
700 Governors Drive
Pierre, SD 57501-2293
(605) 773-3134

Tennessee

Tennessee adopted the 1973 "Model Licensing Law" developed by the Education Commission of the States, which gives an agency of authorization the power, among other things, to "receive, investigate, and act upon applications for authorization to operate." Annual reauthorization is required. Each renewal application must include submission of the same information and materials as are required for initial authori-

zation. No specific requirement for site visits is included. The state restricts activities of agents, requires a \$10,000 surety bond, and restricts misleading advertising. A civil penalty of \$500 per day for each day of violation may be levied. Criminal sanctions may be sought by the state or district attorney. (Relatively Strong Statutes)

George M. Roberts (Dr.)
 Director of Licensure/Veterans Education
 Tennessee Higher Education Commission
 Parkway Towers, Suite 1900
 404 James Robertson Parkway
 Nashville, TN 37219
 (615) 741-3605

Texas

Educational institutions must operate as nondegree-granting institutions or educational or training establishments for at least two years before becoming eligible for certificates of authority to grant degrees. An institution may be "certified" (authorized) for no more than eight years (four two-year certificates) during which time it is expected to become accredited by a recognized accrediting agency and, thereby, exempt from the authorization law. Before certificates are granted, a site visit by experts is required. Violations of the statutes are punishable by fines of \$1,000 to \$5,000. Certificates of authority are renewed if the Texas Board finds the institution has maintained all standards. Site visits are customary but not required for renewal. The state requires that a list of agents of educational institutions be provided, but does not require additional regulation. In transmitting a certificate of authority, the Coordinating Board of the Texas College and University System specifies the exact language that must be used whenever reference is made to the certificate in publications, advertisements, or any other representations. Such language includes a disclaimer that the certificate does *not* constitute accreditation, but only that the institution has met the Board's minimum standards estab-

lished for purposes of consumer protection. (Relatively Strong Statutes)

David T. Kelley (Dr.)
 Director of Institutional Certification
 Texas Higher Education Coordinating Board
 University and Health Affairs
 P.O. Box 12780, Capitol Station
 Austin, TX 78711
 (512) 462-6491

Utah

Both educational institutions and their agents are required to register with the State Board of Regents every two years. Upon satisfactory completion of a comprehensive application, either a certificate of authority or a permit is awarded. The necessity of a site visit is predicated upon need. No surety bond is required. A relatively large number of categories of institutions are exempted from registration. The state neither endorses nor approves the institutions so registered but seeks to elicit as much information about the institution as is "legally advisable." The statutes prohibit false and misleading advertising and provide for full disclosure and specific penalties for violations. (Relatively Weak Statutes)

(C) Sterling R. Provost (Dr.)
 Assistant Commissioner for Veterans Education and
 Proprietary Schools
 Utah System of Higher Education
 355 West North Temple
 #3 Triad Center, Suite 550
 Salt Lake City, UT 84180-1205
 (801) 538-5247

Vermont

An institution must first "register" (incorporate) and state its intentions to operate and offer postsecondary education programs. The next step, which may not take place until the

institution has been in existence for eighteen months, is to apply for a certificate of approval or a certificate of degree-granting authority or both. A certificate of approval authorizes the institutions to exist but not to grant degrees. It is intended for use by institutions whose missions do not incorporate degree programs or institutions that do not wish to award degrees until they can secure accreditation. A certificate of degree-granting authority authorizes the institutions to begin awarding degrees. Certificates may be issued for a term not to exceed five years at which time they must be renewed. Either type of "certification" (authorization) involves the submission of a self-study report, a site visit by an evaluation team, and a recommendation to the Vermont Higher Education Council's Committee on Accreditation and Certification based on the team's written report. Issues of financial stability and quality are central to this evaluation process. Violations of the statutes are punishable by a fine not to exceed \$1,000, imprisonment for not more than one year, or both. (Relatively Strong Statutes)

Ann Turkle
Executive Director
Vermont Higher Education Council
Box 70
Hyde Park, VT 05655
(802) 888-7771

Sandra Robinson
Chief of Adult Education Unit
Vermont Department of Education
State Office Building
Montpelier, VT 05602-2703
(802) 828-3131

Virginia

The Virginia Council of Higher Education must give approval (authorization) for all course work for degree credit and degree programs. Institutions that offer only religious/theological education are exempt under provisions that have at least the potential to permit questionable organiza-

tions to escape state oversight. Also exempt are institutions that enroll only active duty military personnel on military bases. All other institutions must demonstrate compliance with authorization standards, as verified by site visit, prior to receiving approval to confer degrees. In-state private institutions receive provisional approval until accreditation is received from a recognized agency deemed appropriate by the council. Out-of-state institutions receive five-year renewable terms of approval for each program at each site and must be fully accredited prior to applying to operate in Virginia. The Council's regulations require specific wording and content in all advertising. The Council may suspend or revoke authorization for violation of its regulations, noncompliance with its standards, or loss of accreditation. Violations of the regulations carry civil and criminal penalties. New administrative regulations adopted in June 1987 specify that instruction via telecommunications requires authorization if offered on an organized schedule at a Virginia site. The new standards also impose specific curriculum and faculty requirements tied to the degree level of an institution's instructional programs. (Average Strength Statutes)

John Molnar (Dr.)
Library Planning and Institutional Approval
Coordinator
State Council of Higher Education for Virginia
James Monroe Building, 9th Floor
101 North 14th Street
Richmond, VA 23219
(804) 225-2634

Washington

Preoperation review using minimum criteria is specified before an institution can be authorized. A site visit is included, and the finances of the institution are also reviewed. Annual reauthorization is required. Restrictions apply to misleading advertising. Out-of-state institutions are regulated under the same statutes applying to domestic institutions. Penalties for violations are explicitly listed. Certain religious institutions

are exempt from regulation. Regulation does apply to the secular programs of institutions offering both religious and secular programs. Surety bonds or other security for new institutions is \$5,000. Thereafter the amount of the surety bond or security is set at 10 percent of the preceding year's total tuition and fee charges, but not less than \$5,000 nor more than \$100,000. (Relatively Strong Statutes)

Elaine Jones
Policy Associate
Washington State Council for Postsecondary Education
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West Virginia

A site visit by experts is required before an educational institution is authorized for a period of one to four years. A site visit is also required for renewal. Agents of institutions are regulated, and a \$50 fee and \$1,000 surety bond are required of them. Institutions must post a \$20,000 surety bond as well. Misleading advertisements are prohibited, and there are penalties for violations of the statutes. No institutions are exempt from state regulation. (Relatively Strong Statutes)

Douglas Call (Dr.)
Director of Community Colleges and
Vocational Education
West Virginia Board of Regents
950 Kanawha Boulevard, East
Charleston, WV 25301
(304) 348-2101

Wisconsin

All Wisconsin proprietary (for profit) institutions must be examined and "approved" (authorized) by Wisconsin's Educational Approval Board before operating. On-site inspections are part of the authorization process, and authorizations

must be renewed annually. An entire chapter of the Board's rules is devoted to regulation of advertising practices. Wisconsin requires an institutional surety bond of \$25,000 or more and a \$1,000 bond from agents. A \$500 fine and three months of imprisonment are specified for soliciting without a permit or for operating an unauthorized school. These statutes and regulations do *not* apply, however, to institutions organized on a nonprofit basis as defined by the U.S. Internal Revenue Code or institutions of a "parochial or denominational character offering courses having a sectarian objective." These categories of institutions are not subject to regulation by the Educational Approval Board or any other Wisconsin state agency. (Relatively Strong Statutes for Proprietary Institutions, Relatively Weak Statutes for Nonaccredited Tax-exempt Private Institutions)

(C) David R. Stucki
Executive Secretary
State of Wisconsin Educational Approval Board
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(608) 266-1996

Wyoming

Wyoming requires licensing (authorization) of for-profit and nonprofit educational institutions, but requires no site visit or detailed evaluation of program quality. Schools must post a \$10,000 performance bond, and agents must pay a \$25 fee. Misleading advertising is prohibited. Renewal of authorization requires a \$50 fee, but no site visit. Violators are guilty of a misdemeanor and on conviction may be punished by a fine of not more than \$100 or by imprisonment for not more than six months, or by both fine and imprisonment. Each solicitation of enrollment or each transaction of business without authorization constitutes a separate offense. (Relatively Weak Statutes)

(C) Lyall Hartley
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 Cheyenne, WY 82002
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Index

Note: Index page references followed by (p) refer to photographs or illustrative material.

A

- Accreditation, 33, 109–125, 128, 171
 California Education Code
 Sections 94310.1(a) and
 94310.1(b), 142
 candidacy for, 113–114
 defined, 110
 federal funds eligibility
 requirement, 124
 institutional, 110–114
 mills, 24, 121
 process, 116–117
 purposes of, 110
 specialized, 111, 114–116
 universities, numbers of, 38
- Accredited colleges and
 universities, numbers of, 38
- Accrediting agencies
 national, 114
 regional, 114
 specialized, 114, 116
 statutory start-up requirements,
 121
- Ackerman, Billie L., xii
- Acronyms, glossary of, 193–194
- Addresses, important
 organizations, 195–196
- Admissions, 29–30
- Advertising, 25–26, 67
- Advisory committees, 24
- Alabama, summary of statutes,
 209
- Alaska, summary of statutes, 209–
 210
- Alumni Arts, 37, 65
- American Association of Collegiate
 Registrars and Admissions
 Officers, 162
- American Association of
 Community and Junior
 Colleges, 99, 100, 101
- American Association of Nutrition
 Consultants, 18
- American Council on Education,
 ix, 3, 12, 24, 32, 105–107, 133,
 145–146, 157, 167, 183, 190
 complaints received by, 4
 recommended actions to control
 diploma mills, 187–190
- American Society for Personnel
 Administration, 12
- American Society for Training and
 Development, 12
- American Speech-Language-
 Hearing Association, 24, 125
- “American Western Alumni
 Association,” 69
- “American Western Evaluation
 Center,” 69
- “American Western Financial
 Corporation,” 69
- “American Western University,”
 66–70
- Andersen, Kay J., xii
- Andrews, Grover J., 57, 104
- Appraisal, 128
- Approval, 4, 33, 118, 128, 171
- California Education Code, 140–
 146

Appendix H

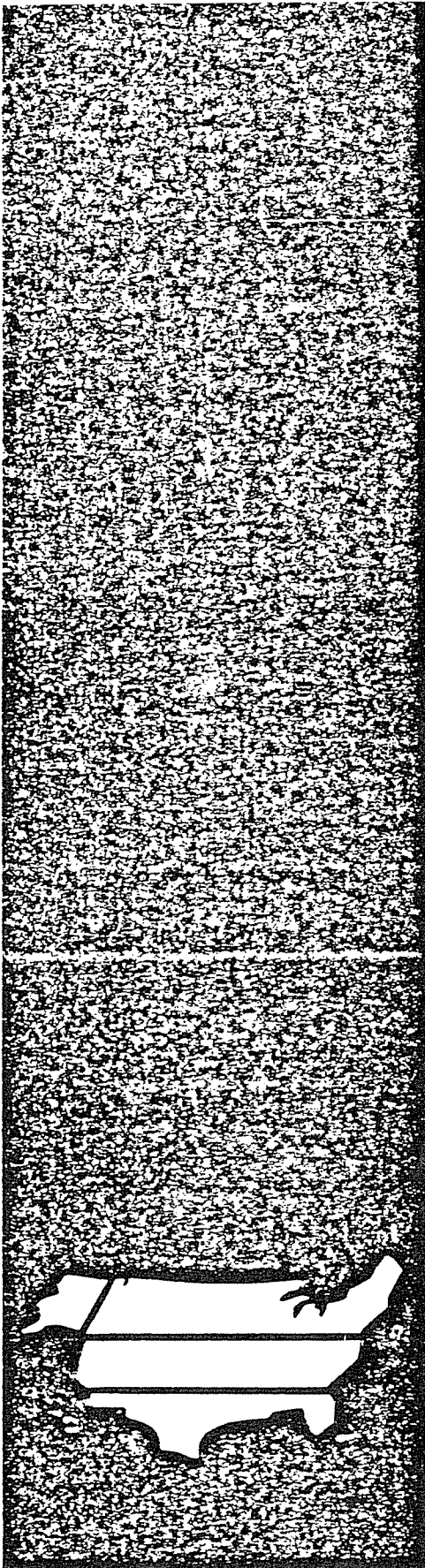
MODEL STATE LEGISLATION

Report of the
Task Force on Model State Legislation for
Approval of Postsecondary Educational Institutions
and Authorization to Grant Degrees

*Education Commission of the States
1860 Lincoln Street
Suite 300
Denver, Colorado 80203*

June, 1973

Report Number 39



MODEL STATE LEGISLATION

Report of the
Task Force on Model State Legislation for
Approval of Postsecondary Educational Institutions
and Authorization to Grant Degrees

Report No. 39
Education Commission of the States
Denver, Colorado
Wendell H. Pierce, Executive Director

June, 1973

Additional copies of this report may be obtained for \$2.00
from the Education Commission of the States, 300 Lincoln Tower,
1860 Lincoln Street, Denver, Colorado 80203, (303) 893-5200

FOREWORD

In response to a number of requests from several states, the U.S. Office of Education, the Department of Defense, the Veterans Administration, accrediting agencies, and other sources for guidance and assistance on how to deal with practices in postsecondary education which could be considered questionable, unethical, or fraudulent, the Education Commission of the States (ECS) agreed to establish a Task Force to consider the problems, including the possibility of developing model state legislation. The work of the Task Force was supported in part by a grant from the Federal Interagency Committee on Education--U.S. Office of Education, the Veterans Administration, and the Department of Defense.

The Task Force on Model State Legislation for Approval of Postsecondary Educational Institutions and Authorization to Grant Degrees drew its membership from representatives of the Education Commission of the States, state government, state agencies concerned with different aspects of postsecondary education and its regulation, the Office of Education, major accrediting agencies, postsecondary educational institutions (including complex institutions), and proprietary education. A list of the Task Force members is attached.

I believe, especially with key interests represented on the Task Force, that all the major issues were discussed fully. The model legislation was developed from those deliberations. Noted in the commentary and in the model legislation is the possibility for alternatives. Because of the unique circumstances and traditions among the states, the Task

Force recognizes that variations from its model legislation may--and, in fact, should--occur. The issue of which agency of state government should administer the provisions of the Act is illustrative. Many would argue for using an existing agency, such as the coordinating or governing board for higher education and postsecondary education in a state or, in some cases, the board of education. Others would argue for the creation of a special commission that for the purposes of the Act would have jurisdiction in relation to all postsecondary educational institutions.

Therefore, recognizing that the function of model legislation is to serve as a guide that may be modified to meet the particular needs of individual states, I am pleased to present this report, including the proposed model legislation and commentary, on behalf of the Task Force and the Education Commission of the States.

The Honorable Tom Jensen
Tennessee State Representative
and House Minority Leader
Task Force Chairman

TASK FORCE ON MODEL STATE LEGISLATION FOR APPROVAL
OF POSTSECONDARY EDUCATIONAL INSTITUTIONS
AND AUTHORIZATION TO GRANT DEGREES

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TASK FORCE ON MODEL STATE LEGISLATION FOR
APPROVAL OF POSTSECONDARY EDUCATIONAL INSTITUTIONS
AND AUTHORIZATION TO GRANT DEGREES

Introduction

Access to postsecondary educational opportunity for all Americans received renewed emphasis at the national level with the passage of the Education Amendments of 1972. Postsecondary education in the United States is varied and diverse in terms of institutions, programs, and courses of study available. The Education Amendments of 1972 permit even greater variety and diversity by encouraging expanded recognition of the institutions and programs that may be considered viable and acceptable at the post-high school level.

As in the past, variety and diversity continue to contribute to the vitality of postsecondary education. Its general availability to virtually all Americans also steadily increases, and this should continue. However, while vitality and availability flourish, there is the danger that questionable, unethical, or fraudulent practices may exploit the manner in which postsecondary education is offered and conducted.

Prior to 1972, the United States Office of Education reported that approximately 2,700 postsecondary institutions were accredited by agencies recognized for this purpose by the Office of Education. In addition, there were about 300 unaccredited colleges and universities in the United States. Of the 300, it was estimated that about 110

could be considered "diploma mills," essentially providing no training or education, but selling degrees for a price. The other 190 may not have satisfied the standards for accreditation but were making honest efforts to meet the required standards.

With the inclusion in the 1972 Amendments of much less restrictive criteria for qualifying for federal funds, an expanded recognition of viable and acceptable postsecondary programs and institutions was encouraged. Thus, rather than 3,000 colleges and universities, current estimates suggest a total of approximately 14,000 institutions and programs comprising the range of postsecondary institutions, including traditional higher educational institutions, postsecondary vocational and technical institutions, and other private and proprietary schools. Accordingly, while the actual number of institutions and programs with questionable, unethical, or fraudulent practices may be small, the leeway for such practices may be greater, and estimates suggest that unsuspecting consumers may be fleeced of several million dollars each year.

Since the legal responsibility for authorizing the existence and continuation of postsecondary educational institutions, programs, and courses of study rests fundamentally with the states, it follows that a logical step for controlling questionable, unethical, or fraudulent practices would be enactment of statutes or amendments of existing state laws for this purpose on certain guidelines or models.

Accordingly, the Education Commission of the States (ECS) Task Force on Model State Legislation for Approval of Postsecondary Educational Institutions and Authorization to Grant Degrees offers the following model for state legislation.

MODEL LEGISLATION

Re: Approval of Postsecondary Educational
Institutions and Authorization to Grant Degrees

Text

AN ACT

relating to postsecondary educational institutions,
[designating the _____] (an appropriate state
education agency) [creating a Commission on Post-
secondary Institutional Authorization] and vesting
the same with the power to authorize and regulate
postsecondary educational institutions and agents
thereof in the [State] [Commonwealth] of _____;
assigning powers and duties to such agency;
regulating the granting of academic degrees and
the naming of educational institutions; providing
for the preservation of academic records; and for
other purposes.

BE IT ENACTED by the Legislature of the
[State] [Commonwealth] of _____.

Section 1. Short Title. This Act may be
cited as the Postsecondary Educational Authori-
zation Act of 19__.

Section 2. Purposes. It is the purpose of
this Act to provide for the protection, education,
and welfare of the citizens of the [State] [Common-
wealth] of _____, its postsecondary edu-
cational institutions, and its students, by:

Commentary

Purposes. Section 2 sets forth the Act's purposes related to protecting citizens, students, and institutions against questionable, unethical, and fraudulent practices (including such practices by institutions referred to as

Text

(a) establishing minimum standards concerning quality of education, ethical and business practices, health and safety, and fiscal responsibility, to protect against substandard, transient, unethical, deceptive, or fraudulent institutions and practices;

(b) prohibiting the granting of false or misleading educational credentials;

(c) regulating the use of academic terminology in naming or otherwise designating educational institutions;

(d) prohibiting misleading literature, advertising, solicitation, or representation by educational institutions or their agents;

(e) providing for the preservation of essential academic records; and

(f) providing certain rights and remedies to the consuming public and the [Agency] [Commission] necessary to effectuate the purposes of this Act.

Section 3. Definitions. As used in this Act:

(a) "Postsecondary educational institution" includes, but is not limited to, an academic, vocational, technical, home study, business, professional, or other school, college, or university, or other organization or person, offering

Commentary

"degree mills") through the state's regulatory powers.

Definitions. The critical definition in Section 3 is "postsecondary educational institution." Here the Task Force, in cooperation with the Federal Inter-agency Committee on Education and the U.S. Office of Education, attempted to develop a sufficiently broad definition to include all operations and programs available to

Text

educational credentials, or offering instruction or educational services (primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance) for attainment of educational, professional, or vocational objectives.

(b) "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this [State] [Commonwealth] where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.

(c) "Authorization to operate" or like term means approval of the [Agency] [Commission] to operate or to contract to operate a postsecondary educational institution in this [State] [Commonwealth].

(d) "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

(e) "To grant" includes awarding, selling, conferring, bestowing, or giving.

Commentary

persons of post-high school age. The Task Force chose a broad definition with specific exemptions, rather than a narrow or restrictive definition, to avoid creating loopholes inadvertently.

A broad definition for the representative of a postsecondary educational institution also was recognized as critical. Accordingly, "agent" refers to anyone who receives compensation from an institution and who, on behalf of the institution, attempts to encourage people to attend, enroll, or receive educational credentials from his institution or program.

Text

(f) "Education" or "educational services" or like term includes, but is not limited to, any class, course, or program of training, instruction, or study.

(g) "Agent" means any person owning any interest in, employed by, or representing for remuneration, a postsecondary educational institution within or outside this [State] [Commonwealth], who, by solicitation in any form made in this [State] [Commonwealth], enrolls or seeks to enroll a resident of this [State] [Commonwealth] for education offered by such institution, or offers to award educational credentials, for remuneration, on behalf of any such institution, or who holds himself out to residents of this [State] [Commonwealth] as representing a postsecondary educational institution for any such purpose.

(h) "Agent's permit" means a nontransferable written authorization issued to a natural person by the [Agency] [Commission] which allows that person to solicit or enroll any resident of this [State] [Commonwealth] for education in a postsecondary educational institution.

(i) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports,

Commentary

Text

documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution.

(j) "Entity" includes, but is not limited to, any company, firm, society, association, partnership, corporation, and trust.

(k) Alternative One. ["Agency" means the _____.] (An appropriate state education agency.)

(k) Alternative Two. ["Commission" means the Commission on Postsecondary Institutional Authorization.]

Section 4. Exemptions. The following education and educational institutions are exempted from the provisions of this Act:

(a) Institutions exclusively offering instruction at any or all levels from pre-school through the twelfth grade.

(b) Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the [Agency] [Commission], solely for that organization's

Commentary

Exemptions. While the Act is designed to encompass virtually all of postsecondary education, certain programs are exempted, since the Task Force felt that the possibility of their violating consumer protection would be remote.

Section 4 suggests alternatives for exempting public postsecondary educational institutions. Alternative One would exempt all public institutions. Alternative Two would exempt the same

Text

membership, or offered on a no-fee basis.

(c) Education solely avocational or recreational in nature, as determined by the [Agency] [Commission], and institutions offering such education exclusively.

(d) Education offered by eleemosynary institutions, organizations, or agencies, so recognized by the [Agency] [Commission], provided such education is not advertised or promoted as leading toward educational credentials.

(e) Alternative One. [Postsecondary educational institutions established, operated, and governed by this [State] [Commonwealth] or its political subdivisions, as determined by the [Agency] [Commission].]

(e) Alternative Two. [Postsecondary educational institutions established, operated, and governed by this [State] [Commonwealth] or its political subdivisions; provided, however, such institutions meet minimum standards accepted by the [Agency] [Commission] for authorizing all other postsecondary educational institutions of like kind or character.]

Section 5. [_____ Agency.]
[Commission on Postsecondary Institutional
Authorization.]

Commentary

institutions, but with the condition that they satisfy at least the minimum standards applicable to the non-exempt institutions, as established and enforced by the state agency or commission.

[_____ Agency]
[Commission on Postsecondary Institutional
Authorization]. Section 5
suggests alternatives for

Text

(1) Alternative One. [Designation.

[_____] (an appropriate state education agency) shall administer the provisions of this Act, in addition to its duties presently provided by law; and for the purposes thereof, the [Agency] may hire such personnel as may be necessary, subject to the availability of appropriations. To effectuate the purposes of this Act, the [Agency] may request from any department, division, board, bureau, commission, or other agency of the state, and the same shall provide, such information as will enable the [Agency] to exercise properly its powers and perform its duties hereunder.]

(1) Alternative Two. [Establishment.

There is hereby established [The Commission on Postsecondary Institutional Authorization] which shall administer the provisions of this Act, within and subject to the jurisdiction of the _____. The [Commission] may hire such personnel as may be necessary, subject to the availability of appropriations. To effectuate the purposes of this Act, the director may request from any department, division, board, bureau, commission, or other agency of the state, and the same shall provide, such information as will enable the director to exercise properly his powers and perform his duties

Commentary

placing authority in the state government and sets forth the powers and duties of the agency or commission.

The Task Force felt that it would be inappropriate to suggest to the state where governmental authority should be placed for carrying out the provisions of the Act. The designation of an existing agency or commission in the state, or the establishment of a new agency, would depend upon circumstances within the particular state--statutes, constitutional constraints, accepted practice, and political realities.

If an existing agency is designated under Section 5, it should have the capability and experience for using regulatory powers. It should also have an understanding and empathy for the institutions to be regulated. Further, if it is not currently representative of the constituent institutions to be regulated, it should develop an appropriate advisory structure with such representation.

On the other hand, if a new commission is formed, the Act needs to be further expanded to specify methods of selection or appointment of the commission's members, terms of office, provisions for removing members and filling vacancies, and provisions for staff and their functions. These

Text

hereunder.] (See commentary regarding structure of commission and related problems.)

(2) Powers and Duties. The [Agency shall have, in addition to the powers and duties now vested therein by law,] [Commission shall have] the following powers and duties:

(a) To establish minimum criteria in conformity with Section 6 of this Act, including quality of education, ethical and business practices, health and safety and fiscal responsibility, which applicants for authorization to operate, or for an agent's permit, shall meet before such authorization or permit may be issued, and to continue such authorization or permit in effect. The criteria to be developed hereunder shall be such as will effectuate the purposes of this Act, but will not unreasonably hinder legitimate educational innovation.

(b) To receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary educational institutions and applications for agent's permits.

(c) To maintain a list of postsecondary educational institutions and agents authorized to operate in this [State] [Commonwealth] under the provisions of this Act. Said list shall be available for the information of the public.

Commentary

stipulations would be cited in Section 5, Establishment. The commission should have fair and equitable representation of the various components of postsecondary education and of the public.

Powers and Duties. This part of Section 5 offers specific suggestions concerning the responsibilities that would be given to the agency or commission. Although certain cited powers and duties are self-explanatory, some need comment. For paragraph (a), minimum standards, explanation is offered in Section 6.

Paragraph (d) encourages reciprocity agreements among the states. For example, in some states informal exchanges currently take place in regard to background information on an institution or an agent just starting to do business in a particular state. Some states have adopted formal statements of mutual cooperation in sharing information. The Task Force recommends and encourages these mutual efforts, but cautions that such formal agreement cannot relieve the agency or commission of its authority and responsibility as provided for in the Act, and the state must retain the right to conduct independent inquiry and take independent action where desirable or necessary.

Text

(d) To negotiate and enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the [Agency] [Commission] such agreements are or will be helpful in effectuating the purposes of this Act; provided, however, that nothing contained in any such reciprocity agreement shall be construed as limiting the [Agency's] [Commission's] powers, duties, and responsibilities with respect to independently investigating or acting upon any application for authorization to operate or any application for renewal of such authorization to operate for a postsecondary educational institution, or an application for issuance of or renewal of any agent's permit, or with respect to the enforcement of any provision of this Act, or any of the rules or regulations promulgated hereunder.

(e) To receive and cause to be maintained as a permanent file, copies of academic records in conformity with Section 17 of this Act.

(f) To promulgate rules, regulations, and procedures necessary or appropriate for the conduct of its work and the implementation of this Act, which rules and regulations shall have the force of law; and to hold such hearings as it may deem advisable or as required by law in developing such rules, regulations, and procedures, or in aid

Commentary

Paragraph (e) provides for the preservation of academic records of institutions that cease to exist. To prevent the loss of such records, the agency or commission would have the authority and responsibility for causing the records to be maintained and could legally seize such records if, in its reasonable judgment, that appeared necessary. (See Section 17.)

Text

of any investigation or inquiry.

(g) To investigate as it may deem necessary, on its own initiative or in response to any complaint lodged with it, any person, group, or entity subject to, or reasonably believed by the [Agency] [Commission] to be subject to, the jurisdiction of this Act; and in connection therewith to subpoena any persons, books, records, or documents pertaining to such investigation, which subpoenas shall be enforceable by any court of this [State] [Commonwealth]; to require answers in writing under oath to questions propounded by the [Agency] [Commission] and to administer an oath or affirmation to any person in connection with any investigation.

(h) To exercise other powers and duties implied but not enumerated in this Section but in conformity with the provisions of this Act which, in the judgment of the [Agency] [Commission], are determined necessary in order to carry out the provisions of this Act.

Section 6. Minimum Standards.

(1) In establishing the criteria required by Section 5 of this Act, the [Agency] [Commission] shall observe and shall require compliance with the following minimum standards:

Commentary

Minimum Standards. Section 6 sets forth minimum standards that must be included in the criteria developed by the agency or commission for determining whether an institution may operate within the state. Essentially, these criteria

Text

(a) A postsecondary educational institution must be maintained and operated, or, in the case of a new institution, it must demonstrate that it can be maintained and operated, in compliance with the following minimum standards:

(i) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered.

(ii) That the institution has adequate space, equipment, instructional materials, and personnel to provide education of good quality.

(iii) That the education and experience qualifications of directors, administrators, supervisors, and instructors are such as may reasonably insure that the students will receive education consistent with the objectives of the course or program of study.

(iv) That the institution provides students and other interested persons with a catalog or brochure containing information describing the programs offered, program objectives, length of program, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, and such other material facts concerning

Commentary

include consideration of the institution's ability to enable students to reach its educational objectives and assurance that it has the means of doing so. They also encompass adequate, fair, and accurate information for prospective students in regard to the objectives, costs, and conditions involved. The Act requires not only truth in advertising, but also disclosure of relevant information.

Paragraphs (i) through (vi) of Part (1)(a) relate specifically to objectives, facilities, qualifications of staff, information, credentials, and records.

Paragraphs (vii), (viii) and (xi) deal with the minimum standards for the physical and fiscal conditions of the institution, including protection of the consumer in terms of health, safety, and fiscal responsibility.

Paragraph (iv) establishes the minimum informational disclosure items that should be available about the institution or educational program and should be read in conjunction with paragraph (ix), relating to disclosure practices which are false, deceptive, misleading, or unfair.

Part (1)(b) sets forth the conditions to be satisfied by any applicant for an agent's permit,

Text

the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein, together with any other disclosures specified by the [Agency] [Commission] and/or defined in the rules and regulations; and that such information is provided to prospective students prior to enrollment.

(v) That upon satisfactory completion of training, the student is given appropriate educational credentials by said institution, indicating that said course or courses of instruction or study have been satisfactorily completed by said student.

(vi) That adequate records are maintained by the institution to show attendance, progress, or grades, and that satisfactory standards are enforced relating to attendance, progress, and performance.

(vii) That the institution is maintained and operated in compliance with all pertinent ordinances and laws, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.

(viii) That the institution is financially sound and capable of fulfilling its commitments

Commentary

and specifies that among these conditions is that the institution he represents must satisfy the minimum standards as proposed in the Act or set forth by the agency. Accordingly, any person receiving an agent's permit, as defined in Section 3, would be representing an institution or program conforming to at least the minimum standards established in the Act and enforceable by the agency or commission.

Part (2) permits the agency or commission to accept accreditation of an institution by an accrediting agency approved by the U.S. Commissioner of Education as evidence of the institution's conformance to the minimum standards set forth in the Act or by the agency. However, the use of such accredited status is permissive, not mandatory, and the state agency may require additional evidence or may undertake its own investigation if it so desires or the circumstances warrant. While the Task Force sanctions the use of accreditation status as possible evidence of compliance with statutory minimum standards, it does not intend that the agency or commission abrogate its statutory responsibility through substitution of accreditation for independent review and action.

Text

to students.

(ix) That neither the institution nor its agents engage in advertising, sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair.

(x) That the chief executive officer, trustees, directors, owners, administrators, supervisors, staff, and instructors are of good reputation and character.

(xi) That the student housing owned, maintained, or approved by the institution, if any, is appropriate, safe, and adequate.

(xii) That the institution has a fair and equitable cancellation and refund policy.

(b) An applicant for an agent's permit shall be an individual of good reputation and character and shall represent only a postsecondary educational institution or institutions which meet the minimum standards established in this Section 6 and the criteria established under Section 5 of this Act.

(2) Accreditation by national or regional accrediting agencies recognized by the United States Office of Education may be accepted by the [Agency] [Commission] as evidence of compliance with the minimum standards established hereunder and the criteria to be established

Commentary

Text

under Section 5 of this Act; provided, the [Agency] [Commission] may require such further evidence and make such further investigation as in its judgment may be necessary. Accreditation by a recognized, specialized accrediting agency may be accepted as evidence of such compliance only as to the portion or program of an institution accredited by such agency if the institution as a whole is not accredited.

Section 7. Prohibition. No person, agent, group, or entity of whatever kind, alone or in concert with others, shall:

(a) Operate in this [State] [Commonwealth] a postsecondary educational institution not exempted from the provisions of this Act, unless said institution has a currently valid authorization to operate issued pursuant to the provisions of this Act.

(b) Offer, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, a postsecondary educational institution not exempted from the provisions of this Act, whether such institution is within or outside this [State] [Commonwealth], unless such agent is a natural person and has a currently valid agent's permit issued pursuant to the provisions of this Act, nor accept contracts

Commentary

Prohibition. Section 7 cites practices by institutions or their agents that are specifically prohibited by the Act. A resident institution cannot operate within the state without authorization to do so, nor may an agent without a permit operate within the state, whether representing an out-of-state or resident institution. Neither an institution nor its agent may operate or solicit in the state unless the institution meets the minimum standards set forth in the Act. Thus, although out-of-state institutions are not required prior to soliciting in a state to apply for an "authorization to operate," when they do solicit, they immediately become subject to the jurisdiction of the courts within that state, and may be enjoined if they fail to meet the minimum standards required under the Act.

Text

or enrollment applications from an agent who does not have a current permit as required by this Act; provided, however, that the [Agency] [Commission] may promulgate rules and regulations to permit the rendering of legitimate public information services without such permit.

(c) Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, in this [State] [Commonwealth], whether such person, agent, group, or entity is located within or without this [State] [Commonwealth], unless such person, agent, group, or entity observes and is in compliance with the minimum standards set forth in Section 6 (1) of this Act, the criteria established by the [Agency] [Commission] pursuant to Section 5 (2) (a) hereof, and the rules and regulations adopted by the [Agency] [Commission] pursuant to Section 5 (2) (f) hereof.

(d) Use the term "university" or "college" without authorization to do so from the [Agency] [Commission].

Commentary

Text

(e) Grant, or offer to grant, educational credentials, without authorization to do so from the [Agency] [Commission].

Section 8. Authorization to Operate.

(1) Each postsecondary educational institution desiring to operate in this [State] [Commonwealth] shall make application to the [Agency] [Commission], upon forms to be provided by the [Agency] [Commission]. Said application shall be accompanied by a catalog or brochure published, or proposed to be published by the institution, containing the information specified in Section 6 (1) (a) (iv) of this Act, including information required by rules and regulations of the [Agency] [Commission]. Said application shall also be accompanied by evidence of a surety bond as required by this Act, and payment of the fees specified herein.

(2) Following review of such application and any further information submitted by the applicant, or required by the [Agency] [Commission], and such investigation of the applicant as the [Agency] [Commission] may deem necessary or appropriate, the [Agency] [Commission] shall either grant or deny authorization to operate to the applicant. A grant of authorization to operate may be on such terms and conditions as the [Agency] [Commission] may specify.

Commentary

Authorization to Operate. Agent's Permit. Sections 8 and 9 develop the procedures and conditions for obtaining or renewing the institution's authorization to operate and the agent's permit.

Commentary

Text

(3) The authorization to operate shall be in a form recommended and approved by the [Agency] [Commission] and shall state in clear and conspicuous manner at least the following information:

(a) The date of issuance, effective date, and term of approval.

(b) The correct name and address of the institution so authorized.

(c) The authority for approval and conditions thereof.

(d) Any limitation of the authorization, as deemed necessary by the [Agency] [Commission].

(4) The term for which authorization is given shall not extend for more than [one] [two] years, and may be issued for a lesser period of time.

(5) The authorization to operate shall be issued to the owner, or governing body, of the applicant institution, and shall be nontransferable. In the event of a change in ownership of the institution, a new owner, or governing body, must, within ten (10) days after the change in ownership, apply for a new authorization to operate, and in the event of failure to do so, the institution's authorization to operate shall terminate. Application for a new authorization

Text

to operate by reason of change in ownership of the institution shall for purposes of Section 10 (2) of this Act, be deemed an application for renewal of the institution's authorization to operate.

"Ownership" for purposes of this section shall be deemed to mean ownership of a controlling interest in the institution, or in the event the institution is owned or controlled by a corporation or other legal entity other than a natural person or persons, ownership of a controlling interest in the legal entity owning or controlling such institution.

(6) At least sixty (60) days prior to the expiration of an authorization to operate, the institution shall complete and file with the [Agency] [Commission] an application form for renewal of its authorization to operate. Said renewal application shall be reviewed and acted upon as provided hereinabove.

(7) An institution not yet in operation when its application for authorization to operate is filed may not begin operation until receipt of authorization. An institution in operation when its application for authorization to operate is filed may continue operation until its application is acted upon by the [Agency] [Commission], and thereupon its authority to operate shall be

Commentary

Text

governed by the action of the [Agency] [Commission]. In any event, the [Agency] [Commission] may issue provisional authorization to operate, containing such limitations as to time, procedures, functions, or other conditions as the [Agency] [Commission] may deem necessary.

Section 9. Agent's Permit.

(1) Each person desiring to solicit or perform the services of an agent, as herein defined, in this [State] [Commonwealth], shall make application to the [Agency] [Commission], upon forms to be provided by said [Agency] [Commission]. Said application shall be accompanied by evidence of the good reputation and character of the applicant, in a form to be prescribed by the [Agency] [Commission], and shall state the institution or institutions which the applicant intends to represent. An agent representing more than one institution must obtain a separate agent's permit for each institution represented; provided, that when an agent represents institutions having a common ownership, only one agent's permit shall be required with respect to said institutions. In the event any institution which the applicant intends to represent does not have authorization to operate in this [State]

Commentary

Text

[Commonwealth], said application shall be accompanied by the information required of institutions making application for such authorization. Said application for an agent's permit shall also be accompanied by evidence of a surety bond as required by this Act, and payment of the fees specified herein.

(2) Following review of such application and any further information submitted by the applicant, or required by the [Agency] [Commission], and such investigation of the applicant as the [Agency] [Commission] may deem necessary or appropriate, the [Agency] [Commission] shall either grant or deny an agent's permit to the applicant.

(3) The agent's permit shall be in a form recommended and approved by the [Agency] [Commission] and shall state in a clear and conspicuous manner at least the following information:

(a) The date of issuance, effective date, and term.

(b) The correct name and address of the agent.

(c) The institution or institutions which such agent is authorized to represent.

(4) The term for which an agent's permit is issued shall not extend for more than [one] [two]

Commentary

Text

years, and may be issued for a lesser period of time.

(5) At least sixty (60) days prior to the expiration of an agent's permit, the agent shall complete and file with the [Agency] [Commission] an application form for renewal of said permit. Said renewal application shall be reviewed and acted upon as provided hereinabove.

Section 10. Denial of Authorization to Operate or Agent's Permit.

(1) If the [Agency] [Commission], upon review and consideration of an application for authorization to operate, or for an agent's permit, or for renewal thereof, shall determine that the applicant fails to meet the criteria established as provided in this Act, the [Agency] [Commission] shall so notify the applicant, setting forth the reasons therefor in writing, and shall deny the application.

(2) The [Agency] [Commission] may grant to an applicant for renewal an extension of time of reasonable duration in which the applicant may eliminate the reason or reasons for denial contained in the statement of denial, if the applicant has demonstrated to the satisfaction of the [Agency] [Commission] its or his desire to meet

Commentary

Denial of Authorization to Operate or Agent's Permit. [Agency] [Commission] Review. Revocation of Authorization to Operate or Agent's Permit.
Sections 10, 11, and 12 are designed to establish safeguards and due-process requirements in connection with applications for authorization to operate, agent's permits, and renewals thereof.

Text

the requirements of Section 6 of this Act and the criteria established pursuant to Section 5 of this Act, and if in the judgment of the [Agency] [Commission], it would be reasonably possible for the applicant to meet said requirements and criteria within such time.

(3) In the event the [Agency] [Commission] denies an application for an agent's permit, or for renewal thereof, it shall notify the institution or institutions which said agent represented or proposed to represent, according to the records of the [Agency] [Commission], including the reasons therefor.

Section 11. [Agency] [Commission] Review.

Any person aggrieved by a decision of the [Agency] [Commission] respecting denial of an authorization to operate, or of an agent's permit, or the placing of conditions thereon, whether on initial application or on application for renewal, and any person aggrieved by the imposition of a penalty by the [Agency] [Commission] under Section 19 of this Act, shall have the right to a hearing and review of such decision by the [Agency] [Commission] as provided herein.

(a) If, upon written notification of any such action taken by the [Agency] [Commission], the aggrieved party desires a hearing and review,

Commentary

Text

such party shall notify the [Agency] [Commission], in writing, within ten (10) days after the giving of notice of such action, otherwise said action shall be deemed final.

(b) Upon receiving such notice from the aggrieved party, the [Agency] [Commission] shall fix the time and place for a hearing, and shall notify the aggrieved party thereof.

(c) At such hearing, the party may employ counsel, shall have the right to hear the evidence upon which the action is based, and present evidence in opposition or in extenuation. The hearing shall be conducted in accordance with the [Administrative Code of this [State] [Commonwealth]] [Rules of Civil Procedure of this [State] [Commonwealth]]. Any member of the [Agency] [Commission] may preside except where a clear conflict of interest may be demonstrated.

(d) A decision of the [Agency] [Commission] following hearing, or on expiration of the time for demand of a hearing if no such demand is filed, shall be deemed final, subject to the right of judicial review provided hereinafter. All matters presented by hearing as provided herein shall be acted upon promptly by the [Agency] [Commission], and the [Agency] [Commission] shall notify all parties in writing of its decision,

Commentary

Text

which shall include a statement of findings and conclusions upon all material issues of fact, law, or discretion presented at the hearing, and the appropriate rule, order, sanction, relief, or denial thereof.

Section 12. Revocation of Authorization to Operate or Agent's Permit.

(1) An authorization to operate or an agent's permit may be revoked or made conditional after its issuance if the [Agency] [Commission] has reasonable cause to believe that the holder of said authorization or permit has violated or is violating this Act or any rules and regulations promulgated hereunder. Prior to such revocation or imposition of condition, the [Agency] [Commission] shall notify the holder of the authorization or permit in writing of the impending action, setting forth the grounds for the action contemplated to be taken and advising the holder of a permit that if a hearing is requested, in writing, within ten (10) days of receipt of said notice, the [Agency] [Commission] shall set a time and place for a hearing at which the holder of the authorization or permit may be heard in response to the allegation of non-compliance with the provisions of this Act.

Commentary

Text

(2) If a hearing is requested as aforesaid, such hearing shall be conducted as provided in Section 11(c) of this Act, and the holder of the authorization or permit shall have the rights set forth therein. The decision of the [Agency] [Commission] shall be made as provided in Section 11(d) of this Act, and shall be deemed final, subject to the right of judicial review provided hereinafter. In the event an agent's permit is revoked or condition imposed thereon, the [Agency] [Commission] shall notify the institution or institutions which said agent was permitted to represent, as shown in the records of the [Agency] [Commission], in addition to the notice required to be given to the agent and any other parties to the hearing.

Section 13. Complaints of Violations.

(1) Any person claiming damage or loss as a result of any act or practice by a postsecondary educational institution or its agent, or both, which is a violation of this Act or of the rules and regulations promulgated hereunder, may file with the [Agency] [Commission] a verified complaint against such institution or against its agent or both. The complaint shall set forth the alleged violation and shall contain such other information as may be required by the [Agency] [Commission].

Commentary

Complaints of Violations.
Section 13 provides that people who believe that they have been victimized by postsecondary institutions or agents may have a place to go to file a complaint--and that if relief or restitution for loss or damage caused by the acts complained of is justified, in the judgment of the agency or commission, it can award the person such relief. Also, based on the complaint, the agency or commission may initiate an investigation into the activities of the institution or agent. If it finds such complaint

Text

A complaint may also be filed by [Director of Agency] [Commissioner] or the Attorney General with the [Agency] [Commission]. A complainant may also file with the [Agency] [Commission] as a representative of a class of complainants.

(2) The [Agency] [Commission] shall investigate any such complaint and may, at its discretion, attempt to effectuate a settlement by persuasion and conciliation. The [Agency] [Commission] may consider a complaint after ten (10) days written notice by registered mail, return receipt requested, to such institution or to such agent, or both, as appropriate, giving notice of a time and place for hearing thereon. Such hearing shall be conducted in accordance with the [Administrative Code of this [State] [Commonwealth]] [Rules of Civil Procedure of this [State] [Commonwealth]].

(3) If, upon all the evidence at a hearing, the [Agency] [Commission] shall find that a post-secondary educational institution or its agent, or both, has engaged in or is engaging in, any act or practice which violates this Act or the rules and regulations promulgated hereunder, the [Agency] [Commission] shall issue and cause to be served upon such institution or agent or both, an order requiring such institution or agent or both to cease and desist from such act or practice.

Commentary

justified, it may order the act or practice to cease, impose penalties on the institution or the agent, or revoke an institution's authorization to operate or an agent's permit.

Text

Additionally, if the [Agency] [Commission] shall find that the complainant, or class of complainants, has suffered loss or damage as a result of such act or practice, the [Agency] [Commission] may, at its discretion, award the complainant, or class of complainants, full or partial restitution for such damage or loss and may impose the penalties provided for in Section 19 hereof. The [Agency] [Commission] may also, as appropriate, based on its own investigation and/or the evidence adduced at such hearing, commence an action to revoke an institution's authorization to operate or an agent's permit.

Section 14. Judicial Review. Any person aggrieved or adversely affected by any final [Agency] [Commission] action, or by any penalty imposed by the [Agency] [Commission], may obtain judicial review of such action as provided in this section.

(a) An action for judicial review may be commenced in any court of competent jurisdiction in accordance with the [Rules of Civil Procedure] within thirty (30) days after such [Agency] [Commission] action becomes effective.

(b) Upon a finding that irreparable injury would otherwise result, the [Agency] [Commission],

Commentary

Judicial Review. Section 14 elaborates on due process for the institutions and agents, as well as for student consumers, by providing court review of agency or commission action.

Text

upon application therefor, shall postpone the effective date of its action pending judicial review, or the reviewing court, upon application therefor, and upon such terms and upon such security, if any, as the court shall find necessary, shall issue appropriate process to postpone the effective date of the [Agency's] [Commission's] action or to preserve the rights of the parties pending conclusion of the review proceedings.

(c) The record on review, unless otherwise stipulated by the parties, shall include the original or certified copies of all pleadings, applications, evidence, exhibits, and other papers presented to or considered by the [Agency] [Commission], and the decision, findings, and action of the [Agency] [Commission]. As to alleged procedural irregularities, evidence may be taken independently by the court.

(d) If the court finds no error, it shall affirm the [Agency's] [Commission's] action. If it finds that such action was arbitrary or capricious, a denial of statutory right, contrary to constitutional right, power, privilege, or immunity, in excess of statutory jurisdiction, authority, purposes, or limitation, not in accord with the procedures or procedural limitations of this Act, or otherwise required by law, an abuse

Commentary

Text

or clearly unwarranted exercise of discretion, unsupported by substantial evidence when the record is considered as a whole, or otherwise contrary to law, then the court shall hold unlawful and set aside the [Agency] [Commission] action, and afford such relief as may be appropriate.

(e) The decision of the trial court shall be subject to appellate review in the same manner and with the same effect as in appeals from a final judgment or decree in any other civil action.

Section 15. Bonds Required.

(1) At the time application is made for authorization to operate, or for renewal thereof, the [Agency] [Commission] may require the post-secondary educational institution making such application to file with the [Agency] [Commission] a good and sufficient surety bond in such sum as may be determined by the [Agency] [Commission]. Said bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this [State] [Commonwealth]. The bond shall be conditioned to provide indemnification to any student or enrollee or his parent or guardian, or class thereof, determined to have suffered loss or damage as a result of any act or practice which is a violation of this Act by

Commentary

Text

said postsecondary educational institution, and that the bonding company shall pay any final, non-appealable judgment rendered by the [Agency] [Commission] or any Court of this [State] [Commonwealth] having jurisdiction, upon receipt of written notification thereof. Regardless of the number of years that such bond is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum of the bond. The bond may be continuous.

(2) An application for an agent's permit shall be accompanied by a good and sufficient surety bond in a penal sum of \$_____. Said bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this [State] [Commonwealth]. The bond may be in blanket form to cover more than one agent for a postsecondary educational institution, but it shall cover each agent for said institution in a penal sum of \$_____. The bond shall be conditioned to provide indemnification to any student, enrollee, or his or her parents or guardian, or class thereof, determined to have suffered loss or damage as a result of any act or practice which is a violation of this Act by said agent, and that the bonding company shall pay any

Commentary

Text

final, non-appealable judgment rendered by the [Agency] [Commission] or any Court of this [State] [Commonwealth] having jurisdiction, upon receipt of written notification thereof. Regardless of the number of years that such bond is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum thereof. The bond may be continuous.

(3) The surety bond to be filed hereunder shall cover the period of the authorization to operate or the agent's permit, as appropriate, except when a surety shall be released as provided herein. A surety on any bond filed under the provisions of this section may be released therefrom after such surety shall serve written notice thereof to the [Agency] [Commission] _____ days prior to said release; but said release shall not discharge or otherwise affect any claim theretofore or thereafter filed by a student or enrollee or his parent or guardian for loss or damage resulting from any act or practice which is a violation of this Act alleged to have occurred while said bond was in effect, nor for an institution's ceasing operations during the term for which tuition has been paid while said bond was in force.

(4) Authorization for an institution to operate and an agent's permit shall be suspended by

Commentary

Text

operation of law when said institution or agent is no longer covered by a surety bond as required by this section; but the [Agency] [Commission] shall cause said institution or agent, or both, to receive at least thirty (30) days written notice prior to the release of the surety, to the effect that said authorization or permit shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as the bond being terminated.

Section 16. Fees. All fees collected pursuant to the provisions of this Act shall be deposited in the [State Treasury] to the credit of the general fund, and no fees collected under the provisions of this Act shall be subject to refund. The fees to be collected by the [Agency] [Commission] hereunder shall accompany an application for authorization to operate or an agent's permit, in accordance with the following schedule:

(a) The initial application fee for post-secondary educational institutions shall be \$_____.

(b) The [annual] renewal fee for a post-secondary educational institution shall be \$_____.

(c) The initial fee for an agent's permit shall be \$_____.

Commentary

Text

(d) The [annual] renewal fee for an agent's permit shall be \$ _____.

Section 17. Preservation of Records. In the event any postsecondary educational institution now or hereafter operating in this [State] [Commonwealth] proposes to discontinue its operation, the chief administrative officer, by whatever title designated, of such institution shall cause to be filed with the [Agency] [Commission] the original or legible true copies of all such academic records of such institution as may be specified by the [Agency] [Commission]. Such records shall include, at a minimum, such academic information as is customarily required by colleges when considering students for transfer or advanced study; and, as a separate document, the academic record of each former student. In the event it appears to the [Agency] [Commission] that any such records of an institution discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the [Agency] [Commission], the [Agency] [Commission] may seize and take possession of such records, on its own motion, and without order of court. The [Agency] [Commission] shall maintain or cause to be maintained a permanent file of such records coming into its possession.

Commentary

Preservation of Records. Section 17 is included in the Act to insure availability of academic records for students who may need them at a later date. The Act authorizes the agency or commission to preserve or cause to be preserved academic records at institutions that cease to exist, as well as to seize such records if they are in danger of being destroyed, secreted, or otherwise made unavailable.

Text

Section 18. Enforceability of Notes, Contracts, Etc.

(1) If the person to whom educational services are to be rendered or furnished by a post-secondary educational institution is a resident of this [State] [Commonwealth] at the time any contract relating to payment for such services, or any note, instrument, or other evidence of indebtedness relating thereto, is entered into, the provisions of this section shall govern the rights of the parties to such contract or evidence of indebtedness. In such event the following agreements entered into in connection with the contract or the giving of such evidence of indebtedness are invalid:

(a) That the law of another state shall apply;

(b) That the maker or any person liable on such contract or evidence of indebtedness consents to the jurisdiction of another state;

(c) That another person is authorized to confess judgment on such contract or evidence of indebtedness;

(d) That fixes venue.

(2) No note, instrument or other evidence of indebtedness, or contract relating to payment for

Commentary

Enforceability of Notes, Contracts, Etc. Part (1) of Section 18 is designed to end a common practice of unscrupulous out-of-state institutions that may obtain judgments for tuition or other charges in their own states against students from other states. Under such circumstances, the student is often unable adequately to defend the suit.

Parts (3), (4), and (5) would prevent use of the "holder in due course" doctrine, under which an institution might otherwise use a third party to collect payments from a student for services not yet provided and which may never be provided. These provisions of the Act would permit the student to assert any defenses he might have in a suit to collect the institution's charges.

Text

education or educational services shall be enforceable in the courts of this [State] [Commonwealth] by any postsecondary educational institution operating in this [State] [Commonwealth] unless said institution shall have received authorization to operate under the provisions of this Act; nor by any postsecondary educational institution having an agent or agents in this [State] [Commonwealth] unless any and all agents who enrolled or sought to enroll the person to whom such services were to be rendered, or to whom educational credentials were to be granted, had an agent's permit at the time of their contact with such person.

(3) For purposes of this section, "lending agency" shall mean any postsecondary educational institution, or any person, group, or entity controlling, controlled by, or held in common ownership with, such institution, or regularly loaning money to, or to students of, such institution.

(4) Any lending agency extending credit or loaning money to any person for tuition, fees, or any charges whatever of a postsecondary educational institution for educational or other services or facilities to be rendered or furnished by said institution, shall cause any note, instrument, or

Commentary

Text

other evidence of indebtedness taken in connection with such loan or extension of credit to be conspicuously marked on the face thereof, "Student Loan." In the event such lending agency fails to do so, it shall be liable for any loss or damage suffered or incurred by any subsequent assignee, transferee, or holder of such evidence of indebtedness on account of the absence of such notation.

(5) Notwithstanding the presence or absence of such notation, and notwithstanding any agreement to the contrary, the lending agency making such loan or extending such credit, and any transferee, assignee, or holder of such evidence of indebtedness shall be subject to all defenses and claims which could be asserted against the postsecondary educational institution which was to render or furnish such services or facilities, by any party to said evidence of indebtedness or by the person to whom such services or facilities were to be rendered or furnished, up to the amount remaining to be paid thereon.

Section 19. Violations-Civil-Penalty. Any person, group, or entity, or any owner, officer, agent, or employee thereof, who shall violate the provisions of Section 7 of this Act, or who shall fail or refuse to deposit with the [Agency] [Commission] the records required by Section 17 of this

Commentary

*Violations-Civil-Penalty/
Violations-Criminal-Penalty.
Civil penalties for violations of the Act (Section 19) may be imposed by the agency or commission or by a court, whereas criminal penalties (Section 20) may be imposed only by a court.*

Text

Act, shall be subject to a civil penalty not to exceed \$ _____ for each violation. Each day's failure to comply with the provisions of said sections shall be a separate violation. Such fine may be imposed by the [Agency] [Commission] in an administrative proceeding or by any court of competent jurisdiction.

Section 20. Violations-Criminal-Penalty.

Any person, group, or entity, or any owner, officer, agent, or employee thereof, who shall willfully violate the provisions of Section 7 of this Act, or who shall willfully fail or refuse to deposit with the [Agency] [Commission] the records required by Section 17 of this Act, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$ _____, or by imprisonment in the county jail not to exceed _____ months, or by both such fine and imprisonment.

Each day's failure to comply with the provisions of said sections shall be a separate violation. Such criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the Attorney General of this [State] [Commonwealth] or a District Attorney pursuant to Section 22 hereof.

Section 21. Jurisdiction of Courts; Service of Process. Any postsecondary educational institution not exempt from the provisions of this Act,

Commentary

Jurisdiction of Courts; Service of Process.
Section 21 would make postsecondary institutions, wherever located, subject

Text

whether or not a resident of or having a place of business in this [State] [Commonwealth], which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, contracts or offers to contract, to provide instructional or educational services in this [State] [Commonwealth], whether such instruction or services are provided in person or by correspondence, to a resident of this [State] [Commonwealth], or which offers to award or awards any educational credentials to a resident of this [State] [Commonwealth], submits such institution, and, if a natural person his personal representative, to the jurisdiction of the courts of this [State] [Commonwealth], concerning any cause of action arising therefrom, and for the purpose of enforcement of this Act by injunction pursuant to Section 22 hereof. Service of process upon any such institution subject to the jurisdiction of the courts of this [State] [Commonwealth] may be made by personally serving the Summons upon the defendant within or outside this [State] [Commonwealth], in the manner prescribed by the [Rules of Civil Procedure] of this [State] [Commonwealth], with the same force and effect as if the Summons had been personally served within this [State] [Commonwealth]. Nothing contained in this section shall limit or affect the right to serve any process

Commentary

to the jurisdiction of the courts of states enacting this proposed legislation, if such institutions provided or solicited to provide education to residents of the enacting state. The section has two main purposes: (1) To enable an individual dealing with the institution to bring suit in his own state, rather than having to go to the state where such institution was located, and (2) to enable the agency or commission to obtain an injunction against fraudulent or deceptive practices of the institution, or against other practices of the institution that violated the Act.

Text

as prescribed by the [Rules of Civil Procedure] of this [State] [Commonwealth].

Section 22. Enforcement; Injunction.

(1) The Attorney General of this [State] [Commonwealth], or the District Attorney of any district in which a postsecondary educational institution or an agent thereof is found, at the request of the [Agency] [Commission] or on their own motion, may bring any appropriate action or proceeding (including injunctive proceedings, or criminal proceedings pursuant to Section 20 hereof) in any court of competent jurisdiction for the enforcement of the provisions of this Act.

(2) Whenever it shall appear to the [Agency] [Commission] that any person, agent, group, or entity is, is about to, or has been violating any of the provisions of this Act or any of the lawful rules, regulations, or orders of the [Agency] [Commission], the [Agency] [Commission] may, on its own motion or on the written complaint of any person, file a petition for injunction in the name of the [Agency] [Commission] in any court of competent jurisdiction in this [State] [Commonwealth] against such person, group, or entity, for the purpose of enjoining such violation or for an order directing compliance with the provisions of this Act, and all rules, regulations, and orders issued

Commentary

Text

hereunder. It shall not be necessary that the [Agency] [Commission] allege or prove that it has no adequate remedy at law. The right of injunction provided in this section shall be in addition to any other legal remedy which the [Agency] [Commission] has, and shall be in addition to any right of criminal prosecution provided by law; provided, however, the [Agency] [Commission] shall not obtain a temporary restraining order without notice to the person, group, or entity affected. The existence of [Agency] [Commission] action with respect to alleged violations of this Act shall not operate as a bar to an action for injunctive relief pursuant to this Section.

Section 23. Funding. [Note: Appropriations or authorizations therefor should be provided for as appropriate.]

Section 24. Severability. In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect, as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The state

Commentary

Text

legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

Section 25. Effective Date. For the purpose of making the necessary preparations to implement the provisions of this Act, it shall become effective, _____, but for all other purposes, this Act shall become effective _____.

Section 26. Repealer. [Note: [State] [Commonwealth] should determine which, if any, laws are in conflict with this Statute and should be repealed.]

Commentary

Introduction	1
State of the Union	15
Education in the United States	25
State of the States	35
State of the World	45
State of the Future	55
State of the Commission	65
State of the Commission's Work	75
State of the Commission's Future	85



The Education Commission of the States is a nonprofit organization formed by interstate compact in 1966. Forty-seven states and territories are now members. Its goal is to further a working relationship among state governors, legislators and educators for the improvement of education. This report is an outcome of one of many Commission undertakings at all levels of education. The Commission offices are located at 300 Lincoln Tower, 1860 Lincoln Street, Denver, Colorado 80203.